



# JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR STEVE NASS AND REPRESENTATIVE ADAM NEYLON

Clearinghouse Rule 19-100

**Report to the Legislature**  
**Clearinghouse Rule 19-100**  
**The Joint Committee for Review of Administrative Rules**  
Produced pursuant to 227.19 (6) (a), Stats.

Clearinghouse Rule 19-100, promulgated by the Chiropractic Examining Board (Chir), updates administrative rules relating to chiropractor nutritional counseling certification, including placing significant limitations on educational institutions that qualify for board approval to provide nutritional counseling education.

## **Description of Problem**

At the request of Senator Steve Nass, the Joint Committee for Review of Administrative Rules (JCRAR) held a public hearing on Clearinghouse Rule 19-100, relating to nutritional counseling certification and education programs administered by the Chiropractic Examining Board, on March 17, 2020. The Chiropractic Society of Wisconsin raised concerns that the rule and existing administrative code unnecessarily restricts certification program approval to those connected with one particular association only, the Wisconsin Chiropractic Association, and discriminates against other qualified educational program providers, violating legislative intent of the statute.

## **Arguments In Favor of Objection**

- *The rule and existing administrative code creates a “fence me out” policy by artificially restricting nutritional certification programs to one sponsored by the Wisconsin Chiropractic Association or its affiliate organizations, arbitrarily excluding other qualified educational program providers. This is a clear violation of legislative intent.*
- *There are other qualified providers for this certification program that meet all other curriculum requirements, except the requirement to be sponsored by the Wisconsin Chiropractic Association. There is no demonstrated policy reason for this requirement and it harms Wisconsin residents seeking the nutritional counseling certification by artificially limiting the number of approved providers.*
- *JCRAR co-chairs attempted to work with the agency to modify the rule to correct this issue, however the board refused the request to make modifications.*

## Arguments Against Objection

- *No one from the Chiropractic Examining Board or Department of Safety & Professional Services (DSPS) attended the public hearing to testify on the rule. In prior meetings with the JCRAR co-chairs, the board offered little rationale for maintaining the requirement other than a nebulous ease for the department in administering it and the board's refusal to change it.*

## Action by Joint Committee for Review of Administrative Rules

On March 17, 2020, the Joint Committee for Review of Administrative Rules (JCRAR) held a public hearing and executive session on Clearinghouse Rule 19-100. The committee passed the following motion on a 7-3 vote, objecting to the rule in full (YES: Nass, Ballweg, Stroebel, Craig, Larson, Neylon, and Ott; NO: Wirch, Hebl, and Subeck):

*Moved, that the Joint Committee for Review of Administrative Rules, pursuant to s. 227.19 (5) (d), Stats., object to Clearinghouse Rule 19-100, relating to nutritional counseling certification (Chiropractic Examining Board), on the grounds that the proposed rule fails to comply with legislative intent and is arbitrary and capricious, and imposes an undue hardship by discriminating against otherwise qualified educational program providers.*

On March 17, 2020, the Joint Committee for Review of Administrative Rules (JCRAR) voted 7-3 (YES: Nass, Ballweg, Stroebel, Craig, Larson, Neylon, and Ott; NO: Wirch, Hebl, and Subeck) to introduce LRB-5818 and LRB-5821, which requires the Chiropractic Examining Board to approve, for purposes of providing the education needed to obtain a chiropractor nutritional counseling certificate, postgraduate nutrition programs that satisfy all of the requirements established by the board that are not based on the identity of the sponsor of the program. The bills were introduced as Senate Bill 904 and Assembly Bill 1018 in the 2019-20 legislative session. Pursuant to 227.19 (5) (g), the bills must also be introduced in the next regular session of the legislature.

On January 21, 2021, the Joint Committee for Review of Administrative Rules voted 6-4 (YES: Nass, Neylon, Stroebel, Bradley, August, Spiros; NO: Roys, Larson, Hebl, Subeck) to introduce LRB 1186 and LRB 1422, which requires the Chiropractic Examining Board to approve, for purposes of providing the education needed to obtain a chiropractor nutritional counseling certificate, postgraduate nutrition programs that satisfy all of the requirements established by the board that are not based on the identity of the sponsor of the program. The bills were introduced as Senate Bill 32 and Assembly Bill 11 in the 2021-22 legislative session.

Passage of one of these bills in support of the JCRAR objection would permanently remove the Chiropractic Examining Board's ability to enforce a rule provision that makes approval of an educational program for a chiropractor nutritional counseling certificate contingent on the identity of the sponsor of the program alone.