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CHIROPRACTOR AS AN EXPERT WITNESS

Mark A. Shulman, M.A., D.C.

One of the benefits of the decision in *Wilk v. A.M.A.*, 895 F.2d 352 (7th Cir.), *cert. denied*, 496 U.S. 927 (1990), is that chiropractors may now present themselves to the court as experts in the diagnosis and treatment of pain syndrome via chiropractic therapy.

When a chiropractor testifies for either the plaintiff or defendant, the opposing party is no longer permitted to summon another specialist, excluding another chiropractor, in attempt to discredit the chiropractor's testimony. Moreover, another chiropractor may testify only when the court is addressing one or more of the following issues:

- (1) Whether chiropractic care, including diagnostic tests and evaluations of the exams, was necessary;
- (2) How long chiropractic treatment was needed;
- (3) What type of chiropractic treatment was most suitable;
- (4) When maximum improvement was or was not reached according to evaluation of the records; or
- (5) Whether an appropriate referral to another specialist should have been made.

Many members of the legal profession, as well as members of the insurance industry, have been negatively misinformed regarding the chiropractor's overall qualifications as an expert in pain treatment and management. As a result, the profession's reputation continues to be damaged, and attorneys are still hesitant to refer clients to chiropractors.

When asked why they are so reluctant to use chiropractic testimony, most attorneys voice two major concerns. The first is that the chiropractor's credibility to the court as a pain treatment and management expert is still suspect. This is usually due to a previous chiropractor's inability to present objective scientific research evidencing the effectiveness of chiropractic treatment in pain management. The second concern is the difficulty that chiropractors encounter in negotiating out-of-court settlements with insurance carriers. Some attorneys still receive negative responses from insurance adjusters when a chiropractic billing or narrative report is involved. Again, this seems to be a result of the same

credibility problem. The solution lies in recent research.

During the past fifteen years there has been a substantial increase in published scientific research regarding the reliability and validity of chiropractic treatment (and of manipulative therapy in general) for various pain syndromes. The researchers have published their papers in respected peer-reviewed scientific journals.

One influential journal responsible for publishing high quality chiropractic research is the *Journal of Manipulative & Physiological Therapeutics* ("JMPT"). As a consequence of such high caliber research, the JMPT was the first chiropractic journal to register with *Index Medicus*. In addition, in 1990, the *British Medical Journal* published a study showing chiropractic's superiority over physiotherapy, bed rest and analgesics in the treatment of lower back pain. Furthermore, other medical researchers -- namely Travell, Kirkaldy-Willis, White and Panjabi, Mennell, and the Rand Study -- have also published various research papers and textbooks describing the efficacy of manipulation for many types of pain syndromes. Research by Manga (University of Ottawa-Ontario Ministry of Health) and Stano (JMPT 16:5, June 1993) has even shown that chiropractic therapy is more cost effective in the treatment of neuromusculoskeletal conditions versus other types of medicinal therapy.

The existence of these recently published papers should indicate to the attorney that the credibility barrier, which has provided a burdensome obstacle and stigma for chiropractors, no longer exists. Consequently, attorneys should feel confident about chiropractors' abilities to both testify as expert witnesses and negotiate effectively with the insurance industry.

About the Author

Mark A. Shulman, M.A., D.C. practices chiropractic and physical therapy at the Baltimore Back Pain Clinic, Inc. He is a former professor of biology at St. John's University and Mercy College. He also holds Diplomatic status in the American Academy of Pain Management. He has been qualified as an expert witness in chiropractic and physical therapy in Baltimore City and Baltimore County.