



CHIROPRACTIC (GENERAL)

A Tribute to the Life of Dr. James W. Bryden

HOW A TRUE GENTLEMAN HELPED END THE AMA'S ILLEGAL CONSPIRACY TO CONTAIN AND ELIMINATE CHIROPRACTIC.

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Time and historic events pass so quickly, and the memories seem to dim as the years go by. I was reminded of this recently when the daughter of James W. Bryden, DC, of Sedalia, Mo., telephoned me to sadly, and with tears, deliver the news that her father, 90 years of age and one of the plaintiffs in the historic *Wilk* suit against the AMA, et al., had passed away that very morning. Dr. Bryden was one of my heroes who stands out in my 53 years as a trial lawyer. Without question, he benefited God, his church, his family, his profession, his patients, and his fellow men and women.

[Ralph Waldo Emerson](#) captured the essence of whom and what Dr. Bryden was:

"Whoever is open, loyal, true; of humane and affable demeanor; honorable himself, and in his judgment of others; faithful to his word as to law, and faithful alike to God and man - such a man is a true gentleman.

"The flowering of civilization is the finished man - the man of sense, of grace, of accomplishment, of social power - the gentleman."

Taking on the AMA

In 1976, Dr. Bryden courageously joined Drs. Chester A. Wilk, Michael B. Pedigo (deceased) and Patricia B. Arthur in what was to be an unexpected 15-year antitrust case (sometimes twisted and extremely burdensome) against the American Medical Association, American Hospital Association, American College of Surgeons, American College of Physicians, Joint Commission on Accreditation of Hospitals, American College of Radiology, American Academy of Orthopedic Surgeons and others for conspiring to "first contain and then eliminate" the entire profession of chiropractic.



From left: Drs. Michael Pedigo, James Bryden, Chester Wilk and Patricia Arthur, plaintiffs in the historic lawsuit that terminated the AMA's illegal conspiracy to contain and eliminate chiropractic.

The illegal program was carried out, among other ways, by making it unethical for medical physicians to voluntarily associate professionally (VAP) with chiropractors by referring patients to them or accepting referrals from them; by secretly ghostwriting national columnists' anti-chiropractic articles; by subverting government-sponsored studies of chiropractic (with the admonition that "the AMA hand must not show in this matter") and then lying to Congress about their subversion; by ghostwriting national organizations' (including insurance groups') formal denial of benefits to patients of chiropractors; by forbidding medical physicians' right to teach in chiropractic schools; and by suppressing information and studies favorable to chiropractic and to chiropractic care.

MDs were threatened with loss of hospital privileges and hospitals were threatened with loss of accreditation if the AMA-induced and propagated restrictions were not followed or enforced. Medical students were taught to consider chiropractors as, and to tell their patients that, "Chiropractors were like rabid dogs - cute but killers" and that "Chiropractors were stealing the medical physicians' money."

An Ally in the Courtroom

Dr. Bryden was true to his patients and his profession. He found another "gentleman" in the medical physician ranks: an internist on staff at Bothwell Memorial Hospital in Sedalia who put the needs and health of patients above the petty and phony interprofessional restrictions imposed on him by the medical profession.

The following quotes from the trial transcripts give just a sampling of what took place. The medical physician was called on the carpet at the hospital for voluntarily associating with Dr. Bryden, to which the MD testified as follows:

"Q. And so what is the problem you have with Section 3 [of the AMA the guidelines forbidding voluntary professional association]?"

"A. I think that chiropractic is an art and it does work empirically. We know people that have god-awful pain that have been to many physicians who have been totally unable to help that patient, whereas with a quick manipulation or adjustment that patient becomes pain free, and I think that this should be an adjunct to the practice of medicine. Unfortunately, they do not teach manipulation in medical schools. We do not have this modality to work with and furthermore, we cannot refer patients to other practitioners that can do this. According to Section 3, it is unethical."

"Q. In your opinion, is that detrimental to your patients?"

"A. Yes, it is."

"Q. In what way?"

"A. That patients that have chronic pain syndromes that are refractory to the methods that I have available and there is an effective way of relieving that pain and suffering, we are unable to do so.

"But I know that, because I think I am helping humanity, if somebody has a real medical problem, I will serve that problem to the best of my ability. If that problem comes from a medical doctor, a dentist, a chiropractor, I will offer the best I have to offer just because I am a doctor, and it is true, professional guidelines are set, but as a human being I will give the best I can medically to everybody I can."

As an example only of the assistance Dr. Bryden sought from the medical physician quoted above, Dr. Bryden testified:

"A. I was bird hunting, duck hunting with this individual and they shot some ducks and they fell out in the water and mind you, this was November. He took off his clothes and swam out and got the ducks, and the hunter who was with him says, 'Who needs a dog when you got a friend like that?'

"So when he came in the office feeling bad, he had a cold, and I examined him. We took an EKG on him. I found an irregularity. I referred him to the [internist, "gentleman" medical doctor]. The [internist MD] looked at it and said, 'This man needs to be hospitalized. He has pericarditis,' which was an extension of his cold from the chest into the pericardial sac, and the man was hospitalized and treated by [him]."

"Q. Did there come a time when your relationship with [the internist medical physician] changed?"

"A. Yes Sir. He called me one day on the phone and he says, 'Doc, we have to cool it'. He would no longer give me written reports on the EKGs." [And the hospital would not surrender already-taken X-rays to Dr. Bryden even at the patient's request. The internist medical physician had been threatened by the medical staff and the hospital with sanctions for dealing with Dr. Bryden.]

The Legal Victory: What Dr. Bryden Helped Achieve

As a result of these incidents and many similar ones, the U.S. District Court found the AMA guilty of an illegal, nationwide [antitrust conspiracy](#) to contain and eliminate the chiropractic profession. Judge Susan Getzendanner entered a permanent injunction order against the AMA, affirmed by the U.S. Court of Appeals and still in existence, which reads, in pertinent part, as follows:

The AMA's Boycott and Conspiracy

In the early 1960s, the AMA decided to contain and eliminate chiropractic as a profession. In 1963 the AMA's Committee on Quackery was formed. The committee worked aggressively - both overtly and covertly - to eliminate chiropractic. One of the principal means used by the AMA to achieve its goal was to make it unethical for medical physicians to professionally associate with chiropractors. Under Principle 3 of the AMA's Principles of Medical Ethics, it was unethical for a physician to associate with an "unscientific practitioner," and in 1966 the AMA's House of Delegates passed a resolution calling chiropractic an unscientific cult. To complete the circle, in 1967 the AMA's Judicial Council issued an opinion under Principle 3 holding that it was unethical for a physician to associate professionally with chiropractors.

The AMA's purpose was to prevent medical physicians from referring patients to chiropractors and accepting referrals of patients from chiropractors, to prevent chiropractors from obtaining access to hospital diagnostic services and membership on hospital medical staffs, to prevent medical physicians from teaching at chiropractic colleges or engaging in any joint research, and to prevent any cooperation between the two groups in the delivery of health care services.

The AMA believed that the boycott worked - that chiropractic would have achieved greater gains in the absence of the boycott. Since no medical physician would want to be considered unethical by his peers, the success of the boycott is not surprising. However, chiropractic achieved licensing in all 50 states during the existence of the Committee on Quackery.

Antitrust Laws

Under the Sherman Act, every combination or conspiracy in restraint of trade is illegal. The court has held that the conduct of the AMA and its members constituted a conspiracy in restraint of trade based on the following facts: the purpose of the boycott was to eliminate chiropractic; chiropractors are in competition with some medical physicians; the boycott had substantial anti-competitive effects; there were no pro-competitive effects of the boycott; and the plaintiffs were injured as a result of the conduct. These facts add up to a violation of the Sherman Act.

Need for Injunctive Relief

Although the conspiracy ended in 1980, there are lingering effects of the illegal boycott and conspiracy which require an injunction. Some medical physicians' individual decisions on whether or not to professionally associate with chiropractors are still affected by the boycott. The injury to chiropractors' reputations which resulted from the boycott has not been repaired. Chiropractors suffer current economic injury as a result of the boycott. The AMA has never affirmatively acknowledged that there are and should be no collective impediments to professional association and cooperation between chiropractors and medical physicians, except as provided by law. Instead, the AMA has consistently argued that its conduct has not violated the antitrust laws.

Most importantly, the court believes that it is important that the AMA members be made aware of the present AMA position that it is ethical for a medical physician to professionally associate with a chiropractor if the physician believes it is in the best interests of his patient, so that the lingering effects of the illegal group boycott against chiropractors finally can be dissipated.

Under the law, every medical physician, institution, and hospital has the right to make an individual decision as to whether or not that physician, institution or hospital shall associate professionally with chiropractors. Individual choice by a medical physician voluntarily to associate professionally with chiropractors should be governed only by restrictions under state law, if any, be

governed only by restrictions under state law, if any, and by the individual medical physician's personal judgment as to what is in the best interest of a patient or patients. Professional association includes referrals, consultation, group practice in partnerships, Health Maintenance Organizations, Preferred Provider Organizations, and other alternative health care delivery systems; the provision of treatment privileges and diagnostic services (including radiological and other laboratory facilities) in or through hospital facilities; association and cooperation in educational programs for students in chiropractic colleges; and cooperation in research, health care seminars, and continuing education programs.

An injunction is necessary to assure that the AMA does not interfere with the right of a physician, hospital, or other institution to make an individual decision on the question of professional association.

Form of Injunction

1. The AMA, its officers, agents and employees, and all persons who act in active concert with any of them and who receive actual notice of this order are hereby permanently enjoined from restricting, regulating or impeding, or aiding and abetting others from restricting, regulating or impeding, the freedom of any AMA member or any institution or hospital to make an individual decision as to whether or not that AMA member, institution, or hospital shall professionally associate with chiropractors, chiropractic students, or chiropractic institutions.
2. This Permanent Injunction does not and shall not be construed to restrict or otherwise interfere with the AMA's right to take positions on any issue, including chiropractic, and to express or publicize those positions, either alone or in conjunction with others. Nor does this Permanent Injunction restrict or otherwise interfere with the AMA's right to petition or testify before any public body on any legislative or regulatory measure or to join or cooperate with any other entity in so petitioning or testifying. The AMA's membership in a recognized accrediting association or society shall not constitute a violation of this Permanent Injunction.
3. The AMA is directed to send a copy of this order to each AMA member and employee, first class mail, postage prepaid, within thirty days of the entry of this order. In the alternative, the AMA shall provide the Clerk of the Court with mailing labels so that the court may send this order to AMA members and employees.
4. The AMA shall cause the publication of this order in *JAMA* and the indexing of the order under "Chiropractic" so that persons desiring to find the order in the future will be able to do so.
5. The AMA shall prepare a statement of the AMA's present position on chiropractic for inclusion in the current reports and opinions of the Judicial Council with an appropriate heading that refers to professional association between medical physicians and chiropractors, and indexed in the same manner that other reports and opinions are indexed. The court imposes no restrictions on the AMA's statement but only requires that it be consistent with the AMA's statements of its present position to the court.
6. The AMA shall file a report with the court evidencing compliance with this order on or before January 10, 1988.

It is so ordered.

/S/ _____
Susan Getzendanner

Dr. Bryden, the internist medical physician and other similar "gentlemen" and "gentlewomen" stood up to the tyranny of the AMA and its cohorts for the benefit of humanity and suffering patients everywhere. I salute you, Dr. Bryden. I pray you have motivated others to continue the battle, as will I.

Until we meet again.

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