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Re: *New Mexico Board of Pharmacy, et al. v. New Mexico Board of  
Chiropractic Examiners, et al.*, New Mexico Court of Appeals No. 31,690

Dear Counsel:

We enclose the following pleadings:

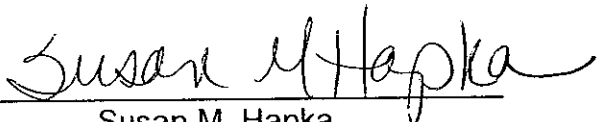
1. An endorsed copy of the Motion of the American Chiropractic Association for Leave to File an Amicus Curiae Brief in Support of Appellee New Mexico Board of Chiropractic Examiners, filed on September 13, 2012; and
2. A copy of the Brief of Amicus Curiae American Chiropractic Association in Support of Appellee New Mexico Board of Chiropractic Examiner's Brief in Chief, which was conditionally filed with the Court, pursuant to Rule 12-215(A) NMRA.

September 13, 2012  
Page 2

Please contact me if you have any questions regarding this matter.

Very truly yours,

SUTIN, THAYER & BROWNE  
A Professional Corporation

By   
Susan M. Hapka  
Albuquerque Office

SMH:kcyj  
Enclosures  
2483800.doc

**IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

NEW MEXICO BOARD OF PHARMACY,  
and NEW MEXICO MEDICAL BOARD,

Appellants,

v.

No. 31,690

[Consolidated with No. 31,668]

NEW MEXICO BOARD OF  
CHIROPRACTIC EXAMINERS,

Appellee,

and

INTERNATIONAL CHIROPRACTORS  
ASSOCIATION,

Appellant,

v.

NEW MEXICO BOARD OF  
CHIROPRACTIC EXAMINERS,

Appellee.

COURT OF APPEALS OF NEW MEXICO  
ALBUQUERQUE  
FILED

SEP 13 2012

Wendy F. Jones

**MOTION OF THE AMERICAN CHIROPRACTIC ASSOCIATION FOR  
LEAVE TO FILE AN *AMICUS CURIAE* BRIEF IN SUPPORT OF  
APPELLEE NEW MEXICO BOARD OF CHIROPRACTIC EXAMINERS**

Pursuant to Rule 12-215 NMRA, the American Chiropractic Association  
("ACA") hereby respectfully requests that it be permitted to file an *Amicus Curiae*  
Brief in Support of Appellee New Mexico Board of Chiropractic Examiners. As  
grounds for this Motion, the ACA states as follows.

COPY

1. The ACA represents over 13,000 doctors of chiropractic and chiropractic students across the nation. It is the largest professional association representing Doctors of Chiropractic and represents the views of the mainstream of the chiropractic profession.

2. The ACA promotes the highest standards of ethics and patient care, contributing to the health and well-being of millions of chiropractic patients. It provides a wide variety of active advocacy efforts on behalf of its members, focused on federal legislation, regulatory affairs, insurance matters, communications, member services, and legal initiatives.

3. The ACA seeks to file an *Amicus Curiae* Brief with the Court in order to outline the education, training and experience of Doctors of Chiropractic and how that education, training and experience supports allowing Doctors of Chiropractic, working in their own communities and States through their respective state legislatures and regulatory agencies, to determine their scope of practice.

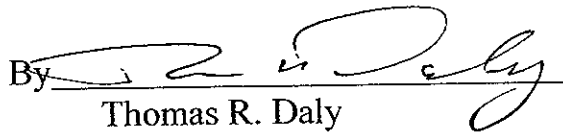
4. The ACA has conditionally filed its brief with this Motion, as authorized by Rule 12-215(A) NMRA.

5. Counsel for the parties was contacted. Appellant New Mexico Medical Board, Appellant International Chiropractors Association and Appellee New Mexico Board of Chiropractic Examiners do not oppose this Motion. Appellant New Mexico Board of Pharmacy opposes this Motion.

Wherefore, the American Chiropractic Association respectfully requests that this Court grant it leave to file its Brief of *Amicus Curiae* in Support of Appellee New Mexico Board of Chiropractic Examiners.

Respectfully Submitted,

ODIN FELDMAN PITTLEMAN, P.C.

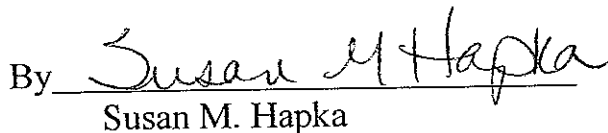
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing pleading was sent via first class mail, postage prepaid, to the following counsel of record this 13<sup>th</sup> day of September 2012.

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**BRIEF OF *AMICUS CURIAE***  
**AMERICAN CHIROPRACTIC ASSOCIATION**  
**IN SUPPORT OF APPELLEE NEW MEXICO BOARD OF**  
**CHIROPRACTIC EXAMINERS' BRIEF IN CHIEF**

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## **I. NOTICE OF INTENT TO FILE AMICUS BRIEF**

A Notice of Intent to File *Amicus Curiae* Brief by the American Chiropractic Association in Support of Appellee New Mexico Board of Chiropractic Examiners was filed on August 28, 2012 and served on all parties. All parties received timely notice of the intent to file the brief.

## **II. SUMMARY OF PROCEEDINGS AND STANDARD OF REVIEW**

The American Chiropractic Association incorporates by reference the Summary of Proceedings and Standard of Review set out in the Brief in Chief filed by Appellee New Mexico Board of Chiropractic Examiners.

## **III. ARGUMENT**

### **A. Doctors of Chiropractic Are Highly Trained Health Care Providers Whose Professional Perspective Provided Through the Board of Chiropractic Examiners Should Be Afforded Equal Deference by the Court.**

Chiropractic is a branch of the healing arts which is concerned with human health and disease processes. Doctors of Chiropractic are physicians who consider man as an integrated being and give special attention to the physiological and biochemical aspects including structural, spinal, musculoskeletal, neurological, vascular, psychological, nutritional, visceral, emotional and environmental relationships. They are trained in diagnosis so they may treat patients effectively and make timely referral to appropriate health care providers. ACA Master Plan,

ratified by the House of Delegates June 1964, amended June 1979, June 1989, July 1994 and September 2000.

The practice and procedures which may be employed by Doctors of Chiropractic (chiropractic physicians) are based on the academic and clinical training received in and through accredited chiropractic colleges and include, but are not limited to, the use of current diagnostic and therapeutic procedures. Such procedures specifically include the adjustment and manipulation of the articulations and adjacent tissues of the human body, particularly of the spinal column, and the treatment of intersegmental aberrations for alleviation of related functional disorders. ACA Master Plan, ratified by the House of Delegates June 1964, amended June 1979, June 1989, July 1994 and September 2000.

This academic and clinical training is both extensive and exhaustive and is very comparable to the level of the education and training received by medical doctors. According to the National Board of Chiropractic Examiners, "Government inquiries, as well as independent investigations by medical practitioners, have affirmed that today's chiropractic training is of equivalent standard to medical training in all pre-clinical subjects. (Chapman-Smith, 1988). A doctor of chiropractic's training generally requires a minimum of 7 academic years of college study and a clinical rotation before entering private practice.

In the United States, the Council on Chiropractic Education (CCE) is granted authority by the U.S. Department of Education to accredit chiropractic programs and institutions. Currently, 18 chiropractic training programs in the United States are accredited by the CCE. Twelve programs outside of the United States are accredited through affiliated chiropractic education councils: Australia (3), Canada (2), Denmark, France, Japan, New Zealand, South Africa, and the United Kingdom (2). Chiropractic educational programs in Japan, South Korea, and Spain are currently pursuing accreditation, while others — Brazil (2), Malaysia, Mexico (2), South Africa, and Switzerland — operate within locally-accredited university systems. Recent announcements of additional campuses for current programs as well as plans for new programs indicate that chiropractic education is continuing to expand globally.

To ensure that high standards in education are maintained, all accredited chiropractic colleges must meet stringent requirements. Among other goals, criteria address an on-going system of evaluation and planning, incorporation, governance, administration, faculty and staff, learning resources, finance, student services, and doctor of chiropractic degree program curricula. Each program's curriculum must be comprised of a minimum of 4,200 instructional hours of course credits; course offerings must address subjects specified by the CCE (2007).

Once accepted into an accredited program, the chiropractic student typically follows a curriculum that consists of either 4 or 5 academic years. In a typical trimester-based chiropractic program, a first-year chiropractic student can expect to study the following courses:

- General Anatomy
- Histology
- Chiropractic Principles
- Palpation
- Human Physiology
- Chiropractic Procedures
- Embryology
- Introduction to Physical Examination
- Human Biochemistry
- Clinical Chiropractic
- Neuroanatomy and Neurophysiology
- Normal Radiographic Anatomy
- Fundamentals of Nutrition
- Functional Anatomy/Biomechanics
- Spinal Anatomy

Second-year coursework typically includes the following:

- Pharmatotoxicology
- Pathology
- Chiropractic Procedures
- Clinical Orthopedics and Neurology
- Community and Public Health
- Clinical Nutrition
- Practice Management
- Differential Diagnosis
- Emergency Care
- Clinical Microbiology
- Chiropractic Principles
- Physics of Clinical Imaging
- Nutritional Assessment
- Physiological Therapeutics

Research Methods  
Imaging Interpretation  
Applied Clinical Chiropractic

Third-year coursework typically includes the following:

Integrated Chiropractic Clinical Application  
Chiropractic Principles  
Radiological Positioning and Technique  
Clinical Application of Manual Procedures  
Clinical Internship  
Clinical Psychology  
Pediatrics  
Clinical Laboratory Clerkship  
Original Research Project  
Physiological Therapeutics  
Practice Management  
Diagnostic Imaging Interpretation  
Differential Diagnosis  
Dermatology  
Obstetrics and Gynecology  
Geriatrics  
Ethics and Jurisprudence

The fourth year often consists of a clinical internship. In addition to treating patients under the supervision of an experienced chiropractor, many students experience a clinical rotation through an integrated healthcare facility such as a hospital or veterans clinic. The Doctor of Chiropractic (D.C.) degree is awarded upon graduation, signifying successful completion of the required program.”

National Board of Chiropractic Examiners, Practice Analysis of Chiropractic 2010, 6-7 (May 2010).

A recent survey and comparison prepared by the Oregon Chiropractic Association provide a very specific example of these requirements and the comparable nature of chiropractic and medical education. The following comparison outlines the class hours required in the doctor of chiropractic degree program of the University of Western States and in the medical doctor degree program at the Oregon Health Sciences University:

**Physician Comparison**

<b>Chiropractic Degree Program</b>		<b>OHSU Medical Doctors Degree Program</b>	
University of Western States		Oregon Health Sciences University	
<b>Course Title</b>	<b>Class Hours</b>	<b>Course Title</b>	<b>Class Hours</b>
Gross Anatomy I-III	288	Gross Anatomy	190
Spinal Anatomy	24	Histology	84
Histology 1, 11	144	Medical Biochemistry	145
Biochemistry 1, 11	120	Human Physiology	149
Physiology 1, 11	132	Developmental Biology	40
Neurophysiology	72	Neuroanatomy	84
Embryology	36	Nutrition	20
Neuroanatomy	96	Ophthalmology	36
Nutrition	48	Otolaryngology	72
Clinical Nutrition	48	Medical Psychology	49
Physical Diagnosis, 1, 11	144	Introduction to Psychiatry	43
Clinical Psychology	36	General Pathology	68
General Pathology 1, 11	120	Medical Genetics	32
Clinical Pathology	36	Cardiopulmonary Resuscitation	
Genetics	48	Introduction of Medical Microbiology	90
CPR/Emergency Care	12	Introduction to Public Health	26
Microbiology & Public Health	72	Public Health and Epidemiology	40



Clinical Micro. & Public Health	84	Immunology	35
Toxicology & Pharmacology	48	Pharmacology	72
Dermatology	24	Pathophysiology of Skin, Bone & C.T.	69
Clinical Lab	60	Blood/Reticuloendothelial Pathophysiology	117
Correlative & Differential Dx	48	Pathophysiology of the CNS/Muscle and	
Neuromusculoskeletal DX/TTX	276	Special Sensory Organs	158
Physiotherapy 1, 11	120	Neurology and Neurosurgery	216
Soft Tissue / Rehabilitation I, II	72	Gastrointestinal Pathophysiology	123
Gastroenterology Dx/Tx	36	Respiratory Pathophysiology	79
Cardiorespiratory Dx/lrx	36	Cardiovascular Pathophysiology	117
Genitourinary Survey	60	Endocrine Pathophysiology	43
Obstetrics	24	Reproductive Pathophysiology	55
Jurisprudence & Ethics	24	Renal Pathophysiology	117
Radiographic Anatomy I – III	84	Law and Medicine	24
Bone Pathology I – IV	132	Radiographic Diagnosis	24
Soft Tissue Radiographic Interp.	24	Child Health (CON 620, lecture)	48
Radiographic Technique I – 111	108		
Minor Surgery/Proctology	24	<b>TOTAL CLASS HOURS</b>	<b>2,465</b>
Patient/Practice Management I-IV	96	Patient Evaluation (413,611)	192
Adjustive Technique I – X	444	Third-Year Medicine	432
Clinical Pediatrics	36	Child Health	384
Clinical Geriatrics	24	Psychiatry Clinical Clerkship	216
Biomechanics & Palpation I – IV	204	Obstetrics and Gynecology	216
Narrative Report Writing	12	Surgery	432
Clinical Research Methods 1, 11	60	Special Programmed Instruction	540
Principles of Chiro. Philosophy	96		
Clinical Topics	36	<b>TOTAL HOSPITAL HOURS</b>	<b>2,412</b>
Clinical Reasoning	12		

<b>TOTAL CLASS HOURS</b>	<b>3,780</b>	<b>TOTAL M.D. REQUIREMENT</b>	<b>4,877</b>
Clinic Phase I, II, III, IV – A, B, C	1,116	Optional hours not included in totals.	
<b>TOTAL D.C. HOURS</b>	<b>1,116</b>		
<b>TOTAL D.C. REQUIREMENTS</b>	<b>4,896</b>		

Postdoctoral training in the chiropractic profession is also widely available in a variety of clinical disciplines and specialties which include:

1. Chiropractic Diagnosis and Management of Internal Disorders:  
DABCI (Diplomate American Board Chiropractic Internists) Program  
administered by the American Chiropractic Association Council on Diagnosis and Internal Diseases;
2. Chiropractic Occupational Health & Applied Ergonomics: DACBOH  
(Diplomate American Chiropractic Board Occupational Health) Program  
administered by the American Chiropractic Association Council on Occupational Health;
3. Chiropractic Rehabilitation: DACRB (Diplomate American Chiropractic Rehabilitation Board) Program administered by the American Chiropractic Association Council on Chiropractic Physiological Therapeutics and Rehabilitation;

4. Chiropractic Diagnostic Imaging: DACBR (Diplomate American Chiropractic Board Radiology) Program administered by the American Chiropractic Association Council on Diagnostic Imaging;

5. Chiropractic Acupuncture: Program administered by The American Board of Chiropractic Acupuncture - an autonomous credentialing agency maintained by the ACA Council of Chiropractic Acupuncture. It is recognized by the ACA as the sole authority for credentialing in chiropractic acupuncture, conferring the DABCA (Diplomate of the American Board of Chiropractic Acupuncture);

6. Chiropractic Nutrition: DCBCN (Diplomate Chiropractic Board of Clinical Nutrition). The CBCN was created and operates under the auspices of the ACA with full autonomy in the areas of testing standards and procedures; DACBN (Diplomate American Clinical Board of Nutrition) Program administered by the American Clinical Board of Nutrition and accredited by ICE/ NCCA, an autonomous credentialing agency;

7. Chiropractic Orthopedics: DACO (Diplomate Academy of Chiropractic Orthopedists) and DABCO (Diplomate American Board of Chiropractic Orthopedics). The Academy of Chiropractic Orthopedists and the American Board of Chiropractic Orthopedics are the two autonomous certification boards recognized and approved by the American Chiropractic Association; FACO

(Fellow of the Academy of Chiropractic Orthopedists): Accepted after successful completion of DACO or DABCO board certification;

8. Chiropractic Forensic Sciences: DABFP (Diplomate American Board of Forensic Professionals) Educational programs administered by the Council of Forensic Sciences. The American Board of Forensic Professionals is an autonomous credentialing/certification board recognized and approved by the American Chiropractic Association;

9. Chiropractic Clinical Neurology: Program administered by The American Chiropractic Neurology Board, an autonomous credentialing agency maintained by the ACA Council on Neurology and accredited by NOCA/NCCA. It is recognized by the ACA as the sole authority for credentialing in neurology for chiropractors, conferring the DACNB (Diplomate American Chiropractic Neurology Board);

10. Chiropractic Sports Physician: DACBSP® (Diplomate American Chiropractic Board of Sports Physicians) Program administered by the American Chiropractic Board of Sports Physicians. Also, CCSP® (Certified Chiropractic Sports Physician) Program administered by the American Chiropractic Board of Sports Physicians;

11. Chiropractic Pediatrics: DICCP (Diplomate in Clinical Chiropractic Pediatrics) Program administered by the International College of Chiropractic

Pediatrics. American Chiropractic Association, Chiropractic Specialty Programs approved by ACA (11/24/2011).

The very capable members of the New Mexico Board of Chiropractic Examiners are part of an esteemed profession with extensive academic and clinical training. The American Chiropractic Association would therefore respectfully submit that the Board's perspective should therefore be afforded equal deference by the Court.

**B. The American Chiropractic Association is the Nation's Largest and Preeminent Chiropractic Professional Association Representing the Chiropractic Mainstream Whose Long Established Policy is to Recognize Local Doctors in Each State Are Best Equipped to Determine Matters of Scope of Practice.**

The American Chiropractic Association represents over 13,000 doctors of chiropractic and chiropractic students across the nation. It provides a wide variety of active advocacy efforts focused on federal legislation, regulatory affairs, insurance matters, communications, member services, and legal initiatives.

American Chiropractic Association, 2011 Annual Report. The American Chiropractic Association is also approximately three times the size of the International Chiropractors Association in terms of revenue and budget. 2010 IRS Form 990, Return of Organization Exempt from Income Tax of the American Chiropractic Association and the International Chiropractors Association.

ACA policy has long held that since "the practice of chiropractic is regulated in all states, Puerto Rico, nine provinces in Canada, and a number of foreign countries, the present scope of practice is necessarily determined locally by existing statutory enactment and judicial determination in the separate jurisdictions." ACA Master Plan, ratified by the House of Delegates June 1964, amended, June 1975. Such policy is based on the belief that doctors, working in their own communities and states, are best equipped to determine matters of scope of practice through their respective state legislatures and regulatory agencies.

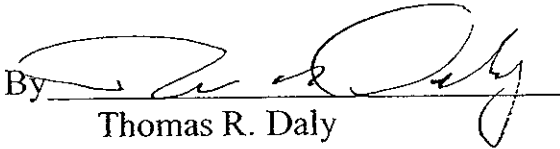
We therefore respectfully submit that the outside intervention of the International Chiropractors Association, in aligning itself with the views and actions of the New Mexico Medical Board and the New Mexico Board of Pharmacy in opposition to the New Mexico Board of Chiropractic Examiners, does not represent the views of the mainstream of the chiropractic profession.

#### **IV. CONCLUSION**

When deciding the issues on appeal, the ACA respectfully requests that the Court consider the education, training and experience of Doctors of Chiropractic and how that education, training and experience supports allowing Doctors of Chiropractic, working in their own communities and States through their respective state legislatures and regulatory agencies, to determine their scope of practice.

Respectfully Submitted,

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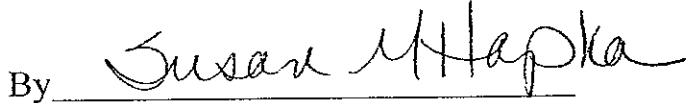
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