

naturopaths, alternative health care practitioners seek scope expansion in U.S.

As state and national medical societies and specialty societies have their hands full in battling scope of practice expansions by allied health professionals, a group of unlicensed “alternative” health care practitioners and naturopaths is attempting to slowly chip away at its own scope limitations. Both the naturopathy bills and the alternative medicine bills were designed to legally recognize the right of unlicensed individuals with no medical training to perform medical procedures.

Naturopathy Bills

So far this year, bills specific to naturopathic “medicine” were proposed in Hawaii, Idaho, Illinois, Massachusetts, Missouri, North Carolina, Pennsylvania, Tennessee and Washington.

The position of the American Association of Naturopathic Physicians (AANP), which sponsored many of the bills specific to naturopaths, is that naturopathic “physicians” or “ND’s” should be allowed to perform minor surgeries and prescribe pharmaceuticals. Interestingly, not all naturopaths are in agreement with this scope of practice expansion. In criticizing the AANP’s position, the Coalition for Natural Health has said, “According to the AANP definition of naturopathic medicine, naturopathic practice should include prescribing

‘medicines of mineral, animal, and botanical origin.’ It should also include performing ‘minor surgery.’” In at least one state, the prescription drugs a naturopath may prescribe include erythromycin, penicillin, streptomycin, and tetracycline. The AANP considers any surgery that doesn’t enter a body cavity to be minor surgery. A recent president of the AANP stated that minor surgery may include such procedures as skin biopsies, hemorrhoid operations, and vasectomies.

The primary reason why the Coalition for Natural Health’s opposed the AANP’s bills is that the bills would restrict the ability of naturopaths who have not gone to a small selection of schools to perform what they consider traditional naturopathy. Traditional naturopathy is “a distinct system of non-invasive healthcare and health assessment in which neither surgery nor drugs are used, dependence being placed only on education, counseling, naturopathic modalities and natural substances, including without limitation, the use of foods, food extracts, vitamins, minerals, enzymes, digestive aids, botanical substances, topical natural substances, homeopathic preparations, air, water, heat, cold, sound, light, the physical modalities of magnetic therapy, naturopathic non-manipulative bodywork and exercise to

help stimulate and maintain the individual’s intrinsic self-healing processes.”

While the vast majority of these bills did not succeed in gaining traction in the state legislatures, the naturopaths did achieve a big scope of practice victory in Hawaii last year by passing a law allowing them to perform minor surgery, administer parenteral therapy, and prescribe certain legend drugs. Additionally, laws allowing naturopaths to perform similar medical procedures are already in place in California, Minnesota and Rhode Island.

alternative medicine legislation

Bills with misleading titles, such as the “Consumer Health Freedom Act” and “An Act providing for consumer access to the healing arts” were filed in Colorado, Iowa, Massachusetts, Maryland, North Carolina and Washington. These broader “alternative healing” bills are being championed by groups with names like “Citizens for Health,” “Health Freedom Washington,” “Connecticut Health Freedom Coalition” and “Alliance for Natural Health.” These groups use the same strategy as drug store “minute clinics” and allied health professionals to justify their scope of practice expansion—patient access to care. These bills frame their intent to be all about life, liberty and

alternative health care bills in the states

Colorado: HB 1371 Colorado Health Freedom Act
Iowa: HF 526 Iowa Access to Wellness Act
Massachusetts: HB 2125 An Act Providing for Consumer Access to Healing Arts
Maryland: HB 541/SB 357 Health Occupations-Wellness Practitioners-Exemption from Licensure as Physicians
North Carolina: H 842 Consumer Health Freedom Act
Washington: HB 1861/SB 5755 Concerning Alternative Healthcare Practitioners

naturopathic bills in the states

Hawaii: HB 2312 Naturopathy; Medicine
Idaho: S 1369 Naturopathic Medicine Practice Act
Illinois: Naturopathic Medical Practice Act
Massachusetts: HB 3476 An Act Establishing Board of Registration in Naturopathy
Missouri: Establishes requirements for the licensure of naturopathic physicians
North Carolina: H 1409/S1043 Naturopathic Doctors Licensing Act
Pennsylvania: HB 1784 An Act Regarding Naturopathic Medicine Licensing/Regulation
Tennessee: HB 723/SB 1630 Provides for the Licensure of Naturopathic Physicians

truth in advertising bills in the states

Arizona: SB 1255 Health Professionals; Advertising; Disclosure
Connecticut: SB 265 An Act Requiring Healthcare Providers to Display Photographic Identification Badges
Illinois: SB 3509 Truth in Healthcare Professional Services Act
Kansas: HB 2575/SB 83: Relating to Licensure of Perfusionists and Naturopathic Doctors
Massachusetts: SB 827 An Act Relative to Truth in Advertising
New York: SB 814 Restricts the Use of ‘Doctor’ in Ads
Pennsylvania: HB 1482 Amends Healthcare Facilities Act Regarding ID Regulations

the pursuit of happiness, with wording such as, "the right to liberty and self-determination in regard to health care."

truth in advertising

These legislative proposals underscore the need for state medical associations and national specialty societies to remain vigilant and organized in regard to scope of practice expansion. Additionally, physician groups are fighting back with their own truth in advertising legislation, which will require disclosures such as public communications, name tags and office signs clearly showing patients the level

of licensure and training of their providers. Arizona sent one of these bills to its Governor on April 15. Other truth in advertising proposals have been filed so far this year in Connecticut, Illinois, Kansas, Massachusetts, New York and Pennsylvania.

A Kansas bill speaks directly to the naturopathy scope expansions. On April 9, the Kansas State Legislature sent the Governor a bill requiring naturopaths who refer to themselves as "Dr." to list the initials "ND" for "naturopathic doctor" after their name in any public communication. The bill also prohibits naturopaths from referring

to themselves as "naturopathic physicians," "physicians" or "naturopathic medical doctors."

The ASDSA will continue to work together with other strategically aligned medical and consumer advocacy groups to protect patients from unqualified persons offering medical services, and to ensure consumers understand the level of licensure and training of their providers. If your state or local society needs assistance with these issues in your state, please don't hesitate to contact Director of Advocacy and Public Policy Lisle Soukup Poulsen at 847- 956-9126 or lpoulsen@asds.net. ■

interview with Alastair Carruthers, FRCPC, on coverage for HIV-associated facial lipoatrophy

The ASDSA interviewed Past President Alastair Carruthers, FRCPC, on the Centers for Medicare and Medicaid's (CMS) recent decision to provide coverage for reconstruction of HIV-associated facial lipoatrophy using dermal fillers which have been FDA-approved for that purpose.

Why is this decision significant?

Facial lipoatrophy can cause HIV-infected patients to look severely ill and experience such negative self image they stop taking their antiretroviral treatments. FDA-approved injections can fill out the face's appearance so patients comply with their treatment regimens and are not jeopardizing their health.

Why didn't CMS cover these treatments previously?

Federal law prohibits CMS from covering payment for cosmetic surgery unless it is for immediate repair of injury due to an accident or to improve the functionality of a malformed body part.

On what basis can CMS pay for the treatment of HIV-associated facial lipoatrophy?

The ASDSA made the argument that a precedent already existed to cover cosmetic reconstruction based on the fact that CMS covers breast reconstruction following mastectomy. Although breast reconstruction does not affect the physical functionality, CMS covers it because of the importance of postsurgical psychological

adjustment. Similarly, studies published in *Dermatologic Surgery* have shown that patients suffering from HIV-associated facial lipoatrophy experience low self-esteem, anxiety and depression.

What role did ASDSA play in advocating for the coverage of HIV-associated facial lipoatrophy treatment?

The ASDSA was the only national medical specialty association to submit a case for coverage. Other commenters included the U.S. Department of Veterans Affairs, HIV/AIDS groups, individual physicians, psychiatrists, pharmacists, nurses and patients. Additionally, four different scientific articles from *Dermatologic Surgery* were cited in CMS' decision, more than from any other publication.

How does Medicare coverage help patients with HIV-associated facial lipoatrophy who are not over the age of 65?

According to the CMS decision memo, less than two percent newly diagnosed HIV/AIDS cases were over age 65 in 2007. However, HIV positive patients may be eligible for Medicare coverage through disability. Additionally, private insurance companies tend to use coverage decisions made by CMS as a model for their own coverage. In fact, the ASDSA has already seen private insurers issue memos announcing that they will now be covering the use of dermal fillers for treatment of HIV-associated facial lipoatrophy.

How will dermatologic surgeons who wish to provide treatment be reimbursed? How will dermatologic surgeons who wish to provide treatment be reimbursed?

Although the effective date of coverage is retroactive to March 23, 2010, CMS has not yet issued guidance to providers on how to appropriately bill for the treatment. Additionally, Medicare contractors have not received guidance on processing these claims. Pricing information is expected to be released in July.

Scientific articles from Dermatologic Surgery which were cited in the CMS decision:

ASDS Guidelines of Care: Injectable Fillers (A. Alam, H. Gladstone, E. Kramer, et al.)

Evaluation of Injectable Calcium Hydroxylapatite for the Treatment of Facial Lipoatrophy Associated with Human Immunodeficiency Virus (A. Carruthers, J. Carruthers)

HIV-Associated Facial Lipoatrophy (A. Carruthers, J. Carruthers, J. James)

Retreatment with Injectable Poly-L-lactic Acid for HIV-associated Facial Lipoatrophy: 24-Month Extension of the Blue Pacific Study (GM Humble, DR Mest)

As the ASDSA learns more about how physicians can appropriately bill for the use of FDA-approved dermal fillers for the treatment of HIV-associated facial lipoatrophy, we will keep you informed. ■