

**Historical Vignettes: Important historical events that have shaped modern chiropractic practice in Australia.**

## **Historical Vignette 2: Replacing Queensland's Restrictive Definition of Chiropractic**

### **Author Information:**

J Keith Simpson BA(Hons), DC, PhD  
Adjunct Senior Lecturer  
College of Science, Health, Engineering and Education  
Murdoch University.

**Email:** [k.simpson@murdoch.edu.au](mailto:k.simpson@murdoch.edu.au)

## Historical Vignette 2: Replacing Queensland's Restrictive Definition of Chiropractic

The Honourable Sir William Knox, Queensland Minister for Health, correctly foreshadowed that passing the Chiropractic Manipulative Therapists Act (CMTA) in 1979 would lead to coverage for injured workers to receive chiropractic care under Queensland's worker's compensation legislation. In due course, this came to be, a system that was significantly stacked against injured workers receiving chiropractic care for several reasons:

1. Injured workers required a referral from a General Medical Practitioner (GP).
2. The Medical Board of Queensland held that a medical practitioner providing a referral to a chiropractor would be in breach of Section 35v of the Medical Act. Section 35v dealt with professional misconduct. It stated, inter alia, that a medical practitioner, including a specialist, shall be guilty of professional misconduct who: "... by his presence, countenance, advice, assistance, or co-operation knowingly enable any person other than a medical practitioner or specialist to attend, treat, or perform any operation upon a patient in respect of a matter requiring professional discretion or skill where such conduct has been, is, or is likely to be, dangerous to the health of the public or any individual."
3. The Australian Medical Association's policy on chiropractic stated it was unethical for medical practitioners to refer patients to chiropractors.
4. In the unlikely event that a patient received a referral for chiropractic care under Queensland workers compensation, treatment was restricted by the definition of chiropractic as set out in the CMTA.

Faced with these impediments to interprofessional cooperation, the professional chiropractic associations set about affecting change. After 6 years of legal wrangling the Medical Board of Queensland altered its interpretation of Section 35v of the Medical Act in 1989 prohibiting referral to chiropractors, thus opening the doors to interprofessional cooperation between chiropractors and medical doctors (1). In 2003 the Australian Medical Association 'agreed' to modify its policy on chiropractic following intervention by the Australian Consumer and Competition Commission (2). Despite years of lobbying medical doctors remained the gatekeepers for workers compensation. The need for a referral to a chiropractor was finally removed in ~2018.

This Historical Vignette recounts having the restrictive definition of chiropractic in Queensland amended to reflect the true extent of chiropractic training and patient care.

On June 26<sup>th</sup>, 1979, the Queensland Chiropractic Manipulative Therapist's Act (CMT Act) was assented to. The CMT Act was

An Act to provide for the constitution of a Chiropractic Manipulative Therapists Board, the establishment of a register of chiropractic manipulative therapists and the regulation of the practice of chiropractic manipulative therapy.

The passage of the CMT Act was regarded as a positive move which ensured only properly qualified persons could practice chiropractic in Queensland. Reservations existed about the unfortunate title of the Act, but a poorly titled registration Act was better than nothing. What was not immediately apparent was the difficulties the definition of chiropractic would present.

Under the CMT Act, chiropractic manipulative therapy meant:

the manual mobilisation of the joints of the vertebral column (including its immediate articulations) of the human body.

This definition did not reflect the extent of chiropractic training. What occurred within the confines of individual chiropractic clinics may have gone beyond the legislative definition, however, with chiropractors treating injured workers under Queensland workers compensation, payment was only available 'manual mobilization of the joints of the vertebral column (including its immediate articulations) of the human body. This effectively precluded reimbursement for any treatment for work related injuries beyond the spine, pelvis and hips. The Australian Chiropractors Association Queensland Branch (ACAQ) set out to have a broader definition of chiropractic in the CMT Act.

The first step was to obtain a legal opinion on the legislative definition of chiropractic. Barrister CW Pincus' 1983 opinion was unequivocal: the legislative definition of chiropractic was exhaustive (3). Pincus wrote:

The legislature did not have in mind registering people for their skills in chiropractic in the broadest sense and the reference to the vertebral column and its immediate articulations clearly excludes any intention to cover manipulation of, for example, knees or ankles.

He said that whether workers compensation rebated for chiropractic care in keeping with the legislative definition of chiropractic would depend on the detail of the workers compensation rules, provisions and policies governing payment. Legal analysis of WCB's rules and regulations would need to be obtained. Rather than take that approach, the chiropractors opted to work for a change in the legislative definition of chiropractic, one reflective of chiropractic training.

Over the next four years all Australian and North American jurisdictions with legislation governing chiropractic were contacted by post to obtain their legislative definitions. In all

65 definitions were obtained during this pre-internet period. The definitions ranged from the broad to the specific. For example:

Ontario, Canada:

The practice of chiropractic is the assessment of conditions related to the spine, nervous system and joints and the diagnosis, prevention and treatment, primarily by adjustment, of,  
(a) dysfunctions or disorders arising from the structures or functions of the spine and the effects of those dysfunctions or disorders on the nervous system; and  
(b) dysfunctions or disorders arising from the structures or functions of the joints

Maine, USA:

"Chiropractic" means the art and science of identification and correction of subluxation and the accompanying physiological or mechanical abnormalities.

Tasmania

'chiropractic' means the application to the human body of manipulation or prescribed procedures of manipulation of prescribed procedures of curing, alleviating, or preventing a physical disability or abnormality.

Australian Capital Territory (ACT)

'chiropractic' means the application of manipulation to the articulations of the human body for the purpose of preventing, alleviating or correcting a physical disability or abnormality, and includes osteopathy.

Western Australia

Chiropractic means a system of palpating and adjusting the articulations of the human spinal column by hand only, for the purpose of determining and correcting, without the use of drugs or operative surgery, interference with normal nerve transmission and expression.

There was no uniform approach to the definition of chiropractic and one significant aspect was missing, namely recognition that chiropractors are primary contact practitioners. The most common approach was to confine chiropractic to a 'hands only, spine only' scope of practice which was what was already in place in Queensland and did not reflect the

extent of chiropractic training and practice. Given this, the ACAQ then set about developing a definition of chiropractic unlike any other.

The ACAQ prepared two draft definitions for consideration:

1. 'chiropractic' is that health care science that deals with the management of the neuro-musculo-skeletal system of the human body.
2. 'chiropractic' is that health care science that deals with the management of the neuro-musculo-skeletal system and the physiological manifestations thereof of the human body.

The ACAQ retained barrister JA Logan to provide expert legal advice on the suitability of the drafts. After examining legislative provisions governing chiropractic in Australia and New Zealand, he pointed out that neither of the proposed definitions shared features in common with the existing legislative features regulating chiropractic. Mr Logan could not find a definition of neuro-musculo-skeletal in any medical dictionary. He concluded that the expression would mean "of or pertaining to or involving any interaction between the human body's nerves, muscles and skeleton which is "a very wide field indeed" (4). He opined that the word 'management' was so broad it could be argued it encompassed surgery, radiation therapy and the prescription of drugs, none of which would seem fall within the scope of chiropractic. According to Logan, "This feature, in itself, makes it unlikely in my view that either of the definitions would be accepted for legislative purposes". Mr. Logan was blunt in his summary:

1. Neither definition is well suited for legislative purposes. Each is cast so widely as to include within its compass activities which have never been regarded as falling within the scope of chiropractic practice.
2. Each of the proposed definitions would be interpreted to include all the joints of the human body.
3. The word 'management' would be taken to include diagnostic as well as management procedures. The same result would be better achieved using the phrase 'diagnosis' and treatment in lieu of 'management'. (4)

Mr. Logan's view was that existing legislative models such as those of the ACT or Tasmania would provide a more suitable to widen the existing Queensland definition. We believed that Logan's proposal was not an option. Rather, the best approach was to wordsmith the draft definitions, present a proposed new definition to the membership and lobby for a change.

We specifically inserted 'management' into the definition because it means more than just treatment. It includes other necessary activities for providing the patient with appropriate care. For example, referring patients to and working with other health care professionals in a multidisciplinary approach. We kept neuro-musculo-skeletal because the phrase encompassed what chiropractors typically dealt with. The membership was asked to consider the following as a legislative definition of chiropractic:

Chiropractic and osteopathy means the manipulation, mobilisation and management of the neuromusculoskeletal system of the human body.

Some members required persuasion, but ultimately the proposed definition was endorsed. Both the makeup of the registration board and the ruling political (Labor) party were amenable. In due course the profession had a new Act, The Chiropractors and Osteopaths Act, 1979 with a new definition, one that represented chiropractic as a primary contact health care profession, not simply as a technique (5). It seems likely that this was a world first. It certainly facilitated interprofessional cooperation and foreshadowed the direction the profession was moving. According to Gaumer at the turn of the 21<sup>st</sup> century(6), increasingly the profession's [chiropractic profession] view about the preferred role in the health-care industry as directly accessible and integrated health professionals and as first-contact physicians, capable of broad diagnostic activity and conservative treatment, and with specialized expertise in neuromusculoskeletal disorders.

Queensland chiropractors enjoyed this legislative recognition until The Health Practitioner Regulation National Law (the National Law) was enacted in each state and territory of Australia in 2009 and 2010. The National Law replaced the Queensland Chiropractors Act of 1979.

The next Historical Vignette recounts the how the profession dealt with a university professor telling first year medical and physiotherapy students:

There are many cases on record of unskilled chiropractors breaking patient's necks. This is not an unusual event.

This was hardly information that would facilitate interprofessional cooperation. It warranted strong action.

## REFERENCES

1. Simpson JK. Chiropractic Registration - Queensland Style. *Chiropr j Aust.* 2005;35:93-100.
2. Ducret A. The AMA and chiropractic: a trade practices viewpoint. *ACO (ACCC Journal).* 1999;8(1):27-30.
3. Pincus C. Legal Opinion: Chiropractic Manipulative Therapists' Act 1979. 1983. p. 1-4.
4. Logan J. Legal Opinion: Chiropractic Manipulative Therapists' Act 1979-1984: Definition. Brisbane, Qld, 4000: Chambers, Inns of Court; 1987.
5. Duenas R, Carucci GM, Funk MF, Gurney MW. Chiropractic—primary care, neuromusculoskeletal care, or musculoskeletal care? Results of a survey of chiropractic college presidents, chiropractic organization leaders, and Connecticut-licensed doctors of chiropractic. *Journal of manipulative and physiological therapeutics.* 2003;26(8):510-26.
6. Gaumer G, Koren A, Gemmen E. Barriers to Expanding Primary Care Roles for Chiropractors: The Role of Chiropractic as Primary Care Gatekeeper. *J Manip Physiol Ther.* 2002;25(7):427-49.