

State of Washington

(name of governing body)

WASHINGTON STATE CHIROPRACTIC DISCIPLINARY BOARD

(agency name, if applicable)

Resolution No. 78-142

Administrative Order No. PL 287

(1) Be it resolved by the Washington State Chiropractic Disciplinary Board acting at Olympic Room, Vance Airport Inn, 18220 Pacific Highway South, Seattle, WA.

(place)

that it does promulgate and adopted the annexed rules relating to: ethical standards: prohibited and permitted publicity and advertising; permitted identification of chiropractor; honoring of publicity and advertisements; prohibited transactions; professional notices, letterheads, cards and mailings; and suggestion of need of chiropractic services: Adding as new sections WAC 113-12-150, 113-12-160, 113-12-161, 113-12-165, 113-12-170, 113-12-175 and 113-12-180.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. \* filed with the code reviser on 2/28/78. Such rules shall take effect: \* WSR 78-03-086 pursuant to RCW 34.04.040(2) at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

We, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04. (1977 c 19 § 2) that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" (fill in statement (a), (b), or (c) as appropriate):

(a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.

(b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

X (c) This rule is promulgated under the general rule making authority of the Washington State Chiropractic Disciplinary Board

(agency)

as authorized in RCW 18.26.110 (2)

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

(5) The order recorded in the order register of this governing body is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED April 8, 1978

APR 25 1978

CODE REVISER'S OFFICE WSR 78-05-052

By James S. Day, D.C. Chairman

Title

STATE OF WASHINGTON  
DEPARTMENT OF LICENSING

Administrative Order No. PL 287

STATEMENT OF PURPOSE AND IMPLEMENTATION

I. TITLE:  
NAME OF AGENCY: WASHINGTON STATE CHIROPRACTIC DISCIPLINARY BOARD  
DESCRIPTION OF RULES:  
Publicity and advertising by chiropractors.  
STATUTORY AUTHORITY:  
RCW 18.26.110(2)

II. SUMMARY OF RULES:  
WAC 308-12-150 - Establishes what types of publicity and advertising are prohibited.  
WAC 308-12-160 - Establishes what types of publicity and advertising are permitted.  
WAC 308-12-161 - Denotes those areas in which chiropractors may identify themselves as such without violating any other rule.  
WAC 308-12-165 - Establishes standards for honoring of representations in advertisements.  
WAC 308-12-170 - Prohibits compensation to media representatives in return for individual publicity.  
WAC 308-12-175 - Applies the standards of the chapter on print media to professional notices, letterheads, cards, and mailing.  
WAC 308-12-180 - Prohibits chiropractors from accepting employment as a result of unsolicited advice to a potential patient, but allows public discussion on chiropractic subjects in general.

III. In addition to the Director of the Department of Licensing, the following agency personnel have responsibility for drafting, implementing and enforcing these rules:

<u>NAME</u>	<u>TITLE</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>
Cheryl Lux Duryea	Asst. Director, Business & Professions	Sixth Floor Highways-Licenses Bldg. Olympia, WA 98504	234-1369 (SCAN) 753-1369 (Commercial)
Joan L. Baird	Administrator, Division of Professional Licensing	Sixth Floor Highways-Licenses Bldg. Olympia, WA 98504	234-6974 (SCAN) 753-6974 (Commercial)

IV. These rules were proposed by the Board. Individuals speaking both for and against the rules were as follows:

<u>Oral Testimony:</u>	<u>-150</u>	<u>-160</u>	<u>-161</u>	<u>-165</u>	<u>-170</u>	<u>-175</u>	<u>-180</u>
Leonard Sawyer, Esq. Washington Chiro. Association	F	B			F		A
Paul C. Phillips, D.C.	A	A	A	A	A	A	A
Harley D. Silthvedt, D.C. Pres., Chiro. Society of Washington							A

<u>Oral Testimony: (cont'd)</u>	<u>-150</u>	<u>-160</u>	<u>-161</u>	<u>-165</u>	<u>-170</u>	<u>-175</u>	<u>-180</u>
Thomas H. Sather, D.C.							A
Gordon Townsend, D.C.	A	A	A	A	A	A	A

Written Testimony:

Paul C. Phillips, D.C., submitted at the hearing copies of memoranda from the California Attorney General and the Department of Consumer Affairs in support of his contention that the rules are unconstitutional.

Brian Long, D.C., on behalf of United Chiropractors of Washington, submitted by mail before the hearing a position paper which took the following positions on the rules as adopted:

<u>-150</u>	<u>-160</u>	<u>-161</u>	<u>-165</u>	<u>-170</u>	<u>-175</u>	<u>-180</u>
B	F	F	B	F	A	

Copies of written submissions may be obtained from:

Division of Professional Licensing  
P. O. Box 9649  
Olympia, Washington 98504  
(206) 753-6838

Legend: F-For; A-Against; B-Both for and against various subsections of the rule, or general comment.

V. AGENCY COMMENTS:

These rules were promulgated pursuant to RCW 18.26.110(2). They are intended to replace prior regulations on advertising and publicity by chiropractors, and to do so within the constitutional bounds described by U.S. Supreme Court cases such as Virginia State Board of Pharmacy et al v. Virginia Citizens Consumers Council, Inc. et al, and Bates and O'Steen v. State Bar of Arizona.

SUBMITTED in accordance with Chapter 84, Laws of 1977, 1st Ex. Sess., this 25 day of April, 1978.

  


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JOAN L. BAIRD, Administrator  
Division of Professional Licensing

NEW SECTION

WAC 113-12-150 ETHICAL STANDARDS--PROHIBITED PUBLICITY AND ADVERTISING. A chiropractor shall not, on behalf of himself, his partner, associate or any other chiropractor affiliated with his office or clinic, use or allow to be used any form of public communications or advertising which:

- (1) is false, fraudulent, deceptive, misleading, or sensational;
- (2) uses testimonials;
- (3) guarantees any treatment or result;
- (4) offers gratuitous goods or services or discounts in connection with chiropractic services, but this clause shall not be construed to relate to the negotiation of fees between chiropractors and patients or to prohibit the rendering of chiropractic services for which no fee is charged;
- (5) makes claims of professional superiority;
- (6) states or includes prices for chiropractic services except as provided for in WAC 113-12-160;
- (7) fails to differentiate chiropractic care from all other methods of healing;
- (8) advertises a service outside the practice of chiropractic as permitted in Washington;
- (9) is broadcast on radio or television; or
- (10) otherwise exceeds the limits of WAC 113-12-160.

NEW SECTION

WAC 113-12-160 ETHICAL STANDARDS--PERMITTED PUBLICITY AND ADVERTISING. To facilitate the process of informed selection of a chiropractor by potential patients, a chiropractor may publish the following information in print media, provided that the information disclosed by the chiropractor in such publication complies with all other ethical standards promulgated by the board:

- (1) Name, including name of professional service corporation or clinic, and names of professional associates, addresses and telephone numbers.
- (2) Date and place of birth.
- (3) Date and fact of admission to practice in Washington and other states.
- (4) Schools attended with dates of graduation, degrees and other scholastic distinction.
- (5) Chiropractic teaching positions.
- (6) Membership in chiropractic fraternities, societies and associations.
- (7) Membership in scientific, technical and professional associations and societies.
- (8) Whether credit cards or other credit arrangements are accepted.
- (9) Office and telephone answering service hours.
- (10) Fee for an initial examination and/or consultation.
- (11) Availability upon request of a written schedule of fees or range of fees for specific services.
- (12) The range of fees for specified routine chiropractic services, provided that the statement discloses, in print size equivalent to the largest print used in setting forth the fee information, that the specific fee within the range which will be charged will vary depending upon the particular matter to be handled for each patient, and the patient is entitled without obligation to an estimate of the fee within the range likely to be charged.
- (13) Fixed fees for specified routine chiropractic services, the description of which would not be misunderstood by or be deceptive to a prospective patient, provided that the statement discloses in print size at least equivalent to the largest print used in setting forth the fee information that the quoted fee will be

available only to patients whose matters fall into the services described, and that the client is entitled without obligation to a specific estimate of the fee likely to be charged.

#### NEW SECTION

WAC 113-12-161 ETHICAL STANDARDS--PERMITTED IDENTIFICATION OF CHIROPRACTOR. Nothing in chapter 113-12 of the Washington Administrative Code shall be construed to limit the identification of a chiropractor as a chiropractor as well as by name:

- (1) in political advertisements;
- (2) in routine reports and announcements of a bona fide business, civic, professional, or political organization in which he serves as a director or officer; or
- (3) in and on chiropractic textbooks, treatises, and other chiropractic publications, and in advertisements thereof.

#### NEW SECTION

WAC 113-12-165 ETHICAL STANDARDS--HONORING OF PUBLICITY AND ADVERTISEMENTS. (1) If a chiropractor advertises a fee for a service, the chiropractor must render that service for no more than the fee advertised.

(2) Unless otherwise specified in the advertisement, if a chiropractor publishes any fee information authorized under chapter 113-12 WAC, the chiropractor shall be bound by any representation made therein for the periods specified in the following categories:

(a) If in a publication which is published more frequently than one time per month, for a period of not less than thirty days after such publication.

(b) If in a publication which is published once a month or less frequently, until the publication of the succeeding issue.

(c) If in a publication which has no fixed date for publication of the succeeding issue, for a reasonable period of time after publication, but in no event less than one year.

#### NEW SECTION

WAC 113-12-170 ETHICAL STANDARDS--PROHIBITED TRANSACTIONS. A chiropractor shall not compensate or give anything of value to representatives of the press, radio, television or other communication media in anticipation of or in return for professional publicity of any individual chiropractor in a news item.

#### NEW SECTION

WAC 113-12-175 ETHICAL STANDARDS--PROFESSIONAL NOTICES, LETTERHEADS, CARDS, AND MAILINGS. In his use of professional notices, letterheads, cards, and mailings, a chiropractor is subject to the same regulations of chapter 113-12 WAC which apply to his use of other print media.

NEW SECTION

WAC 113-12-180 ETHICAL STANDARDS--SUGGESTION OF NEED OF CHIROPRACTIC SERVICES. A chiropractor who has given in-person, unsolicited advice to a lay person that he should obtain chiropractic care shall not accept employment resulting from that advice except that:

(1) A chiropractor may accept employment by a close friend, relative, former patient (if the advice is germane to the former treatment), or one whom the chiropractor reasonably believes to be a patient; and

(2) Without affecting his right to accept employment, a chiropractor may speak publicly or write for publication on chiropractic topics so long as he does not emphasize his own professional experience or reputation and does not undertake to give individual advice.