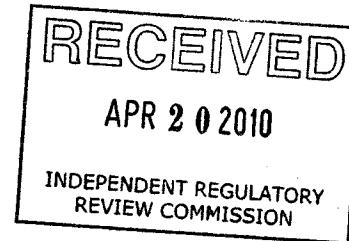


2826.

April 15, 2010



Regulatory Unit Counsel  
Department of State  
P.O. Box 2649  
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**Reference No. 16A-4315 (Review of Chiropractic Treatment)**

Dear Commission:

The proposed rulemaking by the State Board of Chiropractic [**40 PaB. 1641/Saturday, March 27, 2010**] should *not* be considered as it is redundant (the proposed changes stipulated by regulatory law already); over reaching (the board is acting as a trade association for the benefit of a segment of chiropractors, and not necessarily all chiropractors or citizens of the commonwealth); and I believe purposely vague (subject to arbitrary interpretation) to restrain trade (attempting to restrict licensed chiropractors from performing Peer/Utilization Review and Independent Chiropractic Examinations).

At present Act-6 (Auto) and Act 44/57 (Workers' Comp) Peer/Utilization Review law, rules, and regulations, now in effect for 18 and 16 years, respectively, have mechanisms in place to address **Proposal 5.56 – Chiropractic Peer Review**, and specifically: licensing requirements; minimum practice hours (20/week); previous case involvement restrictions; conflict of interest stipulations; report guidelines/requirements regarding formatting and content including review of the patient's treatment records for a specific injury; referenced conclusions/determinations; and finalized report dissemination to all involved parties, including the treating chiropractor under review.

Otherwise, the proposed part of subsection (b) that states “a chiropractor may not perform a chiropractic peer review if the chiropractor had previous **professional involvement** with the patient or chiropractor under review” is not defined and therefore the “**professional involvement**” language open to abuse - it could be interpreted to mean that a reviewing chiropractor having reviewed a chiropractor previous could *not* ever review that chiropractor again.

Similarly, the subsection (b) proposal that states “the chiropractor’s impartiality may be reasonably questioned” referring to the reviewing chiropractor is equally ripe for abuse via self-serving accusations, personal vagaries, etc. that over time could disqualify a reviewing chiropractor (of which there are a limited number willing and available in Pennsylvania to perform this work) from all case assignments for arbitrary reasons; especially if propagated to the chiropractic profession at large - in essence eventually nullifying the intent of the cost containment provisions of Act-6 and Act 57.

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At present, both the auto and workers' comp peer review processes entitle the treating patient and/or chiropractor relief of an adverse peer review decision through reconsideration (auto) or "petition to review utilization review" (workers' comp) and beyond that standing to litigate.

Otherwise, with regard to **Proposal 5.55 - Independent Chiropractic Examination** all of the proposals and concerns as listed are already addressed by case or statutory law governing these proposals; short of the independent examining chiropractor obtaining records from the treating chiropractor on their own, and the forwarding of a copy of the finalized report to the treating chiropractor.

These are far reaching proposals as neither the examining nor treating chiropractor have either an implied or contracted agreement requiring forwarding of such work product that may be obtained otherwise, including from the respective patient or patient's legal counsel, nor is the treating chiropractor bound alone by the report's conclusions.

Otherwise, the same proposals that an examining "chiropractor's impartiality may be reasonably questioned" and a "chiropractor may not perform an independent chiropractic if the chiropractor had previous *professional involvement* with the patient or chiropractor under review" applied to independent chiropractic examinations should be likewise discounted for the same reasons that apply to conducting peer reviews.

In closing, I believe the State Board of Chiropractic Proposed Rulemaking as referenced is being proposed to promote and protect a segment of the chiropractic profession as it relates to treatment, and potentially over treatment, of a patient without concern for other interested parties, including unsuspecting patient's, and similarly licensed chiropractors who perform these services as allowed and defined by State law, that as stated previous, a trade association and/or guild would typically propose and not a licensing board.

Respectfully submitted:

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