

Dodging Landmines and Achieving Victory

By James Edwards, DC

Several months ago, I discussed Senate passage of the Medicare chiropractic demonstration project (contained in S.1.) and detailed the obstacles that were hurdled just to get the provision "halfway" home. (See "Legislation and Landmines," Aug. 16 *DC*.)

Although it was a long, arduous process, I am thrilled to report that the chiropractic provision did indeed pass both houses of Congress and was signed into law by President Bush on December 8, 2003. This article is "part II" of how this truly historic chiropractic victory occurred, including discussion of the additional "landmines" placed in the profession's path by both the World Chiropractic Alliance (WCA) and Senate Majority Leader Bill Frist, MD.

The new law approves a groundbreaking provision that would allow - on a demonstration basis and by direct access - doctors of chiropractic to receive Medicare reimbursement for all services authorized by state law. The two-year demonstration project will be conducted in four sites throughout the United States. The data reflecting the health benefits and cost-effectiveness of chiropractic care will then be evaluated by Congress, hopefully leading to DCs being reimbursed for all services authorized by state law.

This was not easy, however. The first major "landmine" occurred when it was learned that the alliance was working to get the House-Senate Conference Committee to abandon the demonstration project, and instead substitute the "nonphysician" language contained in HR 2560 (the Manzullo bill). This harmful provision would have devastated doctors of chiropractic by relegating us to mid-level practitioners and drastically cutting reimbursement levels. I also learned that the person likely to spearhead this misguided effort was a powerful U.S. Senator who has always been a great friend of chiropractic.

I flew to Washington, D.C. to meet with the Senator's key staff member and alert her to the facts regarding the opposition's motives. Here are some of the key topics I covered during

that meeting:

- The Chiropractic Benefit Services (CBS) malpractice insurance Web site admits it is "affiliated" with the WCA, and a link to the CBS Web site is prominently displayed on the WCA Web site. Both sites show Dr. Terry Rondberg and two family members as officers of both entities. I also pointed out that as the WCA president is "president for life," its members cannot vote for their leaders, and many feel the alliance is merely a closely held family company whose purpose is to sell malpractice insurance. My documentation for that opinion was a list of 94 articles that had been published about CBS malpractice insurance in the *Chiropractic Journal*.
- Arizona corporation filings were also furnished, showing that the alliance only collected \$94,000 in dues in calendar year 2000. With annual dues of \$396 (according to the group's Web site), it only had around 240 members at that time, and thus represented a very small percentage of the chiropractic profession.
- I stressed that the loss of physician status under Medicare would be very harmful to the profession, but in my opinion, it could possibly be helpful to the CBS malpractice insurance entity, since malpractice lawsuits might be defended on the basis that DCs are not physicians, and thus have no responsibility to diagnose or refer, since they were only correcting subluxations. In addition, I pointed out the public safety issue of what the WCA was proposing.
- Finally, I pointed out that the Association of Chiropractic Colleges (ACC), the National Association of Chiropractic Attorneys (NACA) and many state associations officially opposed the Mazullo bill.

Efforts continued to ensure that Congress knew the harmful effects that the Manzullo language posed. Ultimately, a total of 48 state associations authored official letters opposing the Manzullo language, which were forwarded to the Senator and other key members of Congress. The willingness of state associations to "go on record" against the harmful provisions contained in the Manzullo bill was the key to convincing Congress that the overwhelming majority of the profession supported the bill as written. Without question, those state associations rightfully deserve the credit for averting this potential disaster.

After dodging that catastrophe, the second "landmine" appeared when Dr. Frist challenged Senator Chuck Grassley (R-IA), by attempting to remove the chiropractic demonstration provision from the bill in conference.

Although many congressional leaders worked for passage of the chiropractic provision, there was no greater champion than Senator Grassley. For proof of Senator Grassley's

commitment and tenacity, read the following excerpts from his news conference relating his confrontation with Senator Frist over the chiropractic issue (**emphasis mine**):

"... I can read to you an e-mail that I sent to Senator Frist...because I think it would tell you better how I am fighting for this, and what maybe some of the problems are...'I hope that this can be handled at the staff level' - In other words, what the implication that this sends is that we have had problems at the staff level - 'but your staff have been refusing my chiropractic demo.' I said, **'Knock it off! I have been fighting AMA for years to get crumbs off the table for chiropractors.'** I got \$54 billion for the docs in January. You and they better not object to budgetary asterisks for chiros. 'Budgetary asterisks' is a term around here when the CBO scores something as very insignificant in cost. 'The profession was born in Davenport, Iowa. My family uses chiropractors. I have been flexible on this bill, except for rural hospitals. **So back your staff off of this demo**, please, please.

"So that's how I lay down the marker on this issue now. Whether I get it or not, I don't know. But, you need to know, that **presumably, the AMA is weighing in very heavily against that. They carry a lot of clout in this town**, and I would have to say there isn't one supporter among the House conferees for what I want to do, and there is some support from Senate conferees for, but it is not unanimous. So numbers are kind of 'up against' me, but it doesn't mean I can't get it done. You must understand; it is not easy to do."

There is no question in my mind that Dr. Frist, on behalf of the AMA, had every intention of deleting the chiropractic provision in conference committee. And there is also no question that this powerful medical physician would have succeeded, had it not been for Senator Grassley, who bravely faced Dr. Frist down and was able to get him to "knock it off!"

I also want to mention the important work of Palmer President Dr. Guy Riekeman, the Palmer Chiropractic University System and the Iowa Chiropractic Society. All worked to support the demonstration project, and each played a key leadership role in building support for this historic legislation.

James Edwards, DC

Treasurer and District VI Governor

American Chiropractic Association

Austin, Texas

jamesedwards@jamesedwards.com

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