

Preparing for Trial Testimony: A Colorado Chiropractor's Guide to the Witness Stand

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Most personal injury cases settle before trial. But when a case does reach a Colorado courtroom, a treating chiropractor may become one of the most important witnesses the patient has.

Unlike a discovery deposition, trial testimony occurs in front of the people who will actually decide the case. Your job is not to advocate for the patient or "win" the case. Your job is much simpler: explain what you observed, what you did, why you did it, and the opinions you are qualified to give.

Good preparation can make that testimony significantly more effective—and make cross-examination considerably less intimidating.

Understand Your Role at Trial

A treating chiropractor occupies an interesting position in a Colorado personal injury trial.

You are a fact witness because you personally examined and treated the patient. Depending upon the opinions being offered and the court's rulings, you may also provide expert testimony based upon your specialized knowledge, education, training, and experience.

Under Colorado Rule of Evidence 702, a witness qualified by "knowledge, skill, experience, training, or education" may provide expert testimony when specialized knowledge will assist the jury. Colorado courts examine the reliability of the underlying principles, the witness's qualifications, whether the testimony will assist the jury, and the requirements of CRE 403. *People v. Shreck*, 22 P.3d 68, 77–79 (Colo. 2001).

Importantly, the Colorado Supreme Court recently confirmed that an expert does not necessarily need to be formally "tendered" and accepted as an expert in front of the jury before providing otherwise admissible expert testimony. *People v. Martinez*, 2024 CO 6, ¶¶ 26, 39–40.

For chiropractors, the practical lesson is straightforward: **know what opinions you are being asked to provide and stay within your qualifications and the scope of your treatment.**

Preparing for Direct Examination

Direct examination is the portion of trial when the attorney who called you asks questions.

Typically, a personal injury attorney will begin with your background:

- Education and chiropractic training;
- Licensure;
- Years in practice;
- Clinical experience;
- Experience treating traumatic injuries; and
- Other qualifications relevant to your testimony.

The attorney will then usually walk through the patient's treatment chronologically: the initial history, examination, objective findings, diagnosis, treatment plan, progress, and ultimate outcome.

Review the entire chart before trial, particularly your initial evaluation, re-examinations, imaging, significant progress notes, discharge report, billing records, and any prior deposition testimony.

The goal is not to memorize the chart. It is to refresh your memory so that you can explain it naturally.

Explain the Medicine—Don't Just Read the Records

One of the greatest advantages a treating chiropractor provides at trial is the ability to translate medical information into language ordinary jurors understand.

"Reduced cervical range of motion" means considerably more to a jury when the provider explains what normal movement looks like, what was observed during the examination, and how that limitation might affect the patient's daily activities.

Expert testimony is valuable precisely because it can help jurors understand matters outside ordinary experience. Colorado courts therefore focus not only on whether an expert is qualified, but whether the testimony will actually assist the jury. CRE 702; *Huntoon v. TCI Cablevision of Colorado, Inc.*, 969 P.2d 681, 689–90 (Colo. 1998).

Teach the jury. Do not lecture them.

Expect Cross-Examination

After direct examination, opposing counsel gets an opportunity to question you.

Under CRE 611, Colorado trial courts control the manner of examining witnesses, and leading questions are generally permitted on cross-examination. Colorado's evidentiary rules also provide mechanisms for examining witnesses concerning prior statements and writings used to refresh recollection. See CRE 611–613.

This means the questions may sound very different from direct examination:

"The patient didn't complaint about back pain that day, correct?"

"The patient had previously complained of neck pain, hadn't she?"

"You would agree that pain is subjective, correct?"

That does not mean something has gone wrong.

Cross-examination is designed to test testimony and credibility.

How to Handle Cross-Examination

The most important rule is simple: listen to the actual question.

Do not anticipate where the attorney is going. Do not argue. Do not become defensive simply because you disagree with the premise of a question.

Instead:

- Listen to the entire question;
- Take a moment before answering;
- Answer the question honestly;
- Correct inaccurate assumptions when necessary;
- Do not speculate;
- Do not exaggerate; and
- Do not volunteer information simply to fill silence.

Be particularly careful with questions beginning with:

"Wouldn't you agree..."

The answer does not have to be "yes."

If the statement is only partially correct, say so and explain when appropriate. If you do not know, say you do not know. If you cannot remember, say you cannot remember.

Credibility is more important than winning an individual exchange with opposing counsel.

Be Ready for Attacks on Bias

Chiropractors in personal injury cases may be questioned about:

- How frequently they treat accident patients;
- Attorney referrals;
- Whether treatment was provided on a lien;
- How much remains unpaid;
- The provider's financial interest in payment; or
- How frequently the provider testifies.

Do not be embarrassed by legitimate business practices.

Answer truthfully and calmly.

Attempting to minimize an obvious attorney referral relationship or financial arrangement can cause far more damage to credibility than simply explaining it accurately.

Stay Within Your Expertise

A chiropractor should be confident about chiropractic treatment while recognizing the boundaries of his or her expertise.

Colorado's Chiropractic Practice Act defines and regulates the scope of chiropractic practice. See C.R.S. §§ 12-215-101 et seq.

Similarly, Colorado's expert-testimony rules focus on whether a witness's particular knowledge, skill, experience, training, or education qualifies that witness to offer the opinion at issue. CRE 702; *Melville v. Southward*, 791 P.2d 383, 387 (Colo. 1990).

Do not allow cross-examination to push you into opinions about accident reconstruction, biomechanics, another medical specialty, or some other subject outside your qualifications.

"I don't have an opinion on that" can be a very good answer.

Remember That the Jury Is Watching More Than Your Words

At trial, credibility matters.

Jurors notice whether a witness listens to questions, treats both attorneys respectfully, admits limitations, and explains complicated subjects without exaggeration.

They also determine what weight to give expert testimony. Colorado law does not require jurors simply to accept an expert's opinion because the witness has expertise.

A provider who appears knowledgeable, independent, and comfortable acknowledging what he or she does not know can be far more persuasive than one who seems determined to help one side win.

Why Trial Preparation Matters to Chiropractors

Good trial testimony benefits everyone involved.

It allows the chiropractor to accurately explain the care provided. It helps the jury understand injuries and treatment that otherwise exist only as words on a medical chart. And it protects the provider's professional credibility when the records and treatment are challenged.

It also builds trust with personal injury attorneys.

Attorneys remember treating providers who maintain good records, communicate well, understand the litigation process, and remain composed under cross-examination. Those are the providers attorneys feel comfortable working with—and referring future patients to.

Final Thoughts

Taking the witness stand does not require becoming an attorney or professional expert witness.

In fact, the opposite is usually true.

The most effective treating chiropractor is often the one who simply knows the patient, knows the records, understands the medicine, and explains all three honestly and clearly.

At our firm, we prepare treating providers before trial so they understand the process, the subjects likely to be addressed on direct examination, and the issues likely to arise on cross-examination.

The goal is never to tell a provider what to say.

It is to make sure that when it matters most, the provider is prepared to clearly explain what they already know.

For questions or referrals, visit: www.blackandblinklaw.com or call 719-328-1616.

Authorities and References

- [Colorado Rule of Evidence 611](#) – governing the mode and order of examining witnesses and leading questions on cross-examination.
- [Colorado Rules of Evidence 612–613](#) – addressing writings used to refresh a witness's memory and examination concerning prior statements.
- [Colorado Rule of Evidence 702](#) – governing testimony based upon scientific, technical, or other specialized knowledge.
- [Colorado Rule of Evidence 703](#) – governing the bases upon which an expert may form an opinion.
- [Colorado Chiropractic Practice Act, C.R.S. §§ 12-215-101 et seq.](#) – governing the licensing and practice of chiropractic in Colorado.
- [People v. Shreck, 22 P.3d 68 \(Colo. 2001\)](#) – establishing Colorado's framework for evaluating the admissibility of expert testimony under CRE 702.
- [Huntoon v. TCI Cablevision of Colorado, Inc., 969 P.2d 681 \(Colo. 1998\)](#) – discussing expert qualifications and whether specialized testimony will assist the factfinder.
- [People v. Martinez, 2024 CO 6](#) – confirming that CRE 702 does not require a formal offer and acceptance of a witness as an expert when the testimony otherwise satisfies Colorado's requirements for expert testimony.
- [Estate of Ford v. Eicher, 250 P.3d 262 \(Colo. 2011\)](#) – confirming that admissibility of scientific expert testimony is governed by CRE 702 and the *Shreck* framework.

This article is for informational purposes only and does not constitute legal advice. Providers should consult qualified Colorado counsel regarding specific lien issues