

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

LCB File No. R014-10

Effective May 5, 2011

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

AUTHORITY: §§1 and 4-7, NRS 634.030; §2, NRS 634.030 and 634.105; §3, NRS 634.030 and 634.130.

A REGULATION relating to chiropractic; revising provisions relating to continued work by a chiropractor's assistant trainee under certain circumstances; requiring a supervising licensee to notify the Chiropractic Physicians' Board of Nevada within 5 business days after an applicant for a license to practice chiropractic leaves the employ of the supervising licensee; providing for the approval, endorsement and award of credit for certain continuing education of licensees; requiring certain documentation in, and availability of, health care records; revising provisions relating to advertisement of fees; revising provisions relating to forms and content of pleadings; and providing other matters properly relating thereto.

Section 1. NAC 634.305 is hereby amended to read as follows:

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

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

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

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

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

5. If an applicant who receives training and employment as a chiropractor's assistant trainee pursuant to subparagraph (2) of paragraph (a) of subsection 2 of NAC 634.355 fails to receive a score of at least 75 percent on the examination after two attempts and wishes to continue working as a chiropractor's assistant trainee, the supervising licensee must, within 30 days after the date of the notice from the Board of the results of the examination, submit a plan for additional training to the Board. ~~[At its next meeting, the Board]~~ *The chair of the test committee will:*

(a) Approve or deny the plan; and

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

6. *If, pursuant to paragraph (b) of subsection 5, the chair of the test committee determines that a chiropractor's assistant trainee may continue working as a chiropractor's assistant trainee, the chiropractor's assistant trainee may continue working as a chiropractor's assistant trainee if he or she:*

(a) *Pursuant to NAC 634.350, submits a new application for a certificate as a chiropractor's assistant and pays the required fee; and*

(b) *Provides the chair of the test committee with proof that the chiropractor's assistant trainee is enrolled in an educational course in a subject described in subsection 2.*

7. *If a chiropractor's assistant trainee who has submitted an application pursuant to paragraph (a) of subsection 6 fails to pass any portion of the examination after two attempts,*

the chiropractor's assistant trainee shall not work as a chiropractor's assistant trainee until the chiropractor's assistant trainee has passed all the portions of the examination.

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

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

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

9. As used in this section, "chair of the test committee" means the member of the Board who is assigned by the Board to serve as the chair of the committee that is created by the Board to administer an examination to applicants for a certificate as a chiropractor's assistant.

Sec. 2. NAC 634.368 is hereby amended to read as follows:

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

- (a) His completed application is on file in the office of the Board and he meets the requirements of NRS 634.090;
- (b) The fee for the application has been paid; and
- (c) The Board has approved a licensee to supervise the applicant after receiving from that licensee a completed form that is provided by the Board and which sets forth:

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

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

I,, (name of applicant) am an applicant for a license to practice chiropractic who is waiting to take the Board's examination. I have been informed by my supervising chiropractor (name of supervising chiropractor) of the content of the provisions of NAC 634.368. I understand those provisions , and I agree that I will not perform a chiropractic adjustment or any act prohibited by subsection ~~4~~ 5 of NAC 634.368 during this supervisory period.

.....

(date)

.....

(signature of applicant)

3. *An applicant who works for a supervising licensee under the provisions of this section and NRS 634.105 is not required to apply for or obtain a certificate as a chiropractor's assistant.*

4. The supervising licensee shall notify the Board ~~if~~ *within 5 business days after* the applicant leaves his employ and the date ~~that~~ *on which* the applicant ~~leaves.~~
~~4.] left such employ.~~

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

(a) ~~Diagnose the condition of a patient;~~

~~(b) Establish a plan of treatment or prognosis for a patient;~~

~~(c)~~ Perform any service, except at the direction and *direct* supervision of a licensee; or

~~(d)~~ (b) Bill independently of the supervising licensee for any service rendered.

~~5.] 6.~~ Any violation of chapter 634 of NRS or this chapter by the applicant constitutes grounds for the Board to:

(a) Prohibit the applicant from taking the examination for licensure ~~if~~ *or place conditions upon the issuance of a license to the applicant;* and

(b) Take appropriate disciplinary action against the supervising licensee.

Sec. 3. NAC 634.385 is hereby amended to read as follows:

634.385 1. Except as otherwise provided in subsection ~~6.] 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 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~~ *by* licensees ~~at~~, *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 of NRS 634.130;

(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 who requests credit for continuing education to satisfy the requirement set forth in subsection 3 of NRS 634.130 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; or

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

~~[4.]~~ 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 of NRS 634.130 shall pay the full registration fee.

~~[5.]~~ 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.

~~[6.—The]~~

7. *Except as otherwise provided in this subsection, the* Board will not award credit for continuing education to a licensee for an educational class or seminar that is of a nonclinical nature, including, without limitation, an educational class or seminar regarding ~~[:~~

~~—(a) The]~~ *the* building or management of a chiropractic practice . ~~[; or~~

~~—(b) The]~~ *For the purposes of this subsection, an educational class or seminar regarding proper* billing ~~[of insurance.~~

~~—7.]~~ *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 of NRS 634.130, even if the licensee completes that class or seminar more than once during that calendar year.

Sec. 4. NAC 634.435 is hereby amended to read as follows:

634.435 1. In addition to the requirements set forth in chapter 629 of NRS, a licensee shall ensure that the health care records of his patients:

(a) *Include documentation of treatment of a patient, as specified in subparagraph (3) of paragraph (e), within 72 hours after that treatment;*

(b) *Include documentation of information exchanged with a patient within 72 hours after that exchange;*

(c) Are clear, legible, complete and accurate;

~~[(b)]~~ (d) Remain confidential, where such confidentiality is required by law; and

~~[(e)]~~ (e) Contain the following information:

(1) A description of the chief complaint for which the patient sought treatment from the licensee;

(2) Documentation of any significant event that affects the chief complaint of the patient or the general history of the health of the patient; and

(3) An accurate record of the diagnostic and therapeutic procedures that the licensee has employed in providing chiropractic services to the patient, including, without limitation:

(I) Examinations and the results of those examinations;

(II) Diagnoses;

(III) Plans for treatment of the patient, including, without limitation, any changes in those plans and the reasons for those changes;

(IV) Areas of the body of the patient on which the licensee has performed chiropractic adjustments;

(V) Dates on which the licensee provided chiropractic services to the patient; and

(VI) A record of the response of the patient to treatment.

2. A licensee who obtains the records of a patient of another licensee because of a change in the ownership of a practice shall:

(a) Report to the Board the transfer of the records; and

(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. A licensee who retires, moves to another state or changes the status of his license from active to inactive shall inform the Board of the location at which the records of his patients may be obtained.

4. The administrator of the estate of a licensee who is deceased shall inform the Board of the location at which the records of the patients of the deceased licensee will be retained.

5. As used in this section, “patient” includes:

(a) A member of the licensee’s family;

(b) A relative of the licensee; and

(c) A member of the licensee’s staff,

↳ to whom the licensee provides chiropractic services.

Sec. 5. NAC 634.556 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. NAC 634.630 is hereby amended to read as follows:

634.630 1. Each pleading must be designated as an application, petition, ~~complaint,~~ *notice of charges*, answer or motion.

2. All pleadings, except motions and ~~complaints~~ *notices of charges* 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.

5. If, within a notice of charges, a member of the Board's staff groups similar violations into one cause of action, that grouping is for administrative convenience only and does not affect the authority of the Board to take disciplinary action for each separate violation.

Sec. 7. NAC 634.655 is hereby repealed.

TEXT OF REPEALED SECTION

634.655 Depositions. (NRS 634.030) The Board or any party to a proceeding before it may depose witnesses in the manner prescribed for deposition of witnesses in civil actions.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066**

LCB FILE R014-10

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 634.

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

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail to each of the Board's licensees and any persons who had specifically requested such notice. The document was also mailed to all county libraries in Nevada and posted at the following locations:

Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Suite M245, Reno
Nevada State Library, 100 Stewart St., Carson City
Washoe County Courthouse, 201 S. Virginia St., Reno
Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas
Legislative Building, 401 South Carson St., Carson City

Workshops were held regarding the regulations on March 13, 2010, May 15, 2010, September 11, 2010. One of the workshops was held in Reno, and two of the workshops were held in Las Vegas. Any person who desired to make comments regarding the regulations was invited to and did participate in the workshops. In total, over four hours of comments and discussion were held, and each workshop resulted in numerous changes, additions, and amendments to the draft of the regulations in an attempt to address the input received at the workshops.

On or about November 3, 2010, the Board issued a Notice of Intent to Act Upon a Regulation which incorporated the proposed amendments and suggestions of the parties attending the workshops.

On December 4, 2010, the Board conducted a hearing regarding the final language of the proposed regulation. All parties desiring to provide testimony were allowed to fully state their views and concerns regarding the proposed regulation. At the conclusion of the hearing, the Board announced its final determinations regarding the language of the regulation.

On or about February 10, 2011, the Board issued a Notice of Intent to Act Upon a Regulation which incorporated the new proposed amendments after meeting with the Legislative Committee.

On March 12, 2011, the Board conducted a hearing regarding the revised final language of the proposed regulation. All parties desiring to provide testimony were allowed to fully state their

views and concerns regarding the proposed regulation. At the conclusion of the hearing, the Board announced its final determinations regarding the language of the regulation.

2. The number persons who:

- (a) **Attended the March 13, 2010 Workshop – 8**
Attended the May 15, 2010 Workshop – 3
Attended the September 11, 2010 Workshop – 2
Attended the December 4, 2010 Hearing – 4
Attended the March 12, 2011 Hearing - 2

- (b) **Testified at the March 13, 2010 Workshop – 2**
Testified at the May 15, 2010 Workshop – 3
Testified at the September 11, 2010 Workshop – 2
Testified at the December 4, 2010 Hearing – 1
Testified at the March 12, 2011 Hearing - 2

- (c) **Submitted written comments for the March 13, 2010 Workshop – 11**
Submitted written comments for the May 15, 2010 Workshop – 5
Submitted written comments for the September 11, 2010 Workshop–0
Submitted written comments for the December 4, 2010 Hearing - 0
Submitted written comments for the March 12, 2011 Hearing - 3

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

The comments received at the workshops and the hearings were from either representatives of the affected practices or from practitioners. The volume of comments was substantial and can be summarized as consisting of substantive matters related to the effect of the regulations, attempts to minimize the unintended or negative consequences of the regulation, and crafting language that, in almost all cases, was accepted by consensus of the stakeholders and participants at the workshops and the hearing.

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

The permanent regulation was adopted on December 4, 2010 and the revised permanent regulation was adopted on March 12, 2011, and included the changes, additions, and amendments suggested at the workshops, hearings, and the Legislative Committee that were acceptable to the Board as being within the legislative intent of the empowering statutes (NRS 634.030(2)).

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

(a) Both adverse and beneficial effects.

The regulations were not intended to and will not have any adverse effects upon the practice of chiropractic medicine in Nevada. The regulations will adversely affect chiropractor's assistant trainees who fail the Board's examination four times, but the regulations contain measures intended to assure that no such person ever actually fails the examination four times. The regulations have the beneficial effect of improving the quality of patient records made and maintained by chiropractic physicians, improving access of chiropractic physicians to continuing education opportunities, and improving the Board's disciplinary process.

(b) Both immediate and long-term effects.

The proposed regulations will have the same effects immediately and in the long-term.

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

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

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

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

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

Not applicable.

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

Not applicable.

10. Is the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Board has determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business.