

To: MA BoR
From: Kirk Shilts, D.C.
Date: 6-4-15
RE: Suggested Additional Regulations to 233CMR

I believe the BoR should consider making two (2) additional regulatory changes to 233CMR. These suggestions include adding the construct of "temporary registration" and implementing improvements to the current continuing education process.

Temporary Chiropractic Licensure:



The regulatory concept of temporary licensure is present across many state jurisdictions as well as a number of Massachusetts licensing boards. Temporary licensure enhances practitioner mobility and reduces illegal unlicensed activity. Almost every professional athletic team in the United States has a chiropractic practitioner on staff that travels with the team and provides chiropractic services in whatever jurisdiction the team is located. In every instance, the team practitioner does not possess a chiropractic license for each jurisdiction. Currently in the United States, there are close to twenty states that provide some form of temporary licensure. Temporary licensure is also used for continuing education demonstration presentations, participating in research and clinical studies, limited patient care, chiropractic student internships and small population patient care services. I urge the BoR to enact a temporary registration provision.

Chiropractic Continuing Education Improvements:

It seems to me that the process the BoR is currently following in determining allowable continuing education (CE) credit hours has become problematic. The current process limits choices in CE courses and programs a Massachusetts chiropractic licensee can apply to his or her license renewal requirement. The current process is unnecessarily restrictive and impedes the quality of chiropractic education generally. The current process clearly adds an additional cost that greatly exceeds any benefit the licensed practitioner or public would derive from the existing regulation, as to how it is currently being applied. In fact, I believe there is a definitive adverse benefit. Exec. Order 562 appears to mandate that the BoR fix this regulation to make it less onerous.

As a second issue, I request that the BoR codify the Federation of Licensing Boards' Providers of Approved Continuing Education - Chiropractic (PACE) program within 233CMR. The PACE program is to chiropractic profession as the ACCME program (Accreditation Council for Continuing Medical Education) is to the medical profession. Currently, around thirty state chiropractic licensing boards have language including PACE as an additional optional mechanism to help in the CE approval process. As you know, PACE supplements a licensing board's responsibility to approve CE but does not replace it. I am pleased to report that Massachusetts has been a PACE approval state since the PACE program's inception some 9-years ago. My request is to codify PACE from existing BoR policy into formal regulation.

I have included specific language (below) for the BoR to consider.

 = new language
 = deleted language

2.01: Definitions

For purposes of 233 CMR 2.00 through 5.00, the following terms shall have the following meanings:

Expired means the date of validity has passed. A lapsed or inactive license is also expired.

FCLB means the Federation of Chiropractic Licensing Boards.

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RE: Current Proposed Regulations to 233CMR

The currently proposed regulations are urgently needed to clarify long-recognized and identified omissions or unnecessary burdens to the existing chiropractic regulations, 233CMR.

Second, the currently proposed regulations have already undergone the process of having a business/competitiveness impact statement completed and reviewed by the Consumer Affairs and Business Regulations cabinet secretary, as required per Exec. Order 562, Section 6 (*March 31, 2015*).

The currently proposed regulations encompass three distinct topics. I have included a few salient points in support of the current proposal:

Peer Review Section:

- The direct association between the performance of a chiropractic peer review (chiropractic treatment plan development) and the practice of chiropractic is clearly established in MGL but unfortunately, 233CMR is deficient in its omission of this needed public safety safeguard.
- There has been a proliferation of 3rd party and insurance programs that now cover the payment of chiropractic services which did not exist when 233CMR was developed.
- The establishment of a minimal period that a chiropractor must be registered for eligibility to serve as peer review chiropractic-specialist is clearly established in industry standards and existing regulation. To be one's professional peer requires a degree of practical experience that exceeds merely having a license to practice. The principle of required minimal experience is similarly contained in our state's Chiropractic Facility, Chiropractor of Record requirement.
- The lack of clarity to properly conduct a chiropractic peer review by requiring the reviewer provide an unbiased, professional judgment - rather than a personal unsubstantiated opinion, is a critical consumer interest and public-safety tenant.
- The proposed peer review regulations will help lower costs to consumers, businesses, insurers and the Commonwealth by promoting quality chiropractic reviews that are less likely to be contested, appealed and overturned.

Scope of Practice Section:

- Employing a holistic perspective to delivering patient care is a long-standing tenant of the chiropractic profession. Other than those services that are statutorily prohibited by MGL, chiropractors use a variety of clinical approaches to improve a patient's neurological and body function - beyond just manual manipulations of biomechanical subluxations. Unfortunately, 233CMR is deficient by not informing the public of this basic understanding.
- The practice of nutritional and dietary augmentation to reduce "functional" subluxations, rather than biomechanical, is a primary practice approach for many chiropractors. Recognition and identification of this common practice standard should be included within 233CMR.

Chiropractic Facility Section:

- The requirement of an individualized prescriptive "compliance plan" for each licensed chiropractic facility was a valiant idea - but unfortunately, has been shown to be an unnecessary and added expense to chiropractic businesses. A better system would be to require these organizational programs for chiropractic facilities which have been sanctioned by the BoR. CMR 233 should be amended to recommend, but not require, compliance plans.