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CHAPTER 634

CHIROPRACTIC

GENERAL PROVISIONS

634.110 Definitions.

Applicant

Licensee

Certificate Holder

Direct Supervision

Advertisement

634.115 Severability of provisions.

634.119 Registering firm names.

634.130 Board: Regular meetings.

634.135 Voluntary surrender of license or certificate.

FEES

634.200 Fees: Amount; refund.

634.210 Fees and remittances: Method of payment.

APPLICATION REQUIREMENTS

LICENSING

634.220 Fingerprinting and investigation of applicants.

634.300 Examinations: Failure to appear.

634.311 Examinations: Retention and destruction of records.

634.320 Examinations: Communications with and conduct of applicants

634.330 Examinations: Applicants found to be cheating.

634.340 Practice by applicant waiting to take examination.

634.345 Practice by applicant after successful completion of examination.

634.350 Chiropractor's assistant: Application for certification.

634.355 Chiropractor's assistant: Qualifications for certification.

634.360 Chiropractor's assistant: Notification of board before beginning training.

634.365 Chiropractor's assistant: Examination for certification.

634.370 Replacement of lost, stolen or mangled license.

634.375 Change of name by licensee.

634.380 Notification of board regarding address of legal residence and mailing address.

634.385 Continuing education of licensees.

CHIROPRACTIC ASSISTANTS

[STANDARDS OF PRACTICE] **PROFESSIONAL PRACTICE**

- 634.410 Conduct on premises.
- 634.415 Supervision of chiropractor's assistant.
- 634.425 Reports to board of certain judgments, settlements and convictions.
- 634.430 Unprofessional conduct: Interpretation of statutory definition.
- 634.435 Records of patient obtained in change of ownership of practice: Duties of licensee.

REFERRAL BUREAUS

- 634.440 Referral bureaus.
- 634.455 Chiropractor's assistant: Display of license.
- 634.460 Chiropractor's assistant: Prohibited acts.

ADVERTISING AND OTHER COMMUNICATIONS

- 634.510 "Advertisement" defined.
- 634.515 General authorization.
- 634.521 Prohibition against false or misleading communications.
- 634.525 Advertisements for electronic media.
- 634.530 Advertisement of affiliation with provider of health care.
- 634.536 Designation of licensee as chiropractor.
- 634.541 Inclusion of name of chiropractor or referral bureau responsible for content.
- 634.545 Advertisement of affiliation with research project.
- 634.550 Advertisement as expert or specialist.
- 634.556 Advertisement of fees.
- 634.560 Maintenance of records.
- 634.565 Advertisement of 24-hour service.
- 634.570 Inclusion of information in list or directory of chiropractors or chiropractic offices.

PRACTICE BEFORE THE NEVADA STATE BOARD OF CHIROPRACTIC EXAMINERS

General Provisions

- 634.610 Scope and construction of provisions.

Rules of Practice

- 634.615 Communications with board.
- 634.620 Appearance and practice at hearings.
- 634.625 Participation by staff of board.
- 634.630 Pleadings: Generally.
- 634.635 Pleadings: Complaints.
- 634.645 Filing and service of documents.
- 634.650 Pleadings: Answer to notice of charges; motions.
- 634.655 Depositions.
- 634.660 Subpenas.
- 634.665 Filing of briefs.
- 634.670 Computation of time; obtaining information about proceedings.

Hearings

- 634.710 Persons presiding; resetting after continuance; location.
- 634.715 Failure to appear.
- 634.720 Preliminary procedure.
- 634.725 Standards of conduct.
- 634.730 Testimony: Oath or affirmation required.
- 634.735 Order of presentation.
- 634.740 Consolidation of proceedings.
- 634.745 Stipulations.
- 634.750 Rules of evidence.
- 634.755 Offer of proof.
- 634.760 Continuances.
- 634.765 Matters of official notice.
- 634.770 Transcripts.
- 634.775 Submission of matters for decision; dissemination of orders.

ENFORCEMENT

- 634.810 Authority of board.

GENERAL PROVISIONS - DRAFT - 01/22/98

634.110 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Applicant" means a person who applies or petitions for any right or authority from the board.
2. "Licensee" means a **[person]** *chiropractic physician* who is licensed by the board pursuant to chapter 634 of NRS.
3. *"Certificate Holder" means a chiropractic assistant or a chiropractor's assistant.*
4. *"Direct Supervision" means that the supervising chiropractor is actually present in the chiropractic facility during the period of supervision. (copied from 634.360)*
5. *"Advertisement" As used in NAC 634.515 to .565, includes without limitation, means business cards, inside and outside signs, stationery, listings in telephone and other directories, advertisements in newspapers, magazines and by electronic means. (moved from 634.510)*
6. *"Massage" means the application of manual pressure to the muscular structures and soft tissues of the human body for therapeutic purposes, including but not limited to:*
 - a. *effleurage;*
 - b. *petrissage;*
 - c. *tapotement;*
 - d. *tapping;*
 - e. *compressions;*
 - f. *vibration;*
 - g. *friction;*
 - h. *triggerpoint therapy.*

The term does not include diagnosis, adjustment or manipulation of any articulations of the body or spine or the mobilization of articulations by a thrusting force.

7. *"Ancillary services" means services relating to chiropractic performed by a chiropractic assistant under the direct supervision of a licensed chiropractor, such as physiotherapy, massage or x-ray. Such term does not include diagnosis, chiropractic adjustment or any other prohibited act set forth at NAC 634.[359] 460.*

~~[Bd. of Chiropractic Exam'rs, Rule of Practice No. 3, 3.1 through 3.6, eff. 12-8-74]--(NAC A 7-29-88)~~

634.115 Severability of provisions. The provisions of this chapter are hereby declared to be severable and the invalidity of any rule, clause, sentence, paragraph or section of this chapter does not affect the validity of the remainder.

~~[Bd. of Chiropractic Exam'rs, Rule of Practice No. 10, 10.3, eff. 12-8-74]--(NAC A 7-29-88)--(Substituted in revision for NAC 634.820)~~

634.118 Independent massage therapists and other independent professional contractors, registration with board.

1. *Bona fide independent professional contractors may engage in patient care in a chiropractic office as long as the Chiropractor properly notifies the board by registering that independent contractor with the board. Except as otherwise provided in this subsection, persons engaged in patient care who are not independent professional contractors registered*

with the board must be licensed or certified by the board, or registered with the board as an applicant.

2. A Chiropractor seeking to register an independent professional contractor must file an application with the board and furnish satisfactory evidence that:

a. The Independent Contractor holds a business license from the relevant municipal agency authorizing him to engage in the type of patient care he intends to perform in the chiropractic office;

b. The Independent Contractor is not an employee of the chiropractic physician in whose office he intends to provide patient care, and the chiropractic physician does not withhold income, social security or Medicare taxes from his compensation and does not provide his workers compensation and/or unemployment insurance coverage;

c. The Independent Contractor has his own taxpayer identification number under which services he performs in the chiropractic office will be billed;

d. The Independent Contractor's services are billed separately and distinctly from the services provided by the chiropractic physician and persons performing under the chiropractic physician's supervision and control; and

e. Procedures exist in the chiropractic office that are adequate to ensure that patients understand the distinction between services rendered by the independent professional contractor and services rendered by the chiropractic physician and persons performing under the chiropractic physician's supervision and control.

3. A Chiropractor will not allow an independent professional contractor to engage in patient care in a chiropractic office until he receives notification from the board that his application for registration has been approved.

4. It is unprofessional conduct for a chiropractic physician to evade or attempt to evade, or to assist another person to evade, the provisions of this subsection.

5. The prohibition contained in subsection 1 does not apply to a health care provider who is licensed or certified by a state agency pursuant to Title 54 of the Nevada Revised Statutes.

634.119 Practice Name: All chiropractic offices, businesses, corporations, partnerships, or practice names must be registered with the board.

634.130 Board: Regular meetings. Regular meetings of the board will be held at its principal office or at any other place and time as the board may specify.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 2, 12.2, eff. 12-8-74]

634.132 Officer Elections: shall take place on the first regularly scheduled meeting of even numbered years.

FEES

634.200 Fees: Amount; refund.

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..... | 100.00 |
| For an examination for a certificate as a chiropractor's assistant..... | 50.00 |
| For the issuance of a license to practice chiropractic..... | 200.00 |
| For an annual renewal of an active license to practice chiropractic..... | 250.00 |
| For the annual renewal of an inactive license to practice chiropractic..... | 75.00 |
| For the annual renewal of a certificate as a chiropractor's assistant..... | 35.00 |
| 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, <u>[or which has lapsed]</u> | 300.00 |
| For a review of any subject on the examination..... | 25.00 |
| For the issuance of a duplicate license or for changing the name on a license..... | 5.00 |
| 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 <u>[to a person who is not licensed to practice chiropractic]</u> | 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 |
| <i>For reinstating a certificate as a chiropractor's assistant which has been suspended or revoked.....</i> | <i>35.00</i> |
| <i>For reinstating an inactive license which has been suspended or revoked.....</i> | <i>100.00</i> |
| <i>Temporary License fee for chiropractors.....</i> | <i>50.00</i> |
| <i>Duplicate Certificate or for changing a name on a certificate.....</i> | <i>35.00</i> |
| <i>2. The fees set forth in this section are not refundable.</i> | |
| <i>(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)</i> | |

634.210 Fees and remittances: Method of payment. Payment of fees and remittances made to the board by money order, bank draft or check must be made payable to the [Nevada state board of chiropractic examiners.] Chiropractic Physicians Board of Nevada. Remittances in currency or coin are made wholly at the risk of the sender and the board assumes no responsibility for their loss. Postage stamps will not be accepted as payment. [Bd. of Chiropractic Exam'rs, Rule of Practice No. 2, 1 2.4, eff. 12-8-74]--(NAC A 7-29-88)

REQUIREMENTS

(old 634.300 moved to DC section)

634.3[11]100 Examination[s] **Records:** Retention and destruction of *examination* records.

1. Except as otherwise provided in this section, the board:

(a) May destroy the records of examination for a successful applicant not earlier than 90 days after granting a license to the applicant.

(b) Will retain the records of examination for an unsuccessful applicant until the examination has been given two additional times.

2. The board may extend the period of retention for records of examination for good cause shown.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

634.[220] 310 Fingerprinting and investigation of applicants.

Each applicant for examination must submit two sets of his fingerprints on separate standard fingerprint cards with his application, agree to a background investigation *and pay the applicable fees.*

[Bd. of Chiropractic Exam'rs, Art. XV 1 4, eff. 8-27-76; A 11-28-79]--(NAC A 11-23-93)

634.315 Examinations required for licensure; passing score; re-examination

1. Except as otherwise provided in this section, the examinations required for licensure consist of:

a. Part IV of the examination administered by the National Board of Chiropractic Examiners; and

b. An examination on Nevada laws and regulations pertaining to the practice of Chiropractic; and

c. An oral examination on clinical rationale, or any other test as deemed by the board.

2. An applicant who has actively practiced chiropractic in another state in accordance with NRS 634.090(1)(c)(2) may satisfy the requirements of subsection (1)(a) above by passing the Special Purposes Examination for Chiropractic prepared by the National Board of Chiropractic Examiners.

3. An applicant must pass all examinations required by the Board with a score of 75% or higher.

4. If an applicant fails to pass any of the Nevada examinations required for licensure, he may retake that examination within one year without payment to the board of any additional fees.

634.320 Examinations: Communications with and conduct of applicants. During the examination of applicants for licensing **or certification** [as **chiropractors**], only members of the board, testing consultants, examination proctors, applicants and persons requested by the board will be allowed in the waiting area for applicants or in the room in which the examination is given. An applicant may not:

1. Communicate with any person while in waiting area, halls or restrooms.

2. Leave the waiting area without the permission of a member of the board, a testing consultant or an examination proctor.

3. *Bring any written or recorded material relating to chiropractic into the examination facility.*

[communicate with any person while he is in the waiting area, halls or restrooms, or while he is taking the examination without the prior permission of a member of the board, a testing consultant or an examination proctor. An applicant may not leave the waiting area without the permission of a member of the board, a testing consultant or an examination proctor. No written or recorded material relating to the practice of chiropractic may be brought into the examination facility by an applicant.] [Bd. of Chiropractic Exam'rs, Art. XV 1 1, eff. 8-27-76; A 11-28-79]--(NAC A 7-29-88)

634.330 Examinations: Applicants found to be cheating. Any applicant who is found to be cheating during an examination will be required to leave immediately and will not be permitted to take an examination for 2 years after the date of the examination from which he was dismissed.

[Bd. of Chiropractic Exam'rs, Art. XV 1 2, eff. 8-27-76; A 11-28-79]--(NAC A 7-29-88)

[delete this entire section because this is replaced by a letter from board:]

[634.345 Practice by applicant after successful completion of examination. An applicant for a license to practice chiropractic who is notified by the board that he has successfully completed the examination may, upon remittance of the required fee for the issuance of a license to practice chiropractic, immediately commence the practice of chiropractic in this state pending the receipt of his certificate. (Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)]

634.3[70] 35 Replacement of lost, stolen or mangled license *or certificate*. A licensee *or certificate holder* is entitled to a duplicate [license] document to replace the original [license] document if the original [license] is lost, stolen or mangled. Each request for a duplicate license *or certificate* must be accompanied by the required fee and a signed written statement which sets forth the circumstances concerning the need for the duplicate document [license]. If the duplicate document [license] is requested to replace a mangled license, the licensee shall submit the mangled document [license] with his request. (Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

634.3[75] 40 Change of name by licensee *or certificate holder*. A licensee *or certificate holder* who legally changes his name from that which is currently registered with the board or which appears on his license *or certificate*:

1. Shall, within 15 days after the change, provide the board with the new name by submitting a written statement and legal documentation of the change to the office of the board; and

2. May obtain a replacement license **or certificate** if he:

(a) Complies with the provisions of subsection 1;

(b) Remits the required fee; and

(c) Returns his current license *or certificate* to the board.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

634.3[80] 45 Notification of board regarding address of legal residence and mailing address.

1. A chiropractic physician or chiropractor's assistant 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 may provide the number of a post office box which is to be used as his mailing address.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

CHIROPRACTOR'S ASSISTANT

634.350 [634.360] [Chiropractor's assistant: Notification of board before beginning training] duties. [A person who is to be employed and trained as a chiropractor's assistant in accordance with NAC 634.355 shall notify the board by submitting a form provided by the board before he begins performing any duties as a trainee.]

634.350 On-the-job training as a chiropractor's assistant: Notification of the board before beginning training; certification of training; time to submit application for examination.

1. A person who is hired or employed as a chiropractor's assistant trainee in accordance with NAC 634.354(c) shall apply to the board by submitting a form provided by the board before he begins performing any duties as a trainee.

2. Evidence of the applicant's completion of approved training pursuant to NAC 634.35 must consist of a certification by the chiropractic physician or other licensed provider of health care and the certification must be notarized.

3. After he has completed his on-the-job training, an applicant pursuant to NAC 634.355(4) must apply to sit for the next scheduled examination and submit the required fees, unless upon good cause shown, the board grants him an extension of the training period, in its discretion.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

634.35[0] 2 Chiropractor's assistant: Application for certification, terms of certificate.

1. In accordance with NRS 634.125, a chiropractor's assistant may perform such ancillary services relating to chiropractic as he is authorized to perform under the terms of the certificate issued to him by the board.

(a) A certificate as a "chiropractor's assistant for physiotherapy and X-ray" authorizes a person to perform ancillary services relating to chiropractic, such as physiotherapy and X-ray, but not including massage.

(b) A certificate as a "chiropractor's assistant for massage" authorizes a person to perform massage as the sole ancillary service. This certificate meets the qualifications as described in 634.355(2).

(c) A person who holds both certificates, as described in subsections (a) and (b) above, is authorized to perform both categories of ancillary services relating to chiropractic.

(d) Until January 1, 2000 the board will continue to issue a certificate as a "chiropractic assistant", which authorizes a person to perform both categories of ancillary procedures relating to chiropractic until that date.

(e) After January 1, 2000, a person who holds a certificate as a "chiropractor's assistant," and wishes to perform massage after that date, must also meet the requirements for a certificate as a "chiropractic assistant for massage" set forth at 634.355(2). except as otherwise provided in NAC 634.355(4).

[1] 2. An applicant for [certification] a certificate as a chiropractor's assistant must file an application with the board [secretary of the board] on a form furnished by the board [secretary] and pay the required fee not less than 30 days before the date of the examination.

[2] 3. 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, sex and current residence.

(d) The name and mailing address of the applicant's current employer and the date on which he was hired to perform the duties of a chiropractor's assistant.

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

(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.

(g) Date of high school graduation or GED.

(h) Social Security Number

[3] 4. An application expires after 1 year.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 5-13-82; A 11-23-93)--(Substituted in revision for NAC 634.450)

634.355 Chiropractor's assistant: Qualifications for certification.

1. An applicant for a certificate as a chiropractor's assistant must, in addition to fulfilling the requirements of NAC 634.352, furnish evidence satisfactory to the board that he *is qualified to perform the particular ancillary services authorized by the terms of the certificate he seeks to obtain. [:]*

2. an applicant for a certificate as a "chiropractor's assistant for massage" must furnish evidence to the board that he:

(a) Has passed the examination administered by the National Certification Board for Therapeutic Massage and Bodywork, or an examination deemed by the board to be comparable in scope and substance, and

(b) Has passed the examination on Nevada laws relating to chiropractic administered by the board with a minimum score of 75%, and

(c) Has reached the age of 18 years, and is a high school graduate or has earned a GED. Upon good cause shown, the board may waive the requirements of this subsection, at its discretion.

3. *Until January 1, 2000, an applicant for a certificate as a "chiropractor's assistant," as described at NAC 634.352(d), must furnish satisfactory evidence to the board that he has met the qualifications set forth above in paragraphs (a) through (e) of subsection 4 of this section.* 4. *An applicant for a certificate as a "chiropractor's assistant for physiotherapy and X-ray" must furnish satisfactory evidence to the board that he:*

(a) Is certified as a chiropractor's assistant by a [college accredited by the Council on Chiropractic Education] a program of training of chiropractor's assistants approved by the board;

(b) 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

(c) Has had 6 months of full-time training and employment as a chiropractor's assistant trainee from a licensed chiropractic physician. [Is currently employed to receive training while on the job as a chiropractor's assistant from a licensed provider of health care approved by the board]

(d) Has reached an age of 18, and is a high school graduate or has earned a GED. Upon good cause shown, the board may waive the requirements of this paragraph, at its discretion.

(e) Has obtained passing scores on the examination for certification and the examination on Nevada laws relating to chiropractic administered by the board with a minimum score 76%.

5. *After January 1, 2000, the board will only issue certificates as a "chiropractor's assistant for massage: and a "chiropractor's assistant for physiotherapy and x-ray". an applicant for a certificate must furnish satisfactory evidence to the board that he as met the qualifications required for the terms of the certificate or certificates he seeks to obtain.*

6. *An applicant who has documentation of formal training, education or experience he feels should be considered toward the training required pursuant to paragraphs (b) and (c) of subsection 4 above may be given credit toward such requirements, in the discretion of the board.*

[2] 3. Evidence of the applicant's completion of approved training pursuant to paragraph (b) or (c) of subsection 1 must consist of a certification by the licensed provider of health care and the certification must be notarized.

[3] 4. The training for an applicant pursuant to paragraph (c) and (d) of subsection 1 must last at least 6 [months The applicant must apply for the examination [no later than 15 days] after he has completed his training pursuant to that paragraph and pay the required fees.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 5-13-82; A 7-29-88; 1-31-94)--
(Substituted in revision for NAC 634.452)

634.3[65] 56 Chiropractor's assistant: Examination for certification.

1. At least once each year the board will **administer examinations to [examine]** applicants for a certificate[ion] as a chiropractors' assistant[s].

2. The examination[s] will consist of *the following topics without limitation:*

[(a) A written test on, without limitation:]

- (1) Radiographic technology, protection, [and] quality control *and positioning*;
- (2) Ancillary procedures and applications relating to chiropractic; and

(3) The provisions of this chapter and chapter 634 of NRS *and other laws relating to chiropractic*; [and

(b) A practical test on X-ray positioning.]

3. *Except as otherwise provided in this section, applicants for a certificate as a "chiropractor's assistant for massage" will be examined only on the subject of Nevada laws relating to chiropractic. An applicant for such certificate must have obtained a passing score on the examination administered by the National Certification Board for Therapeutic Massage and Bodywork, or an examination deemed by the board to be comparable in scope and substance, before he is eligible to sit for the examination administered by the board.*

[3. An applicant who receives a general average of at least 75 percent is entitled to a certificate as a chiropractor's assistant.]

4. *An applicant must pass all subjects of the examination administered with a score of at least 75%.*

[4.] 5. If an applicant fails to pass *all subjects on* the first examination, he may [take a second] *retake the* examination within 1 year without payment of an additional fee.

[5.] 6. *An applicant for a chiropractor's assistant certificate who twice fails to appear for examination for which he has been scheduled:*

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

(b) forfeits the application fees; and

(c) must cease working as a chiropractor's assistant trainee if he is an applicant pursuant to NAC634.33(c);

(d) if the applicant applies thereafter for a certificate, he shall establish his eligibility for that license in the same manner as an original applicant, in accordance with the provisions of this chapter and chapter 634 of NRS.

7. *If an applicant pursuant to NAC 634.355(c) fails to pass the examination after two attempts, he must cease working as a chiropractor's assistant trainee until the board approves a plan for additional training submitted by the supervising chiropractic physician and grants an extension of the training period for good cause shown, in its discretion.*

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 5-13-82; A 1-31-94)--(Substituted in revision for NAC 634.454)

634.359 *Special examination for certificate as chiropractor's assistant for massage; qualifications required.*

1. *Effective January 1, 2000, any person who performs massage as a chiropractic assistant must meet the requirements for a certificate as a "chiropractor's assistant for massage" set forth in NAC 634.355(2)"? except as otherwise provided in this section.*

2. *In February of 2000, the board will administer a special examination for a certificate as a "chiropractor's assistant for massage" to an applicant who provides satisfactory evidence to the board that he:*

(a) Has submitted to the board a complete application for the special examination and paid the required fee at least 30 days before the examination;

(b) Was certified by the board as a chiropractor's assistant before February of 1998; and

(c) Has performed continually massage services in chiropractic physician's office for the immediately preceding two years.

3. *A passing score on the special examination is 75%.*

4. The board will administer a single retake examination for applicants who fail to obtain a passing score on the first special examination.

5. An applicant who fails to obtain a passing score on the special examination may retake the examination one time without payment of an additional fee. If the applicant fails to obtain a passing score when he retakes the special examination, he must meet the requirements for a certificate as a "chiropractor's assistant for massage" set forth at NAC 634.355(2) in order to continue performing massage.

634.~~455~~ **360** Chiropractor's assistant : Display of ~~[license]~~ *certificate*.

1. A chiropractor's assistant shall display his ~~[license]~~ *certificate(s)* at the place of practice of the supervising chiropractor.

2. If the supervising chiropractor practices at more than one location and the chiropractor's assistant works at more than one of those locations, the chiropractor's assistant shall:

- (a) Display his certificate(s) at the office where he performs the majority of his work; and
- (b) Display a duplicate ~~[license]~~ *certificate(s)*, which the chiropractor's assistant shall obtain from the board, at each of the other locations where he works.

3. A chiropractor's assistant shall not display his ~~[license]~~ *certificate* except as otherwise provided in this section.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

634.~~460~~ **365** Chiropractor's assistant: Prohibited acts.

1. A chiropractor's assistant may not:

- (a) Diagnose a patient or establish a prognosis.
- (b) Prescribe a program of treatment for any patient.
- (c) Perform any service which is not specifically authorized by the provisions of chapter 634 of NRS.

(d) *Perform any service not specifically authorized by the terms of his certificate.*

~~[d]~~(e) Perform a chiropractic adjustment.

(e) (f) Perform any service, except at the direction and under the direct supervision of *per 634.110(4)* a ~~[licensed chiropractor]~~ *chiropractic physician* as defined at NAC 634.110(4)

(f) ~~[g]~~ Bill independently of the supervising ~~[chiropractor]~~ *chiropractic physician* for any services rendered.

[2. As used in this section, "direct supervision" means that the supervising chiropractic is actually present in the chiropractic facility during the period of supervision. (Added by NAC by Bd. of Chiropractic Exam'rs, eff. 7-29-88)] (moved to general provisions)

LICENSING

634.3[40] 70 Practice by **Chiropractor** applicant waiting to take examination.

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 received a notarized statement from the supervising chiropractor setting forth:] *The board has approved a chiropractic physician to supervise the applicant, provided that the proposed supervisor has submitted a completed form provided by the board setting forth:*

- (1) The fact of the applicant's employment;
 - (2) The date that the applicant is to begin working for the supervisor;
 - (3) The supervisor's acceptance of responsibility for the applicant's work; and
 - (4) The supervisor's assurance that **diagnosis**, chiropractic adjustments, or manipulations will not be performed by the applicant.
2. The [employer] *supervising chiropractor* shall notify the board if the applicant leaves his employ and the date that the applicant leaves.

3. Prohibited Acts:

- a. Perform chiropractic adjustments and/or manipulation,*
- b. Diagnose the condition of a patient,*
- c. Establish a treatment plan or prognosis.*
- d. Perform any service, except at the direction and under the direct supervision of a chiropractic physician,*
- e. Bill independently of the supervising chiropractic physician for any service rendered.*

[3] 4. Any violation of chapter 634 of NRS or this chapter by the applicant constitutes *grounds* for *prohibiting* [the board to bar] him from taking the examination for licensure and to take appropriate disciplinary action against the supervising chiropractor.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 5-13-82; A 11-23-93)

634.3[00] 372 *If a Chiropractor applicant fails to pass the examination twice, they must refrain all Chiropractic work or submit a new completed form as provided in section 634.362.* Examinations: Failure to appear. An applicant for a license to practice chiropractic who fails to appear for examination within 1 year after being first qualified therefor:

1. Shall be deemed to have withdrawn his application; and
2. Forfeits the application fee.

If the applicant applies thereafter for a license, [the] he shall establish his eligibility for that license in the same manner as an original applicant, in accordance with the provisions of this chapter and chapter 634 of NRS.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

634.373 Life-span of an application; examinations and retakes, exceptions.

Except as otherwise provided in section 5:

- 1. the application will remain open for one year starting with the date of the first test the applicant was approved to take.*
- 2. the applicants will be given opportunity to sit twice for all exams in the course of an open application.*
- 3. if the applicant fails to pass a board administered test the first time, he may take the test a second time without any additional fees paid to the board.*
- 4. with respect to the National Board Part IV portion of the examinations required for licensure, registration and examination fees must be paid directly to the National Board.*
- 5.*

upon a showing of exceptional circumstances for failing to appear for an exam, that is satisfactory to the board, an applicant may be given one additional opportunity to sit for the next scheduled examination.

634.~~[385]~~ **375** Continuing education of licensees.

1. The board **[will]** **may** approve or endorse an educational class or a seminar if it is designed to advance the professional skills and knowledge of the chiropractors licensed in this state for the purpose of ensuring an optimum quality of chiropractic health care.

2. The board may approve or endorse the attendance of licensees at 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 **[at least 30 days before the date that the seminar is to be given]**;

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

(c) The seminar or seminars concerns **[ed]** the clinical aspects of a practice or **[chiropractic technique]** *a topic deemed by the board to be in the public's best interest*;

(d) **[The attendance of the licensee at the seminar or seminars is physically monitored [hourly and each hour contains at least 50 minutes of instruction]**

Each attendee requesting Nevada relicensure credit is in attendance for 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 the Council on Chiropractic Education *or other educational entity approved by the board*;

(2) A state chiropractic association; or

(3) The American Chiropractic Association, the International Chiropractor's Association or the successor of either; *or*

(4) A state chiropractic board; and

(f) A certificate of attendance at the seminar or seminars is provided directly to the board by the sponsor before the issuance of a renewal certificate.

3. **[If the licensee is absent for more than 10 minutes from the room where instruction is being provided, he must not receive credit for that hour of instruction.]** The sponsor of the seminar or seminars shall ensure that each licensee attending that seminar is in attendance in a timely manner at the start of each lecture. Failure to maintain the proper monitoring procedure may be grounds for withdrawing the approval of the board for **[the]** *this and/or future* seminar or seminars *put on by this sponsor*.

4. 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 of NRS 634.130 shall pay the full registration fee.

5. 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.

6. As required under NRS 634.130(3), licensees not attending the required 2 hours of instruction prescribed by the board will be deemed not to have completed that year's continuing education.

7. The board will not approve courses in practice building, practice management, insurance billing, or other non-clinical subjects.

8. The board will not give continuing education credit to the instructor of a course unless previously authorized by the board.

*[Bd. of Chiropractic Exam'rs, eff. 4-15-63; A 3-19-65; 3-12-71]--(NAC A 7-29-88; 1-31-94)--
(Substituted in revision for NAC 634.420)*

634.388 Renewal and reinstatement of licenses; A license that is suspended for non-renewal, may only be reinstated by a further order of the board (pursuant to NRS 634.204)

634.390 TEMPORARY LICENSE:

1. Pursuant to NRS 634.115, the board may issue a temporary license to a chiropractic physician who is licensed in good standing in another state and has an active practice in another state for the following purposes: pursuant to NRS 634.115 for the following purposes: a. Vacation relief

b. Traveling sport/professional group

c. Visiting teachers of educational seminars

d. Emergencies of a Nevada licensee such as illness or injury.

e. Other purposes as approved by the board.

2. The board will not issue a temporary license until a completed application form, provided by the board, has been approved and the required fee has been paid.

[STANDARDS OF PRACTICE]
PROFESSIONAL PRACTICE

634.410 Conduct on premises.

1. A licensee is responsible for the conduct of his employees and other persons subject to his supervision in his place of practice and he shall ensure that the conduct conforms to the law and to the provisions of this chapter.

2. Sexual acts involving patients, patrons or customers must not be permitted on the premises of any facility used by a licensee for the practice of chiropractic.

3. Termination of the doctor/patient relationship is required prior to engaging in sexual conduct.

[Bd. of Chiropractic Exam'rs, Art. XII, eff. 3-14-73]--(NAC A 7-29-88)

634.415 A chiropractor who supervises a chiropractor's assistant and/or a chiropractic physician applicant waiting to take the examination or other persons subject to his supervision:

1. Is responsible for ensuring that the assistant *or applicant* complies with all *the provisions of this chapter and chapter 634 of NRS.* [rules and regulations governing the practice of a chiropractic assistant.]

2. Shall make all decisions relating to the diagnosis, treatment, management and future disposition of a patient.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 7-29-88)

634.425 Reports to board of certain judgments, settlements and convictions.

1. If a judgment is entered against him in any court, or a settlement is reached, on a claim involving malpractice, a licensed chiropractor shall report that fact to the board within 15 days. The licensed chiropractor may satisfy the provisions of this subsection if he provides the board with a copy of the judgment or settlement.

2. If a licensee *or certificate holder* is convicted of any crime, other than a traffic violation, he shall report that fact to the board within 15 days after the conviction.

3. If a licensee *or certificate holder* fails to report a judgment, settlement or conviction pursuant to this section, he may be subject to disciplinary action pursuant to NRS 634.140 to 634.216, inclusive.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 7-29-88; A 1-31-94)

634.430 Unprofessional conduct: Interpretation of statutory definition. For the purposes of subsection 10 of NRS 634.018, "conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public" includes, without limitation:

[1. Engaging in or soliciting:

(a) Sexual relations with a patient;

(b) Sexual misconduct;

(c) Sexual contact;

(d) Sexual exploitation; or

(e) Any offense defined in NRS 200.368, 200.730, 201.210 or 201.220.] moved to 634.433

[2] *I.* 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.

2. Offering payment to a patient as an inducement to enter or continue care is prohibited. This subsection does not prohibit a chiropractor from providing complimentary chiropractic services to an existing patient.

3. Participating in any arrangement under which a licensee gives or receives compensation for the referral of a patient to any person.

[4] Knowingly presenting or causing to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance, or knowingly preparing, making or subscribing any document with the intent to present or use it or to allow it to be presented or used in support of such a claim.]

[3] 4. Engaging in abusive and/or fraudulent billing practices which may include but not limited to:

(a) filing claims for services not rendered;

(b) filing claims which misrepresent the service performed;

(c) filing multiple claims for a single service; or

(d) failing to disclose pertinent information on a claim form or presenting false information on a claim including but not limited to: reimbursement from other carriers, or falsely stating that an injury is the result of an accident or work related incident.

5. 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.

6. 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.

7. 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.

8. Being delinquent in the payment of a **[judgment for the payment of child support]** *child enforcement action* pursuant to chapter 425 of NRS.

9. Being **[delinquent in the payment of a judgment]** *in default* for the payment of a student loan.

10. Violating the rules or regulations of federal or state programs relating to chiropractic.

11. Engaging in fraud, misrepresentation, or deception in business affairs relative to the practice of chiropractic.

12. Permitting any person to perform chiropractic services or to engage in patient care of any kind unless he is licensed or certified by the board, or is registered with the board as an applicant or an independent professional contractor. The prohibition contained in this subsection does not apply to a health care provider who is licensed or certified by a state agency pursuant to Title 54 of the Nevada Revised Statute.

12. Refer to proposed practicing without a certificate or license without being registered with the board language on attached sheets. (Added to NAC by Bd. of Chiropractic Exam'rs, eff. 7-29-88; A 1-31-94)

13. Engaging in a romantic or dating relationship with a patient.

14. It shall be deemed unprofessional conduct for a Chiropractor to perform treatment or examinations in the breast, anal or genital areas of a patient without first obtaining an informed consent with preference to specific procedures to be performed.

634.433 Sexual Misconduct: Interpretation of the term: A licensee's sexual misconduct exploits the doctor/patient relationship, is a violation of the public trust, and may cause immeasurable harm to the patient.

1. Sexual misconduct may include doctor/patient sexual relations, whether or not initiated by, or consented to, by the patient, and engaging in any conduct with a patient that is sexual or may be reasonably interpreted as sexual. Any other offense defined in NRS 200.368, 200.730, 201.210, 201.220.

2. A licensee is prohibited from using fraud, deception, misrepresentation, or force for the purpose of engaging in sexual contact with a patient in the clinical or treatment setting.

3. Patient consent should not be viewed as a legal defense. Once sexual conduct has been established, the burden of proof falls upon the doctor to prove there has not been a breach of the doctor-patient relationship.

4. Sexual misconduct may include behavior, gestures, or expressions that are or may be reasonably interpreted as sexually suggestive or sexually demeaning to a patient. (keep)

634.435 Patient Records: All records must be maintained for 5 years or as directed in NRS 629.051

1. A licensee is required to maintain proper records on all patients, including family and staff members, and to keep these records confidential as required by law. Patient records must be clear and legible, and include:

(a) a description of the patient's chief complaint;
(b) a history which includes any significant events related to the chief complaint or general health history.

(c) an accurate record of diagnostic and therapeutic procedures including:

- 1. Examination(s) and examination results;*
- 2. Diagnosis;*
- 3. Treatment plan;*
- 4. Areas of chiropractic adjustments;*
- 5. Dates of treatment;*
- 6. Any changes and their reasons for changes in the plan of care.*
- 7. A record of the patient's response to treatment.*

(d) Maintain complete and accurate patient records pursuant to NRS 629.051.

2. [Records of patient obtained in change of ownership of practice: Duties of licensee.] A licensee who obtains the records of a patient of another licensee because of a change in the ownership of a practice shall:

[1] (a). Report to the board the transfer of the records; **and**

[2] (b). Inform the board, in writing, of the physical location of those records within 15 days after the change in ownership of the practice;

[3. Maintain those records in accordance with NRS 629.051.]

3. A licensee who retires, moves from the state, or changes the status of his license from active to inactive must notify the board where his patient records can be obtained.

4. The administrator for an estate of a deceased chiropractor shall notify the board where the practices records shall be retained.

634.437 PATIENT CARE AND X-RAYS

1. A licensee must maintain competence in the application of chiropractic therapeutics and in the management of patient care. Competence should be based on the following considerations:

- a. Therapeutic modalities must be properly applied;*
- b. The modality must be appropriate for the treatment of the patient as documented by the patient record; and*
- c. case management must be supported by the patient record.*

2. A licensee is required to maintain competence in the production and interpretation of x-rays. Competence should be based on the following considerations;

- a. X-rays must be of diagnostic quality;*
- b. Appropriate shielding and collimation must be utilized;*
- c. Patient exposure to radiation must be based on clinical necessity as documented by the patient's record.*
- d. Interpretation of x-rays must be in writing, part of the patient's record, and demonstrative of competence in reading films; and*
- e. Equipment must meet manufacturer's specifications for safety and use, and must be properly maintained and certified by Radiological Health Section, Nevada Division of Health pursuant to NRS 459?.*

634.440 Referral bureaus.

1. Except as otherwise provided in this section, a referral bureau for licensed chiropractors must have at least five licensed chiropractors who do not have a fiduciary relationship with each other. A member of the referral bureau may represent no more than 20 percent of the chiropractors listed with the bureau. The board will consider any extenuating circumstances which would prevent a referral bureau from complying with this subsection.

2. Unless there is a request for a chiropractor who uses a specific technique, is located in a specific area or is able to speak a certain language, all referrals by a bureau must be made on a rotating basis so that each chiropractor listed with the bureau receives the same number of referrals.

3. The telephone number for the referral bureau must not be the number of the office, residence or answering service of any of the chiropractors listed with the bureau. *The name of the referral bureau may NOT be deceptively similar to a chiropractic physician member or any other office names.*

4. A record of all referrals must be made by the bureau and maintained by it for at least 1 year after the referral is made. The record must include the date and time of the referral, the name and address of the person referred, and the name of the chiropractor to whom the person was referred. The record must be made available upon request for inspection to any chiropractor listed with the bureau and must be submitted to the board [on a quarterly basis.] *within 30 days following the end of the quarter.*

5. A referral bureau shall file a letter of application with the board for its approval which properly identifies the referral bureau, its structure and its members.

6. Any change of membership of the referral bureau shall be reported to the board within 15 days.

[Bd. of Chiropractic Exam'rs, Art. IX 1 4, eff. 3-14-73; A 11-28-79]--(NAC A 7-29-88; 11-23-93)--(Substituted in revision for NAC 634.520)

ADVERTISING AND OTHER COMMUNICATIONS

[634.510 "Advertisement" defined. As used in NAC 634.510 to 634.565, inclusive, "advertisement" means calling cards, inside and outside signs, stationery, listings in telephone and other directories, and advertisements in newspapers, magazines and by electronic means.]

{moved to general provisions}

[Bd. of Chiropractic Exam'rs, Art. V 1, eff. 3-15-61; A 5-15-64; 3-14-73; 4-26-76; 11-28-79]--(NAC A 11-23-93)

(moved from **634.510**)

634.515 General authorization, *As used in this section, advertising means calling cards, inside and outside signs, stationery, listing in telephone and other directories, and advertisements in newspapers, magazines and by electronic means.*

1. Subject to the provisions of NAC 634.521, a chiropractor 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 634.510 to 634.565, inclusive:

(a) Information relating to the chiropractor or chiropractic office, including, but not limited to:

- (1) The name of the chiropractor or chiropractic office;
 - (2) A list of chiropractors 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 chiropractor will be available.
- (b) The date on which a license was issued to the chiropractor 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 chiropractor or persons employed by the chiropractor or in the chiropractic office to speak a language other than English.
- (e) The fields of chiropractic in which the chiropractor 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 chiropractor 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 chiropractor or chiropractic office in a public service announcement or in connection with a charitable, civic or community program or event.
- (Added to NAC by Bd. of Chiropractic Exam'rs, eff. 1-31-94)

634.521 Prohibition against false or misleading communications. A chiropractor shall not make any false or misleading communications about himself or his services. A communication shall be deemed to be misleading if it:

1. 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 chiropractor can achieve, or states or implies that the chiropractor can achieve results by any means which violate any provision of this chapter or chapter 634 of NRS; or
3. Compares the services to be provided by the chiropractor with the services that may be provided by another chiropractor and the comparison cannot be factually substantiated.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 1-31-94)

(4) A chiropractor shall not use additional letters or initials following his name that would imply or indicate he is a specialist in chiropractic or has achieved additional post-graduate training in chiropractic unless those letters or initials are approved by the board pursuant to NAC 634.550.

(5) Any advertisement which states that a licensee has special training, skills or certification in a specialty not recognized by the board, is engaged in deceptive and misleading advertising practices.

634.525 Advertisements for electronic media.

1. An advertisement for any electronic media[, such as television or radio,] may contain the same factual information and illustrations which are permitted in advertisements for any printed media.

2. A person who appears in an advertisement for any electronic media as a chiropractor or appears in such a manner as to imply that he is a chiropractor must be:

(a) A chiropractor who holds a license in good standing to practice chiropractic in this state; and

(b) The chiropractor who will provide the services advertised or who is associated with the practice which is advertising the service.

3. A person who appears in an advertisement on electronic media as an employee of a chiropractor or chiropractic practice must be an actual employee of the chiropractor or chiropractic practice whose services are being advertised, unless the advertisement discloses that such a person is an actor.

4. If an actor appears in an advertisement in accordance with this section, the advertisement must disclose that the person is an actor.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 1-31-94)

634.530 Advertisement of affiliation with provider of health care. A licensed chiropractor shall not represent that he is affiliated with any provider of health care unless that other provider of health care spends at least 20 percent of his time in the chiropractor's office.

[Bd. of Chiropractic Exam'rs, Art. V 11 2 & 4, eff. 3-15-61; A 5-15-64; 3-14-73; 4-26-76; 11-28-79]--(NAC A 12-3-80; 7-29-88)

634.536 Designation of licensee as chiropractor. The failure of a licensee in any advertising to clearly designate himself as a chiropractor shall be deemed to be false and misleading for the purposes of subsection 4 of NRS 634.018.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 7-29-88)

634.541 Inclusion of name of chiropractor or referral bureau responsible for content. All advertisements and written communication must include the name of at least one chiropractor or a referral bureau for licensed chiropractors that is responsible for the content of the advertisement or communication.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 7-29-88; A 11-23-93)

634.545 Advertisement of affiliation with research project. If a licensed chiropractor advertises any affiliation with a research project, he must make a written statement of the objectives, cost and budget of the project and the persons conducting the research available on request to the board, to scientific organizations and to the general public. Any willful failure to comply with the requirements of this section shall be deemed to be false and deceptive advertising for the purposes of subsection 4 of NRS 634.018.

[Bd. of Chiropractic Exam'rs, Art. V 1 6, eff. 3-15-61; A 5-15-64; 3-14-73; 4-26-76; 11-28-79]--(NAC A 7-29-88)

634.550 Advertisement as expert, *certified*, or specialist. Except as otherwise provided in NAC 634.510 to 634.5[65] 70, inclusive, a chiropractor shall not hold himself out in any advertisement as being an expert, *certified*, or specialist in a field of chiropractic unless he is registered with the board as holding the applicable professional credentials in that field.

[Bd. of Chiropractic Exam'rs, Art. V 1 7, eff. 3-15-61; A 5-15-64; 3-14-73; 4-26-76; 11-28-79]--(NAC A 7-29-88; 1-31-94)

634.556 reorganized to 634.558

634.558 1. Except as otherwise provided in this section, a chiropractor 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 chiropractor 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. A chiropractic service which is advertised as being free of charge or at a discounted rate 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.

3. 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.]

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)]

634.558 Advertisement of fees.

[2] 1. A chiropractic service which is advertised as being free of charge or at a discounted rate 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.

[3] 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.*

3. Advertisements offering free or discounted service must include the licensee's usual charge for this service.

(a) In the case where the service offered is usually provided without charge, the advertisement must state that there is usually not charge for this service.

(b) Diagnostic services offered without charge, such as exams or x-rays, must be diagnostically complete.

4. Patients receiving free services must sign a disclosure statement which clearly describes the free service, and informs the patient of services for which there is a charge. When the advertisement offers free services for a period of time, the patient must sign a disclosure statement which clearly states when the free service ends. Such disclosure statements are part of the patient's medical record, and must be included in any submission of claims to any other party or person.

[1] 5. Except as otherwise provided in this section, a chiropractor 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 chiropractor 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.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

634.560 Maintenance of records.

1. A licensed chiropractor 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.

[Bd. of Chiropractic Exam'rs, Art. V 1 8, eff. 3-15-61; A 5-15-64; 3-14-73; 4-26-76; 11-28-79]--(NAC A 11-23-93)

634.565 Advertisement of 24-hour service. No licensed chiropractor or referral bureau for licensed chiropractors may advertise 24-hour service unless a licensed chiropractor is available at all times to perform any chiropractic service which may be needed.

[Bd. of Chiropractic Exam'rs, Art. XI 11 1-3, eff. 3-14-73; A 11-28-79]--(NAC A 6-12-80; 12-3-80; 7-29-88; 11-23-93)

634.570 Inclusion of information in list or directory of chiropractors or chiropractic offices. The provisions of NAC 634.510 to 634.565, inclusive, do not prohibit the inclusion of information relating to a chiropractor or chiropractic office in a list or directory of chiropractors 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.

(Added to NAC by Bd. of Chiropractic Exam'rs, eff. 11-23-93)

[PRACTICE BEFORE THE NEVADA STATE BOARD OF CHIROPRACTIC EXAMINERS]

DISCIPLINARY PROCEEDINGS

[General Provisions]

634.610 Scope and construction of provisions.

1. NAC 634.610 to 634.775, inclusive, govern all practice and procedure before the Nevada state board of chiropractic examiners except as otherwise directed by the board.

2. Each provision of NAC 634.610 to 634.775, inclusive, must be liberally construed to secure a just, speedy and economical determination of all issues presented to the board.

3. In special cases, for good cause shown and when not contrary to statute, the board may permit deviation from a provision of NAC 634.610 to 634.775, inclusive, if it finds that compliance is impractical or unnecessary.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 1, 11 1.1 through 1.3, eff. 12-8-74]

Rules of [Practice] Proceedings

634.613 Voluntary surrender of license or certificate.

1. If a licensee desires to surrender his license to practice chiropractic, he shall submit to the board a sworn written statement of surrender of his license accompanied by delivery to the board of the actual license issued to him. The board will accept or reject the surrender of the license. If the board accepts the surrender of the license, 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 the failure to renew a license does not preclude the board from hearing a complaint for disciplinary action made against the licensee.

634.615 Communications with board. All formal written communications and documents must be addressed to the board and not to its individual members or staff. All communications and documents are deemed to be officially received by the board when delivered at its principal office.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 2, 1 2.3, eff. 12-8-74]

634.620 Appearance and practice at hearings.

1. An interested party who is or may be directly and substantially affected by a hearing may appear, introduce evidence and, at the discretion of the board, otherwise participate in the proceeding.

2. A party shall appear at the beginning of a hearing, or at a time designated by the presiding officer, by giving his name and address and stating his position or interest in the hearing to the presiding officer. This information must be recorded in the transcript of the hearing.

3. A party who is entitled to appear may appear in person or by an attorney.

4. An attorney who appears as counsel in any proceeding must be an attorney at law who is admitted to practice and is in good standing before the highest court of any state. If the attorney is not admitted to practice in the State of Nevada, he must be associated with a Nevada attorney.

5. Any attorney of record who wishes to withdraw from a proceeding before the board must immediately notify the board or the presiding officer in writing of that fact and name the party whom he represents.

6. As used in this section, "interested party" means a person who believes that he may be affected by a proceeding but who does not seek to participate in the proceeding.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 4, 11 4.1 through 4.5, eff. 12-8-74]--
(NAC A 7-29-88; 11-23-93)

634.625 Participation by staff of board. The staff of the board may appear at any hearing and has all of the rights of participation of a party to the proceeding.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 3, 1 3.7, eff. 12-8-74]

634.630 Pleadings: Generally.

1. Each pleading must be designated as an application, petition, complaint, answer or motion.

2. All pleadings, except motions and complaints brought by the board on its own motion, must be verified.

3. The board may allow any pleading to be amended or corrected or any omission therein to be supplied.

4. Pleadings will be liberally construed and defects which do not affect substantial rights of the parties will be disregarded.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 5, 5.1 through 5.3, eff. 12-8-74]

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 complaint must be in writing, signed and verified by the person making it and filed with the executive director of the board.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 5, 1 5.4, eff. 12-8-74]--(NAC A 11-23-93)

634.645 Filing and service of documents.

1. An original[**and three legible copies**] of all pleadings must be filed with the board. A copy of any pleading designated by the board must be made available by the party filing it to any other person whom the board determines may be affected by the proceeding and who desires a copy of the pleading.

2. All notices, findings of fact, opinions and orders required to be served by the board and all documents filed by any party may be served by mail, and service thereof shall be deemed complete when a copy of the paper or document, properly addressed and stamped, is deposited in the United States mail.

3. An acknowledgment of service or certificate of mailing must appear on each document which is required to be served.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 6, 11 6.1 through 6.3, eff. 12-8-74]

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 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. The board will 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.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 6, 11 6.4 and 6.5, eff. 12-8-74]--(NAC A 11-23-93)

634.655 Depositions. The board or any party to a proceeding before it may depose witnesses in the manner prescribed for deposition of witnesses in civil actions.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.11, eff. 12-8-74]

634.660 Subpenas.

1. A subpoena requiring the attendance of a witness from any place within the state at a hearing to receive his testimony may be issued by the secretary of the board upon application in writing.
2. Subpenas for the production of documents, books or other records, unless issued by the board on its own motion, will be issued only upon application in writing. The application must specify as clearly as possible the documents, books or other records desired.
3. The board, upon a prompt motion not later than the time specified in the subpoena for compliance, may:
 - (a) Quash the subpoena if it is unreasonable or oppressive; or
 - (b) Condition denial of the motion upon the advancement of the reasonable cost of producing the documents, books or other records desired by the person in whose behalf the subpoena is issued.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.10, eff. 12-8-74]

634.665 Filing of briefs.

1. At a hearing, the board may order briefs to be filed within a time which it prescribes. Three copies of any requested brief must be filed with the board and must be accompanied by an acknowledgment of service on, or a certificate of mailing to the other parties of record.
2. The board may set the matter for oral argument after briefs are filed or when a motion is contested. Ten days' notice of the time set for oral argument must be given to all parties of record, unless the board specifies a shorter time.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.13, eff. 12-8-74]

634.670 Computation of time; obtaining information about proceedings.

1. The time within which any act ordered pursuant to this chapter must be accomplished is computed by excluding the first day and including the last day unless the last day is Saturday, Sunday or a legal holiday, in which case it is excluded.
2. Additional information about proceedings before the board or the status of any matter relating to the board may be secured by applying to the secretary of the board at the principal office of the board.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 10, 11 10.1 and 10.2, eff. 12-8-74]--
(NAC A 7-29-88)

Hearings

634.710 Persons presiding; resetting after continuance; location.

1. Hearings will be held before one or more members of the board.
2. A hearing which has been previously continued may be reset upon a notice of not less than 10 days.
3. Hearings will be held at a place in the state as designated by the board in the notice of hearing.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.1, eff. 12-8-74]

634.715 Failure to appear.

1. If the party who filed the complaint or the licensee fails to appear at the hearing scheduled by the board and no continuance has been requested or granted, the board may hear the evidence of those witnesses who have appeared and proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required by NAC 634.720 to 634.775, inclusive.

2. Where, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing scheduled by the board or fails to request a continuance thereof, he may, within a reasonable time, but not more than 15 days, apply to the secretary of the board **at the principle office of the board** to reopen the proceedings. The board, if it finds that the cause for failing to appear is sufficient and reasonable, will immediately fix a time and place for the hearing and give the person notice thereof. At the time and place fixed by the board, the person may testify in his own behalf or present other evidence. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the board.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.2, eff. 12-8-74]

634.720 Preliminary procedure. The presiding officer of the board will call the proceeding or hearing to order, proceed with each party's appearance and act upon any pending motions. The parties may then make opening statements.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.3, eff. 12-8-74]

634.725 Standards of conduct. All parties to the hearing, their counsel and spectators shall conduct themselves in a respectful manner.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.4, eff. 12-8-74]

634.730 Testimony: Oath or affirmation required. All testimony considered by the board in formal hearings, except matters officially noticed or entered by stipulation, must be sworn. Before testifying, each person shall swear or affirm that he will testify truthfully.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.5, eff. 12-8-74]

634.735 Order of presentation.

1. Evidence at the hearing must be presented in the following order:

(a) Opening statements by counsel for complainant and respondent. Respondent may defer his opening statement until the completion of the complainant's case.

(b) Presentation of complainant's case, which may be followed by cross-examination.

(c) Presentation of respondent's case, which may be followed by cross-examination.

(d) Rebuttal testimony, if any.

(e) Argument by respective counsel, in the following order:

(1) Opening argument for complainant.

(2) Argument for respondent.

(3) Closing argument for complainant.

2. As used in this section:

(a) "Complainant" means a person who complains to the board of any act. If the board initiates a proceeding, it may be a complainant.

(b) "Respondent" means a person against whom a complaint has been filed or of whom an investigation has been commenced.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.6, eff. 12-8-74]--(NAC A 7-29-88)

634.740 Consolidation of proceedings.

1. The board may consolidate two or more proceedings in any one hearing when it appears that the issues are substantially the same and that the rights of the parties will not be prejudiced thereby.

2. At a consolidated hearing, the presiding officer will determine the order in which the parties must introduce their evidence and which party must open and close the proceeding.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.7, eff. 12-8-74]

634.745 Stipulations.

1. With the approval of the presiding officer, the parties may stipulate any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record.

2. A stipulation is binding upon all parties so stipulating and may be regarded by the board as evidence at the hearing.

3. The board may require proof by evidence of the facts stipulated in addition to the stipulation of the parties.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.8, eff. 12-8-74]

634.750 Rules of evidence.

1. In conducting any investigation, inquiry or hearing, the board, its officers or employees are not bound by the technical rules of evidence and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the board.

2. Rules of evidence recognized by the courts of Nevada will be followed generally but may be relaxed by the board when deviation from the technical rules of evidence will aid in ascertaining the facts.

3. When an objection is made to the admissibility of evidence, the evidence may be received subject to a later ruling by the board.

4. The board may exclude inadmissible, incompetent, cumulative or irrelevant evidence, or order that presentation of that evidence be discontinued.

5. A party objecting to the introduction of evidence shall state briefly the grounds of objection at the time the evidence is offered.

6. Evidence must be material and relevant to the issues involved to be admitted at the hearing.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.9, eff. 12-8-74]

634.755 Offer of proof. An offer of proof for the record consists of a statement of the substance of the evidence to which an objection has been sustained.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.18, eff. 12-8-74]

634.760 Continuances. The board, before or during a hearing, on proper showing, may grant continuances for the submission of further proof of any subject matter.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.12, eff. 12-8-74]

634.765 Matters of official notice. The board may take official notice of:

1. Regulations, official reports, decisions and orders of the board or any other regulatory agency of this state.
2. The contents of decisions, orders, certificates and permits issued by the board.
3. Matters of common knowledge and established technical or scientific facts.
4. Pertinent official documents, when properly introduced into the record of formal proceedings by reference. Proper and definite reference to official documents must be made by the party offering them and they must be published and generally circulated so that an opportunity is given to all the parties of interest to the hearing to examine them and present rebuttal evidence.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.14, eff. 12-8-74]

634.770 Transcripts. The board will have a transcript made of all formal hearings. Parties desiring copies of the transcript may obtain them from the transcriber upon payment of the fees fixed therefor.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 7, 1 7.16, eff. 12-8-74]

634.775 Submission of matters for decision; dissemination of orders.

1. A proceeding is submitted for decision to the board after the taking of evidence, the filing of briefs or the presentation of oral argument as prescribed by the board or the presiding officer unless otherwise specifically approved.
2. Orders of the board will be served by the secretary by mailing a copy to each party of record or their representatives or by personal service. Additional copies of orders issued by the board may be obtained upon written request.

[Bd. of Chiropractic Exam'rs, Rule of Practice No. 8, 11 8.1 and 8.2, eff. 12-8-74]

[ENFORCEMENT]

634.810 Authority of board. The board may begin proceedings against a licensed chiropractor *or a chiropractic assistant and DC waiting to take the examination 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 a member of the public or another chiropractor.

[Bd. of Chiropractic Exam'rs, Reg., Art. XVI, eff. 11-28-79]--(NAC A 7-29-88)