

## Part 6: California Practice Rights Lawsuit

### **B.J. Palmer Supported the 1922 Chiropractic Ballot Act**

“As I (B.J.) see it, Dr. Ratledge (Founder of what is now “Cleveland – L.A.”) is being regarded as a has-been, a once-runner, a cold-potato. Having failed (to obtain a California chiropractic licensing law) they are now looking to Cale (Founder of LACC) to see if he can pony up to the scratch, make a home-run. Whether he will, with his mixing of chiropractic, remains to be seen. But, he can't do any worse than Ratledge, **so let's take a fling and give him our support.**”

Quoted: Keating J, Phillips R., *A History of LACC*, p. 18

**“... nor shall this act be construed so as to discriminate against any particular school of chiropractic, or any other treatment;...”**

California Chiropractic Act (1922), section 16 (still there)

I, and my attorney colleague Edwin Grauke, J.D., D.C., represent five individual chiropractors (plaintiffs) in a “practice rights” lawsuit against the California Board of Chiropractic Examiners, the California Acupuncture Board and The Council on Chiropractic Education. The California Chiropractic (initiative) Act was enacted in 1922 due to the combined effort of three separate groups of practitioners who, **for once**, worked together. The three groups were the straights, the mixers and a small group of separately licensed naturopaths.

The five plaintiffs include one straight chiropractor (practitioner of chiropractic biophysics), two musculoskeletal practitioners and two mixers. One of the “mixers” is licensed in California but presently practices (“functional medicine”) in Thailand and the second is able to render a broader scope of practice through his California DC/MD practice. These plaintiffs seek an interpretation of the Chiropractic Act that is consistent with the **non-discrimination provision of section 16** of the Act and they seek to protect the rights of both straights and mixers. The plaintiffs strongly support the basic principles of chiropractic; **including** those principles that have been outlined in Parts 1 to 5 in this series of articles.

This lawsuit will be specifically outlined in the next issue; first, some historical background.

### **Early Chiropractors - California**

As pointed out in my last article, the CCE changed the nature of the straight/mixer debate in the 1950s. The CCE did this by threatening to revoke the accreditation of those schools that included the naturopathic materia medica as part of their curriculum and by opposing a comprehensive application of the chiropractic paradigm relating to the concepts of “self-organization” and “self-regulation” (innate intelligence). The CCE changed the debate from what it had been to straights v. musculoskeletal

practitioners. The early debate had included the musculoskeletal issue but the real issue went much deeper than that.

A brief commentary on the following persons will help in an understanding of the straight/mixer issue as it existed prior to 1922: Carl Schultz, M.D., L.L.B; Thomas H. Storey, D.C.; D.D. Palmer, D.C.; Charles Cale, N.D., D.C.; T.F. Ratledge, D.C.; and B.J. Palmer, D.C., Ph.C.

Carl Schultz emigrated from Germany to California in 1900 and immediately opened a natural medicine facility in Los Angeles. In 1901 Schultz, along with four other individuals most of whom later acquired chiropractic credentials, founded the Association of Naturopathic Physicians of California which was a predecessor to the Association of Naturopaths of California incorporated in 1904. On August 15, 1904 the Association of Naturopaths of California issued diplomas to a small group of persons, including Thomas H. Storey, the first Palmer graduate to practice in California.

In 1902, D.D. Palmer came to California to see, and perhaps work with, Thomas Storey. D.D. practiced in California through at least 1903. By 1909, the membership in the Association of Naturopaths of California had increased to 61 and these 61 naturopaths were each licensed to practice under a 1909 amendment to the Medical Practice Act of 1907. No further specific naturopathic licenses were issued after 1909. From 1922 to the 1950s persons desiring to utilize the naturopathic materia medica obtained the chiropractic license. Charles A. Cale, N.D., D.C., who founded LACC in 1911, was part of the group of 61 naturopaths licensed under the 1909 amendment and he did not become licensed as a D.C. until 1929.

The straight/mixer debate among these early chiropractors was not straight v. musculoskeletal practitioner. Mixers (including Charles Cale) argued that, in addition to the adjustment, all natural means and substances (the naturopathic materia medica) should be used, as necessary, to remove interference with the innate functional capacity of the body to regulate and heal itself and also in order to maximize “wellness”. Some persons did/do call this type of practice “**functional medicine**”.

T.F. Ratledge, D.C. entered the California picture towards the end of the first decade of the 1900s and in 1911 he founded what is now Cleveland Chiropractic College, Los Angeles.

### **1922 – Unity with Diversity**

At the bi-annual sessions of the California Legislature in the years 1911, 1913, 1915, 1917, 1919 and 1921, Schultz, Cale, Ratledge, and others, attempted to obtain practice rights legislation. Schultz, Cale, Ratledge et al. were unsuccessful, in part, because they repeatedly introduced competing bills to license only their own particular brand of practice. Finally, things changed. A major factor in causing this change was the change of attitude of B.J. Palmer that is reflected in his quoted language.

Following B.J.’s change of heart, the various groups started to work together and they were able to get the 1922 Chiropractic Initiative Act adopted by the vote of the people. The authors of 1922 Act very wisely protected the interests of each group by specifically providing that the Act was to be “**construed so as to (not) discriminate against any particular school of chiropractic, or any other treatment....**” No California court has ever been asked to interpret the Chiropractic Act so as to achieve this **non-discrimination objective** because the parties before the court have always, in the past, been interested in getting the court to interpret the Act so as to protect only their own practice

perspective. **These plaintiffs seek an interpretation of the Chiropractic Act prohibiting discrimination by mixers (musculoskeletal and functional medicine) against straights or by straights against mixers.**

The contents of the pending lawsuit will be specifically outlined next month. We will update the status of the lawsuit the month after that. For more information about the plaintiffs and to inspect a copy of the current “complaint” please go to [www.promedlaw.com](http://www.promedlaw.com) > “pending cases”. Parts 1 to 5 of this series of articles are also available on that website under the “medical articles” tab.

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