The Dynamics of Composite Licensing Boards from the Chiropractic Perspective

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Disclaimer: The opinions expressed are those of the authors and do not necessarily represent the positions of either the Kansas State Board of Healing Arts or the Virginia Board of Medicine.

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Introduction

Tell a chiropractic colleague that you serve as the chiropractic member of a state medical licensing board and receive a sympathetic nod of the head. Mention that the state does not have its own chiropractic examining committee and the immediate thought is that it must be a tough place to practice chiropractic.

But ask the opinion of those few doctors of chiropractic in this country (6 total) who serve on composite boards and all will likely tell you that they prefer the multidisciplinary approach for licensing and discipline.

Regulatory Background

To protect the public's health, safety and welfare, every state has adopted legislation which regulates health care professions. The statutes provide for a non-paid board, generally composed of both professional and consumer members, to handle regulation for each licensed profession. Forty-seven states have separate licensing boards for medicine and chiropractic. Twenty-three of the medical boards also license additional health care professions, including osteopathy, podiatry, nursing and/or physician assistants.

The responsibilities of the state boards include the authority to investigate consumer complaints, oversee the general application of health care laws, help update and develop regulations to address practice issues and better define professional conduct, review required credentials, and apply appropriate disciplinary action or retraining to doctors who may have broken the public trust through violation of statute or regulation.

An essential part of the regulatory board's responsibility is to discipline and/or retrain the small fraction of doctors who step outside state law and regulation. Although the administrative processes vary from state to state, the outline of a disciplinary procedure is consistent throughout the nation. Complaints are investigated thoroughly and if the complaint cannot be resolved satisfactorily through informal processes, formal hearings may be conducted to determine facts, severity of offense and whether sanctions are appropriate. Sanctions may include a formal letter of reprimand, fine, retraining or re-examination, probation, suspension of license, or revocation of the license. (1)

Composite Boards

Presently, only three states license and discipline doctors of chiropractic through composite or multidisciplinary boards. The three are the Kansas State Board of Healing Arts, founded in 1957; the Virginia Board of Medicine, which has licensed doctors of chiropractic since 1948; and Illinois, which has separate boards for discipline and licensing. Although few in number, they present excellent models for other states to study and emulate.

The Kansas State Board of the Healing Arts has the greatest chiropractic representation of any of the composite boards (20%). The board has fifteen members: five medical doctors, three osteopathic doctors, three doctors of

chiropractic, one podiatist and three public members. (2) All board members are appointed by the governor for four year terms, with the fields of medicine, osteopathy and chiropractic rotating the board presidency. The Kansas Board of the Healing Arts regulates over 16,000 health care practitioners, including physician assistants, respiratory therapists, occupational therapists, physical therapists and athletic trainers.

The Virginia Board of Medicine has just one chiropractic member on its 17 member board, which gives it the smallest chiropractic representation percentage of the three states. The remainder of the Virginia Board of Medicine consists of eleven medical doctors (one from each congressional district), one podiatric doctor, one clinical psychologist, one osteopathic doctor and two public members.(3) All are appointed by the Governor and serve four year terms. The Virginia board regulates approximately 40,000 health care practitioners, including physical therapists, respiratory therapists, radiological technicians and occupational therapists.

Illinois presents an entirely different model, in that licensing and discipline are handled by two separate composite boards. The Illinois Medical Licensing Board was founded in 1923 and is composed of one doctor of chiropractic, one osteopathic doctor and five medical doctors.(4) The Illinois Medical Disciplinary Board has one doctor of chiropractic, one osteopathic doctor and five medical doctors, but also includes two non-voting public members.(5) As in Kansas and Virginia, all board members are appointed by the Governor for four year terms.

Advantages of Composite Licensing Boards

The advantages of composite boards are varied and numerous. Following are some of the reasons why other states should seriously consider adopting this unique and effective approach to licensure.

A composite board fosters understanding between disciplines and helps eliminate prejudice and misinformation. The medical members of mixed boards - who generally have been in leadership roles in their societies and hospitals - learn about the curriculum of chiropractic colleges and work closely with chiropractic doctors who generally have been equally active in the chiropractic profession. At the same time, chiropractic board members learn about medical protocol and the problems facing that profession. It doesn't take long for tolerance and mutual respect to develop under this type of working conditions.

With many thousands of licensees and registrants, composite boards have the financial resources to hire large experienced staffs. Kansas alone has five full-time attorneys and five full-time investigators. Compare that level of support to many state chiropractic examining committees, who may be fortunate to have one full-time investigator and an assistant attorney general on loan. Ample staff can oversee the enactment of regulations, administration of exams and investigation of doctors. This allows board members to concentrate on the more important work of disciplinary judgments and policy decisions. Regulating many licensees also means that difficult types of cases - sexual misconduct, for example - will be seen on a much more frequent basis. This additional experience is extremely helpful to both the staff and board members as they strive to make fair and effective judgments.

A composite board eliminates costly duplication of services and in the process saves many thousands of tax dollars. Why should three or four different boards rent separate office space, pay utilities and employ staff when all necessary board functions can easily and efficiently be consolidated under one roof?

Perhaps the most valuable aspect of composite boards is the "watch dog"

effect. Fair or unfair, one of the major criticisms of separate boards is that they are “good ole boy” systems with doctors protecting other doctors. That’s not a charge you hear in the three states with composite boards. Doctors from different professions work with public members as a natural check and balance to ensure fair and impartial enforcement of regulations and statutes. This benefit insulates the board from actual or perceived “cronyism,” and alone makes composite boards an approach that all states should seriously consider.

Another advantage of composite boards is the amount of combined expertise and experience sitting at one table. Complicated cases can many times be decided without outside experts or prolonged inquiries. Cases that overlap professions, as when a doctor is charged with invading the practice of another field, can usually be resolved with input from members of the involved professions.

Still another advantage of composite boards arises in the legislative arena. When complicated health care bills come before state legislatures, there is often conflicting testimony offered by various health care groups. This process can leave legislators confused and desperate for objective opinions. A composite board, which regulates many health care fields, can often provide valuable assistance to legislators.

The presence of medical physicians on a board licensing chiropractors also may have a positive, “buffering” effect on the core scope of practice conflicts within chiropractic. A board with medical members is unlikely to look favorably on chiropractic practice expansion into areas such as surgery, obstetrics or pharmacology. At the same time, composite licensing boards recognize the importance of diagnosis for portal of entry providers and are equally unlikely to embrace the no-diagnosis dogma espoused by minority elements of the

chiropractic profession. It is interesting to note that Kansas, Virginia and Illinois all have similar practice acts representing mainstream chiropractic practice. All three states prohibit the use of pharmacological agents and surgery, require that a diagnosis be made, allow for the use of physical therapy modalities and permit venipuncture for diagnosis.

Political Opposition to Composite Licensing Boards

Even with all these advantages, there has always been opposition to composite licensing boards. In Kansas, the 1957 law creating the Kansas Board of Healing Arts was immediately and vehemently opposed by the Kansas doctors of chiropractic. Within days of its passage, the Kansas Chiropractic Association filed suit seeking to have the law declared unconstitutional. (6) The resulting court battle lasted seven and one-half years, with the Kansas Supreme Court in December, 1964 ultimately ruling that the law was constitutional. The Supreme Court further held that being regulated by a composite board would "not hurt" doctors of chiropractic. (7)

As it turned out, the Supreme Court was correct. In fact, the 1957 law turned out to be one of the best things that ever happened to the chiropractic profession in Kansas. Today, the Kansas Chiropractic Association fully supports the current system and opposes any change in the composition of the board.

However, opposition now comes from the Kansas Medical Society. Vocal elements of the medical profession have long let it be known that they desire regulatory autonomy along with complete independence from the chiropractic profession. In 1994, the Kansas Medical Society was able to convince the Kansas legislature to hold committee hearings on a proposal to abolish the Kansas Healing Arts Board in favor of separate licensing boards.

Current Healing Arts Board president Howard Ellis, M.D. testified about the

many advantages of having public members and all four disciplines sitting at one table. Public member John Peterson testified, "When I arrived, I had a great deal of attorney cynicism because I suspected my job would be to referee fights between medical doctors and chiropractors. I was surprised to learn that fights are non-existent since all the doctors have protecting the public as their number one goal." (Peterson J. Personal communication).

After hearing all the testimony, the Kansas Legislature correctly concluded that the current licensing system works extremely well and viewed the medical proposal as being politically motivated. No legislative action was taken.

In 1992, the Virginia Chiropractic Association introduced a bill, which eventually became law, that directed the Virginia Department of Health Professions to conduct a study of "the feasibility and appropriateness of establishing a board of chiropractic in the Commonwealth."

The study by the Board of Health Professions looked at data from both within and without the state in order to compare scopes of practice, number of practicing chiropractors, and rates of disciplinary actions for composite boards versus chiropractic boards. Public comment was also solicited.

It was determined that disciplinary actions involving chiropractors in Virginia occurred at a similar rate and for similar offenses as in other states. While most of the public comment on this issue was by chiropractors who were in favor of a separate board, the current chiropractic member of the Virginia board was joined by the three members in supporting the existing regulatory structure. The Board recommended against a separate board in Virginia, although it did recommend consideration of options such as a second chiropractic member or some type of advisory board structure. (8)

In 1996, another chiropractic organization, the Virginia Society of Chiropractic, introduced a bill in the Virginia legislature to create a Chiropractic Advisory Board. Its purpose would have been to "advise the Board of Medicine in matters concerning the practice of chiropractic...(and) review the findings of any chiropractic investigation." The bill clearly implied that a board with only one doctor of chiropractic could not fairly hear and evaluate chiropractic cases. The bill was carried over until the 1997 legislative session.

Conclusion

Regulation of health professionals is currently under scrutiny, with one focus being the composition of licensing boards. In 1996, the Pew Health Professions Commission's Task force on Health Care Workforce Regulation released a report highly critical of the current system of professional regulation for a variety of reasons. The report gave the following recommendations for redesigning board structure and function:

"...States should redesign health professional boards and their functions to reflect the interdisciplinary and public accountability demands of the changing health care delivery system" and

"Consolidate the structure and function of boards around related health professional or health service areas." (9)

Even though composite boards have been periodically opposed by medical and chiropractic associations, they nevertheless may be the system of choice for effectively regulating doctors and serving the public interest. Certainly, it is time for other states to take a closer look at composite boards and the benefits they offer. Kansas, Virginia and Illinois, with over 160 years of combined experience, have proven that health care professionals can put aside their differences and work hand in hand for the public good. That experience has also shown that

composite boards can be extremely beneficial, both for health care providers

and the citizens they serve.

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