

**SECOND REVISED PROPOSED REGULATION OF
THE CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA**

LCB File No. R014-10

November 2, 2010

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:

(a) Shall not work as a chiropractor's assistant trainee; and

(b) May not submit a new application for examination for 1 year after the date of the most recent examination of which the chiropractor's assistant trainee failed to pass a portion 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 ~~4~~ *within 5 business days after* the applicant leaves his employ and the date that 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 ~~4~~ *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 ~~6.1~~ 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 licensees at an educational seminar or seminars , *or the participation of licensees in an on-line 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 *or participates in, as applicable,* 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 of licensees at an educational seminar or seminars, or the participation of licensees in an on-line 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 *or participating in* that seminar ~~is in attendance~~ *attends or participates, as applicable*, 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 *or participate in* all or part of the seminar in order to monitor the content of the course or lecture and the procedures for taking attendance ~~is~~ *or verifying participation*. 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 ~~the~~

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

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

~~—7.] 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.*

10. *The Board will award credit on an hour-for-hour basis up to a maximum of 4 hours per renewal period to a licensee who attends a meeting of the Board, except that the Board will not award credit to a licensee who is the respondent in a disciplinary action for any hours that the licensee attends a meeting or hearing of the Board relating to the disciplinary action against the licensee.*

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.