

N.D.A.G. Letter to Tracy (Aug. 21, 1989)

August 21, 1989

Ms. Helen Tracy, Chairman
Workers Compensation Bureau
Russell Building - Highway 83 North
4007 State Street
Bismarck, ND 58501

Dear Ms. Tracy:

Thank you for your June 29, 1989, letter requesting my opinion as to whether doctors of chiropractic may perform permanent impairment evaluations on injured employees for the purposes of the Workers Compensation Act.

N.D.C.C. § 65-05-12 provides that permanent impairment evaluations shall be performed by the injured employee's "doctor." The term "doctor," as used in N.D.C.C. § 65-05-12, is defined as "doctor of medicine, chiropractor, osteopathy, dentist, optometrist, podiatrist, or psychologist acting within the scope of the doctor's license." N.D.C.C. § 65-01-02(13). Accordingly, a doctor of chiropractic may perform a permanent impairment evaluation if performance of that evaluation is within the doctor of chiropractic's scope of licensure.

In a recent letter opinion this office concluded that doctors of chiropractic may not conduct examinations, evaluations, and diagnosis unless those procedures are preparatory to providing chiropractic treatment to a patient. Letter from Attorney General Nicholas J. Spaeth to Dr. Wayne G. Sanstead (April 28, 1989) ("Sanstead letter"). Because the permanent impairment evaluation required by N.D.C.C. § 65-05-12 falls into the category of an examination, evaluation, or diagnosis, "the purpose for the examination, i.e., whether it is 'preparatory to treatment,' determines whether it may be done by a doctor of chiropractic." Sanstead letter at 3.

In your letter you indicate that the permanent impairment evaluation required by N.D.C.C. § 65-05-12 is not intended as a means of preparing injured employees for chiropractic or other medical treatment. Rather, the evaluation is performed for the specific purpose of evaluating the degree of permanent impairment of an injured employee. Therefore, because the permanent impairment evaluation required by N.D.C.C. § 65-05-12 is not done "preparatory to the treatment of patients," doctors of chiropractic are not authorized to perform this evaluation.

Based on the forgoing discussion, it is my opinion that doctors of chiropractic may not perform permanent impairment evaluations on injured employees for the purposes of the Workers Compensation Act.

If you have any further questions on this matter, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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