

**ADOPTED REGULATION OF THE CHIROPRACTIC
PHYSICIANS' BOARD OF NEVADA**

LCB File No. R095-03

Effective October 22, 2003

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-3, 5-20 and 23, NRS 634.030; §4, NRS 634.030, 634.115 and 634.135; §§21 and 22, NRS 233B.050 and 634.030.

Section 1. Chapter 634 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *A licensee shall not perform manipulation on a patient under anesthesia unless the licensee performs the manipulation at a medical facility described in subsection 2 and:*

(a) Has obtained certification to perform such manipulation from:

(1) A college of chiropractic that is accredited by the Council on Chiropractic Education; or

(2) Another program approved by the Board; or

(b) Is enrolled in a program to obtain the certification described in paragraph (a) at the time the manipulation is performed and the licensee performs the manipulation under the direct supervision of a qualified instructor approved by the Board.

2. *The manipulation described in subsection 1 may be performed only in a hospital or surgical center for ambulatory patients that is licensed by the Health Division of the Department of Human Resources and accredited by:*

(a) The Joint Commission on Accreditation of Healthcare Organizations; or

(b) The National Committee for Quality Assurance.

3. As used in this section:

(a) "Hospital" has the meaning ascribed to it in NRS 449.012.

(b) "Surgical center for ambulatory patients" has the meaning ascribed to it in NRS 449.019.

Sec. 3. 1. *An applicant for a license to practice chiropractic in this state must pay the fee for the issuance of a license to practice chiropractic required pursuant to NAC 634.200 within 1 year after he has satisfied all the requirements for licensure set forth in this chapter and chapter 634 of NRS, other than the payment of the fee for the issuance of the license.*

2. If such an applicant does not pay the fee for the issuance of a license to practice chiropractic in the period set forth in subsection 1, he:

(a) Shall be deemed to have withdrawn the application; and

(b) Must reinitiate the application process if he wishes to apply for a license at a later date.

Sec. 4. NAC 634.200 is hereby amended to read as follows:

634.200 1. The Board will charge and collect the following fees:

For an application for a license to practice chiropractic\$200.00

For an examination for a license to practice chiropractic100.00

For an application for, and the issuance of, a certificate as a chiropractor's assistant

or chiropractor's assistant for massage.....100.00

For an application for a temporary license to practice chiropractic pursuant to

NRS 634.11550.00

For an examination for a certificate as a chiropractor’s assistant or chiropractor’s assistant for massage	50.00
For the issuance of a license to practice chiropractic	200.00
For the issuance of temporary license to practice chiropractic <i>pursuant to NRS 634.115</i>	50.00
For an annual renewal of an active license to practice chiropractic.....	300.00
For the annual renewal of an inactive license to practice chiropractic	95.00 100.00
For the annual renewal of a certificate as a chiropractor’s assistant or chiropractor’s assistant for massage	35.00 50.00
For the restoration to active status of an inactive license to practice chiropractic	300.00
For reinstating a license to practice chiropractic which has been suspended or revoked	300.00 500.00
For reinstating a certificate as a chiropractor’s assistant or chiropractor’s assistant for massage which has been suspended or revoked	35.00
For reinstating an inactive license to practice chiropractic which has been suspended or revoked	100.00
For a review of any subject on the examination.....	25.00
For the issuance of a duplicate license or certificate or for changing the name on a license or certificate.....	35.00
For written certification of licensure	25.00
For providing a list of persons who are licensed to practice chiropractic to a person who is not licensed to practice chiropractic	25.00

For providing a list of persons who were licensed to practice chiropractic following the most recent examination of the Board to a person who is not licensed to practice chiropractic10.00

For a set of mailing labels containing the names and addresses of the persons who are licensed to practice chiropractic in this state35.00

For a check which is made payable to the Board that is dishonored upon presentation for payment.....25.00

For providing a copy of the statutes, regulations and other rules governing the practice of chiropractic in this state25.00

For each page of a list of continuing education courses which have been approved by the Board0.50

For a review by the Board of a course offered by a chiropractic school or college or a course of continuing education in chiropractic10.00

2. The fees set forth in this section are not refundable.

Sec. 5. NAC 634.300 is hereby amended to read as follows:

634.300 1. Except as otherwise provided in subsection 2 ~~and~~ *and section 3 of this regulation:*

(a) If a person applies for a license to practice chiropractic in Nevada, the application remains open for 1 year after the date of the first examination that the person is eligible to take.

(b) During the period in which an application is open, an applicant may take any required examination twice.

(c) If an applicant does not, on the first attempt, pass an examination that is administered by the Board, the applicant may retake the examination one time without paying an additional fee.

2. If an applicant provides evidence satisfactory to the Board that the applicant failed to appear for an examination because of exceptional circumstances, the Board may:

(a) Allow the applicant to take the next scheduled examination without the payment of an additional fee; and

(b) If necessary, extend the period during which the application is open.

3. If an applicant for a license to practice chiropractic fails on two occasions to pass any portion of the examinations administered pursuant to NRS 634.070, the applicant shall:

(a) Refrain from supervised practice; or

(b) Submit a new application for examination in accordance with NRS 634.080.

4. An applicant for a license to practice chiropractic who fails to appear for examination within 1 year after being first qualified therefor:

(a) Shall be deemed to have withdrawn his application; and

(b) Forfeits the application fee.

↪ If the applicant applies thereafter for a license, he must establish his eligibility for that license in accordance with the provisions of this chapter and chapter 634 of NRS.

Sec. 6. NAC 634.340 is hereby amended to read as follows:

634.340 1. Except as otherwise provided in this section, an applicant for a license to practice chiropractic may perform chiropractic as specified in NRS 634.105 if:

(a) His completed application is on file in the office of the Board and he meets the requirements of NRS 634.090;

(b) The fee for the application has been paid; and

(c) The Board has approved a licensee to supervise the applicant after receiving from that licensee a completed form that is provided by the Board and which sets forth:

- (1) The fact of the applicant's employment;
- (2) The date that the applicant is to begin working for the supervising licensee;
- (3) A statement in which the supervising licensee agrees to take responsibility for the applicant's work; ~~and~~
- (4) The assurance of the supervising licensee that chiropractic adjustments or manipulations or any act prohibited by subsection ~~3~~ 4 will not be performed by the applicant ~~;~~ ; and
- (5) *The statement required pursuant to subsection 2.*

2. The supervising licensee shall inform the applicant of the provisions of this section, and the applicant must sign a statement indicating that he has been so informed and that he understands the provisions and agrees to comply with them. The statement must be in substantially the following form:

I,, (name of applicant) am an applicant for a license to practice chiropractic who is waiting to take the Board's examination. I have been informed by my supervising chiropractor(name of supervising chiropractor) of the content of the provisions of NAC 634.340. I understand those provisions and I agree that I will not perform a chiropractic adjustment or any act prohibited by subsection 4 of NAC 634.340 during this supervisory period.

.....

(date)

.....

(signature of applicant)

3. The supervising licensee shall notify the Board if the applicant leaves his employ and the date that the applicant leaves.

~~3.4~~ 4. In addition to the prohibitions set forth in NRS 634.105, an applicant shall not:

- (a) Diagnose the condition of a patient;
- (b) Establish a plan of treatment or prognosis for a patient;
- (c) Perform any service, except at the direction and supervision of a licensee; or
- (d) Bill independently of the supervising licensee for any service rendered.

~~4.5~~ 5. Any violation of chapter 634 of NRS or this chapter by the applicant constitutes grounds for the Board to:

- (a) Prohibit the applicant from taking the examination for licensure; and
- (b) Take appropriate disciplinary action against the supervising licensee.

Sec. 7. NAC 634.348 is hereby amended to read as follows:

634.348 1. A person who desires to perform ancillary services other than massage must obtain a certificate as a chiropractor's assistant.

2. *Except as otherwise provided in subsection 3, a person who holds a certificate as a chiropractor's assistant may perform ancillary services other than massage, including, without limitation:*

- (a) Administering to patients by means of physiotherapeutic equipment;*
- (b) Taking and developing X rays;*
- (c) Assisting with the education of a patient concerning his health;*
- (d) Assisting a patient with exercise or rehabilitation activities;*
- (e) Taking the history of the health of a patient; and*

(f) Assisting the supervising licensee with an examination of a patient.

3. A person who holds a certificate as a chiropractor's assistant may not perform the ancillary service of massage unless he also holds a certificate as a chiropractor's assistant for massage.

Sec. 8. NAC 634.350 is hereby amended to read as follows:

634.350 1. An applicant for a certificate as a chiropractor's assistant or chiropractor's assistant for massage must file an application with the Board on a form furnished by the Board and pay the required fee not less than 30 days before the date of the examination.

2. The application must ~~[state:]~~ *set forth:*

(a) The date of the application.

(b) The applicant's date and place of birth and two personal references based upon 5 years' acquaintance.

(c) The applicant's name, age, social security number, sex and current residence.

(d) ~~[The date on which the applicant graduated from high school or received his general equivalency diploma, if applicable.~~

~~—(e)]~~ If the applicant is applying for:

(1) A certificate as a chiropractor's assistant ~~[, the]~~ :

(I) The name and mailing address of the applicant's current employer, if any ~~[, and, if]~~ ;

(II) If applicable, the date on which he was hired to perform the duties of a chiropractor's assistant ~~[,]~~ ; *and*

(III) If the applicant was hired to perform the duties of a chiropractor's assistant, the statement required pursuant to NAC 634.460.

(2) A certificate as a chiropractor's assistant for massage ~~[, the]~~ :

(I) *The* name and mailing address of the applicant's current employer, if any ~~[~~
~~—(f)]~~ ; *and*

(II) *If the applicant was hired to perform the duties of a chiropractor's assistant for
massage, the statement required pursuant to NAC 634.460.*

(e) Whether or not the applicant has ever applied for certification as a chiropractor's assistant
or chiropractor's assistant for massage, as appropriate, in another state. If he has so applied, he
must state when and where he applied and the result of that application.

~~[(g)]~~ (f) If the applicant has been certified in another state, whether any proceeding to
discharge, dismiss or discipline him or other similar proceeding has ever been instituted against
him and the disposition of each such proceeding.

3. An application expires after 1 year.

4. For good cause shown, the Board may, at its discretion, waive one or more of the
requirements of this section.

Sec. 9. NAC 634.355 is hereby amended to read as follows:

634.355 1. An applicant for a certificate as a chiropractor's assistant or chiropractor's
assistant for massage must, in addition to fulfilling the requirements of NAC 634.350, furnish
evidence satisfactory to the Board that he:

(a) Is 18 years of age or older; *and*

(b) ~~[Has graduated from high school or received a general equivalency diploma; and
—(e)]~~ Has received a score of at least 75 percent on an examination administered by the Board
on the provisions of NRS and NAC that are related to the practice of chiropractic.

2. In addition to the requirements set forth in subsection 1 and NAC 634.350, an applicant for a certificate as a chiropractor's assistant must furnish evidence satisfactory to the Board that he:

(a) Satisfies one of the following:

(1) Is certified as a chiropractor's assistant by a program for chiropractor's assistants that is approved by the Board; *or*

~~(2) Has had 6 months of full-time training and employment in a health care facility under the direct supervision of a licensed provider of health care approved by the Board; or~~

~~—(3)~~ Has had 6 months of full-time training and employment as a chiropractor's assistant trainee from a licensee.

(b) Has received a score of at least 75 percent on the examination for certification required pursuant to NAC 634.365.

3. In addition to the requirements set forth in subsection 1 and NAC 634.350, an applicant for a certificate as a chiropractor's assistant for massage must furnish evidence satisfactory to the Board that he has passed:

(a) The examination administered by the National Certification Board for Therapeutic Massage and Bodywork; or

(b) An examination that the Board deems sufficient.

4. Evidence of an applicant's completion of approved training pursuant to subparagraph (2) ~~for (3)~~ of paragraph (a) of subsection 2 must consist of a certification by the licensed provider of health care, and the certification must be notarized.

5. The Board may, at its discretion:

(a) Waive one or more of the requirements of this section for good cause shown.

(b) Upon receipt from an applicant of documentation demonstrating that the applicant has received additional formal training, education or experience, grant the applicant credit toward fulfilling the requirements of subparagraph (2) ~~[or (3)]~~ of paragraph (a) of subsection 2.

Sec. 10. NAC 634.360 is hereby amended to read as follows:

634.360 1. A person ~~[who is to]~~ *may not* be employed and trained *for more than 30 days* as a chiropractor's assistant trainee ~~[in accordance with subparagraph (3)]~~ *for the purposes of satisfying subparagraph (2)* of paragraph (a) of subsection 2 of NAC 634.355 ~~[shall apply]~~ *unless the person:*

(a) Within the first 30 days during which he performs any duties as a chiropractor's assistant trainee, applies to the Board by submitting a form provided by the Board ~~[before he begins performing any duties as a trainee.] ; and~~

(b) Includes with the application, the statement required pursuant to NAC 634.460.

2. Except as otherwise provided in subsection 3, an applicant for a certificate as a chiropractor's assistant who completes training pursuant to subparagraph ~~[(3)]~~ (2) of paragraph (a) of subsection 2 of NAC 634.355 shall, upon the completion of his training:

(a) Apply to the Board to sit for the next scheduled examination; and

(b) Submit the fees required by the Board pursuant to NAC 634.200.

3. For good cause shown, the Board may, at its discretion, extend the training period of a chiropractor's assistant trainee and authorize the trainee to take a later scheduled examination.

Sec. 11. NAC 634.365 is hereby amended to read as follows:

634.365 1. At least once each year the Board will administer an examination to applicants for a certificate as a chiropractor's assistant.

2. The examination will consist of the following subjects, including, without limitation:

- (a) Radiographic technology, protection, quality control and positioning of the patient;
- (b) Ancillary procedures and applications relating to chiropractic; and
- (c) The provisions of NRS and NAC that are related to the practice of chiropractic.

3. An applicant who receives a score of at least 75 percent on the examination is entitled to a certificate as a chiropractor's assistant.

4. If an applicant fails to receive a score of at least 75 percent on the examination the first time he takes the examination, he may retake the examination within 1 year without payment of an additional fee.

5. If an applicant who receives training and employment as a chiropractor's assistant trainee pursuant to subparagraph ~~[(3)]~~ (2) of paragraph (a) of subsection 2 of NAC 634.355 fails to

receive a score of at least 75 percent on the examination after two attempts ~~[, the applicant must cease]~~ *and wishes to continue* working as a chiropractor's assistant trainee ~~[until the Board:~~

~~—(a) Approves a plan for additional training that is submitted by the supervising chiropractic physician ; and~~

~~—(b) For good cause shown, grants an extension of the training period.] , the supervising licensee must, within 30 days after the date of the notice from the Board of the results of the examination, submit a plan for additional training to the Board. At its next meeting, the Board will:~~

(a) Approve or deny the plan; and

(b) Determine whether the chiropractor's assistant trainee may continue working as a chiropractor's assistant trainee.

6. An applicant for a certificate as a chiropractor's assistant who fails on two occasions to appear for an examination that he has been scheduled to take:

- (a) Shall be deemed to have withdrawn his application;
- (b) Forfeits any application fees paid to the Board; and
- (c) Must, if he has been receiving training and employment as a chiropractor's assistant trainee pursuant to subparagraph ~~(3)~~ (2) of paragraph (a) of subsection 2 of NAC 634.355, cease working as a chiropractor's assistant trainee.

↪ If the applicant applies thereafter for a certificate, the applicant must establish his eligibility for the certificate in accordance with the provisions of this chapter and chapter 634 of NRS.

Sec. 12. NAC 634.366 is hereby amended to read as follows:

634.366 1. Except as otherwise provided in ~~[this section,]~~ **NAC 634.360**, a person may not practice chiropractic or provide services relating to chiropractic to patients unless the person:

- (a) Is a licensee;
- (b) Holds a valid certificate as a chiropractor's assistant or chiropractor's assistant for massage pursuant to NRS 634.123 and the provisions of this chapter;
- (c) Is authorized to perform chiropractic pursuant to NRS 634.105 while waiting to take the Board's examination;
- (d) Holds a valid temporary license to practice chiropractic pursuant to NRS 634.115; or
- (e) Holds a valid license or certificate as a provider of health care that is issued by an agency of this state pursuant to one or more of the chapters of title 54 of NRS.

2. A licensee ~~[may allow an independent contractor to provide services to patients in his chiropractic office if the licensee registers the independent contractor with the Board.~~

~~—3.—A licensee who seeks to register an independent contractor with the Board must submit to the Board an application in which the licensee provides evidence satisfactory to the Board that:~~

~~—(a) The independent contractor holds a valid business license issued by a municipality or other evidence sufficient to the Board to signify that the independent contractor has a bona fide business and that the business license or other evidence authorizes the independent contractor to engage in providing to patients the type of services that the independent contractor intends to provide in the chiropractic office.~~

~~—(b) The independent contractor is not an employee of the licensee and the licensee does not:~~

~~——(1) Withhold income, social security or Medicare taxes from the compensation of the independent contractor; or~~

~~——(2) Provide coverage for workers' compensation or unemployment to the independent contractor.~~

~~—(c) The independent contractor possesses his own taxpayer identification number under which services that the independent contractor provides in the chiropractic office will be billed.~~

~~—(d) Services provided by the independent contractor will be billed separately from services provided by the licensee and persons who perform services under the control and supervision of the licensee.~~

~~—(e) The licensee in whose office the independent contractor will provide services has established procedures of notification to ensure that patients understand that the independent contractor:~~

~~——(1) Is not an employee of the licensee; and~~

~~——(2) Does not perform services under the supervision or control of the licensee.~~

~~—4. A licensee shall not allow an independent contractor to provide services to patients in the licensee's chiropractic office until the licensee receives from the Board notification that the Board has approved the application to register the independent contractor.~~

~~—5.— If a licensee evades, attempts to evade or assists another person in the evasion of the provisions of this section, the Board will consider such conduct to be unprofessional conduct pursuant to subsection 5 of NRS 634.018.]~~ *shall report to the Board any other license, certificate or registration as a provider of health care he obtains pursuant to a chapter of title 54 of NRS other than chapter 634 of NRS within 15 days after the effective date of the license, certificate or registration.*

Sec. 13. NAC 634.412 is hereby amended to read as follows:

634.412 1. A licensee shall maintain competence in:

- (a) The application of chiropractic; and
- (b) The production and interpretation of X rays.

2. ~~[In determining whether a licensee has maintained competence in chiropractic, the Board will consider whether the licensee:~~

~~—(a) Applies therapeutic modalities properly, including, without limitation, whether the licensee uses therapeutic modalities that are appropriate for the treatment of a patient as documented by the record of that patient; and~~

~~—(b) Manages cases in such a manner that the services provided to a patient are supported by the record of the patient.~~

~~—3.]~~ In determining whether a licensee has maintained competence in the production and interpretation of X rays, the Board will consider whether the licensee:

- (a) Produces X rays that are of diagnostic quality;
- (b) Uses appropriate techniques ~~[of shielding and collimation]~~ *to protect a patient* in the taking of X rays;

- (c) Ensures that the exposure of a patient to radiation is based upon clinical necessity as documented by the record of that patient;
- (d) Documents the interpretation of X rays in writing and maintains those written interpretations as a part of the record of the patient to whom the X rays pertain; and
- (e) Ensures that the radiographic equipment with which X rays are taken and produced:
 - (1) Meets the specifications established by the manufacturer for the safety and use of that equipment;
 - (2) Is maintained properly; and
 - (3) Is registered with and made available for inspection by the Health Division of the Department of Human Resources pursuant to chapter 459 of NAC.

Sec. 14. NAC 634.430 is hereby amended to read as follows:

634.430 1. As used in subsection 10 of NRS 634.018, the Board will interpret the phrase “conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public” to include, without limitation:

- (a) Engaging in or soliciting sexual misconduct as defined in subsection ~~3~~ 4.
- (b) Performing any chiropractic service on a patient who is under the age of 18 years without first obtaining the consent of the parent or legal guardian of that patient if the consent is required pursuant to NRS 129.030.
- (c) ~~Offering payment to~~ *Performing manipulation on a patient under anesthesia without complying with the requirements set forth in section 2 of this regulation.*
- (d) *Entering into a financial agreement or making a financial arrangement with* a potential or existing patient as an inducement to enter into or continue care. This paragraph does not prohibit a licensee from providing complimentary chiropractic services to an existing patient.

~~[(d)]~~ (e) Participating in any *verbal or written* arrangement ~~[under which a licensee gives or receives compensation for the referral of a patient to any person.]~~ *that involves capping or fee splitting.*

(e) Engaging in practices regarding the billing of patients or the making of claims under a contract of insurance that are abusive or fraudulent, or both, including, without limitation:

(1) Billing patients or making claims under a contract of insurance for chiropractic services that have not been performed.

(2) Billing patients or making claims under a contract of insurance in a manner which misrepresents the nature of the chiropractic services that have been performed.

(3) Submitting to patients or carriers of insurance bills or claims that fail to disclose pertinent information or contain false information, including, without limitation:

(I) Failing to disclose to a patient that a bill has already been paid, in full or in part, by a carrier of insurance.

(II) Failing to disclose to a carrier of insurance that a claim has already been paid, in full or in part, by a different carrier of insurance.

(III) Stating falsely that the injury of a patient is the result of an accident or work-related incident.

(f) Engaging in a practice of waiving, abrogating or rebating the deductible or copayment required to be paid by a policy of insurance or a third party if the practice is used as a device for advertising or marketing, or both.

(g) Failing to make any report or record available to the Board upon lawful request, failing to cooperate with any investigation by the Board or knowingly giving false information to the Board.

(h) Failing to make any report or record available to another licensee, practitioner, patient or institution upon a lawful request to do so in compliance with the provisions of chapter 629 of NRS.

(i) Being delinquent in the payment of a judgment for the payment of child support pursuant to chapter 425 of NRS or being subject to a court order for the support of one or more children and not complying with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

(j) Being in default on the payment of a student loan.

(k) Violating the rules or regulations of a federal program that relates to the practice of chiropractic.

(l) Engaging in fraud, misrepresentation or deception in any business affairs that relate to the practice of chiropractic.

(m) Allowing a person to:

(1) Perform chiropractic services; or

(2) Engage in any aspect of the provision of chiropractic care to patients,

↳ if that person is not authorized to perform such services or provide such care pursuant to this chapter and chapter 634 of NRS. The prohibition set forth in this paragraph does not apply to a person who is licensed or certified as a provider of health care pursuant to one or more of the chapters of title 54 of NRS.

(n) Engaging with a patient in a romantic or dating relationship ~~+~~ **unless:**

(1) The patient is the spouse of the licensee; or

(2) The patient is involved in a dating relationship with the licensee and the patient signs an informed consent as required pursuant to subsection 3.

(o) Examining or treating the anus, breast or genitalia of a patient without first:

(1) Obtaining from the patient an informed consent that refers to the specific procedures that will be performed on those parts of the body of the patient; and

(2) Making a note of such consent in the record of the patient.

(p) Violating a provision of a chapter of title 54 of NRS other than chapter 634 of NRS pursuant to which the licensee holds a license or certificate as a provider of health care.

2. If, at a hearing conducted pursuant to NRS 634.190, the Board receives reliable, probative evidence, the preponderance of which indicates that the licensee has engaged in conduct of a sexual nature with a patient ~~;~~ *other than the spouse of the licensee*, there is a rebuttable presumption that the licensee committed sexual misconduct. The licensee may rebut this presumption by adducing evidence to include, without limitation, that *the licensee obtained the informed consent required pursuant to subsection 3 or that* the chiropractor-patient relationship had been terminated at the time the alleged conduct took place.

3. *A licensee must obtain the informed consent of a patient with whom the licensee is having a dating relationship each time before the licensee performs chiropractic services on the patient. The consent must be in substantially the following form:*

I am having a dating relationship with(name of chiropractor), and I consent to receiving chiropractic services on(date) from this chiropractor.

.....
(date)

.....
(signature of patient)

4. As used in this section ~~;~~ *“sexual”* :

(a) *“Capping” means the use by a licensee of the services of a person who is remunerated for referring to the licensee a new patient who has been involved in a motor vehicle accident or who has been injured as a result of the actions of another person.*

(b) *“Fee splitting” means the acceptance of remuneration by a licensee for referring a patient to another provider of health care or a health care facility or the provision of remuneration by a licensee for a referral to the business of the licensee.*

(c) *“Sexual misconduct” means:*

~~[(a)]~~ (1) Sexual relations between a licensee and a patient of that licensee, regardless of whether the patient initiated or consented to those sexual relations.

~~[(b)]~~ (2) Conduct by a licensee, in regard to a patient, that is sexual in nature, ~~for may reasonably be interpreted as being sexual in nature, including, without limitation, behavior, gestures and expressions that may reasonably be interpreted as being~~ sexually suggestive or sexually demeaning to the patient.

~~[(c)]~~ (3) The commission by a licensee of one or more of the offenses defined in NRS 200.368, 200.730, 201.210 and 201.220.

~~[(d)]~~ (4) The use by a licensee of ~~fraud,~~ deception, misrepresentation or force for the purpose of engaging in sexual conduct with a patient in:

~~[(1)]~~ (I) A clinical setting; or

~~[(2)]~~ (II) A setting that is used ordinarily for the provision of chiropractic services.

↪ The term does not include sexual conduct or sexual relations that take place between a licensee *and his spouse, between a licensee* and a *person who was a* patient after the chiropractor-patient relationship has been terminated for a reasonable time ~~[-]~~, *or between a*

licensee and a patient if the patient signs an informed consent as required pursuant to subsection 3.

Sec. 15. NAC 634.460 is hereby amended to read as follows:

634.460 **1.** A chiropractor's assistant, ~~or~~ chiropractor's assistant for massage *or chiropractor's assistant trainee* may not:

~~1.~~ (a) Diagnose a patient or establish a prognosis.

~~2.~~ (b) Prescribe a program of treatment for any patient.

~~3.~~ (c) Perform any service which is not specifically authorized by the provisions of chapter 634 of NRS.

~~4.~~ (d) Perform any service that is not specifically authorized by the terms of his certificate.

~~5.~~ (e) Perform a chiropractic adjustment.

~~6.~~ (f) Perform any service, except at the direction and under the direct supervision of a licensee.

~~7.~~ (g) Bill independently of the supervising licensee for any services rendered.

2. *The supervising licensee shall inform each chiropractor's assistant, chiropractor's assistant for massage and chiropractor's assistant trainee who is subject to the supervision of the licensee of the provisions of this section, and the chiropractor's assistant, chiropractor's assistant for massage or chiropractor's assistant trainee must sign a statement indicating that he has been so informed and that he understands the provisions and agrees to comply with them. The statement must be in substantially the following form:*

I,, (name and title of person supervised by chiropractor) have been informed by my supervising chiropractor(name of supervising chiropractor)

of the content of the provisions of NAC 634.460. I understand those provisions and I agree that I will not perform a chiropractic adjustment or any other act prohibited by NAC 634.460 during this supervisory period.

.....
(date) (signature of person supervised by chiropractor)

Sec. 16. NAC 634.515 is hereby amended to read as follows:

634.515 ~~1.—Subject to the provisions of NAC 634.521, a licensee may advertise his services through the public media, if that advertisement is not solicitation which is prohibited by subsection 14 of NRS 634.018.~~

~~2.]~~ The following information included in an advertisement or written communication shall be deemed to be in compliance with NAC 634.515 to 634.570, inclusive:

~~(a)] 1.~~ Information relating to the licensee or chiropractic office, including, but not limited to:

~~(1)] (a)~~ The name of the licensee or chiropractic office;

~~(2)] (b)~~ A list of licensees associated with a chiropractic office and their designations, such as doctor of chiropractic, chiropractor or chiropractic physician;

~~(3)] (c)~~ The address and telephone number of the office; and

~~(4)] (d)~~ The hours during which the office will be open or the licensee will be available.

~~(b)] 2.~~ The date on which a license was issued to the licensee by the Board or by the licensing agency of another state.

~~(e)] 3.~~ Technical and professional licenses granted by this or any other state.

~~[(d)]~~ 4. The ability of the licensee or persons employed by the licensee or in the chiropractic office to speak a language other than English.

~~[(e)]~~ 5. The fields of chiropractic in which the licensee is certified or is a specialist, subject to the restrictions of NAC 634.550.

~~[(f)]~~ 6. Information regarding prepaid or group plans for health care services in which the licensee participates.

~~[(g)]~~ 7. The types of credit cards, if any, which are accepted.

~~[(h)]~~ 8. The fee for an initial consultation or a schedule of fees provided in accordance with NAC 634.556.

~~[(i)]~~ 9. The use of the name and address of a licensee or chiropractic office in a public service announcement or in connection with a charitable, civic or community program or event.

Sec. 17. NAC 634.521 is hereby amended to read as follows:

634.521 A licensee shall not make any false or misleading communications about himself or his services. A communication shall be deemed to be misleading if it ~~is~~:

~~—1.—~~ ~~Contains]~~ *contains* a material misrepresentation of fact or law, or omits a fact necessary to make the statement, considered as a whole, not misleading . ~~is~~:

~~—2.—~~ ~~Is likely to create an unjustified expectation about the results that the licensee can achieve, or states or implies that the licensee can achieve results by any means which violate any provision of this chapter or chapter 634 of NRS;~~

~~—3.—~~ ~~Compares the services to be provided by the licensee with the services that may be provided by another licensee and the comparison cannot be factually substantiated;~~

~~—4.—~~ ~~Contains letters or initials following the name of the licensee that imply or indicate that the licensee:~~

- ~~—(a) Is a specialist in chiropractic; or~~
- ~~—(b) Has received additional postgraduate training in chiropractic,~~
- ~~↳ unless the licensee is registered with the Board pursuant to NAC 634.550 as possessing the credentials that those letters or initials represent; or~~
- ~~—5. States that a licensee possesses training, skills or certification in a specialty that is not recognized by the Board.]~~

Sec. 18. NAC 634.530 is hereby amended to read as follows:

634.530 A licensee shall not represent that he is affiliated within the same office with ~~[any other]~~ a provider of health care *who is not licensed pursuant to chapter 634 of NRS* unless that ~~[other]~~ provider of health care spends at least 20 percent of his time in the licensee's office.

Sec. 19. NAC 634.550 is hereby amended to read as follows:

634.550 Except as otherwise provided in NAC 634.515 to 634.570, inclusive, a licensee shall not hold himself out in any advertisement as being:

1. Certified; or
2. An expert or specialist ~~[.]~~ *other than an expert witness,*

↳ in a field of chiropractic unless he is registered with and approved by the Board as holding the applicable professional credentials in that field.

Sec. 20. NAC 634.556 is hereby amended to read as follows:

634.556 1. Except as otherwise provided in this section, a licensee who advertises a specific fee or range of fees shall honor the advertised fee or range of fees for at least 90 days after the last date that the advertisement is broadcast or disseminated, unless the advertisement specifies a shorter period. If a specific fee or range of fees is advertised in a telephone directory or other type of media which is not published more frequently than annually, the licensee shall

honor that fee or range of fees for at least 1 year after the publication of the telephone directory or other type of media.

2. If an advertisement states that a chiropractic service is being offered free of charge or at a discounted rate:

(a) The service must be provided at the advertised rate regardless of whether the service is to be paid for by the patient or a third party, such as an insurer.

(b) The advertisement must state the price that the licensee ordinarily charges to provide the service, including, if applicable, that the licensee ordinarily provides the service free of charge.

(c) The licensee who advertises the service shall ensure that:

(1) A patient to whom the service is provided receives and signs a statement of disclosure which sets forth:

(I) A detailed description of the service that will be provided free of charge or at a discounted rate.

(II) The amount that will be charged for any additional services that will be provided.

(III) If the offer to provide a service free of charge or at a discounted rate is valid for a limited time, the date on which that offer will end.

(2) A statement of disclosure that is required pursuant to subparagraph (1) ~~is~~ ~~placed and maintained in the record of a patient to whom a service is provided free of charge or at a discounted rate.~~

~~[(II) Accompanies any claim that the licensee submits for payment or reimbursement for services provided to a patient to whom some services have been provided free of charge or at a discounted rate.]~~

3. If a licensee provides diagnostic services, including, without limitation, examinations and X rays, free of charge or at a discounted rate pursuant to an advertisement, the licensee shall provide those services in a sufficiently complete and thorough manner so as to allow the licensee to make a proper diagnosis.

4. No separate charge may be made for the professional evaluation of diagnostic tests or procedures which are provided free of charge or at a discount, regardless of whether the professional evaluation is made at the time of the initial office visit or at a later time.

Sec. 21. NAC 634.635 is hereby amended to read as follows:

634.635 1. A complaint as described in NRS 634.160 may be made against a licensee charging him with one or more of the causes set forth in chapter 634 of NRS for which he is subject to disciplinary action.

2. The *original* complaint must be in writing, signed and verified by the person making it and filed with the Executive Director of the Board.

Sec. 22. NAC 634.650 is hereby amended to read as follows:

634.650 1. An answer to a notice of charges as described in NRS 634.170 must be filed with the Board and service thereof made on parties of record within 15 days after service of the notice of charges, unless the Board, for good cause shown, extends the time. Any matter which is alleged as an affirmative defense must be separately stated and numbered.

2. A party who fails to answer the notice of charges within 15 days shall be deemed to have ~~denied~~ *admitted* the allegations set forth in the notice of charges. ~~generally and is precluded, except with the consent of the opposing parties and the Board, from establishing any affirmative defense at the hearing.~~ *Based on those admissions, the Board may impose discipline on the licensee in the same manner as if the allegations had been proven by substantial evidence at a*

hearing of the Board held on the complaint. The Board ~~[will]~~ *may* proceed with the matter based solely upon the issues set forth in the notice of charges unless the matter is continued by the Board.

3. Any motion upon a notice of charges must be filed before the answer is due. If it is not so filed, the objection must be raised in the answer.

4. If a motion is directed toward an answer, it must be filed within 5 days of service after the answer.

5. All other motions must be timely filed.

Sec. 23. NAC 634.560 is hereby repealed.

TEXT OF REPEALED SECTION

634.560 Maintenance of records. (NRS 634.030)

1. A licensee shall maintain a record of any advertisement for his services, in a form appropriate to the medium used to present the advertisement, for at least 1 year after the advertisement was last presented.

2. The record must:

(a) Include information concerning the dates and places that the advertisement was broadcast or disseminated; and

(b) Be made available to the Board upon demand.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R095-03**

The Chiropractic Physicians' Board of Nevada adopted regulations assigned LCB File No. R095-03 which pertain to chapter 634 of the Nevada Administrative Code on September 6, 2003.

Notice date: 8/4/2003
Hearing date: 9/6/2003

Date of adoption by agency: 9/6/2003
Filing date: 10/22/2003

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

On August 4, 2003 a Notice of Intent to Act Upon a Regulation was posted and filed at the board office at 4600 Kietzke Lane, Suite M-245, Reno, Nevada, the office of Dr. Stephanie Youngblood, 500 S. Rancho Drive, Suite E-9, Las Vegas, Nevada, Washoe County Courthouse, 201 S. Virginia St., Reno, Nevada, at all 17 Nevada County Public Libraries, and by mailing a copy of the notice to the Board's licensees and other interested persons subscribing to the Board's mailing list.

Public response focused on the conditions under which a licensee may perform manipulation on a patient under anesthesia (Sec. 2); the waiver of requirements for a certificate as a chiropractor's assistant or assistant for massage (Sec. 8 and 9); the requirements for a supervisor to prepare a plan for additional training for an assistant (Sec. 11); restrictions on independent contractors (Sec. 12); standards of competence (Sec. 13); definition of conduct unbecoming a licensee (Sec. 14); limitations on advertising (Sec. 17); and repeal of maintenance of advertising records (Sec. 23). Public response included oral and written comments. A copy of the written comments may be obtained by calling the Chiropractic Physicians' Board of Nevada at (775)688-1929 or by writing to the Board at 4600 Kietzke Lane, Suite M-245, Reno, Nevada 89710.

2. The number of persons who:

(a) Attended each hearing:	19
(b) Testified at each hearing:	8
(c) Submitted to the agency written comments:	3

Written comments were submitted by Dr. Bill Bailey, Dr. Jo Briggs and the Joint Commission on Accreditation of Healthcare Organizations. Oral testimony was from Dr. Kamran Abdo, Dr. Jeffrey Andrews, Dr. Bill Bailey, Dr. Jo Briggs, Dr. Richard McIntyre, Dr. Curtis Potts, Dr. Michael Riley and Dr. David Rovetti.

- 3. A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by direct mail to the board's licensees and other interested persons subscribing to the board's mailing list. Comments from interested businesses were made by individual licensees who have such businesses. A summary of those comments is set forth in #1, above. A copy of the written comments may be obtained by calling the Chiropractic Physicians' Board of Nevada at (775)688-1929 or by writing to the Board at 4600 Kietzke Lane, Suite M-245, Reno, Nevada 89710.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The proposed regulation was adopted with changes at the board's meeting on September 6, 2003. The reason for adopting the changes was that public comment was persuasive in convincing the board that some of the proposed changes should not be made or should be modified.

- 5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and**
(b) Both immediate and long-term effects.

- a. The proposed revisions are expected to have an immediate and long-term beneficial economic effect upon the regulated businesses and the public.
b. There is no estimated adverse economic effect on the regulated businesses or the public, whether immediate or long-term.

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no estimated additional cost to the agency for enforcement of this regulation.

- 7. A description of any regulations of other state or governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

- 8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The adopted regulations are not more stringent than any known federal regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation provides three new fees. (Sec. 4) The total amount expected to be collected from these increases is \$5,000. The money will be used to pay expenses of the board in carrying out the board's responsibilities under NRS 634.