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CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

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NOTICE OF PUBLIC HEARING TO ADOPT REGULATIONS

**Notice of Hearing for the Adoption of Regulations of the
Chiropractic Physicians' Board of Nevada**

The Chiropractic Physicians' Board of Nevada will hold a public hearing at 9:00 a.m. on Saturday, September 11, 2010 in the Reno Meeting Room on the Second Floor of the Residence Inn Las Vegas Convention Center, 3225 Paradise Road, Las Vegas, Nevada 89109. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 634 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment. The proposed new regulation will revise Chapter 634 of the Nevada Administrative Code to address the following:

NAC 634.305 Examination for certification as chiropractor's assistant

NAC 634.368 Practice by applicant waiting to take examination

NAC 634.385 Continuing education of licensees

NAC 634.435 Health care records

NAC 634.556 Advertisement of fees

NAC 634.630 Pleadings: Generally

Repeal of NAC 634.655 Depositions

The need for these amendments and the one repeal are as follows:

NAC 634.305 Examination for certification as chiropractor's assistant: It is a public safety concern that some chiropractor's assistant applicants have taken the chiropractic assistant test multiple times without passing the test yet, under the present regulation, they may continue performing chiropractor's assistant services as a trainee. It is proposed that, upon failing the test twice, the chiropractor's assistant applicant will be required to take a formal course. If the applicant fails to pass the test after two additional attempts, he/she would be precluded from performing chiropractor's assistant work or training for one year.

NAC 634.368 Practice by applicant waiting to take examination: Currently chiropractic college graduates who wish to gain clinical experience in Nevada must apply for certification as Chiropractor's Assistants and are limited to performing x-ray and physiotherapy. Allowing them to provide all chiropractic services except chiropractic adjustments or manipulations under the direct supervision of a licensee will enhance their practical experience as well as provide assistance to the licensee.

NAC 634.385 Continuing education of licensees: There currently is no provision that prevents a licensee from receiving credit for attending the same exact seminar several times during a renewal period. As evidenced by the violations that are occurring, there is a need for licensees to receive education in insurance billing and coding. Acceptance of continuing education credits for attendance by Nevada licensees at the Federation of Chiropractic Licensing Boards PACE accredited seminars will simplify and expedite the board's continuing education approval process.

NAC 634.435 Health care records: It has been determined that patient records are not always generated and available in a timely manner and are occasionally illegible to anyone but the Doctor. It is proposed that patient records must be updated within 72 hours of a patient's visit and available in legible written form upon request within 10 working days.

NAC 634.556 Advertisement of fees: The existing regulation, which was an attempt at "truth in advertising", has caused considerable confusion and unintended consequences, and appears to be defective. Removal of the regulation will resolve this problem.

NAC 634.630 Pleadings: Generally: Changing the word "complaint" to "notice of charges" will eliminate the confusion about complaints received from the public and the document by which the Board initiates disciplinary action. Enabling the grouping of similar violations into one cause of action will simplify and expedite the disciplinary process.

NAC 634.655 Depositions: Repeal of this regulation will expedite the disciplinary process.

2. A statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

Copies of the text of the proposed regulation may be obtained from the Board by:

E-mail addressed to: chirobd@chirobd.nv.gov

Telephone call to: (775) 688-1921

Facsimile request to: (775) 688-1920

U.S. Mail request to: Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Building M, Suite 245, Reno, Nevada 89502

Website access at: chirobd.nv.gov

3. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608. The Board has held two workshops regarding the regulations at which it has received considerable input from effected practitioners and the state's association that represents chiropractors statewide. In the course of these workshops, the Board has received no testimony or evidence that the regulations will have impose a direct and significant economic burden upon a small business or will directly restrict the formation, operation or expansion of a small business. Rather, several of the regulations are intended to and will have beneficial effects upon the state's chiropractors by authorizing chiropractic preceptorships and modifying registration requirements for chiropractor's assistants.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:

(a) Both adverse and beneficial effects. Most of the amendments and the one repeal will have no economic effect. The changes to the registration criteria for chiropractor's assistants and chiropractic preceptorships may have a positive effect by allowing both registration classifications to work in Nevada while attempting to complete registration requirements.

(b) Both immediate and long-term effects. Whatever positive effect the regulations may have will be both immediate and long-term.

5. The estimated cost to the agency for enforcement of the proposed regulation.
None.

6. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency. None.

7. If the regulation is required pursuant to federal law, a citation and description of the federal law. None.

8. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions. None.

9. Whether the proposed regulation establishes a new fee or increases an existing fee. None.

Persons wishing to comment upon the proposed action of the Chiropractic Physicians' Board of Nevada may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Building M, Suite 245, Reno, Nevada 89502. Written submissions must be received by the Chiropractic Physicians' Board of Nevada on or before September 2, 2010. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Chiropractic Physicians' Board of Nevada may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the office of the Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Building M, Suite 245, Reno, Nevada 89502, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

A copy of this notice has been posted at the following locations:

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

Copies may also be obtained from any of the public libraries listed below:

Carson City Library
900 North Roop St.
Carson City, NV 89702

Churchill County Library
553 South Main St.
Fallon, NV 89406

Clark County District Library
833 Las Vegas Blvd. North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court St.
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th St.
Goldfield, NV 89013-0484

Eureka Branch Library
210 S. Monroe St.
Eureka, NV 89316-0281

Henderson District Public Library
280 S. Water St.
Henderson, NV 89105

Humboldt County Library
85 East 5th St.
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad St.
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine St.
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st St.
Hawthorne, NV 89415-1390

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Tonopah Public Library
167 Central St.
Tonopah, NV 89049-0449

White Pine County Library
950 Campton St.
Ely, NV 89301-1965

Pahrump Library District
701 East St.
Pahrump, NV 89041-0578

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Washoe County Library
301 S. Center St.
Reno, NV 89505-2151

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

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

LCB File No. R014-10

August 11, 2010

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

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

A REGULATION relating to chiropractic; revising provisions relating to chiropractor's assistant trainees; revising provisions relating to continuing education of licensees; revising provisions relating to health care records; revising provisions relating to advertisement of fees; and providing other matters properly relating thereto.

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

- 634.305 1. At least once each year, the Board will administer an examination to applicants for a certificate as a chiropractor's assistant.
2. The examination will consist of the following subjects, including, without limitation:
- (a) Radiographic technology, protection, quality control and positioning of the patient;
 - (b) Ancillary procedures and applications relating to chiropractic; and
 - (c) The provisions of NRS and NAC that are related to the practice of chiropractic.
3. An applicant who receives a score of at least 75 percent on the examination is entitled to a certificate as a chiropractor's assistant.

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

- (a) *Shall not work as a chiropractor's assistant trainee; and*
- (b) *May not submit a new application for examination for 1 year after the date of the most recent examination of which the chiropractor's assistant trainee failed to pass a portion.*

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

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

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

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

Sec. 2. NAC 634.385 is hereby amended to read as follows:

634.385 1. Except as otherwise provided in subsection [6.] 7, the Board may approve or endorse an educational class or a seminar if it is designed to advance the professional skills and

(f) An original or a copy of a certificate of attendance at the seminar or seminars is provided directly to the Board by the sponsor or licensee on or before January 1 of each odd-numbered year before the issuance of a renewal certificate.

3. *As an alternative to the method of approval and endorsement provided in subsection 2, the Board may approve or endorse the attendance of licensees at an educational seminar or seminars, or the participation of licensees in an online educational seminar or seminars if, before the presentation of the seminar or seminars:*

(a) *The seminar or seminars have been granted recognition status by the Providers of Approved Continuing Education of the Federation of Chiropractic Licensing Boards ;*

(b) *The sponsor of the seminar or seminars notifies the Board of the proposed seminar or seminars on a form to be provided by the Board; and*

(c) *The sponsor of the seminar pays the required fee for a review by the Board of a course offered by a chiropractic school or college or a course of continuing education in chiropractic.*

4. The sponsor of the seminar or seminars shall ensure that each licensee attending that seminar is in attendance in a timely manner at the start of each lecture. If the sponsor fails to maintain the proper monitoring procedure, such failure may constitute grounds for the Board to withdraw its approval of a current or future seminar or seminars hosted or arranged by that sponsor.

[4.] 5. The sponsor of a seminar shall allow any representative of the Board to attend all or part of the seminar in order to monitor the content of the course or lecture and the procedures for taking attendance. A representative who is taking the seminar to satisfy the requirements of subsection 3 of NRS 634.130 shall pay the full registration fee.

~~(c)~~ (d) Contain the following information:

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

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

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

(I) Examinations and the results of those examinations;

(II) Diagnoses;

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

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

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

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

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

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

(b) Inform the Board, in writing, of the physical location of those records within 15 days after the change in ownership of the practice.

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

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

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

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

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

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

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

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

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