

Legislative Analysis



CHIROPRACTORS: EXPAND SCOPE OF PRACTICE

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House Bill 5091 (Substitute H-2)
Sponsor: Rep. Kathy Angerer

House Bill 5105 as introduced
Sponsor: Rep. Marie Donigan

Senate Bill 971 as passed by the Senate
Sponsor: Sen. Roger Kahn, M.D.

Senate Bill 968 (Substitute H-2)
Sponsor: Sen. Wayne Kuipers

Senate Bill 972 as passed by the Senate
Sponsor: Sen. Randy Richardville

Senate Bill 970 as passed by the Senate
Sponsor: Sen. Gilda Z. Jacobs

Senate Bill 973 as passed by the Senate
Sponsor: Sen. Jason E. Allen

House Committee: Health Policy
Senate Committee: Health Policy

Complete to 12-8-09

A SUMMARY OF HOUSE BILLS 5091 AND 5105 AND SENATE BILLS 968 AND 970-973 AS REPORTED FROM COMMITTEE 12-8-09

The bills would do the following:

- Allow chiropractors to diagnose and treat subluxations, misalignments, and joint dysfunction anywhere in the body.
- Allow chiropractors to evaluate conditions or symptoms through physical examination, patient health information, and the performance and ordering of tests.
- Prohibit the performance of invasive procedures unless allowed under departmental rules and limit to examinations of the ears, nose, and throat.
- Prohibit treatment of fractures or dislocations, or the use of x-rays except as allowed under the legislation.
- Give rulemaking authority to the Department of Community Health.
- Require continuing education related to the revised scope of practice as a condition for license renewal.
- Not require reimbursement or coverage by insurers for any new service authorized under the revised scope of practice.

House Bill 5091 and Senate Bill 968

The bills, which are identical, would amend Part 164 of the Public Health Code, entitled "Chiropractic" (MCL 333.16401, 333.16423 and 333.16431) to expand the scope of a chiropractor's practice by revising the definition of "practice of chiropractic."

Proposed changes are underlined and would include the following.

** The term "practice of chiropractic" would be redefined to mean that discipline within the healing arts that deals with the human nervous system and the musculoskeletal system and their interrelationship with other body systems. Currently, the term only applies to the interrelationship between the spinal column and other body systems. (Generally speaking, a subluxation is an incomplete dislocation of a bone in a joint; spinal subluxations refer to dislocations involving the vertebrae of the spine.) "Musculoskeletal system" would be defined to mean the system of muscles, tendons, ligaments, bones, joints, and associated tissues that move the body and maintains its form.

** The practice of chiropractic would be revised to include the diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions. These diagnoses would be for the purpose of detecting and correcting those conditions and disorders or offering advice to seek treatment from other health professionals in order to restore and maintain health. "Joint dysfunction" would mean a joint that was impaired so that it did not function properly. Currently, diagnosis is restricted to determining the existence of spinal subluxations or misalignments that produce nerve interference indicating the necessity for chiropractic care; this would be deleted.

** The practice of chiropractic would include the evaluation of conditions or symptoms related to misalignment, subluxations, and joint dysfunction through any of the following:

- physical examination;
- the taking and reviewing of patient health information;
- the performance, ordering, or use of tests (as regulated by departmental rules);
- the performance, ordering, or use of x-ray (as regulated by departmental rules); or
- the performance, ordering, or use of tests that were allowed under Section 16423 as of December 1, 2009. The bill would delete a provision specifying an x-ray machine can only be used to examine patients for the purpose of locating spinal subluxations or misaligned vertebrae of the human spine.

** The practice of chiropractic would include the chiropractic adjustment of subluxations, misalignments, and joint dysfunction and the treatment of related bones and tissues for the establishment of neural integrity and structural stability.

** The practice of chiropractic would include the use of physical measures, analytical instruments, nutritional advice, rehabilitative exercise and adjustment apparatus regulated by rules promulgated under Section 16423.

The practice of chiropractic **would not include:**

- the performance of any procedure that cuts or punctures the skin;
- the dispensing or prescribing of drugs or medicine;

- the use of x-ray except for diagnostic purposes only;
- the performance of an invasive procedure involving a body orifice or cavity unless allowed by rules promulgated under Section 16423 and limited to examinations involving the ears, nose, and throat;
- the treatment of fractures or dislocations ("dislocation" would mean a complete disruption in the normal relationship of two bones forming a joint resulting in no contact of the articular surfaces, but would not include a subluxation); or,
- the performance or ordering of non-x-ray diagnostic imaging tests that were not allowed under Section 16423 as of December 1, 2009.

Analytical instruments and adjustment apparatus. Currently, the Board of Chiropractic is required to promulgate rules to establish criteria for the approval of analytical instruments and adjustment apparatus to be used for the purpose of examining patients in locating spinal subluxations and misalignments of the human spine. Instead, the bill would require the Department of Community Health, in consultation with the board, to promulgate rules to establish criteria for the performance and ordering of tests and the approval of analytical instruments and adjustment apparatus to be used for the purpose of examining and treating patients for subluxations and misalignments that produce nerve interference or joint dysfunction.

The criteria established must be substantially equivalent to nationally recognized standards in the profession for the performance and ordering of tests and the use and operation of the instruments and apparatus. The bill would also allow the board to approve types and makes of adjustment apparatus that meet these criteria (in addition to analytical instruments as currently allowed. An individual would be prohibited from performing or ordering tests or using analytical instruments or adjustment apparatus that do not meet nationally recognized standards or that are not approved by the board.

Continuing education requirements. Currently, the board may require a licensee who is seeking renewal of a license to provide documentation that he or she attended – in the two years immediately preceding the application for renewal – not less than two approved two-day educational conferences in subjects related to the practice of chiropractic and designed to further educate licensees and which include an appropriate number of hours or courses in pain and symptom management.

The bill would require the department, in consultation with the board, to promulgate rules requiring each applicant for license renewal to complete as part of the educational conferences an appropriate number of hours or courses concerning the provisions contained in the revised definition of "practice of chiropractic."

House Bill 5105 and Senate Bills 970-973

The bills would amend various insurance-related acts pertaining to reimbursement for covered benefits to specify that reimbursement or coverage would not be required for a chiropractic service unless that service was included in the definition of the practice of

chiropractic under Section 16401 of the Public Health Code as of January 1, 2009 (that is, the definition prior to the revision found in Senate Bill 968 or House Bill 5091).

House Bill 5105 and Senate Bill 973 would amend the Insurance Code (MCL 500.3107b and 500.3405 et al., respectively) to apply to insurance claims under the no-fault act, individual and group disability insurers, commercial health insurers, and health maintenance organizations (HMOs).

Senate Bill 970 would amend the Prudent Purchaser Act (MCL 550.53) to apply to prudent purchaser agreements.

Senate Bill 971 would amend the Nonprofit Health Care Corporation Reform Act (MCL 550.1502 and 550.1502a) to apply to Blue Cross Blue Shield of Michigan.

Senate Bill 972 would amend the Worker's Disability Compensation Act (MCL 418.315) to apply to employer-reimbursable charges.

BACKGROUND INFORMATION:

Michigan remains the most restrictive state in regard to the scope of practice for chiropractors. Chiropractors undergo extensive and stringent education and training, and must pass a national examination before seeking state licensure. However, chiropractors maintain that under state law, they cannot practice to the full level of their training and education; for example, treating subluxations (an incomplete dislocation of a bone in a joint) in areas of the body other than the spine. House Bill 5091 and Senate Bill 968 would correct this by allowing chiropractors to do what they are trained and allowed to do in each of the other 49 states – treat subluxations wherever they occur in the body.

Though similar to a package from last session, these bills represent a compromise between many health care professionals. Troublesome language was removed; for example, a provision in the other package could have been interpreted as allowing chiropractors to treat neurological disorders such as Parkinson's or to do invasive procedures such as prostate and pelvic exams. House Bill 5091 and Senate Bill 968 are very clear that the scope of practice to diagnose and treat conditions are still limited to conditions and disorders of the nervous system and musculoskeletal systems that relate to subluxations and that invasive procedures or use of certain imaging technologies would be prohibited. Further, reimbursement by health insurers for the new services would be optional – not mandated.

The use of chiropractic is known to increase access to care and lower health care costs. These benefits could be realized in greater numbers if the scope of practice was redefined to incorporate those treatments and services chiropractors are trained to provide. Failure to enact the package means losing revenue to clinics and practices in border areas where patients can enjoy the full complement of chiropractic services, as well as losing talented chiropractors to other states where they can practice to the full extent of their education and training.

Most of the provisions that led to opposition by healthcare groups and insurers last session were removed or revised. However, it has long been the policy of some organizations to oppose scope of practice expansions, especially if that expansion appears to broaden the diagnostic scope of a profession – long held by some to be only in the purview of physicians. In addition, expansion of one profession’s scope of practice often inadvertently overlaps the scope of practice of other professions. When that happens, clarifying language may be necessary to protect the profession impinged upon. For example, physical therapists feel that language may be needed in order to protect their members from violating the chiropractic statute when engaging in the practice of physical therapy.

FISCAL IMPACT:

House Bill 5091 and Senate Bill 968 may have fiscal implications for the state as a provider of health care for employees and for persons enrolled in the Medicaid program. Because the state's health care coverage for both programs currently includes chiropractic services, savings related to access to chiropractic care particularly for back pain already are available.

Very little research has been conducted related to the effectiveness of chiropractic care for anything other than back pain, so there is no clear indication of the fiscal impact of an expanded scope of practice for chiropractors on the health care system. There is potential for utilization to increase or instead be transferred between health professions and/or settings. There is potential for improved care and lower cost, but also the potential for improper diagnosis, care, and/or treatment

Factors that could affect health care costs or regulatory costs also include: increased competition for services where the expanded scope of practice overlaps with scope of practice of other licensed health professionals; increased access to services for consumers; and the potential for increased inquiries, allegations, and complaints to the state Board of Chiropractic regulating licensed chiropractors.

House Bill 5105 and Senate Bills 970-973 would have no fiscal impact on the state or local units of government.

POSITIONS:

Positions in support of, opposed to, or neutral to the bills were indicated by the following organizations and associations on 12-8-09.

House Bill 5091 and/or Senate Bill 968:

The Michigan Association of Chiropractors – Support

The Department of Community Health – Neutral
Michigan Physical Therapy Association – Opposed

Michigan Osteopathic Association – Opposed
Michigan Orthopaedic Society – Opposed
Michigan Academy of Family Physicians – Opposed
Michigan State Medical Society – Opposed
Michigan Radiological Society – Opposed

House Bill 5105 and Senate Bills 970-973:

Office of Insurance Regulation – Support
Blue Cross Blue Shield of Michigan – Support
Michigan Osteopathic Association – Opposed

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■ 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.