

# Alabama State Board of Chiropractic Examiners

## Proposed Amended 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) (3), 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 and ~~Rule 190-X-5-.14~~ this rule.

(3)            Definition. For the purpose of this rule, the term "direct, in-person, uninvited solicitation" shall be deemed

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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.

(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

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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.

(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.

(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.  
**Author:** Board of Chiropractic Examiners  
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