

Report of Final Findings and Recommendations

By The

Technical Committee for the Review of the  
Application for a Change in Scope of Practice of Chiropractors  
by the Nebraska Physical Therapy Association

To The

Director of Health and the Nebraska Legislature

November 18, 1985



The members appointed by Gregg F. Wright, M.D., M.Ed., Director of Health, to serve on the Physiotherapy Credentialing Review Technical Committee are as follows:

Robert J. Hilkemann, D.P.M. - Chair, Board of Health member (Omaha)  
George Randy Jeffrey, P.T. - physical therapist, private practice (Lincoln)  
Bill Matthews - Superintendent of Wauneta Public Schools (Wauneta)  
Bruce Miller, M.D. - orthopedic surgeon, private practice (Lincoln)  
Steve Monaco - Head athletic trainer, Creighton University (Omaha)  
Irvin L. Peterson, Ph.D. - Senior professor, Athletic Department, Nebraska  
Wesleyan University (Lincoln)  
James Smith, D.C. - chiropractor, private practice (South Sioux City)



## Summary of Committee Findings and Recommendations

The committee recommended that the Boards of Examiners of Physical Therapy and Chiropractic meet jointly to develop definitions of chiropractic physiotherapy, and physical therapy in general, and that the boards agree to publicize and enforce these definitions in both advertising and practice.

The proposal to amend the chiropractic statutes as presented by the Physical Therapy Association was recommended for disapproval by a vote of 7-0.



## Introduction

The Nebraska Credentialing Review Program, established by the Nebraska Regulation of Health Professions Act (LB 407), is a review process advisory to the Legislature which is designed to assess the necessity of state regulation of health professions in order to protect the public health, safety, and welfare.

The law directs those health occupations seeking credentialing or a change in scope of practice to submit an application for review to the Director of Health. At that time, an appropriate technical committee is formed to review the application and make recommendations after a public hearing is held. The recommendations are to be made on whether the health occupation should be credentialed according to the three criteria contained within Section 21 of LB 407; and if credentialing is necessary, at what level. The relevant materials and recommendations adopted by the technical committee are then sent to the Board of Health (after 1985) and the Director of Health for their review and recommendations. All recommendations are then forwarded to the Legislature.

In order to accommodate the health occupations that submitted credentialing legislation in the 1985 session, priority has been given to them so that they may complete the review process before the 1986 legislative session. This accommodation has resulted in a shortened review process in which the technical committee recommendations are sent directly to the Director of Health, bypassing the Board of Health for 1985.





## Summary of the Proposal

The Nebraska Physical Therapy Association seeks to amend the Chiropractic practice act in sections 71-177, 71-178, and 71-179 of the Revised Statutes of Nebraska. The proposal would strike from sections 71-177 and 71-179 the words "chiropractic physiotherapy." Section 71-177 deals with the definition of the practice of Chiropractic, and section 71-179 deals with the subjects covered by the licensing examination prescribed by the Board of Examiners in Chiropractic. The proposal would also amend section 71-178 to include the words "and licensed physical therapists" in order to add physical therapists to those professions not falling under the definition of the practice of Chiropractic given in section 71-177.



## Overview of Committee Proceedings

The Physiotherapy Credentialing Review Technical Committee first convened on August 6, 1985, in Lincoln at the State Office Building. An orientation session given by the staff focused specifically on the role, duties, and responsibilities of the committee under the credentialing review process. Other areas touched upon were the charge to the committee, the three criteria for credentialing contained with section 21 of LB 407, and potential problems that the committee might confront while proceeding through the review.

The second meeting of the committee was held on August 20, 1985, in Lincoln at the State Office Building. After study of the proposal and relevant material compiled by the staff and submitted by interested parties between the meetings, the committee formulated a set of questions and issues it felt needed to be addressed at the public hearing. Contained within these questions and issues were specific requests for information that the committee felt was needed before any decisions could be made.

The committee reconvened on September 17, 1985, in Lincoln at the State Office Building for the public hearing. Proponents, opponents, and neutral parties were given the opportunity to express their views on the proposal and the questions and issues raised by the committee at their second meeting. Four people spoke in favor of the proposal and one person spoke in opposition. Interested parties were given ten days to submit final comments to the committee.

The committee met for the fourth time on October 8, 1985, in Lincoln at the State Office Building. After studying all of the relevant information concerning the proposal, the committee then formulated its recommendations.

Because this application proposes to change the scope of practice of a currently regulated health profession, this committee agreed to dispense with a detailed consideration of the three criteria spelled out in LB 407. Instead, in developing their recommendation on this application they considered the following information.

Information Provided by the Applicant Group

Prior to submitting their formal application for credentialing review, the applicant group had supported Legislative Bill 470, which was introduced in the first session of the Eighty-ninth Legislature. At the public hearing on that bill, the NPTA stressed that the sole intent of that legislation was to prohibit chiropractors from using the words, "physiotherapy" or "physical therapy" in their advertising. Stressing that they had no objection to chiropractors practicing chiropractic, the NPTA objected to the use of these terms with the belief the use would mislead the public or in some way imply that chiropractors are, in fact, physical therapists. (pg. 54 of the Transcript of the public hearing before the Committee on Public Health and Welfare on March 5, 1985.) This theme was developed throughout that hearing and in both the Application for Change in Scope of Practice and in the Public Hearing before the Technical Committee.

The applicants contend that the terms physiotherapy and physical therapy are synonymous. As an example, the physical therapists' counterparts in Europe and Canada still use the term "physiotherapists." This being the case, the NPTA believes that the use of the term "physiotherapy" by chiropractors misleads the public and other professionals into believing they (chiropractors) can perform the practice of physiotherapy/physical therapy. The NPTA thus believes this practice to be misleading and dangerous to the health and welfare of the general

public. They assert that substituting the word "modalities" for physiotherapy would not change what is being done presently by chiropractors and would more clearly state the facts of practice. The proponents feel that this would protect the consumer from being led to believe that the chiropractor is the same as the physical therapist. (pg. 1, Application for Change in Scope of Practice.) At the public hearing on LB 470 it was argued that a change in terminology would help clarify to consumers the type of treatment they could expect to receive.

The applicants contended that the confusion regarding the scope of practice was exacerbated by the passage of LB 142 in 1983. They believe that adding the term "chiropractic physiotherapy" to the chiropractic practice act engulfed the totally separate and licensed practice of physical therapy. (pg. 6 Public Hearing before the Physiotherapy Technical Committee, September 17, 1985.) This same concern was expressed at the public hearing on LB 470 when a speaker claimed, "We feel very strongly that chiropractic physical therapy was inserted into their practice act in an attempt to mislead the public into thinking they're also giving physical therapy treatment." (pg. 67 of the Public Hearing before the Committee on Public Health and Welfare.)

The position of the applicant group is that there do exist significant differences, both in the understanding of physiotherapy and in the level of preparation or educational training that is received, between chiropractors and physical therapists. Therefore, the NPTA believes, it is a question of scope of practice. They feel that the citizens of the State of Nebraska could be misled by the term "chiropractic physiotherapy" and that the chiropractor, no matter how competent he or she may be, is not educated or trained to practice as a physical therapist. They state that any time

people are not trained fully in a profession and still try to practice it, there is an inherent danger. (pg. 8 of the Public Hearing.) A supporter of the bill, who is both a Registered Physical Therapist and a Doctor of Chiropractic, noted that, at the time he was in chiropractic training, any student desiring information concerning physical therapy had to take a special seminar, at extra cost, because there was not an offering on the subject in the college's curriculum. (pg. 56 of the transcript of the Committee on Public Health and Welfare.)

At that same hearing, another speaker detailed the differences in requirements for admission to the professional schools of physical therapy and chiropractic. Noting differences in the grade point averages required, (3.0 for admission to the physical therapy program and 2.25 for chiropractic), and the differences in the grade point average required for beginning clinical rotation, he argued that chiropractic students may be less qualified upon entering, and need not be as qualified as they proceed through their education (pg. 18 of the Transcript.) Recognizing that chiropractors have their area of expertise, but insisting that it is not in physical therapy, speakers at the Legislative Hearing on LB 470 noted the fundamental differences between the physiotherapy that can be performed by a trained physical therapist and the chiropractic physiotherapy that might be performed by the chiropractor. They noted that while some chiropractic training institutions offer a course in physiotherapy, the course work deals with heat, light, electricity, massage, traction and hydrotherapy, which are only a small part of the function of the physical therapist. Noting that there is no reference to artificial limb training or prosthetic training (brace measuring, ordering and fitting, and orthotics; rehab techniques for spinal cord injured patients or stroke patients; wheelchair

measuring and ordering, etc.), proponents argued that leaving the word "physiotherapy" in the chiropractic practice act misleads the public into believing the chiropractor can do all the things a physical therapist can do. (pg. 20 of the public hearing of September 17, 1985.)

Other speakers before the Public Health and Welfare committee supported the applicant's position, and agreed that changes in the statute would clarify the practice of chiropractic. The representative of the Nebraska Medical Association noted how physicians and physical therapists work closely with treatment programs for a wide variety of medical illnesses and injuries. He expressed concern that the reference to chiropractic physiotherapy in the current definition of the scope of practice of chiropractors is misleading, because they are not trained in the medical aspects of physical therapy. He felt that qualified physicians and licensed physical therapists provide a level of care that is more comprehensive than that provided by the chiropractor, who is working alone in his practice using only chiropractic training and experience. (pg. 77 of the Transcript of the Committee on Public Health and Welfare.)

It is the position of the NPTA that physical therapy is a licensed profession, not a procedure, and because the term "physiotherapy" is synonymous with "physical therapy," the term physiotherapy should be dropped from the Chiropractic Practices Act.

#### Information from Other Sources

Opponents of the proposal, predominantly the chiropractic profession, argued that the change in terminology is unnecessary and unwarranted. They contend that the terminology accurately describes their practice and that sufficient safeguards exist to ensure that the public is well served. Opponents described chiropractic physiotherapy as a term that includes

therapy equipment such as hot packs, cold packs, ultrasound, diathermy, etc. It is to provide relief as a part of the total chiropractic treatment which, of course, includes chiropractic adjustment. According to testimony before the Public Health and Welfare Committee, chiropractors had been using these types of physical therapy for 40 years before Physical Therapy was licensed as a new occupation in Nebraska. They note that at that time (1957) Doctors of Chiropractic, along with medical doctors, were exempted from the requirements of the Physical Therapists law. (pg. 85 of the Legislative Hearing.)

Stating that chiropractic is a much older and broader health occupation than physical therapy, the opponents believe that a change in the chiropractic practice act would be a step backward in the effort to reduce the rising costs of health care in the state of Nebraska. They believe that a change in the scope of practice would have the effect of depriving the consumer of the freedom of choice and would ultimately result in an increase in the cost of health care. (pg. 84 of the public hearing on LB 470.)

Opponents contended that, rather than "engulfing" the licensed practice of physical therapy as was described by the proponents of this application, the new scope of practice simply "put on paper" things chiropractors were already doing. They define physiotherapy as a form of medical treatment that uses manipulation and massage plus a variety of other mechanical and electronic modalities to give relief from pain and restore health where there has been injury or disease. They noted that the term "physiological therapeutics" was first included and advertised in the curriculum of the National College of Chiropractic in 1912. The purpose of physiotherapy is two-fold. One, it is to speed healing and, second, it



exists to reduce pain. The application of the various forms of heat, light, electricity, and water, accomplish that purpose. Opponents also stressed that when this treatment is done by a chiropractor it is at a "reasonable cost." They insist that the importance of physiotherapy to the practice of the chiropractor cannot be overstated. In testimony before the Public Health and Welfare Committee they outlined their belief that if the changes outlined in LB 470 were enacted the chiropractor would have two choices; to continue to use chiropractic physiotherapy illegally or to send patients to other practitioners, namely the medical and physiotherapy community. Opponents contended that these actions would approximately double the cost to the health consumer. (pg. 90 of the Transcript of the public hearing.)

Opponents of the application contended that the level of training offered to chiropractic student and practitioners is extensive. They noted that the physiotherapy curriculum at the University of Nebraska requires only four years to grant a degree and that Chiropractors are required a minimum of six years before they are even allowed to be examined for license in Nebraska. Chiropractic candidates are then required to complete a two-day National Board examination before they can graduate, and then must pass the state licensing examination. They stress that once they receive a license, chiropractors have to renew their license annually by taking a certain number of hours of continuing education. (pg. 93 of the Testimony before the Public Health and Welfare Committee.)

Other speakers noted that all of the nationally accredited chiropractic schools teach chiropractic physiotherapy as part of their curriculum, and that chiropractic physiotherapy is a part of the training

required for licensure in most states. They contended that to limit the practice of qualified people would be a restriction of fair trade.

It was noted that there has never been a claim of chiropractic negligence in the area of rehabilitation submitted to the largest writer of malpractice insurance of chiropractors in this country. Opponents of this application argue that the hazard to the public in this type of rehabilitation is very low. They believe it to be the responsibility of the Board of Chiropractic Examiners in Nebraska, as it is with other Boards, to protect the public. (pg. 46 of the Public Hearing Transcript.)

Opponents of this application suggested that the word "physiotherapy" is owned by no particular group. They define it as a term that means treatment by mechanical, electrical, and thermal means. They noted that osteopaths use the word "physiotherapy," chiropractors use it, masseurs use it, and physical therapists use it.

#### Committee Discussion and Recommendation

Recognizing this to be a complex issue that depends upon the careful definition of terms, the committee strongly recommended that the Boards of Examiners of Physical Therapy and Chiropractic meet jointly to develop definitions of chiropractic physiotherapy, and physical therapy in general, and that the boards agree to publicize and enforce these definitions in both advertising and practice.

Therefore, contingent upon the adoption by the Boards of Examiners and Department of Health of the suggestions of this Committee, the proposal to amend the chiropractic statutes as presented by the Physical Therapy Association was recommended for disapproval by a vote of 7-0.