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## NOTES

### MEDICAL JURISPRUDENCE — CHIROPRACTIC — ITS STATUS UNDER LIMITED STATE LICENSES

#### *Introduction*

Since 1895, when Daniel Palmer initiated chiropractic as a method of treatment for human ailments,<sup>1</sup> it has been subjected to both professional and non-professional criticism. In spite of this, chiropractic has flourished, and in 1956 it had 25,000 practitioners.<sup>2</sup> It is now the second largest branch of the healing arts.<sup>3</sup> Though they do not claim the right to prescribe drugs or perform surgery, chiropractors have striven, through the leadership of the National Chiropractic Association, for acceptance both in law and fact as a limited branch of the healing arts. Today, they are granted limited legal recognition in varying degrees and are licensed in all but four states.<sup>4</sup> Although efforts have been made in these latter jurisdictions to secure acceptance, they have thus far met with little success.

It is not the purpose of this Note to make a scientific judgment on the practice of chiropractic. Our concern rather is with the varying, and sometimes contradictory, legal status it has been accorded. No discussion, however, of chiropractic would be complete without some mention of the continuing controversy which has existed between chiropractors and the general medical profession. Accordingly, the Note will be divided into four general sections: (1) Chiropractic: The National Chiropractic Association. This section will consider the educational standards, scope, and methods of treatment prescribed by the national association. (2) Chiropractic: The General Medical Profession. This section will attempt to enumerate specific criticisms of chiropractic usually advanced by the medical profession. (3) Chiropractic: Its Legal Status. This section will contain an analysis of the present licensing requirements of the fifty states, the District of Columbia, and Puerto Rico. It will also consider the status of chiropractic in those jurisdictions not granting licenses for its practice. (4) Chiropractic: A Legal Solution. This section will present by way of conclusion a possible answer to the legal problems posed by the practice of chiropractic.

#### I. CHIROPRACTIC: THE NATIONAL CHIROPRACTIC ASSOCIATION

Chiropractic is a system of therapeutics based upon the theory that disease is caused by interference with nerve function. It is based on the premise that all systems and physiological processes of the human body are co-ordinated by the nervous system. Interference with the nerve control of these systems impairs their function and induces dysfunction or disease, rendering the body less resistant to infection.

While structural maladjustments, causing nerve irritation and lowered resistance, are not the only cause of disease, they are, by far, the most common cause.

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1 Palmer, a non-medical man, treated Harvey Willard, who had been deaf for seventeen years. The deafness allegedly was caused by a "subluxation" or lump on the back. The "subluxation" was "adjusted" and reduced by Palmer, and hearing was restored. Thus, chiropractic got its start. Palmer, in conjunction with his son, B. J. Palmer, established the Palmer School of Chiropractic in Davenport, Iowa. By 1920, this institution had an enrollment of 2,000 students, but by 1930, it had dropped to 300. BOYD, *THE CULT OF CHIROPRACTIC, A STUDY OF DRUGLESS HEALERS IN THE UNITED STATES* 1 (no date).

2 ANDERSON, *HEALTH SERVICE IS A BASIC RIGHT OF ALL THE PEOPLE* 31 (no date). Chiropractors claim that they serve 35 million patients, including two million industrial workers. The latter figure is claimed to be equivalent to the industrial payrolls of Illinois, Michigan, Ohio, and Pennsylvania.

3 NATIONAL CHIROPRACTIC ASS'N, *CHIROPRACTIC—ITS RELATIONS WITH INSURANCE COMPANIES* 3 (no date).

4 Massachusetts, Mississippi, New York, and Louisiana.

Chiropractic therapeutics is designed to restore normal function of the nerve system by the following methods:

1. Specific adjustive therapy which brings about the correction of anatomical disrelationship and results in the restoration of normal nerve function.
2. Clinical nutrition and dietary guidance to restore normal chemical balance in the body and correct disorders resulting from faulty nutrition.
3. Physical therapy, using light, water, heat, cold, exercise and various types of precision instruments . . . to restore the normal physiological functions of the body.
4. Psychosomatic counseling used to bring about a balanced interrelationship between the mental, emotional, physiological and mechanical aspects of the body so necessary to normal health.<sup>5</sup>

It is clear that the practice encompasses much more to the National Chiropractic Association than the limited conception of chiropractic as being the mere adjustment by hand of the human spinal cord to remedy simple backache or stiffness.<sup>6</sup> The Association admits that germs cause disease, but claims that the extent to which this occurs is in large measure dependent on the resistance level of the body, and that the proper functioning of the nervous system is a major facet of this resistance. Consequently, chiropractic methods are used "to improve body tone through the correction or lessening of nerve irritation. . . ."<sup>7</sup> Based on this theory, it is claimed that "the practice of chiropractic is as broad as the nervous system, which controls and co-ordinates all organs, glands and tissues of the body. . . ."<sup>8</sup> On the other hand, it is said that the practitioners of chiropractic do not assert that they are qualified to treat every condition met,<sup>9</sup> and this is evidenced by the fact that the chiropractor's code of ethics obligates him, when confronted with a condition he is not qualified to treat, to refer the patient "to whatever other branch of healing he deems most likely to restore the patient's health."<sup>10</sup>

The efficacy of chiropractic diagnosis and treatment is said to be manifested in the successful treatment of polio,<sup>11</sup> mental health,<sup>12</sup> and industrial injury cases.<sup>13</sup> It is maintained that the professional status of chiropractic is strengthened by the fact that approximately 500 insurance companies recognize chiropractic certification on claims,<sup>14</sup> and that chiropractic treatment is solicited by business and industry, professional and amateur athletic associations, the entertainment field, and veterans associations.<sup>15</sup>

To improve the educational preparation of chiropractors and raise academic standards for licensure, the National Chiropractic Association's House of Delegates in 1938 assumed responsibility for accrediting schools of chiropractic.<sup>16</sup> A national inspection was conducted, and the results were not encouraging. In the words of John J. Nugent, D.C.:

The fact is painful and most obvious, but the chiropractor is not accepted on the same plane as other professions and the reason is that we lack the cultural and

<sup>5</sup> NATIONAL CHIROPRACTIC ASS'N, THE TRUTH ABOUT CHIROPRACTIC 2-3 (no date).

<sup>6</sup> See ANDERSON, *op. cit. supra* note 2, at 35. "We are not examining here a small cult that has had its day and is dying. For chiropractic is a growing profession which is enlarging its conception of the healing art and its role in it."

<sup>7</sup> ANDERSON, THE PRESENT DAY DOCTOR OF CHIROPRACTIC 21 (1956).

<sup>8</sup> NATIONAL CHIROPRACTIC ASS'N, FACTS ABOUT A MODERN DOCTOR OF CHIROPRACTIC 6 (no date).

<sup>9</sup> ANDERSON, *op. cit. supra* note 7, at 19.

<sup>10</sup> NATIONAL CHIROPRACTIC ASS'N, THE TRUTH ABOUT CHIROPRACTIC 8 (no date).

<sup>11</sup> Complete recovery is claimed in 473 (71.5%) of 662 acute cases; and of 889 chronic cases, complete recovery was had in 257 (28.9%), marked improvement in 454 (51.1%), and slight or no improvement in 178 (20%). *Id.* at 10.

<sup>12</sup> "eminently successful results." *Id.* at 9.

<sup>13</sup> Of 557 back injury cases treated in Minnesota during the years 1954-57, 236 were treated by chiropractors. NATIONAL CHIROPRACTIC ASS'N, CHIROPRACTIC—ITS RELATIONS WITH INSURANCE COMPANIES 5 (no date).

<sup>14</sup> A listing of these insurance companies is grouped into those which grant full recognition to chiropractic by specifically approving such treatment in their policies, and those which approve such treatment but do not so indicate. *Id.* at 7-19.

<sup>15</sup> ANDERSON, THE PRESENT DAY DOCTOR OF CHIROPRACTIC 13-14 (1956).

<sup>16</sup> NUGENT, EDUCATIONAL STANDARDS FOR CHIROPRACTIC SCHOOLS 5 (1955).

educational background which even the laborer expects to find in a professional man. . . . The survey, initiated as part of our effort to raise standards, disclosed that in fact no standard existed. . . .<sup>17</sup>

Following this inspection, a Committee on Educational Standards was appointed, and since then the committee has conducted periodic re-inspections of schools accredited by the National Chiropractic Association and has made semi-annual reports concerning them to the national council. The NCA claims that "accreditation by the Council on Education is based upon the established patterns of professional school accreditation. It is the only such chiropractic accrediting agency following this established pattern."<sup>18</sup> As of 1955, eight schools were fully accredited.<sup>19</sup>

Through the leadership of the NCA, there has been a diligent attempt to raise educational standards. A school is not accredited until the approved program has been in operation for at least two years.<sup>20</sup> The presently approved program requires a minimum of 4000 class hours over four graded courses of nine months each, and at least 25 class hours of 50-60 minutes in length over a five or six day week.<sup>21</sup> In order to obtain credit for a course, the student must attend 85% of the class hours. To obtain the degree of Doctor of Chiropractic, the last year must be spent in residence at the college conferring such degree.<sup>22</sup>

The curriculum consists of the following: 740 hours of instruction and laboratory work in anatomy, which includes embryology and histology; 240 hours of physiology; 180 hours of biochemistry; 520 hours of pathology and bacteriology; 200 hours of public health and hygiene; and 1960 hours in the principles and practice of chiropractic, which includes such subjects as roentgenology (X-ray), neurology, pediatrics, geriatrics, dermatology, obstetrics and gynecology, first aid, and other clinical courses.<sup>23</sup>

As to pre-professional education, candidates must have completed 16 units of accredited high school work or its equivalent acceptable to state departments of education, or be acceptable for matriculation in a college of liberal arts and sciences. Those applicants intending to practice in states which require pre-professional college work must present transcripts from an accredited college or university.<sup>24</sup> The Council recommends that applicants be urged to acquire two years or 60 semester hours of pre-professional college instruction. However, credits for courses completed in colleges of liberal arts and sciences are accepted in lieu of chiropractic-taught courses only in the subjects of physics, inorganic and organic chemistry, bacteriology, embryology, histology and psychology, "and then only to the extent allowed. . ." by the Admissions Committee.<sup>25</sup> Not more than two years credit is given to those who have taken previous professional instruction in an osteopathic or medical school accredited by the respective professions.<sup>26</sup>

As to faculty qualifications, those who hold a doctor's degree from recognized schools of chiropractic, osteopathy or medicine, or a degree from a recognized college of arts and sciences, are accepted.

Further, the student-faculty ratio "should be" one assistant instructor for every

<sup>17</sup> BOYD, *THE CULT OF CHIROPRACTIC, A STUDY OF DRUGLESS HEALERS IN THE UNITED STATES* 2 (no date).

<sup>18</sup> NUGENT, *op. cit. supra* note 16, at 5.

<sup>19</sup> Western States College of Chiropractic, Los Angeles College of Chiropractic, Lincoln Chiropractic College, Canadian Memorial Chiropractic College, National College of Chiropractic, Chiropractic Institute of New York, Texas Chiropractic College, and Northwestern College of Chiropractic. The material used in this section of the note was supplied through the courtesy of the National Chiropractic Ass'n. Consequently, the writer is restricted in this analysis to a discussion of the educational standards and policies of these eight schools which are accredited by the Association.

<sup>20</sup> NUGENT, *op. cit. supra* note 16, at 8.

<sup>21</sup> *Id.* at 12.

<sup>22</sup> *Id.* at 17.

<sup>23</sup> ANDERSON, *THE PRESENT DAY DOCTOR OF CHIROPRACTIC* 7 (1956).

<sup>24</sup> NUGENT, *op. cit. supra* note 16, at 15.

<sup>25</sup> *Id.* at 16.

<sup>26</sup> *Ibid.*

twenty-five students in the laboratory courses, and, lectures excluded, classes of more than thirty students are declared to endanger educational efficiency.<sup>27</sup>

In addition to classrooms, approved schools must have laboratories, a clinic, a library, and a museum. The laboratories are required to be equipped for practical work in the various courses taught, and "every effort should be made" to supply them with "sufficient cadavers and specimens for individual and small group demonstrations."<sup>28</sup> The clinic required for each school must have such auxiliary facilities as an X-ray laboratory, and physical examination rooms and equipment.<sup>29</sup> Externes, or those students working in the clinics, are to be supervised by faculty members. There seems to be no specific maximum or minimum requirement as to the duration of clinical training of students.<sup>30</sup>

## II. CHIROPRACTIC: THE GENERAL MEDICAL PROFESSION

The Medical Profession is determinedly insistent that any person who treats human ailments should go through a rigorous and complete scientific training in qualified medical schools. In no other way . . . can he possibly diagnose disease or know how to treat it.<sup>31</sup>

From this statement, it follows that any group which attempts to treat human beings in a "limited" manner is to be firmly opposed.<sup>32</sup> The underlying rationale is that the treatment of human ailments cannot be undertaken or even attempted under a preconceived and unproven belief in a monistic theory of disease or method of treatment. Medicine is not based on such preconceived notions but on scientific proof and diversified experience.

It is strongly asserted that chiropractic is not scientific and that the theory of its practice is erroneous. Medical schools do not teach chiropractic and it is not recognized as a legitimate phase of a physician's practice.<sup>33</sup>

In answer to chiropractic's claim that disease commonly results from interference with nerve function, it is pointed out that an area of skin which is deprived of its nerves shows no increased susceptibility to cancer or other skin diseases. Nerve interference is incapable of causing all of the 5000-odd diseases to which man is subject.<sup>34</sup>

Spinal nerves issue from the spinal cord through openings in the adjacent vertebrae and resilient pads or discs keep the adjacent vertebrae apart, thus maintaining the openings at their normal size. If the adjacent vertebrae become displaced or "sub-laxated", the openings are narrowed and pressure on the nerve results, along with weakness in the muscles supplied by the nerve, and pain in its area of coverage. Through manipulation, the chiropractor attempts to reduce the subluxation. However, permanent reduction of this condition cannot be accomplished in many cases because many sub-laxations result from the degeneration of the vertebral discs, which normally maintain the nerve openings. Manipulation cannot restore degenerated discs.<sup>35</sup> Many nerves leave the central nervous system through openings which are entirely rigid and formed of solid rings of bone. Both the nerves coming from the brain and the lower spinal nerves are of this type. Manipulation cannot change the rigid openings through which these nerves pass. Further interference with nerve function does not explain the diseases that occur in those tissues which receive no nerves, such as the blood. Diseases such as

<sup>27</sup> *Id.* at 13.

<sup>28</sup> *Id.* at 21.

<sup>29</sup> *Id.* at 23.

<sup>30</sup> ANDERSON, *op. cit. supra* note 15, at 8, states that the student undergoes "many hours" of supervised practice before graduation, and a "vocational guidance" brochure states that "the last two years are devoted to practical and clinical studies dealing with diagnosis and treatment of disease . . . approximately one half the time of the last two years is spent in the clinics of the college." NUGENT, *CHIROPRACTIC AS A CAREER* 10 (no date).

<sup>31</sup> BAYER, *MEDICINE MEN AND MEN OF MEDICINE* 32 (1945).

<sup>32</sup> "Medicine is not against chiropractic because of any feeling of jealousy. The medical profession is just as much against neuropaths, naturopaths, or sanipractors. . . ." BOYD, *THE CULT OF CHIROPRACTIC* 18 (1953).

<sup>33</sup> N.Y. STATE MEDICAL SOC'Y, *MYTH AND MENACE, THE TRUTH ABOUT CHIROPRACTIC* 9 (1948).

<sup>34</sup> BOYD, *op. cit. supra* note 17, at 11.

<sup>35</sup> MYTH AND MENACE, *THE TRUTH ABOUT CHIROPRACTIC, supra* note 33, at 14.

malaria and pernicious anemia exist throughout the body in the blood and no amount of manipulation will effect a cure. Some of the internal secretion glands, such as the pituitary gland, regulate various body activities and are not controlled by spinal nerves.<sup>36</sup>

The basic tenet of chiropractic is that disease commonly results from the interruption or interference with nerve function. However, the reverse may be true. A diseased condition may be relieved by the interruption or severing of nerves. This is diametrically opposed to this basic chiropractic belief.<sup>37</sup> It has been claimed that "manipulation on the vertebral column is useless in most cases and dangerous in a large number of others, without any therapeutic effect whatever, unless it be purely psychological. . . ."<sup>38</sup>

Chiropractic education is inadequate. Since chiropractic began, several hundred different chiropractic schools were started, most of which have disappeared.<sup>39</sup> Today, only eight<sup>40</sup> are accredited by the National Chiropractic Association. Not one of these schools is recognized by the Association of American Universities or any other standard accrediting agency.<sup>41</sup>

In 1949, a New Jersey committee appointed to study chiropractic determined that students enrolled in chiropractic colleges were not receiving adequate training to be licensed to treat the sick, for three reasons: a) No pre-chiropractic training on the college level was required for admission to a chiropractic school. The committee was of the opinion that study at the college level is essential, along with maturity, to the absorption of professional training. Few persons, on graduation from high school, are mature enough, intellectually or otherwise, to undertake medical training. As a result, the teaching of the sciences in chiropractic schools must begin at the lowest level. b) Chiropractic schools do not give the same quality of instruction as do medical schools. Of the twenty-six faculty members of the New York Institute (one of those accredited by the National Chiropractic Association), sixteen had no academic training outside of chiropractic schools; three had some college training, but not enough for a degree; five held bachelor's degrees in arts or sciences; and two held the degree of Ph.D. Instructors who only held the degree of D.C. (Doctor of Chiropractic) were teaching such fundamental subjects as organic chemistry, biochemistry, and anatomy. The faculty-student ratio was also sub-standard, with a faculty of twenty-six for 276 students. In contrast, Cornell Medical School, for example, had 244 faculty members, exclusive of instructors, thirty-two of whom have Ph.D.'s, for 326 students. And the medical faculty of Columbia University numbered 383 to 436 students. Physical facilities were also found comparatively inadequate at the New York Institute. c) The chiropractic student receives practically no clinical training. None of the chiropractic schools has any kind of hospital affiliation. The schools do not operate out-patient clinics, and must advertise in order to service patients. The student does not actually see disease symptoms in patients until he is practicing on his own. Medical doctors claim that they "learned" medicine in their clinical training under experienced practitioners and specialists. The committee determined that the absence of such experience for the chiropractic student was "unsound."<sup>42</sup>

Even as of 1953, the New York Institute had a faculty of only thirty-one for 282 students. Of these, twenty-two had no academic training outside of chiropractic schools, five had a bachelor's degree in arts or sciences, two had Ph.D.'s, one a Ph.G. (Graduate Pharmacist), and one an M.T.<sup>43</sup>

A tabulation was made in 1956 of five of the eight approved chiropractic schools. Of the total faculty of 111, only three had a Ph.D. degree. The number of faculty mem-

<sup>36</sup> *Id.* at 14-15.

<sup>37</sup> *Id.* at 15-16.

<sup>38</sup> BOYD, *op. cit. supra* note 17, at 5.

<sup>39</sup> *Id.* at 1.

<sup>40</sup> See note 19, *supra*.

<sup>41</sup> BOYD, *THE CULT OF CHIROPRACTIC* 5 (1953).

<sup>42</sup> NEW JERSEY LEGISLATIVE COMMITTEE, REPORT ON LICENSE AND REGULATING THE PRACTICE OF CHIROPRACTORS (1949) as cited in BOYD, *op. cit. supra* note 41, at 7.

<sup>43</sup> *Id.* at 7-8.

bers for each of the five institutions ranged from thirty-five to a low of nine. As to the faculty-student ratio, two catalogs were reviewed. One school had a faculty of thirty-five serving 323 students and in the other, twenty faculty members served 330 students.<sup>44</sup>

This study further showed that "such thoroughly discredited subjects as 'iris diagnosis' and 'zone therapy' are still being taught . . . 'iris diagnosis' is that 'science' which treats of the diagnosing of disease through interpretation of 'spots' in the iris."<sup>45</sup>

Because of chiropractic's preconceived theory of disease and methods of treatment, and the inadequate training of its practitioners, the medical profession strongly asserts that the chiropractor is not qualified to diagnose—to recognize the symptoms of disease.<sup>46</sup> In order to diagnose, all persons holding themselves out as treating human ailments must have sufficient schooling and training to be familiar with the diverse causality of all of the diseases to which the human body is subject. A study of the basic sciences is not sufficient for this purpose. The diseases themselves must be studied. In many diseased conditions, immediate diagnosis by a competent physician and prompt treatment are necessary to effect relief or cure. Further, subjection of the condition to chiropractic treatment may have a disastrous effect.<sup>47</sup>

Chiropractic is not a profession but a business. This is evidenced by its historical development. B. J. Palmer, for example, after taking over the institution founded by his father,<sup>48</sup> made this statement at a chiropractor's convention in 1920:

Our school back at Davenport is established on a business and not a professional basis. It is a business where we manufacture chiropractors. They have got to work just like machinery. A course of salesmanship goes along with their training. We teach them the idea and then we show them how to sell it.<sup>49</sup>

Further, in 1932 a committee headed by Louis S. Reed, Ph.D., investigating the cost of medical care, found that "without exception, all the chiropractic schools are business institutions run for the profit of their owners. Most of them fairly reek of commercialism. Their catalogs are filled with self puffing exaggerations. . . ."<sup>50</sup>

Public deception is often involved in the practice of chiropractic. Some persons are misled by the title "doctor" in front of the name, even though it is followed by the letters "D.C." Others are influenced by hearsay circulated by friends or acquaintances, and the information gained in this manner is often exaggerated and misleading. Still others, having received temporary relief from minor muscular pains through chiropractic treatment, are convinced that more serious ailments can be similarly treated with similar results. This is where the danger arises. In all states chiropractors are greatly limited in education, training, experience and ability to diagnose, but they are usually unrestricted as to the diseases which they may treat.

The modern treatment of disease depends entirely on diagnosis. It is asserted that chiropractic treatment has a large element of suggestion. The patient is told that his condition is basically due to one cause, and after treatment he is assured that his troubles are over. It is due to credulity and gullibility on the part of patients that the existence of chiropractic is possible. Another group seeks out sectists, and are usually cases such as advanced cancer or leukemia, which medical science cannot cure.<sup>51</sup>

### III. CHIROPRACTIC: ITS LEGAL STATUS

#### A. *Classification of Statutes*

The existing statutory regulations concerning chiropractic may be grouped into three general classifications: (A) Those which do not deal separately and distinctly with

<sup>44</sup> Stalvey, *What's New in Chiropractic?*, 57 N.Y. STATE J. OF MEDICINE 49, 55 (1957).

<sup>45</sup> *Ibid.*

<sup>46</sup> BAYER, *MEDICINE MEN AND MEN OF MEDICINE* 22-24 (1945).

<sup>47</sup> *Id.* at 23-24. BOYD, *op. cit. supra* note 17, at 15. "There are legal records showing where children have died from diphtheria, appendicitis and various other diseases, who had been treated for a maladjusted or misaligned vertebra by a chiropractor." *Id.* at 16.

<sup>48</sup> See note 1, *supra*.

<sup>49</sup> BOYD, *op. cit. supra* note 17, at 1.

<sup>50</sup> *Id.* at 1.

<sup>51</sup> *Id.* at 11-13.

chiropractic, but refer to it incidentally in connection with a general medical practice act.<sup>52</sup> (B) Those which deal separately and distinctly with chiropractic and define the term.<sup>53</sup> (C) Statutes which deal separately and distinctly with chiropractic and do not specifically define the term, but instead set out the privileges conferred by the license and the limitations imposed.<sup>54</sup> Apart from these general classifications, there is great variation in the statutes. Those grouped under (B) and (C) will be dealt with together.

### B. *Statutory Definitions of Chiropractic*

Generally, it can be said that the definitions used in the various statutes give some indication of the extent of the rights conferred on a chiropractor. Usually they specify that chiropractic involves the manual adjustment of the human spinal column so as to remove interference with normal nerve function. Beyond this there is great variation and confusion. One simply provides that the practice of chiropractic means the "adjustment of the twenty-four vertebrae of the spinal column,"<sup>55</sup> and another that it also extends to the adjustment of "any displaced tissue of any kind or nature."<sup>56</sup> Some provide that the adjustment shall be by hand only.<sup>57</sup>

The great variance in the provisions is not due to mere differences in wording, but to varying judgments on the part of the legislatures as to the efficacy of chiropractic as a separate and limited branch of the healing arts. This appears to govern what the chiropractor will be permitted to do beyond mere manipulation. The differences may also be due to political pressure exerted by groups supporting the medical profession or the chiropractic associations.

In California it has been stated that the chiropractic regulations are exceptions to the provisions of the medical practice acts of the various jurisdictions.<sup>58</sup> In some jurisdictions it is expressly declared that the practice of chiropractic is not the practice of medicine,<sup>59</sup> while courts in other states have construed the statutes to mean that it is the practice of medicine,<sup>60</sup> and if the chiropractor exceeds the authority conferred on him by statute, he is practicing medicine unlawfully.<sup>61</sup>

### C. *Rights and Limitations on Practice*

As mentioned above, most of the statutes contain separate provisions concerning these rights and limitations. Some states, such as California<sup>62</sup> and Florida,<sup>63</sup> provide that the chiropractor is permitted to practice his art "as taught" in chiropractic schools. Judicial interpretation in California, however, has somewhat narrowed this apparently

<sup>52</sup> Alabama, District of Columbia, Illinois, Ohio. See also UTAH CODE ANN. §§ 58-1-5(5), 58-12-3(3) (1953) (contains a definition of chiropractic but makes only incidental reference to it).

<sup>53</sup> Alaska, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wyoming.

<sup>54</sup> Arizona, Arkansas, California, Kansas, New Hampshire, New Mexico, Vermont, Washington, Wisconsin.

<sup>55</sup> VA. CODE ANN. § 54-273 (1958).

<sup>56</sup> IDAHO CODE ANN. § 54-712 (1957).

<sup>57</sup> E.g., MONT. REV. CODES ANN. § 66-507 (1947) ("by the use of the hand"); S.C. CODE § 56-351 (1952) ("by hand only"); TENN. CODE ANN. § 63-401 (1955) ("by hand"). See also HAWAII REV. LAWS § 60-1 (1955) ("by hand only . . . [but] shall not exclude the use of any method or means, or any agent . . . for the treatment of disease").

<sup>58</sup> E.g., *People v. Mangiagli*, 97 Cal. App. 2d 935, 218 P.2d 1025 (1950).

<sup>59</sup> E.g., MINN. STAT. ANN. § 148.01(2) (1946); MO. REV. STAT. § 31.010 (1949); MONT. REV. CODES ANN. § 66-517 (1947).

<sup>60</sup> *Locke v. Ionia Circuit Judge*, 184 Mich. 535, 151 N.W.2d 623 (1915); *Board of Medical Examiners v. Terrill*, 48 Utah 647, 161 Pac. 451 (1916).

<sup>61</sup> *Heintze v. New Jersey State Bd.*, 107 N.J.L. 420, 153 Atl. 253 (1931), *aff'd*, 110 N.J.L. 24, 163 Atl. 892 (1932).

<sup>62</sup> CAL. BUS. & PROF. CODE § 1000-7. (The Chiropractic Act in California was an initiative measure approved Nov. 7, 1922, and while not included in the Code by the legislature, is set out therein as §§ 1000-1-19 for convenient reference.)

<sup>63</sup> FLA. STAT. ANN. § 460.11(2)(a) (1952). See also ME. REV. STAT. ANN. ch. 72, § 6 (1954) which also has the "school" standard, but restricts some of the practices.



broad provision, by interpreting it to mean that it authorizes only the practice as it was understood and defined at the time the act became effective.<sup>64</sup> Nor does it authorize the practice of *anything* taught in such schools, but limits the practice to recognized methods of chiropractic as taught in the schools.<sup>65</sup>

Statutes such as that in Florida very broadly set out the rights conferred upon the chiropractor. He may use any "physical, chemical, electrical, or thermal method" of treatment.<sup>66</sup> Some provisions state that he may use X-ray for diagnostic purposes,<sup>67</sup> and mechanical,<sup>68</sup> dietary,<sup>69</sup> or antiseptic<sup>70</sup> measures. In some states he may use such natural agencies "as food, water, heat, cold, electricity, vacuum cupping and drugless appliances. . . ."<sup>71</sup>

A few states further provide that the chiropractor is entitled to the laboratory services of the department of health and other public institutions,<sup>72</sup> and that he has the right to take his patients to hospitals supported by public funds.<sup>73</sup> Under the public health provisions, the statutes are not uniform in allowing the chiropractor to sign birth<sup>74</sup> or death<sup>75</sup> certificates.

On the other hand, it is recognized that chiropractic has its limitations. Consequently, it is generally provided that the practitioner may not prescribe drugs or medicines, or practice surgery.<sup>76</sup> Some provide that the chiropractor may not practice osteopathy,<sup>77</sup> obstetrics,<sup>78</sup> dentistry,<sup>79</sup> administer anaesthetics,<sup>80</sup> and may not pierce or sever body tissues except for drawing blood for diagnosis,<sup>81</sup> use cutting instruments,<sup>82</sup> or reduce fractures or major dislocations.<sup>83</sup>

Under the public health provisions of the statutes, duties are imposed on the licensed practitioner. Most provide that he is bound by all of the police and health regulations of the state,<sup>84</sup> and must make reports, such as those pertaining to the control of contagious and infectious diseases,<sup>85</sup> to the proper authorities in the same manner as medical practitioners.

64 *People v. Mangiagli*, 97 Cal. App. 2d 935, 218 P.2d 1025 (1950).

65 *People v. Fowler*, 32 Cal. App. 2d 737, 84 P.2d 326 (1938).

66 FLA. STAT. ANN. § 460.11(2)(a) (1952).

67 *Ibid.*; P.R. LAWS ANN. tit. 20, § 158(b) (1955).

68 HAWAII REV. LAWS § 60-8 (1955).

69 ME. REV. STAT. ANN. ch. 72, § 12 (1954).

70 MONT. REV. CODES ANN. § 66-509 (1947); ORE. REV. STAT. § 684.010(4) (1957).

71 N.M. STAT. ANN. § 67-3-4 (1953). See also P.R. LAWS ANN. tit. 20, § 158(b) (1955) ("Light, heat, water, and exercise").

72 R.I. GEN. LAWS ANN. ch. 30, § 5-30-11 (1956); FLA. STAT. ANN. § 460.11(2)(d) (1952).

73 N.C. GEN. STAT. § 90-153 (1958).

74 MD. ANN. CODE art. 43, § 510 (1957) (cannot); MONT. REV. CODES ANN. § 66-508 (1947) (can); N.D. REV. CODE § 43-0616(3) (1943) (can).

75 GA. CODE ANN. § 84-509 (1955) (can); KY. REV. STAT. ANN. § 312.130 (1955) (can—"and other legal documents"); MD. ANN. CODE art. 43 § 510 (1957) (cannot); MONT. REV. CODES ANN. § 66-508 (1947) (can); N.D. REV. CODE § 43-0616(3) (1943) (can).

76 *E.g.*, COLO. REV. STAT. ANN. § 23-1-2 (1953); MD. ANN. CODE art. 43, § 504(c). Oregon seems to be unique in allowing him to perform "minor" surgery, which is defined as "the use of electrical or other methods for the surgical repair and care incident thereto of superficial lacerations and abrasions, benign superficial lesions, and the removal of foreign bodies located in the superficial structures. . . ." ORE. REV. STAT. § 684.010(4) (1957). For cases on the chiropractor's duty to advise patients of the possibility of better results by a mode of treatment he is not qualified to give, see *Annot.*, 132 A.L.R. 392, 401 (1941).

77 CAL. BUS. & PROF. CODE § 1000-7; GA. CODE ANN. § 84-509 (1955).

78 COLO. REV. STAT. ANN. § 23-1-2 (1953); CONN. GEN. STAT. § 4381 (1949).

79 DEL. CODE ANN. tit. 24, § 701 (1953); HAWAII REV. LAWS § 60-8 (1955).

80 COLO. REV. STAT. ANN. § 23-1-2 (1953).

81 NEV. REV. STAT. § 634.010 (1957).

82 N.J. REV. STAT. § 45:9-14.5 (Supp. 1958).

83 PA. STAT. ANN. tit. 63, § 602(b) (Supp. 1958). However, some states create exceptions to the statutory limitations on practice in case of emergency. *E.g.*, CAL. BUS. & PROF. CODE § 1000-16 (1954).

84 ARK. STAT. ANN. § 72-405 (1957); CAL. BUS. & PROF. CODE § 1000-13.

85 DEL. CODE ANN. tit. 24, § 715 (1953); MONT. REV. CODES ANN. § 66-508 (1947).

While most of the states authorize chiropractors to use the term "Doctor," or "Dr.," it must be qualified by the word "chiropractor" or "D.C." immediately following the name.<sup>86</sup> Some provide that the word "chiropractor" must be displayed on all signs used by the practitioner<sup>87</sup> or that his licensing certificate must be prominently displayed.<sup>88</sup> The purpose of these provisions is to guard against the possibility that the public will be misled into believing that a chiropractor is a doctor of medicine.

#### D. Licensing Boards

All of the states which license the practice of chiropractic have provided for licensing and examining boards. These boards are usually composed of three to five chiropractors with staggered terms of office. The appointments are made by the governor in most cases,<sup>89</sup> with some of the statutes providing that he is to make appointments from a list of nominees proposed by state chiropractic associations,<sup>90</sup> or with the advice and consent of the legislative body.<sup>91</sup> In those states which refer to chiropractic incidentally in a general medical practice act, the same board which licenses doctors of medicine conducts chiropractic licensure. The board may include one<sup>92</sup> or two<sup>93</sup> licensed chiropractors or none at all.<sup>94</sup>

With only slight variation, it is generally provided that board members must be residents of the state, have practiced chiropractic in the state for a number of years prior to appointment, and be graduates of recognized or chartered chiropractic schools. To eliminate the possibility of favoritism, some jurisdictions provide that no two board members are to be graduates of the same school,<sup>95</sup> or that no member shall be connected with any school.<sup>96</sup>

The power entrusted to the boards varies from state to state, but it can be said that it is extensive. The members are given authority to administer oaths, summon witnesses and take testimony. The California provision<sup>97</sup> illustrates the extent of authority which may be granted. It authorizes the board to adopt a seal to be affixed to each license issued, adopt such rules and regulations "as the board may deem proper and necessary" to carry out its functions, examine applicants and issue and revoke licenses, "to do any and all things necessary or incidental to the exercise of the powers and duties . . . granted or imposed," determine minimum requirements for teachers in chiropractic schools, approve schools whose graduates apply for licenses, and employ such investigators as it deems necessary to effectuate its purposes.

To enforce rulings made by the board, some states authorize the board to petition for a court order, thus subjecting violators to contempt proceedings.<sup>98</sup> One state board is authorized to employ an attorney to assist prosecution of all violations of the licensing act<sup>99</sup> and issue summons and subpoenas for witnesses, or subpoenas duces tecum to assist in the investigation or hearing.<sup>100</sup> In addition to the board's power to revoke licenses, Texas,<sup>101</sup> for example, confers this power upon the state courts.

86 CAL. BUS. & PROF. CODE § 1000-15.

87 IOWA CODE ANN. § 151.6 (1949).

88 ME. REV. STAT. ANN. ch. 72, § 6 (1954); NEV. REV. STAT. § 71-107 (1958).

89 E.g., IND. ANN. STAT. § 63-1305 (Burns 1951); MICH. REV. STAT. ANN. § 14.591 (1956); MINN. STAT. ANN. § 148.03 (1956).

90 CONN. GEN. STAT. § 2195d (Supp. 1955); DEL. CODE ANN. tit. 24, § 703 (1953).

91 MO. ANN. STAT. § 331.090 (1949) ("senate"); OHIO REV. CODE ANN. § 4731.01 (1954) ("senate").

92 IND. ANN. STAT. § 63-1305(c) (Burns 1951).

93 VA. CODE ANN. § 54-282 (1958).

94 OHIO REV. CODE ANN. § 4731.01 (Page 1954).

95 E.g., DEL. CODE ANN. tit. 24, § 702 (1953).

96 HAWAII REV. LAWS § 60-3 (1955).

97 CAL. BUS. & PROF. CODE § 1000-4.

98 E.g., COLO. REV. STAT. ANN. § 23-1-7 (Supp. 1957).

99 FLA. STAT. ANN. § 460-25 (1952).

100 FLA. STAT. ANN. § 460-13 (1952).

101 TEX. REV. CIV. STAT. art. 4512b, § 15 (1951).

It will be seen that the most important of the board's functions are to approve chiropractic schools and conduct examinations. The wide discretion granted in this area is to enable the boards to take cognizance of changing conditions and developments in the healing arts in order to provide for the more efficient treatment of disease.<sup>102</sup> Although it has been held in one state that the board is not given the implied authority to examine a chiropractic school as to its reputability,<sup>103</sup> another state specifically provides that it can, and that a personal inspection may be conducted for that purpose.<sup>104</sup>

#### E. *Qualifications of License Applicants*

The majority provide that the applicant must be twenty-one years of age and a graduate of an approved or chartered chiropractic school. He must also have a high school education or its equivalent and be of good moral character. A number of states have progressively increased the preliminary educational requirements for matriculation in a chiropractic school. Some of these require one<sup>105</sup> or two<sup>106</sup> years of preparatory college training. Provision is made in some instances for a schedule, by year, of increasing requirements to be demanded in the future.<sup>107</sup> A few provide that the application must elaborate upon the applicant's educational background covering such matters as how long he has studied chiropractic,<sup>108</sup> under what teachers,<sup>109</sup> what collateral branches he has studied,<sup>110</sup> and the length of time spent in clinical practice.<sup>111</sup>

The over-all time which must be spent in chiropractic schools varies from a three year course of not less than six months each year,<sup>112</sup> to a four year course of not less than nine months yearly.<sup>113</sup> The compulsory number of instruction hours varies from 2045<sup>114</sup> to 4200.<sup>115</sup> Because the statutes appear to specify only the minimum requirements as to the necessary number of instruction hours<sup>116</sup> or subjects taught<sup>117</sup> in chiropractic schools, the board may presumably add to the requirements in its discretion. The California provision<sup>118</sup> dictates the "minimum educational requirements" in tabular form, specifying the courses which must be taught and the percentage of the total curriculum which must be devoted to them. At least one jurisdiction provides that 600 hours of the applicant's training must have been spent in practical, supervised work in a school clinic.<sup>119</sup>

Colorado expressly declares that the purpose of its provision is to provide for the increase in annual educational requirements for chiropractors.<sup>120</sup> Consequently, each

102 Hunt v. State Board of Chiropractic Examiners, 87 Cal. App. 2d 98, 196 P.2d 77 (1948).

103 Berkeley Chiropractic College v. Compton, 97 Cal. App. 790, 276 Pac. 361 (1929).

104 FLA. STAT. ANN. § 460.22 (1952).

105 PA. STAT. ANN. tit. 63, § 607 (1951).

106 ALASKA COMP. LAWS ANN. § 35-3-25 (Supp. 1958); DEL. CODE ANN. tit. 24, § 707 (1953); HAWAII REV. LAWS § 60-2 (1955).

107 CONN. GEN. STAT. § 2197d (Supp. 1955); GA. CODE ANN. § 84-507 (1955).

108 FLA. STAT. ANN. § 460.07 (Supp. 1958).

109 ARK. STAT. ANN. § 72-403 (1957).

110 FLA. STAT. ANN. § 460.07 (Supp. 1958).

111 ARK. STAT. ANN. § 72-403 (1957).

112 IOWA CODE ANN. § 151.4 (1949).

113 ALASKA COMP. LAWS ANN. § 35-3-25 (Supp. 1958); HAWAII REV. LAWS § 60-2 (1955).

114 MO. REV. STAT. ANN. § 331.030(3) ("not less than three years of nine months each, requiring actual attendance of not less than 2045 hours which shall be construed as the maximum requirements).

115 HAWAII REV. LAWS § 60-2 (1955).

116 CAL. BUS. & PROF. CODE § 1000-5 (not less than 4000 hours); COLO. REV. STAT. ANN. § 23-1-7 (Supp. 1957) (not less than 4000 hours, an increase of 400 hours from the previous requirements).

117 E.g., HAWAII REV. LAWS § 60-2 (1955) (enumerates certain courses that the student must have passed).

118 CAL. BUS. & PROF. CODE § 1000-5. See also OKLA. STAT. ANN. tit. 59, § 164b (1949).

119 HAWAII REV. LAWS § 60-2 (1955).

120 COLO. REV. STAT. ANN. § 23-1-8 (1953); Pennsylvania has a somewhat similar provision which requires attendance at an annual two day conference sponsored by the state chiropractic association. This is also a pre-requisite to annual license renewal. PA. STAT. ANN. tit. 63, § 615 (1956).

practitioner is required to attend, for a minimum of three days each year, such educational forums and clinics as are approved by the examining board as a prerequisite to the annual renewal of his license. The examiners are annually required to prescribe minimum post-graduate standards for the following year which must be met by the forums and clinics. These requirements must be complied with before post-graduate attendance credits are granted.

#### F. *Examinations*

The board-conducted examinations in many jurisdictions require a written examination in the following subjects: anatomy, physiology, symptomatology, histology, vertebral palpation, principles of chiropractic, chemistry, hygiene, pathology, dietetics and diagnosis.<sup>121</sup> Several jurisdictions provide that the examination shall consist of two parts, the first written and the second a practical one in the actual demonstration of the chiropractic technique.<sup>122</sup> Still others provide for a two-part examination, but restrict the first to enumerated "basic sciences" and the second to sciences which are usually taught in reputable chiropractic schools. Included in the latter classification are chiropractic orthopedy, principles of chiropractic and adjusting, nerve tracing, and chiropractic analysis and drugless therapy.<sup>123</sup>

On passing the examinations, the applicant is issued a license which entitles him to practice within the state in the manner prescribed. Many statutes contain reciprocity provisions which allow practitioners from foreign jurisdictions having equivalent requirements to practice within the state. This reciprocity may be extended without the necessity of an examination,<sup>124</sup> or may require a certificate from the board of examiners in the basic sciences.<sup>125</sup>

#### G. *Revocation, Suspension, or Refusal to Issue Licenses*

Provision is generally made for the suspension, revocation, or refusal to issue a license.<sup>126</sup> Among the more common grounds are: the employment of fraud or deception in securing a license; practicing chiropractic under a false or assumed name; impersonating another practitioner; failing to record a license after notice to do so from the licensing board; being convicted of a crime involving moral turpitude; habitual intemperance in using narcotics or stimulants to the extent of incapacitation in the performance of professional duties; using untruthful or unethical advertising; and performing, or aiding in the performance of, a criminal abortion.

Among the grounds which are not as common are the soliciting of patients through an agent or the permitting of "travelling clinics" in the practitioner's office,<sup>127</sup> violation of the code of ethics adopted by the state board,<sup>128</sup> mental aberration,<sup>129</sup> the use or possession of any instrument for treatment which has been declared unlawful by the United States or the state,<sup>130</sup> the wilful betrayal of a professional secret,<sup>131</sup> and the continuation of practice while knowingly having an infectious or contagious disease.<sup>132</sup>

121 These subjects are as listed in the Connecticut statute and are the subjects included in most examinations. CONN. GEN. STAT. § 4381 (1949). The listing is not intended to be exhaustive, since there is wide variation in the statutes.

122 *E.g.*, ARK. STAT. ANN. § 72-404 (1957); OKLA. STAT. ANN. tit. 59, § 164 (1949).

123 This listing is contained in DEL. CODE ANN. tit. 24, § 708 (1953), and is similarly not intended as exhaustive.

124 *E.g.*, ARIZ. REV. STAT. ANN. § 32-922(C) (1956).

125 *E.g.*, Lindquist v. State, 213 Ark. 903, 213 S.W.2d 895 (1948).

126 *See, e.g.*, ARIZ. REV. STAT. ANN. § 32-924 (1956); CAL. BUS. & PROF. CODE § 1000-10a.

127 FLA. STAT. ANN. § 460.13(d), (i) (Supp. 1958).

128 MICH. STAT. ANN. § 14.597 (1956).

129 N.D. REV. CODE § 43-0615(3) (1943).

130 OKLA. STAT. ANN. tit. 59, § 164d(h) (Supp. 1958).

131 ORE. REV. STAT. § 684.100(k) (1957).

132 WIS. STAT. ANN. § 147.24(6) (1957).

It is usually declared that the non-compliance with or violation of any of the provisions is a misdemeanor punishable by fine and/or imprisonment. However, before a license can be revoked, the licensee must be afforded proper notice and hearing.<sup>133</sup>

#### H. *General Medical Practice Provisions as Applied to Chiropractic*

As was pointed out above,<sup>134</sup> some of the statutes do not deal separately with chiropractic but refer to it only incidentally, or under the provisions dealing with drugless healers. Here it is generally provided the examinations shall not include materia medica, major surgery, therapeutics or methods of treatment except that of the school to which the practitioner belongs. The certificate granted authorizes the applicant to treat disease in accordance with the teachings and methods of that school.<sup>135</sup> The usual provisions concerning the qualifications of applicants and revocation of licenses are present.

#### I. *States Having No Statutory Provisions for Licensing Chiropractors*

The practice of medicine, as defined in the New York statute,<sup>136</sup> is broad in its terms and is intended to encompass all the branches of the healing arts, including chiropractic. "It is immaterial what method is used to effect a cure, or to relieve a person of pain."<sup>137</sup> Consequently, a person who holds himself out as treating disease by chiropractic methods, and has no license to practice medicine, is guilty of a misdemeanor.<sup>138</sup> The practice of chiropractic of itself is not illegal within the state.<sup>139</sup> What is required is a license to practice medicine, which in turn requires the applicant to possess a degree of Doctor of Medicine.<sup>140</sup>

The situation in New York, therefore, is unique since one of the NCA approved chiropractic schools, the Chiropractic Institute of New York, is located within the state. It has been held that the legislature has not outlawed the teaching of chiropractic within the state, so long as the impression is not conveyed that a school of medicine is being conducted.<sup>141</sup> It is presumed that the Institute is preparing chiropractic practitioners for one of the states in which chiropractic has been afforded separate legal status and licensure.<sup>142</sup>

In Massachusetts it has been also held that the practice of chiropractic is the practice of medicine,<sup>143</sup> and that the practitioner must be licensed to practice medicine if the services which he renders, or holds himself out as rendering, "fall into any part of the entire field of the science of medicine or surgery."<sup>144</sup> Hence, chiropractors are not

133 *Aylward v. State Board of Chiropractic Examiners*, 31 Cal.2d 833, 192 P.2d 929 (1948); Mo. REV. STAT. ANN. § 331.060 (1949); OKLA. STAT. ANN. § 164d (Supp. 1958).

134 See note 52 *supra* and accompanying text. See also notes 110-13 *supra* and accompanying text.

135 ALA. CODE tit. 46, § 259 (1941); ILL. ANN. STAT. ch. 91, § 12 (Smith-Hurd 1956).

136 "The practice of medicine is defined as follows: A person practices medicine within the meaning of this article, except as hereinafter stated, who holds himself out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical condition, and who shall either offer or undertake, by any means or method, to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical condition." N.Y. EDUC. LAW § 6501(4).

137 *People v. Johnerson*, 49 N.Y.S.2d 190, 196-97 (Sup. Ct.), *appeal dismissed*, 51 N.Y.S.2d 221 (App. Div. 1944).

138 *Brown v. Shyne*, 242 N.Y. 176, 151 N.E. 197 (1926); *People v. Ellis*, 162 App. Div. 288, 147 N.Y. Supp. 681 (1914).

139 *People v. Sabourin*, 166 Misc. 23, 2 N.Y.S.2d 728, 730 (Queen's County Ct. 1938).

140 *People v. Somme*, 120 App. Div. 20, 104 N.Y.S. 946, 950 (1907), *aff'd*, 190 N.Y. 541, 83 N.E. 1128 (1907); *People v. Johnerson*, 49 N.Y.S.2d 190 (Sup. Ct.), *appeal dismissed*, 51 N.Y.S.2d 221 (App. Div. 1944).

141 *People v. Kightlinger*, 276 App. Div. 230, 93 N.Y.S.2d 636 (1949), *aff'd*, 301 N.Y. 639, 93 N.E.2d 920 (1950).

142 *People v. Kightlinger*, 276 App. Div. 230, 93 N.Y.S. 2d 636(1949) (dissenting opinion), *aff'd*, 301 N.Y. 639, 93 N.E.2d 920 (1950).

143 *Commonwealth v. Zimmerman*, 221 Mass. 184, 108 N.E. 893 (1915).

144 *Whipple v. Grandchamp*, 261 Mass. 40, 158 N.E. 270, 272 (1927).

registered as such in Massachusetts. Anyone wishing to practice that branch of the healing arts must be a registered physician.<sup>145</sup>

In Louisiana, a chiropractor is required to qualify in materia medica and surgery. Such a requirement has been held not to deprive him of any constitutional rights of liberty or property.<sup>146</sup> The practice of chiropractic is among the activities which cannot be engaged in without a medical license.<sup>147</sup>

The status of chiropractors in Mississippi is also unique. There is no specific statutory provision concerning chiropractic licensure. Despite this, chiropractors are evidently licensed either by the state<sup>148</sup> or by local municipal law.<sup>149</sup> The solution may be found in the narrow construction of the statutory definition of the practice of medicine<sup>150</sup> to totally exclude manipulation as a curative measure.<sup>151</sup>

#### IV. CHIROPRACTIC: A LEGAL SOLUTION.

The principle objection to present statutory provisions concerning chiropractic is their obvious lack of uniformity. Only two points are uniformly agreed upon. First, chiropractic deals with the manipulation of the human spinal column as a method of treatment for human ailments, and second, it does not include the dispensing of drugs or the performance of surgery. Aside from this there is wide-spread confusion.

It is undisputed today that those most qualified to treat the sick are doctors of medicine. It is also undisputed that chiropractors deal with the same subject matter, but by a distinct method and in a limited manner. Chiropractors themselves admit that they are a limited branch of the healing arts. In light of this, it is submitted that no public purpose is served by chiropractic being a completely separated group from the medical profession itself. With 25,000 practitioners in its ranks, it appears that chiropractic is here to stay. The current difficulty, even among chiropractors themselves, is the supervision and control of its members. Pre-requisite to the solution of this problem, however, is the attainment of uniformity among chiropractic schools by defining precisely the aims and methods of attainment of their profession. Of all such schools, only eight are accredited by the National Chiropractic Association. Supervision and control of all chiropractic schools and practitioners under a single, recognized authority seems both essential and reasonable. The present pattern of sporadic furtherance of chiropractic interests in varying degrees in the several states does not provide a solution. It only adds to existing confusion.

Under current conditions, some uniformity in supervision and control can be gained by utilizing the existing medical licensing boards, both in approving chiropractic schools and controlling the practitioners. This would require adequate representation of competent chiropractors on these boards, and statutory machinery which would insure adherence to its promulgated standards. If chiropractic seeks professional status, it should agree to be bound by professional standards of school accreditation, ethics and methodology.

The presence of medical doctors on the faculty would partially answer the objection that chiropractic schools offer inferior education. The practitioners themselves should be under the supervision of the medical profession and chiropractic associations in

<sup>145</sup> Letter from the Massachusetts Board of Registration in Medicine to the AMA-Bureau of Legal Medicine and Legislation, April 4, 1935, as cited at AMA, Scope of Chiropractic Practice in the U.S. 9, May 1, 1957.

<sup>146</sup> Louisiana State Board of Medical Examiners v. Lensgraf, 101 So. 2d 734 (La. 1958).

<sup>147</sup> See authorities cited in Louisiana State Board of Medical Examiners v. Stephenson, 93 So.2d 330 (La. Cir. Ct. App. 1957).

<sup>148</sup> See Joyner v. State, 181 Miss. 245, 179 So. 573 (1938) (discussion of the factual situation refers to the appellant as being licensed by the state).

<sup>149</sup> See Harris v. State, 92 So.2d 217 (Miss. 1957) (licensed by the city of Vicksburg).

<sup>150</sup> MISS. CODE ANN. § 8888 (1957).

<sup>151</sup> See Hayden v. State, 81 Miss. 291, 33 So. 653 (1903) and later codification, MISS. CODE ANN. § 8891 (1957).

order to prevent errors in diagnosis which may arise because of their limited educational requirements. It has been pointed out that the National Chiropractic Association admits that chiropractic is not competent to cope with every type of disease or ailment.

Chiropractic treatment of itself is not dangerous. It is only when the practitioner errs in his diagnosis or deliberately treats a condition he is not capable of treating that public harm inevitably results. The former could be obviated by a uniformly systematized methodology of chiropractic diagnosis and treatment and the latter by the voluntary imposition of a professional code of ethics by the chiropractors themselves.

It can be readily seen that such a program would require the now totally lacking cooperation of the medical profession. It would be in the interest of this under-staffed profession to accede to this division of labor, but such an accession can only be made when the chiropractors can demonstrate the consistent standards, ability and policing of themselves that speaks of a willingness to accept professional responsibility.

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