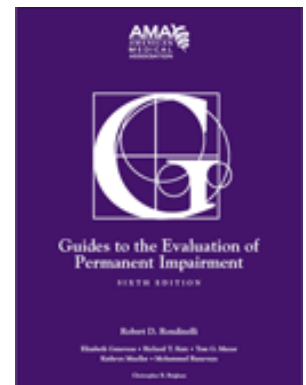


## ACA views Chiropractic limitations in the AMA Guides, 6<sup>th</sup> Edition as an Antitrust Violation (pre errata)

The American Chiropractic Association (ACA) interprets the American Medical Association's (AMA) 6<sup>th</sup> Edition Guides position statement that chiropractors should only perform spine impairments as an antitrust violation. On February 7<sup>th</sup>, Attorney Thomas R. Daley, General Council to the ACA, sent a letter to the executive director of the AMA. The letter identified that by issuing the chiropractic limitation standard in the AMA Guides, the AMA is unlawfully restricting competition by a competitive rival. He cites the *Wilk v. American Medical Assoc.*, 671 F.Supp. 1465 (N.D. Ill. 1987), *aff'd*, 895 F.2d. 352 (7<sup>th</sup> Cir. 1990), *cert denied*, 498 U.S. 982, 111 S CT.523 (1990) noting that the United States District Court for the Northern District of Illinois, following an eight week trial, held that the AMA was guilty of engaging in a nationwide illegal boycott in violation of the Sherman Act and imposed a nationwide injunction that is still in force.

Attorney Daley went on to write "My client believes and will argue that your recent action which implements a new and onerous restrictive standard on the practice of doctors of chiropractic violates existing antitrust law as well as the provisions of the existing permanent Wilk injunction. Your recent action not only serves as a direct limitation on state authorized practice rights but also has severely restricted if not completely eliminated the referral of patients from medical doctors to doctors of chiropractic for evaluation purposes." He closes his letter by requesting the immediate removal of all restrictive language in the 6<sup>th</sup> edition which would in any way limit doctors of chiropractic in the performance of impairment ratings other than those applicable under state law.



In response to the letter the AMA has said it will temporarily suspended shipment of the publication. Council for the AMA has also requested that the executive director "identify any other offending portions of the publication"

My opinion is that the AMA will likely modify its biased and unsubstantiated position on chiropractic physician's use of the AMA Guides and publish the changes in the errata which are forthcoming. But what about the erroneous impairment values in the guides? How will they reconcile changes that are inconsistent between the 5<sup>th</sup> and 6<sup>th</sup> editions? As an example, you may recall that in my last newsletter I pointed out how a prior 5%-8% spine impairment would now be a 1%-3%. The chapter's author states that the impairments, when properly done, will have effectively no change. But spine impairment cannot be the same given the new tables. Furthermore, in workers compensation jurisdictions like Connecticut, we are required to regionalize rating from whole person to spinal region. However, in the absence of the conversion factors present in the 5<sup>th</sup> edition, there is no provision for regionalizing the spine



---

**A MEDICAL-LEGAL NEWSLETTER FOR PERSONAL INJURY ATTORNEYS BY DR. STEVEN W. SHAW**

---

impairments in the 6<sup>th</sup> edition. This will be devastating your clients and our patients when Worker Compensation stipulations are reduced by as much as 80%. It will then become economically impossible for you to represent clients in workers compensation proceedings. This will leave them to fend for themselves in a system in which they have no idea of the rules.

These issues need to be addressed by the AMA and the authors of the guides. However, we shouldn't throw out the baby with the bath water. The authors have, in many respects, done a very good job. They have standardized methodology thereby allowing for greater inter-examiner consistency. They have also addressed many of the unanswered questions from the prior guides thereby eliminating some of the ambiguity. In the big picture, I believe the overall structure and format of the Guides are much improved. The bigger challenges lie in modifying rating values to be consistent with prior editions so the entire system does not become lopsided one way or the other.

Ultimately, I believe that the matter will be resolved favorably over time. All parties need to express their concerns to the authors, the AMA, the courts and the commissioners so that a fair compromise can be agreed to and our patients/clients are not injured a second time. The ACA needs to continue its efforts to maintain chiropractic equity. Attorneys specializing in the area of WC need to make sure the commissioners are aware of the discrepancies so that they can be rebalanced during hearings and negotiations. Attorney organizations like the CTLA will need to work with ATLA in developing a strategy to approach the AMA so that their clients are fairly compensated for the injuries consistent with prior established norms. Otherwise, our patients/clients will find themselves being unfairly compensated for their injuries.

We still have not set a date for our 6<sup>th</sup> Edition lecture. Keep your eyes open for our announcement.

---

Hartford • New Britain • East Hartford

Personal Injury • Workers Compensation • Expert Opinions • Biomechanical Analysis • Second Opinions

800-232-6824