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MINORITY REPORT  
OF THE JOINT LEGISLATIVE  
STUDY COMMISSION ON  
THE UTILIZATION OF VENIPUNCTURE

March 1984

Pursuant to 1983 Laws, ch 346, sec 8

Unsigned Minority Report

COMMISSION MEMBERS

Senator Don Samuelson, Chairman

Senator Charles Berg

Representative Paul Ogren

Representative David Gruenes

Dr. Thomas Briggs, M.D.

Dr. Chester A. Anderson, M.D.

Dr. Gerald Kari, D.C.

Dr. John Allenberg, D.C.

## Statement of Purpose

The undersigned members of the Joint Legislative Study Commission on the Utilization of Venipuncture file this minority report to disagree with the findings and recommendation of the Commission.

## Findings

### 1. CONTROVERSY

The historical perspective in the report of the Commission is accurate and reflects the controversy presented to the Commission on the use of the term "non-invasive" in Minnesota Statutes 148.01, subd. 3. We agree with the following conclusion made by the majority. "Commission finds the confusion and controversy exists regarding whether venipuncture may be used by chiropractors and that this situation would most effectively be resolved through legislative action."

### 2. EDUCATION AND LICENSING

The minority of the Commission agrees that chiropractors and physicians are educated at accredited colleges and are trained in physical, laboratory, and x-ray diagnostic procedures pertaining to the spine. However, at this point the minority differs strongly with the majority in terms of its findings about education and licensing. Although chiropractic students receive training in diagnostic subjects we strongly believe that the Commission findings should reflect the results of the visit taken



by the Commission to the University of Minnesota Medical School and the Northwestern College of Chiropractic. This visit showed the difference between the education provided to students in these respective programs. Although the years spent in school are similar we found that admission criteria for medical students is stricter than for chiropractic students and also noted that the faculty for medical school is better trained in diagnosis than the faculty of the chiropractic college. The minority finds the chiropractors trained at accredited colleges of chiropractic and licensed by the Board Chiropractic Examiners are trained in the areas of venipuncture but lack training in diagnostic procedures sufficient to determine if laboratory results require referral to a physician.

### 3. VENIPUNCTURE

The minority agrees that venipuncture is a procedure routinely performed by a wide variety of health care personnel. We also agree that it is a procedure with low risk complications and is not a major medical procedure as described in the report. However, this does not lead us to a conclusion that venipuncture is a "non-invasive" procedure as defined in M.S. 148.01, subd. 3.

### 4. DIAGNOSTIC PROCEDURES

The Commission heard testimony that chiropractic use of diagnostic procedures using blood samples is necessary in order to identify the presence or absence of a condition treatable by a doctor of chiropractic. However, very little explanation was given to the Commission about these conditions or types of treatments. While



chiropractors are aware that they are liable for malpractice suits for failure to diagnose or make improper diagnosis of a chiropractic condition there is no evidence of patients being aware of this. Additionally, there is no remedy for a patient against a chiropractor for failure to diagnose and refer a medical condition. Further more there is no evidence of the Board of Chiropractic taking action against members of the profession who are acting outside the scope of their practice. The minority finds that chiropractors should use only "non-invasive" procedures for which they are trained and examined for the purpose of diagnosing chiropractic conditions and identifying patients who may have conditions requiring treatment by a medical professional, i.e. venipuncture.

5. PUBLIC INTEREST

The minority agrees that many Minnesotans do not limit their use of chiropractors only to suffering for back pain or other conditions normally thought of as treatable with chiropractic treatment. However, this does not justify the Commissions finding that because chiropractors are the initial contact of many Minnesotans in the health care system it is in the public interest to allow chiropractors to use invasive procedures.

We do not believe that venipuncture as such is a dangerous procedure or a procedure that cannot be performed by any qualified and properly trained technician. The danger of allowing this, as is the danger with a number of other procedures, is in the interpretation of the results that may be reported.

Sufficient evidence was presented to the Commission that chiropractors, even in training, are not prepared to make proper interpretations of those results. Therefore, proper referral of these patients to physicians for treatment of a medical condition will not occur.

Without the knowledge and ability to properly interpret blood tests a chiropractor may give a patient a false sense of security or alarm. When the patient assumes that he or she has been properly tested there would be no need to seek further treatment from physicians.

Throughout the proceedings physicians were criticized for not referring patients to chiropractors. The minority members of the Commission feel that there is also a lack of referrals by chiropractors to physicians. Even in those states which have recently allowed chiropractors to begin withdrawing blood we have not seen documentation of increases in referrals. We find that allowing chiropractors to use venipuncture is not in the public interest even when a chiropractor is the initial contact a Minnesotan has for health care.

#### 6. DISCIPLINARY PROCEDURE AND LEGAL RECOURSE

The Commission received testimony that chiropractors are subject to malpractice suits in civil court and disciplinary proceedings from the licensing board. However, these systems are not being used. Adequate remedies may exist for persons who suffer injury or harm from the use of venipuncture by a chiropractor but their effectiveness has not been proven in any court cases or disciplinary actions.



### Recommendation

Legislation should not be approved during the 1984 session deleting the term "non-invasive" from M.S. 148.01, subd. 3. While the Commission is crystal clear in its recommendation that chiropractors be allowed to use venipuncture in the course of their practice the recommendation made by the Commission goes far beyond that intent. To strike the word "non-invasive" from this subdivision would allow chiropractors to penetrate the body in ways not contemplated by the use of the word "venipuncture". This would include barium enema; vaginal examinations, thyroid function tests and other invasive procedures not involving blood withdrawal.

Although the focus of the Commission is on subdivision 3 of Minnesota Statutes 148.01 the two preceeding subdivisions of that statute are important to the recommendation of the Commission. Subdivision 1 defines chiropractic as "the science of adjusting any abnormal articulation of the human body, especially those of the spinal column, for the purpose of giving freedom of action to impinged nerves that may cause pain or deranged function." Subdivision 2 goes on to state in total "the practice of chiropractic is not the practice of medicine, surgery, or osteopathy." It is unclear why the Commission has recommended to strike the word non-invasive when the intent of the Commission was to only allow the use of venipuncture and nothing more. Evidence presented before this Commission overwhelmingly shows that chiropractors are moving far from their scope of practice as defined above. It is difficult for the minority of this Commission to see where venipuncture will assist the chiropractor in adjusting the spinal columns or other impinged nerves to reduce pain or deranged functions.

If the legislature chooses to act upon the recommendation of the Commission the minority finds that the action should be limited to the findings of the Commission as reflected in Attachment A.

Chester A. Anderson, M.D.

Thomas Briggs, M.D.

PAG:vls



Attachment A

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A bill for an act

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relating to occupations and professions; regulating

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chiropractic practice; removing the restriction on

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noninvasive measures; amending Minnesota Statutes 1983

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Supplement, section 148.01, subdivision 3.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 1. Minnesota Statutes 1983 Supplement, section

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148.01, subdivision 3, is amended to read:

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Subd. 3. Chiropractic practice includes those in noninvasive

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means of clinical, physical, ~~and~~ laboratory measures,

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analytical x-ray of the bones of the skeleton and venipuncture which are

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necessary to make a determination of the presence or absence of a

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chiropractic condition. The practice of chiropractic may include procedures

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which are used to prepare the patient for chiropractic adjustment or to

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complement the chiropractic adjustment. The procedures may not be used as

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independent therapies or separately from chiropractic adjustment. No

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device which utilizes heat or sound shall be used in the treatment of a

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chiropractic condition unless it has been approved by the Federal

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Communications Commission. No device shall be used above the neck of the

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patient. Any chiropractor who utilizes procedures in violation of this sub-

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division shall be guilty of unprofessional conduct and subject to discipli-

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nary procedures according to section 148.10.

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Sec. 2 (EFFECTIVE DATE)

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Section 1 is effective the day following final enactment.

