

Modifications From Agency

**STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD**

IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 19-100
CHIROPRACTIC EXAMINING :
BOARD :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The Board conducted an evaluation and update of ch. Chir 12 to ensure the definitions under s. Chir 12.01, the criteria for granting a certificate for nutritional counseling under s. Chir 12.02, and the criteria for approval of nutritional counseling educational programs under s. Chir 12.03 are consistent with current professional and academic practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- A definition of “patient” is added to the definitions under s. Chir 12.01.
- The requirement under s. Chir 12.03 (2) (a) 5. that program subject matter is generally taught at the undergraduate or postgraduate level of a chiropractic college and relates to improving the clinical skills of a chiropractor is revised. The revised requirement is that program subject matter contributes to the advancement, extension, and enhancement of the clinical skills of a chiropractor and fosters the enhancement of general or specialized practice and values.
- Other provisions throughout ch. Chir 12 have been revised to provide clarity and conform to current drafting standards.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Chiropractic Examining Board held a public hearing on August 29, 2019. The Chiropractic Society of Wisconsin submitted written comments. The comments submitted and the Board’s response are summarized as follows:

- The language found in s. Chir 12.03 (1) (a), which limits the organizations that may sponsor a nutritional counseling program to those who are permitted by statute to sponsor a continuing education program, exceeds rule making authority and excludes organizations that can otherwise create acceptable nutritional counseling programs. As such, the provision should be removed.

The Board did not modify the proposed rules in response to this comment. The Board has authority under s. 446.02 (2) (c), Stats., to establish requirements for approval of a nutritional counseling program, including requirements concerning sponsorship of the program. In addition, as the Board believes the expectation of a chiropractor is that continuing education credit may be claimed for completing a nutritional counseling program, the Board did not want to create situations where that expectation would not be met.

- As a nutritional certification program does not have to be offered for continuing education credit, the language in s. Chir 12.03 (2) (a) that specifies an application for approval of a nutritional counseling program must be submitted no later than 75 days prior to the program date is not required and should be removed.

The Board did not modify the proposed rules in response to this comment. Given the number of continuing education programs and nutritional counseling programs submitted to the Board for approval, the Board believes the deadline specified in s. Chir 12.03 (2) (a) is appropriate.

- As the proposed rules provide a definition of “patient” that includes a patient-chiropractor relationship, the language in s. Chir 12.06 (2) should be removed or revised to clarify the ability for chiropractors to participate in nutritional programs or businesses that do not involve a patient-chiropractor relationship.

In response to this comment, the Board revised s. Chir 12.06 (2) to clarify that a chiropractor may not sell, barter, trade, or give away nutritional supplements to a patient unless the chiropractor holds a certificate for nutritional counseling.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All Legislative Council recommendations have been incorporated into the proposed rules.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A