

LIABILITY – HOFFMAN*continued from page 17*

fact that every safety and utilization guideline states that x-rays of children are to be avoided except in very specific situations, of which this was not one.

The source of this new wave of complaints is also of curious interest because almost none of these complaints dealing with practice norms come from consumers. Boards are taking the initiative themselves, responding to third-party payers, and sadly, other chiropractors, as the basis for their aggressive actions. The shaky ground that they are moving onto, however, has also prompted a number of lawsuits by the DCs who are on the receiving end of such complaints, and those DCs almost always win in the courts. The financial cost and distraction of such a suit is a very high price to pay, especially when in the eyes of most chiropractors and chiropractic organizations, the behavior cited as inappropriate is seen as well within the established norms of care.

In recent years, the chiropractic profession has witnessed countless examples of paid chiropractic consultants attacking the care and decision-making processes of honorable doctors of chiropractic acting within the law. Such consultants routinely resort to such tactics as perverting the research record, making absurd claims on what is and is not appropriate care, all based on the economic imperatives of those paying them, and reducing the regulatory process to a shameful farce. This willingness on the part of many paid chiropractic consultants to make any claim for monetary reasons, is one of the most disgraceful, shameful and destructive elements in the chiropractic profession today.

Making medical necessity a condition of chiropractic service delivery and subject to board interpretation as "unprofessional or dishonorable conduct" also raises profoundly serious questions about possible limitations on consumer freedoms to seek and obtain any legally authorized chiropractic service, including maintenance and preventive

care, exceptionally frequent care, etc. Action by any board to curb consumer rights via the imposition of "medically necessary" limitations on providers would very likely be found unacceptable and beyond the authority of a board by state courts, but such rules would still have a negative impact on consumer rights to contract and act in the health care marketplace, according to their own determinations of need and appropriateness.

Every doctor of chiropractic should be aware of this new exposure and consider the following preventive steps to protect yourself and your practice from such harassment actions:

- Read the code and regulations in your jurisdiction and know exactly what the law says. Knowledge is power, and such knowledge allows you to be immediately aware of any instance in which it appears that the board in your jurisdiction is acting beyond their legitimate authority.
- Join your state organization and the national organization of your choice and immediately seek their assis-

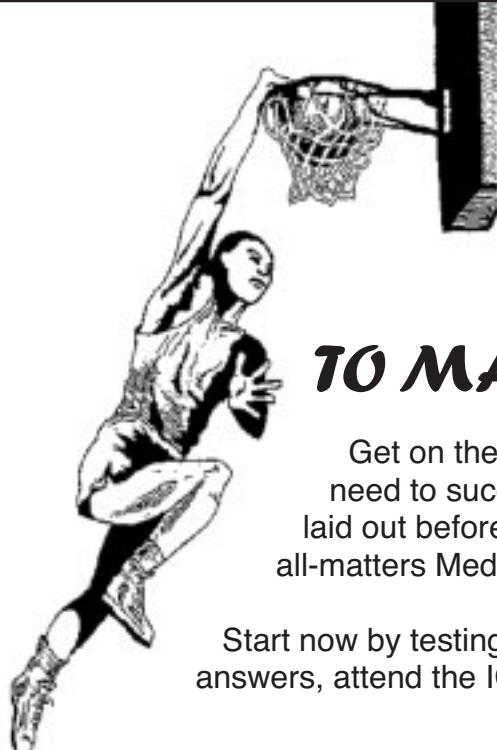
tance, as well as that of your state legislator and state senator, and **above all, contact your malpractice carrier to respond to such abuse of power.**

- Know who is on your chiropractic board and, either independently or through your state organization, monitor their actions and do not hesitate to mobilize your colleagues in protest through an organized appeal to those who have authority over the board, either the governor or attorney general, and ultimately the state legislature, to bring them back into line.
- Be prepared to defend your right to practice within the law, and consult legal counsel and other authorities to determine your exact status immediately upon hearing of any potential complaint.
- Make sure you have malpractice insurance that includes state board defense as a component of your coverage.

ChiroSecure has made state board defense an integral part of the coverage it offers its insured practitioners. ChiroSecure coverage is the best in the profession, with \$50,000 defense for state board hearings, HIPAA, billing errors and insurance and Medicare audit coverage. It is not just a matter of the quantity of its coverage which leads the industry, but of quality. It is true that some other carriers will offer some board coverage, however some of the others that have Board coverage in the policy may not offer coverage for defense against claims by insurance companies, advertising, etc. They may only cover Board Hearings related to providing or failing to provide professional services for the patient.

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STUART E. HOFFMAN, D.C. is the president of ChiroSecure and a highly experienced doctor of chiropractic and licensed insurance broker who knows the intricate details of daily practice. Dr. Hoffman can give you the best advice based on his unique knowledge of both the insurance world and the world of chiropractic. To contact Dr. Hoffman call 480-657-8500 or ChiroSecure at 1-800-802-4476. You can also visit ChiroSecure's website at www.ChiroSecure.com for more information.



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Dr. Gary R. Street is a well known speaker for chiropractic. He has lectured extensively on Chiropractic Medicare. Not only is he knowledgeable and informed, he is also entertaining. Come for a laugh...and to learn.

DO YOU KNOW?

- How to properly document clinical necessity of care?
- Why this can mean success or failure to you and your patients?
- That Medicare law places no finite limitations on properly documented care?
- That Medicare is obligated to cover clinically necessary services?
- That there are no limits for the chiropractic adjustment?
- How to use the AT Modifier to your advantage?
- How to correctly use the Advance Beneficiary Notice?

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