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## **The Chiropractic Witness: Expert or Expurgate?**

By Arthur Croft, DC, MS, MPH, FACO

I have a very close friend who is an attorney. For many years he slugged it out in the courts of Southern California representing plaintiffs in personal injury cases. Recently, he was offered an extremely attractive job as in-house counsel for an insurance company. The other day at lunch he made an interesting observation to me. He said, "I've found, as a defense attorney, that it's really tough to take chiropractors apart if they have really done their homework." By that he meant that if doctors have taken an adequate history, performed a thorough examination, made a reasonable diagnosis, maintained good SOAP notes, documented the treatment program carefully and, finally, rendered a reasonable prognosis in the final narrative report, there is almost nothing to attack them with.

But, when I mention this to an audience of chiropractors, the silence is deafening. As you read this, no doubt many of you are shaking your heads. You say, "Attorneys prefer to have MDs on the case; some won't even take a case from a DC." This is all true, of course, but you can make a change. Here's how:

First, we must recognize the problem. Simply stated, DCs are not MDs and vice versa. Unfortunately, most attorneys attempt to try all cases as though the treating doctors were MDs. It's ridiculously simple work for a defense attorney to point out all of the weaknesses in this model. For example, the standard approach is to ask if the DC has any formal medical training at all, or if the doctor is a member of the AMA, or if the AMA recognizes chiropractic. They will ask if the doctor has hospital affiliations or if allowed to prescribe medication or perform surgery. This litany continues until the chiropractor has become either mortified or enraged, and the jury sees the DC degree to be roughly equivalent to a two-year vocational degree.

Recovery of your dignity and credibility is difficult to achieve if this happens.

Any plaintiff attorney who has gone into court with a DC and pursued this hopeless strategy against a worthy opponent has lost the lion's share of these cases. Unfortunately, these failures powerfully reinforce the notion that you are better off with an MD on your side. It becomes, in essence, a self-fulfilling prophecy.

The solution is simple. Since chiropractors treat the majority of these cases, they are the logical choice. However, the DC is quite different in many ways from the MD. This must be brought out in a favorable light during direct examination. And this is no problem since the plaintiff gets first crack. However, the attorney must be given a list of the appropriate questions to ask. When direct examination is done skillfully, the DC will be seen as the most appropriate physician for this kind of musculoskeletal problem and, most importantly, the typical defense strategy will have gone down in flames before it was ever launched.

Examples of questions to ask the DC on direct examination are:

1. How are DCs licensed?
2. How many years did you attend chiropractic college?
3. What subjects did you study?
4. Do you (like MDs) take national board exams? State board exams?
5. Are DCs considered primary health care providers?
6. Are DCs licensed in all 50 states?
7. Is the CCE recognized by the U.S. Department of Education?
8. Is chiropractic covered by Medicare and most private insurance companies? Workers' compensation?
9. Why is spinal manipulation so important?
10. Why do chiropractors not use drugs? Surgery?

I think you get the point. Remember that people are turning more and more toward natural and alternate forms of health care and many jurors are themselves chiropractic patients. By the way, the friend I told you about earlier is a huge advocate of chiropractic now, but when I met him he wanted nothing to do with chiropractic. You can make a change.

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