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CHIROPRACTIC PHYSICIAN'S BOARD OF NEVADA

4600 Kietzke Lane, M-245 | Reno, Nevada 89502-5000
Phone: (775) 688-1921 | Fax: (775) 688-1920
Website: <http://chirobd.nv.gov> | Email: chirobd@chirobd.nv.gov

NOTE: ALL AGENDA ITEMS ARE FOR DISCUSSION AND FOR POSSIBLE ACTION UNLESS OTHERWISE NOTED. AGENDA ITEMS MAY BE TAKEN OUT OF ORDER, COMBINED FOR CONSIDERATION BY THE BOARD, OR PULLED OR REMOVED FROM THE AGENDA AT ANY TIME.

NOTICE OF WORKSHOPS FOR THE ADOPTION OF REGULATIONS OF THE CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

NOTICE IS HEREBY GIVEN that the Chiropractic Physicians' Board of Nevada will hold public workshops at **9:00 a.m. on Thursday, November 2, 2023 at the Fairfield Inn & Suites, Mohave Room, 355 E. Warm Springs Road, Las Vegas, NV 89119.** The purpose of the workshops is to receive comments from all interested persons regarding the potential adoption of regulations that pertain to chapter 634 of the Nevada Administrative Code.

The purpose of the proposed sets of regulations will make various revisions to Chapter 634 of the Nevada Administrative Code. A copy of the proposed sets of regulations is attached to this Notice.

Persons wishing to comment upon the proposed action of the Chiropractic Physicians' Board of Nevada may appear at the scheduled public workshops or may address their comments, data, views, or arguments, in written form, to Julie Strandberg, Executive Director, 4600 Kietzke Lane, Suite M245, Reno, NV 89502. Written submissions must be received by the Chiropractic Physicians' Board of Nevada on or before, Wednesday, October 18, 2023. 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.

Members of the public who require special accommodations or assistance at the workshop are required to notify Julie Strandberg, Executive Director, in writing at the Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Suite M245, Reno, Nevada 89502, Telephone: 775-688-1923, no later than October 27, 2023.

A copy of this notice and the regulations 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 Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Suite M245, Reno, NV 89502.

This notice and the text of the proposed regulations 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 regulations, 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.

The notice of workshops has been posted at the following locations:

Chiropractic Physicians' Board of Nevada Website: <https://chirobd.nv.gov>

Nevada Public Notice Website: <https://Notice.nv.gov>

Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Suite M245, Reno, Nevada 89502

Office of the Attorney General, 100 N. Carson St., Carson City, NV 89701

Office of the Attorney General, Grant Sawyer Bldg., 555 E. Washington Ave., Las Vegas, NV 89101

State Library and Archives, 100 N. Stewart Street, Carson City, NV 89701

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SMALL BUSINESS IMPACT STATEMENT REGARDING A REGULATION PROPOSED BY THE CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

Pursuant to NRS 233B.0608(1), the Chiropractic Physicians' Board of Nevada is required to make a determination whether its proposed regulation, will: (a) impose a direct and significant economic burden upon small business, and (b) directly restrict the formation, operation, or expansion of small business. NRS 233B.0382 defines a small business to be any business that employees 150 or fewer employees. All of Nevada's chiropractic practices would be considered small businesses.

Pursuant to NRS 233B.0609, the Board provides the following information:

(1) A Description of the Manner in Which Comment Was Solicited from Affected Small Businesses, a Summary of Their Responses, and an Explanation of the Manner in Which Other Interested Persons May Obtain a Copy of the Summary.

These regulations were promulgated in response to the Governor's Emergency Orders requesting that the Chiropractic Physicians' Board streamline, clarify, or reduce its existing regulations. The Chiropractic Physicians' Board discussed these regulations at a meeting held on March 10, 2023.

(2) The Manner in Which the Analysis Was Conducted.

Upon receipt of the Governor's Executive Orders, staff analyzed the regulations found in NAC chapter 634 with the intent of streamlining, clarifying, or reducing its existing regulations. The goal is to reduce impacts on small businesses.

(3) The Estimated Economic Effect of the Proposed Regulation on the Small Businesses Which It Is to Regulate, Including, Without Limitation:

(a) Both the Adverse and Beneficial Effects; and

- (1) Adverse: This regulation will have no adverse effects on Nevada small businesses.
- (2) Beneficial: This regulation will be beneficial to small businesses in the streamlining, clarifying, and reduction of the existing regulations.

(b) Both Direct and Indirect Effects

- (1) Direct: These regulations will be a direct effect on chiropractic physicians' and chiropractic assistants, when regulations are streamlined, clarified or reduced.
- (2) Indirect: These regulations will have an indirect effect on chiropractic physicians' and chiropractic assistants, when regulations are streamlined, clarified or reduced.

(4) A Description of the Methods That the Agency Considered to Reduce the Impact of the Proposed Regulation on Small Businesses and a Statement Regarding Whether the Agency Actually Used Any of Those Methods.

Staff discussed the regulations, which could be offered for the purpose of clarifying, reducing, and streamlining.

(5) The Estimated Cost to the Agency for Enforcement of the Proposed Regulation.

The regulation will not create any additional requirements or costs.

(6) If the Proposed Regulation Provides a New Fee or Increases an Existing Fee, the Total Annual Amount the Agency Expects to Collect and the Manner in Which the Money Will Be Used.

The regulation does not propose a new fee and does not increase an existing fee.

(7) If the Proposed Regulation Includes Provisions Which Duplicate or Are More Stringent Than Federal, State or Local Standards Regulating the Same Activity, an Explanation of Why Such Duplicative or More Stringent Provisions Are Necessary.


None of the proposed regulation changes duplicate or are more stringent than any federal, state, or local standards regulating chiropractic.

(8) The Reasons For the Conclusions of the Agency Regarding the Impact of a Regulation on Small Businesses.

These regulations are being offered with the specific intent to reduce any impacts on small businesses. There is nothing provided in this regulation which would negatively impact small businesses in Nevada.

Pursuant to NRS 233B.0608(3) and 233B.0309(2), I hereby certify that to the best of my knowledge or belief, the Board conducted a concerted effort as described above to determine the impact of the proposed regulation on small businesses, namely on chiropractic practices in Nevada, and that the information contained in this statement was prepared properly and contains accurate information regarding all such efforts and the Board's determination based thereon.

Signed and effective this 3rd day of October, 2023.


Julie Strandberg, Executive Director
Chiropractic Physicians' Board of Nevada

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

LCB File No. R*-23**

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

AUTHORITY: NRS 634.030 and 634.014 and NRS 622.530.

CHAPTER 634 - CHIROPRACTIC PHYSICIANS AND CHIROPRACTIC ASSISTANTS

CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

~~— NAC 634.130 Regular meetings. (NRS 634.030, 634.040) Regular meetings of the Board will be held at its principal office or at any other place and time as the Board may specify.
— [Bd. of Chiropractic Exam'rs, Rule of Practice No. 2, § 2.2, eff. 12-8-74]~~

LICENSING AND CERTIFICATION

Examinations

~~— NAC 634.220 Fingerprinting and investigation of applicants. (NRS 634.030, 634.131) Each applicant for examination and each applicant for reinstatement of an expired license to active status pursuant to NRS 634.131 must:
— 1. Submit one set of his or her fingerprints on a standard fingerprint card with his or her application and pay any associated costs; and
— 2. Agree to a background investigation.~~

NAC 634.290 Examinations required for licensure; passing score. (NRS 634.030, 634.070)

1. In addition to the subjects of examination set forth in NRS 634.070, an applicant for a license to practice chiropractic in Nevada, other than an applicant for licensure by endorsement pursuant to NAC 634.363, must pass:

- (a) An examination on the statutes and regulations of this State which are related to the practice of chiropractic, other than those set forth in this chapter and chapter 634 of NRS; and
- (b) Any other subject or examination that the Board determines to be necessary. An examination required by the Board pursuant to this paragraph may include, without limitation, an examination on clinical rationale.

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

NAC 634.300 Examinations for licensure: Period for taking; failure to pass; failure to appear. (NRS 634.030, 634.070)

1. Except as otherwise provided in subsection 2 and NAC 634.215:

- (a) If a person applies for a license to practice chiropractic in Nevada, the application remains open for 1 year after the date of the first examination that the person is eligible to take.

(b) Subject to the limitations set forth in this section, during the period in which an application is open, an applicant may take any required examination at such times as may be allowed by the Board and the testing vendor, if any.

(c) If an applicant does not, on the first attempt, pass an examination that is administered by the Board, the applicant may retake the examination one time without paying an additional fee.

2. If an applicant provides evidence satisfactory to the Board that the applicant failed to appear for an examination because of exceptional circumstances, the Board may:

(a) Allow the applicant to take the next scheduled examination without the payment of an additional fee; and

(b) If necessary, extend the period during which the application is open.

3. If an applicant for a license to practice chiropractic fails on two occasions to pass any portion of the examinations administered pursuant to NRS 634.070, the applicant shall:

(a) Refrain from supervised practice;~~or~~

~~(b) Submit a new application for examination in accordance with NRS 634.080.~~

4. An applicant for a license to practice chiropractic who fails to appear for examination within 1 year after being first qualified therefor:

(a) Shall be deemed to have withdrawn his or her application; and

(b) Forfeits the application fee.

→ If the applicant applies thereafter for a license, he or she must establish eligibility for that license in accordance with the provisions of this chapter and chapter 634 of NRS.

NAC 634.305 Examination for certification as Chiropractic assistant; passing score; failure to pass; failure to appear. (NRS 634.030)

1. At least once each year, the Board will administer an examination to applicants for a certificate as a Chiropractic 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 for a closed-book examination or a score of at least ~~[90]~~ 75 percent for an open-book examination is entitled to a certificate as a Chiropractic assistant.

4. If an applicant fails to receive a score of at least 75 percent for a closed-book examination or a score of at least ~~[90]~~ 75 percent for an open-book examination the first time he or she takes the examination, the applicant may retake the examination ~~[within 1 year]~~ *the next scheduled exam* without payment of an additional fee.

5. If an applicant who receives training and employment as a Chiropractic assistant trainee pursuant to subparagraph (2) of paragraph (a) of subsection 2 of NAC 634.355 fails to receive a score of at least 75 percent for a closed-book examination or a score of at least ~~[90]~~ 75 percent for an open-book examination after two attempts ~~[and wishes to continue working as a Chiropractic assistant trainee, the supervising licensee must, within 30 days after the date of the notice from the Board of the results of the examination, submit a plan for additional training to the Board. The chair of the test committee will:~~

~~—(a) Approve or deny the plan; and~~

~~—(b) Determine whether the Chiropractic assistant trainee may continue working as a Chiropractic assistant trainee.~~

~~—6. If, pursuant to paragraph (b) of subsection 5, the chair of the test committee determines that a Chiropractic assistant trainee may continue working as a Chiropractic assistant trainee, the Chiropractic assistant trainee may continue working as a Chiropractic assistant trainee if he or she:~~

~~—(a) Pursuant to NAC 634.350, submits a new application for a certificate as a Chiropractic assistant and pays the required fee; and~~

~~(b) Provides the chair of the test committee with proof that the Chiropractic assistant trainee is enrolled in an educational course in a subject described in subsection 2.~~

~~— 7. If a Chiropractic assistant trainee who has submitted an application pursuant to paragraph (a) of subsection 6 fails to receive a score of at least 75 percent for a closed-book examination or a score of at least 90 percent for an open-book examination after two attempts,] the Chiropractic assistant trainee shall not work as a Chiropractic assistant trainee until the Chiropractic assistant trainee has received a score of at least 75 percent for a closed-book examination or a score of at least [90] 75 percent for an open-book examination.~~

8. An applicant for a certificate as a Chiropractic assistant who fails ~~[on two occasions]~~ *twice* to appear for an examination that he or she has been scheduled to take:

- (a) Shall be deemed to have withdrawn his or her application;
- (b) Forfeits any application fees paid to the Board; and

(c) Must, if he or she has been receiving training and employment as a Chiropractic assistant trainee pursuant to subparagraph (2) of paragraph (a) of subsection 2 of NAC 634.355, cease working as a Chiropractic assistant trainee.

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

~~[9.—As used in this section, “chair of the test committee” means the member of the Board who is assigned by the Board to serve as the chair of the committee that is created by the Board to administer an examination to applicants for a certificate as a Chiropractic assistant.]~~

~~— NAC 634.311 — Retention and destruction of records. (NRS 634.030)~~

~~— 1. Except as otherwise provided in this section, the Board:~~

~~— (a) May destroy the records of examination for a successful applicant not earlier than 90 days after granting a license to the applicant.~~

~~— (b) Will retain the records of examination for an unsuccessful applicant until the examination has been given two additional times.~~

~~— 2. The Board may extend the period of retention for records of examination for good cause shown.~~

Chiropractic Assistants

NAC 634.355 Certification: Additional requirements; waiver of requirements. (NRS 634.030, 634.123)

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

(a) Is 18 years of age or older; and

(b) Has received a score of at least 75 percent for a closed-book examination or a score of at least [90] 75 percent for an open-book examination administered by the Board on the provisions of NRS and NAC that are related to the practice of chiropractic.

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

(a) Satisfies one of the following:

(1) Has successfully completed an educational program offered by a high school, community college, state university or private post-secondary school that is approved by the Board; or

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

(b) Has received a score of at least 75 percent for a closed-book examination or a score of at least [90] 75 percent for an open-book examination for certification required pursuant to NAC 634.305.

3. Evidence of an applicant's completion of approved training pursuant to subparagraph (2) of paragraph (a) of subsection 2 must consist of a certification by each licensee who supervised the work and training of the applicant.

4. The Board may, at its discretion:

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

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

NAC 634.360 Employment and training as chiropractic assistant trainee. (NRS 634.030, 634.123)

1. A person may not be employed and trained for more than 15 days as a chiropractic assistant trainee for the purposes of satisfying subparagraph (2) of paragraph (a) of subsection 2 of NAC 634.355 unless the person, within the first 15 days during which he or she performs any duties as a chiropractic assistant trainee, applies to the Board by submitting a form provided by the Board.

2. Except as otherwise provided in subsection 3, an applicant for a certificate as a chiropractic assistant who completes training pursuant to subparagraph (2) of paragraph (a) of subsection 2 of NAC 634.355 shall, upon the completion of the training:

(a) Apply to the Board to sit for the next scheduled examination; and

(b) Submit the fees required by the Board pursuant to NAC 634.200.

~~[3.—For good cause shown, the Board may, at its discretion, extend the training period of a chiropractic assistant trainee and authorize the trainee to take a later scheduled examination.]~~

ADVERTISING AND OTHER COMMUNICATIONS

NAC 634.XXX Advertisement of practice. (Merge 634.521, 634.536, 634.550)

1. A licensee shall not advertise in such a manner that the advertising:

(a) Includes any false claim; or

(b) Intended or has a tendency to:

(1) Deceive or mislead the public; or

(2) Create unrealistic expectations in any particular case.

(c) Fails to clearly designate himself or herself as a licensee.

(d) Holds himself or herself out in any advertisement as being:

1. Certified; or

2. An expert or specialist other than an expert witness,

↪ in a field of chiropractic unless he or she is registered with and approved by the Board as holding the applicable professional credentials in that field.

~~—NAC 634.518—Maintenance of documents relating to advertisements. (NRS 634.030)—A licensee shall maintain a copy of all documents relating to his or her advertisements for at least 2 years after the first date that the advertisement is broadcast or disseminated.~~

~~NAC 634.521—False or misleading communications prohibited. (NRS 634.030)—A licensee shall not make any false or misleading communications about himself or herself or his or her services. A communication shall be deemed to be misleading if it contains:~~

~~—1.—A material misrepresentation of fact or law, or omits a fact necessary to make the statement, considered as a whole, not misleading; or~~

~~—2.—A testimonial or endorsement representing that a person is a patient of the licensee made by a person who is not in fact a patient of the licensee.~~

~~—NAC 634.525—Advertisements for electronic media. (NRS 634.030)~~

~~—1.—An advertisement for any electronic media may contain the same factual information and illustrations which are allowed in advertisements for any printed media.~~

~~—2.—A person who appears in an advertisement for any electronic media as a licensee or appears in such a manner as to imply that he or she is a licensee must be:~~

~~—(a) A licensee who holds a license in good standing to practice chiropractic in this State; and~~

~~—(b) The licensee who will provide the services advertised or who is associated with the practice which is advertising the service.~~

~~—3. A person who appears in an advertisement on electronic media as an employee of a licensee or chiropractic practice must be an actual employee of the licensee or chiropractic practice whose services are being advertised, unless the advertisement discloses that such a person is an actor.~~

~~—4. If an actor appears in an advertisement in accordance with this section, the advertisement must disclose that the person is an actor.~~

~~—NAC 634.530—Advertisement of affiliation with provider of health care. (NRS 634.030)—A licensee shall not represent that he or she is affiliated within the same office with a provider of health care who is not licensed pursuant to chapter 634 of NRS unless that provider of health care spends at least 20 percent of his or her time in the licensee's office.~~

~~NAC 634.536—Designation as licensee. (NRS 634.018, 634.030)—The failure of a licensee in any advertising to clearly designate himself or herself as a licensee shall be deemed to be false and misleading for the purposes of subsection 4 of NRS 634.018.~~

~~—NAC 634.541—Inclusion of name of licensee, referral bureau responsible for content or telephone number and Internet address of licensee. (NRS 634.030)—All advertisements and written communication must include the:~~

~~—1. Name of at least one licensee;~~

~~—2. Name of a referral bureau for licensees that is responsible for the content of the advertisement or communication; or~~

~~—3. Telephone number and Internet address of the website that identifies at least one licensee.~~

~~—NAC 634.545—Advertisement of affiliation with research project. (NRS 634.018, 634.030)—If a licensee advertises any affiliation with a research project, he or she must make a written statement of the objectives, cost and budget of the project and the persons conducting the research available on request to the Board, to scientific organizations and to the general public. Any willful failure to comply with the requirements of this section shall be deemed to be false and deceptive advertising for the purposes of subsection 4 of NRS 634.018.~~

~~NAC 634.550—Advertisement as expert or specialist. (NRS 634.030)—Except as otherwise provided in NAC 634.515 to 634.565, inclusive, a licensee shall not hold himself or herself out in any advertisement as being:~~

~~—1. Certified; or~~

~~—2. An expert or specialist other than an expert witness;~~

~~↳ in a field of chiropractic unless he or she is registered with and approved by the Board as holding the applicable professional credentials in that field.~~

~~—NAC 634.556—Advertisement of fees. (NRS 634.030)~~

~~—1. Except as otherwise provided in this section, a licensee who advertises a specific fee or range of fees shall honor the advertised fee or range of fees for at least 90 days after the last date that the advertisement is broadcast or disseminated, unless the advertisement specifies a shorter period. If a specific fee or range of fees is advertised in a telephone directory or other type of media which is not published more frequently than annually, the licensee shall honor that fee or range of fees for at least 1 year after the publication of the telephone directory or other type of media.~~

~~—2. If an advertisement states that a chiropractic service is being offered free of charge or at a discounted rate:~~

~~—(a) The service must be provided at the advertised rate regardless of whether the service is to be paid for by the patient or a third party, such as an insurer.~~

- ~~—(b) The licensee who advertises the service shall ensure that:~~
- ~~—(1) A patient to whom the service is provided receives and signs a statement of disclosure which sets forth:~~
- ~~—(I) A detailed description of the service that will be provided free of charge or at a discounted rate.~~
- ~~—(II) The amount that will be charged for any additional services that will be provided.~~
- ~~—(III) If the offer to provide a service free of charge or at a discounted rate is valid for a limited time, the date on which that offer will end.~~
- ~~—(2) A statement of disclosure that is required pursuant to subparagraph (1) is placed and maintained in the record of a patient to whom a service is provided free of charge or at a discounted rate.~~
- ~~—3. If a licensee provides diagnostic services, including, without limitation, examinations and radiographs, free of charge or at a discounted rate pursuant to an advertisement, the licensee shall provide those services in a sufficiently complete and thorough manner so as to allow the licensee to make a proper diagnosis.~~
- ~~—4. No separate charge may be made for the professional evaluation of diagnostic tests or procedures which are provided free of charge or at a discount, regardless of whether the professional evaluation is made at the time of the initial office visit or at a later time.~~
- ~~—NAC 634.565—Advertisement of 24-hour service. (NRS 634.030)—No licensee or referral bureau for licensees may advertise 24-hour service unless a licensee is available at all times to perform any chiropractic service which may be needed.~~

PRACTICE BEFORE THE CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

Rules of Practice

NAC 634.620 Appearance and practice at hearings. (NRS 634.030)

- ~~1. An interested party who is or may be directly and substantially affected by a hearing may appear, introduce evidence and, at the discretion of the Board, otherwise participate in the proceeding.~~
- ~~—2. A party shall appear at the beginning of a hearing, or at a time designated by the presiding officer, by giving his or her name and address and stating his or her position or interest in the hearing to the presiding officer. This information must be recorded in the transcript of the hearing.~~
1. ~~3.~~ A party who is entitled to appear may appear in person or by an attorney.
2. ~~4.~~ An attorney who appears as counsel in any proceeding must be an attorney at law who is admitted to practice and is in good standing before the highest court of any state. If the attorney is not admitted to practice in the State of Nevada, he or she must be associated with a Nevada attorney.
3. ~~5.~~ Any attorney of record who wishes to withdraw from a proceeding before the Board must immediately notify the Board or the presiding officer in writing of that fact and name the party whom he or she represents.
- ~~—6. As used in this section, “interested party” means a person who believes that he or she may be affected by a proceeding but who does not seek to participate in the proceeding.~~

~~NAC 634.625—Participation by staff of Board. (NRS 634.030)—The staff of the Board may appear at any hearing and has all of the rights of participation of a party to the proceeding.~~
~~—[Bd. of Chiropractic Exam'rs, Rule of Practice No. 3, § 3.7, eff. 12-8-74]~~

NAC 634.635 Pleadings: Complaints. (NRS 634.030, 634.160)

- ~~—1. A complaint as described in NRS 634.160 may be made against a licensee charging him or her with one or more of the causes set forth in chapter 634 of NRS for which he or she is subject to disciplinary action.~~
- ~~—2. The original complaint must be in writing and filed with the Executive Director of the Board.~~

Hearings

~~— NAC 634.710 — Persons presiding; resetting after continuance; location. (NRS 634.030)~~

- ~~— 1. Hearings will be held before one or more members of the Board.~~
- ~~— 2. A hearing which has been previously continued may be reset upon a notice of not less than 10 days.~~
- ~~— 3. Hearings will be held at a place in the State as designated by the Board in the notice of hearing.~~

~~NAC 634.720 — Preliminary procedure. (NRS 634.030) — The presiding officer of the Board will call the proceeding or hearing to order, proceed with each party's appearance and act upon any pending motions. The parties may then make opening statements.~~

~~NAC 634.730 — Testimony: Oath or affirmation required. (NRS 634.030) — All testimony considered by the Board in formal hearings, except matters officially noticed or entered by stipulation, must be sworn. Before testifying, each person shall swear or affirm that he or she will testify truthfully.~~

~~— NAC 634.735 — Order of presentation. (NRS 634.030)~~

- ~~— 1. Evidence at the hearing must be presented in the following order:~~
 - ~~— (a) Opening statements by counsel for complainant and respondent. Respondent may defer his or her opening statement until the completion of the complainant's case.~~
 - ~~— (b) Presentation of complainant's case, which may be followed by cross-examination.~~
 - ~~— (c) Presentation of respondent's case, which may be followed by cross-examination.~~
 - ~~— (d) Rebuttal testimony, if any.~~
 - ~~— (e) Argument by respective counsel, in the following order:~~
 - ~~— (1) Opening argument for complainant.~~
 - ~~— (2) Argument for respondent.~~
 - ~~— (3) Closing argument for complainant.~~
- ~~— 2. As used in this section:~~
 - ~~— (a) "Complainant" means a person who complains to the Board of any act. If the Board initiates a proceeding, it may be a complainant.~~
 - ~~— (b) "Respondent" means a person against whom a complaint has been filed or of whom an investigation has been commenced.~~

~~NAC 634.745 — Stipulations. (NRS 634.030)~~

- ~~— 1. With the approval of the presiding officer, the parties may stipulate any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record.~~
- ~~— 2. A stipulation is binding upon all parties so stipulating and may be regarded by the Board as evidence at the hearing.~~
- ~~— 3. The Board may require proof by evidence of the facts stipulated in addition to the stipulation of the parties.~~

~~— NAC 634.750 — Rules of evidence. (NRS 634.030)~~

- ~~— 1. In conducting any investigation, inquiry or hearing, the Board, its officers or employees are not bound by the technical rules of evidence and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Board.~~
- ~~— 2. Rules of evidence recognized by the courts of Nevada will be followed generally but may be relaxed by the Board when deviation from the technical rules of evidence will aid in ascertaining the facts.~~
- ~~— 3. When an objection is made to the admissibility of evidence, the evidence may be received subject to a later ruling by the Board.~~
- ~~— 4. The Board may exclude inadmissible, incompetent, cumulative or irrelevant evidence, or order that presentation of that evidence be discontinued.~~

~~—5.— A party objecting to the introduction of evidence shall state briefly the grounds of objection at the time the evidence is offered.~~

~~—6.— Evidence must be material and relevant to the issues involved to be admitted at the hearing.~~

~~—NAC 634.755— Offer of proof. (NRS 634.030)— An offer of proof for the record consists of a statement of the substance of the evidence to which an objection has been sustained.~~

~~NAC 634.760— Continuances. (NRS 634.030)— The Board, before or during a hearing, on proper showing, may grant continuances for the submission of further proof of any subject matter.~~

~~NAC 634.770— Transcripts. (NRS 634.030)— The Board will have a transcript made of all formal hearings. Parties desiring copies of the transcript may obtain them from the transcriber upon payment of the fees fixed therefor.~~

~~NAC 634.775— Submission of matters for decision; dissemination of orders. (NRS 634.030)~~

~~—1.— A proceeding is submitted for decision to the Board after the taking of evidence, the filing of briefs or the presentation of oral argument as prescribed by the Board or the presiding officer unless otherwise specifically approved.~~

~~—2.— Orders of the Board will be served by the Secretary by mailing a copy to each party of record or their representatives or by personal service. Additional copies of orders issued by the Board may be obtained upon written request.~~

ENFORCEMENT

~~—NAC 634.810— Authority of Board. (NRS 634.030, 634.137, 634.140, 634.190)— The Board may begin proceedings against:~~

~~—1.— A licensee;~~

~~—2.— A chiropractic assistant;~~

~~—3.— An applicant for a license to practice chiropractic who is authorized to perform chiropractic pursuant to NRS 634.105;~~

~~—4.— A student who is authorized to perform chiropractic pursuant to the preceptor program; or~~

~~—5.— A person who holds a temporary license to practice chiropractic pursuant to NRS 634.115,~~

~~→ for a violation of any provision of this chapter or of chapter 634 of NRS even though no member of the public is actually harmed by the violation and there is no complaint from any other person.~~

Joe Lombardo
Governor

Nicole Canada, DC
President
Xavier Martinez, DC
Vice President
James T. Overland Sr., DC
Secretary-Treasurer



Benjamin S. Lurie, DC
Member
Jason O. Jaeger, DC
Member
Christian L. Augustin, Esq.
Consumer Member
Reza R. Ayazi, Esq.
Consumer Member
Julie Strandberg
Executive Director

CHIROPRACTIC PHYSICIAN'S BOARD OF NEVADA

4600 Kietzke Lane, M-245 | Reno, Nevada 89502-5000

Phone: (775) 688-1921 | Fax: (775) 688-1920

Website: <http://chirobd.nv.gov> | Email: chirobd@chirobd.nv.gov

SMALL BUSINESS IMPACT STATEMENT REGARDING A REGULATION PROPOSED BY THE CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

Pursuant to NRS 233B.0608(1), the Chiropractic Physicians' Board of Nevada is required to make a determination whether its proposed regulation, will: (a) impose a direct and significant economic burden upon small business, and (b) directly restrict the formation, operation, or expansion of small business. NRS 233B.0382 defines a small business to be any business that employees 150 or fewer employees. All of Nevada's chiropractic practices would be considered small businesses.

Pursuant to NRS 233B.0609, the Board provides the following information:

(1) A Description of the Manner in Which Comment Was Solicited from Affected Small Businesses, a Summary of Their Responses, and an Explanation of the Manner in Which Other Interested Persons May Obtain a Copy of the Summary.

The proposed revisions were discussed in an open and public meeting on January 12, 2023 and July 13, 2023.

(2) The Manner in Which the Analysis Was Conducted.

The Board discussed the proposed language at its regular meeting on January 12, 2023. The Board made changes to the proposed language based upon the input received and then discussed the proposed language again at its July 13, 2023 meeting.

(3) The Estimated Economic Effect of the Proposed Regulation on the Small Businesses Which It Is to Regulate, Including, Without Limitation:

(a) Both the Adverse and Beneficial Effects; and

(1) Adverse: This regulation will have no adverse effects on Nevada small businesses.

(2) Beneficial: This regulation will be beneficial to small businesses, namely on Nevada's chiropractic physicians, by removing or revising existing regulations that are no longer needed.

(b) Both Direct and Indirect Effects

(1) Direct: These regulations will be a direct effect on chiropractic physician and chiropractic assistants when the proposed regulations are removed and/or revised.

(2) Indirect: These regulations will have an indirect effect on chiropractic physicians and chiropractic assistants when regulations are streamlined.

(4) A Description of the Methods That the Agency Considered to Reduce the Impact of the Proposed Regulation on Small Businesses and a Statement Regarding Whether the Agency Actually Used Any of Those Methods.

The Board, Board Counsel and staff discussed the revisions to the regulations.

(5) The Estimated Cost to the Agency for Enforcement of the Proposed Regulation.

The regulation will not create any additional requirements or costs.

(6) If the Proposed Regulation Provides a New Fee or Increases an Existing Fee, the Total Annual Amount the Agency Expects to Collect and the Manner in Which the Money Will Be Used.

The regulation does not propose a new fee and does not increase an existing fee.

(7) If the Proposed Regulation Includes Provisions Which Duplicate or Are More Stringent Than Federal, State or Local Standards Regulating the Same Activity, an Explanation of Why Such Duplicative or More Stringent Provisions Are Necessary.

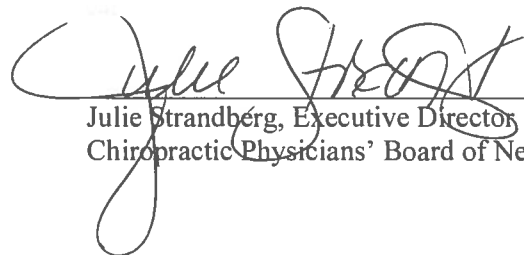
None of the proposed regulation changes duplicate or are more stringent than any federal, state, or local standards regulating chiropractic.

(8) The Reasons For the Conclusions of the Agency Regarding the Impact of a Regulation on Small Businesses.

The Board is confident that its proposed regulation will not have an adverse impact on small businesses, namely on Nevada's chiropractic practices, because the regulations either effect the Board's internal administration or are intended to and do positively affect the practices of Nevada's chiropractic physicians.

Pursuant to NRS 233B.0608(3) and 233B.0309(2), I hereby certify that to the best of my knowledge or belief, the Board conducted a concerted effort as described above to determine the impact of the proposed regulation on small businesses, namely on chiropractic practices in Nevada, and that the information contained in this statement was prepared properly and contains accurate information regarding all such efforts and the Board's determination based thereon.

Signed and effective this 3rd day of October, 2023.


Julie Strandberg, Executive Director
Chiropractic Physicians' Board of Nevada

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

LCB File No. R*-23**

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

AUTHORITY: NRS 634.030 and 634.014 and NRS 622.530.

CHAPTER 634 - CHIROPRACTIC PHYSICIANS AND CHIROPRACTIC ASSISTANTS

Section 1. NAC 634.3668 shall be amended to read as follows:

634.3668 1. A chiropractic physician who wishes to obtain certification to perform dry needling must submit to the Board an application in the form prescribed by the Board. The application must include, without limitation, proof that the applicant has completed at least 50 hours of didactic education and training in dry needling offered or certified by:

- (a) The Federation of Chiropractic Licensing Boards, or its successor organization;
- (b) The American Chiropractic Association, or its successor organization;
- (c) The International Chiropractors Association, or its successor organization;
- (d) [~~The Providers of Approved Continuing Education, or its successor organization;~~
- (~~e~~) The American Medical Association, or its successor organization;
- (~~f~~) (*e*) The American Osteopathic Association, or its successor organization;
- (~~g~~) (*f*) The Accreditation Council for Continuing Medical Education, or its successor organization;
- (~~h~~) (*g*) The State Board of Oriental Medicine; or
- (~~i~~) (*h*) A school of chiropractic.

2. Except as otherwise provided in this subsection, a chiropractic physician who wishes to renew a certificate issued pursuant to this section must submit to the Board with each application to renew his or her license to practice chiropractic proof that he or she completed at least 4 hours of continuing education in dry needling during the immediately preceding biennium. A chiropractic physician is not required to complete such continuing education during the biennium in which the certificate is issued.

3. A chiropractic physician may perform dry needling only if he or she is certified pursuant to this section. A chiropractic assistant shall not perform dry needling.

Sec. 2. NAC 634.380 shall be amended to read as follows:

634.380 1. A chiropractic physician or chiropractor's assistant who is licensed or certified by the Board shall [~~provide~~]:

- (~~a~~) [~~Provide~~] *provide* the Board with [~~the~~]:
- (*a*) *The* address of his or her current legal residence [~~is~~] and
- (~~b~~) [~~Notify~~] *notify* the Board, in writing, of any change in his or her legal residence within 15 days after the change [~~is~~]; and
- (*b*) *The electronic mail address that he or she uses for work purposes.*

2. In addition to providing the Board with the address of each office where he or she practices pursuant to NRS 634.129, and the address of his or her legal residence, a chiropractic physician or chiropractor's assistant may provide the number of a post office box which is to be

used as his or her mailing address.

Sec. 3. NAC 634.384 shall be amended to read as follows:

634.384 ~~[Each licensee shall biennially]~~ *A chiropractic physician shall* submit a self-inspection form prescribed by the Board *within 10 business days after he or she receives the self-inspection form from the Board a part of the notification that a complaint has been filed against him or her.* ~~[The self-inspection form must be received by the Board on or before December 31 of each even-numbered year. The Board will reject a self-inspection form submitted pursuant to this section if the form is incomplete.]~~ *The failure to timely provide a self-inspection form may be a cause for disciplinary action.*

Sec. 4. NAC 634.385 shall be amended to read as follows:

634.385 1. Except as otherwise provided in subsection 7, the Board may approve or endorse an educational class or a seminar if it concerns:

(a) The practice of chiropractic;
(b) Performing chiropractic adjustment;
(c) Avoiding unprofessional conduct or malpractice including, without limitation, gross malpractice;

(d) Performing manipulation;
(e) Diagnosis and treatment of subluxation complex;
(f) Compliance with this chapter or chapter 629 or 634 of NRS; or
(g) Lifesaving skills, as described in subsection 4 of NRS 634.130.

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

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

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

(c) The seminar or seminars concern a subject described in subsection 1;

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

(e) The seminar or seminars are sponsored by:

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

(I) The Council on Chiropractic Education; or

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

(2) A state chiropractic board or association;

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

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

(5) An accredited university or college; or

(6) A regulatory body as defined in NRS 622.060.

3. ~~[As an alternative to the method of approval and endorsement provided in subsection 2, the Board will approve and endorse the attendance by licensees or holders of certificates, as applicable, in person or on-line, of an educational seminar or seminars if the seminar or seminars have been~~

~~granted recognition status by the Providers of Approved Continuing Education of the Federation of Chiropractic Licensing Boards and concern a subject described in subsection 1.~~

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

~~[5-]~~ 4. 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 or 4 of NRS 634.130, as applicable, shall pay the full registration fee.

~~[6-]~~ 5. The sponsor of a seminar which has received the approval of the Board shall report to the Board all changes in the seminar as soon as possible.

~~[7-]~~ 6. Except as otherwise provided in this subsection, the Board will not award credit for continuing education to a licensee or holder of a certificate, as applicable, for an educational class or seminar that is of a nonclinical nature, including, without limitation, an educational class or seminar regarding the building or management of a chiropractic practice. For the purposes of this subsection, an educational class or seminar regarding proper billing procedures shall not be deemed to be an educational class or seminar regarding the building or management of a chiropractic practice.

~~[8-]~~ 7. The Board will not award credit for continuing education to an instructor of an educational class or seminar unless the instructor obtained from the Board approval for such credit before teaching the educational class or seminar.

~~[9-]~~ 8. Continuing education hours earned through the completion of a specific educational class or seminar may be counted only once during a calendar year toward the hours of continuing education required by subsection 3 or 4 of NRS 634.130, as applicable, even if the licensee or holder of a certificate completes that class or seminar more than once during that calendar year.

~~[10-]~~ 9. The Board will award credit for continuing education to a licensee or a holder of a certificate for all educational classes or seminars which are approved and endorsed by the Board pursuant to this section and are attended by the licensee or holder of a certificate.

10. The Board will award up to 4 hours of credit for continuing education during a calendar year to a licensee or a holder of a certificate who attends a meeting of the Board during that calendar year.

Sec. 5. NAC 634.430 shall be amended to read as follows:

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

(a) Engaging in or soliciting sexual misconduct.

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

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

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

~~[(d)]~~ (d) Participating in any verbal or written arrangement that involves capping or fee splitting.

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

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

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

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

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

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

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

~~[(f)]~~ (f) Engaging in a practice of waiving, abrogating or rebating the deductible or copayment required to be paid by a policy of insurance or a third party if the practice is used as a device for advertising or marketing, or both.

~~[(g)]~~ (g) Failing to make any report or record available to the Board upon lawful request, failing to cooperate with any investigation by the Board or knowingly giving false information to the Board, including, without limitation, falsifying documentation concerning continuing education.

~~[(h)]~~ (h) Failing to make any report or record available to another licensee, practitioner, patient or institution upon a lawful request to do so in compliance with the provisions of chapter 629 of NRS.

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

~~[(j)]~~ (j) Being in default on the payment of a student loan.

~~[(k)]~~ (k) Violating the rules or regulations of a federal program that relates to the practice of chiropractic.

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

~~[(m)]~~ (m) Allowing a person to:

(1) Perform chiropractic services; or

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

↪ if that person is not authorized to perform such services or provide such care pursuant to this chapter and chapter 634 of NRS. The prohibition set forth in this paragraph does not apply to a person who is licensed or certified as a provider of health care pursuant to one or more of the chapters of title 54 of NRS.

~~[(n)]~~ (n) Engaging with a patient in a romantic or dating relationship unless the patient is the spouse of the licensee.

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

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

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

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

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

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

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

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

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

3. As used in this section:

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

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

(c) "Sexual misconduct" means:

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

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

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

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

(I) A clinical setting; or

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

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

(d) "Sexual relations" means:

(1) Sexual intercourse.

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