



State Boards Continue Expanding Range and Nature of their Regulatory Reach — Are You Covered?

By **Stuart E. Hoffman, D.C.**

For the past several years, the chiropractic profession has witnessed a growing trend on the part of some state chiropractic boards in which actions against practitioners are being taken on the basis of questions of utilization and procedure that have never been a part of board scrutiny. Today, apparently in response to pressure from third-party

payment agencies, or some misplaced desire to re-define the norms of chiropractic practice, some boards have acted against practitioners for "over utilization," x-ray policies and very general communications with the public. These types of board actions clearly push the envelope into new territory and have many believing that such boards have grossly exceeded their authority. Still, unchecked by the courts or the state

legislatures, such boards can lay de facto claim to new authority, and this means that you will need to be on your guard even more than in the past.

Focusing on issues such as "medical necessity" and utilization, some boards have sought to enact regulations that would hold a provider liable for charges of "unprofessional or dishonorable conduct" if the board determines that care delivered did not meet their particular standard for "medical necessity."

The language "medically necessary" has become an insurance term, not a quality of care term. This language has been cynically usurped by elements of the insurance industry and subverted and misused as a hammer and lever to limit the clinical range of the activities of doctors of chiropractic via extra-legislative means, with the objective of denying payment for care. Such economic motives have led many insurance companies, and those in their pay, to make demonstrably absurd claims, frequently before state regulatory boards, regarding the appropriateness of care with the sole objective of what can

rightfully be considered cheating beneficiaries and providers alike, out of payment for legitimate services. Such claims have needlessly caused great disruption to the lives and practices of honorable practitioners acting within the law, eroded the credibility of the profession at large with policy makers and the public, and most importantly of all, denied consumers care they need and have paid for through insurance premiums.

Real cases highlight the list of strange and completely unforeseen situations in which DCs are finding themselves. In one state, a doctor was cited for misleading the public on the basis of the content of articles published in recognized journals posted or linked on his practice website. In another case, a DC was cited for over-utilization for seeing a patient 12 times following a high-speed rear-end auto collision. Another doctor was cited for failure to repay an insurance company for the care of a small child because no "series" of x-rays was taken, in spite of the

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