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MARCH 2008 NEWS

Statewide Non-Profit Chiropractic Association

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SENATOR LINDA GRAY'S COPAY/DEDUCTIBLE BILL MOVING THROUGH THE LEGISLATIVE PROCESS

Senator Linda Gray's Chiropractic copayment/deductible legislation is now moving through the Arizona legislative process. It received its first hearing in the Senate Health Committee on January 31, 2008. Even though it failed to pass, the bill overcame a huge hurdle since it did receive a hearing.

A bill cannot pass the Legislature unless it receives at least one hearing in both the House and the Senate. The copay/deductible bill has now been heard in a Senate committee. All that is required now is a hearing in a House committee, a vote by the full House, a vote by the full Senate, and a signature by the Governor. There is no requirement for another hearing by a Senate committee even though the bill did not pass when it was initially heard.

The key at this time is for every Chiropractor, patient, staff, family member and friend to continuously be in touch with legislators explaining why it is imperative that the copay/deductible bill pass this session. The bill number is still SB 1152. In the future, the number may change. We will let you know immediately if it does.

Keep the pressure up with legislators! Remind them regularly that patients who really need Chiropractic care are not getting it because of exorbitant copays and deductibles, and instead are being forced to rely on addictive narcotic painkiller drugs. Keep the fight going until we declare victory. That will not be until July so roll up your sleeves and prepare to work hard for months. This is NOT going to be easy OR fast. It will, however, be very big when we win.

When this bill passes, copays and deductibles for Chiropractic care will

be reduced from specialist to PCP levels. There will be true insurance equality and health care freedom of choice again. This is what ACS, your state association, has been consistently working on with Senator Gray since 2006 when copayments and deductibles were radically increased by many insurers, particularly BCBS. ACS has fought for insurance equality every year since 1991! The new legislation will affect all individual and group health insurance plans including BCBS, United, CIGNA, Aetna, and Humana. HMO plans will not be affected.

Senator Gray, the ACS Legislator of the Year in 2007, issued the following statement to ACS on January 22, 2008:

"I hope SB1152 will help hurting people be able to receive the health care that they need. Thank you to Debra Brimhall Pearson for contacting many legislators who were wanting to sign onto the bill. She did a lot of prep work for me to be able to obtain that many signatures in such a short timeframe."

Thank you to the many doctors who have answered the call and joined ACS to help us help you. We have grown by almost 50% in the past year. We have instituted a regular monthly published mailed newsletter to the entire profession. We have one of the best state association web pages in the country. If you are not yet a member, go to www.AZChiropractors.org for a membership application and much more information and join today. More members mean a greater chance of passing the copay/deductible bill.

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ACS RESPONSE TO AZ OMBUDSMAN-CITIZEN'S AIDE REPORT ON AZ CHIROPRACTIC BOARD

In July 2006, the Arizona Chiropractic Society (ACS) received a copy of an anonymous complaint that had been filed with the Arizona Ombudsman-Citizen's Aide against the Arizona State Board of Chiropractic Examiners. ACS was asked to file the complaint on its own behalf if ACS agreed with the allegations. Upon review, ACS did agree and so did file the complaint which is posted at <http://azchiropractors.org/arizona-board.html>. All doctors should read the extremely well documented detailed complaint in its entirety. The initial allegations were:

1. Intimidation, humiliation, condescension, sarcasm and unprofessional conduct directed at chiropractors who appear before the Board.
2. Enforcement of Recognized Standards of Care that do not exist.
3. Enforcing the laws unequally, i.e., penalizing one doctor much more severely for certain violations when another doctor received minimal sanctions for the same violations.
4. Enforcing the laws not exactly as they appear. For example, requiring chiropractors to note time parameters and location of physiotherapy modalities when this is not required by rule or law.
5. Excessive reprimanding of AZ chiropractors. This falls under the "cruel and unusual punishment" category.
6. Failing to conform to the intent of the Chiropractic Act, i.e., imposing severe sanctions for minor record keeping violations when the chiropractor has done nothing to jeopardize the health, welfare and safety of the patient or the public. In fact, by the time the complaint is filed, usually by an insurance company, the patient has completely recovered and is totally satisfied with the chiropractic care.

In the February 8, 2008 report, the Ombudsman-Citizen's Aide revealed that allegations number 1, 2, 5 and 6 were **never investigated**. Irrefutable evidence to prove the existence of such conduct was provided in the complaint. ACS alleges that the Board still engages in this conduct. ACS does not understand why there was a complete failure to investigate or even comment upon these serious well-documented allegations.

Allegation number 3 is: Enforcing the laws unequally, i.e., penalizing one doctor much more severely for certain viola-

tions when another doctor received minimal sanctions for the same violations. The Ombudsman found no cases where the Board handed down a disciplinary action more or less severe than other similar cases.

In 2007, the year during which the Ombudsman conducted its investigation, there was one legal action between a Chiropractor and the Board, Paul W. Pratt v. Arizona Chiropractic Board of Examiners, Pima County Superior Court, CV20064644. Dr. Pratt alleged that the Board's penalty was harsher than that given to other Chiropractors for the same violation. In the July 5, 2007 ruling which threw out most of the Board's punishment, the Judge wrote: "On its face, the supplemental record appears to show that Dr. Pratt received far more serious discipline than other licensees for the same or similar violations relating to advertising without any rational basis." The Court's thorough investigation revealed that allegation number 3 is correct. The Board is arbitrary and capricious in determining punishment.

In regard to allegation number 4, the Ombudsman agrees that current rule only requires a Chiropractor to include the following in every daily patient note: the patient's name, the date of service, the chiropractic physician's findings, all services rendered, and the name or initials of the chiropractic physician who provided the services to the patient. ACS certainly does not object to this basic standard. The Board, however, has substantially added to this requirement. The doctor cannot just write "cervical muscles tight" but must note exactly which of

the dozen or so neck muscles are tight. The doctor cannot just say the cervical spine was adjusted but must say which of the seven cervical vertebrae were adjusted, which of the scores of chiropractic techniques was used, and what the response was to the adjustment.

If any physiotherapy is used, the doctor must document the type, exactly where applied on the body, what specific machine settings were used, how long the therapy was applied, why it was used, and what the response to it was. The current Board requires so much detail that almost no Chiropractor ever gains approval of daily patient notes. This remains an intolerable situation for the entire profession yet it was ignored by the Ombudsman.

The annual reports have been posted on the Internet and they reveal that DCs are approximately five times more likely to be disciplined by their regulatory board than are MDs. According to the Arizona Medical Board 2006-2007 report posted at http://www.azmd.gov/agency_reports/AnnualReport06-07.pdf, there are 11,000 MDs licensed and practicing in AZ. In 2007, there were 142 disciplinary actions. According to the Arizona Chiropractic Board 2007 report posted at <http://www.azchiroboard.com/news.htm>, there are 1936 DCs licensed and practicing in AZ. In 2007, there were 114 disciplinary actions. This means that even though there are more than five times more MDs than DCs in Arizona, almost as many DCs as MDs were disciplined by their respective regulatory Boards in 2007.

ACS has charged that the Arizona Chiropractic Board excessively disciplines state DCs. These statistics seem to confirm this charge. ACS and others appealed in 2006 to the Ombudsman-Citizen's Aide for assistance. After one and one-half years, a report was issued revealing that four of our six original allegations were never even investigated. With the remaining two, we strongly dispute the finding of "no substantiation" based on the information supplied herein and posted on our webpage at www.AZChiropractors.org. ACS has called upon the Arizona Legislature to thoroughly investigate the Arizona Chiropractic Board since the Ombudsman-Citizen's Aide has clearly failed to do so.

AAC OPPOSITION KILLS SB 1271 – WOULD HAVE NARROWED THE BOARD'S DISCIPLINARY POWERS

The AAC has decided to oppose SB 1271, thus killing the measure for this year.

After ACS announced the introduction of SB 1271 last month, many doctors contacted ACS and expressed great support. The universal position was that it is inappropriate for the Chiropractic Board to enforce undefined and unwritten clinical standards of practice, and that SB 1271 should therefore pass.

Nonetheless, the AAC issued the following statement in February 2008: "The Arizona Association of Chiropractic is opposed to SB 1271. This bill would add "OF ETHICS" to the section in law on disciplinary action against a chiropractic physician by the Board of Chiropractic Examiners. Its effect would be to replace the current standard, a change that we do not see would be in the best interest of physicians or their patients. As we understand it the current law has been in effect since 1991 and we

do not see any compelling reason to change or modify it. The Board has used "recognized standards in chiropractic" (current law) effectively during that time and changing it would unnecessarily change the standards on which the Board applies its disciplinary actions."

ACS issued a statement reiterating its support: "The Arizona Chiropractic Society supports SB 1271. The law prior to 1995 (not 1991) included the words "OF ETHICS" for many decades. In 1995, these key words were removed without any public discussion or testimony. This has allowed the Board to enforce unwritten and undefined clinical standards of practice with harsh discipline that has often been arbitrary, capricious and excessive. The time has come to change the law back to what it was for many decades prior to 1995 and prevent individual Board members from pursuing their own individual agendas when there is no harm or dan-

ger to the public health, welfare or safety. Chiropractors do not need to be micromanaged by the Board into becoming medipractors."

At the December 2007 meeting at the Arizona State Senate, Board Chair Haydon told Senator Allen that the Board "had already agreed to" legislation that would reinsert "OF ETHICS" into the law. Nonetheless, the Board's official position now on SB 1271 is that it has "taken no position." This is not consistent with what Dr. Haydon told Sen. Allen.

ACS urges all DCs to thoroughly review the evidence posted on www.AZChiropractors.org in order to make an objective decision regarding whether the Arizona Chiropractic Board conducts itself in an appropriate manner. ACS believes the status quo must change and that enactment of SB 1271 is a critical first step.

GOT DOCUMENTATION – TAKING A GOOD HISTORY

Gregg Friedman, D.C., ACS Board of Directors • www.GotDocumentation.com

The whole documentation process starts with the history. Regardless if you graduated from Chiropractic College 40 years ago or the day before yesterday, I'm pretty sure we all learned how to follow the OPQRST format. Over the years, though, many chiropractors have decided to take short cuts to the history which will eventually get them into trouble.

To begin with, you want to get as much relevant information from the new patient as possible. While it's important to document the fact that the patient stated she felt pain in her low back after bending over while gardening 3 days ago, you really don't have to document that it was a lovely spring day with butterflies fluttering about. In addition to getting the right information, I recommend that you also practice defensively. Just imagine if you were the reviewer on this particular case. You've been asked to review the records with a fine-tooth comb, so what would you have to say about your own documentation?

Be sure to document the OPQRST format for each symptom, though. If the patient only has low back pain, the process is pretty quick and easy. However, if the patient has multiple complaints, like headaches, neck pain and low back pain, you should document thoroughly for EACH symptom. For the "Onset," be sure to note when the patient started experiencing the symptom(s) and if the onset was

gradual or sudden and involved any trauma or not. For the "Provocative/Palliative," you should note what movement, positions or activities make EACH SYMPTOM better or worse. For the "Quality," document how the patient describes the pain, as in sharp, dull, achy, and burning, etc. Remember to document this for each symptom. For the "Radiation of Symptoms," make sure to note if the radicular symptoms follow a dermatomal distribution or not. If they do, be specific as to where the symptoms radiate. For example, to say "the symptoms radiate to the left arm," is not enough. It would be better to

say, "The patient reports numbness radiating to the left arm, forearm and the first two digits of the left hand." If the symptoms don't travel down to the fingers or toes, be specific as to how far the symptoms radiate, as in "lateral left arm just proximal to the left elbow." This way, anyone who might potentially be reviewing the records will know exactly the location of the symptoms. When documenting the "Site," be sure to document the specific site(s). A pet peeve of mine is when someone simply documents "headache." Document if the headache is frontal, temporal or occipital. If the symptom is on the left side, say so. For the "Temporal," remember to document for each symptom if the symptom(s) are worse at particular times of the day or night.

If the patient has been a maintenance patient of yours for the past 12 years and one day comes in to your office with a complaint, remember that the patient is not seeing you for maintenance that day. You must treat this new complaint as a new injury and go through the entire history process. Don't just blow it off and tell the patient all he or she needs is a good 'ole adjustment. While that's probably true, you need to follow the process of taking the history.

Taking a good history is the first step towards determining what is wrong with your patient. It's also the first step of the documentation process. The more accurate and relevant information you document from the history, the better your documentation will be.

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