

CHIROPRACTIC SERVICES

Senate Bill 1121 (Substitute H-1) First Analysis (12-10-02)

Sponsor: Sen. Bill Bullard, Jr.
House Committee: Health Policy
Senate Committee: Health Policy

THE APPARENT PROBLEM:

Article 15 of the Public Health Code regulates health professions including chiropractic. Generally speaking, Article 15 prohibits individuals who do not have the proper license from acting within the scope of practice of particular licensed health professionals and from presenting themselves as allowed to legally perform services that fall within a particular scope of practice. The code defines the “practice of chiropractic” and lists specific actions that fall within or outside of chiropractors’ scope of practice. Specifically, chiropractic includes the diagnosis to determine the existence of spinal subluxations—i.e., partial dislocations of joints, where bones are still in contact but are misaligned—or misalignments, the adjustment of spinal subluxations or misalignments and related bones and tissues, the use of analytical instruments, nutritional advice, rehabilitative exercise and adjustment apparatus, and the use of x-ray machines for the purpose of locating spinal subluxations or misaligned vertebrae. Chiropractors may not perform incise surgical procedures or invasive procedures requiring instrumentation, and they may not dispense or prescribe drugs or medicine.

According to committee testimony, some veterinarians, physical therapists, physician’s assistants, massage therapists, and other individuals have advertised that they provide chiropractic services. One individual in Gladwin County allegedly claims to be an “Amish chiropractor”, despite not having a chiropractor’s license, and it is apparently not uncommon for veterinarians to advertise themselves as being allowed to perform “chiropractic adjustments” on horses and other animals. Although the health code gives CIS jurisdiction over licensed and registered health professionals, and the code provides a remedy in case a licensee or registrant practices or advertises outside of his or her proper scope of practice, CIS by itself can do little about an unlicensed or unregistered individual who claims to be allowed to perform services that only a licensed health professional may

perform. Representatives of chiropractors contend that they have asked local prosecutors and the attorney general’s office to investigate such matters but have been told that they have no authority to act. Legislation has been introduced to expressly prohibit individuals who are not licensed as chiropractors from presenting themselves as being able to perform chiropractic procedures and services and to prohibit those who are not licensed or otherwise authorized to perform chiropractic services from performing those procedures and services.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to prohibit an individual who is not a licensed chiropractor under the article from announcing or holding himself or herself out to the public as being able to perform a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion.

The bill would also revise the current prohibition on engaging in the practice of chiropractic unless licensed or otherwise authorized by the article. Specifically, it would prohibit an individual from engaging in the practice of chiropractic, including, but not limited to, performing a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless licensed or otherwise authorized by a chiropractor under Article 15.

The code defines “practice of chiropractic” as the discipline within the healing arts that deals with the nervous system and its interrelationship with other body systems. The bill would specify that chiropractic is the discipline within the healing arts that deals with the *human* nervous system and its interrelationship with other body systems. The bill would also specify the practice of chiropractic includes “a *chiropractic* adjustment” of spinal subluxations or misalignments and related bones and

tissues for the establishment of neural integrity utilizing the inherent recuperative powers of the body for restoration and maintenance of health. Currently the code states only that chiropractic includes “the adjustment” of such conditions.

Also, the code would clarify existing language that deals with health profession specialty fields. Specifically, the code currently prohibits an individual from presenting him- or herself “as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification, without first having obtained a specialty certification”. The bill would clarify that the specialty certification had to be in the particular health profession specialty field that the person was presenting him- or herself as limiting his or her practice to, being specially qualified in, or giving particular attention to.

The bill states that it would not affect the scope of practice of allopathic medicine or osteopathic medicine and surgery and that the intent of the bill is “to codify existing law and to clarify and cure any misinterpretation” of the operation of the sections of the health code that the bill would amend. The bill would specify further that it was not intended to affect the authority of a veterinarian to delegate certain functions as provided by law.

MCL 333.16261 et al.

HOUSE COMMITTEE ACTION:

The House Health Policy Committee adopted a substitute (H-1), which would add to the Senate-passed version language stating that the bill is not intended to affect the authority of a veterinarian to delegate certain functions as provided by law.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Article 15 of the health code generally prohibits individuals from practicing or advertising themselves as authorized to practice within the scope of practice of particular health professionals unless they are licensed to do so. Despite this prohibition, some individuals who are not authorized to perform chiropractic services are advertising themselves as

being allowed to do so. By specifically prohibiting unlicensed individuals from presenting themselves as being authorized to perform chiropractic services and, unless otherwise authorized, from performing those services, the bill would help prevent the intrusion into chiropractic scope of practice by those not legally entitled to practice chiropractic. In this way, the bill would help to emphasize that chiropractic is a distinct field of health care.

As reported by the House Health Policy Committee, the bill would very clearly state that it would not affect the scope of practice of MDs or DOs and that it was not intended to restrict veterinarians from delegating certain functions as provided by law.

Response:

The bill is unnecessary since it basically just states for a single health profession—chiropractic—what currently holds for all health professions, namely, that unless a person is licensed to perform services within a scope of practice one may not present oneself as entitled to perform those services. At the very least the bill should be amended to specify that the bill does not affect the scope of practice of physical therapy provided for in Part 178 of the health code. The bill already contains such specification for MDs and DOs, and since physical therapists, like chiropractors, MDs and DOs, are authorized to address muscular-skeletal conditions under the code, there is no reason to allow the possibility that courts could interpret the bill as imposing restrictions on physical therapists’ scope of practice.

Reply:

Local prosecutors and the attorney general’s office apparently believe they do need specific authority to act in cases such as those described above. By specifically stating that individuals could not advertise themselves as being allowed to perform “chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion”, the bill would provide very clear guidelines as to what persons who are not licensed chiropractors may and may not do. The language regarding physical therapists is unnecessary. Physical therapists have a clearly delineated scope of practice, specifying what they may and may not do. They are in a different category from MDs and DOs, who basically have an unlimited scope of practice.

POSITIONS:

The Michigan Chiropractic Association supports the bill. (12-6-02)

The Michigan Chiropractic Society supports the bill.
(12-5-02)

The Michigan Osteopathic Association supports the bill. (12-5-02)

The Michigan Veterinary Medical Association supports the bill. (12-6-02)

The Michigan State Medical Society is neutral on the bill. (12-6-02)

The Michigan Physical Therapy Association opposes the bill as currently written but would support the bill with the addition of language specifying that the bill would not affect the scope of practice of physical therapy provided for in Part 178 of the health code. (12-6-02)

Analyst: J. Caver

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.