

Wilk Plaintiffs Speak Out

FROM LITIGATION TO RESEARCH -- NEW DIRECTION FOR THE '90S

Editorial Staff

From the perspective of the National Chiropractic Antitrust Committee (NCAC) and the Wilk et al., plaintiffs, the '70s and '80s were a period of ugly and dirty battles in the courtroom. Fortunately that difficult phase is behind us. We won a hard fought antitrust lawsuit and acquired the spoils of victory.

While the key word of the '70s and '80s was litigation, the '90s have brought a change in our vocabulary. Today's word is "research," and we need to put the AMA's settlement dollars where it will best serve the profession and our patients.

During our litigation, the AMA attacked on two fronts: unethical practice builders in the chiropractic profession; and the "unscientific" foundation of chiropractic. We felt the court grossly erred in allowing this evidence in an antitrust case.

The AMA attorneys displayed the materials and methods of the practice builders, revealed their unethical advertising schemes, and read their depositions in court -- much to the our embarrassment. The defendants painted the entire chiropractic profession as money grubbing profiteers, and said they were not trying to eliminate chiropractic, but rid fraud within chiropractic.

The defendants dwelled repeatedly on chiropractic as "unscientific." the word "unscientific" was ubiquitous in every pleading and brief filed by the AMA. Consequently, the plaintiffs were portrayed as unscientific practitioners relying on unethical practice building schemes. Although there was nothing wrong with the term practice building, it became a loathsome word coupling.

When the two month jury trial was over, one of the jurors called our attorney. While our attorney choose not to speak with the juror for ethical reasons, the juror was clearly distraught and crying. The juror said, "What the AMA did was unethical and immoral, but some of those chiropractors (referring to the practice builders who made depositions) should be in jail.

The practice builders' evidence should never have been allowed into the courtroom, for it didn't relate to the plaintiffs or the average chiropractor. The case was consequently appealed, and the judgment reversed. Then it had to be retried, adding greatly to the time and expense of the litigation. Ultimately, of course, we won.

The NCAC is pleased that our national leadership is responding to issues raised in the lawsuit, and is working diligently toward self-improvement. For example, the ACA is sponsoring some practice building seminars throughout the country at no cost to its members; nonmembers may apply the seminar fees toward membership. The seminars have been an outstanding success. Most importantly, the material presented on practice building is unquestionably ethical. The ACA has also been producing some fine advertising material for those doctors wishing to upgrade their advertising with highly ethical and effective presentations.

Another example of effective national leadership is the Guidelines for Chiropractic Quality

Assurance and Practice Parameters (better known as the Mercy Guidelines). This was the profession's first effort to protect patients and honest practitioners.

When the NCAC was formed in 1976, one of its primary commitments was to work for the "interest of the entire chiropractic profession ... and the public." They wanted the funds to go where they could best serve the profession, and not dissipated by factious, nonproductive endeavors. The plaintiffs and the NCAC agreed not to profit one penny from the settlement.

Back then, the best place for the funds seemed to be the colleges. The NCAC thus awarded that damages would be divided equally between all existing chartered chiropractic colleges in America, which translated to each college getting 1/17th of the damages. It would later grant an equal share to the Canadian Memorial College of Chiropractic, on behalf of the hundreds of Canadian DCs who supported the suit.

Priorities have since shifted. The government mandating of proof of effectiveness for insurance reimbursements, coupled with the "unscientific" label put on chiropractic by the AMA, has focused the need for concentrating on scientifically acceptable research. This will require major funding concentrated in one source.

The Consortium for Chiropractic Research

It was reasoned that if the colleges could pool their experience and resources, and eliminate duplication and waste, that collectively we could make greater strides in research. This is the purpose of the Consortium for Chiropractic Research, founded in 1985 in California by six west coast colleges. Today, the CCR has 13 member colleges, eleven in the U.S., one in Canada, and one in Australia.

The California Chiropractic Foundation, and the Foundation for Chiropractic Education and Research (FCER) provide the economic support for the CCR, together with dues collected from member colleges. Each member college pays annual dues of \$3,000, plus \$1.50 for each full-time student.

The CCR has the national association support of both the ACA and the ICA, the state support of the California Chiropractic Association, New York Chiropractic Association, and the Maryland Chiropractic Association.

The CCR spends over 85 percent of its funds directly on research and scholarly activities, and Consortium members work strictly on a voluntary basis.

The CCR mandates that all research projects submitted for evaluation must be the result of two or more colleges combining their expertise and resources. Grant proposals developed by the colleges are submitted to an independent peer review process to ensure the validity and the feasibility of a study's design. These proposals contain detailed plans and budgets for a study. Many times, the colleges submitting proposals will collaborate with faculty at established research universities or organizations who are interested in conducting part of the research. The RAND studies are just such an example developed by the Consortium under the leadership of LACC and involving UCLA.

Because the primary purpose of the Consortium is to promote intercollegiate cooperation and dialogue on research projects, the NCAC decided to urge the colleges to give their shares of the settlement to the Consortium.

To date, all 12 of the American colleges that are members of the CCR have contributed their share of the lawsuit to the Consortium. The nonmembers of the CCR, Life, Life College West, Parker, and

the three SCASA colleges, Sherman, Pennsylvania, and Southern California have chosen not to contribute their settlement dollars to the CCR.

There were four reasons given by the six colleges for not supporting the Consortium. Let's examine each one:

I. We need the funds for our own school -- This is a universal problem. All schools need funds and feel the economic crunch. The colleges that have chosen to support the Consortium have extended themselves; they feel it is in the best interest of chiropractic to support the Consortium research, rather than the vested interest of their individual institution.

II. We want to conduct our own research -- No college should build a wall around itself. We must all work for a common goal and the good for all. The colleges supporting the Consortium are all doing research, plus they have the advantage of "consorting" with member colleges, pooling their resources and knowledge, and exchanging ideas and experiences and eliminating costly duplication of efforts. The profession is the winner.

III. We want to conduct our own somatovisceral studies -- Under the terms of a resolution submitted by the Association of Chiropractic Colleges to the Consortium, the Consortium has agreed to invest the settlement money in "efficacy and efficiency studies of chiropractic care for areas other than low-back pain, and with special consideration toward somatovisceral relationships."

IV. We don't believe that symptom-related outcome studies that the Consortium wants to do are vital to the chiropractic profession -- The types of studies the Consortium will do are scientifically acceptable evidence that the government, insurance companies, and the scientific community will recognize. They will serve to establish chiropractic as a scientifically-based profession with a broader scope of care.

Students and graduates of colleges supporting the CCR, are encouraged by the NCAC and the plaintiffs to continue supporting their college. If you're a student or graduate of a college not contributing to the CCR and are disappointed by your college's support, you may wish to personally support the CCR.

Scientific research and professional integrity are two principle keys to the future of chiropractic. Together they will open many doors, remove many barriers, expand our horizons, and elevate chiropractic to its rightful place in the health care field.

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