

## **Pfenniger, Ernest**

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### **CAUSAL RELATIONSHIP**

#### **Chiropractor**

Because the low back is a part of the anatomy falling within the special field of chiropractic, a chiropractor may testify to the causal relationship between the worker's low back condition and the injury. ....*In re Ernest Pfenniger, BIA Dec., 41,425 (1973)*  
[dissent]

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1 By no means does Kelly purport to totally exclude chiropractors from the realm of expert  
2 testimony. On the contrary, the court therein stated that chiropractors, as expert witnesses, are  
3 "limited in their testimony to their special field," whereas medical doctors "are competent to give  
4 testimony in the entire medical field." In addition, the court noted that the determination as to "what  
5 field of expert testimony is involved in any particular situation," is a matter to be resolved through  
6 the exercise of "sound discretion."  
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10 In this state, chiropractic is judicially recognized as one of the "healing arts," and is subject to  
11 legislative regulation. Ellestad v. Swayze, 15 Wn. 2d 281. Its "special field" of practice is  
12 legislatively defined as the adjustment "by hand any articulation of the spine." RCW 18.25.030. It  
13 has been held that a chiropractor is competent to give expert testimony as to the interpretation of  
14 an x-ray of the lumbar spine and in what respect it showed deviation from a normal spine (Manos v.  
15 James, 7 Wn. 2d 695).  
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19 In the instant case, the condition in issue involves the lower lumbar spine -- a part of the  
20 anatomy which falls within the "special field" of chiropractic. Based upon his interpretation of x-rays  
21 of the claimant's lumbar spine, his physical examination of the claimant, and a history of the injury,  
22 the claimant's chiropractic witness (who attended him for his injury) expressed the opinion that the  
23 claimant's low back condition was related to the injury. We think this testimony falls within the  
24 chiropractic field of practice as prescribed by the Legislature, and is therefore competent as expert  
25 testimony.  
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29 Indeed, the Department's own Medical Aid Rules recognize the competency of chiropractors  
30 to render opinions of causal relationship within their field of practice. Under WAC 296-23-610,  
31 Chiropractic Rules, the section governing Initial Treatment and Report of Accident, provides that  
32 chiropractors are to submit to the Department their "Specific diagnosis relating to the injury."  
33 (Emphasis added) One must ask, by what twist of logic does a diagnosis and opinion which is  
34 competent when submitted to the Department, become incompetent when submitted to this Board?  
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38 After consideration of the Proposed Decision and Order and the Petition for Review filed  
39 thereto, and a careful review of the entire record before us, we are persuaded that the Proposed  
40 Decision and Order is supported by the preponderance of the evidence and is correct as a matter of  
41 law.  
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1 The hearing examiner's proposed findings, conclusions and order are hereby adopted as this  
2 Board's findings, conclusions and order and are incorporated herein by this reference.

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4 It is so ORDERED.

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6 Dated this 6th day of December, 1973.

7 BOARD OF INDUSTRIAL INSURANCE APPEALS

8  
9 /s/ \_\_\_\_\_  
10 PHILLIP T. BORK Chairman

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12 /s/ \_\_\_\_\_  
13 R.H. POWELL Member

14 **DISSENTING OPINION**

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16 I dissent because I do not find any medical evidence in the record which would persuade me  
17 to join in reversing the Department of labor and Industries in this claim.

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19 I will not accept the opinions of a chiropractor in the area of causal relationship between an  
20 orthopedic condition and an alleged work incident. Mr. Wilson is not a medical man nor in any  
21 sense of the term a medical expert. A chiropractor is licensed by the state to adjust by hand any  
22 articulation of the spine, but a chiropractor is not licensed to prescribe or administer medicine. Mr.  
23 Wilson is a drugless healer and he should perform services in that restricted field and not as an  
24 expert witness in matters involving medicine; certainly not as an expert medical witness as to the  
25 probable causal relationship of a physical condition as it may relate to an industrial injury.

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27 The fact that the Department pays the bills under the Medical Aid Act for chiropractic  
28 manipulation and massage does not raise Mr. Wilson's testimony on causal relationship to the level  
29 of medical testimony.

30  
31 Dated this 6th day of December, 1973.

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33 BOARD OF INDUSTRIAL INSURANCE APPEALS

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35 /s/ \_\_\_\_\_  
36 R.M. GILMORE Member