

# Health Reform

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## A Health Bill Will Likely Pass but Genuine Reform Remains Elusive

With the action by the US Senate on Christmas Eve to pass their version of national health care reform legislation, it is now almost certain that some form of a health care overhaul will be accomplished in early 2010. The Senate version needs now to be reconciled with the version passed by the US House of Representatives, and there are major differences to be dealt with. A Conference Committee comprised of the Majority Leadership in the House and Senate, with major input from the White House, will convene in January to iron out differences, including the matter of a public option, which is in the House version but not in the Senate's.

The public option, a nationally available health plan run by the federal government, has been the centerpiece of the aspirations of liberal House Democrats and some in the Senate. Whether its removal is enough to cause a major revolt among House Democrats remains to be seen, but given the urgent need to achieve some sort of resolution, a resolution that can be presented as a "win"

for the Obama Administration and the Congressional Majority, it seems most likely that something will be worked out. What Members of Congress and their staff characterize as "health reform fatigue" in their discussions with the ICA Legislative Team makes it clear that the Congress and the Obama Administration need to move on to other issues.

Chiropractic's status in the emerging reform package is anchored in a number of remarkable achievements in terms of legislative language. In fact, chiropractic has done far better in securing specific goals that anyone had the right to expect. This has been the product of the unique mobilization and level of cooperation within the profession, along with the support of a few key Members of Congress. In the House version, thanks to a massive and broad-based chiropractic effort, language was included that would maintain the applicability of state-enacted non-discrimination or insurance equality laws, provisions that have for many years served chiropractors and their patients very well in

26 states through the fairness in access they provide. Provisions that allow providers to not participate in a plan or plans, which has come to be known as "opt out" language is also in the House version.

The Senate version contains the all-important non-discrimination language championed throughout the entire process by Senator Tom Harkin (D-IA) who has consistently sought to promote language that would prevent discrimination against any provider by insurance plans, including doctors of chiropractic, solely on the basis of their license.

**SEC. 2706. NON-DISCRIMINATION IN HEALTH CARE.** (a) PROVIDERS. — A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law.

Section 5101 of the Senate bill also includes chiropractic practitioners in a key definitions section on the healthcare work force:

(2) HEALTH PROFESSIONALS — The term 'health professionals' includes — (A) dentists, dental hygienists, primary care providers, specialty physicians, nurses, nurse practitioners, physician assistants, psychologists and other behavioral and

mental health professionals (including substance abuse prevention and treatment providers), social workers, physical and occupational therapists, public health professionals, clinical pharmacists, allied health professionals, **doctors of chiropractic...**

The Senate bill also includes doctors of chiropractic in the list of potential members of interdisciplinary community health teams established in Section 3502 of the bill. These patient-centered teams would support the development of "medical homes" which is a term that has evolved during the current health reform debate to mean something like an HMO in order to provide better access to comprehensive, community based, coordinated care.

Regardless of the exact language of any agreed legislation, it is clear even now that the opportunity to enact profound changes, the kind of paradigm shift from a drug, hospital and radical end-stage intervention-based system of sick care to a system anchored in personal responsibility for health, preventive care, wellness and the encouragement of natural healing pathways such as chiropractic, has been missed. It is, truthfully, more accurate to say that this opportunity has been thwarted by a status quo that will not give up its dominance of the national health care system, pulling out all the stops to maintain the multi-trillion dollar system of which they are the major beneficiary, more or less as it

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## New Mexico – Welsh

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countries, where local chiropractors even must do surgery, as there are no surgeons in the region. This does not make surgery part of chiropractic, and those practitioners will tell you so, while expressing their frustrations with their own regional inadequacies."

"We already have enough mavericks in the profession to confuse the public. Anyone wanting to practice allopathic medicine should have training, licensure, and a board that oversees the practice of medicine, completely segregated from their chiropractic board. It absolutely should not be the chiropractic board, nor have the word chiropractic attached, as there has been a century-plus long effort to keep chiropractic 'SEPARATE AND DISTINCT' from medicine."

"I do not believe that it is necessary or appropriate for a chiropractor to use prescription drugs, even if functioning in a 'medically underserved area.' I oppose any 'tiering' proposal which would place the subluxation-based practitioner in a position inferior to the "expanded practice" DC. While 'expanded practice' DCs may have additional training in herbal and botanical use, homeopathy, etc., subluxation centered chiropractors have knowledge and skills superior to that of the 'medipractors' who view adjusting as joint manipulation based on fixation, without regard for specific analytical methods and adjusting methods. Are these self-styled expanded scope doctors proficient in spinographic analysis?

Do they know how to take and read a NUCCA series, a Gonstead series, or a Blair series? Are they proficient in surface EMG, skin temperature analysis and thermography? Have they studied any adjusting techniques beyond diversified manipulation for joint fixation? Do they understand and know how to apply the subluxation concept to whole-body health? Do they know and understand the 33 principles? My point is simply that they are different from, but not superior to, the subluxation based DC."

**Does Chiropractic Primary Care Require Prescription Rights?** The profession in the state of New Mexico has chosen a particular course to address these issues. There are likely other rural states that will be faced with some of the same questions and will attempt to address them through the legislative process. The solutions in New Mexico, however, break new ground by establishing the following precedents:

- 1) Establishing a subgroup of chiropractors who have the legal authority to practice medicine.
- 2) Establishing the right of certain chiropractors to prescribe drugs and "controlled substances"
- 3) Placing jurisdiction of certain chiropractic practice rights under the state medical and pharmacy boards

In most states the chiropractic profession is defined as "an exception to the Medical Practice Act", with clearly defined responsibilities and clearly defined prohibitions (i.e. drugs and surgery). There are exceptions. In Oregon chiropractors are allowed to perform

"minor surgery" and now in New Mexico certain chiropractors can prescribe certain drugs. The question at hand is: should these local exceptions be allowed to drive a "national agenda" which might occur should the NBCE decide to endorse the concept by developing an NBCE exam to support the credentialing of an "Advanced Practice Chiropractic Physician" in New Mexico?

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**What Clinical Procedures Define "Advanced Practice" in Chiropractic?** The issues of primary care status and nutrition are certainly issues of concern to the majority of chiropractors. As a profession it is important to address our role in the future health care system and it is important to protect the practice rights we already have. The solutions to these questions on a national and international level, however, should be developed in a manner that does not compromise the identity of our profession which has always been unique, separate and distinct from the practice of medicine.

"A wolf in sheep's clothing" is the phrase

that comes to mind. A small minority amongst us have argued for decades to have prescription rights. Others, including the ICA have argued that these rights belong to the discipline of medicine and are not a part of the practice of chiropractic. The arguments of the moment asserting needs due to provider distribution and availability and the extension of nutritional approaches into the arena of nutraceutical therapies are red herrings. The goal of the advocates of these changes is to practice primary care medicine, without fully qualifying at the appropriate standard to do so. It is disingenuous to assert that these changes are being made to address a sudden deficiency in providers in New Mexico or elsewhere or a spectacular new advantage to some form of nutritional therapy.

The International Chiropractors Association, out of concern for the potential implications to the profession, has formed a special working group to review the steps recently taken in New Mexico. This broad-based task force has been charged, by ICA President Dr. Gary L. Walsemann, with reviewing all the issues raised by the actions taken in New Mexico and developing recommendations for the most appropriate approach to addressing these issues at a national level. We believe that ICA's commitment to the future of the chiropractic profession as well as our obligations with regard to the protection of the public demand such diligence.

**Stephen Welsh, DC** is a member of the ICA Board of Directors and serves as the Secretary Treasurer.

(See page 32 for Title 16 Occupational and Professional Licensing, Chapter 4 Chiropractic Practitioners, Part 15 Chiropractic Advanced Practice Certification Registry.)