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Arkansas State Board of Chiropractic Examiners

Rules

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Updated 9-18-19

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PART ONE PRELIMINARY DEFINITIONS

A. BOARD. The Arkansas State Board of Chiropractic Examiners.

B. RULES ~~REGULATIONS~~. Those acts, statements or definitions by which the Chiropractic profession is governed or regulated in conduct, actions or practice.

C. RULES. Those procedures by which the Board exercises its authority and responsibility and conducts its affairs.

PART TWO ~~REGULATIONS~~ RULES

A. APPLICATIONS FOR STATE BOARD EXAMINATIONS AND LICENSURE.

1. Pre-Professional Education Requirements.

(a) Two year college requirements after July 1, 1971. This Board construes Arkansas Statute 17-81-305(2) to mean that the two (2) years of pre-professional college study in the field of science shall not be less than sixty (60) semester hour credits (or its equivalent in quarter hours) toward a degree and be successfully completed in a recognized Liberal Arts College or University, thirty (30) hour credits of which shall be in one or more of the pure science subjects such as biology, zoology, chemistry, mathematics or other like subjects. This Board shall not accept less than a "C" average in pre-professional college.

2. Approved Chiropractic Education.

(a) Approved colleges of chiropractic. All applicants for examination for licensure to practice chiropractic in the State of Arkansas, who has matriculated at a Chiropractic College after September 1, 1971, must present evidence of having been graduated from a chiropractic college having status with the accrediting commission of the Council of Chiropractic Education (CCE), or similar criteria as determined by, and at the discretion of, this Board.

(b) This Board adopts clinical competency guidelines similar to CCE quantitative assessment delineations.

(c) This Board may disapprove any college whose academic requirements appear to be deficient in the basic science or diagnostic fields.

(d) This Board will not accept for examination any person who is not adequately trained in basic diagnostic methods and related fields, including the field of roentgenology.

(e) An applicant must possess a valid National Board certificate to include Parts I, II and the Physiological Therapeutics elective section and, on and after January 1, 1990, possess a valid National Board certificate to include Parts I, II and III and the Physiological Therapeutics elective section and include one hundred twenty (120) classroom hours of physiological therapeutics. On or after July 1, 2016 an applicant must possess a valid National Board certificate to include Parts I, II, III, IV and Physiological Therapeutics elective section and include one hundred twenty (120) classroom hours of physiological therapeutics. The Board accepts the National Board ~~Part III~~ recommended passing score of 375.

Commented [LM1]: Proposed update Per ACT 315 of 2019

Commented [LM2]: Proposed update Per ACT 315 of 2019

Commented [LM3]: Need to add: NBCE Parts I, II, III, IV, and 120 hours of Physiological Therapeutics is required on or after July 1, 2016. / Bd approved 9/17/19

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(f) An approved applicant will be permitted to sit for this Board's examination provided the applicant's date of graduation from chiropractic college precedes the date of the next regularly-scheduled examination by no more than six (6) months.

(g) Nothing in this provision shall be construed to supersede the current Chiropractic Practices Act, which invests this Board with the responsibility for approval of any college, which is authorized by law to issue the doctorate degree in chiropractic.

~~(h) In lieu of the practical examination set out in statute 17-81-306, with the exception of (a)(1)(A) in that section, the applicant may present the board with evidence of passing the National Board Part IV with a minimum score of 375 which shall be accepted by the Board as a passing grade.~~

Commented [LM4]: Since 17-81-306 has been repealed, do we still need this? / Bd approved to strike this language on 9/17/19

3. Application to the Board for Examination or Licensure.

(a) Applicants responsible for complete credentials. It shall be the responsibility of the applicant to furnish the necessary credentials as the Board deems necessary or as required by law. Submission of credentials does not mean automatic acceptance for examination.

(b) All credentials other than the National Board Part IV score must be in the hands of the Executive Director, with a postmark and or electronic receipt from the National Board of Chiropractic Examiners no later than forty-five (45) days before the intended examination date. The National Board Part IV score must be in the hands of the Executive Director with the postmark and or electronic receipt from the National Board of Chiropractic Examiners no later than seven (7) days before the examination date. Incomplete applications will not be considered and will be returned by the Executive Director with the notation "Application Incomplete."

Commented [LM5]: Approved 4/14/16

(c) The Board's decision at the time of the credentials survey shall be final for that examination.

(d) Effective January 1, 2008, every person applying for a license issued by the Board shall provide written authorization to the Board to allow the Identification Bureau of the Arkansas State Police to release the results of a criminal history background check to the Board. Each applicant shall complete a state fingerprint card in the presence of a law enforcement officer, and shall have that officer sign the card, giving his/her jurisdiction, the date, and his/her badge number. The applicant shall be responsible for payment of all fees associated with the background check.

~~(e) The Board reserves the right to take into consideration and pass upon the moral character or reputation of any applicant at any time prior to the delivery of a license. A history of narcotics violation, conviction of a crime involving moral turpitude, or of any felony, or the diagnosis of any psychiatric disorder, are among appropriate grounds for rejection.~~

Commented [LM6]: Should this be updated due to ACT 990? / Bd approved to strike this language on 9/17/19

~~(f)~~(e) Each applicant will be notified by the Board as to his/her acceptability for examination by notice mailed not more than fourteen (14) days after the Board has met to review and pass on said applicants.

~~(g)~~(f) Upon denial for cause, the applicant shall have the right to petition the Board for a hearing to prove his/her qualifications, with the burden of proof, at such hearing to rest with the applicant.

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~~(h)~~(g) If this Board deems it necessary, it may, at any time prior to licensure, require applicant to supply to the Board's satisfaction such further information or documents necessary to establish the applicant's qualifications.

~~**4. Allowance for Practice Experience.** At the Board's option, on an individual basis and by a majority vote of the Board of Examiners, to allow for practice experience in examinations, as follows:~~

~~(a) Applicants with verifiable full time practice experience in another state, who possess the National Board of Chiropractic Examiners certification, as outlined in Section A(2)(e) and two (2) years of pre professional college may be permitted to examination, as indicated by this Board.~~

~~(b) Applicants graduating from Chiropractic College prior to July 1, 1971, and with verifiable full time practice experience of five years or longer, in another state, may be permitted to examination as indicated by this Board.~~

Commented [LM7]: May need to be revised? Not sure this gets used? / Bd approved to strike this language on 9/17/19

5. **Transfer of License.** A Doctor of Chiropractic who has continuously held an active license in good standing in another state or jurisdiction for a period of five (5) years may apply for transfer of license and licensure in Arkansas at the Board's option on an individual basis and by a majority vote, provided, the Doctor:

(a) submits an application to the Board;

(b) has passed either (1) the National Board, Part IV Examination, ~~(2) the Practical Examination of the Arkansas State Board of Chiropractic Examiners, or~~ (~~3~~2) the National Board SPEC Examination;

(c) has passed the Board's Arkansas Jurisprudence Examination;

(d) has attended the Board's New Doctor Orientation Session, or agrees to attend the next scheduled Session and does in fact attend the Session; and

(e) complies with all other requirements for maintaining a license in Arkansas and no other reason exists that would warrant a suspension or revocation of licensure, including CIN-BAD review.

Commented [LM8]: Need to delete as we no longer give practical exam. / Bd approved to strike this language on 9/17/19

B. PROCEDURES FOR STATE BOARD JURISPRUDENCE EXAMINATIONS.

1. All applicants for licensure, ~~except as provided in statute 17-81-306 herein,~~ shall be required to take and pass the Arkansas State Board of Chiropractic Examiners jurisprudence examination. The exam may be provided, online, through the National Board of Chiropractic Examiners. ~~examined in the following subjects:~~

Commented [LM9]: Reference to JP exam

~~(a) Examinations~~

~~(1) Practice Management, Ethics and Jurisprudence~~
~~(2) Physical/Clinical Diagnosis~~
~~(3) Chiropractic Examination Procedures~~
~~(4) Chiropractic Adjusting & Manipulation~~
~~(5) X-Ray Interpretation~~
~~(6) Chiropractic Philosophy~~

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~~**2. Identity of Examinees Protected.** Where practical, and at the option of the Board, applicants shall be identified by number during examination and in grading. In this event, examinees shall place their identification number on each page of each test instead of their names.~~

~~**3. Examination Time Limits.** If applicable, a time limit shall be announced prior to each test and all test data shall be returned promptly. Credit will not be granted for answers completed after time limit has expired. Illegibly written answers cannot be accepted.~~

~~**4. Procedure during Examinations**. During a test, if clarification of a question is needed, all inquiries by the applicant shall be directed to a Board Member, privately.~~

~~**5. Notification of Test Results.** Each applicant will be notified as soon as possible after the examination as to whether he/she "passed" or "failed." "Passed" shall mean an overall average of all subjects of seventy-five percent (75%) or greater with no subject grade falling below sixty percent (60%). "Failed" shall mean either an overall average percentage of less than seventy-five percent (75%) or any subject grade falling below sixty percent (60%). Notification of pass/fail is usually within fourteen (14) days.~~

~~**6. Partial Failure of Examinations**.~~

~~(a) If an applicant fails two (2) subjects or less, he/she may retake, at the next regular examination, provided the proper examination fee has been paid and subject to the Board's discretion, up to two (2), and no more than two (2) partial reexaminations.~~

~~(b) All applicants who either fail three (3) or more subjects in the initial examination, or who fail to pass, as defined in Sec. 5 (above), on reexamination shall be required to take the full examination at a later regular examination period. The proper examination fee must be paid prior to the second examination.~~

~~(c) In conformity with §17-81-305 and Board Rules & Regulations Part 2,B, (6), any applicant who fails the initial and retake examinations will be required to reapply for examination and to pay the full examination fee.~~

~~**7. Assignment of License Numbers.** Immediately following the final grading of examinations, the license numbers awarded will be announced, written on the grade sheets and the grade sheets will be signed by each Board Member.~~

~~**8. Cheating Penalty**. Any examinee using a book, paper, or other device, receiving or giving assistance to another examinee, or in any way caught cheating during the examination shall promptly be excused from the examinations. Said examinee shall forfeit all examination fees and shall not be readmitted for later examinations by this Board.~~

Commented [LM10]: Repeal State Practical exam due to accepting Part IV of NBCE

C. PROFESSIONAL CONDUCT

1. **Aiding Unlicensed Practitioners.**

(a) It is considered unprofessional conduct as described in Arkansas Statute §72-441, paragraph (a)(6) for any licensee of this Board to aid or abet in the practice of chiropractic within the State of Arkansas, any person not licensed in this state or whose license to practice chiropractic is under suspension or revocation.

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(b) The practicing of chiropractic within the State of Arkansas as a partner, agent, or employee of, or in any other manner in joint venture with a person not licensed to practice chiropractic by this State, or any person whose license to practice chiropractic has been suspended or revoked shall be deemed unprofessional conduct.

(c) Nothing in this section is intended to prohibit or prevent professional affiliation in any legitimate manner with duly licensed or registered institutions, hospitals, or nursing homes, or the practicing of chiropractic in association with other health care professionals who are themselves duly licensed or registered by this State.

2. **Unprofessional acts.** The following acts or activities by a licensee of this Board are considered to constitute unprofessional conduct and grounds for disciplinary action.

(a) Fraud in procuring a license.

(b) The performance of any action designed to, or likely to, deceive, defraud or harm the public.

(c) Violating any rule or law or being party to or aiding and abetting the violation of the ~~regulations~~ rules of this Board or the laws of the State of Arkansas regulating the practice of chiropractic.

Commented [LM11]: Proposed update Per ACT 315 of 2019

(d) The intentional or negligent use of any false, fraudulent or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest or immoral practice:

(i) in connection with any of the licensing requirements for the practice of chiropractic in Arkansas; or

(ii) in connection with any communication with the Board office.

(e) Conviction of a felony for violations of any law of the State of Arkansas, another State, or of the United States.

(f) Habitual intoxication or personal use of unprescribed controlled or habit-forming drugs.

(g) Practicing chiropractic while any impairment of judgment or ability exists due to the use of alcohol or other drugs which prevent the rendering of competent professional services.

(h) Violating any term of probation or suspension.

(i) Abandoning or neglecting a patient under and in need of immediate professional care without making suitable arrangements for the continuation of such care and, if need be, by another chiropractic physician, or the abandoning of a professional group or solo practice.

(j) Failing to exercise appropriate supervision over persons who are authorized to render certain services under the supervision of the licensed professional.

(k) Willfully making or filing a false report, whether it be an insurance report, death certificate, work excuse, or any other report dealing with public health, or willfully impeding or obstructing such filing of accurate data.

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(l) Using the word 'Doctor' in offering to perform professional services without also indicating the profession in which the licensee holds a doctorate.

(m) Direct solicitation that is false, misleading or deceptive by agents of the licensee or knowingly soliciting a patient that is already a patient of another chiropractic physician. Nothing herein is intended to prohibit public relations or advertising by the chiropractic physician or by their use of public relations or advertising firms.

(n) Negligent or reckless practice, or intentional misapplication of practice, regardless of the degree of injury to the patient.

(o) Failure to keep accurate records which reflect the diagnosis and treatment of individual patients.

(p) Sexual misconduct.

(1) Sexual Violation -- Comprises physician-patient sex, whether initiated by the patient or not, and engaging in any conduct with a patient that is sexual, or may be reasonably interpreted as sexual, including, but not limited to: sexual intercourse; oral to oral contact except CPR; touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination by treatment or where the patient has refused or has withdrawn consent; encouraging the patient to masturbate in the presence of the physician or masturbation by the physician while the patient is present.

(2) Sexual Impropriety -- Comprises any behavior, gestures, or expressions that are seductive or sexually- demeaning to a patient of normal sensibilities; inappropriate procedures, including, but not limited to, disrobing or draping practices that reflect a lack of respect for the patient's privacy, deliberately watching a patient dress or undress, instead of providing privacy for disrobing; subjecting a patient to an examination in the presence of students, chiropractic assistants, or other parties without the explicit consent of the patient or when touching of genitals without the use of gloves; inappropriate comments about or to the patient, including, but not limited to, making sexualized or sexually-demeaning comments to a patient, comments about potential sexual performance during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual history or sexual likes or dislikes when not clinically indicated for the type of consultation, and making a request to date; initiation by the physician of conversation regarding the sexual problems, preferences or fantasies of the physician; kissing of a sexual nature.

(q) Repealed August 13, 2002.

(r) Nothing herein is intended to prohibit public relations or advertising by chiropractic physicians or by their use of public relations advertising firms as provided for under Section C, Subparagraph 2(m) and Section D. (ADVERTISING BY CHIROPRACTIC PHYSICIANS.)

(s) Paying or promising to pay, or leading any person to reasonably believe that they would receive any consideration or anything of value in an attempt to induce such person or minor under such person's guardianship or parental control to present to the office of a chiropractic physician as a new patient; or if already a patient, in connection with any incident of injury that is or may be

the basis of an insurance claim. This provision explicitly includes inducements made through an agent, procurer, contractor, or employee; this provision does not prohibit informing members of the public that a chiropractic physician provides transportation for treating patients.

(t) Failure to conform to the Universal precautions for preventing the transmission of Human Immuno-deficiency Virus and Hepatitis B Virus to patients during exposure prone invasive procedures.

(u) Failure to respond as required to any communication duly served by the Board upon a licensee.

3. **Misrepresentation, Fraud, Deception.** Any of the following claims made by a doctor of chiropractic, either directly or indirectly, may constitute deception, fraud, misrepresentation, or be misleading:

(a) Claims that a chiropractic physician's professional qualifications differ from his or her actual qualifications.

(b) Claims that a chiropractic physician is affiliated with any institution, organization or individual, if the misrepresentation is not fact.

(c) The use of any title, other than that designated by law or ~~regulation~~ rule, to identify one as a chiropractic physician.

Commented [LM12]: Proposed update Per ACT 315 of 2019

(d) False, deceptive or misleading claims relating to professional qualifications or credentials.

4. **Improper Charges, Fraud.** Improper charges constitute a form of fraudulent and deceptive practice. Without limiting the definition of improper charges, the following may be considered improper:

(a) Increasing charges when a patient utilizes a third-party payment program.

(b) Reporting incorrect treatment dates for the purpose of obtaining payments.

(c) Reporting charges for services not rendered.

(d) Incorrectly reporting services rendered for the purpose of obtaining payment, which is greater than that to which he/she is entitled.

(e) Announcing to the public, individually or through advertising, marketing, or public relations efforts, prior to the rendition of services, that payment made by an insurance carrier or a third-party payer with co-payment or deductible features will be accepted by the licensee as payment in full, or reduced payment, unless if, at the time the billing is made, licensee discloses such agreement, services rendered and the amount billed for each service to both the patient and insurance carrier or third-party payer. This disclosure must be made on the face of the statement, or on a label affixed to the statement, by type printed or stamped in legible characters of at least ten (10) points in height. Provided, however, that this subsection shall not prohibit a discount, credit or reduction of charges provided under an agreement between the holder of a license and an insurance company, health service corporation or health maintenance organization licensed under the laws of this State; or governmental third-party payment program; or self-insurance program organized, managed or

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funded by a business entity for its own employees or labor organization for its members.

(f) Raising fees for the purpose of overcoming the deductible provision of an insurance contract.

(g) Overutilization of practice. This is construed to be treatment, which is excessive in quality or quantity to the needs of the patient, it being recognized that individual patients require varying and specifically individual treatment programs.

D. ADVERTISING BY CHIROPRACTIC PHYSICIANS. Advertising by chiropractic physicians should be dignified, ethical and professional, not necessarily limited to, but preferably of an educational or informative nature or as a statement of basic fees. Chiropractic physicians have the sole responsibility over the employees or agents hired, including those hired for advertising/marketing purposes.

1. Advertising/marketing by doctors of chiropractic should conform to professional standards, and shall be truthful and not misleading, deceptive, fraudulent or dishonest.

2. Advertising of x-ray services restricted. Unnecessary exposure to x-rays or other ionizing radiation is considered by all reputable health agencies and organizations to be potentially hazardous to the public. Lay persons generally lack the technical knowledge to determine the need for x-ray examination and must rely upon the training, knowledge and judgment of the attending physician. This Board therefore considers it to be unprofessional and not in the public interest for chiropractic physicians to over-utilize x-ray services. Advertising free x-ray services without explanation of need or otherwise implying indiscriminate use of x- radiation is prohibited.

3. Misleading the public by advertising/marketing or otherwise publicizing a list of various diseases as being universally curable is prohibited.

4. Limitations to advertising/marketing free or reduced charges. The offering by doctors of chiropractic in advertisements or other solicitations to the public of initial services at no charge or at reduced charges shall be considered misleading or untruthful if, at the time of such advertised no-charge or reduced-charge visit.

   (a) Charges are made to the patient's account for services not specified in such advertisement or solicitation and which are provided on the same visit or same day and are hidden to the patient or not explained in advance to the patient.

   (b) The patient and any other person responsible for payment has the right to refuse to pay or cancel payment or be reimbursed for payment for any service, examination or treatment which is performed as a result of and within 72 hours of responding to advertising for free service examination or treatment unless before any service, examination or treatment is provided that patient and any other person responsible, for payment enters into a written agreement consenting to be charged, for said service, examination or treatment.

   (c) Nothing in this ~~regulation~~ rule is meant to prohibit or restrict the rendering of emergency or acute care provided the above restrictions are observed.

5. Any person licensed by this Board may not state or imply by media or printed matter that said licensee is practicing any procedures not included in the Chiropractic Practices Act.

Commented [LM13]: Proposed update Per ACT 315 of 2019

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6. No person licensed by this Board may state or imply by any advertising or printed matter that said licensee is practicing any other licensed, regulated or recognized profession unless said licensee is actually qualified and, where required, licensed or registered to practice such other profession. (Example: A licensee may not list 'physical therapy' unless said individual is also licensed as a Registered Physical Therapist.)

7. Limitations to advertising series treatments. All health care professions recognize that treatment needs vary for different conditions and treatment plans must be individualized according to the specific needs of each patient. This Board therefore interprets it to be deceptive advertising for a chiropractic physician to advertise or otherwise solicit for patronage in any manner which states or implies a standardized approach for different conditions, or otherwise may be construed to imply that a standard of care is being offered which is either below or in excess of that actually required by the patient. (Example: An advertisement reading similar to "20 treatments for $xx.xx" might be considered over-utilization of care for a simple muscle strain).

8. Testimonial advertising. The use of testimonials, whether single or in groups; summaries of type of treatment; or examples of treatment as used in the advertiser's office carry with them an implication that the conditions described in the advertisement have been or will be helped by the practitioner. Therefore, before an advertisement is produced, distributed, or displaced, a practitioner who requests from a patient a testimonial to the treatment or modalities used by the practitioner must obtain written consent and have a signed release form from the patient to be kept in the patient's file. The patient has the right to review the advertisements that use the patient's statements, likeness, or case summaries before the advertisements are released for production, distribution, or displaying. Statements made by patients that are untruthful or misleading may not be used even if the patient made the statements.

9. Telephone communication including advertising/marketing. Any agent, procurer, contractor, or employee communicating with a prospective patient on behalf of a chiropractic physician shall disclose how the agent, procurer, contractor, or employee obtained the prospective patient's information. The agent, procurer, contractor, or employee must communicate his or her legal name and the name of the particular chiropractic physician on whose behalf the communication is being made, that he or she is an agent, procurer, contractor, or employee of the particular chiropractic physician. Unless such communication of the agent, procurer, contractor, or employee is true and evidence of the same is on file with the Board, the agent, procurer, contractor, or employee shall not state that he or she practices or is employed as attorney, insurance adjuster, chiropractor, and is not employed in the fields of law, health care, law enforcement, private investigation, or insurance.

   (a) When direct in-person solicitation is made by an agent, procurer, contractor, or employee of the chiropractor, in addition to the requirements set forth in paragraph 9, the agent, procurer, contractor, or employee shall show the person being solicited a photo ID with their legal name and the name of the chiropractic physician on whose behalf the solicitation is being made, and shall dispense a professional card bearing his or her legal name, and the name, address, and telephone number of the licensed chiropractic physician on whose behalf the solicitation is being made. Such professional card shall be provided to the person being solicited at the beginning of the encounter, and shall be left with the person regardless of whether the person being solicited accepts the solicitation request.

   (b) The licensee employing an agent, procurer, contractor, or employee for purposes of soliciting new patients shall file, in a format approved by the board, a registration form and a copy of

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the procurers' driver's license or state issued photo ID before the procurer acts on the chiropractor's behalf. Each procurer registration shall terminate on December 31. The chiropractic physician shall register each procurer annually. The chiropractor is required to provide the board with updated procurer registration information, should any of it change during the year. All registered phone numbers and pictures of the procurers will be made public on the board's website to be as transparent as possible. The chiropractic physician is responsible to the Board for the content of the contact, including prohibited statements made or required statements not made, as well as for any action that is foreseeable in a telephone or in-person encounter.

(1) Telephone solicitation/marketing of victims of accidental injury and which are conducted on behalf of chiropractic physicians shall be made in substantial conformance to a written script which is considered by the Board to have been specifically approved by the chiropractic physician. The chiropractic physician shall be required to maintain such scripts for a period of two (2) years following their utilization. Scripts are to be made available for review upon request by this Board or its designee.

(2) Agents, procurers, contractors, or employees of chiropractic physicians who solicit victims of accidental injury shall keep a log of all solicitation calls made, including at minimum the name and phone number of the person being solicited, the date and time of the phone call.

Commented [LM14]: Approved 10/4/16

Commented [LM15]: Approved 6/11/19

Commented [LM16]: Bd approved addition of terms "procurer, contractor, or employee" to this section on 9/17/19

E. PROFESSIONAL PRACTICES.

1. Temporary Licenses.

(a) Temporary Licensee Requirements and Privileges.

(1) Credentials shall include a completed approved application, including all necessary validated documents, a final chiropractic college diploma from a chiropractic school or college holding status with the council on chiropractic education or similar standards as provided in section 2(a), Article A herein and such other information as this Board deems necessary. Applicant must complete a Jurisprudence Examination before approval for a temporary license will be granted.

(2) The temporary license to practice shall expire at the next scheduled examination. The license is not to exceed six months, and is renewable by majority vote of the Board.

(3) After a temporary license holder has received approval from the Board, he may perform any acts or practices that a licensed Arkansas Chiropractor may do, as long as it is under the supervision of the supervising Chiropractor who must remain on the premises when these acts or practices are being performed. (Act 1971 No. 706.P.1392) Statute 72-415 - 72-441.

(4) Upon satisfactory evidence being submitted to the Board as to an applicant's ability and integrity and when no regular examination will be held within thirty (30) days from the date of an application for a temporary license, the board may, if approved by at least two-thirds (2/3rds) of the membership of the Board, issue to the applicant a permit to practice until the next regular meeting of the Board.

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(5) If any temporary license holder is found practicing outside the scope of this certification, the sponsoring doctor, and the temporary license holder will be subject to application of Arkansas Statute 72-441.

(b) Supervising Doctor's Requirements.

(1) The supervising doctor must have an active Chiropractic license of 3 years or longer.

(2) The supervising doctor must not have had any disciplinary action levied against him by any Board in the past 5 years.

(3) This supervising doctor may have no more than two (2) temporary license holders under his direct supervision at one time.

(c) The Board may, at its discretion, issue a temporary license to a Doctor of Chiropractic who holds a current license in another state, to practice in Arkansas until his next scheduled examination and exempt him/her from any supervisory requirement, pursuant to section E(1)(c).

2. Chiropractic Aides.

(a) The chiropractic aide may not render any diagnosis, submit treatment plans to patients, or in any other way assume responsibility for the management of patient care.

(b) The chiropractic aide may not render any manipulative adjustment treatment or spinal mobilization.

(c) The chiropractic aide may perform specific testing procedures and/or adjunctive therapeutics under the order, direction and responsibility of the supervising doctor.

(d) Chiropractic aides must obtain a Radiologic Technology License through the Arkansas Department of Health to perform x-rays. The Consumer-Patient Radiation Health and Safety Act, Act 1071 of 1999, requires that individuals who use radioactive materials or medical equipment emitting or detecting ionizing radiation on human beings for diagnostic or therapeutic purposes, be licensed to do so.

(e) In lieu of obtaining a Radiologic Technology License under subpart (d), chiropractic aides may obtain certification through the American Chiropractic Registry of Radiological Technologists (ACRRT) program upon successfully completing a course of instruction consisting of didactic classroom hours and examination. The course must be recommended by the Board. ACRRT recertification requires a minimum of 6 hours of continuing education administered by a state or national organization approved by the Board for this purpose.

3. Continuing Education. In compliance with provisions of the Arkansas Chiropractic Practices Act, each licensed Doctor of Chiropractic, practicing in this state, must submit to this Board each year evidence of having satisfactorily completed not less than twenty-four (24) hours of continuing education, acquired during the preceding twelve (12) months, at some approved college of chiropractic or at some approved educational seminar. This may include specific courses of instruction, including up to twelve (12) hours of preapproved videotaped education, with on-site Board member supervision, pertinent to the practice of chiropractic, or courses

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conducted by the Board.

(a) Courses or seminars conducted by colleges holding status with the Council on Chiropractic Education (CCE), or those courses or seminars sponsored by state or national associations will generally be approved, provided that both the course content and the instructional staff are in compliance with CCE and this Board's criteria.

(b) Courses or seminars taught in conjunction with, or in association with, and not sponsored and managed by an approved college or association, with their regular faculty and post-graduate instructors, will not be approved.

(c) Itinerant or for-profit courses or those conducted by commercial enterprises will not be approved unless conducted by an association approved by the Board for the teaching of scientific courses pertaining to the profession.

(d) Approval of continuing education programs which are not approved by the Council on Chiropractic Education nor conducted by approved Chiropractic Colleges, State or National Organizations, shall meet the following criteria**:**

(1) To allow for a maximum of twelve (12) credit hours.

(2) Courses or programs must be approved by the Board in advance.

(3) The course, program, or seminar must be conducted by a recognized and reputable school, university, hospital, organization or interdisciplinary organization.

(4) Speakers or lecturers must be recognized as having expertise in the field of study.

(5) Course work must be at the physician level.

(6) Content of the program must be scientific, recognized by reputable authorities as having validity, and related to the practice of Chiropractic.

(7) Program or seminar must not be offered by a group or commercial enterprise, which primarily promotes specific products, services or equipment. A commercial enterprise may request approval of a seminar but the course contents and lecturer's expertise would be carefully scrutinized.

(8) Approval of a course is for a one-year period and re-application must be made each year. Approval may be withdrawn at any time if intent of the law and ~~regulations~~ rule of this Board are not complied with.

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(9) If a commercial enterprise requests approval by this Board, it must consent to permit attendance at the seminar by an investigative committee of this Board at no cost to the Board, including travel and other necessary expenses.

(e) All continuing education courses must have prior approval by this Board before credit can be given.

(f) Continuing Education Sponsor Processing Fee. In addition to meeting the requirement set forth for approval of continuing education programs, sponsors shall remit a five dollar ($5)

processing fee per every credit hour of instruction for each seminar per subject material, per calendar year to be submitted with the information required for program approval.

(g) Distance-based learning courses offered by electronic media in audio and/or visual format, such as through the Internet, which otherwise comply with these rules may be approved by the Board if the course meets the following criteria:

(1) The sponsor, organization or participant must have preapproval through the regular continuing education process for the State of Arkansas.

(2) The course must be test and time monitored to insure active participation by the licensee. The Internet education provider should provide a mechanism for verifying participation in the course.

(3) A maximum of twelve (12) distance-based learning credit hours may be submitted by a licensee during each licensing period.

4. Interpretation of Terminology.

(a) Examination. This term is understood by this Board to be the act or process of examining the body to determine the presence or absence of disease or injury or to arrive at a diagnosis. It encompasses, but is not limited to, historical, physical, clinical, chemical, electrical or roentgenological means necessary to arrive at a diagnosis or analysis of any malady or abnormality of human beings. It does not include incisive surgery.

(b) Analysis. This term is construed by this Board to mean and encompass the gathering and sorting out of certain physiological data, whether of a whole or a material substance, or any matter of thought, whether from history gathering to help determine the nature of disease, injury, deformity or any other abnormality whatsoever, an examination of symptoms, lesions, of body fluids and tissues for the purpose of diagnosis of any disease process, injury or abnormality of human beings.

(c) Diagnosis. This term is understood by this Board to mean the use of scientific and skillful methods to establish the cause and nature of a sick person's disease, malady, injury or deformity. It encompasses the evaluation of the history, the signs and symptoms present, laboratory data, and the use of special tests such as x-rays or other analytical instruments.

(d) Supportive Procedures. Those procedures that do not conflict with the Arkansas Chiropractic Practices Act and which aid the chiropractic physician in removing interference with the transmission or expression of nerve force in the human body for the purpose of restoration and maintenance of health. The option to use supportive procedures shall be left to the judgment of the individual chiropractic physician and shall not be required.

(e) Ownership of x-rays, photographs and medical records. This Board confirms judicial decisions that x-rays, photographs and medical records belong to the doctor, clinic or institution originating such records. (McGarry v. J.A. Mercier Co., 272 Mich. 501, 262 N.W. 296 MLC 1936-40, P. 46 (1935).)

5. Acupuncture.

Mark-up of Rules

(a) A chiropractic physician licensed to practice chiropractic pursuant to the Arkansas Chiropractic Practices Act shall be entitled to practice acupuncture as part of chiropractic practice upon completion of one hundred (100) onsite hours training in acupuncture/meridian therapy from a college accredited by the Council on Chiropractic Education.

(b) Prior to any chiropractic physician engaging in the practice of acupuncture/meridian therapy, said physician shall be required to submit to the Board of Examiners a certificate of completion of one-hundred (100) hour's instruction in acupuncture/meridian therapy.

~~(b)~~(c) Each holder of an acupuncture certification under the provisions of this chapter shall be priviledged to use the following titles; certified in acupuncture or certified acupuncturist.

6. License Renewal, Continuing Education and Forfeiture.

(a) Each Arkansas chiropractic license expires on December 31 of each year. If the license renewal fee is not postmarked by December 31 with a completed Renewal License Application and attachment of proof of continuing education, the license shall automatically expire and be forfeited.

(b) The renewal fee must accompany all Renewal License Applications. License renewal will not occur without receipt of the prescribed fees. Beginning with the renewal fee for the December 2014 renewals for In-State Active licensees shall be $250.00. Renewals for In-State Inactive licensees shall be $100.00. Renewals for Out-of-State Active licensees shall be $125.00

(c) An individual who submits a Renewal License Application more than sixty (60) days after the license expiration date is subject to all requirements governing new applicants under the Arkansas Chiropractic Practices Act. The Board may grant extensions for the continuing education requirement and/or late license renewal based upon the Board's opinion that extreme circumstances prevented timely license renewal. It is illegal to practice in Arkansas with a forfeited license.

(d) Beginning September 1, 2014, the license renewal period will begin annually on September 1 and will be open until December 31 of the same year.

PART THREE RULES OF PROCEDURE

A. **BOARD MAY INVESTIGATE COMPLAINTS.** This Board shall have the right and responsibility, as provided by law, to investigate complaints, allegations or suspicions of violations of the Arkansas Chiropractic Practices Act or of these ~~Regulations.~~ Rules.

B. **METHOD FOR HEARINGS.** All hearings before the Board shall be conducted according to the Arkansas Administrative Procedure Act, Ark. Stat. Ann. #5-701, et seq., with the following additions:

(1) Notice.

(a) Except as provided in Section 2, whenever the Board contemplates taking disciplinary action, it shall serve a written notice upon the licensee at least thirty (30) days before the action is taken. This thirty (30) day requirement may be waived upon agreement of both

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parties.

(b) The notice shall include a Statement of the Facts or conduct upon which disciplinary action is contemplated and shall inform the licensee of his right to a hearing and state the time and place where the hearing is scheduled. The notice shall also inform the licensee that continuances will be granted only for good cause and that if the licensee fails to appear at the hearing and has not obtained a continuance, then the Board may conduct the hearing in the licensee's absence.

(c) The notice shall be issued in the Board's name and shall be signed by the President, Executive Director, or the Board's Attorney.

(d) The notice shall be served either personally by registered or certified mail addressed to the licensee's current business address on file with the Board. If personal service is used, it may be proven by affidavit or testimony of the server and shall be deemed served on the date delivered. When service is by mail, it shall be deemed served on the date borne by the return receipt showing delivery, refusal, or inability to deliver.

(2) Emergency Action. Notwithstanding Section 1, if the Board finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

(3) Continuances. A continuance shall be granted only for good cause.

(4) Failure to Appear. If a licensee, after being served notice, fails to appear at the time and place where the hearing is scheduled and has not obtained a continuance, then the Board may conduct the proceedings without the licensee being present.

(5) Presiding Officer. The President shall be the Presiding Officer at all hearings, except if the President is unavailable, then a majority of the Board members present shall select a Presiding Officer from among themselves present. A Hearing Officer may be appointed by the Executive Director of the Chiropractic Board to act as an impartial Hearing Officer at any disciplinary hearing. The Presiding Officer shall have power to:

(a) issue subpoenas;
(b) administer oaths and affirmations;
(c) maintain order;
(d) rule on all questions arising during the proceedings;
(e) permit discovery by deposition or otherwise;
(f) hold conferences for the settlement of simplification of issues;
(g) make or recommend decisions;
(h) generally regulate and guide the course of the pending proceeding.

(6) Decisions. A final decision shall be in writing or stated in the record. It shall include findings of fact and conclusions of law, separately stated. Parties shall be served either personally or by mail with a copy of any decision or order within a reasonable time.

(7) Authority of Board. If the information contained in the Complaint states matters that are not under the authority of the board, or which would not constitute a violation if proven, the

board may take no action. Notice shall be given to the complainant and the licensee that the complaint has been reviewed with the determination that no action is warranted by the board.

C. **INFORMAL DISPOSITION OF COMPLAINTS.**

As provided by the Arkansas Administrative Procedures Act, nothing contained herein shall prohibit informal disposition of complaints or allegations by settlement, consent or agreement of parties.

D. **COMPLAINT HANDLING PROCEDURES.**

(1) Complaints against Chiropractic physicians may be made by letter, in person, or by telephone call to the President, Secretary or Executive Director of the Board of Examiners.

(2) All complaints shall be logged in a special record, which shall be updated as necessary to indicate the current status of all complaints.

(a) The subject of the complaint will receive notification and a copy of the complaint. He/she will be given ten (10) days to submit a response in writing to the Board office.

(b) Failure of the (subject) of any and all complaints to cooperate may be considered unprofessional conduct and will be taken into consideration by the Board investigator and Board attorney.

(3) Said complaints may be investigated by one or more of the Board members or agents of the Board. Informal disposition may be attempted by settlement, consent, agreement, or for lack of sufficient probable cause if, in the opinion of the Board, such disposition is warranted by the circumstances.

(4) Any and every complaint making out a prima facie case shall be presented to and reasonably disposed of by the Board, giving due consideration to sufficient and necessary time to investigate and consider the complaint. Upon completion of an investigation, the designated Board investigator and Board's Attorney together shall determine whether a disciplinary hearing shall be scheduled to resolve the issue.

(5) Disciplinary hearings may be conducted either on the Board's own motion or based on a written complaint if a violation of the Chiropractic Practices Act has been discovered.

(6) All complaints not investigated and all complaints investigated but determined to not substantiate the charges shall be reported to the Board quarterly.

(7) If the information contained in the complaint states matters that are not under the authority of the board, or which would not constitute a violation if proven, the board may take no action. Notice shall be given to the complainant and the licensee that the complaint has been reviewed with the determination that no action is warranted by the board.

(8) Notwithstanding any of the foregoing, any complaint received by the Board that involves a procurer as defined in A.C.A. 17-81-107(a)(1)(A) and (B), imperatively requires immediate action and special handling; for all such complaints, the following provisions shall apply:

Mark-up of Rules

(a) If the complaint is not received in writing, as set forth in Part III(D)(1), the person receiving the complaint shall without delay reduce the complaint to writing, stating at minimum, the date, the name, address and phone number of the person making the complaint; the name of the allegedly offending licensee and/or procurer; a fair summary of the facts upon which the complaint is based; and, any demand for relief or specific request for an act of the Board. A complaint reduced to writing is for all purposes the equivalent of a complaint received in writing.

(b) Each written complaint shall be signed by the person receiving the complaint and distributed without delay to the president of the Board, the secretary or executive secretary, the investigating officer, and the attorney for the board.

(c) Within three business days of the distribution of such complaint, the Board shall initiate the service of notice upon the licensee in accordance with Part III, (B)(1)(a)-(d); a copy of the complaint and any additional information in custody of the Board may, in the discretion of the Board, be provided to the appropriate law enforcement agency for investigation and possible prosecution pursuant to A.C.A. 5-37-505 and 506.

(d) The notice of complaint shall provide the licensee with a copy of the written complaint as distributed, and shall advise the licensee that (a) the complaint that has been made against the licensee involves a procurer; (b) his or her response to the complaint is due within 10 business days of service; and (c) that a copy of the notice of complaint and any supporting documents may be provided to the appropriate law-enforcement agency for investigation and appropriate action.

(e) Upon receipt of the response of the licensee, the date of the response is noted, and the response shall be distributed without delay to the president of the Board, the secretary or executive secretary, the investigating officer, and the attorney for the board.

E. **AMENDMENTS TO RULES ~~AND REGULATIONS~~.**

These rules, ~~regulations~~ and definitions may be modified, added to or deleted as deemed appropriate by the Board of Examiners in the method prescribed for such charges by the laws of the State of Arkansas.

F. **ANNUAL/RENEWAL-FEE.**

(1) The annual renewal fee for a license issued by the Board shall be $250.00.

(2) If a license automatically expires and becomes forfeited pursuant to Ark. Code Ann. Sec. 17-81-311 for failure to timely pay the annual renewal fee, the license may be reinstated by the Board upon payment of the delinquent fee due and a penalty of $200.00 for reinstatement, in addition to satisfying the Board in compliance with the education requirements.

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