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Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXVII. Chiropractors

Chapter 1. Practice and Procedure

§101. Authority

A. These rules of practice and procedure are promulgated by authority of R.S. 49:951* et seq., as amended, being the Administrative Procedure Act. All rule-making and hearing procedures of this board are conducted according to the Administrative Procedure Act.

*As appeared in the published Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:49 (February 1976).

§103. Domicile of Board, Time of Meeting, Special Meetings, Election of Officers

A. The board shall be domiciled in Baton Rouge, Louisiana. The regular meetings of the board shall be held at least twice in each year for the purpose of examining applicants and at any other time the board deems necessary, at a time and place designated by the president. Special meetings may be called by the president upon giving at least 72 hours notice, sent by registered or certified mail to the post office address of each member of the board and of persons who previously have indicated that they have business before the board.

B. The election of president, vice president and secretary treasurer of the board shall be held at the annual July meeting following the testing of licensed applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2802, 37:2803 and 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:49 (February 1976), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:1378 (December 1992).

§104. Rules of Order

A. All meetings of the board shall be conducted in accordance with *Robert's Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2803.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:343 (June 1987).

§105. Written Examinations

A. All written examinations conducted by the board shall be administered to conceal the identity of licensure candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.A, B and R.S. 37:2805.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:343 (June 1987).

§106. Definitions

A. By reference, all of the definitions set forth and contained in R.S. 49:951-966, inclusive, are incorporated herein, and for the purpose of hearings to be held hereunder, the following definitions shall prevail.

Appellant—the persons submitting an appeal to the Board of Chiropractic Examiners or the person notified of an opportunity for a hearing for the purpose of either suspending or revoking a chiropractic license.

Board—the Board of Chiropractic Examiners.

Hearing—a hearing called by the board under the authority of R.S. 37:2816.A or R.S. 37:2803.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2801.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§107. Adopting, Amending, or Repealing Rules

A. The board shall adopt, amend, or repeal any rule or regulation to govern its actions in strict accordance with R.S. 49:953.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804 and R.S. 37:2803.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§109. Commencement of Hearings

A. Hearings conducted by the board shall be instituted as authorized by R.S. 37:2816 or R.S. 37:2803.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§111. Notice of Hearing

A. The board shall notify the person against whom a complaint has been made when said complaint appears to be sufficient cause for either suspension or revocation of a chiropractic license. This notice shall notify the person against whom the complaint is made 30 days prior to the hearing, and such notice shall conform to the requirements of R.S. 49:955.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§113. Disposition of Complaint

A. The board shall conduct such investigations, order such hearings, and take such other actions as it finds necessary to make an intelligent decision on the complaint submitted for its review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§115. Appearance

A. The person against whom the complaint has been made and upon notice being served must appear at the date fixed for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§117. Default in Appearing

A. In the event the person against whom the complaint has been made fails to appear at the hearing provided for and also provided that the referenced rules as to service have been complied with, the person so failing to appear or otherwise obtain approval of the board for his absence shall be deemed to be in default, and the evidence as received by the board at that time shall be entered into the record and may be taken as true and the order of the board entered accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§119. Hearing Procedure

A. The hearings called according to these rules and regulations shall be conducted by the board in accordance with the rules and procedures set forth in R.S. 49:955 et seq.

1. The chairman of the board or the vice chairman in the absence of the chairman shall announce the title and docket number of the proceedings before the board and shall introduce into the record evidence of the notice of hearing. Attorneys and/or other representatives of the appellant shall be recognized along with the representatives of the board and other proper parties.

2. The appellant shall then present his evidence subject to cross-examination by the board and other proper parties in those cases where the applicant requested the hearing to be held.

3. The board shall then present its evidence subject to cross-examination by the applicant and other proper parties.

4. Where the board has called the hearing on its own motion, the order of presentation of evidence shall be reversed.

5. The board may make an informal disposition of the case by stipulation, agreed settlement, consent, order, or default.

6. The board shall render its final decision and order in accordance with §121 of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804, R.S. 37:2803 and R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§121. Board's Decision

A. The decision of the board shall be rendered within 30 days after the matter is submitted, shall be in writing, and shall be dated and mailed to the appellant and his attorney of record by certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804, R.S. 37:2803 and R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:50 (February 1976).

§123. Rehearings

A. A decision or order of the board shall be subject to rehearing, reopening, or reconsideration by the board within 10 days from the date of its entry. Rehearings, reopenings, or reconsiderations shall be conducted in strict accordance with R.S. 49:959.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804, R.S. 37:2803 and R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976).

§125. Record of Hearing

A. The board shall make a full recording of all proceedings before it and shall at the request of any party or person, have prepared and furnished him with a copy of the transcript or any part thereof upon payment of the costs thereof. If said record is transcribed, it shall be made a part of the record in subject hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804, R.S. 37:2803 and R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976).

§127. Judicial Review of Decision

A. A person who is aggrieved by a final decision or order of the board is entitled to judicial review in accordance with R.S. 49:964 whether or not he has applied to the board for rehearing. Proceedings for judicial review may be instituted in the district court of the parish in which the board is located within 30 days after mailing of notice of the final decision by the agency, or if a rehearing is requested, within 30 days after the decision thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804, R.S. 37:2803 and R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976).

Chapter 3. Professional Conduct

§302. Surrogate Muscle Testing

A. Surrogate muscle testing is not within the scope of chiropractic practice in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2801 and 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:1378 (December 1992).

§303. Notification of Address

A. Each registered chiropractor, upon commencing to practice, shall forthwith notify the board of his office address or addresses, R.S. 37:2804.A and R.S. 37:2803.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.A and R.S. 37:2803.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:343 (June 1987).

§304. HIV/HBV Precautions

A. Concerning the prevention of transmission of Human Immunodeficiency (HIV) and Hepatitis B Virus (HBV), the doctor of chiropractic will comply with the recommendations of the Center for Disease Control (CDC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746 and 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:1378 (December 1992).

§305. Change of Address

A. Each chiropractor must notify the secretary of the Board of Chiropractic Examiners whenever his office address changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976).

§307. Advertising Practices

A. False, deceptive or misleading advertising is prohibited.

B. Statements in advertising which claim that specific physical illnesses ailments or symptoms are alleviated by chiropractic care must be supported by clinical or scientific literature generally recognized by the chiropractic profession. The board may require the chiropractor making such assertions to provide the reference supporting the advertising claim.

C. Testimonials may be used if the word "ADVERTISEMENT" in capital letters of larger type size than the largest text of the testimonial appears directly above

the testimonial. The doctor is responsible for any false, deceptive or misleading statements in the testimonial.

D. Advertisement may offer free goods or services or discounts in connection with chiropractic care only if the usual charge for those goods or services and the type of goods or services which are free or discounted are included in the advertising. In the case of print advertising the usual charges for the offered good or services must appear in bold print of the same or larger type size as the offer. In the case of television or radio advertising the ad must clearly state, verbally, the usual charges for the offered goods or services.

1. The doctor must also provide a disclosure statement to be signed by the patient which explains:

a. specifically what services or goods are free or discounted;

b. that additional services or goods which are subject to a charge shall not be rendered until such charges are disclosed in writing to the patient;

2. This rule shall not be construed to relate to the negotiation of fees between a chiropractor and a patient or managed care organization or to prohibit the rendering of chiropractic services pro bono.

E. The chiropractor must notify any third party liable for payment if any co-payment or deductible has been waived or met by a certificate issued by the chiropractor or an agent of the chiropractor. Such notification must be in writing and submitted with the first submission of a claim for payment for services.

F. Any advertisement that mentions automobile liability insurance shall state that "policy limitations apply" and must be in bold print. Any electronic advertisements must state that "policy limitations apply."

G. Free X-Rays

1. A chiropractor shall not advertise "free X-rays" unless the advertisement states that:

a. the X-rays shall be taken only if found necessary; and

b. more than one X-ray is necessary for diagnostic purposes.

2. Free X-rays shall include a minimum of two views.

3. Additional X-rays must meet the disclosure requirements of §307.D.

H. Computer-generated or live, unsolicited telephone canvassing to prospective new patients is prohibited.

I. Cash or in-kind payments for patient referrals is prohibited.

J. Any violation of this Section shall constitute grounds for disciplinary action or penalty by the board.

K. If any part of these rules or any rule herein is declared unlawful and/or unconstitutional such determination shall not affect the validity of any other part or rule herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.F.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976), amended LR 5:174 (July 1979), LR 13:343 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:963 (November 1989), LR 17:968 (October 1991), LR 22:191 (March 1996), LR 35:953 (May 2009).

§308. Disclosures in Advertising

A. Any chiropractor who engages in any of the practices specified in this Subsection shall include the disclosure statement in this Subsection in any advertising of such practice. The practices are as follows.

1. The practice of waiving all or part of a required deductible or co-payment amount under any policy of health insurance or other health benefit plan, to include the practice of offering any gift or gratuity, such as a health check which has the effect of reducing or eliminating a deductible and is so advertised.

B. In addition, any chiropractor that reserves any right to seek any portion of the amount due for services rendered from the recipient of those services shall also include the following disclosure in all such advertising.

Personal liability—in the event that your insurance or health benefits plan fails to pay all or part of any portion of the nonwaived charges for any services rendered, then you can be held personally liable for such amount.

C. "Advertising" or "advertisement" as used in this Section shall include, but not be limited to, any communication to the public including communication by means of newspaper, magazines, circulars, direct mail, directories, radio, television, billboards and "Internet advertising." The disclosures required to be given by this Section shall be made clearly, conspicuously, and in meaningful sequence. In the case of written advertisement, the terms "limited eligibility" and "personal liability" shall be in all capital letters and shall be printed more conspicuously than other terminology required by this Section and shall in no event be printed in less than the equivalent of 10-point type, 0.075 inch computer type or elite size. In the case of television advertising, the required disclosure shall be made by both audio and visual transmission. All such disclosures shall be made in the English language.

D. Any violation of this Section shall constitute grounds for disciplinary action or penalty by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.F.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:963 (November 1989), amended LR 35:953 (May 2009).

§309. Future Care

A. It shall be considered unprofessional conduct for any chiropractor to enter into a contract which would obligate a patient to pay for care to be rendered in the future unless the contract provides that the patient is entitled to a complete refund for any care not received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2803.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:344 (June 1987).

§310. Accident and Disaster Solicitation

A. On the outside of each solicitation letter in 10-point bold type at the bottom left hand corner of the envelope, there will be printed in red, capital letters, THIS IS AN ADVERTISEMENT.

B. On the body of each solicitation letter, in the same type size as the letter, shall be contained the following paragraph in red lettering.

NOTICE: THIS IS AN ADVERTISEMENT. Your name and address and information relative to the accident in which you were involved were acquired from police documents. You are under no obligation to respond to this letter. Recipients of this advertisement should understand the importance of employing a health care provider and inquiry into the doctor's qualifications and experience is recommended.

C. No solicitation letters shall be sent to minors.

D. All solicitation letters shall be submitted to the board before publication to assure compliance with this rule and all other applicable board regulations. The board has six weeks to respond to this request.

E. A sample copy of each different solicitation letter shall be retained by the sender for a period of one year.

F. No solicitation letter to an accident victim should be sent before at least seven days have elapsed since the date of the accident.

G. Telemarketing, telephonic solicitation, digital communication by phone or communication by licensees and/or chiropractic facilities and their employees, or agents, by contract or otherwise, to victims of accidents or disaster shall be considered unethical if carried out within 30 days of the accident or disaster, and subject the licensee and/or chiropractic facility to action pursuant to R.S. 37:2804.

H. Telemarketing, telephonic solicitation, digital communication by phone or communication transcripts shall be regulated by the board and such transcripts shall be submitted to the board 60 days prior to use. The board shall reject or accept the transcript within 60 days of receipt by the board office. If the transcript is rejected, the board shall give the reasons for its rejection. No solicitation under this section may be used until approved by the board.

I. The telemarketing, telephonic solicitation, digital communication by phone or communication transcripts, taped and/or digital recordings of the solicitation shall be maintained for a period of three years following their utilization. A log of the contact information and date of contact must be maintained for a period of three years, following the telemarketing encounter. Transcripts and logs shall be made available to the board upon request within 10 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.F.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 20:433 (April 1994), amended LR 35:954 (May 2009).

§311. Overutilization of Services

A. Overutilization of services is prohibited. Overutilization is the providing of treatment or diagnostic services, the need for which cannot be substantiated by the clinical record of the patient, or reports, or any other pertinent facts or evidence. Such practice shall constitute a form of misrepresentation, deceit, unprofessional conduct, or gross misconduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.A(5), (6) and (7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:344 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989).

§313. Records

A. Chiropractic physicians shall comply with a patient's authorization to provide records, or copies of such records, including X-rays to those whom the patient designates as authorized to inspect or receive all or part of such records. A reasonable charge may be made for the cost of duplicating records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.A(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:344 (June 1987).

§315. Protection of Records

A. Chiropractic physicians shall preserve and protect the patient's confidences and records, except as the patient directs or consents or if the law requires otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.A(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:344 (June 1987).

§316. Internships

A. Certificates of internship must be displayed in a conspicuous place in the office in which the intern practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2806.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:192 (March 1996).

§317. X-Ray Proficiency Holders

A. The board shall issue a certificate of proficiency in X-ray function to any chiropractic assistant who successfully completes a program in education and training in X-ray function and safety that has been approved by the Board of Chiropractic Examiners.

B. Any holder of said proficiency certificate must register annually with the board on or before July 31, beginning in 1996. The board shall maintain a list of all

X-ray proficiency certificate holders. Failure to register with the board on an annual basis shall result in removal of that person's name from the board's list of X-ray proficiency certificate holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:344 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:192 (March 1996).

§319. Continuing Education—Risk Management

A. The phrase "risk management," as referred to in R.S. 37:2810(2), means the identification, investigation, analysis and evaluation of risks and the selection of the most advantageous method of correcting, reducing or eliminating identifiable risks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2810(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:1378 (December 1992).

§320. Specialty Advertising

A. The use of the terms or form of these terms, "specialize in" or "specialist," or the use of the letters indicating a decree or specialization on stationary, letterhead, business cards or other such publication is considered advertising for the purposes of this Section. Generally recognized academic credentials such as B.A., B.S., M.S., J.D., M.D., Ph.D., etc., are exempted from this Rule when awarded by a college or university fully accredited by an association recognized by the Department of Health, Education and Welfare.

B. Only those licensees holding the final certification in postgraduate training and certification programs may hold themselves out to the public as possessing special knowledge skills or training. A licensee who utilizes any advertisement, which states that a licensee has special training or skills or is certified in a specialty that does not comply with Subparagraphs B.1.a-d, is engaged in deceptive and misleading advertising practices.

1. Specialty training must meet the following criteria. The course of study must:

a. be conducted under the auspices of and taught by the postgraduate faculty of the chiropractic college fully accredited by the Council on Chiropractic Education;

b. consist of a minimum of 300 hours;

c. require completion of the certification examination given by a board independent of the entity which taught the course; and

d. meet such other criteria as the board deems appropriate.

2. The National Board of Chiropractic Examiners does not engage in specialty testing. The use of the designation, "Diplomate of the National Board of Chiropractic Examiners," or any derivative thereof, may give the false

impression of certification or credentials beyond that required of all chiropractic licenses and is considered deceptive and misleading by the Board of Chiropractic Examiners.

C. The use of the terms or form of these terms, "certified in" or "certified by," or the use of the letters indicating a degree or certification on stationery, letterhead, business cards or other such publication is considered advertising for the purpose of this Section.

D. Only those licensees holding the final certification in postgraduate training and certification programs may hold themselves out to the public as possessing special knowledge, skills or training. A licensee who utilizes any advertisement, which states that a licensee has special training or skills or is certified in a specialty that does not comply with Subparagraphs D.1.a-d, is engaged in deceptive and misleading advertising practices, unless an exception to D.1.a-d has been approved by the board, which would allow the licensee to hold themselves out to the public as possessing special knowledge, skills or training or certified in a specialty.

1. Certified training must meet the following criteria. The course of study must:

- a. be conducted under the auspices of and taught by the postgraduate faculty of the chiropractic college fully accredited by the Council on Chiropractic Education;
- b. consist of a minimum of 100 hours;
- c. require completion of the certification examination given by a board independent of the entity which taught the course; and
- d. meet such other criteria as the board deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2801 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 35:954 (May 2009), amended LR 37:3513 (December 2011).

§321. Dry Needling

A. The purpose of this rule, as authorized by R.S. 37:2803, is to provide for the interpretation of R.S. 37:2801(3)(a) to include dry needling and to provide with respect to utilization of the techniques by chiropractic physicians. Dry needling is a physical rehabilitation measure which requires specialized education and training and which falls within the chiropractic scope of practice under the following terms. Prior to utilization of dry needling techniques chiropractic physicians shall successfully complete a board approved course of study consisting of no fewer than 50 hours of face-to-face instruction in intramuscular dry needling treatment and safety. The practice of dry needling techniques without compliance of this education requirement constitutes unprofessional conduct and subjects the licensee to appropriate discipline by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 40:782 (April 2014).

§322. Supervision of Chiropractic Interns

A. A licensed chiropractor is not eligible to supervise a chiropractic intern if the licensee has been subject to disciplinary action by the board three or more times in the last 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 40:782 (April 2014).

Chapter 5. Due Process Procedures for Ethics Violations

Subchapter A. Applicability

§501. Unethical Conduct

A. Unethical conduct shall be determined on the basis of the provisions of the rules and regulations of the Board of Chiropractic Examiners, ethical standards of chiropractors, and other provisions included in the Code of Ethics and R.S. 37:2801-2807, specifically, if a chiropractor:

1. has been convicted of a felony or any offense involving moral turpitude; or
2. is using a narcotic or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person or to the public, or to an extent that such use impairs his ability to perform the work of a professional chiropractor with safety to the public; or
3. has impersonated another person holding a license as a chiropractor or allowed another person to use his/her license; or
4. has used any fraud or deception in applying for a license, in renewing a license, or in taking an examination provided for in the act; or
5. has accepted commissions or rebates or other forms of remuneration for referring clients to other persons; or
6. has allowed his/her name or license issued under the act to be used in connection with any person or persons who perform chiropractic services outside of the area of their training, experience or competence; or
7. has willfully or negligently violated the ethical standards of chiropractors subscribed to by the Board of Chiropractic Examiners; or
8. has willfully or negligently violated any of the provisions of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:327 (April 1984), amended LR 13:344 (June 1987), LR 35:955 (May 2009), LR 37:3513 (December 2011).

§502. Code of Ethics

A. Preamble. This code of ethics sets forth principles for the ethical practice of chiropractic. All chiropractic physicians are responsible for maintaining and promoting an ethical practice and otherwise complying with the terms of this code of ethics. To this end, the chiropractic physician shall act in the best interest of the patient. This code of ethics shall be binding on all chiropractic physicians.

B. Duty to Report. It shall be the duty of every licensee to notify the board of any violation of law or board rules.

1. Reporting of certain judgments to the board.

a. The following must be reported to the board within 30 days:

- i. if a judgment is entered against a licensee in any court;
- ii. a settlement is reached on a claim involving malpractice exceeding \$50,000;
- iii. a licensee is convicted of a felony or a crime involving dishonesty, theft, violence, habitual use of drugs or alcohol, or sexual misconduct;
- iv. the licensee may satisfy the provision of this subsection if he/she provides the board with a copy of the judgment or settlement.

C. Prohibition Against Sexual Contact, Impropriety and Misconduct

1. The physician and patient relationship is of a fiduciary nature in which the patient entrusts his/her welfare to the physician, and reflects the physician's respect for the patient. That boundary, once crossed, severely impacts the patient's wellbeing on an individual basis and causes distrust to other professional relationships in general. Sexual misconduct is a harmful example of a boundary violation, occurring in multiple contexts and involving a wide range of behaviors. The physician and patient relationship requires the doctor of chiropractic to exercise the utmost care that he or she will do nothing to exploit the trust and dependency of the patient.

2. Definitions

Sexual Contact—may include, but is not limited to the following:

- i. genital to genital contact;
- ii. oral to genital contact;
- iii. anal to genital contact;
- iv. kissing;
- v. touching breasts, genitals, or other body parts without clinical justification;
- vi. encouraging patient to masturbate in presence of chiropractor;
- vii. chiropractor masturbating in the presence of a patient;

viii. offering clinical services in exchange for sexual favors.

Sexual Impropriety—may include, but is not limited to, sexually suggestive behavior, gestures, expressions, statements, and it may include failing to respect a patient's privacy such as in the following examples:

- i. failing to employ disrobing or draping practices with respect to the patient's privacy;
- ii. examination or touching a patient's genital region without donning gloves and having another professional staff present during the examination;
- iii. inappropriate comments to a patient about the patient's body, sexual orientation, or potential sexual performance during the examination;
- iv. soliciting a date or romantic relationship;
- v. performing an intimate examination without clinical justification;
- vi. requesting personal information from the patient which is not clinically necessary.

Sexual-Misconduct—includes sexual impropriety towards a patient, sexual contact towards a patient, sexual harassment in the workplace, facilitating a hostile work environment, sexual conduct between supervisors and subordinates, and commission of sexual assault and other sexual crimes.

3. A patient's or staff's consent to, initiation of or participation in sexual behavior or involvement with a licensee does not change the nature of the conduct nor lift the prohibition.

4. This rule shall not apply between a chiropractor and their spouse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 37:3513 (December 2011).

§503. Application of Procedures

A. These procedures shall apply only in the consideration of alleged violations by licensed chiropractors.

NOTE: The board will answer complaints regarding the ethical practices of non-licensed persons by making referrals elsewhere when appropriate; for example, to better business bureaus, professional associations, agencies, private legal counsel, or the district attorney of the appropriate judicial district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:327 (April 1984), amended LR 13:344 (June 1987).

§505. Initiation of Complaint

A. Complaints may be initiated by any citizen of the state, another licensed chiropractor, or by the board on its own initiative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:327 (April 1984), amended LR 13:344 (June 1987).

§507. Declaratory Statements

A. The board may issue a declaratory statement in response to a request for clarification of the effect of rules and regulations of R.S. 37:2801 et seq.

1. A request for a declaratory statement is made in the form of a petition to the board. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute or rules and regulations to which the petitioner relates; and
- c. a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or by its potential application to her/him, or in which (s)he is uncertain of its effect.

2. Said petition shall be considered by the board at its next regularly scheduled meeting provided that the petition has been filed at least 21 days prior to said meeting.

3. The declaratory statement of the board on said petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2801 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:177 (March 1987), amended LR 13:344 (June 1987).

Subchapter B. Procedures for Processing Complaints and Inquiries

§511. Processing Complaints and Inquiries

A. Upon receipt of complaints or inquiries, the board will take immediate action.

1. Anonymous letters of complaint against individuals shall not be recognized as a basis for formal action.

2. If the information in the complaint is insufficient, the board may request further information by either written correspondence or an informal inquiry.

B. All complaints received shall be assigned a sequentially ordered complaint code number which shall be utilized in all official references.

C. At its next meeting, the board shall officially receive and act upon all complaints and inquiries received.

D. Upon receipt of the complaint, the board shall determine if the complaint refers to an ethical issue.

E. The identity of all parties to a complaint shall be revealed to the involved parties except if contrary to law.

F. The board shall inform the complainant of the initial determination.

1. No Action
2. Informal Inquiry
3. Informal Hearing
4. Formal Hearing

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:327 (April 1984), amended LR 13:344 (June 1987), amended by the Department of Health and Hospitals LR 22:192 (March 1996).

Subchapter C. Conduct of Informal Inquiry/Hearing (Non-Adversarial Procedure)

§519. Informal Inquiry Procedures

A. The licensee shall be given adequate prior notice of the informal inquiry and possible hearing of the issues to be discussed. Adequate notice includes:

1. informing the licensee in writing that a complaint has been filed;
2. a short and plain statement of the nature of the complaint;
3. a reference to the particular sections of the statutes, rules, and/or ethical standards of the board which appear to have been involved;
4. copies of the law and the rules and regulations of the board; and
5. a request for the licensee's cooperation in obtaining a full understanding of the circumstances which led to the allegation.

B. The licensee is requested to provide, within 30 days, a written statement giving the licensee's view of the situation which is the subject of the complaint so that the board may be cognizant of all relevant aspects of the case.

C.1. Evaluating the findings of the informal inquiry. Upon receipt of a reply from the licensee, the board shall review the information and determine if a violation may have occurred, and if so, what standard(s) have been violated.

2. If the determination of the board is that the issues raised by the complainant would constitute a violation of standards, the board shall then determine whether:

- a. further investigation by correspondence is indicated;
- b. further investigation by an informal hearing is indicated; or
- c. institution of formal hearing procedures is indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:327 (April 1984), amended LR 13:345 (June 1987).

§521. Informal Hearing Procedures

A. The board shall conduct informal hearings in executive session in accordance with the following.

1. It is expected that the licensee not have an attorney or other advisors present, although it is his right to do so.
2. Witnesses may be called, but are not placed under oath and no subpoenas are issued.
3. Statements made at the informal hearing may not be introduced at a formal hearing unless all parties consent.
4. No transcript of the informal hearing is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:327 (April 1984), amended LR 13:345 (June 1987).

§523. Evaluating the Findings of the Informal Hearing

A. If the board decides that the subject of the complaint is a violation of the standards, and the disciplinary proceedings are warranted, the board shall then determine whether:

1. the violation merits informal disposition; or
2. a formal hearing will be held.

B. The board, in determining, for informal disposition, shall order actions such as:

1. a settlement between the person making the complaint and the licensee. This settlement shall be written, signed by the licensee and the complainant and submitted to the board within 30 days of the informal hearing; or

2. a consent order describing the disciplinary action which will be taken. A consent order shall be signed by the licensee, the chairman and the vice-chairman of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:327 (April 1984), amended LR 13:345 (June 1987).

§525. Refusal to Respond or Cooperate with the Board

A. If the licensee does not respond to the original inquiry within 30 days, a follow-up letter shall be sent to the licensee by registered mail or certified mail, return receipt requested.

B. If the licensee refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the licensee's failure to cooperate and shall inform the licensee that the lack of cooperation may result in action which could eventually lead to suspension or revocation of license, or other appropriate legal action under the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:328 (April 1984), amended LR 13:345 (June 1987).

§527. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of the public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:328 (April 1984), amended LR 13:345 (June 1987).

§529. Emergency Action Required

A. If, at any point in the informal proceedings described above, the board finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the board is hereby given authority to obtain a restraining order from a judge of the appropriate court to suspend the license pending formal hearing proceedings for revocation of license or other disciplinary action. This formal hearing shall be promptly instituted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:328 (April 1984), amended LR 13:345 (June 1987).

Subchapter D. Conduct of Formal Hearing

§535. Initiating the Process

A. The board initiates a formal hearing by issuing full notice of the hearing. A formal hearing may be the result of a complaint made by any manner specified in the informal procedures.

B. Once full notice of the formal hearing has been served, no board member or officially designated hearing officer may communicate with any party to a formal hearing or to that party's representative concerning any issue of fact or law involved in that formal hearing.

C. Full Notice

1. The written notice shall recite specific acts which the licensee is alleged to have committed and shall assert that those acts violate a statute or rule of the board.

2. Notice shall include:

- a. a statement of the date, time, place and nature of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular sections of the statutes, rules or ethical standards involved;
- d. a short and plain statement of the matters asserted which shall be the subject of the hearing; and
- e. a statement of the rights of the parties.

3. Notice shall be given to all parties 30 days in advance of the proceedings to allow a reasonable opportunity for preparation.

4. The notice shall be delivered by registered or certified mail, return receipt requested. If the licensee cannot be found by this or other reasonable methods, the board may hold a hearing in the licensee's absence.

NOTE: It is the licensee's obligation to keep the board informed of his/her whereabouts.

5. The content of the notice limits the scope of the hearing and of the evidence which may be introduced.

6. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

D. Designation of Hearing Officer

1. The hearing officer is responsible for ensuring that the hearing is orderly and fair and that it progresses in an expeditious manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:328 (April 1984), amended LR 13:345 (June 1987).

Chapter 6. Individuals with Military Training and Military Spouses

§601. Licensure for Individuals with Military Training and for Military Spouses

A. Notwithstanding any other provision of law to the contrary, the board shall issue a license to practice chiropractic to a military trained chiropractor that at the time of application to the board satisfies the following conditions:

1. has completed a military program of training for chiropractic, been awarded a military occupational specialty in chiropractic, and performed in the specialty of chiropractic at a level that is substantially equivalent or which exceeds the requirements for licensure in this state;

2. has engaged in the active practice of chiropractic;

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice chiropractic in this state at the time the act was committed.

B. Notwithstanding any other provision of law, the board shall issue a license to practice chiropractic to a military trained applicant if, upon application to the board, the applicant holds a current license from another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure in this state as set forth in R.S. 37:2805.

C. Notwithstanding any other provision of law, the board shall issue a license to practice chiropractic to a military

spouse to allow the military spouse to lawfully practice chiropractic in the state of Louisiana, if, upon application, the military spouse satisfies all of the following conditions:

1. holds a current license in another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure as set forth in R.S. 37:2805.

2. can demonstrate competency in the occupation through methods as determined by the board, which include:

a. obtaining 18 continuing education units;

b. maintaining a license and active practice in good standing in another jurisdiction for a minimum of two years immediately prior to application with the board.

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice chiropractic in this state at the time the act was committed.

4. is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

D. The board shall issue a temporary permit to a military trained applicant or military spouse applicant while the application for licensure is processed by the board, if the military trained applicant or military spouse applicant is licensed in another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure as set forth in R.S. 37:3805. The military trained applicant or military spouse applicant may practice under the temporary permit until the license is granted by the board or until a notice to deny a license is issued by the board, but at no time shall the temporary permit be issued for more than four months. The military trained applicant or military spouse applicant practicing under the temporary permit must comply with all laws governing the practice of chiropractic in this state.

E. The board shall give priority consideration in processing an application for licensure by an individual possessing a temporary permit under the provisions of this Section.

F. Nothing in this Section shall be construed to prohibit a military trained applicant or military spouse applicant from proceeding under the existing licensure requirements established by the board.

G. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 40:782 (April 2014).

§603. Certification of X-ray Proficiency for Individuals with Military Training and for Military Spouses

A. Notwithstanding any other provision of law to the contrary, the board shall issue a certificate of proficiency in x-ray function to any military-trained chiropractic assistant that at the time of application to the board satisfies the following conditions:

1. has completed a military program in education and training for x-ray function, at a level that is substantially equivalent to or which exceeds the requirements for certification in this state;

2. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a certificate of proficiency in x-ray function in this state at the time the act was committed.

B. Notwithstanding any other provision of law, the board shall issue a certificate of proficiency in x-ray function to a military spouse, if, upon application, the military spouse satisfies all of the following conditions:

1. holds a current certificate of proficiency in x-ray function in another jurisdiction and that jurisdiction's requirements for certification are substantially equivalent to or exceed the requirements for certification as set forth by R.S. 37:2828;

2. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a certificate of proficiency in x-ray function in this state at the time the act was committed;

3. is in good standing and has not been disciplined by the agency that issued the certification.

C. The board shall issue a temporary permit to a military trained applicant or military spouse applicant while the application for certification is processed by the board, if the military trained applicant or military spouse applicant holds a valid certificate in another jurisdiction and that jurisdiction's requirements for certification are substantially equivalent to or exceed the requirements for certification as set forth in this Chapter. The military trained applicant or military spouse may practice under the temporary permit until the certificate is granted by the board or until a notice to deny a certificate is issued by the board, but at no time shall the temporary permit be issued for more than four months. The military-trained applicant or military spouse practicing under the temporary permit must comply with all laws governing the practice of chiropractic in this state.

D. The board shall give priority consideration in processing an application for a certificate of proficiency in x-ray function to an individual possessing a temporary permit under the provisions of this Section.

E. Nothing in this Section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing certification requirements established by the board.

F. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

G. The holder of the x-ray proficiency certificate must register annually with the board on or before July 31. Failure to register with the board on an annual basis shall result in removal of that person's name from the board's list of x-ray proficiency certificate holders.

H. Any application for certification must be accompanied with payment of the fee fixed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804 and R.S. 3650.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 40:782 (April 2014).

Chapter 7. Peer Review Committee

§701. Purpose and Composition of Committee

A. Area Covered—state of Louisiana.

B. Structure. The peer review committee shall function under the Board of Chiropractic Examiners, a state agency created and empowered by the legislature to license and regulate the practice of chiropractic in Louisiana in accordance with R.S. 37:2801 et seq., R.S. 37:1734 and R.S. 49:950 et seq.

C. Purpose. The purpose of the committee is to review, upon request of any party involved including the chiropractic physician himself, any matter relative to the appropriateness of care rendered by any doctor of chiropractic licensed to practice and practicing in the state of Louisiana, as well as, substance abuse impairments.

D.1. Composition of Committee. The committee shall be comprised of five doctors of chiropractic currently licensed by the state of Louisiana and practicing within the state of Louisiana, and appointed by the Louisiana Board of Examiners.

2. All chiropractors chosen to serve on the committee shall attend a peer review school. In that the Board of Examiners will be administering and functioning as an appeals option, its members shall also attend the peer review school. The Board of Examiners shall bear the cost of this special training.

E. Per Diem/Expenses. Committee will be afforded a per diem payment and reimbursement for reasonable expenses incurred as a result of attending review meetings. Per diem shall not exceed \$50 per day plus mileage at the current state rate, all as required by and set forth in R.S. 37:2802.F. Members will be reimbursed only from review fees collected.

F. Who May Submit Claims. Chiropractic physicians, an impaired chiropractic physician requesting his own admittance for review through the substance abuse policy, an interested third party reporting an impaired chiropractic physician, third party reimbursement organizations, patients, professional standards review organizations, health maintenance organizations may request a review if they are

directly involved in the claim by the fact of being the patient treated, the doctor administering or receiving payment for treatment or the third-party contracting to pay the claim. This shall also include an impaired chiropractic physician requesting his own admittance for review through the substance abuse policy.

G.1. All costs of administrating this program will be borne by the peer review committee out of the fees charged.

2. Any party making a peer review request will be charged a fee to cover the administrative costs of performing the review. The fee will be commensurate with the administrative costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 22:192 (March 1996), LR 32:1223 (July 2006).

§702. Guidelines

A. For the purpose of claims review, this board authorizes the use of the Chiropractic Manual, 2nd Edition, as a reference for assessing the appropriateness of chiropractic health care. Recognizing that it is impossible to set forth specific parameters of care appropriate for each individual case, the board intends this manual to serve only as a general guide for standards of care within the chiropractic profession. Specifically, these guidelines are not meant to provide absolute "cut-off" points for treatment. In assessing appropriateness of care, it is imperative that the reviewer remain sensitive to the normal variants in a chiropractic practice and the necessity for treatment tailored to the specific needs of each individual patient. The level and frequency of treatment implemented should be in accordance with the physical and analytical findings substantiated by the appropriate reports and diagnostic information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 17:968 (October 1991), repromulgated LR 32:1224 (July 2006).

§703. Procedure for Review (Except Those Concerning the Impaired Chiropractic Substance Abuse Recovery Program)

A. All reviews will be blind reviews. The identity of the patient and treating physician will be unknown to the committee.

B. The review will be conducted upon request by any party as defined in §701.F. Participation will be made available to non-requesting party or parties. Participation by the non-requesting party or parties is not mandatory.

C. No requests for review shall be assessed or actual reviews conducted by the committee unless a quorum is present and participating. Three of the five members shall constitute a quorum.

D. A member of the Board of Examiners appointed for a one-year term by the board shall serve as chairman of the peer

review committee and have voting power only in the case of a tie. The board member shall review all final decisions of the peer review committee to insure proper procedure has been followed in the review process.

1. If the board member determines that proper procedure has been followed then the recommendation of the peer review committee stands and any party to the review shall have the appeal options set out in Subsection E. The board member who serves as chairman of the peer review committee shall be recused in the case of appeal to the board.

2. If the board member determines that proper procedure has not been followed, he shall state the violation of procedure in writing and submit same to the peer review committee at which point the case will be reconsidered by the committee.

E. Appeals Process. An appeal of any decision rendered by the peer review committee shall, at the option of the person appealing, either be:

1. submitted to the members of Board of Examiners for review:

a. any person aggrieved by a decision of the peer review committee shall submit to the board within 10 days of receipt of notice of the ruling of the peer review committee a notice of intent to appeal. All notices shall be forwarded via certified mail;

b. upon receipt of the notice of appeal, the board shall notify the opposing party of appeal and schedule a hearing date;

c. the peer review committee will then transfer the record to the board;

d. the appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing;

e. the parties may present oral argument to the board at the appeal hearing. Each party will be allowed 20 minutes;

f. the decision of the Board of Chiropractic Examiners shall be final;

2. placed in binding arbitration:

a. arbitration shall be conducted by a committee of three chiropractors; one chosen by the treating chiropractor, one by the insurer, patient, or whoever constitutes the opposite party in dispute, and the third chiropractor chosen by the originally selected two. If no agreement can be reached by the original two chiropractors as to the third, within 10 days of their appointment, the board of examiners shall appoint the third chiropractor within 30 days of receiving notice of such lack of agreement. All parties involved shall agree in advance to abide by the decision of the arbitration committee;

b. the aggrieved party shall notify the board of his intent to appeal by binding arbitration within 10 days of receipt of notice of the ruling of the peer review committee. All notices shall be forwarded via certified mail;

c. the board will schedule the appointment of arbitrators giving the appealing and opposing parties 25 days to select an arbitrator, then giving the two arbitrators an additional 10 days to select the third arbitrator;

d. the arbitration panel will schedule a hearing within 60 days of the formation of the panel;

e. the peer review committee will forward the record to the arbitration committee;

f. the appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing;

g. the parties may present oral argument to the arbitration committee at the appeal hearing. Each party will be allowed 20 minutes;

h. the decisions of the arbitration panel shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 17:968 (October 1991), LR 22:193 (March 1996), LR 32:1224 (July 2006).

§704. Procedure for Review of Substance Abuse Policy

A. The purpose of this policy is to limit alcohol abuse and illegal use of other drugs that are associated with the numerous health, safety, and social problems. The performance of chiropractors may be adversely affected by engaging in substance abuse. This policy, including the prohibitions and provisions therein, will be used to promote and safeguard the public from the consequences of alcohol and drug abuse of the chiropractic profession.

B. The peer review committee may permit an applicant or licensee to actively participate in the Impaired Chiropractic Substance Abuse Recovery Program if:

1. the peer review committee has evidence that the applicant or licensee is impaired, which includes substance abuse;

2. the applicant or licensee has not been convicted of a felony relating to substance abuse, which includes alcohol or drug abuse, in a court of law of the United States or a court of law of any state or territory, or another country;

3. the applicant or licensee enters into a written consent order with the peer review committee for a license with appropriate restrictions and he timely complies with all the terms of the consent order, including making satisfactory progress in the program and adhering to any limitations on the licensee's practice imposed by the peer review committee to protect the public; and

4. as part of the consent order, the applicant or licensee shall sign a waiver allowing the substance abuse program to release information to the peer review committee if the applicant or licensee does not comply with the requirements of the consent order or the program or is unable to practice or work with reasonable skill or safety.

C. Failure to enter into a consent order pursuant to this rule shall precipitate the board's right to pursue formal disciplinary action against the applicant or licensee which may result in denial, suspension, or revocation of a license to practice chiropractic after due notice and hearing.

D. Failure to comply with the requirements of the consent order or the substance abuse program or the inability to practice or work with reasonable skill or safety shall result in denial, suspension, or revocation of a license to practice chiropractic after due notice and hearing.

E. The applicant or licensee shall be responsible for any costs associated with the consent order and/or the substance abuse program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 32:1225 (July 2006).

§705. Impaired Chiropractic Substance Abuse Recovery Program

A. Medical Evaluation. Participant will, at participant's expense, within seven days of agreeing to enroll in the Impaired Chiropractic Substance Abuse Recovery Program (the Program), or as otherwise specified in the program specifications in Subsections J and K, enter into an inpatient treatment facility (the "Primary Treatment Facility") approved by the peer review committee, as designated in the program specifications, for inpatient assessment and diagnostic evaluation. The program shall be managed under the authority of the peer review committee.

B. Initial Primary Treatment. (Defined as the initial treatment following the evaluation, whether it is inpatient, partial, outpatient or residential). If, upon such medical evaluation participant is diagnosed to be suffering from chemical dependency, substance abuse, or other condition which may impair the participant's capacity to practice chiropractic with reasonable skill and safety to patients, participant will immediately submit to such inpatient evaluation and treatment and/or continuing outpatient treatment and aftercare thereafter as may be prescribed or recommended by addictionologist and treatment team at the primary treatment facility for not less than the treatment period specified in the treatment plan. The peer review committee reserves the right to obtain further evaluations from other medical professionals to ensure public safety. Within 48 hours of participant's discharge from primary treatment, participant shall give telephonic notice of such discharge to the program.

C. Continuing Treatment and Aftercare. Participant shall confirm discharge in writing to the peer review committee within five days of discharge from treatment. Such written notice shall be accompanied by a copy of the discharge treatment plan or contract prescribed or recommended by the treatment program for participant's continuing outpatient care and aftercare and a designation of the name, address and telephone number of participant's primary treating physician for outpatient care and aftercare, which physician shall be knowledgeable in the treatment of chemical dependency. The

terms and conditions of any such treatment plan or contract shall be incorporated into, and deemed incorporated in, the program specifications, and any such continuing outpatient care and aftercare program shall continue in effect for not less than one year from the date of participant's discharge from primary treatment or for such other period as may be specified in the treatment plan. The participant will attend weekly continuing care (aftercare) at the program-approved treatment center specified in the treatment plan. If continuing therapy is recommended, therapist must be approved in advance by the peer review committee.

D. Attendance at AA/NA Meetings. Following discharge from primary inpatient treatment, or concurrent with outpatient treatment, participant will attend Alcoholics Anonymous ("AA") and/or Narcotics Anonymous ("NA") meetings at such location and at such frequency as specified in the program specifications. Within two weeks of discharge from primary inpatient evaluation treatment, or as specified by treatment team, participant will give notice to the peer review committee upon obtaining AA and/or NA sponsor(s), which will thereupon be incorporated in the program specifications. The participant will maintain contact with participant's AA and/or NA sponsor(s) a minimum of once per week. The peer review committee may request reports from the sponsor. Participant shall submit monthly verification of participant's attendance at AA/NA meetings, aftercare and facilitated meetings of the participant.

E. Random Drug Screens. Participant must agree that, during the term of this agreement, participant shall be subject and shall voluntarily submit to supervised random drug screens, inclusive of bodily fluids, breath analysis, hair analysis, or any other procedure as may be directed by the program. Random drug screens will be at least monthly during the first 18 months following discharge from inpatient treatment. At that time, participant and compliance will be evaluated for possible bi-monthly testing. The results of any such testing will be reported directly to the peer review committee. Any and all such testing shall be performed at participant's expense.

F. Employment; Employer's Agreement. The participant will not return to professional employment, on a full-time or part-time basis, until and unless participant's addictionologist at the primary treatment facility advises participant and the peer review committee in writing that, in their professional opinion, the participant's prognosis for continued recovery is good and that participant is capable of practicing chiropractic with reasonable skill and safety to patients. The treating addictionologist must complete and return the Fitness for Duty Form. Participant must have approval from the peer review committee and all employment process must be completed prior to returning to work. Before accepting or engaging in chiropractic practice of any kind, whether as an employee or independent contractor and whether on a full-time or part-time basis, the participant will enter into an agreement with each and any such employer or contractor, in the form and substance prescribed by the peer review committee.

G. Information and Reports. During the term of agreement, the participant will authorize, consent to and cause the following information, reports and notices to be given to the peer review committee, as indicated.

1. Consent to Release of Medical Information. The participant will execute a written authorization and consent for the disclosure to the peer review committee and its representatives of the records, information and opinions of the primary treatment facility, participant's attending physician and counselors at such facility relative to the participant's diagnosis, course of treatment, prognosis, and fitness and ability to practice chiropractic with reasonable skill and safety to patients.

2. Primary Treatment Facility Records. Participant shall authorize physicians and counselors at primary treatment facility to furnish the peer review committee with a written report on participant's diagnosis, course of treatment at the facility, prescribed or recommended care and aftercare, fitness for duty form, and prognosis. Such records should be furnished to the peer review committee within 20 days of discharge.

3. Primary Treatment Physician Records. Participant will authorize and cause participant's primary treating physician to furnish the peer review committee, not less frequently than quarterly during the term of this agreement, with written report on participant's diagnosis, course of treatment and prognosis for continuing recovery.

4. Contact with, Reports to Program. The participant shall keep the peer review committee advised of the participant's current address and employment addresses and telephone numbers, the nature of participant's employment, and participant's course of continuing recovery. The participant shall notify the peer review committee within 24 hours of any change in participant's residence address or employment status or location, and shall furnish written notice of any such change to the peer review committee within five days of any such change.

5. Verification of attendance at AA/NA, aftercare and facilitated meeting shall be submitted on a calendar monthly. Meeting attendance should be verified by initials and calendar received by the peer review committee no later than the tenth of the month.

6. Counselor Progress Reports. Participant will authorize and cause participant's counselor(s) at the aftercare treatment center designated in the treatment plan to furnish the peer review committee with written reports on participant's progress. Such reports shall be submitted monthly for 12 months following participant's discharge from treatment or for the length of aftercare treatment if more than 12 months.

7. Other forms and records deemed necessary by the peer review committee to fulfill the program will be forwarded to peer review committee.

H. Misconduct. The participant shall not have any misconduct, criminal convictions, or violations of any health care regulations reported to the peer review committee related

to this or any other incidents. Any such misconduct, criminal convictions or violations will result in immediate suspension of license.

I. Maintenance of Abstinence. The participant shall maintain complete and total abstinence from the use of controlled substances, alcohol or any other mood-altering, addictive or dependency inducing substance except as may be prescribed for a bona fide medical condition by a treating physician who is knowledgeable in, and aware of participant's treatment for, chemical dependency. A physician's statement describing the medical condition including medications administered and/or a copy of the prescription for medications obtained for self-administration shall be forwarded immediately and not later than five days after medication is prescribed.

J. Program Specifications

1. The participant shall enter a treatment facility for chemical dependency upon the approval of the peer review committee.

2. The participant shall follow all treatment, continuing care or aftercare recommendations as prescribed in Subsections A-G.

3. Additional Program Specifications will be outlined and delineated following discharge from treatment and prior to re-entry to practice.

K. Post Program Specifications

1. The participant shall attend AA/NA meetings/week as outlined under Subsections A and D. The participant attendance verification shall be forwarded to the peer review committee monthly.

2. The participant shall insure aftercare reports and all reports outlined under Subsection H are forwarded to the peer review committee monthly. The participant shall have the peer review committee's approval for therapist prior to engaging in recommended therapy.

3. The participant shall submit to random supervised drug screens as described under Subsection F and also when there is cause to question abstinence.

L. Confidential. Except as authorized by the participant's response to inquiry by the chiropractic licensing authority of another state or by an employer by which the participant is employed or to which the participant has applied for employment, or pursuant to the rules of order of the court of competent jurisdiction, the records, files and information of the program relative to the participant shall be maintained in confidence and not disclosed to any other person, firm, or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.G.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 32:1225 (July 2006).

Chapter 9. Illegal Payments; Required Disclosure of Financial Interests

Subchapter A. General Provisions

§901. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a chiropractic physician's financial interest in another health care provider to whom or to which the chiropractic physician refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Chiropractic physicians owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, prescribing, recommending, or referring patients for health care items and services, without regard to personal financial recompense. The purpose of these rules and the laws they implement is to prevent payments by or to a chiropractic physician as a financial incentive for the referral of patients to a chiropractic physician or other health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:193 (March 1996).

§903. Definitions and Construction

A. Definitions. As used in this Chapter:

Board—the Board of Chiropractic Examiners.

Chiropractic Physician—a doctor of chiropractic pursuant to R.S. 37:2801 et seq.

Financial Interest—an ownership or investment interest established through debt, equity or other means and held, directly or indirectly, by a chiropractic physician or a member of the chiropractic physician's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice—a group of two or more chiropractic physicians or other health care providers legally organized as a general partnership, registered limited liability partnership, professional corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each chiropractic physician who is a member of the group provides substantially the full range of services which the chiropractic physician routinely provides, including consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel;

b. for which substantially all of the services of the chiropractic physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined; and

d. in which no chiropractic physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the chiropractic physician, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such chiropractic physician.

Health Care Item—any substance, product, device, equipment, supplies or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider—any person licensed by a department, board, commission or other agency of the state of Louisiana to provide, or which does in fact provide, preventive, diagnostic, or therapeutic health care services or items.

Immediate Family—as respects a chiropractic physician, the chiropractic physician's spouse, children, parents and siblings.

Investment Interest—a security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership, bonds, debentures, notes, or other debt instruments.

Payments—the tender, transfer, distribution, exchange or provision of money, goods, services, or anything of economic value.

Person—a natural person or a partnership, corporation, organization, association, facility, institution, or any governmental subdivision, department, board, commission or other entity.

Remuneration for Referral—any arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a chiropractic physician, or an immediate family member of such a chiropractic physician, and other health care provider which is intended to induce referrals by the chiropractic physician to the health care provider or by the health care provider to the chiropractic physician, other than any amount paid by an employer to an employee who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

B. Construction. Masculine terms whatsoever used in this Chapter shall be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:193 (March 1996).

Subchapter B. Illegal Payments

§905. Prohibition of Payments for Referrals

A. A chiropractic physician shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the chiropractic physician for the furnishing or arranging for the furnishing of any health care item or service.

B. A chiropractic physician shall not knowingly and willfully solicit, receive or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:194 (March 1996).

§907. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745.B or by §905 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate

business for the entity if the investor uses any part of such loan to obtain the investment interest.

B. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the act, including those payments and practices sanctioned by the Secretary of the United States Department of Health and Human Services, through the Office of the Inspector General, pursuant to §1128B(b)(3)(E) of the act, through regulations promulgated at 42 C.F.R. §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745.B or by §905 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:194 (March 1996).

§909. Effect of Violation

A. Any violation of or failure of compliance with the prohibitions and provisions of §905 shall be deemed a violation of the Chiropractic Practice Act, R.S. 37:2801 et seq., as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a chiropractic physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:194 (March 1996).

Subchapter C. Disclosure of Financial Interests in Third-Party Health Care Providers

§911. Required Disclosure of Financial Interest

A. Mandatory Disclosure. A chiropractic physician shall not make any referral of a patient outside the chiropractic physician's group practice for the provision of health care items or services by another health care provider in which the referring chiropractic physician has a financial interest (as defined by §903.A), unless, in advance of any referral, the referring chiropractic physician discloses to the patient, in accordance with §915, the existence and nature of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:194 (March 1996).

§913. Prohibited Arrangements

A. Any arrangement or scheme, including cross-referral arrangements, which a chiropractic physician knows or

should know has a principal purpose of ensuring or inducing referrals by the chiropractic physician to another health care provider, which, if made directly by the chiropractic physician would be a violation of §911, shall constitute a violation of §911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:195 (March 1996).

§915. Form of Disclosure

A. Required Contents. The disclosure required by §911 shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making referral, and shall include:

1. the chiropractic physician's name, address and telephone number;
2. the name and address of the health care provider to whom the patient is being referred by the chiropractic physician;
3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and
4. the existence and nature of the chiropractic physician's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §911 may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of the Disclosure of Financial Interest Form, which may be obtained from the Board of Examiners, shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:195 (March 1996).

§917. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of or failure of compliance with the prohibitions and provisions of §911 shall be deemed a violation of the Chiropractic Practice Act, R.S. 37:2801 et seq., as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a chiropractic physician culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by §917, upon proof of violation of §911 by a chiropractic physician, the board may order that all or any portion of any amounts paid by a patient, for health care items or services furnished upon a referral by the chiropractic physician in violation of §911, be refunded by the chiropractic physician to such patient and/or third-party payor, together

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with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third-party payors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:195 (March 1996).