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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

### CLEARINGHOUSE RULE 01-118

AN ORDER to amend Chir 4.03; and to create Chir 4.02 (3), relating to paraphysiological space and the practice of chiropractic.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

10-09-01 RECEIVED BY LEGISLATIVE COUNCIL.

10-30-01 REPORT SENT TO AGENCY.

RNS:MO:jal;tlu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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### CLEARINGHOUSE RULE 01-118

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### I. Statutory Authority

In the last sentence of s. Chir 4.03, the words “not prohibited by s. 446.01 (2), Stats.,” should be inserted between “Any procedure” and “that causes . . . .” Section 446.01 (2) (a), Stats., places limits on the “practice of chiropractic” by excluding “the use of drugs as defined in s. 450.01 (10) or surgery . . . .” Therefore, “Any procedure” in the last sentence of s. Chir 4.03 needs to be qualified.

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section Chir 4.02 (3) has language that limits paraphysiological space to “the range of motion of a skeletal articulation that exceeds voluntary movement but does not exceed anatomical integrity.” However, presumably, skeletal articulation that exceeds anatomical integrity must first enter paraphysiological space. Thus, if s. Chir 4.02 (3) is intended to limit the procedures that are included under the last sentence of s. Chir 4.03, it does not appear to do so. Because the last sentence of s. Chir 4.03 includes under “practice of chiropractic” any procedure that causes a joint structure of the spine or pelvis to *enter* paraphysiological space, it can also be interpreted as including any such procedure that *exceeds* anatomical integrity, since such procedures presumably must enter paraphysiological space before exceeding anatomical integrity.

b. The words “joint structure of the spine or pelvis” are used in the last sentence of s. Chir 4.03. Are hip joints considered a joint structure of the pelvis and, if so, is this intended?

STATE OF WISCONSIN  
CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : CHIROPRACTIC EXAMINING BOARD  
CHIROPRACTIC EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 01- )

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PROPOSED ORDER

An order of the Chiropractic Examining Board to amend Chir 4.03; and to create Chir 4.02 (3), relating to parapsychological space and the practice of chiropractic.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats.

Statutes interpreted: s. 446.01 (2), Stats.

In a recent opinion of the Attorney General regarding the practice of chiropractic, the definitions of chiropractic that appear in s. 446.01 (2), Stats., and ss. Chir 4.02 and 4.03, contain general language which does not provide specific guidance to chiropractors and to practitioners of other professions. In this proposed rule-making order the board creates additional, more specific language.

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TEXT OF RULE

SECTION 1. Chir 4.02 (3) is created to read:

Chir 4.02 (3) "Parapsychological space" means the range of motion of a skeletal articulation that exceeds voluntary movement but does not exceed anatomical integrity.

SECTION 2. Chir 4.03 is amended to read:

**Chir 4.03 Practice.** The practice of chiropractic is the application of chiropractic science in the adjustment of the spinal column, skeletal articulations and adjacent tissue which includes diagnosis and analysis to determine the existence of spinal subluxations and associated nerve energy expression and the use of procedures and instruments preparatory and complementary to treatment of the spinal column, skeletal articulations and adjacent tissue. Diagnosis and analysis may include physical examination, specimen analysis, drawing of blood, blood-analysis and the use of x-ray and other instruments. Any procedure that causes a joint structure of the spine or the pelvis to enter the parapsychological space is a practice of chiropractic.

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(END OF TEXT OF RULE)

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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to s. 227.22 (2) (intro.), Stats.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson  
Chiropractic Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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10/8/01