

## **When Asked to Give an Adjustment, Sometimes You Have to Say No**

By James Edwards, DC

While serving as ACA chairman, I attended many conventions and seminars all across the country and in several different countries. And at most of them, a friend, former classmate or association leader would ask me to give them an adjustment. Do you know what I told them? "I am sorry, but I am not licensed here."

Since most DCs do not hesitate to adjust their friends and colleagues when out of state at a convention or seminar, why would I risk offending these doctors by declining to give them an adjustment? Quite simply, because it would have been illegal to perform a chiropractic adjustment in a state or country in which I was not licensed. Plus, I knew that if a "one in a million" adverse incident had occurred, there would have been no coverage under my malpractice insurance policy.

I learned the danger of "courtesy adjustments" way back in 1993 when I read an article - appropriately titled "A Dangerous Courtesy" - co-authored by Louis Campbell, JD, Jacob Ladenheim, JD, the late Rob Sherman, JD, and Louis Sportelli, DC.<sup>1</sup> In their outstanding treatise - which has largely gone ignored by the profession - the authors made the following key points:

- While the tradition of courtesy adjustments is time-honored and pervasive throughout the profession, the malpractice implications of rendering treatment without the benefit of an adequate history, exam or X-rays, and without proper facilities, are appalling.
- Potential malpractice risks from such treatments can be exacerbated by the statutory provisions of the state in which such services are delivered. That means that instead of the injured patient having to prove negligence, the defendant doctor must prove they did not deviate from the appropriate standard of care.
- While many doctors will scoff at warnings, your colleague being adjusted might not be the one to file the suit. If, for example, a stroke should occur, it may well be a widow or a guardian of infant children

bringing suit. Those potential plaintiffs may feel absolutely no sympathy, camaraderie or brotherhood that would keep them from filing suit.

- It is hazardous to adjust friends, colleagues or even relatives while attending seminars. That hazard can increase greatly when the doctor performs such services outside their state of licensure. The hazard can be compounded by the statutory provisions of the state in which the manipulation is given.
- Standard malpractice insurance policies have exclusions for any injury resulting from an "act in violation of any United States or state statute governing the commission of a crime." (NCMIC sample policy language) So, not only may the doctor find themselves faced with prima-facie evidence showing negligence, but their act also may void their insurance coverage, leaving the DC personally exposed for any judgment or the expense of retaining counsel.
- Any doctor unfortunate enough to be charged and convicted of the offense of practicing without a license could face license suspension in their home state for the criminal conviction.

Hopefully, this reminder will finally sensitize doctors of chiropractic that 1) Your friends and colleagues deserve - and are entitled to - the same standard of care that "regular" patients receive when in your office; 2) It is often a violation of law to perform treatments in a state or country in which you are not licensed; and 3) Your malpractice insurance will likely not protect you if you are not licensed in the state or country you are visiting.

And let's not forget about the international version of this practice. Every few months, I read about another group of DCs traveling on a "mission" to a foreign country in which chiropractic is not licensed. In these reports, they usually claim to have adjusted many thousands of patients. While I am impressed by the willingness of doctors to try to introduce chiropractic to foreign people who have no knowledge of the benefits, I am not impressed with their methods. To illustrate my point, below is a description of two "mission" days in Trinidad by a group of DCs:<sup>2</sup>

"Thanks partly to the national publicity, Dr. Cucci and his team of chiropractors adjusted about 2,000 people in downtown Port of Spain during our initial 'promenade' through the city. ... After reuniting at the hotel late in the afternoon, we went out on another promenade in downtown Port of Spain and adjusted another 1,500 or so people."

OK, let me make sure I have this straight. The team of 21 DCs and assistants adjusted 3,500 people during two "promenades" through the city? Oh really? Well, if the report is true, I imagine that those DCs were not

licensed in Trinidad, so it's possible that they were all violating the law. And if not licensed in Trinidad, I imagine they had no malpractice coverage that would have protected the doctor or the "patient" if an adverse incident had occurred during their two "promenade" treatment sessions at which thousands were "adjusted."

You do the math! Based on the 3,500 claimed number of treatments - and if each "promenade" lasted two full hours, and if 17 DCs were involved - that means each Trinidad new "patient" received just over one minute of the doctor's time!

Need I say more? It is simply impossible for any DC to properly evaluate a new patient in that short period of time. That failure, regardless of the doctor's intent or whether they were in a Third World country or not, is not acceptable.

Here's the bottom line: I assume that those "mission" doctors did not educate the citizens of Trinidad about the science of chiropractic; nor did they provide quality care. They simply manipulated a bunch of necks. Perhaps the saddest part of the promenade manipulations is that 3,500 citizens of Trinidad were left with a very skewed view of chiropractic.

So please remember, if you are not licensed in the state or country in which you are visiting, do not subject yourself to criminal prosecution, licensing board discipline and financial damage. And before treating anyone outside the office, do what you do when inside the office: properly evaluate the patient prior to treatment.

#### *References*

1. Campbell L, Ladenheim J, Sherman R, and Sportelli L. "A Dangerous Courtesy." *Dynamic Chiropractic*, Jan. 15, 1993.
  2. Morgan P. "DCs Adjust 10,000 People in Trinidad." *The Chiropractic Journal*, March 2009.
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