Chiropractic practice in Hong Kong: the need for amendments of health laws and provisions

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Chiropractic practitioners with accredited qualifications should have the right to diagnose, the right to operate diagnostic imaging machines, and the right to the title doctor and Yee San. This paper reviews chiropractic practice in Hong Kong as well as laws and provisions of the health professions namely Chiropractors Registration Ordinance, Medical Registration Ordinance, Dentists Registration Ordinance, Radiation Ordinance, and the provisions of codes of practice of Medical Laboratory Technologists and Radiographers. The need for amendments of relevant sections of health laws and provisions, which concern chiropractic rights, chiropractic practice, and clinical research of mechanical neuromusculoskeletal disorders is discussed. Patient privileges relevant to chiropractic practice are proposed. The Chinese title Yee San or Yee and the English title Doctor are generic terms. Hence, legally "Yee San" and "Doctor" should not be coined by medical practitioners and vice versa. Diagnostic imaging and laboratory procedures are essential for differential diagnosis of neuromusculoskeletal disorders, which may indicate or contraindicate the application of manipulation, and hence are essential for chiropractic practice and clinical research. Proposed amendments of the listed sections of the ordinances and provisions are also outlined. (JCCA 1995; 39(1):28-34)

KEY WORDS: chiropractic; chiropractic legislation and jurisprudence; chiropractic history; doctor; rights; diagnosis; diagnostic imaging; laboratory diagnosis; Hong Kong; doctor title; health laws.

Les chiropraticiens accrédités devraient avoir le droit de diagnostiquer, d'utiliser des machines d'imagerie diagnostique, et de porter le titre de docteur et de Yee San. Cet article examine la pratique de la chiropraxie à Honk Kong et passe en revue les dispositions réglementaires relatives aux professions de la santé telles que le règlement sur l'inscription des chiropraticiens, le règlement sur l'inscription médicale, le règlement sur l'inscription des dentistes, le règlement sur la radiation, ainsi que les dispositions des codes de pratique des technologistes de laboratoire médical et des radiographes. On signale également les modifications que l'on souhaite apporter à certaines sections des lois et des règlement sur la santé portant sur les droits des chiropraticiens et sur la recherche clinique des troubles mécaniques du système neuromusculosquelettique. On mentionne les privilèges accordés aux patients soignés par chiropraxie. Le titre chinois Yee San ou Yee et le titre anglais Docteur sont des termes génériques. Légalement, les médecins ne devraient pas porter les titres « Yee San » et « Docteur », et les chiropraticiens quant à eux ne devraient pas être appelés médecins. L'imagerie diagnostique et les examens de laboratoire sont indispensables à la pratique chiropratique et à la recherche clinique car ils servent à établir un diagnostic différentiel des troubles neuromusculosquelettiques permettant d'indiquer ou de contre-indiquer une manipulation. On donne également un aperçu des modifications que l'on souhaite apporter à certaines sections répertoriées des dispositions réglementaires. (JCCA 1995; 39(1):28-34)

MOTS-CLES: chiropraxie; législation et jurisprudence de la chiropraxie; histoire de la chiropraxie; docteur; droits; diagnostic; imagerie diagnostique; diagnostic de laboratoire; Hong Kong; titre de docteur; lois sur la santé.

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Introduction

Legislation governing the health professions has traditionally been drafted with differing regulations and provisions in statute for each profession. This legislation has often been the consequence of seniority or political lobbying. The new Regulated Health Professions Act of Ontario, Canada may serve as the benchmark for future health care legislation in many jurisdictions to open up more freely direct accessible health care services and reduce the role of the medical practitioner as "gate keeper". The act allows health professionals to work in a system that is equitable, where their autonomy is respected and their contributions recognized.

One of the common criticisms directed at the chiropractic profession is that there is inadequate scientific research to support any of the theories that govern its direction. The inadequacy of the biomedical science model of research in chiropractic practice is not unexpected. A plausible rationale used to functionally limit, if not exclude, chiropractic from participation in conventional health care is the paucity of scientifically acceptable evidence to support the clinical practice of chiropractic practitioners.4 Hence, access to diagnostic imaging and laboratory procedures are basic requirements of chiropractic clinical practice and research. At present, chiropractic clinical research in Hong Kong is in the infant stage and limited to private clinical settings, ongoing case reports,5-11 literature reviews,12-14 and retrospective studies, without any interprofessional collaboration. Hospital access, access to laboratory and diagnostic imaging procedures, medical library access and interprofessional recognition are all essential for chiropractors to perform clinical research.

In addition to the rights afforded by accredited qualifications, it seems that the essence of health professional politics is competition, all too often sallied by a greed for power. It is unlikely that any potential amendments to improve chiropractic rights will occur without review of relevant health laws and an understanding of the present situation of chiropractic practice. The purpose of this paper is to review chiropractic practice in Hong Kong as well as laws and provisions of health professions namely Chiropractors Registration Ordinance, Medical Registration Ordinance, Dental Registration Ordinance, Radiation Ordinance, and Codes of Practice of professions supplementary to medicine, which concern chiropractic rights and may affect the normal practice of chiropractic services and clinical research on mechanical neuromusculoskeletal disorders.

Chiropractic practice in Hong Kong

Chiropractic was first introduced to Hong Kong in the 1930s by two US trained American chiropractors Dr. Frank J. Molthen and his wife Ruth Molthen. In 1967 three US trained chiropractors founded the Hong Kong Chiropractors Association (HKCA). At present, chiropractic in Hong Kong, is still a small profession of 40 practitioners; all were trained from Australia, Canada, UK, and the US. In contrast, orthodox medicine is a large, well-organised, politically strong profes-

sion of about 6,000 practitioners.

The confrontation between the medical and chiropractic professions is an universal issue. Due to the conflicting opinions on the use of the Chinese title Yee San, the Hong Kong Medical Association (HKMA) has made repeated efforts over the past years to harass, 21-23 discredit and denigrate the chiropractic profession with repeatedly misleading and/or denigrading statements. Since 1977, eight chiropractors have suffered police harassment, including police raids, interrogation, and arrests. Three were charged including the author as President of HKCA with unlawful use of the Chinese title Yee San or the English title doctor; however, the only conviction was in a case where the customary prefix Jek or Jek Quat (spine) had inadvertently been omitted.²⁴

Until the late 1980s, no chiropractic legislation existed in Hong Kong. Chiropractors were free to practise spinal manipulation and/or chiropractic adjustment and refer patients to x-ray and medical laboratories, but were not allowed to operate a diagnostic x-ray machine. In 1989, an Amendment Bill was included in the Codes of Practice of Professions Supplementary to Medicine which includes medical laboratory technologists, diagnostic radiographers, etc., to the effect that they could only accept patients referred from a registered doctor (Yee San) such as a medical practitioner (Sai Yee) or dental practitioner (Ngar Yee). This Amendment Bill threatened to bar chiropractors from diagnostic procedures. Due to the pressure from the media, however, the Radiation Board assured the public that chiropractors could still have direct access to diagnostic radiography.

The arguments of the doctor title war for the practice of chiropractic and the background of chiropractic legislation have been documented.24 After the failure of two "doctor title" court cases, there was a sudden change of policy regarding chiropractic legislation by the Health and Welfare Department (HWD). HKMA25 wrote to the Secretary for HWD, urged the government to expedite the introduction, passage and enactment of the Chiropractic Bill; the medical profession believed the Bill would give the chiropractors their correct status and title, and would help to put an end to the war of words between them and the medical profession. In the same year as the Amendment Bill for the codes of practice of professions supplementary to medicine in 1989, HWD drafted a proposal20 for a Chiropractors Registration Bill. The proposed Chiropractors Board would consist of seven members, a chairperson who would be neither a chiropractor nor a medical practitioner, three medical practitioners and three chiropractors. The title for registered chiropractors would not include the Chinese characters "Yee San".

The Chiropractic Registration Bill in 1992 forced a change of their established Chinese name and doctor title to a new name and therapist title, denoting a secondary health care profession supplementary to medicine, and was a "set-up" to contain the chiropractic profession as manipulative therapists under the umbrella of the medical profession as "gatekeeper".²⁴

Without consensus the controversial bilingual Chiropractors Registration Bill with a new name and therapist title was gazetted on 15 May 1992²⁶ and read. An Ad Hoc Group on the Chiropractic Bill was requested by HKCA. After lobbying by HKCA based on the "doctor title" arguments (vide infra), however, the majority of the Ad Hoc Group concluded on 26 October 1992 that chiropractors should be entitled to "Jek Yee", and should have an autonomous vocational council. The Chiropractors Registration Ordinance¹⁵ was finally gazetted on 12th February, 1993 with minor amendments. Chiropractors are now legally entitled to use the doctor title in Chinese and English. The Chiropractors Registration Ordinance of Hong Kong is the first in Asia.

Despite of the legal recognition of the "doctor" title and the right to practice, chiropractic patients in Hong Kong still have not achieved rightful privileges in the health care system. The inclusion of chiropractic health care after its legislation into the conventional referral system in Hong Kong is, however, dependent upon medical invitation as in Australia.²⁷ Hence, in addition to protecting the public from unqualified and incompetent spinal manipulators, the core of the chiropractic legislation in Hong Kong should initiate and improve patient privileges relevant to chiropractic practice, which are thus recommended in Table 1.²⁸

Chiropractors registration ordinance

The Ordinance is Chapter 428 in the Laws of Hong Kong.¹⁵ This is the first bilingual (in English/Chinese) health ordinance. There are no definitions of chiropractic practice and spinal manipulation, and no qualification standards for chiropractors registration in the appropriate sections of the Ordinance. Moreover, the profession almost does not have an autonomous vocational council, which consists of five chiropractors and five persons who are not chiropractors. Nevertheless, the Chiropractors Council is the first equitable composition of a professional council in Hong Kong.

Unlike chiropractic practitioners, both medical and dental practitioners in Hong Kong have definitions of medical practice and dental practice in Section 2 of their own ordinances. Instead of adding normally the definition of chiropractic practice in Section 2 of the Bill, the "Law Draftsman" suggested an unusual alternative by placing our requested inclusion of "chiropractic practice" in the preamble of the Bill. It is controversial that the amended long title in the Ordinance has any legislative sense and effect. The Preamble of the Ordinance reads:

An Ordinance to provide for the registration of chiropractors namely, persons trained and qualified in the practice of chiropractic including the practice of the prevention, diagnosis and treatment of functional disorders of the human body through manipulation of the joints, particularly of the vertebral column and peripheral joints, including the pelvis; the disciplinary control of the professional activities of registered chiropractors; and for matters related to such registration and disciplinary control.

With regard to the criteria for registration as registered chiropractors, the Registration Committee of the Chiropractors Council including the author has proposed that the only qualification be graduation from an institution on the list of Status Holding Institutions of the Council on Chiropractic Education US (CCE-US) and non-US chiropractic accredition councils namely:

- 1 The Australian Council on Chiropractic and Osteopathy (ACCO)
- 2 The Council on Chiropractic Education (Canada) (CCE-Can)
- 3 The European Council on Chiropractic Education (ECCE)
- 4 The Council on Chiropractic Education (U.S.)(CCE-U.S.)

Recommendations

 Similar to the ordinances of other health practitioners, definitions of chiropractic practice, manipulation, and spinal

Table 1 Recommended privileges for chiropractic patients

- 1. Sick-leave benefits
- 2. Workmen's compensation benefits
- 3. Full insurance coverage
- 4. Access to medical laboratory diagnosis
- 5. Access to diagnostic imaging
- 6. Access to in-patient and out-patient hospital privileges
- 7. Right to be referred to and from other practitioners
- 8. Right to retrieval of patient records and tests from medical practitioners, medical clinics and hospitals

 manipulation and/or adjustment should be in section 2; and
 qualification standards for registration in the appropriate sections of the Ordinance.

Monopoly of generic terms in Medical Registration Ordinance

Doctor title

The chinese title Yee San or Yee and English title Doctor are generic terms. Doctor is also a courtesy title for healing professions, established by long usage, and is accepted by the public for chiropractic, medical and dental practitioners in eastern China and the Western world.

In China, the words *Yee San* and *Yee* have been recognized since the Tsui Dynasty (A.D. 581–617).²⁹ In Hong Kong the term "Yee" is used legally by Chinese herbalists as *Chung Yee*¹⁶ (Chinese doctors); medical practitioners as *Sai Yee*¹⁶ (western doctors); dentists as *Ngar Yee*¹⁷ (dental doctors); and now by chiropractors as *Jek Yee*¹⁵ (spinal doctors).

In the 1991 Regulated Health Professions Act of Ontario in Canada, regulating 24 health professions; two levels of competence are recognized: diagnosis, meaning ability to come to a final and authoritative decision on the root cause(s) of a condition, and assessment, meaning a preliminary impression.² Only professions with the statutory right of diagnosis, such as chiropractic practitioners and medical practitioners, are authorized to use the title Doctor.²

Generic terms in Medical Registration Ordinance

The Ordinance was gazetted in 1957. There are 17 amendments of other sections of the Ordinance. The medical profession are not properly labeled with the prefix Sai (Western) or Sai Yee (Western doctors). It seems that the government, the Legislative Council and the general public are not aware that 17 Chinese generic terms such as Yee San (doctor/practitioner), Chan Liu Soh (clinic) and Yee Hok Si (Bachelor of Therapy) have been monopolized by the Hong Kong medical profession for over 36 years.

The whole Medical Registration Ordinance¹⁶ is written in English, except for some Chinese characters in Section 31, which refers only to Chinese Medicine. The medical monopoly is clearly reflected in the Section 31 of the Ordinance:

- 2a. "the taking or using in Chinese ... of Chung Yee (Chinese doctor) or Chung Yee San (Chinese Doctor) or Chung Yee Se (Chinese Doctor)" or "... shall not be deemed to be ... calculated to induce anyone to believe that he is qualified to practice medicine or surgery according to modern scientific methods: Provided that ... the word Herbalist must be included:"
- 2b. "the taking or using by any person of the name, title, addition or description of Sai Yee (Western doctor) Yee San (Doctor), Naam Yee (male doctor), Nui Yee (female doctor), Yee Hok Si (Bachelor of Therapy), ... Chan Liu Soh (Clinic) ... and the taking or using of words or characters

implying specialization if preceded by words or characters other than those specified in paragraph 2a shall be deemed to be taking or using of a name, title, addition or description calculated to induce anyone to believe that he is qualified to practice medicine or surgery according to modern scientific methods and that he is registered."

All 5 Chinese terms used in Section 31 2a are clearly labelled for Chinese (Chung) herbalist doctors, whereas all the Chinese characters used for western (Sai) medicine in section 31 2b except Sai Yee are common generic terms, which include 5 doctor titles, 2 academic degrees, and 10 treatment places. Hence, it is misleading to translate them into the English language simply as medical person in a restrictive sense to mean medical practitioners as understood by this section. It is probably that the English speaking ordinance draftsmen did not understand the meaning of these 17 Chinese terms in Section 31 2b and had been misled by the Chinese language advisors that generic terms such as Yee San (doctor) or Naam Yee (male doctor) or Nui Yee (female doctor) or Chan Liu Soh (clinic), etc. meant medical practitioner.

Despite the fact that the origin or methods of chiropractic are not purely "Chinese", and that chiropractors do not practise orthodox medicine or surgery, Section 31 2b was involved with police harassment of eight chiropractors for using the Chinese doctor title Yee San, even with a clear prefix such as Jek or Jek Quat (spine) together with the English word chiropractor.

Recommendations

- To properly label Western medical practitioners, amendments
 of Medical Registration Ordinance, Section 31 2b are recommended, the Chinese characters Sai (western) or Sai Yee
 (medical doctor) should be added in front of these 17 generic
 terms such as Sai Yee San (western medical doctors), Naam
 Sai Yee (male medical doctors), Nui Sai Yee (female medical
 doctors), Sai Yee Yee Hok Si (Bachelor of western Medicine),
 and Sai Ye Chan Liu Soh (medical clinic).
- The generic terms Yee San should not be coined by medical practitioners in other bilingual Hong Kong Laws Ordinance namely the "Interpretation and General Clauses Ordinance" (Chapter 1, 4 December 1992); and should be amended by the specific character Sai Yee.

Codes of practice of professions supplementary to medicine In 1989, an Amendment Bill was included in the Codes of Practice of Professions Supplementary to Medicine which includes medical laboratory technologists, ¹⁹ diagnostic radiographers, ²⁰ etc., to the effect that they could only accept patients referred from a registered doctor such as medical or dental practitioners. This Bill was passed and would effectively bar chiropractors from these diagnostic procedures.

Code of Practice of Medical Laboratory Technologists Board of Hong Kong¹⁹ Section 2 reads:

- c. "perform any tests for the purpose of medical diagnosis and treatment in the absence of referrals from registered medical, dental and/or veterinary practitioners:" and
- d. "knowingly accept, obtain, assist in obtaining or report on any specimen for the purpose of medical diagnosis and/or treatment of disease, or make any investigation for those purposes unless the diagnosis and/or treatment are to be performed by a registered medical, dental or veterinary practitioner."

Code of Practice of Radiographers Board of Hong Kong²⁰ reads:

"In broad terms a patient's illness should be examined or treated by a registered radiographer only on referral from, or while having direct access to, a registered medical or dental practitioner."

The hours of classroom instruction of the basic educational requirements for chiropractic and medical graduates are about the same in a review of curricula of 18 chiropractic colleges and 22 medical schools.³⁰ The chiropractic practitioner, as a portal of entry health care provider, has the responsibility to perform an appropriate clinical examination for the purpose of assessing a patient's current health status and identifying if the patient is a proper subject for chiropractic care.³¹ Chiropractors with accredited qualifications should have the right of diagnosis. Clinical guidelines for chiropractic practice in diagnostic imaging and clinical laboratory procedures have also been developed.^{31,32}

Currently, laboratory diagnosis courses are taught at all accredited chiropractic colleges.³¹ In addition, a survey in 1987 showed that the majority of jurisdictions in US and Canada allow some form of access to clinical laboratory procedures.³³ It is obvious that chiropractors do not order routine screening laboratory tests in all cases. Nevertheless, rational selected laboratory tests by experienced chiropractors can, at times, provide useful information when the clinical findings and/or diagnostic imaging findings are insufficient to answer the questions at hand.

In 1990 HKMA gave biased views in the HKMA Newsletter³⁴ to convince its members that it was unethical to "delegate" patients to chiropractors. It is unlikely that chiropractors can practice only with referrals from medical practitioners. Chiropractors with accredited qualifications have the right of diagnosis. Diagnostic imaging and clinical laboratory procedures are musts for differential diagnosis of neuromusculoskeletal disorders which can be indicated or contraindicated to spinal manipulation or adjustment. Without diagnostic imaging and laboratory procedures for the differential diagnosis of neuromusculoskeletal disorders, chiropractic practitioners may at times have only a "clinical impression" of the patient's disorder and therefore the patient's right of choice is unduly restricted and limited. Hence, these procedures supplemented to clinical findings are essential to decide on the root cause(s) of the condition for chiropractic practice in manipulative therapeutics and clinical research to improve patient care.

Recommendations

- Chiropractic practitioners should have access of laboratory and diagnostic imaging procedures for differential diagnosis.
- The word "chiropractic" should be added "between medical and dental" practitioners as the following amendments in:
- Code of Practice of Medical Laboratory Technologists Board of Hong Kong
 - Section 2c as "perform any tests ... referrals from registered medical, chiropractic, dental ..., and
- Section 2d as "Knowingly accept ... performed by a registered medical, chiropractic, dental or ...; and
- Code of Practice of Radiographers Board of Hong Kong as
 - "In Board ... access to a registered medical, chiropractic or dental practitioner."

Radiation ordinance18

Radiation (Control of Irradiating Apparatus) Regulation Chapter 303

(L.N. 225 of 1990)

Part I Section 2 Interpretation reads:

"dental irradiating apparatus" means a type of irradiating apparatus specially designed for the taking of radiographs of the teeth or jaws;

"diagnostic irradiating apparatus" means an irradiating apparatus designed for medical diagnosis;

"dental practitioner" means a person for the time being, registered or deemed to be registered under the Dentists Registration Ordinance;¹⁷

"dosemeter" means an instrument for measuring exposure to radiation:

"medical practitioner" means a person for the time being registered or exempted from registration under the Medical Registration Ordinance;16

"x-ray machines" means any machine that can be used for the production of x-rays.

Currently, general chiropractic practitioners are licensed to practice diagnostic radiology and educated in radiation protection, standards of quality, clinical indications for radiography and interpretation;³¹ and Chiropractic Radiologists typically have over 6,000 hours of CCE (Council on Chiropractic Education) accredited education during their post-professional training with particular emphasis on musculoskeletal and spine imaging.^{31,32}

The term "diagnostic" and "irradiating apparatus" are generic terms. Based on this section 2 of the Ordinance, chiropractors without definitions regarding registered "chiropractic practitioner" and chiropractic "diagnostic irradiating apparatus" in the Radiation Regulations thereby without a valid

licence may not possess an irradiating apparatus for chiropractic diagnostic imaging.

Recommendations

Section 2 of Radiation Ordinance should be amended as follows:

- The sentence "chiropractic practitioner means a person for the time being registered or deemed to be registered under the Chiropractic Registration Ordinance";¹⁵ should be added.
- Either the words "and chiropractic" should be added between "medical diagnosis" in the sentence of "diagnostic irradiating apparatus means an irradiating apparatus designed for medical diagnosis;" or the sentence "chiropractic irradiating apparatus means an irradiating apparatus designed for chiropractic diagnosis" should be added. Also,

Section 26 Restriction on use of irradiating apparatus of Radiation Ordinance reads:

- 1 "No person other than a medical practitioner or a person acting under his personal supervision shall operate an irradiating apparatus for any purpose affecting the human body: Provided that notwithstanding the provision of this regulation, a dental practitioner or a person acting under his personal supervision may operate a dental x-ray machine for the diagnosis of conditions of the teeth or jaws."
- 2 "Any person who contravenes any of the provisions of subregulation 1 shall be guilty of an offence and be liable on conviction to a fine of \$5,000."

Similar to chiropractic radiologists, specialists of the medical profession such as medical radiologists or medical radiation oncologists also have their postgraduate training in diagnostic imaging or radiotherapy respectively. Hence, the term "medical practitioner" in this section is non-specific and misleads the public into thinking that all medical practitioners have postgraduate training in diagnostic imaging and/or radiation therapy.

Since the assent of this Radiation Ordinance18 in 1965, chiropractic practitioners have been deprived of the rights to possess and to operate a diagnostic x-ray machine. Chiropractors can only refer patients to a licensed x-ray laboratory. However, a review of the curricula of 18 chiropractic colleges and 22 medical schools, based on the 1988-89 Association of American Medical College Curriculum Directory and Chiropractic College Admissions and Curriculum directory 1988-89, discloses that the class hours for x-ray study in the curricula of chiropractic colleges and medical schools are 271 and 13 respectively.30 This indicates that general chiropractic practitioners have comparatively more training in the operation of x-ray and diagnostic imaging machines than general medical practitioners. Hence, chiropractic practitioners with accredited qualifications should have the right to operate diagnostic imaging machines.

Recommendations

. The sentence "Provided that notwithstanding the provision

of this regulation, a chiropractic practitioner or a person acting under his personal supervision may operate a diagnostic irradiating apparatus for chiropractic diagnosis of the human body." should be added in Section 26, Subsection 1.

Conclusions

Chiropractic practitioners with accredited qualifications should have the statutory right to diagnose, the statutory right to operate diagnostic imaging machines, and the statutory right to the title doctor and Yee San.

Diagnostic imaging and laboratory procedures are essential for differential diagnosis of neuromusculoskeletal disorders, which may indicate or contraindicate the procedure of manipulation, and hence are essential for chiropractic practice and clinical research. The Chinese title Yee San or Yee and English title Doctor are generic terms. Hence, legally "Yee San" and "Doctor" should not be coined by medical practitioners and vice versa. It seems that the Hong Kong Government, the Legislative Council and the general public are not aware that 17 Chinese generic terms in Medical Registration Ordinance (including 5 doctor titles, 2 academic degrees, and 10 treatment places) have been monopolized by the medical profession since 1957; and that chiropractic practitioners have been deprived of the rights to operate a diagnostic x-ray machine since the assent of Radiation Ordinance in 1965.

It is unlikely that any potential amendments to improve chiropractic rights will occur without fully reviewing relevant health laws and provisions and an understanding of the present situation of chiropractic practice. In addition, to protect the public from unqualified and incompetent spinal manipulators, the core of the chiropractic legislation should initiate and improve patient privileges relevant to chiropractic practice. The need to amend the above listed sections of health laws and provisions, which concern chiropractic rights, chiropractic practice, and clinical research of mechanical neuro-musculo-skeletal disorders, cannot be overemphasized.

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