

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 190 Department or Agency: Alabama State Board of Chiropractic Examiners

Rule No. 190-X-5-.06

Rule Title: Solicitation

 New XX Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly
harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power
and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that
could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly
increasing the costs of any goods or services involved and, if so,
to what degree? No

Is the increase in costs, if any, more harmful to the public than the
harm that might result from the absence of the proposed rule? n/a

Are all facets of the rulemaking process designed solely for the
purpose of, and so they have, as their primary effect, the
protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-
22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the
requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all
applicable filing requirements of the Administrative Procedure Division of the
Legislative Reference Service.

Signature of certifying officer 

Date September 27, 2011

DATE FILED
(STAMP)

ALABAMA STATE BOARD OF CHIROPRACTIC EXAMINERS

NOTICE OF INTENDED ACTION

AGENCY NAME: The Alabama State Board of Chiropractic Examiners

RULE NO. & TITLE:

- (1) **Rule 190-X-2-.16 Inactive License (Out of State)**
- (2) **Rule 190-X-5-.06 Solicitation**

INTENDED ACTION: The Alabama State Board of Chiropractic Examiners proposes to amend the rule as listed above.

SUBSTANCE OF PROPOSED ACTIONS:

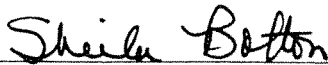
(1)The Alabama State Board of Chiropractic Examiners proposes to amend this rule to require a form to be submitted prior to practice when changing license status. (2) The Alabama State Board of Chiropractic Examiners proposes to amend this rule to add number of days before solicitation can occur and to combine 190-X-5-.14 Accident Solicitation Letters with this rule.

TIME, PLACE AND MANNER FOR PRESENTING VIEWS: Written or oral comments may be submitted to the Alabama State Board of Chiropractic Examiners, 126 Chilton Place, Clanton, AL 35045, 205-755-8000.

FINAL DATE FOR COMMENT & COMPLETION OF NOTICE: December 6, 2011.

CONTACT PERSON AND ADDRESS:

Amy Deavers
Administrative Assistant
Alabama State Board of Chiropractic Examiners
126 Chilton Place
Clanton, AL 35045
1-800-949-5838 ext. 226



Sheila Bolton
Executive Director

Alabama State Board of Chiropractic Examiners

Proposed Amended Rule

RULE 190-X-5-.06 Solicitation.

(1) Statement of Policy. It is the policy of the Board that solicitation by chiropractors and / or permit holders in this state should be regulated so as to effectuate the duty of the State of Alabama to protect the health, safety and welfare of its residents, while not abridging any rights guaranteed to such licensees or to the public by the Constitutions of the United States and the State of Alabama, as construed by the United States Supreme Court and the Alabama Supreme Court. The Board has a substantial interest in protecting the public from fraud, undue influence, intimidation, overreaching and other forms of vexatious conduct as well as protecting the tranquility and privacy of the home and of personal injury victims and their loved ones against intrusive, unsolicited contacts by licensees. The practices prohibited by this rule are hereby found and declared to constitute Immoral or unprofessional conduct in violation of Code of Ala. 1975, 34-24-166(b)(2), and Rule 190-X-5-.05 and / or fraud in obtaining money or other thing of value in violation of Code of Ala, 1975, 34-24-166(b)(1).

(2) Certain Practices Prohibited.

(a). Direct in -person uninvited solicitation except as authorized in paragraph (4) below, a licensee or permit holder, or a person or entity acting on their behalf, shall not by any direct, in-person, uninvited solicitation solicit an engagement to perform professional services. A licensee or permit holder, or a person or entity acting on their behalf, who has engaged in direct, in-person, uninvited solicitation shall not accept employment resulting from that solicitation, except that a licensee may accept employment from a close friend, relative, former patient (if the solicitation is germane to the former treatment), or one who the licensee reasonably believes to be a patient.

(b). Written communication. All written communications sent by or on behalf of a licensee shall conform to the advertising guidelines of Rule 190-X-5-.04.

(3) Definition. For the purpose of this rule, the term "direct, in-person, uninvited solicitation" shall be deemed and construed to mean any communication which directly or implicitly requests oral response from the recipient. Examples of such acts of uninvited solicitation include, but are not limited to, any uninvited in-person visits or conversations or telephone calls to a specific potential patient. However, such indirect forms of solicitation as giving speeches, conducting educational seminars, distributing professional literature by mail, except as prohibited above, or other forms of delivery that are not "in-person" and writing books and articles are not prohibited.

(4) Solicitation of Accident Victims.

(A) A chiropractor or a person or entity acting on their behalf, may only solicit a victim of an accident as follows:

- 1. By telephone seven days after the accident.**
- 2. By written communication sent at least three days after the accident. Written communication shall include letter, postcard, pamphlet, email, text, twitter, facebook or any other form of social media or electronically generated communication.**

Alabama State Board of Chiropractic Examiners
Proposed Amended Rule

(B) If a mail is utilized, the outside of each envelope in 10-point bold type at the bottom left hand corner of the front of the envelope, there will be printed in capital letters in a color clearly distinguishable from the color of the background page, this is an advertisement.

(C) On the first and last page of any mailing, in the same type size as the content of the mailing, shall be contained the following paragraph in a color different from the color of the text on the background page.

NOTICE: THIS IS A SOLICITATION. Your name and address and information relative to the accident in which you were involved were acquired from public documents. You are under no obligation to respond to this mailing. Recipients of this solicitation should understand the importance of employing a health care provider and inquiry into the doctor's qualifications and experience is recommended.

(D) If electronic communication is utilized the language required in (B) above must appear in clearly distinguishable capital letters in the subject line and the language required in (C) above must appear in clearly distinguishable capital letters at the beginning and end of the communication.

(E) Senders shall take reasonable steps to avoid calling or sending written communications to minors.

(F) A sample copy of each written communication shall be retained by the sender for a period of one year.

(4) (5) Permissible Communication. Any form of invited communication to a potential client is permissible provided such communication conforms to the advertising guidelines of Rule 190-X-5-.04.

(5) (6) Any current licensed doctor of chiropractic wishing to contract for or perform research that requires solicitation must obtain prior approval of same from the Board.

Effective: 3/6/90, (1) amended 9/99, (1)(2)(3)(5) amended 12/00, (2)(c)amended 1/2003, amended 6/06, amended 9/11

Authority: 34-24-144; 34-24-165; 34-24-166(b)(1)(2).