

Case Law on Series: Statute of Limitations for Chiropractic Malpractice

The “Case Law on Series” addresses different legal issues of interest to chiropractors. Each part of the series highlights recent, decisions from the Wisconsin State Courts that specifically involve chiropractors or aspects of chiropractic. On occasion, leading opinions from the Wisconsin Attorney General will be cited when those opinions are relevant to the legal issue. This issue in the series addresses the Court’s determination of the Statute of Limitations for filing a Chiropractic Malpractice claim.

Relevant Case: Arenz v. Bronston, 224 Wis. 2d 507, 592 N.W.2d 295 (Ct. App. 1999).

Relevant Facts: Patient suffered from intense back pain which required a multitude of back surgery. One surgery was performed in 1992 when an electrical stimulation unit was surgically placed in the patient’s back to block pain impulses. From February 21, 1994, to April 12, 1994, patient received chiropractic care from two chiropractors. Following these treatments, the patient returned to her medical doctor complaining of increased back pain. A surgery was performed on April 19, 1994 by the doctor who discovered that the leads to the stimulation unit were loose and that fluid had leaked into the unit causing it to malfunction. The medical doctor rendered an opinion that the chiropractor’s adjustment of the patient’s back was partially responsible for malfunction of the unit.

On April 18, 1997 (almost 3 years after discovering her injury), patient filed a malpractice claim alleging negligence on the part of the chiropractors in causing her injuries. Chiropractors filed a motion asserting that the lawsuit should be dismissed because the patient failed to file her complaint within the time period described in Wisconsin Statute §893.55. This Statute requires such claims against healthcare providers to be filed “within the later of: (a) Three years from the date of injury or (b) One year from the date the injury was discovered or, in the exercise of reasonable diligence should have been discovered, except that an action may not be commenced under this paragraph more than five years from the date of the act or omission.”

Legal Issues(s): Is a licensed chiropractor a “healthcare provider” who is subject to the statutory time limits of Wis. Stats. §893.55 or the longer, three year period, established in §893.54?

Principle Rule of Law: Chiropractors are “healthcare providers” under Wis. Stat. §893.55 since it is unambiguous that chiropractors are involved in the diagnosis, treatment or care of the patient and that chiropractors are licensed by a state examining board to provide such care. (Arnez, 224 Wis. 2d 514-515)

Additional Ruling(s) or Commentary: This case is beneficial to chiropractors since it requires an individual asserting malpractice to file that lawsuit within the shorter statute of limitations stated in Wisconsin Statute §893.55.

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