

MISCELLANEOUS LAWS

R.S. 9:2714. Chiropractors; certain contractual agreements invalid

A. The legislature finds that an inequity is foisted on certain chiropractors by the provisions contained in some agreements pertaining to management consultant services to the extent these provisions encourage, promote, facilitate, or require participation in conduct on the part of the chiropractor contrary to the provisions of Chapter 36, Title 37 governing the licensing and conduct of chiropractors. It is the intent of the legislature by this Section to declare null and void and against public policy of the state of Louisiana any provision in any agreement which encourages, promotes, facilitates, or requires conduct on the part of a chiropractor that is contrary to the provisions of Chapter 36 of Title 37 of the Louisiana Revised Statutes of 1950.

B. Any provision contained in, collateral to, or affecting an agreement pertaining to chiropractic management consultant services that encourages, promotes, facilitates, or requires a chiropractor to engage in conduct contrary to the provisions of Chapter 36 of Title 37 of the Louisiana Revised Statutes of 1950 is void and unenforceable to the extent that it encourages, promotes, facilitates, or requires such conduct on the part of a chiropractor.

C. The term "agreement" as it pertains to chiropractic management consultant services, as used in this Section, means any agreement or understanding, written or oral, concerning the provision of chiropractic management consultant services to chiropractors within the state of Louisiana.

D. Any provisions in any agreement regarding the provision of chiropractic management consultant services which would frustrate or circumvent the prohibitions of this Section shall be null and void and of no force and effect.

**R.S. 22:668. Selection of type of treatment;
reimbursement**

Notwithstanding any provision of any policy or contract of insurance or health benefits issued after the effective date of this Act, whenever such policy or contract provides for payment or reimbursement for any service, and such service may be legally performed by a chiropractor licensed in this state, such payment or reimbursement under such policy or contract shall be not denied when such service is rendered by a person so licensed. Terminology in such policy or contract deemed discriminatory against any such person or method of practice shall be void. The provisions of this Section shall apply to all new policies issued on or after November 1, 1975. Any insurer who, on August 1, 1975, has health and accident policies in force shall, upon the anniversary date of such policies convert all existing policies to conform to the provisions of this Section; provided, however, that all existing policies shall be converted to conform to the provisions of this Section by August 1, 1976.

**R.S. 27:1734. Chiropractors' peer review committee;
Immunity**

Any chiropractor who serves on a peer review committee or chiropractic board of examiners or any chiropractic society or association to review any controversy or dispute involving a patient, chiropractor, or provider of chiropractic benefits, shall not be liable to any person for damages as a result of any action taken or recommendation made by him within the scope of his function as a member of or consultant to such peer review committee or chiropractic board of examiners is such action was taken or recommendation made without malice. No chiropractic association or chiropractic society shall be liable for damages for any action taken or recommendation made by a peer review committee, board or chiropractic board of examiners or any member of said committee, board or consultant to said committee or board.

R.S. 37:1743. Prohibition on direct solicitations

A. A health care provider or person designated, contracted, or paid by the health care provider, shall not directly solicit by phone, patients or potential patients who, because of their particular circumstances, are vulnerable to undue influence. Circumstances in which patients or potential patients may be considered to be vulnerable to undue influence include but are not limited to:

- (1) When a person is known to the health care provider to have recently been involved in a motor vehicle accident;
- (2) When a person is known to the health care provider to have recently been involved in a work-related accident; or
- (3) When a person is known to the health care provider to have been recently been injured by another person or as a result of another person's actions.

B. Nothing in this Section shall be construed to prohibit advertising, except that which is false, misleading, or deceptive, nor to prohibit outreach services for prenatal, postpartal, child health care, and communicable disease control.

C. As used in this Section "health care provider" means any "health care provider" as defined in R.S. 40:1299.41.

R.S. 37:1744 Disclosure of financial interest by referring health care providers

A. For the purposes of this Section, the following terms shall have the following meaning:

(1) "Health care provider" means a person, partnership, or corporation licensed by this state to provide health care or professional services as a physician, dentist, chiropractor, podiatrist, optometrist, physical therapist, psychologist, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.

(2) "Board" means the Louisiana State Board of Medical Examiners, Louisiana Board of Dentistry, Louisiana Board of Chiropractic Examiners, Louisiana Board of Optometry Examiners, Louisiana State Board of Physical Therapy Examiners, Louisiana State Board of Examiners for Psychologists, Louisiana State Board of Nursing, Louisiana Licensed Professional Counselor Board of Examiners, Louisiana State Board of Practical Nurse Examiners, and Louisiana Board of Pharmacy.

(3) "Financial interest" means a significant ownership or investment interest established through debt, equity, or other means and held by a health care provider or a member of a health care provider's immediate family, or any form of direct or indirect remuneration for referral.

B. No health care provider shall make referrals outside the same group practice as that of the referring health care provider to any other health care provider, licensed health care facility, or provider of health care goods and services including but not limited to providers of clinical laboratory services, diagnostic services, medicinal suppliers, and therapeutic services when the referring health care provider has a financial interest served by such referral, unless in advance of any such referral the referring health care provider discloses to the patient, in writing, the existence of such financial interest.

C.(1) It shall be a violation of this Section for any licensee to enter into any arrangement or scheme, including cross-referral arrangements, if the licensee knows, or should know, that he or she has a principal purpose of ensuring referrals by the licensee to a particular entity, which referral, if made directly by the licensee, would be a violation of this Section.

(2) Notwithstanding any other law to the contrary, any health care provider who violates the provisions of this Section shall refund all such sums received in payment for the goods and services furnished or rendered without disclosure of financial interest. Such a refund shall be paid to the individual patient, third-party payor, or other entity who made the payment.

(3) Each respective Board shall promulgate rules and regulations for enforcement of the provisions of this Section. Such rules and regulations shall include sanctions and restitution provisions and shall provide that a violation of this Section constitutes grounds for suspension or revocation of license or other credentials. Each board shall submit to the commissioner of insurance an annual report listing the investigations undertaken pursuant to this Section, including the number of violations and the sanctions imposed, if any.

R.S. 37:1745. Prohibition on payment for patient referrals

A. For the purposes of this Section, the following terms shall have the following meanings:

(1) "Board" means the Louisiana State Board of Medical Examiners, Louisiana Board of Chiropractic Examiners, Louisiana State Board of Optometry Examiners, Louisiana State Board of Physical Therapy Examiners, Louisiana State Board of Examiners for Psychologists, Louisiana State Board of Nursing, Louisiana Licensed Professional Counselor Board of Examiners, Louisiana State Board of Practical Nurse Examiners, and Louisiana Board of Pharmacy.

(2) "Health care provider" means a person, partnership, or corporation licensed by the state to provide health care or professional services as a physician, chiropractor, podiatrist, optometrist, physical therapist, psychologist, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any other officer, employee, or agent thereof acting in the course and scope of his employment.

B. No health care provider shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, in case or in-kind, for referring or soliciting patients. Payments representing a return on investment based upon a percentage of ownership are not considered a direct or indirect payment for the purposes of this Section.

C.(1) Each board shall promulgate rules and regulations for the implementation and enforcement of the provisions of Subsection B of this Section in accordance with the Administrative Procedure Act. Such rules and regulations shall include, at a minimum, sanctions and penalty provisions and permissible contracting activities known as "safe harbors".

(2) Any activity permissible under the corresponding provisions of Title XVII of the Social Security Act shall not be a violation of this Section.

(3) Violation of Subsection B of this Section by a health care provider may constitute grounds for suspension or revocation of license or other credentials by the appropriate board.

R.S. 37:2401. Definitions (Physical Therapy Act)

The following words and phrases, when used in this Chapter, shall have the meaning ascribed to them in this Section, unless the context clearly indicates a different meaning:

(1)(a) "Practice of physical therapy" is the health care profession practiced by a physical therapist licensed under this Chapter and means the holding out of one's self to the public as a physical therapist and as being engaged in the business of, or the actual engagement in, the evaluation and treatment of any physical or medical condition to restore normal function of the neuro-muscular and skeletal system, relieve pain, or prevent disability by use of physical or mechanical means, including therapeutic exercise, mobilization, passive manipulation, therapeutic modalities, and activities or devices for preventative, therapeutic, or medical purposes, and further shall include physical therapy evaluation, treatment planning, instruction, consultative services, and the supervision of physical therapy supportive personnel, including physical therapist assistants.

(b) The use of roentgen rays and radium, isotopes and ionizing radiation for diagnostic and therapeutic purposes are not authorized under the terms "physical therapy" as used in this Chapter, and a license issued pursuant to this Chapter does not authorize the diagnosis of disease or treatment without the prescription or referral of a person licensed in this state to practice medicine, surgery, dentistry, or podiatry.

(c) "Physical therapy," noun and adjective, means equally physiotherapy and physical therapy.

(d) "Initial physical therapy evaluation" means the physical therapy assessment and resulting interpretation of a patient's condition through use of patient history, signs, symptoms, objective tests, or measurements to determine neuromusculoskeletal and biomechanical dysfunctions to determine the need for physical therapy.

(2) "Physical therapist" means equally physiotherapist and physical therapist, that is, a person who is a graduate of an accredited school of physical therapy, which school, at the time of graduation was approved by the American Physical Therapy Association of the Louisiana Board of Physical Therapy Examiners, and who practices physical therapy as defined in this Chapter.

(3) "Board" means the Louisiana State Board of Physical Therapy Examiners.

(4) Words importing the masculine gender may be applied to females.

R.S. 37:2421. Therapy treatments; physical modalities; reimbursement

No provision in this Chapter shall preclude other health care providers from being reimbursed for therapy treatments or physical modalities which fall within their respective scope of practice. However, this Chapter shall preclude other health care providers from professing the practice of physical therapy and from the use of the term "physical therapy" for advertisement purposes unless licensed under this Chapter.

R.S. 40:1299.65 Chiropractic care; freedom of choice

No agency of the state, parish or municipality, under the laws of the state of Louisiana, shall deny to the recipients or beneficiaries of their aid or services the freedom to choose a duly licensed chiropractor as the provider of care or services which are within the scope of practice of the profession of chiropractic as defined in R.S. 37:2801(3).

R.S. 40:1299.96. Health care information; records

A.(1) Each health care provider shall furnish each patient, upon request of the patient, a copy of any information related in any way to the patient which the health care provider has transmitted to any company, or any public or private agency, or any person.

(2)(a) Medical records of a patient maintained in a health care provider's office are the property and business records of the health care provider.

(b) Except as provided in R.S. 44:17, a patient or his legal representative, or in the case of a deceased patient, the executor of his will, the administrator of his estate, the surviving spouse, the parents, or the children of the deceased patient, or, after suit has been instituted, the defense counsel or the defense insurance company seeking any medical, hospital, or other record relating to the patient's medical treatment, history, or condition, either personally or through an attorney, shall have a right to obtain a copy of such record upon furnishing a signed authorization and upon payment of a reasonable copying charge, not to exceed one dollar per page for the first twenty-five pages, fifty cents per page for twenty-six to five hundred pages, and twenty-five cents per page thereafter, a handling charge not to exceed fifteen dollars for hospitals, nursing homes, and other health care providers, and actual postage. The individuals named herein shall also have the right to obtain copies of patient X-rays, microfilm, and electronic and imaging media, upon payment of reasonable reproduction costs and a handling charge of twenty dollars for hospitals and ten dollars for other health care providers. In the event a hospital record is not complete, the copy of the records furnished hereunder may indicate, through a stamp, coversheet, or otherwise, that the record is incomplete.

(c) If a copy of the record is not provided within a reasonable period of time, not to exceed fifteen days following the receipt of the request and written authorization, and production of the record is obtained through a court order or subpoena duces tecum, the health care provider shall be liable for reasonable attorney fees and expenses incurred in obtaining the court order or subpoena duces tecum. Such sanctions shall not be imposed unless the person requesting the copy of the record has by certified mail notified the health care provider of his failure to comply with the original request, by referring to the sanctions available, and the health care provider fails to furnish the requested copies within five days from receipt of such notice. Except for their own gross negligence, such health care providers shall not otherwise be held liable in damages by reason of their compliance with such request or their inability to fulfill the request.

(d) A health care provider may deny access to a record if the health care provider reasonably concludes that knowledge of the information contained in the record would be injurious to the health or welfare of the patient or could reasonably be expected to endanger the life or safety of any other person.

(e) Nothing in this Section shall be construed to limit or prohibit access to the information contained in the records of a patient maintained by a health care provider in any legally permissible manner other than those delineated pursuant to R.S. 22:213.2 and in this Section, subject to the provisions of R.S. 13:3734.

(3)(a) Medical and dental records shall be retained by a physician or dentist in the original, microfilmed, or similarly reproduced form for a minimum period of six years from the date a patient is last treated by a physician or dentist.

(b) Graphic matter, images, X-ray films, and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by a physician or dentist in the original, microfilmed or similarly reproduced form for a minimum period of three years from the date a patient is last treated by the physician or dentist. Such graphic matter, images, X-ray film, and like matter shall be retained for a longer period when requested in writing by the patient.

B. As used in this Section:

(1) "Health care provider" means a "health care provider" as defined in R.S. 40:1299.41 or a "state health care provider" as defined in R.S. 40:1299.39.

(2) "Patient" means a natural person who receives or should have received health care from a licensed health care provider, under a contract, express or implied.

C. The provisions of this Section shall not be applicable to a health care provider who has evaluated or examined a patient at the request of any agency of the state or federal government in charge of the administration of any of the assistance or entitlement programs under the Social Security Act. The records of such evaluation or examination shall be retained for ninety days after mailing or upon proof of receipt of the records, whichever period is shorter. Nothing herein shall be construed as limiting or prohibiting the access to health care information and records of a patient that are retained by the Social Security Administration in any legally permissible manner under state law that is not contrary to federal law or regulation.

**R.S. 44:4(18). Public Records and Recordors
Applicability**

This Chapter shall not apply:

(18) To any records, writings, accounts, letters, letter books, photographs, or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive, or continue to hold, a license to practice chiropractic, in the custody or control of the Louisiana Board of Chiropractic Examiners. However, any final determination made by the board, and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license to practice as a chiropractor shall be a public record.

R.S. 12:1051 - 1065. PROFESSIONAL CHIROPRACTIC CORPORATIONS.

§1051. Terms defined.

As used in this chapter:

A. "Professional chiropractic corporation" means a corporation organized pursuant to this Chapter for the practice of chiropractic.

B. All terms used in both this Chapter and in Chapter 1 of this Title shall have the same meaning when used in this Chapter, as when used in Chapter 1.

§1052. Professional corporations.

One or more natural persons, of full age and duly licensed to practice chiropractic in this state, may form a corporation under Chapter 1 of this Title for the purpose of practicing chiropractic. Such corporations shall be subject to all of the provisions of Chapter 1, as the same may from time to time be amended, except to the extent that such provisions are inconsistent with the provisions of this Chapter.

§1053. The corporate name.

The corporate name shall consist of the full or last name or names of one or more voting shareholders, former voting shareholders or members of a predecessor chiropractic partnership, may include "Limited" or "Ltd.", shall end with one of the phrases (which may be in parentheses) "A Professional Chiropractic Corporation", or "A Professional Corporation".

The name need not contain "Incorporated" or "Inc.".

§1054. Corporate authority.

A Professional chiropractic corporation shall engage in no business other than the practice of chiropractic, but may hold property for investment or in connection with its chiropractic practice.

§1055. Shares.

A. There shall be only one class of shares of a professional, chiropractic corporation, denominated common shares which shall be either with or without par value.

B. A shareholder who is a natural person duly licensed to practice chiropractic in this state, and who holds his shares in his own right, shall be entitled to vote his shares, and to participate in the corporation's earnings. Any other shareholder shall have no voting rights for any purpose directly related to the practice of chiropractic by the corporation.

§1056. Certificate of stock.

A. Each certificate of stock shall contain the corporation's full name, and the following statement: "Except when held in his own right by a natural person duly licensed to practice chiropractic in the state of Louisiana, the shares represented by this certificate are not entitled to be voted on matters directly related to the practice of chiropractic and the holder is not entitled to participate in the rendition of chiropractic services by the corporation."

B. Each certificate of stock shall contain a reference to any and all agreements among the corporation's voting shareholders, made pursuant to R.S. 12:1059.

C. There shall be no restriction upon the transfer of shares, unless, in either event, such provision or restriction is stated or summarized on the certificate representing the shares.

§1057. Liability of incorporators, subscribers, shareholders, directors, officers and agents.

A. A subscriber to, or holder of, shares of a professional chiropractic corporation shall be under no liability to the corporation with respect to such shares, other than the obligation of complying with the terms of the subscription therefor, and said obligation shall continue whether or not his rights or shares have been assigned or transferred.

B. A shareholder shall not be personally liable for any debt or liability of the corporation.

C. Nothing in this Chapter shall be construed as in derogation of any rights which any person may by law have against an incorporator, subscriber, shareholder, director, officer or agent of the corporation, because of any fraud practiced upon him, or because of any breach of professional duty or other negligent or wrongful act, by such person, or in derogation of any right which the corporation may have against any of such persons because of any fraud practiced upon it by him.

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§1058. Action of shareholders.

Any action by, or requiring the assent of, the shareholders of a professional chiropractic corporation may

be taken on the affirmative vote of a majority (or such proportion as the articles of incorporation may specify) in interest of the voting shareholders present or represented at a meeting duly called and held on due notice, at which a quorum is present or represented.

§1059. Shareholders' agreements.

A. Any lawful provision regulating the affairs of a professional chiropractic corporation or the rights and liabilities of its shareholders, which is not required to be set forth in the articles of incorporation, may be set forth in an agreement among all of the voting shareholders, and such agreement shall be binding on the corporation and all persons who are at the time such agreement is made, or who thereafter become, shareholders of the corporation. Such agreement may be terminated at any time by a majority in interest of the voting shareholders.

B. A duplicate copy of such agreement shall be filed in the corporation's registered office, and shall be open, daily during business hours, to the inspection of any shareholder or his attorney or legal representative.

§1060. Directors.

Only shareholders may be directors. If there are fewer than three shareholders, there need be only as many directors as shareholders. The office of a director shall become vacant if he ceases to be a shareholder.

§1061. Officers and agents.

A. Only shareholders may be officers. If there is only one shareholder, all offices may be combined in is person. The office or offices held by an officer shall become vacant if he ceases to be a shareholder.

B. Only natural persons duly licensed to practice chiropractic in this state or persons possessing temporary licenses may render chiropractic services in behalf of a professional chiropractic corporation.

§1062. Merger and consolidation.

Professional chiropractic corporations may be merged into or consolidated only with other professional chiropractic corporations.

§1063. Dissolution.

A. The fact that it has no shareholders shall be a ground for involuntary dissolution of a professional chiropractic corporation.

B. In the event of the death of a shareholder of a professional chiropractic corporation, said shareholder's succession representative, or those placed in possession of the shares of said shareholder if there be no administration of the succession, as the case may be, shall be entitled to vote the shares of said shareholder, and to be elected a director and officer of the corporation, for the purpose of effectuating a voluntary dissolution and liquidation of the corporation, in or out of court, pursuant to the Louisiana Business Corporation Law.

§1064. Regulation by Louisiana State Board of Chiropractic Examiners.

Professional chiropractic corporations shall be subject to the discipline of the Louisiana State Board of Chiropractic Examiners and to its authority to adopt rules and regulations governing the practice of chiropractic.

§1065. Short title.

This Chapter shall be known and may be referred to by the short title "Professional Chiropractic Corporations Act".

R.S. 37:1358. Acupuncturists' assistants (Medical Practice Act)

The board shall certify as an acupuncturists' assistant an individual to practice in Louisiana who has successfully completed thirty-six months training in a school or clinic of traditional Chinese acupuncture approved by the board, or an individual who has been appointed or employed at a licensed or accredited Louisiana hospital, medical school or clinic to perform acupuncture for research purposes. The acupuncturists' assistant must be employed by and work under the physical direction, control, and supervision of a physician or an acupuncturist certified by the board to practice acupuncture and must perform such duties, services and functions assigned by said employer at a place of employer's practice unless said duties, services, and functions are performed in the physical presence of said employer or licensed physician or certified acupuncturist.

Child Abuse Reporting & Investigation

Ch.C. Art. 603. Definitions

As used in this Title:

(1) "Abuse" means anyone of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

(a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

(b) The exploitation or overwork of a child by a parent or any other person.

(c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(13) "Mandatory reporter" is any of the following individuals performing their occupational duties:

(a) "Health practitioner" is any individual who provides health care services, including a physician, surgeon, physical therapist, dentist, resident, intern, hospital staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.

**R.S. 13:3715.1. Medical or hospital records of a patient;
subpoena duces tecum and court order to a
health care provider; reimbursement for
records produced**

J. The Louisiana State Board of Medical Examiners, Louisiana State Board of Dentistry, Louisiana State Board of Psychologists, Louisiana State Board of Nursing, Louisiana Board of Pharmacy, Louisiana State Board of Social Work Examiners, and the Louisiana State Board of Chiropractic Examiners, while acting in an official capacity relating to an investigation of an individual over whom such board has regulatory authority shall be exempt from complying with the notice provisions of this Section when the subpoena clearly states that no notice or affidavit is required. Notwithstanding any privilege of confidentiality recognized by law, no health care provider or health care institution with which such health care provider is affiliated shall, acting under any such privilege, fail or refuse to respond to a lawfully issued subpoena of such board for any medical information, testimony, records, data, reports or other documents, tangible items, or information relative to any patient treated by such individual under investigation; however, the identity of any patient identified in or by such records or information shall be maintained in confidence by such board and shall be deemed a privilege of confidentiality existing in favor of any such patient. For the purpose of maintaining such confidentiality of patient identity, such board shall cause any such medical records or the transcript of any such testimony to be altered so as to prevent the disclosure of the identity of the patient to whom such records or testimony relates.