

SEP 18 2000

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

**RULES CLEARINGHOUSE**

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**CLEARINGHOUSE REPORT TO AGENCY**

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[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 00-125**

AN ORDER to repeal and recreate Chir 4.03 and 4.05 (1) (d), relating to nutritional supplements.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

08-18-00 RECEIVED BY LEGISLATIVE COUNCIL.

09-15-00 REPORT SENT TO AGENCY.

RS:RW:jal;rv

**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)]

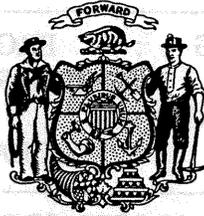
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 00-125

### 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.]**

#### 1. Statutory Authority

In the rule analysis prepared by the agency, there is no direct mention of the repeal and recreation of current s. Chir 4.03 defining the practice of chiropractic. It appears that the intent of the agency is to reorganize the section only to allow the addition of the provisions relating to providing "information and counseling regarding the restoration and preservation of health." However, to avoid misunderstanding regarding the changes to the scope of practice, it would be helpful if the agency would state in the analysis that the reorganization of the current rule is not intended to expand or contract the scope of practice for chiropractors. Further, the analysis should be revised to clearly indicate that additional language is incorporated into the practice section. As currently written, the analysis improperly leads to a conclusion that the only change is in language relating to the use of vitamins and other food and nutritional supplements.

#### 2. Form, Style and Placement in Administrative Code

The reference in the note following s. Chir 4.05 (1) (d) to "subparagraph" should be changed to "subdivision" to refer to s. Chir 4.05 (1) (d) 1., or to "paragraph" to refer to s. Chir 4.05 (1) (d).

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 00- )  
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PROPOSED ORDER

An order of the Chiropractic Examining Board to repeal and recreate Chir 4.03 and 4.05 (1) (d), relating to nutritional supplements.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

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

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

In this proposed rule-making order the Chiropractic Examining Board defines the practice of chiropractic as it relates to the use of vitamins and other food and nutritional supplements. The principles and techniques of chiropractic science, and the curriculum for education and training of chiropractors, include the provision of dietary and nutritional counsel and advice and the use of vitamins and other food and nutritional supplements for the restoration and preservation of health and proper condition of chiropractic patients. Dietary and nutritional counsel and advice and the use of vitamins and other food and nutritional supplements is considered part of the practice of chiropractic and is authorized by the statutory definition of the practice of chiropractic.

TEXT OF RULE

SECTION 1. Chir 4.03 is repealed and recreated 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. The practice of chiropractic includes all of the following:

(1) Diagnosis and analysis to determine the existence of spinal subluxations and associated nerve energy expression. Diagnosis and analysis may include physical examination, specimen analysis, drawing of blood, blood-analysis and the use of x-ray and other instruments.

(2) Use of procedures and instruments preparatory and complementary to treatment of the spinal column, skeletal articulations and adjacent tissue.

(3) Providing information and counseling regarding the restoration and preservation of health.

SECTION 2. Chir 4.05 (1) (d) is repealed and recreated to read:

Chir 4.05 (1) (d) The prescribing, dispensing, delivery or administration of drugs as defined in s. 450.01 (10), Stats., except nothing in this paragraph may be construed to prevent any of the following:

1. Counseling regarding the health benefits of vitamins, herbs or nutritional supplements.
2. The sale of vitamins, herbs or nutritional supplements.

Note: Counseling provided under this subparagraph shall be restricted to the restoration and preservation of health within the scope of 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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8/18/00