

## Looking Back: 1986

Editorial Staff

*As we celebrate our 25<sup>th</sup> anniversary as the definitive news and information source for the chiropractic profession, we look back at the important events as reported in DC since 1983, while also looking forward to the future. Throughout 2008, we will feature a review of the top headlines in chiropractic for a given year, along with an article on the future of chiropractic authored by an influential member of the profession.*

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### January 1986: Chiropractic Legend Dead at 76

Dr. Joseph Janse, a legend in chiropractic for 47 years and president emeritus of National College of Chiropractic, died at 9 a.m., Wednesday, Dec. 18, 1985, in Chicago following a long illness.

Born Aug. 19, 1909, in Middleburg, Holland, Dr. Janse's family moved to the U.S. in 1916 and settled in the state of Utah, where he later attended Weber College and the University of Utah, prior to graduating from National College of Chiropractic in 1938. After graduation, Dr. Janse stayed on to teach at National, was later made dean and became president in 1945 - a position he held for 38 years. Dr. Janse spearheaded the formation of CCE (the Council on Chiropractic Education) and served as CCE secretary from 1959 to 1961. Dr. Janse was also instrumental in organizing the National Board of Chiropractic Examiners, the Federation of Chiropractic State Examining Boards and most of the American Chiropractic Association's specialty councils.

In 1963, Dr. Janse moved the college from one building location in an older section of downtown Chicago to National's present 28-acre campus in Lombard, Illinois. In 1981, Dr. Janse opened National College's new 7-million-dollar, 52,000 square-foot chiropractic research and therapeutic center on campus.

Funeral services were held Saturday, Dec. 21, 1985, at the Church of Jesus Christ of Latter Day Saints in Wilmette, Ill., followed by internment in Huntsville, Utah. Dr. Janse is survived by his wife of 47 years Gloria J. (Schad); a son, Jan Peter of Utah; two daughters, Julie Kimball of California and Gloria Joe Janse, DC, of Illinois; plus a sister, Adrian Aidous and eight grandchildren.

In lieu of flowers, the family requests that remembrances in honor of Dr. Janse be sent to National College of Chiropractic, 200 East Roosevelt Road, Lombard, Illinois 60148.

On behalf of *Dynamic Chiropractic*, our faculty and staff, we send our deepest sympathy to the Janse family.

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### February 1986: U.S. District Court Upholds CCE Standards, Rejects Conspiracy Claims

Dr. Marino R. Passero, president of the CCE, is pleased to announce that on Jan. 9, 1986, the United States District Court of the Northern District of Georgia dismissed the antitrust suit brought against the American Chiropractic Associations, Inc., the council on Chiropractic

Education Inc., the National Board of Chiropractic Examiners, and Dr. Sid Williams in September 1981 by Sherman College of Straight Chiropractic and the Straight Chiropractic Academic Standards Association (SCASA), William Sukovitch and Michael Kudlas.

Sherman College and SCASA had claimed that the defendants had violated the antitrust laws by conspiring to restrain the plaintiffs' ability to compete in chiropractic education and chiropractic profession in engaging in a boycott of plaintiffs. The plaintiffs also contended that CCE had abused its responsibilities as an autonomous accrediting agency and had conspired with the other defendants and others (such as members of state chiropractic licensing boards and the Federation of Chiropractic Licensing Boards) to exclude Sherman College graduates from the profession. The court rejected the plaintiffs' claims, holding that they had neither legal basis nor factual support in the extensive record developed in lengthy (two-week) trial involving the testimony of numerous witnesses and hundreds of documentary exhibits. The Court also ordered Sherman College and SCASA to pay the defendants' court costs.

At the trial, CCE argued that the plaintiffs were improperly using the antitrust laws to prevent CCE and others from expressing the view that doctors of chiropractic should be adequately trained in clinical diagnosis before they are licensed to practice in the healing art of chiropractic. CCE contended that the fact that the vast majority of the states had agreed with CCE by requiring adequate diagnostic training, and had rejected the plaintiffs' extreme antidiagnostic views, did not prove the conspiracy the plaintiffs had claimed, but instead demonstrated only a concurrence of public-policy views on the proposition that requiring such training as a prerequisite to licensure would best promote the public health and safety. In a lengthy opinion, the Court upheld CCE's requirement of diagnostic training and noted that "regulation of curriculum is an activity which is inherently appropriate for an accredited body" such as CCE. The Court rejected the plaintiffs' claims that requiring diagnostic training for chiropractors had no relevance to quality chiropractic care and that the use of diagnostic procedures by chiropractors was against the public interest.

The Court also upheld as lawful CCE's expression of its views concerning diagnostic training to state licensing boards and legislatures under the Noerr-Pennington doctrine, which establishes immunity from antitrust liability for genuine expression of views to such state regulatory bodies. The Court found that there was no evidence that CCE or any defendant had conspired with members of state licensing boards, and that the mere fact that state licensing boards agreed with the views expressed by CCE and others and adopted policies in accordance with these views did not prove an unlawful conspiracy. The Court ruled that CCE's expression of views to state chiropractic licensing boards upon request was "protected petitioning activity" that "may not serve as a basis for antitrust liability."

CCE noted that the courts recent decision in Atlanta was yet another rejection of the plaintiffs' (Sherman College, SCASA, et al.) efforts to harass CCE and impede its role in improving chiropractic education. In 1979 Sherman College had challenged the U.S. Commissioner of Education's renewal of CCE's status as a federally-recognized accrediting agency for chiropractic colleges. The United States District Court for the District of Columbia rejected Sherman College's claim, holding that the commissioner's judgment was correct, and that his confidence in CCE as a "reliable authority as to the quality of training" in chiropractic colleges, which is broadly representative of the profession and the public interest, was fully justified. The District of Columbia Court also found that CCE was "broadly representative of the chiropractic profession," and that the ideology of Sherman College was "the doctrine of a deviant splinter group."

In 1979, Sherman College and its allies also instigated an investigation of CCE by the antitrust division of the United States Department of Justice. For more than two years, the Antitrust Division investigated Sherman College's claims that CCE was involved in an alleged conspiracy to restrain

competition in chiropractic education and practice, and close the investigation in 1981. The division's exhaustive and wide-ranging investigation produced no evidence of illegal action warranting further government action.

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June 1986: CCE Puts NYCC on Probation; Faculty, Students Go on Strike

*By Michael A. Montalbano  
President, Student Council  
New York Chiropractic College  
Old Brookeville, New York*

To understand even a little of what has been taking place at New York Chiropractic College, you must know that back in 1982, CCE (The Council on Chiropractic Education) cited our college for violations which included:

- conflicts of interest on the part of five members of the board of trustees;
- lack of progress in the NYCC building program; and
- questions regarding NYCC's financial indicators.

Having been officially notified of the discrepancies, the college was responsible for taking action on those items and keeping CCE informed of progress in correcting the violations, via progress reports, at least once every six months. Until his death, the progress reports were made every six months by Dr. Ernest Napolitano, who indicated that "the problems are being tended to."

In light of Dr. Napolitano's death in June 1985, CCE decided NOT to press for the June, 1985 sixth-month progress report, but became infuriated after the January 1986 report, when CCE learned that not only was nothing being done to correct the problems (nor were there any REAL plans to correct them), but also that instead, another improper individual (Clinic Master's California attorney) had been added to the NYCC Board of Trustees, making it a total of at least six trustees with conflicts of interest.

CCE then placed NYCC on "confidential probation" and stated that the consequences of NOT correcting the citations (conflicts of interest, imbalance of tuitions & expenditures, etc.) would result in the loss of NYCC's accreditation. NYCC's loss of accreditation would not only seriously affect this institution and its students, but it also would have devastating ramifications throughout the entire profession.

The members of the NYCC Board of Trustees cited for violation of the CCE standards, governing fiduciary obligations of trustees, include: (1) Dr. Gordon Heuser; (2) Dr. Rolla J. Pennell; (3) Dr. Mahlon E. Blake; (4) Dr. William T. Roush; (5) Mr. Roger Calton; and (6) Mr. Harold Zerdin. Drs. Heuser & Pennell were cited for soliciting business as the owners and directors of Clinic Masters, Inc. and Practice Masters, Inc. practice management corporations located at 10701 Winner Road, Independence, Missouri, 64052. (They also operate the International Pain Control Institute, Inc. and Doctor's Financial Fund, Inc. from the same address). Drs. Blake and Roush were cited resulting from their involvement in the association with Clinic Masters, Inc., etc. Mr. Roger Calton, an attorney with offices in California and Missouri, was also cited, as he is the attorney for Drs. Heuser and Pennell and their various financial interests. (The Foundation for Chiropractic Legal Rights, Inc. also operates from the same address as Mr. Calton's law office in Independence, Missouri.)

Mr. Harold Zerdin was cited for a conflict of interest, since Jamaica Surgical Supply Company, of which he was president, had been granted EXCLUSIVE rights to equipment sales on the NYCC

campus.

Effective May 21, 1986, three additional members of the NYCC Board of Trustees were cited. Mr. Louis P. Wein was found to be the chairman and chief executive officer, and Mr. Clifford J. Zoller, a director in "International Diagnostics" - a corporation trying to raise millions of dollars to form a nationwide chain of diagnostic centers. Ms. Genevieve Klein was charged with misconduct for uttering threats, trying to intimidate me, stating that if I proceeded with collecting signatures against those "in conflict" that I would not get a license to practice chiropractic in New York.

And although not cited as yet, it was recently uncovered that Dr. Winfield Salisbury, who is approaching 80 years of age and is a resident of Sun City, Ariz., and was proposed for his membership on the NYCC Board of Trustees by Dr. Rolla Pennell - is none other than Dr. Pennell's first cousin.

With the Board of Trustees finally aware of CCE's citations and the prospects of NYCC losing its accreditation, its chairman, Vito C. Forte, called upon those originally cited to resign for the good of the institution. But they refused. Chairman Forte then called for a vote by those NOT cited for dismissal from the Board of the Trustees that were cited. The vote barely passed. However, rather than do the responsible thing, and step down gracefully, the group ousted for "conflict of interest" took the NYCC Board of Trustees to court, whereupon a New York State Supreme Court judge ruled the "ousted six" must be reinstated, because they were not given a chance to vote on their own removal.

With all the evidence filed in court suddenly becoming public record, a court newspaper reporter wrote an article, breaking the confidentiality of CCE placing NYCC on "confidential probation." That article appeared in *Newsday*, the Long Island newspaper. The NYCC students first learned of NYCC's possible loss of its accreditation from that newspaper article - and an emergency meeting was called of the NYCC Student Council, of which I am president.

Our first action was a letter written to the six Trustees that had been cited, requesting their voluntary resignation. The letters were signed by 600 of the 650 students enrolled at NYCC. At the same time, letters of petition were sent to the New York State Department of Education on behalf of the faculty, the student body, the alumni association - as well as the administration, who stated they would resign if the State did not intervene to prevent the loss of NYCC's accreditation. In addition, everyone was asked to write letters to the Department of Education and to their legislators, for assistance in resolving the situation. STILL NO ACTION WAS TAKEN BY THE STATE.

With no action by the Department of the Education, the courts or the six who were cited, the ENTIRE NYCC student body WALKED OUT on May 13, 1986. On the third day of the student walkout, since there was still no commitment from the Department of Education, the students boarded buses for the long ride to New York's capital city of Albany to hold a demonstration at the State Department of Education, which resulted in a two-hour meeting with Mr. Donald Nolan, Deputy Commissioner of Higher and Professional Education for the State of New York. That meeting concluded with Mr. Nolan's written commitment to request that he and New York State Regent Vice Chancellor Batista be allowed to be present at the scheduled May 31, 1986 meeting of the NYCC Board of Trustees, which brought about an agreement for the student to return to class.

However, over the weekend, Dr. Gordon Heuser, the secretary of the NYCC Board of Trustees, who had boasted he would see NYCC shut down and closed before resigning, mailed a notice to all trustees, stating that a two-thirds majority of the trustees requested that he change the date and place of the meeting and set forth an agenda whereby Chairman Vito Forte would be removed,

plus the filling officer vacancies, etc. It had already been stated earlier that Mr. Wein would become the new chairman and also that Dr. Stern would be fired as acting president, because he failed to stop the student protest and because had filed a petition with the courts.

As a result, the NYCC faculty council voted unanimously to go out on strike Monday, May 19, 1986. Though not a strike at that point, the NYCC student body also voted, and by a 93 percent majority agreed, to support the faculty. The strike was called to last for an undetermined time period, pending proper resolution of the situation by the State of New York or anyone else empowered to do so.

Also on Monday, May 19, 1986, new petitions were filed in court, requesting a reversal of Judge Ain's previous decision that had reinstated the six who were cited for conflict of interest. And although Judge Ain was agreed to rehear arguments on this issue, our college is shut down, and we are deeply concerned about the future.

WE NEED HELP - and now!! Please send telegrams & letters to:

Donald J. Nolan  
Deputing Commissioner N.Y. State  
Education Dept. Bldg.  
Albany, New York 12234

And:

Acting Justice Stuart  
New York Supreme Court  
Mineola, New York

Urge them to take the necessary steps NOW to preserve NYCC and to re-establish its integrity - by eliminating everyone from the Board of Trustees who has conflict of interests - before all is lost. Already at least 25 per cent of NYCC students have applied for transcripts to continue their education elsewhere. If something GOOD doesn't happen soon, a great many more of our 650 students will follow their lead.

If the situation is allowed to drag on, the MAJOR concern is that those "cited" will resign, one by one, voting their own replacements - puppets - who will just do their bidding, leaving this same group in control of NYCC, without ever having to attend another meeting.

Don't forget, NYCC has accumulated \$20 million in endowments, which was supposed to be spent on the building program here in New York. Instead, building here has been halted, and there has been talk of "branches" of NYCC being established in various places, such as Florida, Missouri, etc. All said to become part of a worldwide Clinic Masters' empire.

This report, I am sad to say, is just the "tip of the iceberg," as there is much more to this shocking situation that will become known in the weeks and months ahead. We can only hope that everyone in our profession, and particularly those in other colleges, will look closely around themselves. And anywhere you see this type of "self-serving" element at work, you must take a stand and stop this rapidly spreading malignancy. We must keep chiropractic from falling prey to such irresponsible, unethical individuals - or face the ultimate destruction of the greatest health profession known to mankind.

This is NOT a time for apathy. Rather, it's a time for aggressive action. Please don't let this crisis be ignored. Send your telegrams and letters NOW - and get your colleagues to do likewise. Thank you for helping us save our school.

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July 1986: ACA, ICA to Unify?

For far too many years, the TWO chiropractic associations in the U.S. have kept doctors, students, and even colleges deeply divided. The ACA (American Chiropractic Association, 1916 Wilson Blvd., Arlington, Virginia 22201) and the ICA (International Chiropractors Association, 1901 "L" St. NW Washington, CD 20036) each maintain their national headquarters and staff in America's capital. Yet about the only time the profession sees them really put their heads (and their money) together is in their joint legislative efforts. The U.S. Congress, like most elected bodies of lawmakers today, refuses to be influenced by EITHER SIDE of a divided profession.

In the past, while battling each other - instead of uniting to solve the REAL PROBLEMS facing chiropractic - neither of these two associations could ever interest a majority of the DCs (or students) to become dues-paying members. Fortunately, at long last, the walls built to DIVIDE the chiropractic profession appear to be crumbling.

As the July issue of *DC* goes to press, the ACA Board of Governors, at its annual convention (currently being held jointly with the Canadian Chiropractic Association in Toronto) - is voting on really GETTING TOGETHER with the ICA. Unless there is a last-minute change of heart, the ACA and ICA will hold a historic JOINT midwinter meeting - where ACA's Board of Governors and ICA's Board of Control will COME TOGETHER for days of important talks PRIOR to the "big one." The "big one" is a JOINT ANNUAL CONVENTION of the ACA and the ICA in Las Vegas, Nevada next summer (June, 1987).

The August issue of *DC* will report further on efforts being made by ICA's president, Dr. Michael Pedigo and ACA's president, Dr. Weldom Odom, and their committee people that have been working hard for TRUE chiropractic unity. If you haven't already done so, this would be an excellent time to write to the ACA and the ICA, to let them know what they should do - and in return, what YOU are willing to do.

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July 1986: National College Names New President

James F. Winterstein, DC, has been appointed the fifth president of the National College of Chiropractic in Lombard, Illinois. Dr. Stephen E. Ownes, chairman of National's Board of Trustees, announced that the appointment was effective as of June 1, 1986. Dr. Winterstein succeeds Dr. Lee E. Arnold, who, after touring and lecturing in Europe and the United States, will return to his home in Florida.

Dr. Winterstein graduated cum laude from National College in May 1967, then remained at National to complete a three-year residency in radiology. Since 1967, Dr. Winterstein has served in various teaching and administrative capacities with the college. He has been chief of staff for the college's three clinics since May 1985. He was chairman of the Department of Roentgenology from May 1971 to July 1973. He has been a member of the postgraduate faculty of the National/Lincoln School of Postgraduate Education since May 1967. Dr. Winterstein maintained a private practice in Illinois from 1968 to 1973 and in Florida from 1973 to 1985 prior to being appointed chief of staff of college clinics.

A diplomate of the American Chiropractic Board of Roentgenology, Dr. Winterstein is also a member and past president of the executive committee of the American Chiropractic College of Roentgenology. He served first as vice president from 1981 to 1983 and then as president from 1983 to 1985. Dr. Winterstein also holds diplomate status with the American Board of Chiropractic Examiners and has served as a consultant for the state boards of examiners in South Carolina and Florida. He maintains membership with the American Chiropractic Association, having served on the ACA Council on Roentgenology, Council on Diagnosis and Internal Disorders, and Council on Nutrition. He is a member of the Illinois Chiropractic Society, Florida Chiropractic Association, and American Public Health Association.

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#### August 1986: Ninety-Six Percent of ICA Members Want Unity

ICA President Michael D. Pedigo and Vice President Virgil V. Strang have sent a letter to every ICA member, both doctors and students, here in the U.S. - and around the world. Following a discussion of the problems facing chiropractic today, these two brave association officers ask their members to mark their ballots either YES or NO.

YES meant they should begin serious discussions with the ACA about finding a FAIR way to create a unified association. NO meant they should not. A great many states voted 100 percent to start talking, which balanced out states like Delaware 82%; Georgia 86%; Idaho 81%; Kentucky 78%; Louisiana 89%; Missouri 85%; New Hampshire 80%; New Mexico 88%; North Carolina 82%; South Carolina 78%; Texas 88% and Vermont 75%.

The student ICA members' response was even higher (98.63 percent), with most colleges raking up a 100 percent YES response. Sherman College was the only one bringing the average down, with only a 40% positive vote, while Cleveland-KC had 98%; Life-Marietta 99%; Life-West 97% and Palmer Davenport 98.9%

There were many personal comments sent along with the ballots, the most touching coming from a doctor who wrote: "I have been in practice for 49 years and I am planning to retire. PLEASE BRING MY PROFESSION TOGETHER."

Even with 92.6 percent of the responding ICA members backing them up, President Pedigo and Vice President Strang, along with those interested in chiropractic unity, were subjected to a major battle on this issue at the ICA Convention in Las Vegas. The out-of-power minority faction of the ICA had a lot of voice but not enough votes, and the ICA Board of Directors, in formal session at the convention, passed the following:

WHEREAS the International Chiropractors Association is concerned with the profession's internal conflicts which weaken the most effective use of the profession's vital resources in defending the profession from external forces and from advancing the profession in the mainstream of health care as a provider of our profession's unique and valuable service to humankind, and

WHEREAS the ICA is committed to identifying and working to solve the internal conflicts in such a manner that the profession can maximize its potential,

NOW THEREFORE BE IT RESOLVED that the ICA calls upon all chiropractic organizations to submit an agenda of concerns that each has and enter immediately into a positive public and forthright dialogue on these concerns with the goal being to unify the chiropractic profession into a powerful effective force in the health care market.

ICA President Michael Pedigo told his members, "The task before us is NOT easy. But I sincerely

believe we have made a step in the right direction, for ourselves and for chiropractic. As we begin working at an accelerated rate to bring this profession together, so that it can move forward and take its rightful place in society, WITHOUT being sidetracked by internal dissension, please remember that any creative suggestion you have to HELP the unification discussions are welcome.

It is high time we channel our mental energies into finding solutions to the problems that divide us. I believe there ARE workable solutions, and we can come together without either side feeling as if it had been mutilated and its identity destroyed. We just need to be persistent, and work harder TOGETHER to get the job done."

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December 1986: *Dynamic Chiropractic's* Man of the Year

With all due respect to *Time* magazine, the staff of *Dynamic Chiropractic*, each year in its December issue, will honor the individual it considers to be chiropractic's "Man of the Year." The individual MAN or WOMAN named will be the doctor, student, supplier, employee, administrator or non-DC faculty member that, in the judgment of the DC staff, made the greatest single contribution to the future of chiropractic during the year. In the future, readers are encouraged to write or call DC with reasons why they feel a specific member of the profession should be selected for this award.

With the future of chiropractic in the hands of those new to the profession, it seems fitting that the recipient of the first Man of the Year award earned it as a student. The 1986 Man of the Year is Michael A Montalbano, the immediate past president of the student council of the New York Chiropractic College and a member of the class that graduated last month.

With but a few months to go before completing his education and entering the profession, Michael Montalbano could have easily looked the other way, saying the problems of a possible "takeover" of his college was NOT a student affair. He could have said, "Just let me get my diploma and get out of here." Instead, he worked tirelessly with other student leaders to unite the vast majority of the NYCC student body in efforts to preserve the integrity of their college. Even to the point of angering some, due to his constant effort to persuade EVERY student.

His efforts to save his college went far beyond his involvement with his fellow students. Refusing to back off, even with threats of bodily harm and that he would never be licensed to practice in New York, he gladly put his name to report after report of what was being attempted, unafraid of naming names and exposing the truth to the entire chiropractic world. Michael A. Montalbano is a man of his word who set an example for everyone in the chiropractic profession who is anxious to preserve chiropractic as an honorable profession and at a time when the profession suffers from an unwillingness of those in it to get involved.

None of the DC staff has ever met the now-Dr. Montalbano personally, but we all look forward to the day when we can all shake his hand and say THANKS. Congratulations, Dr. Michael a. Montalbano; you have made us very proud to be a member of the chiropractic profession.

FEBRUARY 2008