

LCB File No. R095-03

PROPOSED REGULATION OF THE CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

Explanation: Matter in *italics* is new; matter in ~~[brackets]~~ is material to be omitted.

Authority: NRS 634.030

Section 1. NAC 634.200 is hereby amended to read as follows:

NAC 634.200 Amount; refunds. (NRS 634.030, 634.135)

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 chiropractic.....	100.00
For an application for, and the issuance of, a certificate as a chiropractor's assistant or chiropractor's assistant for massage.....	100.00
<i>For an application for a temporary license under NRS 634.115.....</i>	<i>50.00</i>
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
<i>For the issuance of a temporary license to practice chiropractic .....</i>	<i>50.00</i>
For an annual renewal of an active license to practice chiropractic.....	<i>300.00</i>
For the annual renewal of an inactive license to practice chiropractic.....	<del>95.00</del> 100.00
For the annual renewal of a certificate as a chiropractor's assistant or chiropractor's assistant for massage.....	<del>35.00</del> 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.....	<del>300.00</del> 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 chiropractic.....	10.00
For a set of mailing labels containing the names and addresses of the persons who are licensed to practice chiropractic in this state.....	35.00
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 state.....	25.00
For each page of a list of continuing education courses which have been approved by the board.....	0.50
For a review by the board of a course offered by a chiropractic school or college or a course of continuing education in chiropractic.....	10.00

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

3. *Fee for issuance of a DC license is due within one year of the date it is granted.*

**Section 2.** NAC 634.340 is amended to read as follows:

**NAC 634.340 Practice by applicant waiting to take examination. (NRS 634.030)**

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;

*a) The statement must contain the following language: Patient signed informed consent: I have been informed that my treating Chiropractor \_\_\_\_\_ D.C. is supervising \_\_\_\_\_ D.C who is unlicensed. I understand that the Doctor being supervised may not perform a chiropractic adjustment on me.*

(4) The assurance of the supervising licensee that chiropractic adjustments or manipulations or any act prohibited by subsection 3 will not be performed by the applicant.

*a) The statement must contain the following language: I am an applicant waiting to take examination being supervised by \_\_\_\_\_ D.C. I have been instructed by my supervising D.C. as per NAC 634.340 and understand and agree that I will not perform a Chiropractic adjustment during this supervisory period.*

2. The supervising licensee shall notify the board if the applicant leaves his employ and the date that the applicant leaves.

3. 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. 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.

**Section 3.** Section intentionally left blank.

**Section 4.** NAC 634.348 is hereby amended to read as follows:

**NAC 634.348 Performance of ancillary services other than massage. (NRS 634.030)**

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

2. 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.

*3. A person who holds a certificate as a chiropractor's assistant may:*

- a. Apply physiotherapeutics*
- b. Take and develop X-rays*
- c. Assist with Patient education*
- d. Assist with exercise/rehab activities*
- e. Take history*
- f. Assist with examination*

**Section 5.** NAC 634.350 is hereby amended to read as follows:

**NAC 634.350 Application for certification: Filing; requirements; expiration; waiver of requirements. (NRS 634.030)**

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:

- (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)]~~ (d) If the applicant is applying for:

(1) A certificate as a chiropractor's assistant, the name and mailing address of the applicant's current employer, if any, and, if applicable, the date on which he was hired to perform the duties of a chiropractor's assistant.

(2) A certificate as a chiropractor's assistant for massage, the name and mailing address of the applicant's current employer, if any.

~~[(f)]~~ (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.]~~

**Section 6.** NAC 634.355 is hereby amended to read as follows:

**NAC 634.355 Certification: Qualifications; waiver. (NRS 634.030)**

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;

~~[(b) Has graduated from high school or received a general equivalency diploma;]~~ and

~~[(c)]~~ (b) 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

~~[(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)]~~ (2) 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.}~~ (3) Evidence of an applicant's completion of approved training pursuant to subparagraph (2) or (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.}~~ (4) The board may, at its discretion ~~{~~

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

~~—(b) U}~~ 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.

**Section 7.** NAC 634.360 is hereby amended to read as follows:

**NAC 634.360 Employment and training as chiropractor's assistant trainee. (NRS 634.030)**

1. A person who is to be employed and trained as a chiropractor's assistant trainee in accordance with subparagraph (3) of paragraph (a) of subsection 2 of NAC 634.355 shall apply to the board by submitting a form provided by the board *within 30 days* ~~{before he begins performing any duties as a trainee.}~~ *of commencing work as a Chiropractor's assistant trainee.*

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) 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.

**Section 7.1** NAC 634.360 is hereby amended to read as follows:

**NAC 634.365 Examination for certification as chiropractor's assistant: Frequency; content; passing score; failure to pass; failure to appear. (NRS 634.030)**

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) 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 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 chiropractic physician must submit a plan to the board for additional training for board approval or denial at the next meeting. At that time the board may determine whether the chiropractor's assistant trainee must cease or may continue working. The plan must be submitted to the board within 30 days of the date of the notice from the board of the results of the examination.*

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) 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.

**Section 8.** NAC 634.366 is hereby amended to read as follows:

**NAC 634.366 Requirements to practice chiropractic or provide services relating to chiropractic [~~independent contractors~~].** (NRS 634.030)

1. Except as otherwise provided in this section, 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 who is registered under another chapter of NRS is required to report the registration to the Chiropractic Physicians' Board of Nevada within 15 days of the effective date of that registration.*

*3. Manipulation Under Anesthesia-Certification. Licensed D.C.s performing manipulation under anesthesia in Nevada must have certification from a CCE accredited college of Chiropractic of a comparable program approved by the Chiropractic Physicians' Board of Nevada. A person who performs such a procedure to which he/she is not certified shall be considered to be engaging in unprofessional conduct and subject to disciplinary action. The procedure must be performed in a hospital of ambulatory surgery center licensed or certified by either the State of Nevada Department of Human Resources Division of Health, or the Joint Commission of Healthcare Organizations (JCHO), or the National Committee for quality Assurance (NCQA).*

~~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.]~~

**Section 9.** NAC 634.380 is hereby amended to read as follows:

**NAC 634.380 Notification of board regarding address of legal residence and mailing address. (NRS 634.030)**

1. A chiropractic physician, chiropractor's assistant or chiropractor's assistant for massage who is licensed or certified by the board shall:

(a) Provide the board with the address of his current legal residence; and

(b) Notify the board, in writing, of any change in his legal residence within 15 days after the change.

2. In addition to providing the board with the address of each office where he practices pursuant to NRS 634.129, and the address of his legal residence, a chiropractic physician [,] *(or)* chiropractor's assistant or chiropractor's assistant for massage may provide the number of a post office box which is to be used as his mailing address.

**Section 10.** Section intentionally left blank.

**Section 11.** NAC 634.412 is hereby amended to read as follows:

**NAC 634.412 Competence. (NRS 634.030)**

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. 2. 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]~~ *patient protection* in the taking of X-rays; *and*

~~[(c) Ensures that the exposure of a patient to radiation is based upon clinical necessity as documented by the record of that patient];~~

~~[(d)] (c) 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.]~~

**Section 12.** NAC 634.415 is hereby amended to read as follows:

**NAC 634.415 Supervision of others by licensee. (NRS 634.030)** A licensee who supervises:

- 1. A chiropractor's assistant;
- 2. A chiropractor's assistant for massage;
- 3. An applicant for a license to practice chiropractic who is authorized to perform chiropractic pursuant to NRS 634.105; or
- 4. Any other person who is subject to the supervision of the licensee, shall ensure that the person who is supervised complies with the provisions of this chapter and chapter 634 of NRS, and shall make all decisions relating to the diagnosis, treatment, management and future disposition of a patient.

*5. The licensee must obtain the written informed consent of patients by using the following language:*

*Patient signed informed consent: I have been informed that my treating Chiropractor \_\_\_\_\_ D.C. is supervising \_\_\_\_\_ D.C. who is unlicensed. I understand that the Dr. being supervised may not perform a Chiropractic adjustment on me.*

*Patient signed informed consent: I have been informed that my treating Chiropractor \_\_\_\_\_ D.C. is supervising \_\_\_\_\_, a certified Chiropractor's assistant or Chiropractor's assistant in training, who may not perform a Chiropractic adjustment on me.*

**Section 13.** NAC 634.430 is hereby amended to read as follows:

**NAC 634.430 Unprofessional conduct: Interpretation of statutory definition. (NRS 634.030)**

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.

(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~~ *Having a financial agreement or arrangement with* ~~[-payment to]~~ 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) Participating in ~~any~~ *the following* arrangements under which a licensee gives or receives compensation for the referral of a patient to any person:

*1. fee splitting*

*2. capping*

~~(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)~~ (e) Engaging in a practice of waiving, abrogating or rebating the deductible or co-payment 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)~~ (f) 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)~~ (g) 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.

~~[(h)]~~ (h) 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.

~~[(i)]~~ (i) Being in default on the payment of a student loan.

~~[(j)]~~ (j) Violating the rules or regulations of a federal program that relates to the practice of chiropractic.

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

~~[(l)]~~ (l) 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.

~~[(m)]~~ (m) Engaging with a patient in a romantic or dating relationship, *provided that nothing here precludes a D.C. from treating a spouse. Licensee may treat a non-spouse or other person who has signed the informed consent provided in subsection 3.*

*(n) Any licensee who is registered under another chapter of NRS who is found to be in violation of that chapter.*

~~[(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 }~~

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, there is a reputable presumption that the licensee committed sexual misconduct. The licensee may rebut this presumption by adducing evidence to include, without limitation, that the chiropractor-patient relationship had been terminated at the time the alleged conduct took place.

3. As used in this section, “sexual misconduct” means:

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

(b) Conduct by a licensee, in regard to a patient, that is sexual in nature or ~~[(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) 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) The use by a licensee of ~~[(fraud,)]~~ deception, misrepresentation or force for the purpose of engaging in sexual conduct with a patient in:

(1) A clinical setting; or

(2) 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 a *person who was previously a* patient after the chiropractor-patient relationship has been

terminated for a reasonable time, *provided that nothing in this regulation should prohibit a licensee from administering chiropractic treatment to a spouse. If treating a person not a spouse with whom the licensee has a relationship, an informed consent must be obtained and must contain the following language: I am in a relationship with \_\_\_\_\_ D.C. and consent to receiving chiropractic care on this date from this licensee.*

*4. As used in this section “fee splitting” means an arrangement or agreement in which a licensed health care provider accepts remuneration for the referral of a patient to another health care provider or facility or provides remuneration for a referral to his or her practice or facility.*

*5. As used in this section “capping” means an arrangement in which a health care practitioner acquires patients who are involved in automobile accidents or other personal injury situations by the use of the services of another who is remunerated for each referral.*

*6. As used in this section “arrangement or agreement” means a verbal or written contract in which there is an understanding between a health care provider and an independent party that specific remuneration is paid for each referral.*

*7. 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:*

*(o) Providing to a patient an assurance that a manifestly incurable disease can be permanently cured, whether or not the licensee obtains a fee on the assurance.*

*8. As used in subsections 4 and 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” and will interpret the phrase “advertising chiropractic business” as not prohibiting the direct mailing of informational documents to members of the public who are not former or current patients.*

*9. As used in subsections 10 and 14 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” and will interpret the phrase “solicitation” to include, without limitation:*

*Attempting to obtain a new patient from information acquired from police, hospital or any other third party reports to determine that a person is injured or vulnerable to undue influence, whether acquired by the licensee or an agent of the licensee.*

*(1) As used in this subsection, “agent” of the licensee includes any independent contractor, employee or non-employee.*

*(2) Nothing in this subsection prohibits a licensee from offering professional assistance or a business card to an injured person in situations where the licensee meets the person without use or assistance of a third party report.*

*10. 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:*

*(p) aiding or abetting a third party payer to reduce or deny care compensation if the recommendation or opinion of the licensee is not supported by both the records of the patient and an examination of the patient by the licensee.*

**Section 14.** Section intentionally left blank.

**Section 15.** Section intentionally left blank.

**Section 16.** Section intentionally left blank.

**Section 17.** NAC 634.515 is hereby amended to read as follows:

**NAC 634.515 General authorization. (NRS 634.030)**

~~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) Information relating to the licensee or chiropractic office, including, but not limited to:

- (1) The name of the licensee or chiropractic office;
- (2) A list of licensees associated with a chiropractic office and their designations, such as doctor of chiropractic, chiropractor or chiropractic physician;
- (3) The address and telephone number of the office; and
- (4) The hours during which the office will be open or the licensee will be available.

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

(c) Technical and professional licenses granted by this or any other state.

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

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

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

(g) The types of credit cards, if any, which are accepted.

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

(i) 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.

**Section 18.** NAC 634.521 is hereby amended to read as follows:

**NAC 634.521 Prohibition against false or misleading communications. (NRS 634.030)** 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:

- ~~—1. C] contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement, considered as a whole, not misleading.];~~
- ~~—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 post graduate 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.]~~

**Section 19.** NAC 634.530 is hereby amended to read as follows:

**NAC 634.530 Advertisement of affiliation with provider of health care.** (NRS 634.030) A licensee shall not represent that he is affiliated within the same office with any other provider of health care unless that other provider of health care spends at least 20 percent of his time in the licensee's office. A licensee shall not represent that he is affiliated within the same office with any other provider of health care *of a different license* unless that other provider of health care spends at least 20 percent of his time in the licensee's office.

**Section 20.** NAC 634.550 is hereby amended to read as follows:

**NAC 634.550 Advertisement as expert or specialist.** (NRS 634.030) 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, *except as 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.

**Section 21.** NAC 634.556 is hereby amended to read as follows.

**NAC 634.556 Advertisement of fees.** (NRS 634.030)

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):

(I) 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.

2. 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.

**Section 22.** NAC 634.560 is hereby repealed. The text of the repealed section reads as follows:

~~[NAC 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.]~~

**Section 22.1** NAC 634.635 is hereby amended to read as follows:

**NAC 634.635 Pleadings: Complaints.**

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.

**Section 23.** NAC 634.650 is hereby amended to read as follows:

**NAC 634.650 Pleadings: Answer to notice of charges; motions.**

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 these admissions the board may impose discipline on the licensee in the same manner as if the allegations had been proved by substantial evidence at the hearing.* 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.

**Section 24.** NAC 634.810 is hereby amended to read as follows:

**NAC 634.810 Authority of board.** (NRS 634.030) The board may begin proceedings against:

1. A licensee;
2. A chiropractor's assistant;
3. A chiropractor's assistant for massage;
4. An applicant for a license to practice chiropractic who is authorized to perform chiropractic pursuant to NRS 634.105; or
5. A person who holds a temporary license to practice chiropractic pursuant to NRS 634.115, for a violation of any provision of this chapter or of chapter 634 of NRS even though no member of the public is actually harmed by the violation and there is no complaint from any other person.

*6. Confidential investigative material may be turned over to other regulatory and law enforcement agencies (e.g., the Attorney General Insurance Fraud Division).*

**Section 25.** NAC 634 is hereby amended by adding a new section to read as follows:

*NAC 634.123 "Chiropractic practice" defined. (NRS 634.013) "Chiropractic" practice includes, without limitation, independent examinations and the offering of chiropractic opinions on the chiropractic treatment and care of a Nevada patient.*

**PROPOSED REGULATION OF THE CHIROPRACTIC  
PHYSICIANS' BOARD OF NEVADA  
LCB File No. R095-03**

**Small Business Impact Statement  
(NRS 233B.0608)**

The board has preliminarily determined that the proposed regulations will not impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. Interested persons may present comments on this statement at the workshop and hearing that will be held on the proposed regulations.