

## *A Closer Look at...* The State of Michigan on Chiropractic and Animals

*The MAC central office often receives calls from DCs looking for clarification on the state of Michigan's stance regarding chiropractic care for animals. This article discusses the Michigan Court of Appeals case Department of Consumer and Industry Services vs. Hoffmann (Docket number 201322, June 5, 1998), which concerned the chiropractic treatment of animals.*

### Background of the Case

In this case, the defendant was a licensed chiropractor who did not hold a veterinary license. As part of his practice, he provided chiropractic treatment to horses. On September 1, 1995, the Department of Consumer and Industry Services issued a notice and order to cease and

desist. The notice alleged that the defendant was in violation of the Public Health Code – specifically the chiropractic statute found at Michigan Compiled Laws (MCL) 333.16401 et seq. – because he was treating animals by manipulating the spine of horses without a veterinary license.

A hearing on the issue was held on February 26, 1996. The hearing referee concluded that because the care and treatment of animals is not specifically

included in the scope of chiropractic and is specifically included in the scope of practice for veterinarians, the practice of equine chiropractic by a chiropractor who is not a veterinarian is outside the scope of chiropractic and is illegal. The hearing referee also concluded that the respondent was not being supervised by a veterinarian such that respondent's manipulation of horses' spines could be done pursuant to Michigan law, specifically "supervision" provision found in MCL 333.16109.

After the parties filed their responses to the hearing referee's proposal for decision, the Michigan Board of Chiropractic's Disciplinary Subcommittee dismissed the cease and desist order on September 27, 1996.

Although accepting the hearing referee's factual findings, the Disciplinary Subcommittee disagreed with the hearing referee's reasoning. The Disciplinary Subcommittee ruled that there was no specific statutory or administrative rule limiting or including equine chiropractic care for either a chiropractor or a veteri-

narian. It also found that Michigan's chiropractic statute did not limit the practice of chiropractic to humans. Therefore, the Disciplinary Subcommittee found that there was no statutory violation by respondent because he was merely performing spinal manipulation, which is within the scope of chiropractic, and the cease and desist order was dismissed. The Department moved for rehearing and reconsideration, but that motion was denied.

### The Court of Appeals Case

On appeal, the Michigan Court of Appeals first looked at whether the chiropractic scope of practice authorizes chiropractors who do not have veterinary licenses to treat animals. The Court ruled that the chiropractic scope does not include the treatment of animals, reversing the Michigan Board of Chiropractic Disciplinary Subcommittee.

The case required the Court to construe a statutory provision, specifically the chiropractic scope law (MCL 333.16401 et seq.). The "cardinal rule" of all statutory construction is to identify and give effect to the intent of the Legislature. The first step to determining intent is to examine the language of the statute itself, which is to be given its ordinary and generally accepted meaning. Judicial construction is authorized only where the language lends itself to more than one interpretation.

The Court, after examining the statute itself and all prior statutory definitions of chiropractic, which all explicitly limited all aspects of the practice of chiropractic to humans. Additionally, the Court wrote, the legislative history indicates that the Legislature did not intend to expand the

**Continued on page 33**



## Animals - Continued from page 32

practice of chiropractic to include animals. The Court Also states: “[W]e concur with the hearing referee’s conclusion that a chiropractor who is not a licensed veterinarian does not have the authority to practice chiropractic on horses or other animals.”

However, just because treating animals is not within the chiropractic scope of practice, does that mean that chiropractors cannot do it? No, as long as it is done under the supervision of a veterinarian.

A veterinarian may delegate the authority to practice equine chiropractic to a chiropractor as long as the chiropractor is qualified by education, training, or experience where the act is done under the veterinarian’s supervision. Under Michigan law, “supervision” is defined as follows:

“Supervision,” except as otherwise provided in this article, means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:

(a) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(b) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual’s functions.

(c) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

So, doctors of chiropractic may treat animals, as long as a veterinarian has delegated the authority to practice chiropractic on an animal and the chiropractor is qualified by education, training, or experience. Additionally, the act must be done under the veterinarian’s supervision, as defined by law above.

*This article is intended to be informational only and does not constitute legal advice regarding any specific matter or situation. Legal advice may be given only on the basis of specific facts relayed by a client to an attorney.*

## In a Nutshell: Michigan’s Position on Chiropractic for Animals

- A veterinarian may delegate the authority to practice chiropractic on an animal as long as the chiropractor is qualified by education, training, or experience where the act is done under the veterinarian’s supervision.
- “Supervision” means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:
  - The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional
  - The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual’s functions
  - The provision by the licensed supervising health professional of predetermined procedures and drug protocol.



## Workers Comp - Continued from page 31

and the provider must verify the status of the claim with the carrier. A provider must direct all requests for reconsideration of payment to the carrier, not the agency.

### *What does “by report” (BR) mean and how does the carrier reimburse “BR” procedures?*

“BR” means the procedure does not have a maximum fee assigned and requires a written description. The description shall be included on the bill or attached to the bill and shall list all of the following:

- A simple listing of the service
- The date(s) of the service
- The procedure code
- The charge for the service

“BR” services are reimbursed at the carrier’s usual and customary charge or a reasonable amount, whichever is less. A reasonable amount is defined as a payment based upon the amount generally paid in the state for a particular procedure code using available data.

*Source: “Medical Services: An Overview for Michigan Workers’ Compensation,” Michigan Workers’ Compensation Agency, Michigan Department of Licensing and Regulatory Affairs*