MEDICAL GENOCIDE

PART TWO

Secret documents of the American Medical Association reveal the inner workings of one of the richest and most powerful lobbying groups in the country.

THE WAR ON CHIROPRACTIC

BY GARY NULL

For generations now, as everyone knows, organized medicine has been at odds with chiropractic. The American Medical Association—the largest and most powerful organization of doctors anywhere in the world—has denounced the profession of chiropractic as quackery and cultism, and in 1965, took the position that it was a violation of medical ethics for medical physicians to have any professional association with chiropractors whatsoever.

Chiropractors maintain that by manually manipulating the spinal column, they can relieve pressure on a nerve, thus allowing the resumption of a normal flow of energy to an affected organ.

The AMA's prohibition carried with it strong sanctions against any doctor who violated it, including

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loss of hospital privileges. By AMA decree, no matter what value a doctor may personally have believed chiropractic could have for particular patients, doctors who referred patients to chiropractors were risking their medical practices. In 1976, after years of efforts by chiropractors' professional associations to achieve a satisfactory relationship with organized medicine without resort to the courts, Dr. Chester A. Wilk of Chicago and four other chiropractors brought suit against the American Medical Association, ten other medical organizations, and four individuals.

The five plaintiffs charged that the AMA and the other defendants had violated the Sherman Antitrust Act, personally damaging each of the five, not to mention all other chiropractors and the public. They accused the AMA of attempting—and here I quote from an AMA Board of Trustees document presented at the trial—"to first contain, and then eliminate the profession of chiropractic in the United States." The chiropractors asked the court to rule that the AMA's institution and implementation of this policy hindered chiropractors' efforts to compete in the marketplace and to earn a livelihood, and constituted an illegal conspiracy to establish a monopoly and unreasonably restrain trade. By presenting secret internal AMA documents, the trial exposed to public view aspects of the inner workings of one of the most powerful lobbying groups in America.

The chiropractors' evidence, which included testimony by medical school professors and other highly respected physicians, strongly supported their accusations. The evidence suggested that the AMA had, for over 20 years, systematically attempted to undermine, isolate, and eliminate chiropractic. The trial revealed that the AMA had carried out a lengthy campaign, sometimes public and sometimes covert, to persuade the medical community, the press, and the lay public that chiropractic had no scientific or clinical validity.

The AMA succeeded in preventing chiropractors from gaining the same hospital privileges other doctors enjoy. This has given many people the impression that chiropractors operate somehow illicitly or sub rosa. In fact, chiropractic is a state-licensed health-care profession, chiropractic colleges are government-accredited, and chiropractic patients are reimbursed by Medicare, Medicaid, and workmen's compensation insurance. As you will see, this would not be the case if the AMA had had its way.

The chiropractors' charges were quite specific. If the courts eventually rule that they are valid, the American Medical Association may stand publicly condemned—not only of violating specific antitrust statutes, but, in order to eliminate a source of economic competition, of manipulating the delivery of our health-care system in such a way as to deny patients the ability to freely choose their medical treatment.

Before I get into what occurred at the trial, let's briefly examine some recent developments: On Friday, March 1, of this year, the Illinois State Medical Society—the third largest state component of the AMA—agreed with the five plaintiffs on a settlement permitting Illinois physicians to work with chiropractors. The previous Monday, the society had been dismissed by the court as a defendant in the suit, subject to the terms of the new settlement.

The settlement reads, in part: "The Illinois State Medical Society declares that, except as provided by law, there are and should be no ethical or collective impediments to full professional association and cooperation between doctors of chiropractic and medical physicians."

The document goes on to describe, very specifically, what the term "professional association and cooperation" means. It "includes, but is not limited to, referrals, consultations, group practice and partnerships, health maintenance organizations, preferred provider organizations, and other alternative health care delivery systems; the provision of treatment privileges and diagnostic services in or through hospital facilities . . . participation in student exchange programs between chiropractic and medical colleges; cooperation in research programs . . . participation in health care seminars, health fairs, for continuing education programs; and any other association or cooperation designed to foster better health care for patients of medical physicians, doctors of chiropractic, or both."

As George P. McAndrews of Chicago, the primary attorney for the plaintiffs, put it, this decision means that "finally, at least in Illinois, the country's largest and second-largest health-care provider groups have decided to shake hands and work in harmony. That's not to say there won't be any rocky times during the period of rapprochement. But at least the professional organizations will now allow each physician to decide for him or herself what's in the interest of their patients."

The Illinois State Medical Society must be congratulated for its foresight and common sense in reaching this agreement. It's hard to believe that anyone would disagree with its new policy, which so self-evidently is in the best interest of all patients. But in fact, as of this date, the AMA is still defending its actions. And the Illinois State Medical Society decision was reached only after years of fierce legal and political battles.

Before outlining the background evidence for the case, I will briefly review its court history and current status.

After four years of taking depositions, the case was first tried in December 1980 and January 1981, in Chicago. A key issue in the case was the substance of the judge's instructions to the jury. One of the most important charges made by the chiropractors was that the AMA had deceived Congress and the public by secretly and illegally prejudicing a congressionally mandated "objective study" on Medicare reimbursement for chiropractic. The AMA argued in court that, like any other group of citizens, it had a right to petition Congress, and that any such actions on its part would not fall under the purview of the Sherman Antitrust Act.

The judge hearing the case, U.S. District Court Judge Nicolas J. Bua, sided with the interpretation urged by the defense, and instructed the jury that, even if it believed the AMA wanted to prevent chiropractic inclusion in Medicare, it must ignore all evidence presented by the plaintiffs that the AMA had acted *illegally* in its attempts to bias the study.

Following Judge Bua's instructions, on January 30, 1980, the jury found the defendants not guilty of violating the Sherman Antitrust Act. (The case did not deal with violations of any other laws.) Maintaining their objections to Judge Bua's interpretation, the five plaintiffs appealed to the U.S. Court of Appeals for the Seventh Circuit.

On September 19, 1983, this court ruled that the instructions given to the jury had been inadequate, and sent the case back to the lower courts for retrial. In doing so, it commented that the evidence presented at the trial, if believed by the jury, was sufficient to support a finding that there had been a conspiracy among all of the defendants in violation of antitrust law. So the purpose of a new trial would be merely to evaluate the credibility of the five chiropractors' evidence.

When the case returned to district court, the parties were informed that it might take a year or two before the case would come to trial again. The trial judge suggested the contestants use that time to explore out-of-court settlements.

Since then, the chiropractors have been negotiating with all the defendants in good faith. Prior to this year's Illinois State Medical Society agreement, they had already reached settlements with two smaller professional associations—the American Osteopathic Association and the physician members of the American Academy of Physical Medicine and Rehabilitation, whose practitioners are known as physiatrists (fizzy-AT-rists).

Still holding out are the American Medical Association, the American Academy of Orthopedic Surgeons, the American Hospital Association, the Joint Commission on Accreditation of Hospitals, the American College of Radiologists, the American College of Surgeons, and the American College of Physicians. Until these powerful organizations yield, chiropractors are unlikely to gain the right to treat their acutely ill patients in hospitals.

But the fact that the Illinois State Medical Society is no longer willing to defend the AMA's policy concerning chiropractic may help turn the tide in favor of the plaintiffs—and in favor of the patients who anxiously await a decision that will allow their medical doctors to begin cooperating with chiropractors.

I am sharing the highlights of this case because I think it is important for everyone to be informed about how our health-care delivery system works, and how a powerful, private professional organization sought, for the purpose of enhancing its economic status at the expense of a competing profession and of the public, to manipulate delivery of a service the public relies on to sustain its very health.

I have no doubt that many doctors of honesty and integrity, who until now have been unimpressed by what they know of chiropractic, will be as offended by some of this evidence as long-term supporters of chiropractic are. No citizen enjoys the spectacle of leaders in a highly respected field blatantly manipulating elected officials, and no conscientious health professional wants to be denied access to valid scientific studies presenting information that might benefit his or her patients.

OBTAINING THE EVIDENCE

In 1963, the AMA announced the formation of its Committee on Quackery. It quickly became apparent that chiropractors were the committee's main target, as a series of closed meetings it sponsored around the country issued a flood of press releases condemning chiropractic.

There was little the chiropractors could do about this, other than try to defend the integrity of their profession to the public. After all, the AMA had a constitutional right to express its opinion, right or wrong—subject, of course, to libel and slander laws.

Then, in 1972, a book called *In The Public Interest* was published, bearing the byline of William Trevor. The book contained what purported to be internal AMA memoranda. One of the memoranda talked about a program to "contain and eliminate chiropractic." The authenticity of the document was not confirmed by the AMA.

Two years later, in 1974, an anonymous source humorously nicknaming him or herself "Sore Throat"—possibly the same person who compiled the documents included in the book—supplied packages of AMA documents on many subjects to the U.S. Senate, the House of Representatives, and the U.S. Postal Service. Copies were also sent to *The New York Times*, the *Washington Post*, and others. The documents included purported internal AMA memoranda on the AMA's attitude toward chiropractors.

One of the documents in particular led chiropractors to begin discussing among themselves the possibility of bringing antitrust litigation against the AMA. That was the alleged AMA Board of Trustees document I quoted earlier. It states explicitly that the primary purpose of the Committee on Quackery was to first contain and then eliminate the profession of chiropractic in the United States.

Nor were chiropractors the only ones questioning whether the AMA's activities were legal. As a result of the release of the documents, a congressman asked the Federal Trade Commission (FTC) to determine whether the AMA was in contravention of the Sherman Antitrust Act, and if it was, why the FTC had not taken action against the AMA. Eventually, the issue was again quietly dropped.

Encouraged, on the whole, by these developments, a group of chiropractors and their supporters—despite the enormous risk of tackling a powerful, wealthy institution like the AMA, which can use its vast resources to influence public opinion and pay for lengthy, expensive litigation—decided to pursue the matter. They formed the National Chiropractic Antitrust Committee. Its purpose was to raise funds for any chiropractors who might want to challenge, in court, the AMA and the other medical organizations campaigning against chiropractic.

> Evidence strongly suggests that the AMA had, for over 20 years, systematically attempted to undermine, isolate, and eliminate chiropractic.

Any chiropractors who joined such a suit would have to have been substantially injured in specific, well-defined, overt acts by the AMA or any other defendant. Moreover, anyone participating in the lawsuit would have to be willing to inconvenience their patients and ask each one for permission to allow the AMA and other defendants to pore through his or her confidential records. The chiropractors would have to turn over to the defendants all of their financial data, their income tax returns, etc. In addition, they would have to be willing to sacrifice many months in helping to trace the defendants' activities, examining documents, and submitting to prolonged deposition proceedings—legal interrogations by defense lawyers in the presence of a court reporter. They would have to travel across the country for court dates, and—perhaps least inconvenient—spend whatever time was necessary in the courtroom. Needless to say, such activities would force them to leave their practices for long periods of time, costing them substantial income and, possibly, patients—with no guarantee that their sacrifices would win the case.

Despite these difficulties, by 1976, five chiropractors who met the requirements and were fed up with their treatment at the hands of the AMA and those under its influence had asked to initiate ligitation. The five were Dr. Chester A. Wilk of Chicago; Dr. Patricia Arthur, at that time of Estes Park, Colorado; Dr. Steven Lumsden, then practicing in Newbury, Michigan; Dr. Michael Pedigo of San Leandro, California; and Dr. James Bryden of Sedalia, Missouri.

THE CHIROPRACTORS' COMPLAINT

On October 12, 1976, the five chiropractors filed a 38-page complaint in the United States District Court for the Northern District of Illinois, located in Chicago, where most of the country's national medical organizations are headquartered.

Their charges, very briefly, included the following:

- That the AMA had attempted to contain and eliminate chiropractic.
- That it had cooperated and worked with the other defendants for the common goal of boycotting chiropractors—to totally isolate them from other members of the health-care community.
- That the AMA attempted to prejudice government studies on chiropractic.
- That, operating through private organizations, it barred chiropractors from access to public facilities such as hospitals and universities.
- That it urged and abetted insurance companies to deny chiropractic patients coverage.

The legal process of discovery—the issuance of subpoenas, the tracing of the claimed conspiracy, the examination of hundreds of thousands of documents—took the next five years and involved travel to 34 states and the taking of some 160 sworn depositions. Finally, on December 8, 1980, the trial began.

THE AMA CALLS CHIROPRACTIC A "CULT"

The evidence presented at the trial indicated that by 1963, when the AMA started its Committee on Quackery, it was well aware that chiropractic had become the second-largest health-care delivery system in the United States. The "mixed chiropractors" had broadened their appeal by including nutritional counseling and other modalities of treatment among the therapies they offered.

The AMA was alarmed at the chiropractors' growing ability to compete for the loyalty of patients. It did a study to

find out how best to "contain and eliminate" the growth of chiropractic in America, and concluded that the most important strategy was to isolate chiropractors from other health-care providers and from public facilities such as hospitals. This would not be easy: Many medical physicians and chiropractors, particularly in rural America, freely referred and consulted back and forth.

The AMA began by instructing its state societies to remind their members that its Principles of Medical Ethics required a practice of medicine based on science, and that it was unethical to deal with any unscientific practitioner or with a "member of a cult."

This action was not effective because, at that time, the only practitioners the Principles of Medical Ethics had been interpreted to ban were osteopaths, optometrists, and podiatrists. Osteopaths are trained to put much more emphasis on the musculoskeletal system than medical physicians are. Optometrists compete with M.D. eye specialists called opthalmologists. Optometrists can hardly be called "unscientific," since optometry is based on the laws of optical physics, but that didn't stop the AMA from banning professional cooperation. And podiatrists compete with orthopedic surgeons for patients with foot problems.

The new economic threat, chiropractic, was not mentioned by name in subsequent interpretations of the Principles of Medical Ethics. So, in 1966, the AMA drafted a policy statement on the subject. Its wording was designed to apply a passage of the Principles of Medical Ethics directly to chiropractors. The statement's opening sentence reads: "It is the position of the medical profession that chiropractic is an 'unscientific cult' whose practitioners lack the necessary training and background to diagnose and treat human disease." Parenthetically, it is interesting to note that the AMA felt called upon to define medical ethics not just for its own members, but, as the statement says, for the medical profession as a whole. The crucial words in the policy statement, "unscientific" and "cult," made it unethical for a medical physician to voluntarily associate professionally in any capacity with a chiropractor.

This prohibition was far-reaching and total. It included teaching, lecturing, accepting referrals from, referring patients to, consulting with, sharing a practice with, jointly treating or cooperating with a chiropractor in the care of a patient, allowing hospital privileges to a chiropractor, and having virtually any kind of professional communication. M.D.s were to boycott chiropractors totally. The AMA hoped that, without collective sharing of knowledge and facilities with other health professions, chiropractic would—and here again, I quote from an internal document presented at the trial—"wither and die on the vine."

CONSEQUENCES FOR PATIENTS

The isolation of chiropractors from other health-care professionals has profoundly limited their education and the growth of their profession. The AMA has acknowledged that chiropractic was stunted by its actions—as it intended. A chiropractor was literally not allowed to communicate with a medical physician. But such communication between medical professionals is necessary, on a day-to-day basis and as a matter of course, for the sake of patients' welfare. For example, if a family practitioner sends a patient to a gastroenterologist or a cardiologist, he or she expects a report back on the disposition of that patient's care—or at least to be aware of the patient's continuing medical history. Imagine a family practitioner not receiving any report from a patient's cardiologist on the details of, say, a heart operation! Subsequent treatment of the patient could amount to dangerous groping in the dark.

Yet chiropractors, who are sometimes their patients' primary health-care providers, were denied this routine courtesy.

> Although many people have the impression that chiropractors operate illicitly, the fact is that chiropractic is a state-licensed health-care profession.

If a patient goes to a chiropractor and says, "I had some back surgery 20 years ago," the chiropractor would like to be able to pick up the phone and call the surgeon and ask him to describe the back operation. "What vertebra was involved, if any? Was a cyst removed, or a disc? I intend to manipulate a certain vertebra in his back; what are your recommendations? Do you think the surgery would interfere with that procedure?"

That's a dialogue that should be carried on for the benefit of the patient. But the chiropractor was denied the right to communicate with the medical physician. Or rather, I should say, the patient was denied the benefit of that communication.

THE AMA'S MASTER PLAN

Perhaps the most telling document made public at the trial was written even before the AMA had instituted its Committee on Quackery. Dated November 11, 1962, it was drafted by Robert Throckmorton, an attorney who was at that time general counsel for the Iowa Medical Society, and delivered as a paper to a group of medical executives.

Throckmorton's proposal is an amazing document. It laid down a master plan for, quote, "what medicine should do about the chiropractic menace." Before reviewing excerpts from the document, I will tell you that Throckmorton's suggested machinations were, unfortunately, not dismissed by the AMA national officers at the time—as perhaps they are beginning now to regret. Not only did the Iowa Medical Society *adopt* the plan, but the AMA offered Throckmorton a job as its general counsel. All the rest of the evidence presented by the plaintiffs at the trial seemed to indicate that the AMA did, indeed, put into practice most of Throckmorton's proposals.

The plan was in the form of an outline. Here are some of its points:

"F. Encourage chiropractic disunity.

"G. Undertake a positive program of containment . . . if this program is successfully pursued, it is entirely likely that chiropractic as a profession will 'wither on the vine' and the chiropractic menace will die a natural but somewhat undramatic death. This policy of 'containment' might well be pursued along the following lines: . . . 4. Encourage ethical complaints against chiropractors. 5. Oppose chiropractic inroads in health insurance. 6. Oppose chiropractic inroads in workmen's compensation. 7. Oppose chiropractic inroads into labor unions. 8. Oppose chiropractic inroads into hospitals. 9. Contain chiropractic schools. . . . Any successful policy of 'containment' of chiropractic must necessarily be directed at the schools. To the extent that these financial problems continue or multiply and to the extent that the schools are unsuccessful in their recruiting programs the chiropractic menace of the future will be reduced and possibly eliminated."

Under the section listing conclusions:

"C. The mixers may achieve their goal of emerging as 'medical men' if organized medicine remains apathetic to this problem.

"D. Any action undertaken by the medical profession should be directed toward: . . . 2. Containment of the chiropractic profession. 3. The stifling of chiropractic schools.

"E. Action taken by the medical profession should be. . . . 1. Behind the scenes whenever possible. . . . 3. Never give professional recognition to chiropractors.

"F. A successful program of containment will result in the decline of chiropractic."

That's all from trial Exhibit 172. The evidence shows that the AMA pursued goals in line with these proposals. The AMA worked with the National Association of Blue Shield Plans regarding coverage of

chiropractic care, even in those states that had passed so-called "insurance equality" laws. The AMA worked with the Health Insurance Association of America—a trade association of some 400 private insurance companies—to adopt policy statements that encouraged member insurance companies to cover only those health-care practitioners whose methods were based on "scientifically established methods."

One aspect of the case raised the questions of whether the AMA had had a hand in a supposedly objective study of Medicare, done for Congress by the Department of Health, Education and Welfare (HEW), which delayed Medicare coverage for chiropractic patients by five years; and whether the AMA had virtually written the supposedly independently-arrived-at position statement of the private Health Insurance Association of America. The AMA showed Blue Shield how to word its policies so state legislatures and consumers wouldn't realize that chiropractic coverage was being omitted from their policies.

Perhaps the most influential of the AMA's political intrigues was the alleged end run it pulled around Congress in 1968 by covertly controlling, from start to finish, the supposedly objective HEW study on the subject of Medicare coverage.

In 1965, when the nation's basic Medicare laws were passed, they included coverage for services of M.D.s, osteopaths, and some other health practitioners. Chiropractors were excluded, although chiropractors and their patients were avidly seeking inclusion.

In 1967, Congress asked HEW for an unbiased study of the need for including chiropractic services in Medicare. In retrospect, what happened should have been anticipated. After all, a hundred or so M.D.s worked for HEW in the Public Health Service. One or more of them might have been expected to leak to the AMA that Congress wanted a study that would not reflect the AMA's known bias against chiropractic.

The AMA, its internal documents reveal, was very alarmed about this study. They believed it had the potential to set the pattern for all health-care insurance coverage for chiropractors for the next 20 years, and they were determined that it oppose coverage. The AMA had its own agenda for the study—to turn it into a blanket denunciation of chiropractic as lacking scientific validity. The AMA's Committee on Quackery went so far as to prepare an outline of the course the study panel should follow.

HEW had assigned the job of assembling a panel to conduct the study to a special advisory committee, the Health Insurance Benefits Advisory Council (HIBAC). The evidence indicates that the AMA immediately went to work on the members of HIBAC.

In correspondence between Doyl Taylor, the secretary to the Committee on Quackery of the AMA (who also worked in the office of general counsel of the AMA as head of the AMA's department of investigation), and Dr. Samuel Sherman, the AMA representative on the committee, Taylor wrote: "I am sure you agree that the AMA hand must not 'show' at this stage of the proposed chiropractic study." Five months before the study even commenced, on March 11, 1968, Dr. Sherman answered Doyl Taylor with a letter following a HIBAC meeting:

"Dear Doyl: . . . There was complete acceptance of the concept of preparing the decision on the basis of lack of scientific merit." At least one future member of the panel staff was present at that HIBAC meeting and was given the AMA materials that Dr. Sherman reported HIBAC had already committed itself to using.

When the panel was finally chosen, in August 1968, it consisted largely of men sympathetic to the AMA's position on chiropractic. For example, the chairman of the panel was Dr. Donald Duncan from the University of Texas Medical School at Galveston, who, at the very first organizational meeting of the panel—according to the testimony of Dr. John Mennell, a member who eventually voted in favor of covering chiropractic—made a speech indicating that he was opposed to chiropractic inclusion in Medicare.

> Documents show that the AMA hoped that its campaign against chiropractic would cause the profession to "wither and die on the vine."

Another panel member, Dr. James J. Feffer, was a former president of the American Society of Internal Medicine. He testified at the trial that he had a preexisting bias against chiropractic going all the way back to his medical school days, and that no one had asked him if he had any preconceptions that might interfere with his service on the panel.

Dr. Feffer was asked by the AMA to keep it advised of the progress of the committee's work. A letter to Dr. Feffer from an AMA representative requesting the documents reads in part:

"Dear Jim: . . . As indicated in our conversation, it would be helpful if we can be kept informed as to the progress of your committee work. Any reports or proceedings received will be quickly reproduced or transcribed and returned to you. . . ." And a blind copy was sent to Doyl Taylor of the AMA Committee on Quackery.

The AMA took no chances: They made arrangements to contact not only those members they believed to be soft, but even those who were already on their side—including the chairman, Dr. Duncan. Exhibit 228, dated August 23, 1968, is a letter from a friend of Dr. Duncan's, a Texas physician named Dr. William L. Marr, who had been requested by the Texas Medical Association to visit with Dr. Duncan and supply him with an AMA packet of materials relating to chiropractic. Dr. Marr wrote, "I called on Dr. Donald Duncan and talked with him concerning the chiropractic situation. He is most anxious to do everything he can and is completely sold on the idea that chiropractic benefits should not come under the Medicare program."

This letter, written seven days after the first organizational meeting of the panel on August 16, confirms Dr. Mennell's testimony that Dr. Duncan had made up his mind on the benefits issue before having reviewed the evidence.

There was other evidence of elaborate plans made by the AMA to contact, coach, and supply each of the panel members with its own materials denouncing chiropractic.

At least a few panel members resented the AMA's secret approaches. One of them, Dr. Mennell—one of the world's leading authorities on orthopedics and joint pain—took action against the AMA's pressure tactics. In a report to Public Health officials, he complained, "I was very disturbed in the past four weeks to receive two telephone calls indirectly from but quite clearly inspired by the American Medical Association, implicitly suggesting what the tenor of my paper should be. I can only assure the consultant group that my conclusions are arrived at through my independent research, thinking and experience, unaffected by extraneous pressure. . . . Certainly chiropractors should not be penalized simply because of the bitter bias of the American Medical Association, when there is substantial evidence that manipulative therapy brings relief to sufferers of mechanical pain which only manipulative therapy can relieve."

Dr. Mennell also mentioned these contacts at one of the sessions. Seated around the table with him were the chairman, who had been approached, and the other panel members, at least some of whom had also been approached. None of the other panelists mentioned attempted contacts from the AMA.

Despite all its efforts to bias the panel, when the formal vote of the expert review panel was taken, Dr. Mennell testified at

the trial, it was split four to four on the issue of chiropractic inclusion. He assumed that the vote would then be reported to HIBAC, and the panel would be left to iron out its differences. But, he testified, during the time between the formal vote and the presentation of the report to the parent group by Dr. Duncan, one of the panelists changed his mind, and Dr. Duncan was able to report, as he had hoped, that the panel had decided against including chiropractic in Medicare.

As if it weren't bad enough that the AMA had tried to control the panel from start to finish, HEW and the AMA carefully obliterated all traces of the AMA hand from Congress's view. All along, the evidence showed, M.D.s at HEW had been collaborating with the AMA in the cover-up. For example, the AMA asked to be represented at one of the panel's public sessions, just as the chiropractors were. An internal AMA memorandum recording a private phone call from HEW indicates that someone at HEW told the AMA not to testify: An AMA appearance would create problems for the report on Capitol Hill.

HEW's final document—an abstract discussion, just as the AMA had wanted, of the scientific validity of chiropractic theory—didn't sit well with either the chiropractors or Congress. On November 21 and 22, 1968, a group of representative chiropractors had been politely, if curtly, received by the committee, and had presented their experience of the clinical value of chiropractic for elderly patients. A month later, they were greeted with the first evidence that their testimony had been a fool's errand. Outraged, they submitted a point-by-point white paper to Congress rebutting the HEW report. Congress, under pressure from elderly constituents to get chiropractic covered, asked for a response from HEW.

This was just the contingency HEW had feared when it told the AMA it was better off not testifying. Over and over in its answer, HEW baldly asserted that in order to fulfill Congress's request for an objective study, it had prevented the AMA or other medical organizations from having any input or influence on the ultimate report. As evidence of its good intentions, HEW pointed to its refusal to let the AMA appear at a public session of the panel! Of course, HEW knew very well where the blueprint for the study had come from. HEW chose to confuse Congress—and the public—by mentioning the canceled public appearance to conceal the active cooperation between HEW and the AMA on the study.

Incidentally—foreshadowing practices of the Nixon administration—records of the HEW study were subsequently lost or destroyed.

The AMA had the temerity to argue in court that its Byzantine maneuvers to make Congress believe it hadn't been involved in framing the HEW report should be seen as an exercise of its constitutional right to *petition* Congress.

The impact of the HEW report to Congress, as the AMA predicted, was enormous. It made the AMA's actions to isolate chiropractic appear respectable, because a blue-ribbon panel of experts had supposedly reached an independent conclusion that chiropractic lacked a scientific foundation. Thereafter, the AMA could say, It's not the AMA, but the *government* that has reached these conclusions.

After five years of intense congressional lobbying by chiropractic organizations, Medicare coverage was established. Uncounted thousands of elderly people without the money to pay their own medical expenses were no doubt forced to do without chiropractic care, perhaps suffering needless pain as a result. And, of course, they were lost as patients to the chiropractors they might otherwise have chosen to consult.

> Evidence is mounting that for typical industrial injuries, chiropractic is nearly twice as effective as any treatment by medical physicians.

Buoyed by their success in preventing Congress from granting Medicare coverage to chiropractors, the AMA moved, in 1969, on private-sector insurance. As mentioned earlier, the Health Insurance Association of America (HIAA) is a trade association for 400 private insurance companies, and provides the kind of services for insurers that other trade associations do for their sponsoring industries—lobbying, public relations, etc. The companies that belong to HIAA are independent, but any policy it urges on its members to adopt is influential.

In 1969, the AMA's Doyl Taylor used the same kind of maneuver with the HIAA he had with the HIBAC panel. He wrote a letter to HIAA—it was presented at the trial as evidence—suggesting the exact wording for their position statement on chiropractic. It was very risky for the HIAA to adopt his statement, and they knew it: In the field of insurance, boycotts are subject to antitrust laws.

The HIAA published a very cautious statement, not naming chiropractic as such, but broadly opposing insurance for manipulative therapies. This was, word-for-word, the language Doyl Taylor had proposed. The AMA gleefully seized on the statement and published it in its newsletter, *American Medical News*, under a headline announcing that it was directed at chiropractors.

When the chiropractors objected to the HIAA's allowing the AMA to interpret its policy statement as an attack on chiropractic, the HIAA replied to the chiropractors with the same bland hypocrisy that characterized HEW's dealings with Congress. The HIAA coolly informed the chiropractic organizations that it had no control over the manner in which the AMA elected to use its statement. What it didn't mention was that the AMA's Doyl Taylor was the author of the statement, and the HIAA, like HEW, was allowing the AMA to pull its strings. The AMA's strategy—which by now was beginning to work—was obviously to orchestrate a veritable puppet chorus of seemingly independent public voices, all filling the air with ringing denunciations of chiropractic, thereby legitimizing the AMA's private attempts to eliminate it.

In 1967, the AMA Committee on Quackery had commenced work on the Blue Shield Association, the parent group for all the Blue Shield plans in the country. From a Committee on Quackery internal document, we read: "Staff will continue to maintain liaison with the National Association of Blue Shield Plans in regard to chiropractic attempts to gain coverage under Blue Shield. (Note: A productive meeting was held with representatives of Blue Shield on this point. They are actively considering various methods of excluding chiropractors from Blue Shield coverage.)"

Blue Shield, together with Blue Cross, is the most important insurer in the country. Its boards are dominated by medical physicians. Therefore, Blue Shield cooperated with the AMA to eliminate nationwide coverage. A Blue Shield review of 1969 says, "We have filed and may use in six states an exclusion deleting manipulative services and subluxations for the purpose of removing nerve interference. Basically, the exclusion extends to services of a chiropractor by definition." Similarly, a New York Blue Shield representative wrote to Blue Shield national headquarters on December 10, 1971: "I regret to report that . . . New York State did amend . . . the insurance law . . . to include 'chiropractic care provided through a duly licensed chiropractor' as part of the definition of medical expense indemnity. . . . U.M.S. [another Blue Shield–allied insurance company] anticipated this problem some years ago by adding an exclusion to its contract which repeated word for word the statutory definition of what chiropractors are licensed

to do."

Blue Shield policies, then, were very misleading. They did not carry a clear-cut statement, such as "Chiropractic is excluded." Instead, there was vague language, understandable only to a lawyer, quoting the statutory language defining chiropractic, without mentioning it by name. Patients who thought their insurance covered all their health-care expenses might go to a chiropractor and run up a bill of several hundred dollars before being informed by Blue Shield's computer that it wasn't covered.

This exclusion, for obvious reasons, was very damaging to chiropractors. No one who can get a service from two sources is going to go to the one that doesn't have insurance coverage. Bear in mind that upward of 90 percent of hospital charges are covered by third-party payers; most services performed by medical physicians are covered by insurance. In this day and age, only a small portion of the public can afford to patronize a provider group not covered by insurance.

Many chiropractic patients, as mentioned earlier, are elderly people living on Social Security. They may have terrible, agonizing, unrelenting back pain. If their insurance company tells them: If you go to the chiropractor, you've got to pay for everything out of your pocket; but if you go to the medical physician or the orthopedic surgeon, your care will be covered by insurance, the result is obvious. Economic necessity will force them to see the orthopedic surgeon and to forego the chiropractor.

So effective was this policy that in 1973, when Blue Shield did a survey of the various states to see which states covered chiropractic care, it reported: "Resistance to chiropractic payment may be indicated by the fact that fewer plans make payment than the laws require." This would appear to be an acknowledgment that even though state legislatures had ordered Blue Shield plans to pay for chiropractic care, the Blue Shield Association and local Blue Shield plans that were working with the AMA actually paid on fewer plans than the law required.

If found in violation of federal antitrust statutes for conspiring to deny chiropractors Blue Shield coverage in states where such coverage is mandated by law, the AMA may find itself in further legal trouble.

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CHIROPRACTIC'S SUPERIOR EFFICACY

The AMA has done its best to undercut workmen's compensation programs for chiropractic care, but it is fighting a losing battle on that front, because evidence is mounting that for typical industrial injuries—the strains, sprains, and wrenched backs typically caused by lifting something too heavy—chiropractic is nearly twice as effective as any treatment by medical physicians, measured by the number of days it takes for workers with comparable neck or back injuries to go back on the job.

During the Chicago trial, the chiropractors relied only on those studies that had been done by medical physicians in order to obviate any argument of bias. There was a famous study done of 1,000 cases in California by C. Richard Wolf, M.D., of the California workmen's compensation bureau. Dr. Wolf concluded that while it took 32 days for a medical physician to get the average injured worker back on the job, the chiropractor's average time was 15.6 days for comparable injuries, or slightly less than one-half.

There was also a study by the Oregon Workmen's Compensation Board. Dr. Rolland A. Martin, an M.D. and medical director of the board, found that chiropractors, on average, got twice as many injured workers back on the job within a week as medical doctors.

If you think about it, you'll see why the workmen's compensation boards have been relatively impervious to influence by the AMA. If, out of 1,000 workers, 500 of them take 30 days to get back on the job and 500 of them take 15, that adds up to a difference of over 20 years of lost time between the two groups, attributable to half of the patients having been unlucky enough to land in medical physicians' offices rather than chiropractors'.

Workmen's compensation boards are under pressure from employers to see that employees get back to work quickly, because the cost of 20 years of workmen's time when those workers are totally nonproductive is high. Moreover, society loses the workers' productivity when they are laid up. Then there is the expense to the insurance provider in paying either the medical physician or the chiropractor. So, ultimately, the taxpayers' money is wasted in paying for that extra 20 years of lost time in our sample group of 1,000 injured workers.

Editor's note: Next month we will continue our investigation into the campaign against chiropractic, which extended to colleges, universities, hospitals, and clinics.

Reprints of Gary Null's Penthouse *articles on America's health crisis are available to readers free of cost. Please send a stamped, self-addressed envelope to: Editorial Department,* Penthouse *Magazine, 1965 Broadway, New York, N.Y. 10023-5965.*