INFORMATIONAL REVIEW

USE OF CHIROPRACTORS IN SCHOOL SPORTS PROGRAMS

Schools Insurance Authority has undertaken various initiatives to help protect the health and safety of student athletes. It has recently hosted CIF presentations regarding new statutory coaching requirements, recommended the adoption of a more comprehensive and standardized Sports Physical Form, and urged members to require that younger, middle school athletes be required to undergo sports physical because they are at least equally vulnerable to injury as their older counterparts. These initiatives have sparked questions from Members regarding the proper use of chiropractors in their sports programs. Members have asked whether chiropractors can serve as "team doctors" and execute sports physical forms. Members have also raised concerns regarding risk exposures when licensed physicians (MDs and Dos, or duly licensed, directed and supervised physician's assistants and nurse practitioners) are not used in such roles. This Informational Review addresses these issues.

Every Member should be aware of two facts regarding the use of chiropractors in their sports programs:

1. The CIF has never stated that chiropractors may legally execute sports physical forms or serve as team doctors. The CIF rejected a request by the California Chiropractic Association ("Chiropractic Association") to change its rules and recognize chiropractors as authorized to conduct such activities.

2. The NCAA, the CIF (Southern Section), the Los Angeles Unified School District and other school groups have expressly limited or rejected the use of chiropractors in these roles.

Legal Review. To convince the CIF that chiropractors should be allowed to conduct sports physicals and serve as team doctors, the Chiropractic Association submitted a "brief" asserting various legal principles allegedly supporting the right of chiropractors to serve in those roles.[1] The "brief" asserted that: "The Chiropractic Act authorizes licensed chiropractors to "practice chiropractic in the state of California as taught in chiropractic schools or colleges," using this statement as a foundation for the argument that chiropractors can treat cardiac, asthma and other conditions, even though such conditions cannot be treated through chiropractic care, because they are now a part of a curriculum taught in certain chiropractic schools. This position is directly contrary to California law.[2] As also noted by the California Attorney General, a chiropractor must not engage in any care or treatment that is not based on ". . . a system of treatment by manipulation of the joints of the human body, by manipulation of anatomical displacements, articulation of the spinal column, including its vertebrae and cord, and he may use all necessary, mechanical, hygienic and sanitary measures incident to the care of the body in connection with said system of treatment, but not for the purpose of treatment, and not including measures as would constitute the practice of medicine, surgery, osteopathy, dentistry, or optometry, and without the use of any drug or medicine included in materia medica." 59 Op.Atty.Gen. 420, 8-26-76, citing *Crees* at p. 214.

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[1] Chiropractors may provide Members with a copy of this "brief," which appears comprehensive, containing many case and statutory citations. On behalf of SIA, the Association was advised that its brief was incomplete and inaccurate in many important respects, failing to cite important statutes and case authorities that are contrary to the views expressed therein. The Association never challenged SIA's responsive analysis.

[2] *Tain v. State Board of Chiropractic Examiners*, 130 Cal.App.4th 609 (2005), *Crees v. California State Bd. of Medical Examiners,* 213 Cal.App.2d 195 (1963), and *People v. Fowler*, 32 Cal.App.2d Supp. 737 (1938).

Having a chiropractor serve as a "team doctor" then potentially places the individual, and the district, at potential violation of law. *Bus. & Prof. Code Section 2052(a) and (b).* As noted by the Attorney General, due to the controlling statutes and regulations, a chiropractor may not perform any professional service relating to "neurology, cardiology, pediatrics, dermatology, syphilogy, endocrinology, psychiatry, gyneocology, obstetrics, orthopedics, ophthalmology, and roentgenology …." See also *16 CCR § 302 (a)* [authorizing a chiropractor to diagnose or treat a condition only in a manner "consistent with chiropractic methods and techniques and so long as such methods and treatment do not constitute the practice of medicine by exceeding the legal scope of chiropractic practice as set forth in this section."

Chiropractors are authorized to perform certain types of limited examinations and evaluations (e.g., *Vehicle Code Section 12804.9 and Labor Code Sections 3209, et seq.).* However, there is no statutory authorization for a chiropractor to perform sports physicals for student athletes, particularly when the sports physical requires a review of cardiac, neurologic (mini-neuro status exam) and internal organ functioning outside the scope of care and treatment by chiropractic methods. While chiropractors have asserted that sports physicals are merely "screening" mechanisms, such that they would not be acting in violation of law by executing the SIA Sports Physical Form, the existing law does not support this conclusion. By signing the form, the chiropractor is affirmatively stating that no potentially adverse cardiac, neurologic or other condition exists (i.e., a diagnosis that no harmful condition exists, with that diagnosis relating to subjects outside the scope of the chiropractor's license to provide care and treatment). (See, *B&P § 2038* re definition of "diagnosis"). That type of affirmative evaluation and diagnosis appears to be in conflict with limitations on the chiropractor imposed by California law.

Ramifications. The failure to properly utilize or limit the role of chiropractors raises two concerns:

1. If a chiropractor's activities exceed the permissible scope of his/her license as described by the Attorney General and other authorities, the chiropractor, the district, and other involved parties could be criminally prosecuted under *Business and Professions Code Section 2052* [illegal practice of medicine; aiding and abetting the illegal practice of medicine.].
2. In the case of a sports injury, that actually or allegedly could have been avoided through an examination by a licensed medical doctor, the district may be unable to avoid liability exposure when it has accepted a Sports Physical Form from a chiropractor who does not appear to be licensed and authorized to draw all of the conclusions called for in the form.

If California law were to be changed or clarified, these issues can be reevaluated.

Options and Proper Roles. Chiropractors can be materially involved in Member's sports programs, providing important and beneficial services. Their involvement, however, must be confined to those areas authorized by law. Consequently, Members might consider:

- "Sports Physical Days," in which volunteer physicians and chiropractors join collectively to undertake sports physical examinations. The chiropractor can screen for muscle and bone issues, with the physician evaluating cardiac, neurologic, internal organ and other issues falling within the "practice of medicine." The physician would then execute the Sports Physical Form. If such a program is properly established, it may also provide all involved with civil immunity, while providing student athletes with a comprehensive exam they may not otherwise be able to afford.
- "Team Chiropractor," ensuring that all coaches and chiropractors understand that the chiropractor has a very limited role in addressing bone and muscle issues (cramps, strains, sprains), but not actual or potential injuries or conditions involving the head, chest, heart or internal organs. Those matters must only be reviewed and managed by emergency medical technicians and/or licensed physicians.