

**PROPOSED REGULATION OF THE
CHIROPRACTIC PHYSICIANS’ BOARD OF NEVADA**

LCB File No. R010-17

September 20, 2016

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

AUTHORITY: §1, NRS 634.030; §2, NRS 634.1295; NRS 634.137.

A REGULATION relating to chiropractic physicians and chiropractic assistants.

Section 1. 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 chiropractic	125.00
For an application for, and the issuance of, a certificate as a chiropractor’s assistant	100.00
For an application for a temporary license to practice chiropractic pursuant to NRS 634.115	50.00
For an examination for a certificate as a chiropractor’s assistant	75.00
For the issuance of a license to practice chiropractic	225.00
For the issuance of a temporary license to practice chiropractic pursuant to NRS 634.115	50.00
For the biennial renewal of an active license to practice chiropractic	700.00
For the biennial renewal of an inactive license to practice chiropractic	250.00
For the biennial renewal of a certificate as a chiropractor’s assistant	120.00

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.....	500.00
For reinstating a certificate as a chiropractor’s assistant which has been suspended or revoked.....	70.00
For reinstating an inactive license to practice chiropractic which has been suspended or revoked	200.00
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 verification of licensure or issuance of a certificate of good standing.....	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.....50.00

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

Section 2. NAC 634.220 is hereby amended to read as follows:

634.220 Each applicant for examination *and any person subject to the provisions of section 634.131 of Nevada Revised Statutes* must:

1. Submit one set of his or her fingerprints on a standard fingerprint card with his or her application and pay any associated costs; and
2. Agree to a background investigation.

Section 3. NAC 634.290 is hereby amended to read as follows:

634.290 1. Except as otherwise provided in this section and in addition to the subjects of examination set forth in NRS 634.070, an applicant for a license to practice chiropractic in Nevada must pass:

- (a) Part IV of the examination administered by the National Board of Chiropractic Examiners;
- (b) An examination on the statutes and regulations of this State which are related to the practice of chiropractic, other than those set forth in this chapter and chapter 634 of NRS; and
- (c) Any other subject or examination that the Board determines to be necessary. An examination required by the Board pursuant to this paragraph may include, without limitation, an

examination on clinical rationale.

2. ~~{An applicant who has actively practiced chiropractic in another state in accordance with subparagraph (2) of paragraph (c) of subsection 1 of NRS 634.090 may, in lieu of passing Part IV of the examination administered by the National Board of Chiropractic Examiners, pass the Special Purposes Examination for Chiropractic prepared by the National Board of Chiropractic Examiners.~~

~~—3.1~~ To pass a subject or examination required pursuant to NRS 634.070 or this section, an applicant for a license to practice chiropractic in Nevada must receive a score of at least 75 percent for a closed-book examination and a score of at least 90 percent for an open-book examination.

Section 4. NAC 634.300 is hereby amended to read as follows:

634.300 1. Except as otherwise provided in subsection 2 and NAC 634.215:

(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}~~ *at such times as may be allowed by the Board and the Board's testing vendor, if any, and subject to the limitations contained in NAC 634.305.*

(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 or her application; and

(b) Forfeits the application fee.

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

Section 5. NAC 634.339 is hereby amended to read as follows:

1. In supervising a student who is participating in the preceptor program, a preceptor:

(a) Shall ensure that the student is exposed to and, within the discretion of the preceptor and except as otherwise provided in subsection 2, is allowed to perform all aspects of chiropractic as practiced by the preceptor;

(b) Shall assume all responsibility and liability for all acts performed by the student;

(c) Shall notify the Board within 15 business days after the termination of the student's participation in the preceptor program; and

(d) Shall not supervise more than one student.

2. A student who participates in the preceptor program shall not:

(a) Diagnose the condition of a patient without the written concurrence of the preceptor, which must be documented in the health care record of the patient;

(b) Establish a plan of treatment or prognosis for a patient without the written concurrence of the preceptor, which *concurrence may be prior to or after the student has commenced treatment and which* must be documented in the health care record of the patient;

(c) Perform any service except at the direction of and under the direct supervision of the preceptor;

(d) Practice chiropractic more than 40 hours during any week in which the student participates in the preceptor program; or

(e) Bill independently of the preceptor for any service rendered.

Section 6. NAC 634.341 is hereby amended to read as follows:

634.341 1. Before a student who participates in the preceptor program provides chiropractic services to a patient :

(a) The preceptor shall inform the patient that the patient will be receiving chiropractic services from a student pursuant to the preceptor program. The preceptor shall obtain from the patient written consent for the receipt of chiropractic services from a student.

(b) The student or preceptor shall perform the initial evaluation and assessment of the patient and develop the plan of treatment for the patient. If the student:

(1) Performs ~~the initial~~ *any* evaluation or assessment or develops the plan of treatment, the student may execute the plan of treatment only after the preceptor has reviewed and initialed in the health care record of the patient , *either on paper or electronically*, the evaluation, assessment or plan of treatment developed by the student.

(2) Observes or learns of a condition or issue that was not contained in the original evaluation, assessment or plan of treatment, the student shall immediately notify the preceptor of

the condition or issue.

(3) Wishes to make a change or addition to the plan of treatment of a patient, the student must obtain the concurrence of the preceptor before making the change or addition.

2. ~~{The final assessment of the condition of a patient must be conducted by a licensee.~~

~~—3.}~~ The preceptor who supervises a student shall review the health care records of a patient not less than once every third visit of the patient to ensure that the student is performing the chiropractic services as directed by the preceptor and is maintaining the health care record of the patient in accordance with applicable law.

Section 7. NAC 634.367 is hereby amended to read as follows:

634.367 A person who is issued a temporary license pursuant to NRS 634.115 is authorized to:

1. Substitute for a licensee during a period in which the licensee is:

(a) On vacation; or

(b) Unable to perform chiropractic services because of illness, injury ~~{or}~~, *pregnancy,*

family medical leave, or military leave.

2. Perform chiropractic services for a traveling sports or professional group.

3. Demonstrate and perform chiropractic services as a visiting teacher of an educational seminar.

4. Perform chiropractic services in other circumstances as the Board may approve.

↪ A chiropractic physician is not required to obtain a temporary license to demonstrate a technique upon another chiropractic physician in the limited context of a seminar, conference, or other educational opportunity.

Section 8. NAC 634.385 is hereby amended to read as follows:

634.385 1. Except as otherwise provided in subsection 7, the Board may approve or endorse an educational class or a seminar if it is designed to advance the professional skills and knowledge of the chiropractic physicians licensed, or chiropractors' assistants certified, in this State for the purpose of ensuring an optimum quality of chiropractic health care.

2. The Board may approve or endorse the attendance by licensees or holders of certificates, in person or on-line, of an educational seminar or seminars if:

(a) The syllabus and curriculum of the instructors of the seminar or seminars and the required fee are submitted to the Board;

(b) The seminar or seminars provide instruction in conformity with subsection 3 or 4 of NRS 634.130, as applicable;

(c) The seminar or seminars concern the clinical aspects of a practice or another topic that the Board determines to be in the best interest of the public;

(d) The sponsor of the seminar or seminars ensures that each licensee and holder of a certificate who requests credit for continuing education to satisfy the requirement set forth in subsection 3 or 4 of NRS 634.130, as applicable, attends at least 50 minutes of each hour of instruction;

(e) The seminar or seminars are sponsored by:

(1) A chiropractic college which has been accredited by:

(I) The Council on Chiropractic Education; or

(II) Another educational entity that has been approved by the Board;

(2) A state chiropractic board or association;

(3) The American Chiropractic Association, the International Chiropractors Association or the successor of either;

(4) A major hospital, as defined in NRS 439B.115; or

(5) An accredited university or college;

(6) Another Title 54 board; and

(f) An original or a copy of a certificate of attendance at the seminar or seminars is provided directly to the Board by the sponsor, or licensee or holder of a certificate, as applicable, on or before January 1 of each odd-numbered year before the issuance of a renewal certificate.

3. As an alternative to the method of approval and endorsement provided in subsection 2, the Board will approve and endorse the attendance by licensees or holders of certificates, as applicable, in person or on-line, of an educational seminar or seminars if the seminar or seminars have been granted recognition status by the Providers of Approved Continuing Education of the Federation of Chiropractic Licensing Boards.

4. The sponsor of the seminar or seminars shall ensure that each licensee or holder of a certificate, as applicable, attending that seminar is in attendance in a timely manner at the start of each lecture. If the sponsor fails to maintain the proper monitoring procedure, such failure may constitute grounds for the Board to withdraw its approval of a current or future seminar or seminars hosted or arranged by that sponsor.

5. The sponsor of a seminar shall allow any representative of the Board to attend all or part of the seminar in order to monitor the content of the course or lecture and the procedures for taking attendance. A representative who is taking the seminar to satisfy the requirements of subsection 3 or 4 of NRS 634.130, as applicable, shall pay the full registration fee.

6. The sponsor of a seminar which has received the approval of the Board shall report to the Board all changes in the seminar as soon as possible.

7. Except as otherwise provided in this subsection, the Board will not award credit for continuing education to a licensee or holder of a certificate, as applicable, for an educational class or seminar that is of a nonclinical nature, including, without limitation, an educational class or seminar regarding the building or management of a chiropractic practice. For the purposes of this subsection, an educational class or seminar regarding proper billing procedures shall not be deemed to be an educational class or seminar regarding the building or management of a chiropractic practice.

8. The Board will not award credit for continuing education to an instructor of an educational class or seminar unless the instructor obtained from the Board approval for such credit before teaching the educational class or seminar.

9. Continuing education hours earned through the completion of a specific educational class or seminar may be counted only once during a calendar year toward the hours of continuing education required by subsection 3 or 4 of NRS 634.130, as applicable, even if the licensee or holder of a certificate completes that class or seminar more than once during that calendar year.

10. The Board will award credit for continuing education to a licensee or a holder of a certificate for all educational classes or seminars which are approved and endorsed by the Board pursuant to this section and are attended by the licensee or holder of a certificate.

Section 9. NAC 634.390 is hereby amended to read as follows:

634.390 1. If a licensee desires to surrender his or her license to practice chiropractic or a chiropractor's assistant desires to surrender his or her certificate, the licensee or holder of the certificate shall submit to the Board a sworn written statement of surrender of the license or certificate accompanied by delivery to the Board of the actual license or certificate issued to him or her. The Board will accept or reject the surrender of the license or certificate. If the Board

accepts the surrender of the license or certificate, the surrender is absolute and irrevocable and the Board will notify any agency or person of the surrender and the conditions under which the surrender occurred, as the Board considers advisable.

2. The voluntary surrender of a license or certificate or the failure to renew a license or certificate does not preclude the Board from hearing a complaint for disciplinary action made against the licensee or holder of the certificate.

3. A voluntary surrender of a license or certificate made while a holder is not under investigation by the Board shall be deemed voluntary and shall not be considered discipline. A voluntary surrender of a license or certificate made while a holder is under investigation by the Board, if accepted by the Board, shall be deemed a revocation of the license or certificate. The Board's acceptance or denial of a voluntary surrender under this paragraph shall be subject to the Board's discretion.

Section 10. 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 herself or his or her services. A communication shall be deemed to be misleading if it contains ~~the~~ :

1. A material misrepresentation of fact or law, or omits a fact necessary to make the statement, considered as a whole, not misleading ~~the~~ ; or

2. A testimonial or endorsement from a person who is represented in the statement to be a patient of the licensee where the person is not, in fact, a patient of the licensee.

Section 11. NAC 634.541 is hereby amended to read as follows:

634.541 All advertisements and written communication must include the name of at least one licensee, *the telephone number and website address of the practice site of at least one*

licensee, or a referral bureau for licensees that is responsible for the content of the advertisement or communication.

Section 12. NAC chapter 634 is hereby amended to add the following new language:

A licensee shall retain copies of all documents related to his or her advertising for two years.

Section 13. NAC 634.419 and 634.570 are hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 634.419 Authorization of person to provide other services for patients in office of licensee. (NRS 634.030)

1. A licensee may authorize a person to provide services for his or her patients in the office of the licensee, other than chiropractic or clerical services, only if the licensee submits the information required by subsection 2 to the Board, on a form prescribed by the Board, at least 15 days before the person commences providing the services.

2. The form prescribed by the Board pursuant to subsection 1 must include:

(a) The name, business telephone number and license number of the licensee;

(b) The name of the person who will be providing the services for the patients of the licensee;

(c) The type of services that the person will be providing for the patients of the

(d) The address of the location at which the person will be providing the services for the patients of the licensee;

(e) The date on which the person will begin providing the services for the patients of the licensee;

(f) A statement indicating that the person will not be providing chiropractic services, including, without limitation, taking radiographs, and services that involve the use of physiotherapeutic equipment;

(g) A statement indicating whether the person who will be providing the services is an employee of the licensee or is retained by the licensee as an independent contractor;

(h) A copy of any license or certificate that authorizes the person to provide the services that he or she will be providing for the patients of the licensee;

(i) A statement indicating that the licensee will ensure that a copy of any license or certificate that is provided to the Board pursuant to paragraph (h) is available to each patient of the licensee for whom the person provides services; and

(j) The signature of the licensee.

3. A licensee shall ensure that each employee of the licensee who provides services for the patients of the licensee in the office of the licensee, other than chiropractic or clerical services, provides those services only under the direct supervision of the licensee.

4. A licensee who authorizes an independent contractor to provide services in the office of the licensee pursuant to the provisions of this section shall establish procedures which ensure that each patient of the licensee to whom the independent contractor provides services is notified that:

(a) The independent contractor is not an employee of the licensee;

(b) The services provided by the independent contractor in the office of the licensee are not provided under the supervision or control of the licensee; and

(c) The licensee will not bill the patient or the insurance company of the patient for any services provided by the independent contractor.

5. A licensee shall notify the Board within 15 days after an employee or independent contractor who is authorized pursuant to this section to provide services to the patients of the licensee leaves the employ of or is no longer retained by the licensee.

NAC 634.570 Inclusion of information in list or directory of licensees or chiropractic offices. (NRS 634.030) The provisions of NAC 634.515 to 634.570, inclusive, do not prohibit the inclusion of information relating to a licensee or chiropractic office in a list or directory of licensees or chiropractic offices which is intended primarily for use by persons in the chiropractic profession, if the information has been traditionally included in such a list or directory.