



Institute for Science in Medicine

STATE LICENSING AND REGULATION OF “CAM” PRACTITIONERS

THE PROBLEM

A growing number of practitioners of so-called “Complementary and Alternative Medicine” (“CAM”), e.g., acupuncture, chiropractic, naturopathy and homeopathy, have succeeded in receiving formal acceptance into the health care system through government-sanctioned practice acts, with concomitant licensing and regulation. As a consequence of these practitioners being legitimized through political rather than scientific means, the health of people worldwide has been put at significant risk.

BACKGROUND

Valid Professional Regulation

Following Abraham Flexner’s 1910 report on medical education,¹ governments began to recognize the importance of licensing only those professionals trained in the scientific approach to medicine and having completed rigorous, supervised clinical experience.

In the USA, individual states and territories license and regulate health care practitioners pursuant to the police power, the state’s authority to enact legislation for the health, safety and welfare of its citizens. State legislatures adopt practice acts describing the scope of practice, setting minimum qualifications, and creating a regulatory authority, usually a board within one of the state’s executive agencies. These boards draft regulations establishing rules of conduct, licensing fees, and the like. Boards adjudicate complaints against practitioners and have the authority to suspend and revoke licenses, along with requiring other remedial measures.

Each state’s medical practice act licenses qualified physicians to practice medicine, i.e., grants exclusive permission to autonomously diagnose and treat disease and other medical conditions. To give teeth to licensing laws, the unlicensed practice of medicine can carry severe civil and criminal penalties.

“CAM” Regulation

A growing number of “CAM” practitioners have been granted licenses by governments around the world. Germany licenses *heilpraktiker* (naturopaths).² Chiropractors and homeopaths have long participated in the UK’s National Health Service.³ And ayurvedic flourishes unhampered in India.⁴ In the USA, chiropractors are licensed in all 50 states,⁵ 44 states license acupuncturists and “Traditional Chinese Medicine,”⁶ and naturopaths are licensed in 15 states.⁷

Some state laws give health care practitioners the authority to use specific unscientific therapies, such as homeopathy.⁸ A few states even allow anyone to practice “alternative” medicine without a license as long as minimal requirements are met.⁹ Congress has taken the step of requiring private health insurers to cover the services of any state-licensed “CAM” practitioner.¹⁰

Separate licensure of “CAM” practitioners has permitted them to practice medicine, i.e., to autonomously diagnose and treat conditions, using their scientifically implausible models and without meeting the education and training requirements demanded of physicians.

DISCUSSION

Separate licensure of “CAM” practitioners defeats the purpose and intent of medical licensing laws because it allows “CAM” licensees to practice medicine outside of accepted standards of medical care. In addition:

- Separate licensure uncritically represents government recognition and approval of the scientifically implausible “theories” underlying each “CAM.” Thus, chiropractic is statutorily defined in Massachusetts as “the science of locating and removing interference with transmission or expression of nerve force by correction of misalignments or subluxations.”¹¹
- Overly broad scopes of practice are permitted. For example, under Florida law acupuncture is described as “a form of primary health care ... for the promotion, maintenance, and restoration of health and the prevention of disease.”¹²
- Licensure of “CAM” practitioners creates a paradoxical system in which many practices that would be disallowed by state medical boards are judged by “CAM” boards to be appropriate standards of care.¹³
- Regulatory oversight is in the hands of boards controlled by practitioners who embrace unscientific concepts and are thus unable to adequately protect the public. In legal terms, instead of rigorous scientific standards, these boards take refuge in the lower “reasonable person” standards. Even in states in which a medical board oversees the practitioners, it may be subject to an “advisory board” made up of “alternative” practitioners and is circumscribed by the practice acts themselves, from which it cannot legally deviate.
- “CAM” practitioners are unqualified to provide safe and effective health care. “CAM” education, with little or no clinical experience, is ceded to practitioner-run schools, none of which are research-based.¹⁴ Educational institutions are accredited by self-created private accrediting agencies. These agencies apply for recognition by the US Department of Education (DOE), but the DOE only approves *how* a school’s curriculum is taught, not *what* is taught.¹⁵ Similarly, “CAM” licensure examinations are run by private testing agencies controlled by “CAM” practitioners.¹⁶
- The imprimatur bestowed by state licensure can be used to market dubious, worthless, expensive, and even dangerous “CAM” treatments, along with fanciful diagnostic tests, to an unprepared and trusting populace. In delaying effective care, patients are put at risk of incurring serious and disabling complications.

- Operating with little likelihood they will face disciplinary action, licensed “CAM” practitioners undermine trust in science-based medicine and vital public health measures, such as childhood immunization.

In summary, using governmental licensure to legitimize unscientific diagnosis and treatment practices undermines the standard of care, puts the public at significant risk, and contributes to rising costs of health care.

NEEDED POLICY

The world’s health care systems need to be rooted in a single, science-based standard of care for all practitioners. Effective, reliable care can only be delivered by qualified professionals who practice within a consistent framework of scientific knowledge and standards. Practitioners whose diagnoses, diagnostic methods, and therapies have no plausible basis in the scientific model of medicine should not be licensed by any government, nor should they be allowed to practice under any other regulatory scheme. Any statute permitting such practices should be amended or repealed as necessary to achieve this policy. Unscientific practices in health care should further be targets of aggressive prosecution by regulatory authorities.

**Adopted by ISM Board of Directors
6 July 2010**

FURTHER READING

Kimball C. Atwood. [Why Naturopaths Should Not Be Licensed](#). *Quackwatch*, 30 Dec 2001.

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Abraham Flexner. [Medical Education in the United States and Canada: A Report to The Carnegie Foundation for the Advancement of Teaching](#). New York: The Foundation, Bulletin #4, 16 Apr 1910.

Florida Medical Association. [Naturopaths](#). Tallahassee, FL: The Association, Jan 2007.

David H. Gorski. “[Naturopaths and the anti-vaccine movement: hijacking the law in service of pseudoscience](#),” *Science-Based Medicine Blog*, 30 Nov 2009.

Arnold S. Relman. [Licensure of Naturopathic Physicians: A Statement Approved by the Board of Registration in Medicine of the Commonwealth of Massachusetts](#). Boston, MA: The Author, 13 Mar 2001.

Endnotes

¹ Abraham Flexner. *Medical Education in the United States and Canada: A Report to The Carnegie Foundation for the Advancement of Teaching*. New York: Carnegie Foundation, Bulletin #4, 16 Apr 1910. A reproduction is available at http://www.scienceinmedicine.org/centenary/Flexner_Report_1910.pdf.

² See the description in the German edition of *Wikipedia* for “[Heilpraktiker](#)” (accessed 5 May 2010).

³ See the descriptions in *Wikipedia* for “[General Chiropractic Council](#)” and “[Regulation and prevalence of homeopathy](#)” (both accessed 5 May 2010).

⁴ Department of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) of the Indian Ministry of Health & Family Welfare, <http://www.indianmedicine.nic.in/> (accessed 10 May 2010).

⁵ Federation of Chiropractic Licensing Boards, “Chiropractic Regulatory Boards,” <http://www.fclb.org/ChiropracticBoards/tabid/439/Default.aspx> (accessed 1 Mar 2010).

⁶ National Certification Commission for Acupuncture and Oriental Medicine (“NCCAOM”), “State Licensure Information,” http://www.nccaom.org/applicants/State_Contacts/State%20Licensure%20Information%2001-13-2010.htm (accessed 26 Feb 2010).

⁷ American Association of Naturopathic Physicians (“AANP”), “Licensed States and Licensing Authorities,” <http://www.naturopathic.org/content.asp?contentid=57> (accessed 10 May 2010).

⁸ See, e.g., Arkansas State Board of Acupuncture & Related Techniques, “Rules and Regulations,” <http://www.asbart.org/rules.htm> (accessed 26 Feb 2010).

⁹ See, e.g., Minn. Stat. ch. 146A (2009), <https://www.revisor.mn.gov/statutes/?id=146A>; N.M. Stat. ch. 61, art. 35 (2009), <http://www.nmlegis.gov/lcs/statutes.aspx>; R.I. Gen. Laws, ch. 23-74 (2009); <http://www.rilin.state.ri.us/Statutes/TITLE23/23-74/INDEX.HTM> (accessed 5 Mar 2010).

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- ¹⁰ Sec. 2706 of the Public Health Service Act (part of Sec. 120, as passed by the Patient Protection and Affordable Care Act, HR3590, as approved by the President on 23 Mar 2010). See p. 42 of http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3590enr.txt.pdf.
- ¹¹ Mass. Gen. Laws Ann. Ch. 112 Sec. 89 (2008), <http://www.mass.gov/legis/laws/mgl/112-89.htm> (accessed 5 Mar 2010).
- ¹² Fla. Stat. Ann. Sec. 457.102(1) (2009), http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0457/SEC102.HTM&Title=->2009->Ch0457->Section%20102#0457.102 (accessed 5 Mar 2010).
- ¹³ See Colorado Dept. of Regulatory Agencies, Office of Policy, Research and Regulatory Reform. *Naturopathic Physicians: 2005 Sunrise Review*. pp. 36-37. <http://www.naturowatch.org/licensure/coloradosunrise05.pdf>.
- ¹⁴ Association of Chiropractic Colleges, “The Association of Chiropractic Colleges’ Members,” <http://www.chirocolleges.org/members.html> (accessed 5 Mar 2010); North American Board of Naturopathic Examiners (“NABNE”), “Approved Naturopathic Medical Education Programs,” http://www.nabne.org/nabne_page_17.php (accessed 5 Mar 2010); NCCAOM, “School Code Assigned by NCCAOM,” http://www.nccaom.org/applicants/school_list.html (accessed March 5, 2010).
- ¹⁵ U.S. Dept. of Education, “Financial Aid for Post-Secondary Students: Accreditation in the United States,” http://www2.ed.gov/admins/finaid/accred/accreditation_pg2.html (accessed 3 Mar 2010).
- ¹⁶ National Board of Chiropractic Examiners, “About Us” <http://www.nbce.org/about.html> (accessed 5 Mar 2010); NCCAOM, “About NCCAOM,” <http://www.nccaom.org/about/about.html> (accessed 5 Mar 2010); NABNE, “About NPLEX,” http://www.nabne.org/nabne_page_23.php#Anchor2 (accessed 5 Mar 2010).

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