

Connecticut General Assembly Insurance & Real Estate Committee Transcript

March 9, 2010



CHAIRMEN: Senator Crisco

Representative Fontana

VICE CHAIRMEN: Senator Hartley

Representative Megna

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Nardello, O'Connor,

Roland, Schofield,

Williams, Wright

REP. FONTANA: Good afternoon ladies and gentlemen we will convene this public hearing of the Insurance and Real Estate Committee, Tuesday March 9, 2010 at 1:07 p.m.

Members of the public will now proceed to Senate Bill 392. And we'll start with Britt Harwe, I believe that's Britt -- is it Britt Harwe, followed by Christa Neck -- or Heck, I apologize. Hopefully -- is it Britt Harwe?

BRITT HARWE: Harwe.

REP. FONTANA: Harwe, okay. Well, so I was close sort of, I got your first name right. Welcome Britt, please proceed.

BRITT HARWE: Good afternoon Senator Crisco, Representative Fontana, Distinguished Members of the Insurance and Real Estate Committee. I wish to testify in support of Section 3 of Senate Bill 392.

My name is Britt Harwe and I'm the president of the Chiropractic Stroke Awareness Group. Before I begin I'd like to say that Senator Leonard Fasano and Janet Levy, President of Victims of Chiropractic Abuse both wanted to be here today but were unable to testify due to prior commitments and they both submitted testimony in support of this bill.

Chiropractic Stroke organizations are actively promoting change in the law for the simple fact that the existing required insurance coverage levels are far too low given the severity of some of the injuries cause by chiropractors.

Most chiropractors have acknowledged for years and agree that there is a risk of stroke with spinal manipulation which could result in permanent disability and death. But they disagree among themselves as the frequency of occurrence. It is not the rarity of the occurrence it is the severity of the injury. Some people can recover somewhat to regain a normal life while others are left permanently paralyzed. Either way the costs are extremely high and to be honest, a half-of-million-dollar of malpractice insurance doesn't nearly cover the cost of expenses that one needs in order to survive the years ahead.

The other problem is that we heard from hundreds and hundreds of chiropractic patients over the past years that were seriously injured as a result of a manipulation, but were unable to file a lawsuit because they couldn't find an attorney who would take their case due to what many attorneys consider a low amount of malpractice insurance.

Attorneys would usually tell them that a lawsuit could take up to four to five years and there would be costs of taking depositions and finding expert witnesses, thus making the return back to the firm minimal and not worth the risk.

In previous hearings we've heard chiropractors say that they way they prove chiropractic stroke is rare is by the number of

lawsuits filed by patients. So many patients can't even find a lawyer to take their case because of low malpractice limits then the chiropractic industry has no idea of how many strokes occur.

Going to a chiropractor is not going -- like going to a primary care physician's office. Cervical spinal manipulation is the cornerstone of the chiropractic profession and is performed on almost every patient regardless of age, for numerous ailments, wellness and disease prevention every single day. This is the procedure that can cause a stroke. A medical physician does not do anything to almost every patient that walks through the door that can cause an injury as devastating as a stroke.

Death or serious disability due to spinal manipulative therapy is considered an adverse event by Connecticut state law. Spinal manipulation is also recognized by the Federal Government as a cause of serious injury. Even if it's rare as a chiropractor is likely to say, those patients not only end up having stroke but have huge financial burdens also placed on them and they're already destroyed families if the chiropractor does not carry adequate insurance. A million dollar coverage will not be a panacea to these stroke victims but will enable patients to file lawsuits so that they could be relieved of some of their financial burden.

I had a stroke myself as a result of a chiropractic manipulation. The hospital bill alone was a quarter of a million dollars. I was able to find an attorney to take my case. As a result the chiropractor who had injured me had already injured someone else and was required to have \$1 million worth of coverage. After four years of litigation my case was settled for \$900,000 but I was 26 years-old when it happened, almost 18 years ago. But I wasn't able to walk at the time or talk or even eat without a feeding tube. After years in therapy and operations I'm now able to walk and talk, I've even had my feeding tube removed just last year.

The average chiropractic stroke victim is somewhere between the age of 25 to 45. They need some type of care for years and years to come. And it isn't fair that the state and the tax payers bear the expense of most of these occurrences because the chiropractor was not adequately covered.

Therefore I strongly urge you to pass this bill and raise enough malpractice insurance rates to at least a \$1 million in order to protect the well-being of patients in the State of Connecticut.

Thank you.

REP. FONTANA: Britt, thank you for your testimony and thank you for coming here today.

Let me just ask you, do you know how many people there are in Connecticut who are the victims of strokes as a result of chiropractic manipulation; do you have any sense of that?

BRITT HARWE: No, there really isn't a sense of that because the strokes can occur immediately, it can occur two, three, four days, a week later. And at that point the causation is -- it's undetermined.

REP. FONTANA: Okay. And my other question would be -- any you may not know, but is \$1 million consistent with the kind of malpractice insurance that other healthcare providers have to have? Like M.D.'s, APRN's and so forth. Do you know, offhand?

BRITT HARWE: I don't know the limits exactly. I do know that there are minimums but every different specialty carries different amounts of insurance based on their risk.

REP. FONTANA: Okay; good. Thank you for your answering my questions. Other questions for Britt, from members of the committee?

Representative Megna.

REP. MEGNA: Thank you, Mr. Chairman. Before in your testimony you mentioned that the chiropractor that you unfortunately had your accident with, his limit was pushed up, so to speak?

BRITT HARWE: Yes.

REP. MEGNA: Who -- what -- was that done by the licensing department or -- who requested --

BRITT HARWE: No, that was done by the insurance company that settled his claim. He had been sued previously by the widow of a patient who he had treated for a year-and-a-half, his shoulder pain. Never referred him out anywhere and it turned out he had a huge cancerous tumor in his shoulder and he died so she sued him and was successful. And as a result of that the insurance company required his limits to be raised to \$1 million per person.

REP. MEGNA: Is that common practice, the liability carriers will --

BRITT HARWE: I'm not familiar with liability carriers. I -- previously before my stroke worked in auto insurance and I do know in some homeowners when people have claims they require --

REP. MEGNA: But that one company required him to carry \$1 million as opposed to a half-of-million dollars because of his experience.

BRITT HARWE: Because of the large claim they paid out.

REP. MEGNA: Okay. Thank you.

Thank you, Mr. Chairman.

REP. FONTANA: You're welcome.

Representative Altobello.

REP. ALTOBELLO: Thank you, Mr. Chairman.

Good afternoon.

BRITT HARWE: Good afternoon.

REP. ALTOBELLO: About half way through your testimony you mentioned that it's tough to get a lawyer because of the -- let me see -- because of the - oh, the word has slipped right by me -- some sort of a limit on --

BRITT HARWE: The per person limit right now by state law is \$500,000 and when you go to an attorney they are looking -- they say it takes about four to five years to bring these cases to trial. During that time there's research, expert witnesses, depositions and they decline these cases because the costs would be almost the whole amount of the insurance therefore nothing would be leftover for the person, so they decline to take the case.

REP. ALTOBELLO: So the -- the \$500,000 is the current minimum insurance that a chiropractor must carry.

BRITT HARWE: Yes.

REP. ALTOBELLO: You could sue for \$87 million and -- and if you got it -- if he had it in -- you know, under the mattress or something -- okay, so it just has to do with -- there's not -- there's not other cap on awards?

BRITT HARWE: No, there isn't any other cap; it just goes on the basis of the actual case. And how much it is determined that that person is injured and out of pocket expenses and then how insurance coverage the individual chiropractor has. And then if you go on from there you can go into --

REP. ALTOBELLO: And you think a typical lawyers fee and court costs would be \$500,000 for a case like this.

BRITT HARWE: I know personally mine was close to \$300,000.

REP. ALTOBELLO: Your court costs and attorney's fees were \$300,000?

BRITT HARWE: Yeah, I settled for \$900,000 and I got \$600,000 of that. \$300,000 -- or a quarter-of-a-million was for research, expert witnesses, testimony, depositions, so --

REP. ALTOBELLO: How much did -- how much were attorney's fees do you think?

BRITT HARWE: He took a total of \$300,000 so \$100,000 if he took -- he took \$350,000 and there was like \$250,000 in expenses. So \$100,000 in attorney's fees over five years.

REP. ALTOBELLO: Thank you. Thank you, Mr. Chairman.

REP. FONTANA: Thank you, Representative Altobello.

Just a quick question Britt, would you happen to know, or perhaps will ask somebody else, when that \$500,000 limit was established in law? Do you happen to know offhand?

BRITT HARWE: Yes, I do. Prior to 1993, chiropractors were not required to carry malpractice insurance. That year a law went into effect. Linda Solsbury, who I formed the Chiropractic Stroke Awareness Group with, she had a stroke done by a chiropractor, she went to Court, she did not settle, it went to trial. During that trial the jury award was \$10 million. He had no liability insurance, he had let it laps. And he transferred -- he declared bankruptcy and transferred all his assets out so the State of Connecticut paid for over 21 years for her care.

And as a result she pushed and worked with Legislatures to get a requirement on the books, so that was since 1993, so that was many years ago. And healthcare costs have exploded. And also you need to remember a lot of these people that have these strokes are young. I was 26 years old. I -- they didn't think I could walk or talk again. They were talking nursing homes. So even that amount of money isn't lasting a lifetime, I had a child to take care of. So these are horrible disabilities, life long disabilities. Luckily my disability right now, you can't readily see when you look at me, but it's ongoing and I deal with it for the rest of my life, the weakness, I have paralyzed vocal cords and like I said, I just had a feeding tube, I was not able to eat for 16 years. And what I found egregious was, my stroke happened immediately in the chiropractor's office. He recognized the fact that I was in distress and called 911. Yet said nothing of any of the symptoms that he observed, that I couldn't speak, I was dizzy. All he said, I was having a reaction so treatment was delayed. I wasn't able to get any medications at the hospital and the damage was done so that's why my bills were so much.

REP. FONTANA: Thank you, Britt for answering that additional question.

Representative Schofield.

REP. SCHOFIELD: Thank you, Mr. Chairman.

I just wanted to understand the clinical side of it a little bit better about -- which I'm assuming you understand, what's actually the cause of the stroke and is it something that the chiropractor has any influence on -- in other words, if they're doing a poor quality manipulation is the risk greater or is it totally random that no matter how well they do a --

BRITT HARWE: Of course it has to do with the quality but it also depends on the person, the chiropractor whatever the force used. You have two carotid arteries in front and you have two vertigo arteries in the back. And when chiropractors do a high velocity upper cervical manipulation it can tear or crush the artery. Now if the artery is torn the person exhibits signs of a TIA -- a mini stroke where you're dizzy, nauseous. And many times people are told, don't worry about it, you'll be all right, only to have a massive stroke later. My artery was crushed so it happened immediately.

REP. SCHOFIELD: Okay. So it's - it's a clot --

BRITT HARWE: So they're very vulnerable with that movement --

REP. SCHOFIELD: -- not a hemorrhagic stroke?

BRITT HARWE: Yes, it's a tear or a crushing of an artery.

REP. SCHOFIELD: Which will still clot to the brain.

BRITT HARWE: Which then leads to the brain, yes.

REP. SCHOFIELD: And -- and so is there -- there is a way of manipulating without crushing if you're doing it properly?

BRITT HARWE: There is a risk. What the risk is, is not known. What we have advocated for is. Let people know. I was never told there was any risk whatsoever. I went for shoulder pain and I woke up in the hospital three days later and they were talking about putting me in a nursing home.

So this is a procedure that does have an inherent risk. As a matter of fact, the NCMIC which is an insurance company that insures chiropractors puts out what chiropractors should look for, warning signs of CVA. Now they're saying people come into their office because if you have a torn artery, symptoms of that is headache and neck pain and that's why people go to chiropractors. Well if you have a torn artery and you have headache and neck pain and you go to a chiropractor and they manipulate your neck, that's not going to do anything but make it worse. So this is why, number one, I mean people need to know, but there needs to be adequate coverage so when a stroke does occur -- if it does occur that there's enough coverage.

REP. SCHOFIELD: Yeah, I get the coverage part. I'm just wondering how -- how to try to do something preventive as -- as well. I mean, my concern is -- not that it's a bad idea to tell people, well hey there's a risk, except that all of us who have ever had any kind of a surgery get this notice -- you know, the day before telling you all the risks you have and I don't know anybody who's ever said, gee I don't think I'll go have that surgery because I might have an anesthesia risk. I mean, it's a risk that people just take and I suspect they'll do the same here.

BRITT HARWE: And I agree.

REP. SCHOFIELD: But I guess the question I have is, is there any -- you know, documentation that shows that Dr. Jones -- you

know, because of something that he does, seems to produce a lot more of these strokes than Dr. Smith who's never had one, and it's something about how they do their manipulation.

BRITT HARWE: Actually no, I mean I -- my stroke occurred on my second appointment. You know, I know people that have gone to chiropractors for decades for wellness treatments and then had a stroke after 17 years. Actually our group and other groups are -- have requested a declaratory hearing along with the chiropractic association in front of the Board of Chiropractic Examiners, asking for not only informed consent but also a take away. So when you have a manipulation -- or like when you have a flu shot, you walk out of the office --

REP. SCHOFIELD: With a piece of paper.

BRITT HARWE: -- and say, hey if you have dizziness, nausea -- because these are very benign symptoms and there are mainly young people, 25 to 45 who may overlook it.

And if they have the sheet of paper they can have something to refer to or their family can have something to refer to, to say hey, no you need to get to the hospital immediately.

So we are doing other things in other forms.

REP. SCHOFIELD: Thank you.

REP. FONTANA: Thank you.

Other questions for Britt?

Seeing none, thank you very much.

BRITT HARWE: Thank you.

REP. FONTANA: Christa Heck, followed by David Dziura -- I got that right.

CHRISTA HECK: Good afternoon Senator Crisco, Representative Fontana and Distinguished Members of the Insurance and Real Estate Committee. I wish to testify in support of Section 3 of S.B. 392.

My name is Christa Orsino-Heck; I am President of the Chiropractic Stroke Awareness Organization and Executive Director of the Stroke Awareness and Support Association.

We offer an online support community for chiropractic stroke victims and their families. Although we are based out of New York we have many chiropractic stroke victims from Connecticut including Danbury, Brookfield, New Preston, Kent and Newtown who are not able to be here to testify.

I deal with chiropractic stroke victims on a regular basis within a confidential group setting. I am privy to the devastating injuries they have suffered. Most require intensive rehabilitation including physical, occupational, speech and cognitive therapy. One stroke survivor, now in her early thirties has already incurred over \$700,000 in medical expenses. Initially paralyzed she has progressed in her recovery however it is unlikely she will ever be able to live a normal independent life.

Another victim suffers from chronic dizziness and undergoing a very specialized type of physical therapy called vestibular therapy. Some victims remain completely paralyzed and unable to even speak or eat, requiring 24 hour nursing care either in a skilled nursing facility or at home. When something does go wrong after a cervical manipulation it is horrible and life altering. These people should be able to obtain restitution for what has happened to them by securing effective legal representation so they may get much needed medical care. And considering that most chiropractic stroke victims are between the ages of 25 and 48 the costs associated with disability as well as years of medical care are astronomical and should be a crucial consideration for enacting this bill.

The State of Connecticut has adopted the National Quality Forum's list of adverse events, that is, adverse events that should never happen. It states that, quote, patient death or serious disability should never happen as a result of spinal manipulation, end quote. Spinal manipulation is listed because it is known to carry serious repercussions such as stroke and death. It has been reported that spinal manipulative therapy is done 94 to 96 percent of the time as part of chiropractic treatment. It is not fair that the state often has to bear the medical care expense of possible adverse events after chiropractic spinal manipulative therapy because the chiropractors may not be adequately covered.

Lastly, the State of Connecticut and all other states in our country have granted chiropractors the title of doctor. Most insurance companies recognize and reimburse for chiropractic care in the same manner as medical doctors. Since they have

achieved equal status to medical doctors in these ways, it is only fair that they be held to the same standards as medical doctors who do procedures that carry significant risks such as strokes, permanent disability and death with regard to malpractice insurance.

Thank you.

REP. FONTANA: Thank you, Christa. Let me just ask you if I could, do you know what the malpractice insurance threshold is for other medical providers?

CHRISTA HECK: I know in New York for M.D.'s it is \$1 million minimum.

REP. FONTANA: Okay. We're getting closer, hopefully we'll find out what Connecticut does. But -- very good, thank you.

Are there questions for Christa from members of the committee?

Seeing none, thank you, Christa.

Dr. David Dziura, did I get that right?

DAVID DZIURA: Not bad.

REP. FONTANA: Not bad, okay, I apologize; followed by Regina Walsh. That one I got.

DAVID DZIURA: Senator Crisco, Representative Fontana, Members of the Insurance Committee, my name is Dr. Davis Dziura; I'm a chiropractic physician, I practice in Branford and I've held many leadership positions with the Connecticut Chiropractic Association.

I'm here to represent the CCA today with Senate Bill 392. AN ACT CONCERNING INSURANCE COVERAGE FOR ACUPUNCTURE TREATMENTS PROVIDED BY CHIROPRACTORS AND THE MINIMUM PROFESSIONAL LIABILITY INSURANCE COVERAGE FOR CHIROPRACTORS.

As the title implies, Senate Bill 392 has two distinct propositions. One is good and the other is questionable in my mind.

Section 1 and 2 of the bill would require individual and group health policies to cover acupuncture treatments that are rendered by a Chiropractic Physician, we support this change.

Our scope of practice specifically includes Acupuncture treatments yet insurers do not reimburse for it. Many policies do however cover such treatments when they are rendered by a licensed Acupuncturist.

If we provide the same service and treatment shouldn't the insurers reimburse both professions?

Section 3 of the bill would increase the liability insurance requirements for Chiropractic Physicians. All other mandated professions would stay at the current levels.

Right now insurance carriers require a minimum coverage of \$1 million for a single claim and \$3 million for multiple claims to credential and provide care for most plans. In reality the situation is that we exceed the state's required requirement for coverage, which is \$500,000 for a single claim and \$1.5 million for multiple.

On one hand, raising this limit makes sense because it would bring the statute -- or the regulation to the current marketplace. However there's a long standing of tradition of standardizing that should be considered. If higher minimums are warranted shouldn't Section 3 apply to all professions that are required to malpractice insurance? I believe it should.

Please note that a typical cost of full liability coverage for \$1 million/\$3 million for chiropractic is \$3,000 a year. Yes, that's a year. These costs are very low because we provide a safe and effective treatment for our patients.

In closing I recall the committee's past work on malpractice data reports -- was that the bill in 2007, and the medical profession's profile bill in 2008. Both times you did the right thing and changed the law and applied it equally to all professions. I'll trust you to do the same with Senate Bill 392.

And as you've seen --

REP. FONTANA: Thank you, Doctor. Let me --

DAVID DZIURA: -- several individuals --

REP. FONTANA: The bell went off so let me just interrupt you there if I could.

DAVID DZIURA: Okay.

REP. FONTANA: You mentioned insurance carriers require a minimum of coverage of \$1 million. Do you have -- can you tell us what the requirement is in Connecticut? Is it \$1 million, is it \$500,000?

DAVID DZIURA: The state statute when it was passed was set at \$500,000 to \$1.5 for all professions. And that's all that we're asking is that it applied equally again to all professions. In reality better in -- in polling the liability carriers -- better than 97 percent of the Doctors have \$1 million/\$3 million because that's what's necessary to credential and provide care.

The handful that have -- I assume, are either semi-retired or they're not providing coverage for insurance -- health insurance plans.

REP. FONTANA: Okay; fair enough. So -- so then if we found the statute that applies to everybody and we changed that statute then that would be fine from your perspective because it would apply to everybody.

DAVID DZIURA: Absolutely, yes.

REP. FONTANA: Great. As far as Sections 1 and 2 are concerned, my question is, are Chiropractors licensed as Acupuncturists?

DAVID DZIURA: They're not -- they're -- they're -- the modality of acupuncture is included in their license. We -- when the licensed Acupuncturist came for their license bill -- we're not interested in calling ourselves Licensed Acupuncturists, we're -- there are about 55 percent of the doctors in Connecticut use acupuncture as a modality in their practice. You know, they're a chiropractor that uses acupuncture.

REP. FONTANA: Right, but just so I'm clear, when you say modality does that mean --

DAVID DZIURA: Okay, treatment; let's say treatment.

REP. FONTANA: Okay; treatment. So if an Acupuncturist comes to the state and wants to get licenses they go through a particular process to get licenses?

DAVID DZIURA: Correct, yes.

REP. FONTANA: A Chiropractor wants to practice acupuncture --

DAVID DZIURA: Yes.

REP. FONTANA: Do they have a similar process before the state?

DAVID DZIURA: Well they have a -- it -- it's offered both in core curriculum, however when -- again polling the malpractice carriers to see if there's any increase of claims, they say there are not. And two of the carriers actually give the coverage to them. But they all require additional credential, which means that they're expected to hold them -- if they're holding themselves as doing the treatment; they should be expert in it.

REP. FONTANA: All right. So it's part of the curriculum but how would the state know whether a Chiropractor was practicing acupuncture properly?

DAVID DZIURA: The same way as -- whether they're practicing chiropractic properly. I mean there are the State Board of Examiners who've handled this issue as the previous speakers have talked about. Their malady and their and -- I mean, those -- we had four days of testimony here considering the issue of stroke and informed consent. The Board of Examiners deliberating presently and I would anticipate a decision this spring. And I don't think that this is the place to air the whole shooting match again but when you're talking about --

REP. FONTANA: Oh, I agree about that.

DAVID DZIURA: -- competency -- when you're talking about competency the State Department of Health is charged for that and there is a process.

REP. FONTANA: As far as Sections 1 and 2 are concerned though, if an act -- if a chiropractor has received his or her certification from the Board of Examiners, vis-à-vis the chiropractic care as well as the included modality of acupuncture why would a Chiropractor then not receive reimbursement from an insurance company for providing that care?

DAVID DZIURA: Exactly.

REP. FONTANA: No, I'm saying why?

DAVID DZIURA: I'm asking too. When I -- when I approached on the Insurance Relations Chair, when I approached different payers, their answer was, well that's chiropractic acupuncture, it's not real acupuncture. And it's like -- that shows how little they know of the modality or the treatment, I'm sorry I keep calling it modality, but the treatment.

REP. FONTANA: That's okay as long as I speak the same language it doesn't matter what language you're speaking.

All right; very good. I'm sure we'll have a few more questions from other people but thank you for orienting me to this issue.

DAVID DZIURA: You're welcome. Any other questions?

REP. FONTANA: Well, that's my job. I'll ask. Thank you. Your job is to answer when I call on people.

Representative Megna.

REP. MEGNA: Thank you, Mr. Chairman.

Is -- actually I see a chiropractor and he does acupuncture on me.

DAVID DZIURA: Yes.

REP. MEGNA: And I believe it's covered under the -- under the -- the plan. Is there a big distinction between those?

DAVID DZIURA: No. More times than not acupuncture or pressure point, trigger point therapy is incorporated into a different CPT code and that is not billed out more than likely -- you know, without speaking to your doctor -- you know, there's -- they may be treating similar points but needle acupuncture has specific treatment codes for it and is reimbursable for those codes. Acupuncture would not count for those -- for that -- it's not the same service. It would go under another type of code.

REP. MEGNA: Oh, okay. Thank you.

DAVID DZIURA: Physical medicine code.

REP. MEGNA: Thank you.

REP. FONTANA: Thank you Representative Menga.

Representative D'Amelio.

REP. D'AMELIO: Thank you, Mr. Chairman.

Good afternoon Doctor. Just -- just so I could understand this correctly. You're not really opposing this bill because you're pretty much are doing what the requirements of the bill before us asks you to do?

DAVID DZIURA: Correct. In my 27 years of practice I've had \$1 million/\$3 million and I think the market -- if you provide care and you have to credential to provide care requires it.

That's all I'm asking is to apply it equally to all professions. The -- when the bill was passed, the regulation was passed it was applied to all professions and likewise any modification or change should do so as well.

REP. D'AMELIO: Just one quick question. Because some of the testimony before you referred to maybe like 18 years ago, was it the norm to have a \$500,000 policy back then?

DAVIS DZIURA: Well, again, all I can say is when I started practice -- you know, far longer than that -- you know, 27 years ago it -- it was \$1 million/\$3 million was the norm, I thought. But again if you're trying to -- whatever reasons, if you're a part time practice or if your not -- you know, again, I don't want to -- we had a -- over the -- several -- since my career we've seen a couple of malpractice crisis when the premium just went through the roof for everyone. And I don't want to say for us, back then the rates went from \$700 a year to \$1,400 so they doubled during that period of time, however still very affordable considering -- comparison to other medical colleagues. However -- but in that it becomes a budgetary process instead of an incidental expense so for whatever reasons people may not do the right thing and just as they should cover the things they value such as their home and auto. Some people don't do it and when they don't do it the state stepped in and said that it's a wise decision to have coverage.

REP. D'AMELIO: One more question, thank you, Mr. Chairman.

When you -- when you referred to the norm, is it like a requirement through the insurance company itself that --

DAVID DZIURA: Well it's a credentialing process and that's really what controls the market. If I want to be a provider for

Aetna or Anthem, there's certain criterion that I agree to as far as my professional responsibility. And one of them is professional liability coverage and they mandate the rates - or the limits I should say, not rates but limits.

REP. D'AMELIO: I don't know if you have the question -- answer to this question but -- in statute are all physicians' \$500,000 to \$1.5, is that in our statute?

DAVID DZIURA: That is the -- that is the statute regulation for all physicians. Again, talking with my carrier because they cover medical doctors as well, I asked that question and they said, no one has that lower limit.

REP. D'AMELIO: So if raise Chiropractors you want us to raise it across the board?

DAVID DZIURA: Absolutely.

REP. D'AMELIO: Okay. Thank you, Mr. Chairman.

Thank you, doctor.

REP. FONTANA: Thank you.

And just another question Doctor; Doctor in terms of the process by which Acupuncturist become licensed by the state, if -- if -- if a Chiropractor were to come to you for advice and say, Dr. as a colleague what do you think of me getting license by the state as an Acupuncturist separate from my license as a Chiropractor; what would you say?

DAVID DZIURA: Well I would say -- because I have guided seven doctors through this process and we came to the Public Health Committee and I think it was five or six years ago, they wanted to become a Licensed Acupuncturist in addition to having their Chiropractic Degree only because of the discrimination in reimbursement for their patients.

Some doctors don't want any part of this bill because they don't want to be in the insurance coverage because of other contract issues that I'll talk on a later bill. However when it comes to that process there was a single exemption where the Chiropractors had the same credentialing criteria, passed the same exam as the Licensed Acupuncturists and still were not so therefore they came to the Legislature and they were granted -- and I -- we were hoping to get that Grandfathered so if they

pass again the same credentialing exam that there would not be an issue.

Again we're not interested in calling ourselves Licensed Acupuncturists but in the same sense -- at the same time, these seven Doctors can because they have -- so -- but a Chiropractic Degree is a -- you know, primary source degree over and above an Acupuncturist so I -- I don't understand why they would want to hold themselves as something in order to -- at a degree state lower.

REP. FONTANA: I guess the reason I was asking you is because we didn't hear a whole lot about this issue until fairly late in the process leading up to all these public hearings and it wasn't -- I would say, a broad based concern on the part of Chiropractors or in fact any organization representing Chiropractors state wide. It was a particular Chiropractor who contacted us so I was trying to assess how broadly experience this problem of reimbursement is for chiropractors who perform acupuncture. And then what exactly is the problem of getting reimbursed if in fact you have this -- you know, this degree, this curriculum, this Board of Examiners all insuring that you perform acupuncture. And that's why I was trying to get my hands around it.

DAVID DZIURA: Well to my knowledge the only doctors that don't have a problem are the seven that have gone through the legislative process.

REP. FONTANA: Thank you.

Other questions for -- Representative Schofield.

REP. SCHOFIELD: I'm sorry; I'm a little lost on this acupuncture issue too. Can I just see if I can summarize it?

You're looking -- you have Chiropractors who perform acupuncture but they are not licensed as acupuncturists, they haven't passed those acupuncture tests?

DAVID DZIURA: That's correct.

REP. SCHOFIELD: And they want to perform something that they have actually been fully trained and vested to do?

DAVID DZIURA: No, no. That's not the -- that's not the case at all. They've gone through --

REP. SCHOFIELD: But they haven't gone -- they've gone through the education but the test?

DAVID DZIURA: -- they've gone through additional -- essentially another degree program, the credentialing process and the exam process is separate from the Licensed Acupuncture still.

REP. SCHOFIELD: But they --

DAVID DZIURA: So the seven doctors that I - that I spoke of --

REP. SCHOFIELD: Right, they got the test.

DAVID DZIURA: They went to the - and took the Acupuncturist's test.

Now the Acupuncturists Association changed their -- changed their procedures and they don't want us taking that test. So I mean it becomes a parochial thing where it shouldn't. It really comes down to minimal components and who determines that and once it is determined why should you get reimbursed for that service?

REP. SCHOFIELD: Well I -- I guess that's where I would -- I would --

DAVID DZIURA: Because it's a covered service as well.

REP. SCHOFIELD: -- would have some disagreement as -- just because you go through the educational component to me doesn't verify that you've met the minimum qualifications to perform that service. I mean there are lots of lawyers who go to law school and don't pass the bar. They're -- you know, and they're not allowed to be lawyers.

DAVID DZIURA: I understand.

REP. SCHOFIELD: So to me it's kind of the same thing. They might have gone through the education --

DAVID DZIURA: The Department of Health has oversight for licensing.

REP. SCHOFIELD: I'm not sure I'm understanding your point.

DAVID DZIURA: Well there's a whole exam process to obtain your license just as there is as with Licensed Acupuncturists. All

I'm saying is once you -- once you complete a five year post graduate degree and you obtain and go through four levels --

REP. SCHOFIELD: In acupuncture?

DAVID DZIURA: -- four levels of examination to become a Chiropractor and a year of internship why should you have to go back and enter an acupuncturist's school?

REP. SCHOFIELD: Because none of that chiropractor stuff taught you to do acupuncture.

DAVID DZIURA: As I said, over and above the Chiropractic Degree there's a 300 hour -- which is almost a two year program of -- for acupuncturist. Once you're taking that you're then credentialed. Through that process --

REP. SCHOFIELD: Assuming --

DAVID DZIURA: -- for each module there's testing and then there's a final test before you're granted your degree.

REP. SCHOFIELD: But using the law school analogy --

DAVID DZIURA: Yes.

REP. SCHOFIELD: They've got their law degree, they don't have -- they haven't passed the bar.

DAVID DZIURA: Okay.

REP. SCHOFIELD: So -- I mean --

DAVID DZIURA: I mean it's the same compliment and I'm not an educated - professional educator so -- it's the same compliment that you'd go for Board Certification Process in orthopedics, internal medicine, I mean that -- that's the same model. They don't have -- they don't go to -- an orthopedic doesn't go to a physical therapist to see if they want to do manual physical procedures to get permission or a license from that body.

REP. SCHOFIELD: I would guess that probably physicians aren't doing acupuncture or billing for acupuncture either unless they've been certified in it.

DAVID DZIURA: Well they are -- they are.

REP. SCHOFIELD: We'll have to look into that.

Thank you.

REP. FONTANA: Thank you. Are there questions for the Doctor, if not, thank you Doctor.

DAVID DZIURA: Thank you.