
HOMEOPHOBIC

Tribulations of Integrated Medicine in Nevada

BY EARLENE FORSYTHE, R.N., M.S.N, A.P.N.

What is there about "alternative medicine" that sets it apart from ordinary medicine? The term refers to a remarkably heterogeneous group of theories and practices such as naturopathy, homeopathy, herbal therapy, therapeutic massage and even chiropractic medicine. But what unites them? Authors in the November issue of the *Journal of the American Medical Association (JAMA)* define alternative or integrated medicine (also called complementary medicine) as "medical interventions not taught widely at U.S. medical schools or generally available at U.S. hospitals." This is not a very satisfactory definition, especially since many alternative remedies have recently found their way into the medical mainstream. Medical schools do teach alternative medicine, hospitals and health maintenance organizations do offer coverage and laws in some states mandate acceptance by insurance companies.

PEOPLE JUST WANT TO FEEL BETTER

The use of integrated medicine in Nevada as in the rest of the country is growing. In addition, it's getting easier to find medical doctors who are also licensed in the field of homeopathy. According to the *JAMA* issue on alternative medicine, four out of 10 Americans use some form of alternative medicine. Americans visited alternative therapy practitioners 629 million times in 1997, a 40 percent increase over the 427 million visits made in 1990. They spent approximately \$27 billion out-of-pocket (not covered by insurance) on alternative therapies in 1997, which is about the same projected out-of-pocket spending for all U.S. physician services. Of 127 medical schools in the United States—including such prestigious medical schools as Harvard, Yale, Stanford, and the University of California, San Francisco—75 teach at least one class on some form of alternative medicine.

Have many Nevadans forsaken medicine for herbs? Not exactly. The great majority of those surveyed by *JAMA* had seen physicians, especially for treatment of major medical problems. But 12 percent of the respondents visited unconventional practitioners in addition to their physicians, averaging an astonishing 19 visits a year, and about one quarter of the respondents used unconventional methods of healing on their own without seeking help from anyone. Seventy-two percent admitted they would not tell their physician they sought alternative care because of fear of judgment or ridicule for seeking unorthodox therapies. The common denominators linking those seeking such non-traditional

care was a chronic condition which was not alleviated or treated adequately by conventional methods.

The reason people go to non-medical practitioners is quite simple: They want to feel better. Access is easy. It's cheaper. Many begin unconventional treatments out of curiosity to see whether they will feel better. If their results are positive, their testimonials and anecdotes serve as powerful persuaders when passed on to friends and family members.

ATTACK FROM WITHIN

Presently, the Nevada state Board of Medical Examiners, in conjunction with the Federation of State Medical Boards has launched an all-out attack on "unconventional health care providers"—i.e., those engaging in "questionable health care practices." Targeted are fraudulent practices or quackery, but also targeted are dual-licensed physicians—medical doctors licensed in both traditional medicine and homeopathy. At the behest of the Federation of Medical Boards, there are no methods too severe for dealing with such physicians including media campaigns, collaboration with local medical professional organizations and reporting to federal agencies such as the Federal Trade Commission, public health departments and attorneys general, just to name a few.

The legislative agenda of the Nevada state Board of Medical Examiners is ambitious and at the top of its list is the goal of gaining regulatory and policing authority to monitor physicians engaged in "questionable health care practices," including but not limited to requirements that physicians: 1) file treatment plans with the board, 2) report patient outcomes, and 3) file periodic reports regarding the efficacy of treatment—all mandates which are presently not required of traditional medical physicians. Recently a media campaign was launched on Nevada radio stations soliciting complaints against doctors. But excluded from the ad was the information that board investigators, overzealous to exercise their policing power, had actually rifled physicians' offices in the past, overstepping their mandate and ultimately sacrificing patient privacy. This all-out statewide attack on dual-licensed physicians sets up a double jeopardy of sorts since there are already national provisions in place to protect the public against unsavory or unethical medical practice. The fraud and abuse provisions of the Health Insurance Portability and Accountability Act of 1995 (Kennedy-Kassebaum) not only names penalties for physicians but also includes penalties for patients who

are guilty of fraud.

If you think that physicians in Nevada have not been victimized by overzealous boards and government agencies, think again. On July 4, 1995 (ironically), my husband, Jim Forsythe, M.D., H.M.D., was seeing patients as usual when an investigator from the state Board of Medical Examiners entered his integrated clinic demanding to examine medical records of 70 patients without their written consent. The investigator refused to justify the request saying only that a non-medically related complaint had been made. When Dr. Forsythe asked if this was a patient, the investigator said "No." No reason was given for taking 70 charts nor were considerations of patient privacy respected.

What followed is a familiar tale when citizens come up against government regulatory bureaucracies. Dr. Forsythe was not allowed to face his accuser, was fined \$1,000 for "possible excessive charges," and received a judgment of \$43,000 to be "donated" toward other investigations of fraud even though the state Board of Medical Examiners did not find him guilty of any malpractice or any other wrongdoing. Defending this non-patient, non-medical complaint cost Dr. Forsythe \$94,000. Had he fought it completely, attorneys' fees were estimated to likely cost \$300,000.

Nevada is one of only two states that has a State Board of Homeopathic Medicine overseeing all licensed homeopathic physicians. The Nevada state Board of Medical Examiners technically had limited jurisdiction—that is, regulatory power over the traditional practice of medical doctors. However, it had difficulty reconciling authority over physicians who possessed both an M.D. license and a homeopathic license in Nevada. In 1997, Fuller Royal, M.D., H.M.D., President of the Nevada State Board of Homeopathic Medicine, received notification from Rex Baggett, M.D., President of the Nevada state Board of Medical Examiners, that all dual-licensed physicians would from that day hence be regulated by the Board of Medical Examiners exclusively. This action effectively sought to negate the authority of the state's Homeopathic Board by mere diktat.

To inaugurate its new self-awarded authority, the medical examiners board sought regulations to restrict chelation therapy, neural therapy and orthomolecular medicine. After massive opposition launched by chelation patients and organized by Nevadans for Health Freedom, an activist group seeking to maintain health care choice, all attempts at regulation were thwarted.

WHY CANNIBALIZE YOUR OWN WHEN THE WHOLE PROFESSION IS UNDER ATTACK?

All physicians, whether homeopathic or traditional, suffer from bureaucratic over-regulation. The Kennedy-Kassebaum legislation established the Medicare Integrity Program, which authorizes private auditors to investigate

physicians for fraud and abuse, and trains senior citizens to act as informants reporting their physicians to the Medicare Fraud Division. If fraud is found and fines are levied, the informant receives a financial reward. The bill also provides that Medicare fraud come under the auspices of not one but three federal agencies: the Office of the Inspector General of the Department of Health and Human Services, the Department of Justice and the Federal Bureau of Investigation. Through the efforts of the Clinton administration, the Health Care Financing Administration has now authorized Medicare to stage armed raids on physicians' offices and to pursue felony convictions. The federal government through Medicare fraud has collected more than \$1 billion in fines and settlements during the past year, a seven-fold increase over fiscal 1996. Federal prosecutors have opened more than 4,000 civil health care matters, an increase of 61 percent, and filed 282 criminal indictments. Such information should be posted in the halls of medical

schools warning that young men and women pursue medical careers at their own risk.

In 1999 the Clinton budget will include a plan to double the number of provider audits. Providers can expect an increased number of local prosecutors defining fraud, expanded definitions for mail and wire fraud, use of attorney general subpoena powers and recruitment of more senior citizen informants. All will facilitate cooperation among regulatory agencies and increase the bureaucratic nightmare already experienced by physicians. Add to this the criminal penalties in the Kennedy-Kassebaum legislation, the Medicare Integrity Program, the new documentation guidelines for coding of office visits and diseases, and now the intimidation of state and federal bureaucrats, and you have a recipe for wide-scale disaster.

Physicians, whether they practice traditional medicine or a combination of traditional and homeopathic medicine, would do well to unite their efforts to regain control over medicine and the doctor-patient relationship rather than casting threatening glances at each other. Much has already been lost, but at the heart of the battle is health freedom, the doctor-patient relationship, patient privacy, health care quality and cost. At the heart of it all is a patient who is sick, in need of help, and who ultimately becomes the real loser in doctor turf wars. NJ

Physicians, whether they practice traditional medicine or a combination of traditional and homeopathic medicine, would do well to unite their efforts to regain control over medicine and the doctor-patient relationship rather than casting threatening glances at each other. Much has already been lost, but at the heart of the battle is health freedom, the doctor-patient relationship, patient privacy, health care quality and cost. At the heart of it all is a patient who is sick, in need of help, and who ultimately becomes the real loser in doctor turf wars. NJ

Earlene Forsythe is president of Nevadans For Health Freedom, a non-profit group seeking to preserve, protect and promote Nevadans' right to have access to integrated health care alternatives.

**NO REASON
WAS GIVEN
FOR TAKING
70 CHARTS
NOR WERE
CONSIDERATIONS
OF PATIENT
PRIVACY
RESPECTED.**

The Nevada state Board of Medical Examiners was offered the opportunity to respond to this article and did not. The Nevada State Medical Association agreed to respond but by press time had not.