Dynamic Chiropractic

Press Release

Editorial Staff

The United States Court of Appeals for the Seventh Circuit agrees that the American Medical Association unlawfully attempted to destroy the profession of chiropractic in the United States.

In a 49 page Opinion, dated Wednesday, February 7, 1990, made public today, the United States Court of Appeals for the Seventh Circuit, sitting in Chicago, Illinois, affirmed the judgment of United States District Court Judge Susan Getzendanner, entered on September 25, 1987, that the American Medical Association had violated the antitrust laws by conspiring with its members and other medical professional societies to destroy the competitive profession of chiropractic in the United States.

Judge Getzedanner, following an eight-week trial, had concluded that the AMA had engaged in "lawless" behavior in instituting a nationwide boycott of doctors of chiropractic by declaring it to be unethical for medical physicians to associate professionally with doctors of chiropractic. The illegal boycott organized by the AMA included inducing hospitals under the control of medical physicians to bar diagnostic assistance and facilities to doctors of chiropractic and their patients; involved interference with chiropractors' educational institutions; involved interference with health insurance programs designed to reimburse patients of chiropractors for chiropractic health care services; and involved a covert, nationwide propaganda effort organized and administered by the American Medical Association to ruin the reputations of doctors of chiropractic.

U.S. District Judge Susan Getzendanner, following the eight-week trial conducted from May 5 through July 12, 1987, in her formal Opinion had found:

There also was some evidence before the [AMA] committee that chiropractic was effective -- more effective than the medical profession in treating certain kinds of problems such as workmen's back injuries. (E.g., PX 241, 1476, 1471-72, 184, 192-94; Ballantine Dep. 137-39.) The committee----was also aware that some medical physicians believed chiropractic to be effective and that chiropractors were better trained to deal with musculoskeletal problems than most medical physicians. (Id.; Tr. 2159-74.)

The patients who testified were helped by chiropractors and not by medical physicians. (Tr. 1109-36.) Dr. Per Freitag, a medical physician who associates with chiropractors, has observed that patients in one hospital who receive chiropractic treatment are released sooner than patients in another hospital, in which he is on staff, which does not allow chiropractors. (Tr. 812.) Dr. John McMillan Mennell, M.D., testified in favor of chiropractic. (Tr. 35-42.) Even the defendants' economic witness, Mr. Lynk, assumed that chiropractors outperformed medical physicians in the treatment of certain conditions and he believed that was a reasonable assumption. (Tr. 1414.)

In its Opinion, written by U.S. Circuit Court Judge Daniel Manion, and concurred in by Circuit Judges Wood and Ripple, the Court of Appeals stated that the AMA intended to "destroy a competitor" and that there was evidence "showing that the AMA was motivated by economic concerns." In affirming the permanent injunction, the court found:

We believe the court's decision was reasonable. It found a cognizable danger of recurrent violations, was unimpressed with the AMA's expressed intent to comply with antitrust laws, was unpersuaded by the effectiveness of the AMA's discontinuance of its boycott, and properly considered the systematic and long-term nature of the boycott. W.T. Grant, 345 U.S. at 633.

Relief here is provided not only to the plaintiff chiropractors, but also in a sense to all consumers of health care services. Ensuring that medical physicians and hospitals are free to professionally associate with chiropractors (e.g., by the publication and mailing of the order to AMA members), likely will eliminate such anticompetitive effects of the boycott as interfering with consumers' free choice in choosing a product (health care provider) of their liking. In this way competition is served by the injunction. In short, the injunction as designed by Judge Getzendanner, reasonably attempts to eliminate the consequences of the AMA's boycott, and we will not disturb it.

The district court's form of injunction and method of ensuring its publication (and thus its efficacy) was a reasonable attempt at eliminating the consequences of the AMA's lengthy, systematic, successful, and unlawful boycott.

George P. McAndrews, Robert C. Ryan, and Paul E. Slater, lawyers for the chiropractors during the protracted 14-year battle, expressed satisfaction with the findings regarding the AMA.

Said Mr. McAndrews, "the experience of the AMA in this case should now put other medical associations, and hospital dominated by them, on notice that chiropractors will fight for the rights of their patients to fair treatment by tax supported institutions, hospitals, insurance plans, HMO's and other groups that have burdened those patients with anticompetitive barriers. Hopefully, patients will now get to realize the full meaning of the term 'free choice' when it comes to selecting their licensed health care professional. The journey of the chiropractic profession to full participation in the effort to improve the nation's health, long impeded by the unlawful AMA activities, should now be resumed."

Paul Slater believes that "the Opinion re-affirms traditional antitrust principles and applies those principles to the medical profession. It has taken 14 years of strenuous litigation, but we have now established two fundamental propositions. The AMA is not beyond the reach of the antitrust laws and competition -- not private boycott-- must govern the medical marketplace."

For additional information contact George P,. McAndrews at McAndrews, Held & Malloy, Northwestern Atrium Center, 500 West Madison, Chicago, Illinois 60606, 707-8889.

FEBRUARY 1990