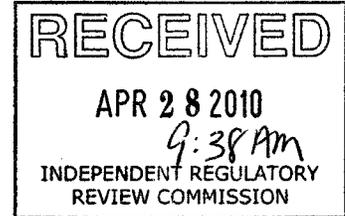


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April 22, 2010

Regulatory Unit Counsel
Department of State
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RE: No. 16A-4315 (review of chiropractic treatment).
Response to the State Board of Chiropractic (Board) proposal to amend §§ 5.55 and 5.56 of the Chiropractic Practice Act.

To Whom It May Concern:

I welcome the opportunity to respond to the proposed amendment to the above referenced sections the chiropractic practice act.

It is my understanding that the function of the Board is to protect the consumer from the chiropractic profession. It is my considered opinion that the proposed amendments do not perform this function in any manner. Further, the proposed changes unduly burden the reviewer/examiner and provide mechanisms for abusive chiropractors who engage in fraudulent behavior to abrogate the intent of the review system and continue said behavior.

Specifically, I have issue with the following:

§5.55 (3) (b) (1) and §5.56 (4)(b) (1) which states that a chiropractor may not perform ... if "the chiropractor had previous professional involvement with the patient or provider under review."

The phrase "previous professional involvement" is undefined and can be interpreted in many ways. It appears that this phrase attempts to define conflict of interest but existing laws have already clearly defined same.

Under §127.468 and §127.615 of the Workers' Compensation Act- Duties of Reviewers-conflict of interest (*please note similar language in Pennsylvania's Motor Vehicle Financial Responsibility Law (MVFRL) (Act 6)*) A reviewing physician shall return a review to the URO for assignment to another reviewer if one or more of the following exist.

- If the reviewer has previous involvement with the patient, or with the provider under review, regarding the same matter.
- If the reviewer has performed pre- certification functions in the same matter.
- If the reviewer has provided case management services in the same matter.

- If the reviewer has provided vocational rehabilitation services in the same matter.
- If the reviewer has have a contractual relationship with any party in the matter.

Adding the proposed amendments do not clarify this issue but confuses an already clearly defined concept.

§5.55 (3) and §5.56 (3) that states that a chiropractor may not perform ... if "the chiropractor's impartiality may reasonably be questioned."

Clearly, this amendment is undefined and, in my opinion, is adequately covered by the existing conflict of interest verbiage.

I have been performing reviews and IME's as part of my practice for nearly 20 years as well as teaching this subject matter throughout the Unites States on the post-graduate level for several chiropractic colleges. I can tell you with conviction that any chiropractor who has received what he/she defines as a negative review will consider the reviewer's impartiality to be questionable regardless of the circumstances.

§5.55(3) and §5.56(3) will allow a chiropractor who engages in abusive and fraudulent activity to be reviewed only by those who will agree with him/her. Again, the proposed amendments do not clarify this issue but confuses an already clearly defined concept and seems to support, not prohibit untoward behavior in the chiropractic profession.

In §5.55(3)(c) requires the examining physician to obtain the treatment documentation from the provider under review. This is not the examiners responsibility and those records are obtained by the entity requesting the examination. This is covered adequately in the WC Act and the MVFRL. By requiring the examining physician to obtain the records, we run into privacy issues such as obtaining permission from the patient to obtain the records. The examiner has no standing here whereas the attorney or insurance carrier may on a contractual basis. Also undefined is who pays for the records, who will obtain the patient's permission for the records, etc.

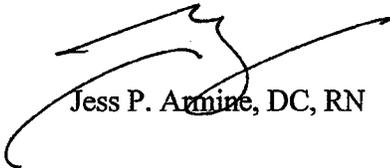
In my opinion, §5.55(3)(c) will unduly burden the examiner and may act as another hurdle that the examiner must overcome further interfering with an appropriate examination/review.

In my opinion, if the Board were following its purpose it would create a mechanism for reviewers to report fraud, abuse, and malpractice to the Board for action for who sees the aforementioned more than those professionals who are actually reading the treatment documentation, looking at the bills and examining the patients? This mechanism is not currently available as reviewers are constrained by privacy laws but the board clearly seems to target these doctors of chiropractic performing reviews and IME's. This is in contravention of the Board's purpose.

From my teaching, I am familiar with the review systems in many states and Pennsylvania's is, in fact, the most unbiased. In my opinion, the Board has not made a compelling argument as to why these amendments are necessary. Further, these amendments seem to interfere with a clearly defined, unbiased review system already in place for heretofore unclear purposes.

Thank you for this opportunity to express my opinion.

Sincerely,



Jess P. Armine, DC, RN

Sent certified mail/return receipt requested. 7008 1830 0001 3040 1594