

Part 13 – Certifying the Practice of Homeopathy

In Part 12, I introduced a model for state certification of practitioners with limited practice rights to be authorized to utilize forms of practice based upon education and training beyond that required for their basic license. States may do that through their legislature (or voters) or the state legislature/voters may, expressly or impliedly, delegate to the agency that regulates the particular profession the primary responsibility to fill in the details for such education, training and additional practice rights. The California voters in amending the 1922 Act to require 15% “elective” education and training left it to the California Board of Chiropractic Examiners (BCE) to fill in the details as to such education and training and rights related thereto.

However, I also pointed out that the BCE may only recognize specific, expanded, rights if the particular form of practice is consistent with the “basic practice right” granted by the 1922 Chiropractic Act and is not expressly precluded by that statute. In addition, any newly recognized rights must be established by a “formal regulation” adopted in conformity with the notice and hearing requirements of the California Administrative Procedures Act.

I contend that the “**basic practice right**” granted to chiropractors by the 1922 Chiropractic Act was to “treat diseases, injuries, deformities, or other physical or mental conditions” except as otherwise expressly limited by the terms of the Act itself. Due to space limitations, I have not, in this series, attempted to explain how I derive this “**basic practice right**”. However, a partial explanation may be found at www.prescott-law.com > Dyn. Chiro. Art. > Counsel in Dissent 8 (“Chiropractor Prosecuted for Recommending Vitamin A...”)

I will address three questions here:

- 1) Are California chiropractors precluded from using homeopathics by the 1922 Act? - No!
- 2) Are California chiropractors precluded from using homeopathics by the BCE scope of practice Rule 302? – Yes!
- 3) Should the BCE certify chiropractors to use homeopathics based upon elective education and training? – Yes! (I will not address any “grandfathering” issues here.)

1922 Act & Homeopathics

It is important to note at the outset that the National Board of Chiropractic Examiners in a 1993 “*Job Analysis of Chiropractic By State*” demonstrated (to a 95% statistical certainty) that between 36.5% and 49.3% of California chiropractors were using homeopathic remedies as of 1993.

As repeatedly stated in this series of articles, the 1922 Chiropractic Act cannot be understood without, among other things, considering the contents of the 1913 Medical Practice Act (MPA). The 1913 MPA precluded “drugless practitioners” from “the use of drugs or what are known as medicinal preparations”. That language was changed in the Chiropractic Act to preclude chiropractors from using “any drug or medicine now or hereafter included in materia medica”.

Was the limitation as to chiropractors intended to be broader or narrower than the limitation as to drugless practitioners? Narrower!

The 1913 MPA allowed a person to become licensed as a drugless practitioner and then, if they chose to do so, complete the remaining 2000 hour prescribed curriculum to become licensed as a physician and surgeon. The physician and surgeon license required completion of an 80 hour course in “materia medica” (plus 105 hours in pharmacology). Chiropractors were **not**, however, granted the right to convert from the chiropractic license to the physician and surgeon license.

In as much as chiropractors were precluded from shifting license categories it was imperative that the “drug/medicine” preclusion be carefully crafted. Also, it was essential to not preclude chiropractors already licensed as naturopaths under the 1909 MPA, or as drugless practitioners under the 1913 MPA, from utilizing forms of practice they were already using in 1922.

The only reasonable approach to interpreting the language precluding chiropractors from using drugs in materia medica is to recognize that the materia medica being referred to is the “materia medica” taught as part of the requirements for a physician and surgeon license. Did this materia medica course include homeopathics? No!

In 1914, the American Medical Association published “A Handbook of Useful Drugs” specifically for use in teaching the materia medica course for licensure as a physician and surgeon. This “handbook” does **not** include homeopathic remedies.

One of the groups that participated in securing passage of the 1922 Act was the then existing licensed naturopaths, including Charles Cale the founder of LACC. The early LACC “naturopathic” curriculum included the use of Henry Lindlahr’s “*Philosophy of Natural Therapeutics*”. The 1922 (fourth) edition of Lindlahr’s text is still in the library at LACC and chapter XXV is dedicated to “HOMEOPATHY” (natural/functional homeopathy, as opposed to classical homeopathy).

Because chiropractors in 1922 were using homeopathics and because homeopathics were not included in the “materia medica” as taught for the physician and surgeon license under the 1913 MPA, the only reasonable conclusion is that chiropractors were not intended to be precluded from using homeopathics by the 1922 Act. But, Rule 302 is a different matter.

Rule 302 & Homeopathics

In essence, the present BCE rule defining the chiropractic scope of practice (Rule 302 – adopted in 1991) limits chiropractors to performing adjustment of the spine and extremities and any additional authorized treatment methods are limited to being used as an adjunct to the adjustment.

More specifically, Rule 302(a)(5) precludes chiropractors from using any substance included in “materia medica as defined in section 13 of the Business and Professions Code.” Business and Professions Code section 13 defines the term “materia medica” to include substances listed in the “official Homeopathic Pharmacopoeia of the United States”. However, Business and Professions Code section 13 was adopted by the California Legislature in 1961 and it is totally clear that the legislature **cannot** alter or amend the chiropractic act unless the change is approved by the voters. Section 13 has

never been approved by the voters and is not binding upon chiropractors except through the vehicle of Rule 302. Rule 302 should be changed so that it is consistent with the original intent of the 1922 Act and so the 36.4% to 49.3% of California chiropractors using homeopathics may do so without facing loss of their license and/or criminal charges for practicing medicine without a license.

Certifying Use of Homeopathics

The BCE has a duty to adopt regulations as needed for the safety and protection of California patients. Although many early chiropractic/naturopaths utilized homeopathics they only did so based upon proper education and training. Such training is not now included in the education and training of chiropractors. Therefore, the BCE should undertake to determine whether it is appropriate for chiropractors to use homeopathics without such training and, if not, the board should establish reasonable minimum educational and training standards for such practice.

It would be appropriate for the BCE to distinguish between the use of homeopathics as an adjunct to the adjustment and as either based upon classical homeopathy and/or what in Europe is presently called clinical (or functional) homeopathy. Clinical/functional homeopathy as presently practiced in Europe is closely connected with the concept of the “Living Matrix” addressed in my Third Series of articles in this publication which may be reviewed at the web site indicated below.

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