

CERTIFICATE


**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Kimberly Nania, Director, Bureau of Health Service Professions in the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Chiropractic Examining Board, do hereby certify that the annexed rules were duly approved and adopted by the Chiropractic Examining Board on the 4th day of May, 2000.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 4th day of May, 2000.


Kimberly Nania, Director, Bureau of Health Service Professions, Department of Regulation and Licensing

98-190

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : CHIROPRACTIC EXAMINING BOARD
CHIROPRACTIC EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 98-190)

ORDER

An order of the Chiropractic Examining Board to *create* Chir 6.03, relating to the duty to evaluate and inform patients of their presenting conditions.

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: ss. 446.01 (2) and 446.03 (5), Stats.

A chiropractor has a responsibility recognized under common law to determine whether a patient presents a problem that is treatable through chiropractic means and refrain from further chiropractic treatment if the patient's condition will not be responsive to chiropractic treatment. This responsibility was recognized in *Kerkman v. Hintz*, 142 Wis. 2d 404, 418 N.W.2d 795 (1988) and is codified in this rule.

In the *Kerkman* decision and more recently in *Goldstein v. Janusz Chiropractic Clinics, S.C.*, 218 Wis. 2d 683, 582 N.W.2d 78, (Ct. App. 1998) rev. den. 220 Wis. 2d 364 (1998) the courts have relied on the description of the practice of chiropractic in sec. Chir 4.03, Wis. Adm. Code to limit the responsibility and liability of a chiropractor who does not refer a patient to a medical doctor. In this rule the description of the practice of chiropractic is amended to (1) recognize that chiropractors treat body tissues other than those adjacent to the spine and (2) that diagnosis by a chiropractor involves using chiropractic science and the principles of education and training of the chiropractic profession. This rule establishes a duty requiring a chiropractor to advise a patient to consult another appropriate health care provider if the chiropractor determines that correct treatment for the patient is outside the practice of chiropractic or if the chiropractor knows or should know that he or she does not have the skill, knowledge or facilities to treat the patient's condition. As established in this rule, the responsibility of a chiropractor to advise a patient to consult another appropriate health care provider is broader than the duty recognized in the *Kerkman* decision.

TEXT OF RULE

SECTION 1. Chir 6.03 is created to read:

Chir 6.03 Duty to evaluate and inform. (1) A chiropractor shall evaluate each patient to determine whether the patient presents a condition that is treatable through chiropractic means. An evaluation shall be based upon an examination appropriate to the presenting patient. In conducting an evaluation, a chiropractor shall utilize chiropractic science as described in s. Chir 4.02 and the principles of education and training of the chiropractic profession.

(2) If an evaluation indicates a condition treatable by chiropractic means, the chiropractor shall treat the patient using appropriate chiropractic means.

(3) If an evaluation indicates a condition which is not treatable through chiropractic means, the chiropractor shall inform the patient that the condition is not treatable through chiropractic means and recommend that the patient seek additional advice or care.

(4) A chiropractor may render concurrent or supportive chiropractic care to a patient, but a chiropractor shall refrain from further chiropractic treatment when a reasonable chiropractor should be aware that the patient's condition will not be responsive to further treatment.

(END OF TEXT OF RULE)

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 5-4-00

Agency



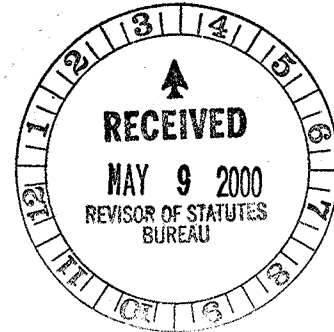
Chairperson
Chiropractic Examining Board

g:\rules\chir1.doc
4/17/2000



State of Wisconsin
DEPARTMENT OF REGULATION AND LICENSING
CORRESPONDENCE/MEMORANDUM

DATE: May 9, 2000
TO: Gary Poulson
Assistant Revisor of Statutes
FROM: Pamela A. Haack, Paralegal
Department of Regulation and Licensing
Office of Administrative Rules
SUBJECT: Final Order Adopting Rules



Agency: Chiropractic Examining Board

Clearinghouse Rule 98-190

Attached is a copy and a certified copy of a final order adopting rules relating to the duty to evaluate and inform patients of their presenting conditions.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.