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Chiropractors as Expert Medical Witnesses

Ronald J. Zele*

THIS PAPER EXAMINES the rules of evidence concerning the admissibility of testimony of chiropractors as expert medical witnesses.

Chiropractic was widely practiced by the 1920's. Its growth was further evidenced by the advent of schools of chiropractic which taught students its method of treatment. Chiropractic is defined as:

A system of healing that treats disease by manipulating of the spinal column. A system of therapeutic treatment through adjusting of articulations of human body, particularly those of the spine. The specific science that removes pressure on the nerves by adjustment of the spinal vertebrae.¹

A chiropractor is one who practices the science of chiropractic by manipulating the displaced bones of the spine in order to cure disease.² Chiropractors believe that many diseases are caused by misaligned bones of the spine pressing against the spinal nerves, causing pressure on such nerves, which may ultimately result in disease processes. Historically, chiropractors have held themselves out as professionals while physicians (M.D.'s) have refused to acknowledge that chiropractic is a limited form of medicine, saying:

Because of chiropractic's preconceived theory of disease and methods of treatment, and the inadequate training of its practitioners, the medical profession strongly asserts that the chiropractor is not qualified to diagnose—to recognize the symptoms of disease.³

Its founders treated chiropractic first as a business and not as a profession.⁴ Today, by statute and case law, it is generally recognized as a limited branch of medicine.⁵ In *Maryland Casualty Company v. Hill*,⁶ a Texas court of appeals took judicial notice of the system and treatment of chiropractic which is the practice of adjusting the joints of the spine by hand for the correction of cause of disease. Its phenomenal growth is evidenced by the fact that today it is the second largest branch

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¹ Black's Law Dictionary 305 (4th ed. 1951).

² *Id.*

³ DiNardo, Medical Jurisprudence—Chiropractic—Its Statutes Under Limited State Licenses, 34 Notre Dame L. Rev. 562, 567 (1958).

⁴ *Id.*

⁵ 42 Ohio Jur. 2d 535 (1957); *Lowman v. Kuecker*, 246 Iowa 1227, 71 N.W. 2d 586, 588 (1955) held that "There can be no question but that the practice of chiropractic is the practice of medicine, although in a restricted form."

⁶ 91 S.W. 2d 391, 393 (Tex. Ct. App. 1936).

of the healing arts and is licensed in all but a few jurisdictions.⁷ Its status as a profession is strengthened by the fact that over 500 insurance companies allow claims for chiropractic services.⁸

In malpractice and negligence suits against chiropractors, early court decisions were quite caustic and scornful. In *Willette v. Rowe-kamp*,⁹ an Ohio appellate court said:

The human body constitutes too delicate a mechanism to permit unskilled, unscientific and unprofessional persons to tamper therewith under the guise of being able to cure malady, disease or injury.

Today, the majority of states have licensing requirements that recognize chiropractic as a limited branch of medicine. The requirements are, generally, that the applicant be twenty-one years of age, a graduate of an accredited chiropractic school, have a high school education, and be of good moral character.¹⁰

The Ohio statute requires examination and registration of all practitioners of limited branches of medicine or surgery.¹¹ Ohio Revised Code Section 4731.16 requires that the subjects in the examination include anatomy, physiology, chemistry, bacteriology, pathology, hygiene, diagnosis and such other subjects appropriate to the limited branch of medicine studied. Any applicant for admission to the examination must bear a diploma from a school, in good standing, giving instruction in such limited branch of medicine.¹² Ohio is typical of most state licensing requirements.

The Chiropractor in Personal Injury Actions

Does the education, training, licensing requirements and professional experience of a chiropractor, qualify him as an expert medical witness? The general consensus of the case law in the United States holds that a chiropractor is competent to testify as an expert witness in his own special field of medicine.

An expert witness, because of his skill, training, and knowledge is allowed to give testimony concerning facts within his knowledge as well as opinions based on hypothetical questions.¹³

⁷ DiNardo, *op. cit. supra* n. 3, at 562.

⁸ *Id.* at 563.

⁹ 58 Ohio App. 465, 16 N.E. 2d 797, 799 (1938); *aff'd* 134 Ohio 285, 16 N.E. 2d 457 (1938).

¹⁰ DiNardo, *op. cit. supra* n. 3 at 571.

¹¹ Ohio Rev. Code Sec. 4731.15 (1953).

¹² *Id.* at Sec. 4731.19; *See Williams v. Scudder*, 102 Ohio 305, 131 N.E. 481 (1921), *aff'd* 258 U.S. 607 (1922), upheld the constitutionality of licensing statutes of limited branches of medicine, as a legitimate exercise of the police power of the General Assembly.

¹³ H. Liebenson, *You, the Expert Witness* 45 (1962).

While it is usual to treat all testimony given by witnesses who have special knowledge, by reason of education or training, under the title "expert opinion," a distinction should be made between the specially qualified witness, who has had special opportunities for observation and who testifies as to facts thereon, from the true expert who has the knowledge, skill, experience, and training adequate to make his judgment an intelligent one helpful to the jury and who testifies upon the basis of assumed facts stated in a hypothetical question.¹⁴

In most cases dealing with chiropractors as expert witnesses, no distinction is made between the "specially qualified" or "skilled witness" and the expert witness. Ohio does make this distinction however. In *Alger v. Schine Theatrical Company*,¹⁵ a signboard fell and struck the plaintiff who was walking down a sidewalk. The plaintiff received personal injuries from the accident. The appellate court held it was not error for the trial court to allow testimony from a chiropractor licensed to practice chiropractic in Indiana. The chiropractor was permitted to testify as to plaintiff's condition before and after the accident, and read X-rays, made by him to the jury.¹⁶ He had been graduated from a chiropractic school and had about three months of post-graduate schooling every year. He also had five years experience with X-rays. The court commented that he had spent about the same amount of time studying anatomy as is required of medical doctors. His last 16 years had been confined solely to the structure and anatomy of the body. He was permitted to introduce X-rays taken by him to show that the plaintiff suffered a curvature of the spine, caused by the signboard striking her. The defendant contended that the chiropractor could not qualify as an expert witness because he was not licensed in Ohio. The court held that this was immaterial and that the chiropractor was a "skilled witness." A skilled witness is one who is skilled and qualified in the profession or business he is engaged in and to which the subject relates. This is shown by his actual observation and experience without any detailed study of the subject, or by his intensive study without any actual experience. An expert witness is specially trained.¹⁷

A distinction may be made between the specially qualified witness, who has had special opportunities for observation, and the true expert. The specially qualified witness is not, in fact, an expert and is testifying to facts and not opinion, whereas the expert testifies to opinion.¹⁸

¹⁴ Ohio Jur. *op. cit. supra* n. 5 at 405.

¹⁵ 59 Ohio App. 68, 17 N.E. 2d 118 (1938).

¹⁶ *Id.* Syllabus by the Court.

¹⁷ *Id.* at 120.

¹⁸ *Id.*

Wigmore on Evidence states that the essential point is that the witness must be skilled enough to comment on the specific point in question. It is immaterial that he is not qualified in other areas. The test is whether the witness can give "appreciable help" to the jury.¹⁹

Blashfield states:

It may be said that one possessing specific knowledge or skills obtained either through a course of study or training, or by experience, is qualified to testify as an expert on matters in which he possesses such knowledge or skills.²⁰

There is no necessity that an expert medical witness be a medical doctor.

Wigmore on Evidence states:

The common law, it may be added, does not require that the expert witness, on a medical subject shall be a person duly licensed to practice medicine . . .²¹

Ohio Jurisprudence holds that generally physicians and surgeons are qualified to give expert testimony. Opinion evidence in this field, it says, is limited to the opinion of experts—that is, physicians.²² In *Ager v. Baltimore Transit Company*,²³ the court held that an ambulance driver who had passed first aid tests and had five years experience was qualified to give medical testimony, that a person was feigning a faint because she squinted when he tried to open her eyelids. The court said medical experts were people possessing special knowledge and training in areas in which the laymen generally are not supposed to be acquainted.

The decision as to competency of a witness to testify as an expert rests solely in the hands of a trial judge.

The qualification or competency of a witness to testify as an expert or to give his opinion on a particular subject rests with the trial court, and, on appeal, its ruling with respect to such matters will ordinarily not be reversed unless there is a clear showing that the court abused its discretion.²⁴

The trial court in its discretion is most qualified to determine the competency of expert witnesses and its determination should not be

¹⁹ 7 *Wigmore, on Evidence* 1386 (3rd ed. 1940).

²⁰ 9c *Blashfield, Cyclopedia of Automobile Law and Practice* 512 (1954).

²¹ 2 *Wigmore op. cit. supra* n. 19 at 667.

²² *Ohio Jur. op. cit. supra* n. 5 at 510.

²³ 213 Md. 414, 132 A. 2d 469 (1957). It is not necessary that an expert medical witness be a physician or surgeon if he is otherwise qualified. *Lytle v. Thomas*, 13 Ohio L. Abs. 61 (Ct. App. 1932). *Contra, see Novakofski v. State Farm Mutual Automobile Ins. Company*, 34 Wis. 2d 154, 148 N.W. 2d 714 (1967). A death certificate signed by a lay coroner was held inadmissible as evidence because he could not qualify as an expert witness concerning the cause of death.

²⁴ In *Re Ohio Turnpike Commission v. Ellis*, 164 Ohio St. 377, 131 N.E. 2d 397, 400; *Syllabus by the Court* (1955).

set aside unless there is an abuse of discretion.²⁵ A witness seeking to qualify as an expert must first state his education, skills, and experience in the subject area in which he is to testify.²⁶ There is no presumption that a witness is competent as an expert, or to give an opinion.²⁷ The judge, after hearing the witness's qualifications, decides whether or not the witness is competent to testify as an expert. In *Taylor v. Maxwell*,²⁸ the Kansas court held that it was not error to allow a licensed chiropractor to testify as an expert witness and to give opinions based on his observations gained while treating the plaintiff. The chiropractor had qualified by showing that he had special knowledge requiring special skills. The court said that the competency of expert witnesses and the admissibility of such evidence are matters within the sound discretion of the trial court.

Legal authorities are almost unanimous in the view that chiropractors are competent as expert witnesses as to matters within the scope of their profession.²⁹

Wigmore states that the testimony of a chiropractor is limited to those portions of the body with which the medical science of chiropractic deals.³⁰ *Corpus Juris Secundum* states that a chiropractor is competent to testify as to personal injuries concerning those parts of the body with which his profession deals and the effect of such injuries to the body.³¹ However, a chiropractor is not competent to state whether chiropractic adjustments are treatment of a disease.³² *American Jurisprudence* states that a chiropractor is competent to testify in areas of medical science to which the study of chiropractic relates.³³ *Blashfield* notes that when the training and experience of a chiropractor are satisfactory, he is competent to testify as an expert.³⁴

Case law in America seems to be in general agreement that a chiropractor is competent as an expert witness. However, there is much variance as to what areas of medicine in which a chiropractor is com-

²⁵ *Dickman v. Struble*, 104 Ohio App. 44, 146 N.E. 2d 636 (1957). The competency of expert witnesses rests largely in the discretion of the trial judge. See also, *City of Akron v. Public Utilities Commission*, 5 Ohio St. 2d 237, 215 N.E. 2d 366 (1966).

²⁶ *Tully v. Mahoning Express Company*, 161 Ohio St. 457, 119 N.E. 2d 831 (1954).

²⁷ *Id.*

²⁸ *Taylor v. Maxwell*, 197 Kan. 509, 419 P. 2d 822 (1966).

²⁹ *Harder v. Thrift Constr. Co.*, 53 S.W. 2d 34 (Mo. Ct. App. 1932).

³⁰ *Wigmore*, *op. cit. supra* n. 19, at 1387.

³¹ 32 C.J.S. 347 (1964).

³² *Id.*

³³ 31 Am. Jur. 2d 632 (1967); see also *Moon*, *The Chiropractor as an Expert Witness*, 15 Mercer L. Rev. 431 (1964).

³⁴ 10 *Blashfield*, *op. cit. supra*, n. 20 at 8; see also *Rogers*, *The Law of Expert*, 368 (3rd ed. 1941). A licensed chiropractor may testify concerning the injuries of the human vertebrae, cause, and their probable duration; whether the diagnosis and conclusions as to probable result are correct are questions for the jury.

petent to testify. Many courts are reluctant to allow chiropractors to testify except for a narrowly prescribed area because of the disdain and skepticism which medical doctors hold toward chiropractic. *Voight v. Industrial Commission*,³⁵ a 1921 Illinois decision, faced the situation head on and discussed it with much candor. In allowing the testimony of a chiropractor as it related to the plaintiff's back injury, the court stated:

It is not the province of the courts to pass upon the merits of the various systems now in use and practice in the treatment and cure of diseases; but when a physician schooled, educated and trained in any one of these particular systems qualifies as a witness by showing that he has special knowledge or skill in diagnosing and treating the particular ailment or disease which is the subject of concentration by the court, it is the duty of the court to admit his testimony as an expert. The weight of such testimony is to be determined by the character, capacity, skill, and opportunity of the witness to know and understand the matters about which he testifies.³⁶

Early cases held that it was immaterial that a chiropractor was unlicensed. *City National Bank v. Pigott*,³⁷ a Texas case decided in 1925, allowed the testimony of a chiropractor as an expert witness. He had previously been a physician for 25 years, but was no longer licensed. The fact that he was no longer licensed to practice medicine was held immaterial.

A 1925 Missouri decision held that the testimony of a chiropractor as an expert witness concerning the position of vertebrae found after a physical examination was admissible.³⁸ The fact that he was not licensed to practice in the state was immaterial. He was shown to have special knowledge concerning the position of the vertebrae.

After state statutes recognized chiropractic, the courts relied on this recognition as a further reason for allowing their testimony.³⁹ In *O'Dell v. Barrett*,⁴⁰ a 1932 Maryland decision, a chiropractor testified as an expert witness, in a personal injury suit, concerning the nature of the plaintiff's injuries.

The court said:

In view of the fact that the state has recognized the qualifications of the chiropractor who testified in this case to treat maladjustments of the spinal column by the method specified, and in view of his long and extensive experience in the field of his licensed practice, we

³⁵ 297 Ill. 109, 130 N.E. 470 (1921).

³⁶ *Id.* at 472.

³⁷ 270 S.W. 234 (Tex. Ct. App. 1925).

³⁸ *Meyers v. Wells*, 273 S.W. 110 (Mo. Sup. Ct. 1925).

³⁹ *Ladle v. American Glycerin Co.*, 115 Kan. 507, 22 P. 272 (1924).

⁴⁰ 101 N.J.L. 236, 136 A. 191 (1932).

would not feel justified in ruling that the court below was wrong in allowing the witness to describe the probable effect upon the spinal column. . . .⁴¹

As long as the testimony of the chiropractor was limited to the scope of his profession and concerned people examined by the chiropractor, and his testimony was based on facts of which he had knowledge, the earlier court decisions upheld the admissibility of the chiropractor's testimony.⁴² Most of the early decisions recognizing the chiropractor as an expert witness were from the Midwest. The Palmer School of Chiropractic, in Iowa, was the most prominent chiropractic school in the country and most of the chiropractors at that time were located in the Midwest. As a result, in the 1920's and 1930's, chiropractors were recognized and patronized to a greater extent in this area of the country and the court decisions reflect this demographic pattern.

It is quite significant that no reported case decision has held that a chiropractor is not competent to testify within the scope of his profession. The cases which have held that chiropractors are not competent to testify as expert witnesses involve situations where the court felt the chiropractor had testified to matters which were outside his area of competency.

A chiropractor, in 1963, in Louisiana was allowed to testify as an expert witness even though the practice of chiropractic was illegal in that state. The Appellate Court held that the illegality of the practice of chiropractic was immaterial as far as the competency of the witness was concerned.⁴³ However, it ruled out that part of the testimony as to the causal relationship between the trauma sustained by the injured party and physical ailments he later suffered holding that such testimony was outside the area of expertise of the chiropractor. A chiropractor in New York was not allowed to testify that, in his opinion, the services rendered by him were necessary medical expenses.⁴⁴ The court held that such testimony was not within his area of specialty.

The Chiropractor and X-rays

Chiropractors generally use X-rays to aid in reaching their diagnosis. Are they qualified as expert witnesses to interpret X-rays? Chiropractors, in most jurisdictions, are competent to interpret X-rays

⁴¹ *Id.* at 192.

⁴² *Inter. Ocean Oil Co. v. Marshall*, 26 P. 2d 399 (Okla. 1933): "A licensed and practicing chiropractor is competent to testify as an expert witness"; *Syllabus by the Court. See also Carmine v. Tibbets*, 74 P. 2d 974 (Ore. 1937). Licensed chiropractor with post graduate experience who had treated the patient is qualified to give expert testimony within the scope of his profession. *See also, Fries v. Goldsby*, 163 Neb. 424, 80 N.W. 2d 171 (1956); *Jones v. National Biscuit Company*, 29 A.D. 2d 1033, 289 N.Y.S. 2d 588 (App. Div. 1968).

⁴³ *Carvell v. Winn*, 154 S. 2d 788 (La. App. 1963).

⁴⁴ *Suris. v. Government Employees Insurance Company*, 53 Misc. 2d 454, 278 N.Y.S. 2d 708 (App. Term, 1967).

relating to an injured person's condition, when they are properly identified, and the subject matter relates to the field of chiropractic.⁴⁵ When a chiropractor shows that he is properly qualified, by stating his experience and knowledge concerning X-rays, he is competent to testify in a personal injury action.⁴⁶ Generally, one need not be a physician to testify as to the interpretation of X-rays, provided he has the requisite skill.⁴⁷

A chiropractor who had been graduated from an accredited school and had used X-ray equipment for 14 years was competent to testify as an expert witness as to the nature of an injury to the spine observed on X-rays, and how the particular spine differed from normal spines.⁴⁸ A chiropractor only one month out of chiropractic school was allowed to testify as an expert witness concerning X-rays he took of a patient before he treated her.⁴⁹ Ohio has also held that a chiropractor with experience in the use of X-rays was competent to give expert testimony.⁵⁰

Chiropractors have been held competent to testify as expert witnesses in malpractice suits against medical doctors. In *Dorr v. Headstream*,⁵¹ the Arkansas Supreme Court held that a chiropractor who had studied at an X-ray school and had taken about 20,000 X-rays, was competent to testify as an expert witness. In that case a group of physicians were sued because of burns resulting from an alleged improper use of an X-ray machine by the defendant doctors. The chiropractor testified that the dosage of electricity used was too high and resulted in the burns.

This court is committed to the doctrine that it is not necessary for one to be a physician in order to be an X-ray specialist and entitle him to testify as an expert witness.⁵²

Ness v. Yeomans,⁵³ is the high water mark of court decisions regarding chiropractors as expert witnesses in malpractice actions. The plaintiff sued a medical doctor for malpractice for failure to properly set the bones of the plaintiff. A chiropractor with six years experience with X-rays was allowed to introduce as evidence X-ray pictures he

⁴⁵ Annot. A.L.R. *op. cit. supra* n. 29 at 1386.

⁴⁶ Am. Jur. *op. cit. supra* n. 33 at 632.

⁴⁷ *Robertson v. Aetna Life Insurance Co.*, 37 Ga. App. 703, 141 S.E. 504, 505 (1928). An X-ray specialist with 15 years experience was qualified as an expert witness and allowed to state his opinion concerning a bone injury based on X-ray pictures.

⁴⁸ *Manos v. James*, 110 P. 2d 887 (Wash. 1941); overruled on other grounds in *Poutre v. Saunders*, 143 P. 2d 554 (Wash. 1943).

⁴⁹ *Guiley v. Lowe*, 314 S.W. 2d 232 (Mo. 1958).

⁵⁰ *Agler v. Schine Theatrical Co.*, *supra* n. 15.

⁵¹ 173 Ark. 1104, 295 S.W. 16 (1927).

⁵² *Id.* at 17.

⁵³ 60 N. Dak. 368, 234 N.W. 75 (1931).

took of the plaintiff, and identify the broken bones, and the nature of the union of the breaks put back together by the defendant doctor.

One who is shown to have experience in the taking and interpretation of X-ray pictures is not rendered incompetent to testify in a malpractice case simply because he is a chiropractor pursuing a system of treatment for human ills different from that pursued by the defendant.⁵⁴

Commenting on the admissibility of evidence by a chiropractor in a malpractice suit against a medical doctor the court said:

A chiropractor may testify as to matters in which he is qualified to speak so long as he is not attempting to testify in regard to a school of treatment separate and distinct from his own.⁵⁵

The lack of reported cases concerning chiropractors testifying against physicians in malpractice suits seems to indicate a reluctance by attorneys to utilize the professional ability of chiropractors, rather than a refusal by the courts to allow chiropractic testimony to be introduced. If the chiropractor is qualified by training and experience, there seems to be no valid reason for disallowing his testimony in malpractice cases, provided the testimony is within the scope of his profession, and does not attempt to bring into question the type of treatment practiced by the medical profession.

The Chiropractor in Mental Illness Cases

A chiropractor's testimony concerning mental insanity has been permitted in at least one jurisdiction, and disallowed in another. The Tennessee Supreme Court, in a 1968 decision, held that a chiropractor was not competent to testify as an expert witness concerning a patient's mental illness.⁵⁶ The court held that the chiropractor's observations while treating the patient were entitled to no more value than those given to an ordinary layman. This case must be distinguished, however, because the chiropractor was testifying not from a professional standpoint, but merely as an observer of a patient.

Harder v. Thrift Construction Company,⁵⁷ a chiropractor was held competent to give an opinion as to the probable cause of the plaintiff's insanity. The chiropractor had testified that burns can effect the superficial nerves and cause an irritation of the nervous tract, and that it was possible that such burns could have caused the plaintiff's insanity. The court in allowing the evidence, said that the chiropractor was a competent witness because he testified as to matters falling within

⁵⁴ *Id.* Syllabus by the Court.

⁵⁵ *Id.* at 76.

⁵⁶ *Lanius v. Donnell*, 432 S.W. 2d 659, 666 (Tenn. 1968).

⁵⁷ 53 S.W. 2d 34 (Mo. App. 1932).

purview of the subjects about which a chiropractor, by statute, must be informed.

It seems clear that the testimony of a chiropractor concerning the mental illness of a person can only be admissible if it is directly related to the subject matter and treatment in which chiropractors engage. Even then it seems doubtful whether the chiropractor possesses sufficient expertise to testify as an expert witness.

Prognosis and Opinions

The largest area of controversy regarding the testimony of chiropractors concerns questions of opinion in regard to the prognosis of injuries. Are chiropractors competent to state opinions on the probable duration and outcome of injuries within the scope of their profession?

Missouri Appellate Court has held that chiropractors are competent to express their opinions concerning:

Probable effects and duration, permanence, future medical requirements or the like, in connection with an injury to or the physical condition of the injured person⁵⁸

A chiropractor, who was the only medical witness called by either party in a personal injury action, testified that the dizzy spells claimed by the plaintiff were caused by a condition of the neck. The first vertebra affected the nerves controlling the equilibrium in the brain.⁵⁹ The chiropractor also testified that the plaintiff was slowly improving, but would not be able to return to his former occupation for some time. The court commenting on his testimony as an expert witness said:

A person who is neither a physician or a surgeon, but who is a graduate with a three years' course in a chiropractic school and licensed under the laws of this state to practice as a chiropractor, may testify as to injuries of the human vertebrae, the possible cause of such injuries, and their probable duration.⁶⁰

A chiropractor has been held competent to testify as to the probable duration of an injury to nerves in the spinal column of a patient⁶¹ and also as to the pain and suffering and future medical treatment required by a back injury.⁶²

In *Ward v. North American Rayon Corporation*,⁶³ a chiropractor testified as the only medical witness for the plaintiff. He testified as to the nerve interference in the plaintiff's spine and gave his opinion as to the probable cause and effect of the injury. He also commented on

⁵⁸ *Supra* n. 29.

⁵⁹ *Oklahoma Natural Gas Corporation v. Schwartz*, 293 P. 1087 (Okla. 1930).

⁶⁰ *Id.* at 1090.

⁶¹ *Yelloway, Inc. v. Hawkins*, 38 F. 2d 731 (8th Cir. 1930).

⁶² *Supra* n. 5.

⁶³ 366 S.W. 2d 134 (Tenn. 1963).

the occupational disease of silicosis. His testimony concerning silicosis was ruled inadmissible because it was not in the area of chiropractic. However, his testimony as to the outcome of the injury was held admissible and accepted by the claims examiner *over the contrary testimony of a medical doctor*. The court commented that in Workman's Compensation claims, findings must be supported by substantial evidence. The fact that the testimony from the medical doctor was in contradiction to that of the chiropractor was immaterial. The examiner, in his discretion, may choose between various opinions from medical experts.

Courts have held that a chiropractor who has treated a patient may make opinions based on his observations while treating the patient, or answer hypothetical questions concerning the probable duration of an injury.⁶⁴ In *Watson v. Ward*,⁶⁵ the only medical expert testifying for the plaintiff, was a chiropractor who stated that the whiplash injury to the plaintiff was permanent. The court held that the evidence was admissible because the damage resulted in injury to muscles, blood vessels, nerves, and vertebrae in and around the neck. Such physical injuries were held to be within the scope of the profession of chiropractic.

Conclusion

Do doctors often show a tinge of professional jealousy by refusing to acknowledge that chiropractors are competent even within their own special area. Because chiropractic utilizes a structural approach in the treatment of conditions, some medical doctors contend that many chiropractors treat patients without being aware of their limitations; that a chiropractor may treat a patient for ailments which lie beyond the scope and training that he is licensed to do, rather than send him to a medical doctor.⁶⁶

Chiropractors contend that because of their four years of specialized medical training, they are more apt to have expertise in problems of the back than are most medical doctors.⁶⁷ A prominent Cleveland chiropractor believes that the reluctance among attorneys to use chiropractors as expert medical witnesses often stems from an ignorance

⁶⁴ *Taylor v. Maxwell*, *supra* n. 28; *Johnston v. Peairs*, 117 Cal. App. 208, 3 P. 2d 617 (1931). *Głowczwski v. Foster*, 359 S.W. 2d 406 (Mo. Ct. App. 1962) held that a chiropractor can give expert testimony as to a medical opinion. Gerber, *Expert Medical Testimony and the Medical Expert*, 5 Case W. Res. L. Rev. 174 (1955), noted that medical specialists qualified as experts can testify and give opinion evidence in answer to hypothetical questions.

⁶⁵ 423 S.W. 2d 457 (Tex. Civ. App. 1967).

⁶⁶ Personal conversation with Max Rak, M.D., on August 9, 1970, at Cleveland, Ohio.

⁶⁷ Personal conversation with R. A. Rosborough, D.C., on August 18, 1970, at Cleveland, Ohio.

as to what a chiropractor really does. He foresees more widespread use of chiropractors as expert medical witnesses in the future.⁶⁸

As chiropractors become more accepted as expert witnesses by courts and attorneys, they will continue to challenge the role of the medical doctor as the sole and sacred source of expert medical testimony. It is only logical that chiropractors will testify not only as to the nature of an injury, but also will testify as to the prognosis of the injury and the future medical costs and treatment required.⁶⁹ There seems to be no valid reason why such testimony should not be accepted.

The role of the chiropractor as an expert witness is allowed in all jurisdictions that have ruled on the issue. Reported cases have been favorable as long as the testimony of the chiropractor was within the scope of his profession. Chiropractors have been permitted to give expert testimony in cases involving back and neck injuries; interpretation of X-rays, mental insanity, malpractice suits, and pain and suffering. Generally, their opinions are admissible as to the probable duration and outcome of injuries.

The trend of recent decisions is to allow admission of all testimony of a chiropractor based on facts, or on opinion as to hypothetical questions.

Courts, as they exercise their discretion, should not be unduly influenced by the medical profession, which holds the profession of chiropractic in low esteem. Rather, courts should admit the expert testimony of chiropractors, if they are satisfied that the witness possesses the necessary skills, education and experience to intelligently answer the questions put forward to him. The criteria to determine the competency of an expert medical witness is not to what school of treatment the witnesses belong, but rather what his qualifications are.

⁶⁸ *Id.* Dr. Rosborough also pointed out that chiropractors, because of their limited exposure as expert medical witnesses, are not well versed in medical-legal questions. As a result, they may not appear as polished on the witness stand as medical doctors who are quite frequently used as witnesses at a trial.

⁶⁹ Moon, *op. cit. supra* n. 33 at 436.