

1411 West Montgomery Street  
Sparta, WI 54656  
www.eatrightwisc.org  
OFC 888-232-8631  
FAX 608-269-0043  
wda@centurytel.net

DATE: February 10, 2004

TO: Senator Carol Roessler

FROM: Jane M. Dunn, President  
Gail Underbakke, Public Policy Chair  
Christina Lemon  
Wisconsin Dietetic Association

RE: Opposition to Section 12, SB 275

The use of nutritional supplements, vitamins, and herbs -- and the associated nutritional counseling -- can be a highly beneficial or highly harmful part of a patient's health care. Wisconsin has recognized the complexity of this field by requiring the certification of dietitians and by restricting the practice of others when it comes to nutritional counseling, as opposed to sales and provision of related product information.

Section 12 of AB 275 permits chiropractors who are licensed before January 1, 2003, to engage in nutritional counseling after completing only 48 hours of postgraduate study in nutrition (this does not apply to chiropractors who are certified as a dietitian). Chiropractors licensed after January 1, 2003, are presumed to have received the proper training through their doctor of chiropractic degree program.

There are real concerns regarding the training and skill of chiropractors to expand their practice into counseling and guiding the individual patient on, for example, treatment of diabetes or another disease through use of dietary supplements. Protection of the public's/patient's health and safety demand that we act with caution in determining who should be legislatively sanctioned as qualified to counsel patients in this important area.

### Background

1. Nutritional counseling is a complex area.
  - Not a generic term for instruction on how to eat properly.
  - Involves assessment of nutritional status of patients with a condition that puts them at risk; includes review and analysis of medical and diet history, lab values, anthropometric measurements, followed by choice of nutrition modalities most appropriate for person -- may range from diet modification and nutrition

counseling including personal diet plan to specialized medical nutrition therapies including intravenous or enteral nutrition.

- State of Wisconsin, when it created certification of dietitians, recognized complexity of nutrition and nutrition counseling and therapy, and the importance of education and training in this field. It further recognized that dietitians provide a comprehensive approach to providing nutrition services which addresses the complexities of changing diet and behavior, especially for patients with serious chronic illnesses.
  - Need to distinguish between individual nutritional assessment and prescription of individualized nutrition regimen/course of treatment, versus furnishing general nutrition information and marketing or distributing food supplements and vitamins; the proposed legislation covers both.
2. Vitamins, herbs and nutritional supplements are not harmless substances.
- Many cases reported in print media of death or serious illness linked to dietary supplements and/or their improper administration.
  - Exempt from federal (FDA) regulation and no requirement for peer-reviewed science regarding claims for effectiveness.
  - Widely varying quality and purity of “same” substance depending on manufacturer.
3. Chiropractors’ and dietitians’ training for nutritional counseling is not equal and cannot be made so by a 48-hour course.
- Although the Council on Chiropractic Education now requires that nutrition be incorporated into the doctor of chiropractic degree program, it leaves coverage of the topic to each individual school.
  - There is no independent research regarding what type of education a chiropractor receives in this area; furthermore, a study of chiropractors’ provision of nutrition counseling and their sources of nutrition information around the country found that specific nutrition training standards for chiropractors do not exist.
  - Dietitians, by contrast, receive a bachelor’s, master’s, or doctoral degree in human nutrition, nutrition education, food and nutrition, or dietetics from an accredited college or university. More than 40% hold advanced degrees. They are trained specialists in the role of nutrition in health care, and particularly in nutritional counseling and recommendations tailored to the needs of the individual patient.
  - A 48-hour course on nutrition cannot match the expertise of a dietitian when it comes to the nutritional needs of the individual patient (of interest, the American Chiropractic Board of Nutrition requires 300 hours of nutrition course work,

passage of a written exam, and three years practice experience in order to grant a diploma - the equivalent of board certification for physicians).

4. There is a huge difference in counseling an individual patient as to what dietary supplements or vitamins or herbs may be helpful in improving that patient's particular health condition, and in marketing food supplements or vitamins -- which is already permitted by current law.
  - Ch. 448.72, governing the certification of dietitians, specifically exempts from any certification requirement "*a person who markets or distributes food, food materials or dietary or food supplements, who explains the use, benefits or preparation of food, food materials or dietary or food supplements, who furnishes nutritional information on food, food materials or dietary or food supplements, or who disseminates nutritional information or literature. . .*"
  - The proposed language in the chiropractic bill draft would go far beyond the marketing of food supplements, vitamins, and so on, and would authorize the chiropractor to provide individualized "*counsel, guidance, direction, advice or recommendations*" regarding the health benefits of vitamins, herbs, or nutritional supplements -- and then sell the patient the recommended supplements.
  
5. Chiropractors' "counsel" on the "health benefits of vitamins, herbs or nutritional supplements" raises conflict-of-interest concerns since chiropractors also sell these products.
  - Current law and chiropractic regulations authorize chiropractors to sell vitamins, herbs or nutritional supplements.
  - As noted above, they may explain these products' use and furnish information on them.
  - The proposed statute would go far beyond current practice and put the chiropractor in the position of providing the same nutritional counseling and therapy that dietitians are credentialed by the state to provide.
  - A chiropractor is a recognized health provider with specialized knowledge; a patient comes to a chiropractor with the implicit belief that the chiropractor will use his or her specialized knowledge to benefit the patient; the patient trusts the chiropractor to do what is best for the patient.
  - The mere potential for conflict of interest between personal financial gain and individual patient needs has resulted, for example, in the state prohibiting physicians from both prescribing and filling prescriptions in their office, and in requiring dietitians to inform a patient of any financial interest the dietitian might have in a referral to or for another service, product or publication.



WISCONSIN DIETETIC ASSOCIATION  
Your Link to Nutrition and Health

FEB 16 2004

SBJTS

1411 West Montgomery Street  
Sparta, Wisconsin 54656-1003  
608-269-0042  
1-888-232-8631  
FAX 608-269-0043  
wda@centurytel.net

February 14, 2004

T.U. — CR

State Senator Carol Roessler, Chair  
Senate Committee on Health, Children,  
Families, Aging and Long Term Care  
P.O. Box 7882  
Madison, WI 53707-7882

Re: Thank you and additional information regarding February 10 meeting.

Dear Senator Roessler:

Thank you on behalf of the Wisconsin Dietetic Association (WDA) for meeting with Jane Dunn, Christina Lemon and myself on February 10 at your office. We were pleased to hear that Senate Bill 275 is dead for this session, but also appreciated your interest in the basis for our opposition to Section 10 of the bill. After the meeting, Christina Lemon reviewed her files on the attempt to include nutrition counseling in the scope of practice for chiropractors. Here is a brief review of events from her records for your information.

On May 15, 1998, just after Gov. Thompson signed the dietitian certification sunset repeal in April, the Chiropractic Board produced a scope statement indicating that it sought to include nutritional counseling among the services chiropractors could provide their patients. On Oct. 12, 2000, nearly 2 1/2 years after release of the scope statement, the Chiropractic Board held a hearing on their proposed rule (at which WDA and others testified). On Oct. 18, 2000, Christina received an email from the WDA lobbyist at the time, Brian Elliott, stating that "the rule is for all practical purposes indefinitely postponed based upon testimony received at the Oct. 12 hearing." His source was John Schweitzer, counsel for the Chiropractic Board. In summary, it was nearly six years ago that the Chiropractic Board issued a scope statement, and just over three years ago that they abandoned attempts to forward a proposed administrative rule attempting to include nutrition counseling "related to use of vitamins and other food and nutritional supplements" in their scope of practice. If you have any additional questions about this history, Christina would be glad to provide more detail.

On another issue, we look forward to working with you and your legislative aide, Jennifer Halbur, as plans for the obesity awareness campaign for legislators are finalized. With adequate notice and details, we can make legislator contacts to encourage participation and are willing to provide educational sessions as discussed. Wisconsin dietetic professionals have a lot of expertise to share!

Sincerely,

*Gail Underbakke*

Gail Underbakke, MS, RD, CD  
Public Policy Chair  
Wisconsin Dietetic Association Board of Directors

**Halbur, Jennifer**

**From:** Asbjornson, Karen  
**Sent:** Thursday, March 11, 2004 1:28 AM  
**To:** Halbur, Jennifer  
**Subject:** FW: Amendment to SB 275

SB 275  
T.U ✓  
CR  
JH

CR email

Karen Asbjornson  
Office of Senator Carol Roessler  
(608) 266-5300/1-888-736-8720  
Karen.Asbjornson@legis.state.wi.us

-----Original Message-----

**From:** LMA0314@aol.com [mailto:LMA0314@aol.com]  
**Sent:** Thursday, March 11, 2004 12:47 AM  
**To:** sen.roessler@legis.state.wi.us  
**Subject:** Re: Amendment to SB 275

Dear Senator Roessler,

Thank you for introducing Substitute Amendment 1 to Senate Bill 275 which has removed the Nutritional Guidance Section. The Wisconsin Dietetic Association does support this change.

We appreciate your response and support.

Sincerely,  
Lynn Abitz, RD, CD  
Wisconsin Dietetic Association President Elect  
N3539 County Road N  
Appleton, WI 54913  
920-788-9482

Please vote against allowing chiropractors to provide nutritional counseling to their patients.

Rachel Hughes, RD

Rachel Hughes  
1613 Westward Ave  
NFDL, WI  
54937

Status: Done

Closed Date: 03/23/2004

Assigned: Halbur, Jennifer

Owner: Halbur, Jennifer

Note Note Date: 03/17/2004

Summary: Rachel e-mailed again

Contact Type:

Description:

-----Original Message-----

From: Hughes, Rachel [mailto:hughesr@agnesian.com]

Sent: Wednesday, March 17, 2004 1:33 PM

To: 'sen.roessler@legis.state.wi.us'

Subject: SB 275

Carol,

My name is Rachel Hughes of North Fond du Lac, WI. I wrote you earlier this month regarding bill SB 275.

Thank you for your efforts in supporting the withdrawal of SB 275 "Chiro Bill". As a registered dietitian, I feel comfortable knowing that only state licensed dietitians will be able to provide Medical Nutrition Therapy. Thanks again for your efforts.

Rachel Hughes, RD

Outpatient Dietitian

Agnesian Healthcare

920-926-4674

Note Note Date: 03/23/2004

Summary: JH printed Thank you to show CR

Contact Type:

Description:

AB 356  
Companion  
Bill

AB  
356

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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE JERRY PETROWSKI

FROM: Richard Sweet, Senior Staff Attorney

RE: LRBs0265/1 - Proposed Assembly Substitute Amendment to 2003 Assembly Bill 356  
(Practice of Chiropractic)

DATE: March 3, 2004

This memorandum summarizes the provisions of LRBs0265/1, relating to the definition of the practice of chiropractic; chiropractic evaluations, treatments, and referrals to physicians; unprofessional conduct by chiropractors; delegations by chiropractors continuing education for chiropractors; nutritional guidance provided by chiropractors to patients; granting rule-making authority; and providing penalties.

LRBs0265/1 is a proposed Assembly substitute amendment to 2003 Assembly Bill 356. The substitute amendment was the subject of a meeting that was held on November 25, 2003 involving you, Representative Gregg Underheim, Senator Carol Roessler, and representatives from various chiropractic organizations and colleges.

The remainder of the memorandum summarizes the provisions of the substitute amendment.

### References to Chiropractic Colleges

Current statutes define the term "practice of chiropractic" as follows:

446.01 (2) "Practice of chiropractic" means:

- (a) To examine into the fact, condition, or cause of departure from complete health and proper condition of the human; to treat without the use of drugs as defined in s. 450.01 (10) or surgery; to counsel; to advise for the same for the restoration and preservation of health or to undertake, offer, advertise, announce or hold out in any manner to do any of the aforementioned acts, for compensation, direct or indirect or in expectation thereof; and

(b) To employ or apply chiropractic adjustments and the principles or techniques of chiropractic science in the diagnosis, treatment or prevention of any of the conditions described in s. 448.01 (10).

The substitute amendment modifies par. (b) in the definition above to refer to chiropractic adjustments and the principals or techniques of chiropractic science “that are *taught at a chiropractic college or university* approved by the Council on Chiropractic Education or any successor organization” (emphasis added).

In addition, the substitute amendment modifies the current statute that requires an applicant for a chiropractor license to have graduated from a college of chiropractic approved by the Chiropractic Examining Board. The substitute amendment modifies this to refer instead to a college or university of chiropractic accredited by the Council on Chiropractic Education or its successor.

Similarly, the substitute amendment also modifies the current statute that exempts from licensure requirements a student or graduate from a college of chiropractic who practices in a program for the clinical training of students. The current statute refers to clinical practice settings that are connected or associated for training purposes with a college of chiropractic approved by the Chiropractic Examining Board. The substitute amendment instead refers to a college or university of chiropractic that is accredited by the Council on Chiropractic Education or its successor.

#### *Nutrition Counseling*

The substitute amendment states that a chiropractor who is granted a license under ch. 446, Stats., on or before January 1, 2003, may provide counsel, guidance, direction, advice, or recommendations to a patient regarding the *health benefits of vitamins, herbs, or nutritional supplements* only if the chiropractor has completed 48 hours in a postgraduate course of study in nutrition that is approved by the Chiropractic Examining Board. This requirement does not apply if the chiropractor is also certified as a dietician.

#### *Delegation of Duties*

Current law provides that a chiropractor may delegate to a person who is not licensed as a chiropractor the performance of services that are adjunctive to the practice of chiropractic if the services are performed under the direct, on-premises supervision of the chiropractor. However, current law states that a chiropractor may not delegate to a person who is not a licensed chiropractor the making of a diagnosis, the performance of a chiropractic adjustment, the analysis of a diagnostic test or clinical information, or any practice or service that the Chiropractic Examining Board, by rule, prohibits a chiropractor from delegating to such a person.

The substitute amendment states that in an application for renewal of a chiropractor's license, the applicant must identify each employee (other than a nurse, physical therapist, or athletic trainer) to whom clinical work is delegated. If the Chiropractic Examining Board has promulgated rules requiring such an employee to complete a *training program or course of instruction* to perform the delegated work, the chiropractor seeking renewal of the license must also provide the name, date, and sponsoring organization for the training program or course of instruction that the employee has completed.



### Supervision or Direction of Nurses

The substitute amendment modifies the statutes that define "practical nursing" and "professional nursing." The term "practical nursing" is defined to mean certain care under the specific direction of a nurse, physician, podiatrist, dentist, or optometrist, while the term "professional nursing" is defined to mean certain care under the general or special supervision or direction of a physician, podiatrist, dentist, or optometrist. The substitute amendment adds chiropractors to both statutes.

### Evaluations and Referrals

The substitute amendment states that a chiropractor must evaluate each patient to determine whether the patient has a condition that is treatable by chiropractic means and specifies requirements regarding the conduct of the evaluation. A chiropractor is required to discontinue treatment by chiropractic means if, at any time, the chiropractor determines, or reasonably should have determined, that the patient's condition will not respond to further treatment by chiropractic means. If a chiropractor does so, the chiropractor must inform the patient and *refer the patient to a physician*. However, a chiropractor may still provide supportive care to a patient after making a referral.

### Continuing Education

The substitute amendment requires the Chiropractic Examining Board to specify the minimum number of hours of continuing education courses that an applicant for renewal of a license must complete during a two-year licensure period. [Current rules of the Chiropractic Examining Board establish a requirement of 40 continuing education credit hours in a two-year period. See s. Chir 5.01 (1) (a), Wis. Adm. Code.] Only courses approved by the board may be used to satisfy the hours required. The board is required to periodically publish updated lists of approved courses.

The Chiropractic Examining Board may not approve a continuing education course unless the *organization sponsoring the course* satisfies all of the following requirements: (1) the organization is the Wisconsin, American, or International Chiropractic Association or its successor, a college or university of chiropractic accredited by the Council on Chiropractic Education or its successor, or a college or university of medicine or osteopathy accredited by an accrediting body listed as nationally recognized by the Secretary of the federal Department of Education; (2) the organization selects the instructor for the course; (3) the organization establishes the objectives of the course, prepares course materials, evaluates the subject matter, conducts a post-course evaluation, maintains course transcripts, and performs necessary financial administration; (4) the organization proctors course attendance; (5) the organization provides attendance vouchers to attendees; and (6) the organization supplies a list of attendees to the board. The course sponsor may delegate satisfaction of requirements (2) to (5) to another organization.

If an organization that sponsors a course fails to satisfy in a significant manner any of the requirements under items (2) to (5) in the previous paragraph, the board must, for a period of 90 days, withdraw or withhold approval of all continuing education courses sponsored by the organization. In addition, if an organization to whom satisfaction of any of the requirements under items (2) to (5) in the previous paragraph is delegated fails to satisfy in a significant manner the requirement, the board must, for a period of 90 days, withdraw or withhold approval of all continuing education courses sponsored by the organization that made the delegation.

The substitute amendment requires that during each two-year licensure period, the Department of Regulation and Licensing (DRL) must audit a percentage, determined by the department, of the applications for renewal of a chiropractic license to verify that an applicant has completed the continuing education requirements.

### **Discipline of Chiropractors**

Current law allows the Chiropractic Examining Board to reprimand a licensee or deny, limit, suspend, or revoke a license if the licensee has engaged in certain activities. One of those activities is being guilty of unprofessional conduct, as defined in current statutes.

The substitute amendment adds to the list of activities for which the licensee may be disciplined a provision that the licensee has violated ch. 446, Stats., or any rule promulgated under that chapter.

In addition, the substitute amendment adds the following to the list of circumstances that constitute **unprofessional conduct**:

1. Billing for chiropractic services that were inappropriate, unnecessary, or of substandard quality.
2. Billing for a service that was not performed. This includes billing for a service that was performed by a staff person without the training required by state law. It also includes a pattern of conduct in which a chiropractor bills a Current Procedural Terminology (CPT) Code in a manner inconsistent with certain standards for that Code. Finally, it also includes a pattern of conduct in which a chiropractor bills for a service using a higher level CPT Code than the service that was actually provided to the patient with the intent of obtaining unearned reimbursement.
3. Failure to collect a deductible or copayment required by a patient's insurer. This provision does not apply if the chiropractor has made reasonable efforts to collect the deductible or copayment or in cases where the patient has a financial hardship.
4. Falsifying a claim.
5. A pattern of conduct that involves billing for a unit of service that was not actually performed with the intent of obtaining unearned reimbursement.
6. Sexual misconduct.

The substitute amendment, requires suspension for at least **six months** of a license of a chiropractor who commits a third violation of the statutes dealing with **unprofessional conduct**, and for at least **two years** for a fourth such violation.

If the board finds that a chiropractor is guilty of a second or subsequent offense of unprofessional conduct, the board must assess against the chiropractor a forfeiture of three times the amount that the chiropractor billed a patient for inappropriate, unnecessary, or substandard chiropractic care, or \$5,000, whichever is less. (At the November 26, 2003 meeting, there seemed to be a consensus to make this provision discretionary by substituting "may" for "shall.")

For purposes of the above provisions, the term "pattern of conduct" is defined as more than one occurrence.

The provision dealing with *sexual misconduct* states that a chiropractor engages in sexual misconduct if he or she engages in sexual contact, exposure, or gratification, sexually offensive communication, dating a patient while the patient is under the chiropractor's professional care or treatment or within six months after discharge from care or treatment, or other sexual behavior with or in the presence of a patient and a reasonably prudent chiropractor under similar conditions and circumstances would find the conduct unprofessional. Consent is not an issue for purposes of this provision. The substitute amendment distinguishes between contact violations (i.e., violations that involve physical contact with a patient) and noncontact violations.

The substitute amendment provides specific *penalties* for chiropractors who violate the prohibition on *sexual misconduct*. A chiropractor who commits a first noncontact violation must be required to attend training approved by DRL regarding sexual misconduct and the chiropractor's license must be suspended for not less than 90 days. The license of a chiropractor who commits a second noncontact violation or a first contact violation must be suspended for one year. Finally, the license of a chiropractor who commits a third noncontact or a second contact violation must be revoked.

Feel free to contact me if I can be of further assistance.

RNS:jal:wu:tlu:rv;ksm

CR requested  
material  
from yesterday

← Logan only  
one do not have  
(will come later)  
← plus bullet points



STEVEN R. CONWAY, DC, JD  
GENERAL COUNSEL

CORPORATE OFFICE  
601 S. 32ND AVENUE • WAUSAU, WI 54401  
715-848-2526 • FAX 848-2225 • 888-425-6929  
EMAIL [chirolaw@aol.com](mailto:chirolaw@aol.com)

**WCA**

**Wisconsin Chiropractic Association**  
521 E. Washington Avenue  
Madison, WI 53703  
(608) 256-7023 Fax: (608) 256-7123

**Russell A. Leonard**  
Executive Director



*the* Palmer Institute *for* Professional Advancement

Assemblyman Gregg Underheim  
Chair, Health Committee  
Room 11N, State Capitol  
POB 8953  
Madison, WI 53708

May 29, 2003

Re: Proposed changes to Wisconsin Statute Section 115.446.025 and 115.446.035  
concerning the approval of providers of continuing education for chiropractors

Dear Mr. Underheim:

We are writing on behalf of the Palmer Institute for Professional Advancement (PIPA), a provider/sponsor of continuing education for chiropractors nationwide. PIPA represents the Continuing Education Division of the Palmer Chiropractic University System (PCUS), which also includes Palmer College of Chiropractic Davenport, Palmer College of Chiropractic West, Palmer College of Chiropractic Florida, Palmer Center for Chiropractic Research and the Palmer Foundation for Chiropractic History. As the fountainhead of chiropractic, a recognized leader in the profession, and a well-respected, CCE-accredited institution, PCUS is committed to do whatever it can to promote fair and reasonable regulation of our profession to ensure the continuing quality of chiropractic practitioners and protect public safety both on the national and state levels. It is from this commitment that we write to you today.

It has been brought to our attention that the Wisconsin Chiropractic Association (WCA) has proposed significant changes to the content and wording of the Wisconsin statutes regarding the regulation and approval of continuing education providers. We have worked with the Wisconsin Board of Chiropractic Examiners as a provider and sponsor of other providers of chiropractic continuing education, and are not aware of any shortcomings of the current statute. We do, however, foresee some potentially harmful outcomes if these proposed changes are implemented.

Our concerns stem from the possible perception that, as written, this proposal seems to exhibit a blatant favoritism toward in-state organizations (predominately the WCA) and that subsections (2) (a) and (b) have been written in a fashion that may border on restraint of trade. This would create an increased and inappropriate burden on the chiropractic colleges, already established providers of high quality continuing education programs for doctors in the field. Since the current laws regarding CE seem to have served the state and the profession well for many years, we first question why the WCA

Mr. Greg Underheim  
May 30, 2003  
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feels the need to try to change them at all. We have every confidence that the Wisconsin Board of Chiropractic Examiners has, in the past, applied appropriate standards of excellence in their approval of continuing education courses for chiropractors, and that they would continue to do so in the future.

We respectfully request that your office work to reject the proposed changes to this statute, or at the very least, consider modifications to the following sections that are of specific and deep concern to us. In each case, we have included the proposed statute, why we feel it is unacceptable, and a rewording option for each section in question.

**Section 115 446.025**

**As proposed:**

**#2(a) 2 The organization selects the instructor for the course. If the instructor is a member of the undergraduate or postgraduate faculty of a college or university of chiropractic, the organization shall provide a written statement to the examining board verifying that the instructor has been appointed by the college or university in accordance with the accreditation standards of the Council on Chiropractic Education or its successor.**

This wording is confusing and does not address the colleges themselves, or how colleges who partner with other organizations would handle the request. It also doesn't address if a chosen instructor is not a member of the post-graduate faculty of a college and what steps would have to be taken to gain approval in such instance. The rule as written also strips the board of any reasonable decision-making power concerning special circumstances.

**We suggest the following rewording:**

**#2 (a) 2 State, national, or international chiropractic associations (or their successors) must provide proof to the board that a chosen instructor holds current post-graduate faculty status at a college or university of chiropractic approved by the examining board, a college or university of medicine or osteopathy accredited by an accrediting body listed as nationally recognized by the secretary of the federal department of education, or other entity as approved by the board to certify the speakers credentials. Programs presented by, or in partnership with, a CCE-accredited chiropractic college do not have to submit proof of instructor status unless specifically requested to do so by the board.**

**As proposed:**

**#2(a) 3 The organization establishes objectives of the course, prepares course materials, evaluates the subject matter prepared by the instructor, conducts a post-course evaluation, maintains course transcripts, and performs financial administration necessary for the course.**

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Almost all colleges engage in professional co-sponsorships. Palmer has co-sponsorships with such organizations as Gonstead, Activator, Footlevelers, and other well-respected entities in our profession. The way this is worded will negate these relationships. In many cases, PIPA doesn't physically take the registrations, or money, nor do we print the notes in-house. Also, it is often a partner/content expert that prepares the course materials, and not staff at the college. We require the submission of a detailed syllabus, which allows us to review course content.

**We suggest the following rewording:**

**The organization must evaluate and approve the objectives and syllabi of all submitted courses, maintain course transcripts for attendees, conduct a post-course evaluation, and perform financial administration necessary for the course, or delegate one or more of those responsibilities to a partnering organization.**

**As proposed:**

**#2(a) 4 The organization proctors course attendance through the instructor or an officer, director, or employee of the organization.**

PCUS fully agrees that adequate monitoring must be present, but this wording is very limiting. Also, it is not feasible, nor reasonable, to ask an instructor to monitor a class when he/she is trying to teach. It is also not reasonable to ask schools to give up staff time and expense to supply a monitor for co-sponsorships held across the country (these can number over 100 per year!). Currently we give our co-sponsoring groups specific guidelines for monitoring attendance that they must follow, and allow them to provide the staff to oversee it. For our own programs that are held out-of-area, we ask one of our trusted area alumni or an attending doctor to oversee attendance, following our guidelines. This has worked effectively for years.

**We suggest the following rewording:**

**The organization must ensure that the course has an adequate monitoring system in place to proctor course attendance.**

**As proposed:**

**#2(b) Notwithstanding par. (a), the examining board may approve a continuing education course sponsored by an organization that does not satisfy a requirement under par. (a) 2-5 if the organization delegates satisfaction of the requirement to another organization and the other organization satisfies the requirement.**

This section is both unnecessary and confusing. This entire section should be deleted. Stipulations can be adequately covered in 2(a). *See rewording in 2(a) 3.*

**We suggest deleting this section entirely.**

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May 30, 2003  
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**As proposed:**

**#3 If an organization that sponsors a course approved under sub. (2) (b) fails to satisfy any requirement under sub. (2) (a) 2-5 the examining board shall, for a period of 2 years, withdraw or withhold approval of all continuing education courses sponsored by the organization. If an organization to whom satisfaction of any requirement under sub. (2) (a) 2-5 is delegated under sub. (2) (b) fails to satisfy the requirement, the examining board shall, for a period of 2 years, withdraw or withhold approval of all continuing education courses sponsored by the organization that made the delegation.**

This section might be considered draconian in its present wording. It would seem to deny due process and to strip the board of having the authority to make reasonable exceptions, and/or allow organizations to remedy a situation without an automatic 2 year suspension. To our knowledge, no other state board is statutorily required to invoke such an automatic, punitive response to problems that might arise in the normal conduct of continuing education programs. Typically boards are granted the power to revoke approval of an organization as they deem appropriate, for example, in a case where a provider/organization is not willing to remedy whatever concern the board has with a particular course. Furthermore, a state board must give an organization or provider a fair opportunity to work out any possible problems before such sanctions are applied.

**We suggest the following rewording:**

**#3 If an organization that sponsors and/or delegates requirements for a course approved under sub. (2) (b) fails to satisfy any requirement under sub. (2) (a) 2-5, the examining board will work with the organization through due process to correct the situation. If the organization fails to correct the situation in a reasonable period of time, the board may then withdraw or withhold approval of all continuing education courses sponsored by the organization for a time period to be determined by the board.**

**Section 115 446.035 Peer Review**

**As proposed:**

**#1(a) Appointment of a peer review panel. (a) The examining board shall appoint a peer review panel of no fewer than 6 nor more than 12 members, pursuant to par.**

**(b).**

**(b) A peer review panel may be selected from a list of nominees that is submitted every 24 months by the Wisconsin Chiropractic Association. If the WCA fails to submit a list of nominees, the examining board may solicit nominations for the peer review panel pursuant to a process developed by the department.**

**(c) A nominee under par. (b) shall meet all of the following requirements;**

**1. Possess a valid license to practice chiropractic in this state.**



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**2. Have no less than 10 years in practice for a minimum of 20 hours per week within the preceding 2 years of his or her nomination for the peer review panel or, if the nominee is not in active practice at the time of his or her nomination...**

This section may expose the Wisconsin Board of Chiropractic Examiners to possible accusations of inappropriate collusion with a private, professional organization, and we are concerned that it won't stand up to legal review. It may appear to exclude doctors who are not WCA members from peer review opportunity, which in turn gives the appearance of bias to the board. The board should retain the right to choose a panel from the pool of all qualified chiropractic practitioners. The WCA (and any other state organizations) should be allowed to submit recommendations, but those recommendations should not constitute either the final or the favored slate from which the board can choose.

**We suggest the following rewording:**

**Peer Review (1) Appointment of peer review panel. (a) The examining board shall appoint a peer review panel of no fewer than 6 or more than 12 members, pursuant to par. (b).**

**(b) The examining board shall solicit nominations for the peer review panel pursuant to a process developed by the department. This may include, at the discretion of the board, selections from a list of nominees that may be submitted by any state association.**


**(c) A nominee under par. (b) shall meet all of the following requirements;**


- 1. Possess a valid license to practice chiropractic in this state.**
- 2. Have no less than 10 years in practice for a minimum of 20 hours per week within the preceding 2 years of his or her nomination for the peer review panel or, if the nominee is not in active practice at the time of his or her nomination...**

**ADD- OR possess qualities or experience deemed appropriate by the board to grant appointment.**

Thank you for your time and consideration in this important matter. Please don't hesitate to contact us if we can provide any clarifications or answer any additional questions regarding Palmer's stance on this issue.

Respectfully submitted,

  
David B. Koch, D.C.  
Vice President of Professional Affairs  
Palmer Chiropractic University System

  
& Laurie L. Hogard, D.C.  
Director of Continuing Education  
Palmer Institute for Professional  
Advancement



NORTHWESTERN  
HEALTH SCIENCES  
UNIVERSITY

22 May 2003

Assemblyman Gregg Underheim  
Chair, Health Committee  
Room 11N, State Capitol  
POB 8953  
Madison, WI 53708

**In reference to proposed legislation to amend Wisconsin Statute Section 115.446025**

Dear Mr. Underheim,

Northwestern Health Sciences University is a small non-profit natural healthcare educational institution in the Twin Cities area of Minnesota. We provide professional training programs for doctors of chiropractic, acupuncture and Oriental medicine providers, and professional massage therapists.

In the course of fulfilling our institutional mission element of education, we offer a broad series of continuing and post-doctoral professional education programs, lectures, seminars, diplomat (board certification) training in distinct specialties, and other opportunities for natural healthcare professionals to maintain and upgrade their clinical skills. We offer these programs in Wisconsin a number of times a year, and cooperate with the Wisconsin Board of Chiropractic Examiners to ensure that a quality experience is provided and appropriately accounted for as the Board seeks to ensure that Wisconsin doctors of chiropractic meet their professional and ethical obligations within the public trust. In the last biennium (2002-03) over 600 Wisconsin doctors of chiropractic took continuing education seminars through Northwestern's auspices or co-sponsorship.

We frequently co-sponsor or contract to offer these programs with other parties: other chiropractic institutions, professional associations, state associations, and the like. These relationships are important to Northwestern and important to the profession.

We have become aware of proposed changes to the Wisconsin statutes that govern the ability of organizations to provide continuing education in Wisconsin. We have not been made aware of any shortcomings in the current language. We do, however, have some significant concerns about these proposed changes we would like to raise with you and your committee.

Under Sub. (2), we believe that a new standard for providing faculty to teach these seminars is unnecessary, and that restrictions on appropriate delegation of proctoring duties is an unreasonable restraint of trade. We believe the effect would be to deter any organization other than the Wisconsin Chiropractic Association from offering seminars within the state. Northwestern takes its responsibilities very seriously in these matters, and we believe our current monitoring practices

provide more than adequate assurance to the Board of Examiners that our transcripts that certify attendance reflect actual attendance records.

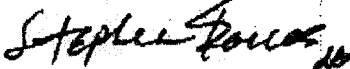
Further, two-year penalty for violation of this provision is excessive and unfair. Provisions for remediation do not exist.

Proposed section 446.035 offers revisions of the peer review process. In this section, we believe that an open selection managed by the Wisconsin Board of Chiropractic Examiners offers the most fair selection process, as well as the only appropriate source of peer review control.

In summary, we believe that current Wisconsin statutes offer an appropriate and adequate structure to ensure that the safety and trust of the public is preserved.

Please let us know if we can provide any further assistance or information to you.

Sincerely yours,



Stephen Bolles, DC

*Vice President for Institutional Advancement*

Cc: Ms. Diana Berg, *Director, Continuing Education*  
Dr. Alfred Traina, *President*  
Wisconsin Board of Chiropractic Examiners

American  
**Chiropractic**  
Association

DEDICATED TO IMPROVING THE HEALTH AND WELLNESS OF AMERICA, NATURALLY.

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June 18, 2003

Terrance K Freitag, DC  
ACA State Delegate  
714 4th Ave W  
Monroe WI 53566-1039

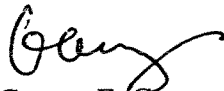
Re: Section 115 – Continuing Education

Dear Terry:

This is in response to your recent request for ACA's commentary on the above-referenced portion of proposed Wisconsin legislation affecting continuing education. We are concerned that the proposed legislation would hamper our ability to co-sponsor continuing education programs with organizations that are not listed as an organization in par. 446.025(2)(a)1. While we understand that the ACA may sponsor programs for our Wisconsin members and may delegate certain responsibilities under the proposal (as outlined in par. (a) 2 to 5), it is unclear to us whether those responsibilities may be delegated to any "organization" other than those identified in par. (a)1. For this reason, we believe the proposal as currently drafted would hamper our ability to provide continuing education programs to our members in Wisconsin.

Thank you for your inquiry and the opportunity to voice the concern of this Association.

Sincerely,



Garrett F. Cuneo  
Executive Vice President

GFC/sw

Cc: ACA Board of Governors



1701 Clarendon Boulevard, Arlington, VA 22209  
(703) 276-8800 Fax: (703) 243-2593 www.acatoday.com Email: memberinfo@amerchiro.org

# American Chiropractic Association

DEDICATED TO IMPROVING THE HEALTH AND WELLNESS OF AMERICA, NATURALLY.

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July 7, 2003

Terrance K Freitag, DC  
714 4th Ave W  
Monroe WI 53566-1039

Dear Terry:

Thanks for sending me a copy of Russ Leonard's letter of June 27th responding to ACA's position regarding proposed legislation on continuing education. You asked me to comment on the closing paragraph of his letter.

He states: "We are very disappointed that some who are in position of great authority would prefer to use the integrity of chiropractic post graduate education to be further eroded rather than accept their institutional responsibility. AB 356 strengthens the credibility of chiropractic post graduate education and we hope that, upon reflection, the ACA will reconsider its position."

Before I respond to this issue, let me comment on some of his earlier allegations where he seems to imply that financial considerations are behind our position on this legislation. This statement is particularly disconcerting because of my understanding that the Wisconsin Chiropractic Association makes a significant profit in continuing education. Yet we aren't questioning the motives of the Wisconsin Association in promoting this legislation. We would appreciate it if Mr. Leonard does not question ours.

For the record, we cosponsor with the Michigan Chiropractic Society a continuing education program annually when they hold their seminar in the peninsula area of the state. We understand that a number of Wisconsin doctors attend this program. We have been doing this cosponsorship for at least eight years, and at no time have we received compensation from the Society. There has been at least one occasion when we have required that the Society change its speaker before we would approve it. We take our responsibilities seriously. The proposed legislation, unless it is amended to reflect our position, would not allow us to continue cosponsoring the program with the Michigan Society. We don't think this would be fair to the Michigan Society or to the doctors from Wisconsin who decide to take this seminar.

Thanks for the opportunity to comment.

Sincerely,



Garrett F. Curleo  
Executive Vice President

GFC/sw



1701 Clarendon Boulevard, Arlington, VA 22209  
(703) 276-8800 Fax: (703) 243-2593 [www.acatoday.com](http://www.acatoday.com) Email: [memberinfo@amerchiro.org](mailto:memberinfo@amerchiro.org)