

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

LCB File No. R150-13

January 16, 2014

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

AUTHORITY: §§1-11, 13-15 and 17-22, NRS 634.030; §12, NRS 634.030 and 634.123; §16, NRS 634.030 and 634.130.

A REGULATION relating to chiropractors; establishing certain standards of practice for chiropractors' assistants; authorizing a chiropractic physician to employ certain persons for the purposes of training and education under certain circumstances; identifying conduct by a chiropractor's assistant which will be interpreted as detrimental to the best interests of the public; establishing provisions governing plans of prepayment for services, goods and appliances to be provided by a chiropractic physician; increasing certain fees; decreasing the number of sets of fingerprints which must be submitted with an application for a license; revising provisions relating to passing scores on an examination for a license to practice chiropractic; revising provisions relating to the consequences for cheating on an examination; revising provisions relating to the ancillary services which may be performed by a chiropractor's assistant; revising provisions relating to the training and employment that is required of an applicant for a certificate as a chiropractor's assistant; authorizing a person who is issued a temporary license to substitute for a licensee who is on military leave; revising provisions relating to services which may be performed by certain applicants for a license to practice chiropractic; requiring a licensee to provide the Board with the Internet address of certain websites maintained by the licensee; revising provisions relating to continuing education; revising certain provisions relating to the surrender of licenses to make those provisions applicable to certificates; revising provisions relating to a licensee's competence; revising provisions relating to unprofessional conduct by a licensee; revising certain provisions relating to the maintenance of medical records; and providing other matters properly relating thereto.

Section 1. Chapter 634 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *A chiropractor's assistant shall:*

1. Adhere to the ethical and legal standards of professional practice for chiropractors;

2. Recognize and respond to emergencies arising in the course of chiropractic procedures; and

3. Demonstrate characteristics of professionalism.

Sec. 3. *A chiropractic physician may employ or otherwise allow a person to work in his or her chiropractic practice for the purposes of training and education if:*

1. The chiropractic physician has verified that the person is enrolled in a program for the training of an assistant in a health care field which allows for the person to participate in an externship or internship as part of the program and the person is qualified by the program to participate in the externship or internship;

2. The chiropractic physician has notified the Board on a form provided by the Board that the person will be working in the chiropractic physician's practice as part of the person's externship or internship; and

3. The chiropractic physician and the person enter into a written agreement of a duration of 90 days or less whereby:

(a) The chiropractic physician identifies the tasks or acts which the person may perform, all of which must be tasks or acts which may be performed by a chiropractor's assistant trainee;

(b) The chiropractic physician acknowledges that he or she will be responsible for any and all acts or tasks performed by the person; and

(c) The parties to the agreement acknowledge that the duration of the agreement does not exceed 90 days.

Sec. 4. 1. *As used in subsection 10 of NRS 634.018, the Board will interpret the phrase “detrimental to the best interests of the public” as applied to a chiropractor’s assistant to include, without limitation:*

- (a) Unlawful disclosure of information about a patient.*
- (b) Willful or careless disregard for the health, welfare or safety of patients, regardless of whether proof of actual injury is established.*
- (c) Engaging in any conduct or verbal behavior that is inappropriately sexual with or towards a current patient.*
- (d) Engaging in any conduct or verbal behavior that is sexually or racially demeaning or offensive with or towards a current patient.*
- (e) Engaging in or soliciting sexual misconduct.*
- (f) Engaging with a patient in a romantic or dating relationship unless the patient is the spouse of the chiropractor’s assistant.*
- (g) Use of protected or privileged information obtained from a patient to the detriment of the patient.*
- (h) Performing services which the chiropractor’s assistant is not authorized to perform under the terms of a certificate issued by the Board as provided by NRS 634.125.*
- (i) Billing or charging of a patient for the services of the chiropractor’s assistant.*
- (j) Intentionally causing physical or emotional injury to a patient.*
- (k) Aiding, abetting or assisting any person in violating any provision of this chapter or chapter 634 of NRS.*
- (l) Engaging in fraudulent or deceitful conduct in the capacity of a chiropractor’s assistant.*

- (m) Obtaining any certificate through fraud, misrepresentation or deceit.*
 - (n) Impersonating an applicant or acting as a proxy for the applicant in any examination.*
 - (o) Disclosing the contents of an examination given by the Board or soliciting, accepting or compiling information regarding the contents of an examination before, during or after the administration of an examination given by the Board.*
 - (p) Failing to provide the Board or its agents with any documents lawfully requested by the Board, whether by subpoena or otherwise.*
 - (q) Failing to cooperate fully with the Board during the course of an investigation.*
 - (r) Claiming or making representations of the attainment of any academic degree or award not actually received.*
 - (s) Disobeying an order of the Board.*
 - (t) Splitting fees or giving or receiving a commission in the referral of patients for services.*
 - (u) The suspension or revocation of a license or certificate or other disciplinary action taken by another state against the chiropractor's assistant based on a license or certificate issued by that state for an act that would constitute grounds for disciplinary action in this State. A certified copy of the suspension, revocation or other disciplinary action taken by another state against the chiropractor's assistant based on a license or certificate issued by that state is conclusive evidence of that action.*
 - (v) Performing a task for which the chiropractor's assistant has not been trained or which the chiropractor's assistant is not clinically competent to perform.*
- 2. A supervising licensee is responsible for all of the acts performed by a chiropractor's assistant whom he or she supervises. A supervising licensee may be subject to disciplinary action for any violations of law or regulation committed by his or her chiropractor's assistant.*

3. *A supervising licensee shall notify the Board in writing of any dismissal of a chiropractor's assistant for cause within 10 days after the dismissal.*

4. *A patient's consent to, initiation of or participation in sexual behavior or involvement in a romantic or dating relationship with a chiropractor's assistant does not excuse the conduct of the chiropractor's assistant.*

5. *As used in this section:*

(a) *"Sexual misconduct" means:*

(1) *Sexual relations between a chiropractor's assistant and a patient of that chiropractor's assistant, regardless of whether the patient initiated or consented to those sexual relations.*

(2) *Conduct by a chiropractor's assistant, in regard to a patient, that is sexual in nature, sexually suggestive or sexually demeaning to the patient.*

(3) *The commission by a chiropractor's assistant of one or more of the offenses defined in NRS 200.368, 200.730, 201.210 and 201.220.*

(4) *The use by a chiropractor's assistant of deception, misrepresentation or force for the purpose of engaging in sexual conduct with a patient in:*

(I) *A clinical setting; or*

(II) *A setting that is used ordinarily for the provision of chiropractic services.*

↪ *The term does not include sexual conduct or sexual relations that take place between a chiropractor's assistant and his or her spouse or between a chiropractor's assistant and a person who was a patient after the chiropractor's assistant-patient relationship has been terminated for a reasonable time.*

(b) *"Sexual relations" means:*

(1) Sexual intercourse.

(2) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the chiropractor's assistant for the purpose of arousing or gratifying the sexual desire of either the chiropractor's assistant or the patient.

Sec. 5. *A chiropractic physician who accepts prepayment of \$250 or more from a patient under a plan of prepayment for discounted services, goods or appliances that are planned but not yet provided to the patient shall:*

1. Provide to the patient a written agreement of the plan of prepayment that is signed by the chiropractic physician and the patient and includes, without limitation:

(a) The duration of the plan, not to exceed 12 months;

(b) The proposed treatment plan that identifies the diagnosis or condition being treated;

(c) A list of all services, goods and appliances covered by the plan and the fees related to those services, goods and appliances;

(d) A list of all separate or distinct fees for services, goods or appliances not covered by the plan of prepayment;

(e) An explanation of any policy modifying the plan in the event of a new diagnosis, new condition or new injury;

(f) An explanation in plain language of how any unused portion of money is calculated or prorated should the patient complete care early or discontinue care;

(g) A requirement that a statement of an accounting of all money used at the time of a request from a patient be provided to the patient within 15 days after a written request;

(h) A statement that the patient has the right to cancel the plan of prepayment without penalty within 5 business days after entering into the plan by submitting a written and signed

notice of cancellation to the chiropractic physician, and upon the receipt by the chiropractic physician of the notice of cancellation, the chiropractic physician has not more than 7 business days thereafter to fully refund any unused money to the patient; and

(i) A provision that the patient will be notified in writing when the escrow account established for the patient pursuant to subsection 3 reaches a zero balance.

2. Not request or allow a patient to waive or otherwise surrender his or her right under the agreement to cancel the plan of prepayment as described in paragraph (h) of subsection 1.

3. Establish and deposit the prepaid money in an escrow account in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation. The escrow account must be separate from and not commingled with any other bank accounts established or controlled by the chiropractic physician. Money received in advance of the date that services, goods or appliances are provided must be deposited into the escrow account in a timely manner. Money may be removed from the escrow account only:

(a) For payment to the chiropractic physician following the delivery of services, goods or appliances and only in the amounts specifically related to the services, goods or appliances provided; or

(b) To reimburse the patient any amount owed following a notice of termination of the plan of prepayment by either the patient or the chiropractic physician. Any amount reimbursed must be transferred according to the written agreement for the plan of prepayment.

4. Ensure that a patient receives a refund for any unused money within 7 business days after cancelling the plan of prepayment or otherwise requesting a refund. The refund must be calculated based on the method defined in the written agreement for the plan of prepayment.

5. Ensure that a copy of the signed agreement for the plan of prepayment is retained in the medical records of the patient.

6. Not bill a patient or make a claim under a contract of insurance for any amount exceeding what is actually earned and disbursed to the chiropractic physician.

Sec. 6. NAC 634.117 is hereby amended to read as follows:

634.117 “Chiropractor’s assistant” means a person who holds a certificate as a chiropractor’s assistant pursuant to NRS 634.123 and the provisions of this chapter ~~††~~ *and who is dedicated to assisting in all permissible aspects of chiropractic practice under the direct supervision and responsibility of a chiropractic physician.*

Sec. 7. NAC 634.200 is hereby amended to read as follows:

634.200 1. The Board will charge and collect the following fees:

For an application for a license to practice chiropractic	\$200.00
For an examination for a license to practice chiropractic	125.00
For an application for, and the issuance of, a certificate as a chiropractor’s assistant.....	100.00
For an application for a temporary license to practice chiropractic pursuant to NRS 634.115	50.00
For an examination for a certificate as a chiropractor’s assistant	60.00 75.00
For the issuance of a license to practice chiropractic	225.00
For the issuance of a temporary license to practice chiropractic pursuant to NRS 634.115	50.00
For the biennial renewal of an active license to practice chiropractic	700.00

For the biennial renewal of an inactive license to practice chiropractic	250.00
For the biennial renewal of a certificate as a chiropractor's assistant.....	120.00
For the restoration to active status of an inactive license to practice chiropractic	300.00
For reinstating a license to practice chiropractic which has been suspended or revoked	500.00
For reinstating a certificate as a chiropractor's assistant which has been suspended or revoked	70.00
For reinstating an inactive license to practice chiropractic which has been suspended or revoked	200.00
For a review of any subject on the examination.....	25.00
For the issuance of a duplicate license or certificate or for changing the name on a license or certificate	35.00
For written verification of licensure or issuance of a certificate of good standing.....	25.00
For providing a list of persons who are licensed to practice chiropractic to a person who is not licensed to practice chiropractic	25.00
For providing a list of persons who were licensed to practice chiropractic following the most recent examination of the Board to a person who is not licensed to practice chiropractic	10.00
For a set of mailing labels containing the names and addresses of the persons who are licensed to practice chiropractic in this State	35.00

For a check which is made payable to the Board that is dishonored upon presentation for payment	25.00
For providing a copy of the statutes, regulations and other rules governing the practice of chiropractic in this State	25.00
For each page of a list of continuing education courses which have been approved by the Board.....	0.50
For a review by the Board of a course offered by a chiropractic school or college or a course of continuing education in chiropractic.....	25.00 50.00

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

Sec. 8. NAC 634.220 is hereby amended to read as follows:

634.220 Each applicant for examination must:

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

Sec. 9. NAC 634.290 is hereby amended to read as follows:

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

- (a) Part IV of the examination administered by the National Board of Chiropractic Examiners;
- (b) An examination on the statutes and regulations of this State which are related to the practice of chiropractic, other than those set forth in this chapter and chapter 634 of NRS; and

(c) Any other subject or examination that the Board determines to be necessary. An examination required by the Board pursuant to this paragraph may include, without limitation, an examination on clinical rationale.

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

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

Sec. 10. NAC 634.330 is hereby amended to read as follows:

634.330 Any applicant who is found to be cheating during an examination ~~will~~ :

1. *Will* be required to leave immediately ~~and will~~ ;
2. *Shall immediately cease providing clinical services in a chiropractic practice and may not provide clinical services in a chiropractic practice for 2 years after the date of the examination from which he or she was dismissed;*
3. *Will* not be permitted to take an examination for 2 years after the date of the examination from which he or she was dismissed ~~H~~ ; *and*
4. *Must file a new application after the passage of the 2-year period described in subsections 2 and 3 before he or she will be permitted to take the examination again.*

Sec. 11. NAC 634.348 is hereby amended to read as follows:

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

2. A person who holds a certificate as a chiropractor's assistant may perform ancillary services, including, without limitation:

- (a) Administering to patients by means of physiotherapeutic equipment;
- (b) Taking and developing ~~X-rays;~~ *radiographs;*
- (c) Assisting with the education of a patient concerning his or her health;
- (d) Assisting a patient with exercise or rehabilitation activities;
- (e) Taking the history of the health of a patient; and
- (f) Assisting the supervising licensee with an examination of a patient.

3. A person who holds a certificate as a chiropractor's assistant may take and develop radiographs only after the supervising licensee has:

- (a) Determined that radiographs are appropriate for the patient; and*
- (b) Ordered the person to take and develop radiographs for the patient.*

Sec. 12. NAC 634.355 is hereby amended to read as follows:

634.355 1. An applicant for a certificate as a chiropractor's assistant must, in addition to fulfilling the requirements of NAC 634.350, furnish evidence satisfactory to the Board that he or she:

- (a) Is 18 years of age or older; and
- (b) Has received a score of at least 75 percent on an examination administered by the Board on the provisions of NRS and NAC that are related to the practice of chiropractic.

2. In addition to the requirements set forth in subsection 1 and NAC 634.350, an applicant for a certificate as a chiropractor's assistant must furnish evidence satisfactory to the Board that he or she:

(a) Satisfies one of the following:

(1) Is certified as a chiropractor's assistant by a program for chiropractor's assistants that is approved by the Board; or

(2) Has had 6 months of full-time , *or 12 months of part-time*, training and employment as a chiropractor's assistant trainee from a licensee.

(b) Has received a score of at least 75 percent on the examination for certification required pursuant to NAC 634.305.

3. Evidence of an applicant's completion of approved training pursuant to subparagraph (2) of paragraph (a) of subsection 2 must consist of a certification by ~~the licensed provider of health care, and the certification must be notarized.~~ *each licensee who supervised the work and training of the applicant.*

4. The Board may, at its discretion:

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

(b) Upon receipt from an applicant of documentation demonstrating that the applicant has received additional formal training, education or experience, grant the applicant credit toward fulfilling the requirements of subparagraph (2) of paragraph (a) of subsection 2.

Sec. 13. NAC 634.367 is hereby amended to read as follows:

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

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

(a) On vacation; or

(b) Unable to perform chiropractic services because of illness , ~~for~~ injury ~~or~~ *or military leave.*

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

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

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

Sec. 14. 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 or her completed application is on file in the office of the Board and he or she 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 and manipulations performed by the applicant will be performed under the direct supervision of the supervising licensee and* any act prohibited by subsection 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 or she has been so informed and 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 manipulation except under the direct supervision of my supervising chiropractor or* any act prohibited by subsection 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 within 5 business days after the applicant leaves his or her employ and the date on which the applicant left such employ.

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

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

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

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 or place conditions upon the issuance of a license to the applicant; and

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

Sec. 15. NAC 634.373 is hereby amended to read as follows:

634.373 A licensee who operates or organizes a business, corporation, office, partnership or practice for the purpose of providing chiropractic services shall:

1. Ensure that the name of the business, corporation, office, partnership or practice is registered with the Board; ~~and~~

2. If the name of the business, corporation, office, partnership or practice changes, provide the new name to the Board within 15 days after the change ~~and~~ ; *and*

3. If the business, corporation, office, partnership or practice maintains one or more websites, provide the Internet address of the website to the Board within 15 days after the establishment or change of the Internet address of one or more of its websites.

Sec. 16. NAC 634.385 is hereby amended to read as follows:

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

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

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

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

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

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

(e) The seminar or seminars are sponsored by:

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

(I) The Council on Chiropractic Education; or

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

(2) A state chiropractic board or association; ~~†~~

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

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

(5) An accredited university or college; 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.

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.

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

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

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

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

10. The Board will not award more than 12 hours of credit for continuing education for educational classes or seminars taken via the Internet or through other computerized means.

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

Sec. 17. NAC 634.390 is hereby amended to read as follows:

634.390 1. If a licensee desires to surrender his or her license to practice chiropractic ~~or~~ *or a chiropractor's assistant desires to surrender his or her certificate*, the licensee *or holder of the certificate* shall submit to the Board a sworn written statement of surrender of the license *or certificate* accompanied by delivery to the Board of the actual license *or certificate* issued to him or her. The Board will accept or reject the surrender of the license ~~or~~ *or certificate*. If the Board accepts the surrender of the license ~~or~~ *or certificate*, the surrender is absolute and irrevocable and the Board will notify any agency or person of the surrender and the conditions under which the surrender occurred, as the Board considers advisable.

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

Sec. 18. NAC 634.412 is hereby amended to read as follows:

634.412 1. A licensee shall maintain competence in:

- (a) The application of chiropractic; and
- (b) The production and interpretation of ~~{X-rays;}~~ *radiographs*.

2. In determining whether a licensee has maintained competence in the production and interpretation of ~~{X-rays;}~~ *radiographs*, the Board will consider whether the licensee:

- (a) Produces ~~{X-rays}~~ *radiographs* that are of diagnostic quality;
- (b) Uses appropriate techniques to protect a patient in the taking of ~~{X-rays;}~~ *radiographs*;
- (c) Ensures that the exposure of a patient to radiation is based upon clinical necessity as documented by the record of that patient;
- (d) Documents the interpretation of ~~{X-rays}~~ *radiographs* in writing and maintains those written interpretations as a part of the record of the patient to whom the ~~{X-rays}~~ *radiographs* pertain; and
- (e) Ensures that the radiographic equipment with which ~~{X-rays}~~ *radiographs* are taken and produced:
 - (1) Meets the specifications established by the manufacturer for the safety and use of that equipment;
 - (2) Is maintained properly; and

(3) Is registered with and made available for inspection by the Division of Public and Behavioral Health of the Department of Health and Human Services pursuant to chapter 459 of NAC.

Sec. 19. NAC 634.419 is hereby amended to read as follows:

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

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

- (a) The name, business telephone number and license number of the licensee;
- (b) The name of the person who will be providing the services for the patients of the licensee;
- (c) The type of services that the person will be providing for the patients of the licensee;
- (d) The address of the location at which the person will be providing the services for the patients of the licensee;
- (e) The date on which the person will begin providing the services for the patients of the licensee;
- (f) A statement indicating that the person will not be providing chiropractic services, including, without limitation, taking ~~{X-rays,}~~ *radiographs, and* services that involve the use of physiotherapeutic equipment ; ~~{and massage therapy;}~~
- (g) A statement indicating whether the person who will be providing the services is an employee of the licensee or is retained by the licensee as an independent contractor;
- (h) A copy of any license or certificate that authorizes the person to provide the services that he or she will be providing for the patients of the licensee;

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

(j) The signature of the licensee.

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

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

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

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

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

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

Sec. 20. NAC 634.430 is hereby amended to read as follows:

634.430 1. As used in subsection 10 of NRS 634.018, the Board will interpret the phrase “conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public” to include, without limitation:

(a) Engaging in or soliciting sexual misconduct . ~~as defined in subsection 2.~~

(b) Performing any chiropractic service on a patient who is under the age of 18 years without first obtaining the consent of the parent or legal guardian of that patient if the consent is required pursuant to NRS 129.030.

(c) Performing manipulation on a patient under anesthesia without complying with the requirements set forth in NAC 634.3665.

(d) Entering into a financial agreement or making a financial arrangement with a potential or existing patient as an inducement to enter into or continue care. This paragraph does not prohibit a licensee from providing complimentary chiropractic services to an existing patient.

(e) Participating in any verbal or written arrangement that involves capping or fee splitting.

(f) Engaging in practices regarding the billing of patients or the making of claims under a contract of insurance that are abusive or fraudulent, or both, including, without limitation:

(1) Billing patients or making claims under a contract of insurance for chiropractic services that have not been performed.

(2) Billing patients or making claims under a contract of insurance in a manner which misrepresents the nature of the chiropractic services that have been performed.

(3) Submitting to patients or carriers of insurance bills or claims which fail to disclose pertinent information or which contain false information, including, without limitation:

(I) Failing to disclose to a patient that a bill has already been paid, in full or in part, by a carrier of insurance.

(II) Failing to disclose to a carrier of insurance that a claim has already been paid, in full or in part, by a different carrier of insurance.

(III) Stating falsely that the injury of a patient is the result of an accident or work-related incident.

(g) Engaging in a practice of waiving, abrogating or rebating the deductible or copayment 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.

(h) 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.

(i) 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.

(j) Being delinquent in the payment of a judgment for the payment of child support pursuant to chapter 425 of NRS or being subject to a court order for the support of one or more children and not complying with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

(k) Being in default on the payment of a student loan.

(l) Violating the rules or regulations of a federal program that relates to the practice of chiropractic.

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

(n) Allowing a person to:

(1) Perform chiropractic services; or

(2) Engage in any aspect of the provision of chiropractic care to patients,

↳ if that person is not authorized to perform such services or provide such care pursuant to this chapter and chapter 634 of NRS. The prohibition set forth in this paragraph does not apply to a

person who is licensed or certified as a provider of health care pursuant to one or more of the chapters of title 54 of NRS.

(o) Engaging with a patient in a romantic or dating relationship unless the patient is the spouse of the licensee.

(p) Examining or treating the anus, breast or genitalia of a patient without first:

(1) Obtaining from the patient an informed consent that refers to the specific procedures that will be performed on those parts of the body of the patient; and

(2) Making a note of such consent in the record of the patient.

(q) Violating a provision of a chapter of title 54 of NRS other than chapter 634 of NRS pursuant to which the licensee holds a license or certificate as a provider of health care.

(r) Knowingly giving a false or factually unsupported opinion in a peer review, records review, independent medical examination or chiropractic examination for the purpose of reducing a payment or reimbursement to a licensee for the care or treatment of a patient.

(s) Failing to either post a written disclosure or give a written disclosure to a patient and maintain the written disclosure concerning a lack of maintaining professional liability insurance in accordance with the requirements of NRS 634.1295 and NAC 634.445.

(t) Practicing chiropractic while impaired by alcohol, the use of illicit drugs, unauthorized or improper use of a prescription drug or controlled substance, or any known or diagnosed mental illness or cognitive deficit.

(u) Paying or receiving any remuneration in such a manner and amount as would constitute a violation of 42 U.S.C. § 1320a-7b(b), regardless of whether the patient for whom the remuneration is paid or received is a patient under a federal health care program.

2. *A patient's consent to, initiation of or participation in sexual behavior or involvement in a romantic or dating relationship with a licensee does not excuse the conduct of the licensee.*

3. As used in this section:

(a) "Capping" means the use by a licensee of the services of a person who is remunerated for referring to the licensee a new patient who has been involved in a motor vehicle accident or who has been injured as a result of the actions of another person.

(b) "Fee splitting" means the acceptance of remuneration by a licensee for referring a patient to another provider of health care or a health care facility or the provision of remuneration by a licensee for a referral to the business of the licensee.

(c) "Sexual misconduct" means:

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

(2) Conduct by a licensee, in regard to a patient, that is sexual in nature, sexually suggestive or sexually demeaning to the patient.

(3) The commission by a licensee of one or more of the offenses defined in NRS 200.368, 200.730, 201.210 and 201.220.

(4) The use by a licensee of deception, misrepresentation or force for the purpose of engaging in sexual conduct with a patient in:

(I) A clinical setting; or

(II) A setting that is used ordinarily for the provision of chiropractic services.

↪ The term does not include sexual conduct or sexual relations that take place between a licensee and his or her spouse or between a licensee and a person who was a patient after the chiropractor-patient relationship has been terminated for a reasonable time.

(d) “Sexual relations” means:

(1) Sexual intercourse.

(2) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the licensee for the purpose of arousing or gratifying the sexual desire of either the licensee or the patient.

Sec. 21. 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 or her 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;

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

(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 **⊕**; *and*

(f) Are not altered without recordation of the date and time of the alteration and the identity of the person who makes the alteration, whether the records are made and maintained on paper or in a computer.

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, *closes his or her practice* or changes the status of his or her license from active to inactive shall, *within 15 days after the retirement, move, closure or change of status,* inform the Board of the location at which the records of his or her 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. 22. 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 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,~~ *radiographs*, 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.