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## **Chiropractic's Place on the Food Chain**

By Arthur Croft, DC, MS, MPH, FACO

The health care world is evolving faster than most of us realize. Managed care organizations are swallowing each other up at an alarming rate, creating the groundwork for large monopolies. Even the government is worried. Large monopolies mean big money. Big money means strong lobbying and heavy influence in lots of bad places. When that happens, the public health and welfare are usually not paramount on the list of priorities. It's a hungry ocean of predators that view chiropractic as a mere appetizer.

Those of you who practice in New Jersey know firsthand what it feels like to be fish bait in this sizzling sea of sharp teeth. In one quick lunge, the Insurance and Banking Commission (an interesting combination, I think) swooped in and swallowed you whole. They hired a small group of no experts at Price Waterhouse Coopers to analyze this problem: their perceived hemorrhage of funds paying for various musculoskeletal injuries. They came up with a set of "care paths," which were essentially treatment/management algorithms that sorely limited the amount of treatment that could be rendered by chiropractors for, among other things, whiplash. What was the basis of these care paths?

Were they based on studies of outcome for the various conditions? Were they the result of consensus of expert opinions?

Were they grounded in valid clinical research, or any research?

Not a chance. The fact that one of the panel members was an MBA, rather than a physician, might be a clue to the anticipated utility of these care paths. Nor did it help when I and others criticized the validity of the plates. No, I'm afraid it was a done deal before the panel even started. Burp!

Anyone who works in the personal injury arena has noticed, as another example, the gradual consumption of personal injury attorneys by the denizens of the deep. Big business interests have been successful in convincing many that low-speed crash-related injuries aren't worth pursuing. This is convenient, and

certainly no accident, because low-speed crash-related injuries are where these big fish spend most of their money. The major trauma cases are only the tip of the iceberg: expensive individually, but in the big scheme of things, less expensive than the vastly more common minor injuries.

How is this inculcation accomplished? The big players will throw enough money into high-power experts, expensive in-house law firms and industrially inspired research to overwhelm the relatively anemic, half-hearted offensive actions brought by the typical plaintiff lawyer. Those plaintiff lawyers who are not consumed altogether leave this vicious ocean of predators with painful, bleeding wounds, and they learn. They learn. Munch, munch.

And how is it, you ask, that the defense is so often the last to leave that dinner table, red in the tooth? The answer to that question is perhaps the best indication of the true motives of this Wall Street-driven big business, and of the sad state of affairs regarding the rest of us. Virtually all of the research (even that sponsored by insurance companies!) and literature supports the fact that whiplash injuries do indeed occur in low-speed crashes in which no vehicle damage occurs. It supports the enormity of the public health problem and the effectiveness of chiropractic care,<sup>1,2</sup> and it does not support the false notion that most of these injuries heal in 6-12 weeks, usually without residuals.

I've offered a long-standing reward of \$1,000 to anyone who could produce any evidence of this in the form of valid, scientific research. I've had no takers. Moreover - and here's the real kicker - virtually all of the research used by "defense experts" is either seriously flawed (often to the point that no meaningful conclusions at all can be drawn from it), is grossly misquoted or misinterpreted, or unjustified extrapolations are made from it. These so-called experts also count on the probability that nobody will blow the whistle on them most of the time. The fact that it works underscores the fact that the plaintiff doctor and attorney are most often swimming in this vicious sea of predators clad only in Speedos; unarmed and unprepared for the hungry bottom dwellers glancing up at their next meal. The plaintiff team doesn't know how to call foul because they don't know that literature. My colleagues and I have been through this popular science with a fine tooth comb.<sup>3</sup> Knowledge is the only way to insulate yourself from these tactics.

This is only half of the story. The plaintiff also needs the literature to convince the jurors or arbitrators that these injuries are real. This literature is tremendous. The mere fact that any valid injury case loses on the basis of the practically fatuous set of typical defense arguments and strategies is a clear sign that most personal injury attorneys and treating doctors are not prepared to survive the deep, turbulent waters of

personal injury. Personally, it makes my blood boil to see science fiction prevail in any courtroom. Sadly, the patient is often the biggest loser of all.

The problem with the attorneys and the treating doctors is simple: they don't generally understand the literature well enough to come out of the feeding frenzy unscathed. Once bitten, the weak of heart leave the water for good or, at best, approach each new case with the expectant trepidation of failure. Girded by the false self-assurance that the case is probably unwinnable, they complacently offer themselves, their clients and you as pâté. Yes, it all becomes a self-fulfilling prophecy. Attorneys all around the country tell me the same thing: "The juries around here are conservative." Sorry, I'm not buying that one. I've been at this too long to swallow that excuse.

Ask yourself this: Have you ever seen whiplash injuries portrayed in any of these television programs like "60 Minutes" or "20/20" as a valid injury? Have they ever interviewed a patient suffering with chronic pain so that the viewer could get of a balanced and informed view? Not a chance. The doctors and lawyers are portrayed as ambulance chasers. The interviewers talk to crooks, filmed dramatically in the dark to protect their identity, who confess to their role in injury fraud rings. They interview accident reconstructionists and insurance industry people who reassure us that an injury in such crashes is all but impossible. Why is it, do you suppose, that these shows all look alike? Why is the message always the same? One wonders whether it is actually America in general who is being sold a bill of goods. They're all, I suppose, potential jurors and lawmakers ripe for influencing. The unsavory reputation of whiplash is hardly accidental.

If all of this sounds fairly gloomy, it should. But have faith; all is not lost. This editorial is intended merely to be a wake-up call for the complacent. Consider that there are about three million such injuries each year, and that you are in the best position to treat them effectively. In fact, you're just about the only one who wants to.

Americans will not accept having to their access to health care compromised or yanked out from under them, especially when they are paying for it. That might happen in other countries, but don't forget that our ancestors were the very ones who faced hardship and uncertainty because they were a breed apart. They declared, "We won't take it any more." They left the countries that denied them their rights and freedom of choice. It's no surprise that this country has evolved into one of the biggest fish of them all. Laws are always subject to change. The future has by no means already been written. You need only be prepared to successfully meet the challenges of the coming years.

Here are some important questions to ask yourself right now.

- Have you learned how to critically read the literature?
- Can you spot the flaws in the papers/research you read, or do you sheepishly wait to see what the pundits have to say about it?
- Have you taken the time to go out and get this critically important literature?
- Do you subscribe to any subscription lists like Current Contents?
- Do you regularly visit the National Library of Medicine's website ([www.nlm.nih.gov](http://www.nlm.nih.gov)) and search for information when you need it?
- Do you use a database program to download those searches?
- Do you use this knowledge effectively in rebuttals and narrative reports or in trials?
- Do you meet with attorneys and colleagues and share the information you have, then discuss strategies for going into the fray armed to the teeth?
- Do you stand up for yourself and regularly fight the system that threatens to rip your right to practice right out of your bleeding side?
- Do you view yourself more often as predator than prey?

If you answer negatively to most of these questions, I'd say you're not prepared to face the challenges of a strong personal injury practice in the year 2000 and beyond, and you will not live to be a big fish. (I'll stop short of suggesting that you're part of the problem.) Believe me, chiropractic school taught you only enough to swim with these big fish, not to keep from being consumed by them. Then again, I don't really have to tell you how to get prepared, do I? I hope to see a lot of growing fish next year. Everything's riding on you.

### *References*

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