

June 2, 2022

Wisconsin Chiropractic Examining Board
DSPA
PO Box 8366
Madison, WI 53708-8366

Dear Chiropractic Examining Board:

A few issues have been raised by our membership recently regarding a Wisconsin licensed chiropractor's scope of practice. Our legal counsel has reviewed chapter 446 and Wis. Admin. Code Chir Chapter 4 and believes there is ambiguity with the following potential services or products:

1. Chiropractic use of a fat loss laser, such as the Zerona Z6. See e.g., https://www.accessdata.fda.gov/cdrh_docs/pdf14/K143007.pdf
2. Recommending the Delta 8 Variant of CBD by Chiropractors
3. Involvement in Multi-Level Marketing (MLM) activities by Chiropractors

Fat Loss Laser

With regard to the fat loss laser service, it is unclear whether treatment of obesity with use of such a laser falls within the definition of the "practice of chiropractic." Arguably, it could fall within the definition because it qualifies as treatment without the use of drugs or surgery and obesity qualifies as a departure from complete health and proper condition of the human. See Wis. Stat. § 446.01(2)(a). We ask the Chiropractic Examining Board (CEB) confirm whether a fat loss laser service falls within the definition of the "practice of chiropractic."

If it does fall within the definition, we also ask the CEB to confirm whether a chiropractor can delegate use of the laser to chiropractic technicians and under what circumstances.

Delta 8 Variant of CBD

Since the passage of the federal Farm Bill and changes to Wis. Stat. § 446.01(2) to include use of "hemp" as part of a chiropractor's scope, there have been numerous questions about types of cannabidiol (CBD) products that Wisconsin-licensed chiropractors can use or recommend as part of their practice. One such product introduced lately to Wisconsin chiropractors is delta-8 THC. According to the U.S. Food and Drug Administration (FDA), concentrated amounts of delta-8 THC are typically manufactured from hemp-derived CBD. Because the Wisconsin statutes permit chiropractic use of hemp as part of their scope, does this permission also include hemp-derived variants such as delta-8 THC that also have FDA warnings and psychoactive effects? We would greatly appreciate guidance from the CEB to explain the limits (if there are any) of hemp-based product use by Wisconsin-licensed chiropractors.

Multi-Level Marketing Opportunities

Another type of question we hear from our members is whether Wisconsin-licensed chiropractors can sell products that are part of a multi-level marketing (MLM) arrangement. These products may include dietary

supplements, which are related to chiropractic practice if the chiropractor has a nutritional counseling certification, or products that are unrelated to the chiropractor's practice, such as cosmetics, jewelry or kitchen items (to name a few). Chiropractors who are interested in selling these products would like to know if there are steps they can take to satisfy licensure requirements and ethical expectations. For example, it would be helpful for the CEB to address the following questions:

1. Would such product sales be permissible if chiropractors asked patients to sign an authorization to be contacted if the patient was interested in purchasing MLM products?
2. Should the chiropractor limit the sale of these products to outside the clinic office hours only?
3. Must the chiropractor disclose any financial interest in selling the products to patients, and if so, how should the chiropractor issue the disclosure?
4. Would selling products relating to the practice of chiropractic, such as nutritional supplements, violate the fee splitting statute under Wis. Stat. § 446.04(4)?

Guidance from the CEB on chiropractic involvement in MLM arrangements would be most helpful.

I am happy to answer any questions the CEB may have on these guidance requests. I look forward to hearing from you soon.

Sincerely,

John Murray
Executive Director