

August 2, 2013

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Sherry Thomas  
Washington State Department of Health  
Health Systems Quality Assurance  
PO Box 47850  
Olympia, WA 98504-7850

**Re: Chiropractic Scope of Practice**

Dear Ms. Thomas,

On behalf of the Washington State Medical Association (WSMA) and its 9,800 physician and physician assistant members, we are submitting comments on the Sunrise Review to expand a chiropractor's scope of practice to allow for the authority to perform sports physicals and commercial driver's license exams. Thank you for the opportunity to share our comments. We look forward to working with you as the Department of Health (Department) moves forward with this proposal.

The WSMA is opposed to expanding the scope of practice for licensed chiropractors to include the performance of sports physical exams and commercial driver's license physical exams. Please see the analysis below supporting our position.

**(1) Defining the problem and why regulation is necessary:**

The WSMA disagrees with the fundamental premise of the Washington State Chiropractic Association (WSCA) which states that the selection of health care providers allowed to perform sports physical examinations and to meet the federal Department of Transportation (DOT) requirements for commercial driver's licenses is arbitrary.

The decision to limit who may perform these exams, and specifically, to exclude doctors of chiropractic, is well founded and based on the fact that physicians, osteopathic physicians, physician assistants, and advance practice registered nurses complete training that covers a broader array of medical issues in greater depth than the training completed by chiropractors. This is discussed in greater detail below.

Regarding commercial driver's license exams: The WSCA includes a reference to the National Registry of Certified Medical Examiners (registry) and states that the federal DOT allows for doctors of chiropractic to become certified medical examiners should they become registered via the registry. What WSCA does not include is that the registry requires individuals to be "licensed, certified, or registered in accordance with applicable State laws and regulations to perform physical

examination” before they are eligible to become a Certified Medical Examiner.<sup>1</sup> Washington State has no record of allowing doctors of chiropractic to perform commercial driver’s license exams.

Second, the request to apply the standards laid out in the federal law<sup>2</sup> does not conclude that the training and core competencies for performing commercial driver’s license exams will be sufficient.<sup>3</sup> Also, as noted in the WSCA application, a majority of states do not allow doctors of chiropractic to perform commercial driver’s license exams, and the registry will not accept the application for certification to become a medical examiner.

Regarding sports physical exams: When the WSCA identifies that nearly half of the states authorize doctors of chiropractic to perform sports physical exams, it fails to analyze these states’ laws, or explain the standards by which doctors of chiropractic in these states become certified to perform examinations. In light of this absence, the argument that Washington should change its laws simply because such action would align it with other states is unsupported and unpersuasive.

Regarding a demand for services: While we do not dispute that there is a significant demand for performing commercial driver’s license exams and sports physical exams, it is not clear that the demand for these services requires an expansion of a doctor of chiropractic scope of practice, nor does it imply that the demand for these services should be met by a doctor of chiropractic performing the services. The WSCA fails to present any evidence which substantiates its claim that there is an unmet need for health care professionals to perform sports and commercial driver’s license examination. Furthermore, athletic activity and commercial driving can pose health risks, particularly to individuals who have unidentified health conditions. These examinations are required because a proper medical examination can identify potentially dangerous conditions and ultimately prevent injury or death. In light of this concern, increasing the availability of these exams by allowing chiropractors to perform them, at the cost of quality, is not beneficial to the public if it puts individuals at risk of injury. The very purpose of requiring exams is to ensure that physicians identify conditions that an individual may not be aware they have,

Regarding additional expense: The WSMA was not able to substantiate the WSCA’s claims that the restriction on doctors of chiropractic from providing these types of exams delays healthcare services and creates additional expense for patients because of the shortage of primary care physicians. We could identify no data or cited resources that are referenced in this claim. We are therefore highly concerned that it could not be substantiated. More importantly, if we assume that there is indeed a shortage of providers to provide physical examinations, it does not require an expansion of the doctor of chiropractic scope practice. In fact, there are other options to make sports physical examinations and commercial driver’s license exams more accessible to the general public.

**1(a) The nature of the potential harm to the public if the health profession is not regulated, and the extent to which there is a threat to public health and safety.**

We strongly dispute the claim that allowing doctors of chiropractic to perform these types of exams would not create additional risk to the public. The WSCA stated that because doctors of chiropractic are regulated under RCW 18.25.005, which defines the practice of chiropractic, they therefore pose no additional risk to the public in performing these exams. We are unclear as to how the definitions found in RCW 18.25.005 are sufficient to justify this claim. Moreover, the claim that the current regulatory scope of practice does not include recent advances in education for chiropractors fails to substantiate the

<sup>1</sup> See: [https://nationalregistry.fmcsa.dot.gov/NRPublicUI/documents/Medical\\_Examiner-trifold\\_final\\_version\\_for\\_website.pdf](https://nationalregistry.fmcsa.dot.gov/NRPublicUI/documents/Medical_Examiner-trifold_final_version_for_website.pdf).

<sup>2</sup> Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 113).

<sup>3</sup> Please refer to the section below comparing education of a physician to that of a doctor of chiropractic.

conclusion that allowing doctors of chiropractic to perform physical exams would not pose additional risks to patient and public safety.

**1(b) The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the health profession.**

We disagree with the claim that consumers will benefit by seeing greater access to “qualified healthcare providers” (doctors of chiropractic with an expanded scope of practice) who can provide sports and commercial driver’s license exams. We argue that, even with additional training and certification, doctors of chiropractic lack the training, experience and knowledge to ensure complete and comprehensive sports and commercial driver’s license exams. Consequently, allowing doctors of chiropractic to perform these exams would endanger patients by increasing the risk that dangerous health conditions will be unidentified or misdiagnosed.

Regarding training and education: The WSMA believes that allowing doctors of chiropractic to perform these exams could harm or endanger public health, safety, and welfare by increasing the possibility that patient conditions will go unidentified or misdiagnosed. This is, in part, because doctors of chiropractic do not complete the extensive schooling and clinical programs physicians complete. The uniquely rigorous training physicians complete teaches them to identify and diagnose a much wider range of medical conditions than other medical professionals (for example, examining and identifying heart and lung conditions that would prevent an individual from safely participating in school sport programs). Unlike doctors of chiropractic, physicians complete extensive training with relevant medical specialties such as cardiology, neurology, pulmonology, neurology, orthopedics, pharmacology and emergency medicine. Furthermore, doctors of chiropractic lack the knowledge of pharmacology and medications which the other health care professionals possess, and which is necessary to safely and completely perform a sports or commercial driver’s license examination.

It is doubtful that the 18 hours of class time proposed by the WSCA would be sufficient to prepare a chiropractor to perform an exam as well and as extensively as a physician, and a multiple choice style test, no matter how intense, would be a poor way to measure a chiropractor’s ability to perform a physical examination on an actual patient in order to successfully identify problematic health issues. The WSCA does not, and we believe cannot, demonstrate that the additional training proposed by the statutory change would sufficiently prepare doctors of chiropractic to perform exams of the same caliber as physicians.

Included below is information regarding training that doctors of chiropractic undergo as opposed to the training required of a physician. The comparison illustrates the disparity in preparation that we believe leaves doctors of chiropractic unprepared to perform adequate physical exams. This lack of training is one reason why the WSCA’s request to expand the scope of practice for doctors of chiropractic places the public in danger: such an expansion will increase the likelihood that a patient’s dangerous medical condition will be misdiagnosed or unidentified. For example, the WSMA is concerned that doctors of chiropractic will not have sufficient skill and experience to identify potentially problematic heart murmurs, and that their lack of training and experience in pharmacology and prescription medicines will leave them insufficiently prepared to evaluate an applicant for a commercial driver’s license who might be on multiple medications.

According to the American Medical Association, medical and osteopathic school students “must cover all organ systems, and include the important aspects of preventative, acute, chronic, continuing,

rehabilitative, and end-of-life care.”<sup>4</sup> Medical student education prepares students to “enter any field of graduate medical education,” and includes “content and clinical experiences related to each phase of the human lifecycle,” such that physicians can competently “assist patients in addressing health related issues involving all organ systems.”<sup>5</sup> Generally, standards required for chiropractic education do not require education in individual courses.<sup>6</sup> Chiropractic education does not require students to complete a residency.<sup>7</sup>

Regarding physicians’ and chiropractors’ orthopedic education and training, please see the comparison below:<sup>8</sup>

ORTHOPEDIC SURGEONS’ EDUCATION AND TRAINING	SPORTS MEDICINE PHYSICIANS’ EDUCATION AND TRAINING	CHIROPRACTORS’ EDUCATION AND TRAINING
<ul style="list-style-type: none"> <li>-Four years of medical or osteopathic medical education</li> <li>-Five years of graduate medical education</li> <li>-Covers all organ and other systems in the human body</li> <li>-Differential diagnostic and pharmacologic applications integrated into every level of training</li> </ul>	<ul style="list-style-type: none"> <li>-Four years of medical or osteopathic medical education</li> <li>-Four to five years of graduate medical education</li> <li>-Covers all organ and other systems in the human body</li> <li>-Differential diagnostic and neurologic applications integrated into every level of training</li> </ul>	<ul style="list-style-type: none"> <li>-Four years of chiropractic college</li> <li>-Basic sciences with neurology included in clinical sciences</li> <li>- Focus on spinal manipulation</li> </ul>

<sup>4</sup> Liaison Committee on Medical Education (LCME). Functions and Structure of a Medical School. Standards for Accreditation of Medical Education Programs Leading to the M.D. Degree. May 2012.

<sup>5</sup> *Id.*

<sup>6</sup> CCE. Standards for Doctor of Chiropractic Programs and Requirements for Institutional Status. January 2007. Curriculum in doctor of chiropractic programs must include course work on the following subjects, *though not necessarily in individual courses for each subject [emphasis added]*: anatomy; biochemistry; physiology; microbiology; pathology; public health; physical, clinical and laboratory diagnosis; gynecology; obstetrics; pediatrics; geriatrics; dermatology; otolaryngology; diagnostic imaging procedures; psychology; nutrition/dietetics; biomechanics; orthopedics; neurology; first aid and emergency procedures; spinal analysis; principles and practice of chiropractic; clinical decision making; adjustive techniques; research methods and procedures; and professional practice ethics.

<sup>7</sup> See attached publication. American Medical Association, Advocacy Resource Center. *Issue Brief: Chiropractic*, at 6 (2012).

<sup>8</sup> *Id.* at 5.

Regarding physicians' and chiropractors' neurologic training, please see the comparison below:<sup>9</sup>

NEUROLOGISTS' EDUCATION AND TRAINING	PHYSIATRISTS' EDUCATION AND TRAINING	CHIROPRACTORS' EDUCATION AND TRAINING
<ul style="list-style-type: none"> <li>-Four years of medical or osteopathic medical education</li> <li>-Five to seven years of graduate medical education</li> <li>-Covers all organ and other systems in the human body</li> <li>-Differential diagnostic and neurologic applications integrated into every level of training</li> </ul>	<ul style="list-style-type: none"> <li>-Four years of medical or osteopathic medical education</li> <li>-Four years of graduate medical education</li> <li>-Covers all organ and other systems in the human body</li> <li>-Differential diagnostic and neurologic applications integrated into every level of training</li> </ul>	<ul style="list-style-type: none"> <li>-Four years of chiropractic college</li> <li>-Basic sciences with neurology included in clinical sciences</li> <li>- Focus on spinal manipulation</li> </ul>

Regarding physicians' and chiropractors' radiologic training, please see the comparison below:<sup>10</sup>

RADIOLOGISTS' EDUCATION AND TRAINING	CHIROPRACTORS' EDUCATION AND TRAINING
<ul style="list-style-type: none"> <li>-Four years of medical or osteopathic medical education</li> <li>-At least five years of graduate medical education</li> <li>-Covers all organ and other systems in the human body</li> </ul>	<ul style="list-style-type: none"> <li>-Four years of chiropractic college</li> <li>-Basic sciences with imaging included in clinical sciences program</li> <li>-Focus on spinal manipulation</li> </ul>

<sup>9</sup> *Id.* at 7-9.

<sup>10</sup> *Id.* at 9-10.

Regarding physicians' and chiropractors' pharmacologic training, please see the comparison below:<sup>11</sup>

PHYSICIANS' PHARMACOLOGIC EDUCATION AND TRAINING	CHIROPRACTORS' EDUCATION AND TRAINING
<ul style="list-style-type: none"> <li>-Begins in medical or osteopathic medical school; continues through residency</li> <li>-Emphasis on clinical application of pharmacologic interventions</li> <li>-Covers all organ and other systems in the human body</li> <li>- Differential diagnostic and pharmacologic applications integrated into every level of training</li> </ul>	<ul style="list-style-type: none"> <li>-Limited to didactic overview during chiropractic education</li> <li>-No residency requirement of clinical application</li> </ul>

In sum, a doctor of chiropractic is not required to complete or undergo the level of subsequent training that medical and osteopathic medical students receive.<sup>12</sup>

**1(c) The extent of autonomy a practitioner has, as indicated by: (i) The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment; and (ii) The extent to which practitioners are supervised:**

Please see the comment above. We disagree with the claim that proposed updates to the scope of practice will benefit the public by "providing a mechanism whereby the public can be assured participating licensed doctors of chiropractic providing...[these exams]..." will receive adequate training in regards to the new services they provide. The additional training for chiropractors proposed by the WSCA fails to adequately prepare doctors of chiropractic for the wide array of medical issues a patient may have. Even with the proposed additional training, doctors of chiropractic lack the range of exposure and depth of knowledge necessary to perform a comprehensive and complete examination.

**(2) The efforts made to address the problem: (a) Voluntary efforts, if any, by members of the health profession to: (i) Establish a code of ethics; or (ii) Help resolve disputes between health practitioners and consumers; and (b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem:**

WSCA's comments fail to address the requirement to identify how the expansion of the doctor of chiropractic scope of practice will "help to resolve disputes between health practitioners and consumers." "Clarifying" current law, as WSCA proposes, does nothing to further an ethical code or resolve disputes between health care professionals and patients; indeed, it creates additional confusion for patients regarding which health care professions are best trained to perform these important examinations.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

**(3) The alternatives considered: (a) Voluntary efforts, if any, by members of the health profession to: (a) Regulation of business employers or practitioners rather than employee practitioners; (b) Regulation of the program or service rather than the individual practitioners; (c) Registration of all practitioners; (d) Certification of all practitioners; (e) Other alternatives; (f) Why the use of the alternatives specified in this subsection would not be adequate to protect the public interest; and (g) Why licensing would serve to protect the public interest.**

The WSMA finds no support for WSCA's implication that updating the standards as proposed in HB 1573 would "serve the public interest by allowing specially trained doctors of chiropractic to perform services in high public demand."<sup>13</sup> Furthermore, HB 1573 is silent on any reference related to public demand of the services of physical exams.

We also disagree with WSCA's claim that their proposal will "serve as a quality assurance measure by identifying a subgroup of the profession with special training."<sup>14</sup> The fact that a doctor of chiropractic would receive some additional training does not by itself makes him or her qualified to perform comprehensive and complete physical exams. Furthermore, the WSCA's proposal to provide consumers with an easily accessible list of providers, which would implicitly assure the public that these providers are qualified to perform medical exams, does not in itself show that doctors of chiropractic should be allowed to perform these exams or that their scope of practice should be expanded.

**(4) The benefit to the public if regulation is granted.**

The WSMA disagrees with WSCA's claim that consumers will benefit from "updated standards." There is no basis on which to presume that expanding the doctor of chiropractic scope of practice to include the performance of these types of exams will be in the public's best interest. The transition and limited amount of additional education will be insufficient to provide complete comprehensive physical exams. WSCA presents no evidence to support their claim, or explain why the training will be sufficient, other than to repeatedly assert the notably unsupported claim that it will be. We believe that the amount of training, education, and expertise proposed by the WSCA would not adequately prepare doctors of chiropractic to perform complete and comprehensive exams.

We do not disagree with WSCA's statement that "primary care medicine is an underserved need in healthcare." However, the fact that the public could benefit from increased access to primary care services does not support the claim that a doctor of chiropractic should have an expanded scope of practice to allow for the performance of sports and commercial driver's license exams with only a very limited amount of additional training.

Lastly, the claim that there are only 24 total providers listed in the registry as available to perform examinations for commercial driver's is disingenuous, since the federal requirements for certification do not become effective until May 2014. This is a new program, and physicians and other qualified health care professionals need time to become familiar with the new requirements. This in no way demonstrates that the public demand is greater than the availability, such that it would necessitate an increase in the number of providers.

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<sup>13</sup> Washington State Chiropractic Association, *Applicant Report Cover Sheet and Outline Washington State Department of Health Sunrise Review*, pg. 4. Accessed July 30, 2013 at: <http://www.doh.wa.gov/Portals/1/Documents/2000/ChiroAppRptAndAppendAandB.pdf>.

<sup>14</sup> *Id.*

**(4)(a) The extent to which the incidence of specific problems present in the unregulated health.**

We have no comment on this section.

**(4)(b) Whether the public can identify qualified practitioners.**

We agree that the Department of Health has a navigable and searchable website that lists practitioners by name and license number for the purposes of public identification of qualified providers. However, for the reasons stated in previous sections, we disagree that chiropractors should have an expanded scope of practice to allow for sports and commercial driver's license physical exams, and therefore we believe they should not be listed as being qualified for such on any public website.

**(4)(c) The extent to which the public can be confident that qualified practitioners are competent.**

The WSCA references the amount of education required to become a doctor of chiropractic. We do not disagree with the amount of training required to become a doctor of chiropractic. However, as we state above, we disagree that the training of a doctor of chiropractic is sufficient to perform complete comprehensive physical exams, even with the proposed additional pre-certification training. We also disagree that the scope of practice for a doctor of chiropractic should be expanded to allow for the performance of sports and commercial driver's license physical exams.

**(4)(c)(i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members, or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any; the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and nonrenewal of registrations, certificates, or licenses; the promulgation of rules and canons of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken against practitioners; and how fees would be levied and collected to cover the expenses of administering and operating the regulatory system.**

We have no comment on this section.

**(4)(c)(ii) If there is a grandfather clause, whether such practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date.**

We have no comment on this section.

**(4)(c)(iii) The nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions.**

We have no comment on the section.

**(4)(c)(iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions.**

We have no comment on this section.



**(4)(c)(v) The nature and duration of any training including, but not limited to, whether the training includes a substantial amount of supervised field experience; whether training programs exist in this state; if there will be an experience requirement; whether the experience must be acquired under a registered, certificated, or licensed practitioner; whether there are alternative routes of entry or methods of meeting the prerequisite qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met.**

We do not disagree that the stated amount of training will be made available for a doctor of chiropractic who wishes to apply for authorization to perform physical exams. However, for the reasons stated in section 1(b), we disagree that the proposed additional training or education would be sufficient for a doctor of chiropractic to perform comprehensive and complete physical exams.

**We have no comment on sections (4)(c)(vi) through (4) (d)(ii).**

**(5) The extent to which regulation might harm the public.**

Please see our comments above. We disagree that the proposal will improve the quality of care by identifying specially trained providers. We also disagree that this service has been demonstrated to be in high demand for Washington State. Lastly, the WSCA states that the proposal exceeds requirements of other professions already providing these exams. We disagree that the initial training and education of a doctor of chiropractic and supplemental education and training of a doctor of chiropractic will be sufficient to perform a complete comprehensive physical exam and thus the requested expansion places the public at unnecessary risk of harm.

**We have no comment on sections 5(a) through 9.**

Thank you for the opportunity to share our concerns. If you have any questions, please feel free to contact Kathryn Kolan at (360) 352-4848 or Denny Maher at (206) 956-3640.

Sincerely,

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Denny Maher, MD, JD  
Director of Legal Affairs

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Kathryn Kolan, JD  
Director of Legislative and Regulatory Affairs

cc: WSMA Senior Staff