



TELECONFERENCE/VIRTUAL MEETING

CHIROPRACTIC EXAMINING BOARD **Room 121A, 1400 East Washington Avenue, Madison** **Contact: Tom Ryan (608) 266-2112** **April 5, 2018**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-3)**
- B) Approval of Minutes of February 6, 2018 (4-9)**
- C) Conflicts of Interest**
- D) Administrative Updates**
 - 1) Department and Staff Updates
 - 2) Introductions, Announcements and Recognitions
 - 3) Liaison Appointments
 - 4) Board Members – Board Member Status
 - a) Scott Bautch – 07/01/2021
 - b) Bryan Gerondale – 07/1/2021
 - c) Jeffrey King – 07/01/2019
 - d) Juli McNeely – 07/01/2021
 - e) Patricia Schumacher – 07/01/2019
 - f) Public Member - Vacant
- E) 8:30 A.M. Public Hearing: CR 18-015 – Chir 2 Relating to Examinations (10-15)**
 - 1) Review and Respond to Public Comments and Clearinghouse Report
- F) Legislation and Administrative Rule Matters – Discussion and Consideration (16-55)**
 - 1) Proposals for Chir 4 Relating to Chiropractic Practice,
 - 2) Update on Pending Legislation and Pending and Possible Rulemaking Projects
- G) Items Added After Preparation of Agenda:**
 - 1) Introductions, Announcements and Recognition
 - 2) Appointments and Reappointments
 - 3) Elections, Nominations, and Appointments

- 4) Administrative Updates
- 5) Education and Examination Matters
- 6) Credentialing Matters
- 7) Practice Matters
- 8) Legislation/Administrative Rule Matters
- 9) Preceptor Approvals
- 10) Liaison Report(s)
- 11) Board Liaison Training and Appointment of Mentors
- 12) Informational Item(s)
- 13) Disciplinary Matters
- 14) Presentations of Petition(s) for Summary Suspension
- 15) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 16) Presentation of Proposed Decisions
- 17) Presentation of Interim Order(s)
- 18) Petitions for Re-Hearing
- 19) Petitions for Assessments
- 20) Petitions to Vacate Order(s)
- 21) Petitions for Designation of Hearing Examiner
- 22) Requests for Disciplinary Proceeding Presentations
- 23) Motions
- 24) Petitions
- 25) Appearances from Requests Received or Renewed
- 26) Speaking Engagement(s), Travel, or Public Relation Request(s), and Reports

H) Future Agenda Items

I) **Public Comments**

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

J) Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petition(s) for Summary Suspensions
- 7) Proposed Stipulations, Final Decisions and Orders
- 8) Administrative Warnings
- 9) Proposed Decisions
- 10) Matters Relating to Costs
- 11) Case Closings
- 12) Case Status Report
- 13) Board Liaison Training
- 14) Petition(s) for Extension of Time
- 15) Proposed Interim Orders
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders

- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

K) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

L) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

M) Open Session Items Noticed Above Not Completed in the Initial Open Session

N) Ratification of Examinations, Licenses and Certificates

O) Credentialing Liaison Training

ADJOURNMENT

NEXT SCHEDULED MEETING: JUNE 28, 2018

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 1400 East Washington Avenue, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**CHIROPRACTIC EXAMINING BOARD
MEETING MINUTES
February 6, 2018**

PRESENT: Bryan Gerondale, D.C.; Jeffrey King, D.C.; Juli McNeely; and Patricia Schumacher, D.C.

EXCUSED: John Church, D.C.

STAFF: Tom Ryan, Executive Director; Dale Kleven, Administrative Rules Coordinator; Laura Smith, Bureau Assistant; and other Department Staff

CALL TO ORDER

Patricia Schumacher, Chair, called the meeting to order at 1:00 p.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda:

- *Remove Item D(5)(b) as this appointment has been withdrawn.*

MOTION: Jeffrey King moved, seconded by Juli McNeely, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Juli McNeely moved, seconded by Jeffrey King, to approve the minutes of December 21, 2017 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

Election of Officers

Board Chair

NOMINATION: Juli McNeely nominated Patricia Schumacher for the Office of Board Chair.

Tom Ryan called for nominations three (3) times.

Patricia Schumacher was elected as Chair by unanimous consent.

Vice Chair

NOMINATION: Patricia Schumacher nominated Jeffrey King for the Office of Vice Chair.

Tom Ryan called for nominations three (3) times.

Jeffrey King was elected as Vice Chair by unanimous consent.

Secretary

NOMINATION: Patricia Schumacher nominated Bryan Gerondale for the Office of Secretary.

Tom Ryan called for nominations three (3) times.

Bryan Gerondale was elected as Secretary by unanimous consent.

2018 ELECTION RESULTS	
Board Chair	Patricia Schumacher
Vice Chair	Jeffrey King
Secretary	Bryan Gerondale

Appointment of Liaisons and Alternates

2018 LIAISON APPOINTMENTS	
Credentialing Liaison	Jeffrey King <i>Alternate: Bryan Gerondale</i>
Exams, Education and Continuing Education Liaison	Patricia Schumacher <i>Alternate: Jeffrey King</i>
Monitoring Liaison	Jeffrey King <i>Alternate: Bryan Gerondale</i>
Professional Assistance Procedure (PAP) Liaison	Juli McNeely <i>Alternate: Bryan Gerondale</i>
Legislative Liaison	Patricia Schumacher
Travel Liaison	Patricia Schumacher <i>Alternate: Bryan Gerondale</i>
Preceptor Liaison	Bryan Gerondale <i>Alternate: Jeffrey King</i>
Rules Liaison	John Church <i>Alternate: Jeffrey King</i>
2018 SCREENING PANEL APPOINTMENTS	
Screening Panel	Jeffrey King, Juli McNeely, Patricia Schumacher <i>Alternate: Bryan Gerondale</i>

MOTION: Juli McNeely moved, seconded by Jeffrey King, to affirm the Chair's appointment of liaisons for 2018. Motion carried unanimously.

Delegation of Authorities

Delegated Authority for Urgent Matters

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Document Signature Delegation

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director or designee to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Credentialing Authority Delegations

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to delegate authority to the Credentialing Liaisons to address all issues related to credentialing matters except potential denial decisions should be referred to the full Board for final determination. Motion carried unanimously.

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to delegate credentialing authority to DSPS to act upon applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Monitoring Delegations

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to adopt the "Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor" as presented. Motion carried unanimously.

Travel Delegation

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to delegate authority to the Travel Liaison to approve any Board Member travel. Motion carried unanimously.

Voluntary Surrenders

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender of a license by a licensee who has a pending complaint or disciplinary matter per Wis. Stat. § 440.19. Motion carried unanimously.

Continuing Education Delegation or Education Delegations

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to delegate authority to the Office of Education and Examination Liaison(s) to address all issues related to CE, education and examinations. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Bodies

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to authorize Department staff to provide national regulatory bodies with all Board/Council member contact information that the Department retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to designate the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Rules Liaison Delegation

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to grant the Rules Liaison the ability to address all rule-making language. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Occupational Licensure Study Liaison

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to designate the Chair or chief presiding officer, or longest serving member of the Board, by order of succession as the Board's liaison to represent and speak on behalf of the Board regarding occupational license review and related matters. Motion carried unanimously.

LEGISLATION AND ADMINISTRATIVE RULE MATTERS

Legislative Report and Final Draft Rules for Clearinghouse Rule 17-010 Relating to Courses of Study for and Delegation to Chiropractic Radiological Technicians

MOTION: Juli McNeely moved, seconded by Bryan Gerondale, to designate Patricia Schumacher to serve as liaison to DSPS staff for drafting the final draft rules for Clearinghouse Rule 17-010, relating to courses of study for and delegation to chiropractic radiological technicians. Motion carried unanimously.

EDUCATION AND EXAMINATION MATTERS

Chiropractic Society of Wisconsin (CSW) Request for Approval of Chiropractic Technician Course of Study

MOTION: Juli McNeely moved, seconded by Jeffrey King, to approve the course proposed by the Chiropractic Society of Wisconsin. Motion carried unanimously.

SPEAKING ENGAGEMENT(S), TRAVEL, OR PUBLIC RELATION REQUEST(S)

Federation of Chiropractic Licensing Boards (FCLB) Annual Meeting – May 3-5, 2018 – Dallas, TX

MOTION: Jeffrey King moved, seconded by Juli McNeely, to designate Patricia Schumacher, as the Board's delegate and Bryan Gerondale as alternate to attend the FCLB Annual Meeting, including the NBCE meeting, in May 2018 in Dallas, TX and to authorize travel. Motion carried unanimously.

CLOSED SESSION

MOTION: Juli McNeely moved, seconded by Jeffrey King, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Bryan Gerondale-yes; Jeffrey King-yes; Juli McNeely-yes; Patricia Schumacher-yes. Motion carried unanimously.

The Board convened into Closed Session at 2:37 p.m.

RECONVENE TO OPEN SESSION

MOTION: Juli McNeely moved, seconded by Jeffrey King, to reconvene in Open Session at 2:45 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Jeffrey King moved, seconded by Juli McNeely, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closings

16 CHI 018 – B.J.B. and A.K.S.

MOTION: Bryan Gerondale moved, seconded by Juli McNeely, to close DLSC case number 16 CHI 018, against B.J.B. and A.K.S., for Insufficient Evidence. Motion carried unanimously.

16 CHI 019 – C.V.W.

MOTION: Bryan Gerondale moved, seconded by Juli McNeely, to close DLSC case number 16 CHI 019, against C.V.W., for Insufficient Evidence. Motion carried unanimously.

17 CHI 006 – J.L.A.

MOTION: Juli McNeely moved, seconded by Jeffrey King, to close DLSC case number 17 CHI 006, against J.L.A., for No Violation. Motion carried unanimously.

RATIFICATION OF EXAMINATIONS, LICENSES AND CERTIFICATES

MOTION: Juli McNeely moved, seconded by Jeffrey King, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Jeffrey King, seconded by Juli McNeely, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:46 p.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 3/26/18 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Chiropractic Examining Board			
4) Meeting Date: 4/5/18	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 8:30 A.M. Public Hearing: CR 18-015 – Chir 2 Relating to Examinations 1. Review and Respond to Public Comments and Clearinghouse Report Legislation and Rule Matters – Discussion and Consideration 1. Proposals for Chir 4 Relating to Chiropractic Practice 2. Update on Pending Legislation and Pending and Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:			
<div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> 11) <div style="border-bottom: 1px solid black; padding-bottom: 5px;"><i>Dale Kleven</i></div> </div> <div style="width: 45%; text-align: right;"> Authorization <div style="border-bottom: 1px solid black; padding-bottom: 5px;"><i>March 26, 2018</i></div> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%; border-bottom: 1px solid black; padding-bottom: 5px;">Signature of person making this request</div> <div style="width: 40%; text-align: right; border-bottom: 1px solid black; padding-bottom: 5px;">Date</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%; border-bottom: 1px solid black; padding-bottom: 5px;">Supervisor (if required)</div> <div style="width: 40%; text-align: right; border-bottom: 1px solid black; padding-bottom: 5px;">Date</div> </div> <div style="border-bottom: 1px solid black; padding-bottom: 5px; margin-top: 10px;"> Executive Director signature (indicates approval to add post agenda deadline item to agenda) <div style="width: 100px; text-align: right; border-bottom: 1px solid black; padding-bottom: 5px;">Date</div> </div>			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	CHIROPRACTIC EXAMINING
CHIROPRACTIC EXAMINING	:	BOARD
BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Chiropractic Examining Board to repeal Chir 2.01 and 2.12 and amend Chir 2.03, relating to examinations.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 446.02 (3), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that examining boards, such as the Chiropractic Examining Board, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . .”

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency “may promulgate rules interpreting provisions of any statute enforced or administered by the agency. . .but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 446.02 (3), Stats., provides the Chiropractic Examining Board shall require each applicant for licensure to successfully complete the following examinations:

- Parts I, II, III, and IV of the examination administered by the National Board of Chiropractic Examiners. An applicant successfully completes Part III of that examination if the applicant scores at least 438 on that part. An applicant successfully completes Part IV of that examination if the applicant scores at least 475 on that part.
- An examination approved by the examining board that tests the applicant's knowledge of the laws of this state relating to the practice of chiropractic, including the provisions of this chapter and any rules promulgated by the examining board under s. 446.02, Stats.

Related statute or rule:

None.

Plain language analysis:

Section Chir 2.03 incorrectly references chs. Chir 1 to 12. The proposed rules update this reference to chs. Chir 1 to 13.

The proposed rules also revise ch. Chir 2 to reflect current examination practices. Specifically, ss. Chir 2.01 and 2.12, which relate to a practical examination that is no longer required for licensure, are repealed and a requirement to provide an applicant with a disability reasonable accommodations for completing the state law examination has been added to s. Chir 2.03.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: Rules of the Illinois Department of Financial and Professional Regulation address examinations for licensure to practice chiropractic in Illinois (68 Ill. Adm. Code 1285.60). To be successful, an examinee must receive a score of at least 375 on Part I, II, III, and IV of the examination administered by the National Board of Chiropractic Examiners. An applicant who is unsuccessful in 5 examinations must complete an accredited chiropractic program in order to be eligible for further examination.

Iowa: Rules of the Iowa Board of Chiropractic specify the examination requirements for chiropractic practice in Iowa (645 IAC 41.3). An applicant must provide proof of successful completion of Parts I, II, III, and IV and Physiotherapy of the National Board of Chiropractic Examiners examination.

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs specify the examination requirements for chiropractic practice in Michigan (Mich Admin Code, R 338.12003 and R 338.12005). An applicant must pass Parts I, II, III, and IV of the national board examination in chiropractic that is conducted and scored by the National Board of Chiropractic Examiners (NBCE). The passing scores are those recommended by the NBCE.

Minnesota: Rules of the Minnesota Board of Chiropractic Examiners specify the examination requirements for chiropractic practice in Minnesota (Minnesota Rules, part 2500.0720). An applicant must pass Part I, Part II, the Written Clinical Competency Examination, and the Physiotherapy Examination of the National Board of Chiropractic Examiners (NBCE), or another licensing examination approved by the Board. The NBCE Part IV Practical or other examination approved by the Board and the Board's jurisprudence and ethics examination must also be successfully completed.

Summary of factual data and analytical methodologies:

The methodologies used to develop this proposed rule include reviewing current examination practices and applicable Wisconsin statutes and obtaining feedback from the Chiropractic Examining Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Chir 2.01 is repealed.

SECTION 2. Chir 2.03 is amended to read:

Chir 2.03 Form of examination; state law examination. An applicant shall pass an examination on state laws including ch. 446, Stats., and chs. Chir 1 to ~~12~~ 13. An applicant with a disability shall be provided reasonable accommodations for completing the examination under this section.

SECTION 3. Chir 2.12 is repealed.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

Chir 2

3. Subject

Examinations

4. Fund Sources Affected

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

Section Chir 2.03 incorrectly references chs. Chir 1 to 12. The proposed rules update this reference to chs. Chir 1 to 13.

The proposed rules also revise ch. Chir 2 to reflect current examination practices. Specifically, ss. Chir 2.01 and 2.12, which relate to a practical examination that is no longer required for licensure, are repealed and a requirement to provide an applicant with a disability reasonable accommodations for completing the state law examination has been added to s. Chir 2.03.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit to implementing the rule is providing updated references and reflecting current examination practices. If the rule is not implemented, it will continue to provide outdated references and reflect examination practices that are no longer current.

14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is updated references and reflecting current examination practices.

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

15. Compare With Approaches Being Used by Federal Government
None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Rules of the Illinois Department of Financial and Professional Regulation address examinations for licensure to practice chiropractic in Illinois (68 Ill. Adm. Code 1285.60). To be successful, an examinee must receive a score of at least 375 on Part I, II, III, and IV of the examination administered by the National Board of Chiropractic Examiners. An applicant who is unsuccessful in 5 examinations must complete an accredited chiropractic program in order to be eligible for further examination.

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Minnesota: Rules of the Minnesota Board of Chiropractic Examiners specify the examination requirements for chiropractic practice in Minnesota (Minnesota Rules, part 2500.0720). An applicant must pass Part I, Part II, the Written Clinical Competency Examination, and the Physiotherapy Examination of the National Board of Chiropractic Examiners (NBCE), or another licensing examination approved by the Board. The NBCE Part IV Practical or other examination approved by the Board and the Board's jurisprudence and ethics examination must also be successfully completed.

17. Contact Name

Dale Kleven

18. Contact Phone Number

(608) 261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

Chapter Chir 4

PRACTICE

Chir 4.01 Authority.
Chir 4.02 Definitions.
Chir 4.03 Practice.

Chir 4.04 X-ray.
Chir 4.05 Prohibited practice.
Chir 4.07 Suspension.

Note: Chapter Chir 4 as it existed on December 31, 1984 was repealed and a new chapter Chir 4 was created effective January 1, 1985.

Chir 4.01 Authority. This chapter is adopted under authority in ss. 15.08 (5) (b), 227.11 and ch. 446, Stats., to interpret the statutory definition of chiropractic practice specified in s. 446.01 (2), Stats.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1990, No. 411.

Chir 4.02 Definitions. As used in this chapter,

(1) “Chiropractic science” means that body of systematic and organized knowledge relating primarily to the identification, location, removal or reduction of any interference to nervous system integrity or nerve energy expression and the resulting change in biomechanical or physiological homeostasis. It is based on the major premise that disease or abnormal function may be caused by abnormal nerve impulse transmission or expression due to biochemical factors, compression, traction, pressure or irritation upon nerves as a result of bony segments, especially of the spine or contiguous structures, either deviating from normal juxtaposition or function which irritates nerves, their receptors or effectors.

(2) “Instrument” means a device employed or applied in accordance with the principles and techniques of chiropractic science, which is used in the practice of chiropractic to diagnose, analyze, treat or prevent the cause of departure from complete health and proper condition of the human.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; renum. to be (1) and cr. (2), Register, January, 1992, No. 433, eff. 2-1-92.

Chir 4.03 Practice. The practice of chiropractic is the application of chiropractic science in the adjustment of the spinal column, skeletal articulations and adjacent tissue which includes diagnosis and analysis to determine the existence of spinal subluxations and associated nerve energy expression and the use of procedures and instruments preparatory and complementary to treatment of the spinal column, skeletal articulations and adjacent tissue. Diagnosis and analysis may include physical examination, specimen analysis, drawing of blood, blood-analysis and the use of x-ray and other instruments.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85.

Chir 4.04 X-ray. (1) X-ray may be used only for diagnostic or analytical purposes in the practice of chiropractic.

Note: The requirements of ch. DHS 157 apply to licensees who use x-ray equipment.

(2) A chiropractor may not use the following forms of x-ray:

(a) X-ray procedures that require introduction of drugs, clinical dyes or radioactive substances;

(b) Therapeutic x-ray.

(3) A chiropractor may employ a technician to operate x-ray equipment only upon submitting proof satisfactory to the board that the technician has successfully completed a course of instruction approved by the board. Any technician employed may work only under the direct supervision and direction of a licensee.

Note: A list of board-approved programs is available upon request from the Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; renum. (2) to be (3), cr. (2), Register, October, 1989, No. 406, eff. 11-1-89; am. (3), Register, January, 1995, No. 469, eff. 2-1-95.

Chir 4.05 Prohibited practice. (1) SCOPE OF PRACTICE.

A person who holds a license to practice chiropractic may engage in the practice of chiropractic, as described in s. Chir 4.03. A license to practice chiropractic does not authorize the license holder to engage in practice beyond the scope of chiropractic practice, as described in s. Chir 4.03. Practice beyond the scope of chiropractic includes, but is not limited to, the following:

(a) Obstetrics and abortions, except nothing in this paragraph may be construed to prevent the practice of chiropractic as described in s. Chir 4.03 during a patient's pregnancy.

(b) Invasive procedures, such as:

1. Surgery.
2. Subcutaneous administration of substances.
3. Acupuncture by needle insertion or invasive laser application.

(c) Colonic irrigation.

(d) The prescribing, dispensing, delivery or administration of drugs as defined in s. 450.01 (10), Stats., except nothing in this paragraph may be construed to prevent the sale of vitamins, herbs or nutritional supplements consistent with the provisions of ch. Chir 12.

(2) TECHNIQUES, ANCILLARY PROCEDURES OR INSTRUMENTS. The use of techniques, ancillary procedures or instruments which are unsafe or ineffective, including but not limited to the following or their substantially similar counterparts, are prohibited in the practice of chiropractic:

(a) Acuclips.

(b) Pfeiffer technique.

Note: The Pfeiffer technique is the application of magnets to the surface or near vicinity of the human body, either alone or in conjunction with the use of other devices, as a purported basis of a chiropractic diagnosis which depends on the measurement or observation of changes to the functioning or structure of the human body resulting from the application of the magnetic force.

(c) Hair analysis if it is used as the only determinant for recommending chiropractic treatment or nutritional supplementation.

(d) Therapeutic ultrasound and galvanic therapy may be used by a licensee only if:

1. The licensee has completed the physiologic therapeutics portion of the examinations of the national board of examiners; or,
2. The licensee has completed a course of instruction in therapeutic ultrasound and galvanic therapy approved by the board, submits proof of completion to the board and receives acknowledgement of submittal; and,

3. The use of therapeutic ultrasound and galvanic therapy is limited to neurological and musculoskeletal conditions that are amenable to treatment, are not contra-indicated, and are within the scope of chiropractic practice as described in s. 446.01 (2) (a) and (b), Stats.

Note: A list of courses of instruction in therapeutic ultrasound and galvanic therapy approved by the board is available upon request from the Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(e) The use of any device in the practice of chiropractic to diagnose, analyze, treat or prevent the cause of departure from complete health and proper condition of the human, which is not employed or applied in accordance with the principles and techniques of chiropractic science is prohibited. Such devices include, but are not limited to:

1. The following electro-diagnostic devices: EAV, VEGATEST, BIOTRON 1000, ACCUPATH 1000, VI-TEL 618, INTERRO System, PRO-PHYLE, or substantially similar counterparts of any of these devices.

(f) Any practice system, analysis, method or protocol which does not include the competent assessment, evaluation or diagnosis of the condition to be treated before beginning treatment of the patient.

(g) Any practice system, analysis, method or protocol which relies upon diagnostic methods that are not generally recognized

or accepted within the profession or which do not have scientific validity.

(h) Any practice system, analysis, method or protocol which is represented as a means of attaining spiritual growth, spiritual comfort or spiritual well-being.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; r. and recr. Register, October, 1989, No. 406, eff. 11-1-89; cr. (2) (e), Register, January, 1992, No. 433, eff. 2-1-92; am. (2) (b), Register, May, 1992, No. 437, eff. 6-1-92; cr. (2) (f), (g), (h), Register, February 1995, No. 470, eff. 3-1-95; am. (2) (f) to (h), Register, July, 1999, No. 523, eff. 8-1-99; am. (1) (a), (b) 1., 2., 3., (c), (2) (a) and (b), Register, September, 1999, No. 525, eff. 10-1-99; CR 03-082: am. (1) (b) 3. Register July 2004 No. 583, eff. 8-1-04; CR 06-051: am. (1) (d) Register November 2006 No. 611, eff. 12-1-06.

Chir 4.07 Suspension. During a period in which a licensee is suspended under s. 446.03, Stats., unless the board specifies otherwise in its final order or a subsequent order, the licensee may not do any of the following:

- (1) Perform any of the functions in s. Chir 4.03.
- (2) Have any professional contact with patients.
- (3) Be present in any chiropractic office, other than to receive care.

History: Cr. Register, March, 2000, No. 531, eff. 4-1-00.

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76, 151.11 and 272C.3, the Board of Chiropractic hereby gives Notice of Intended Action to amend Chapter 44, “Continuing Education for Chiropractic Physicians,” and Chapter 45, “Discipline for Chiropractic Physicians,” Iowa Administrative Code.

These amendments propose a new subrule establishing unprofessional conduct or behavior as grounds for discipline that may be imposed by the Board on licensed chiropractors in the state of Iowa. The amendments also remove an outdated provision that has become obsolete.

Any interested person may make written comments on the proposed amendments no later than August 25, 2015, addressed to Susan Reynolds, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail to susan.reynolds@idph.state.ia.us.

A public hearing will be held on August 25, 2015, from 9 to 9:30 a.m. in Conference Room 513, Fifth Floor, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 147, 151 and 272C.

The following amendments are proposed.

ITEM 1. Amend subparagraph **44.3(2)“a”(1)** as follows:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. ~~Beginning with the July 1, 2012, to June 30, 2014, renewal cycle, on-line instruction may qualify for “live” continuing education credit if provided by a Council on Chiropractic Education (CCE)-accredited chiropractic college in the United States, the Iowa Chiropractic Society, the American Chiropractic Association, or the International Chiropractors Association or if certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB). The remaining 12 hours may be obtained by independent study, including any on-line instruction.~~ Beginning with the July 1, 2014, to June 30, 2016, renewal cycle, at least 20 of these hours shall be earned by completing a program in which an instructor conducts the class employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any on-line instruction, that complies with conditions specified in 645—44.1(151).

ITEM 2. Adopt the following **new** subrule 45.2(31):

45.2(31) Unprofessional conduct or behavior. A chiropractor shall not exhibit unprofessional behavior in connection with the practice of chiropractic. Unprofessional behavior shall include, but not be limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, requesting patient records without a medical justification, and theft.

645—45.2 (151,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—45.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

45.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

45.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average chiropractic physician acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a chiropractic physician in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

g. Failure to maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

45.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. This includes representations utilizing the term "physical therapy" when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein shall be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine as long as treatment is appropriate as authorized in Iowa Code chapter 151. Proof of actual injury need not be established.

45.2(4) Practice outside the scope of the profession.

45.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation or representations that are likely to cause the average person to misunderstand.

45.2(6) Habitual intoxication or addiction to the use of drugs.

45.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

45.2(8) Falsification of client records.

45.2(9) Acceptance of any fee by fraud or misrepresentation.

45.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of

duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

45.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

45.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

45.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

45.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

45.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

45.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

45.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

45.2(18) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

45.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

45.2(20) Failure to pay costs assessed in any disciplinary action.

45.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

45.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

45.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a chiropractic physician.

45.2(24) Failure to report a change of name or address within 30 days after it occurs.

45.2(25) Representing oneself as a chiropractic physician when one's license has been suspended or revoked, or when one's license is on inactive status.

45.2(26) Permitting another person to use the licensee's license for any purposes.

45.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

45.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

45.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

45.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

45.2(31) Unprofessional conduct or behavior. A chiropractor shall not exhibit unprofessional behavior in connection with the practice of chiropractic. Unprofessional behavior shall include, but not be limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, requesting patient records without a medical justification, and theft.

[**ARC 8625B**, IAB 3/24/10, effective 4/28/10; **ARC 9109B**, IAB 10/6/10, effective 11/10/10; **ARC 9862B**, IAB 11/16/11, effective 12/21/11; **ARC 2202C**, IAB 10/14/15, effective 11/18/15]

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Sequence Number: 02-16-17
Rule ID(s): 6452
File Date: 2/17/17
Effective Date: 5/18/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board of Chiropractic Examiners
Division:	
Contact Person:	Mark Cole
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Mark.Cole@tn.gov

Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0260-02	General Rules Governing Chiropractic Examiners
Rule Number	Rule Title
0260-02-.01	Definitions
0260-02-.02	Scope of Practice
0260-02-.12	Continuing Education
0260-02-.13	Professional Ethics
0260-02-.21	Chiropractic Preceptor Program
0260-02-.24	Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies

(Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 0260-02
General Rules Governing Chiropractic Examiners

Amendments

Chapter 0260-02 Table of Contents is being amended by deleting the language for Rule 0260-02-.24 in its entirety and substituting instead the following language, so that as amended, the new table of content language in 0260-02-.24 shall read:

0260-02-.24 Chiropractic Professional Corporations (CPC) and Chiropractic Professional Limited Liability Companies (CPLLC)

Authority: T.C.A. §§ 63-4-101.

Rule 0260-02-.01 Definitions is amended by adding new paragraph (1) and deleting paragraphs (6), (7), (18), (22), and (24) in their entirety and renumbering the remaining paragraphs accordingly, and the rule is further amended by adding new paragraphs (17), (20), (22), and (24) and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs shall read:

- (1) Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, joint mobility or alignment.
- (17) Manipulation - A passive therapeutic intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, mobility or alignment.
- (20) Physical Therapeutics - Physical agents, rehabilitative and/or therapeutic procedures utilized in the restoration and maintenance of health.
- (22) Subluxation - An abnormal condition where one or the other of two adjacent articular surfaces has lost its articular or neurological function, position, or alignment and is classified less than a dislocation.
- (24) Therapeutic Care - An approved, adjustive, manipulative, nutritional, therapeutic or rehabilitative treatment administered by or ordered by a chiropractic physician for the restoration and maintenance of health.

Authority: T.C.A. §§ 63-4-101, 63-4-102, 63-4-103, 63-4-105, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-112, 63-4-114, 63-4-122, and 63-4-123.

Rule 0260-02-.02 Scope of Practice is amended by deleting paragraph (2) and subparagraphs (3)(b), (3)(c), and (3)(d) in their entirety and substituting instead the following language, so that as amended, the new paragraph (2) and new subparagraphs (3)(b), (3)(c) and (3)(d) shall read:

- (2) The scope of practice of a chiropractic physician shall be as set forth in T.C.A. § 63-4-101 and shall include:
 - (a) As a portal of entry provider, a chiropractic physician has authority to make a differential diagnosis that may include the use of patient history, examination techniques, lab analysis and analytical instruments for the purpose of determining vital signs and screening of health status, orthopedic and neurological testing, range of motion and muscles testing and diagnostic evaluation and/or imaging of the human body that may be revealed in a state of pathology, as a basis for making clinical judgments as to the patient's condition, degree or nature of treatment needed and management and rehabilitation of the human body which is in the opinion of the provider, appropriate for the restoration and maintenance of health.

- (b) A chiropractic physician has the authority to perform an adjustment, manipulation or treatment which may include physical therapeutic interventions to the human frame and/or soft tissues for the restoration and/or supportive care and/or maintenance of health.
 - (c) The chiropractic physician's responsibility for patient care, case management, and the protection of the patient includes the authority to make a proper referral to a particular health specialist for consultation or collaborative care, and also for treatments, therapeutic procedures, recommendations, recording and reporting to third-party payers, preparing narratives, giving of depositions and in-court testimony as an expert witness and determination of impairment ratings.
 - (d) The scope of practice of a chiropractic physician includes such supportive care as nutritional evaluation, recommendation and supplementation, patient management in their mental and physical environment, and due regard for patients concerning diet, hygiene, sanitation and rehabilitation.
 - (e) The scope of practice of a chiropractic physician includes the ordering, from a licensed or certified laboratory, analysis of blood, urine, or other bodily fluids, secretions or excretions, for the diagnosis and management of the patient.
 - (f) The Board of Chiropractic Examiners does not recognize any one document, guideline, textbook, clinical trial or study as the exclusive endorsement for setting standards of practice.
- (3) (b) Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, mechanical and/or electromechanical devices.
- (c) Manipulation moves the spinal segments beyond their normal range of motion for the restoration of neurological integrity, and/or correction of articular dysfunction, but without exceeding the limits of anatomical integrity.
- (d) A differential diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation/adjustment procedure.

Authority: T.C.A. §§ 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-114, 63-4-120, 63-4-121, 63-4-122, 63-6-1002.

Rule 0260-02-.02 Scope of Practice is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Acupuncture – A licensed chiropractic physician who practices acupuncture must complete two hundred and fifty (250) hours of an acupuncture course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners (NBCE) Acupuncture Exam. Prior to engaging in the practice of acupuncture, a chiropractic physician must:
- (a) request that an official transcript be sent directly to the Board's Administrative Office from an accredited acupuncture program demonstrating successful completion of at least 250 hours training and education; and
 - (b) request that official proof be sent directly to the Board's Administrative Office from the NBCE demonstrating successful completion of the acupuncture exam.
 - (c) Upon receipt, the Board office shall provide a letter to proceed with the practice of acupuncture.

Authority: T.C.A. §§ 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-114, 63-4-120, 63-4-121, 63-4-122, 63-6-1002.

Rule 0260-02-.12 Continuing Education is amended by deleting subparagraphs (1)(a) and (1)(c) in their entirety and substituting instead the following language and is further amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraphs, so that as amended, the new subparagraphs (1)(a) and (1)(c) shall read:

- (a) Acupuncture — Licensees who practice acupuncture shall have six (6) classroom hours each year of the required twenty-four (24) hours in the area of acupuncture. Such licensees must have first met the requirements of Rule 0260-02-.02(4). No credit for continuing education shall be awarded beyond the six (6) hours each year.
- (c) No prior approval is required for continuing education courses conducted or approved by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or CPR training provided by the American Heart Association or the American Red Cross.

Authority: T.C.A. §§ 63-1-108, 63-4-101, 63-4-106 and 63-4-112.

Rule 0260-02-.12 Continuing Education is amended by deleting newly-numbered subparagraph (3)(a), but not its parts, in its entirety and substituting instead the following language, and is further amended by deleting newly-numbered subparagraph (3)(c) and re-lettering the remaining subparagraph accordingly, so that as amended the new subparagraph (3)(a) shall read:

- (a) The licensee must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the following proofs:

Authority: T.C.A. §§ 63-1-108, 63-4-101, 63-4-106 and 63-4-112.

Rule 0260-02-.12 Continuing Education is amended by deleting newly numbered paragraph (4) and subparagraphs (4)(b) and (7)(d) in their entirety and substituting the following language, so that as amended, the new paragraph (4) and subparagraphs (4)(b) and (7)(d) shall read:

- (4) Distance Learning
 - (b) A maximum of six (6) credit hours may be granted for distance learning courses during each calendar year. If the licensee practices acupuncture, three (3) of these six (6) hours may pertain to such acupuncture practice.
- (7) (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) above may be subject to disciplinary action. That disciplinary action will include: (1) Assessment of a civil penalty in the amount of six hundred dollars (\$600.00), which must be paid no later than 30 days after the assessment becomes final; and (2) A requirement that the licensee must make up the hours in which he/she is deficient, in addition to the continuing education hours necessary to be obtained annually. The deficient hours must be made up in the subsequent year. Failure to fulfill these requirements may result in additional disciplinary action.

Authority: T.C.A. §§ 63-1-108, 63-4-101, 63-4-106 and 63-4-112.

Rule 0260-02-.13 Professional Ethics is amended by deleting paragraph (4) and substituting instead the following language, and is further amended by adding new paragraph (9) so that as amended, the new paragraphs (4) and (9) shall read:

- (4) Advertising or promoting, waiving, abrogating, or rebating the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligations for payment, unless the insurer is notified in writing of the fact of such waiver. Advertising or promoting the same must include the notice to the insurer and the record must include proof of the actual notice. If the patient is unable, due to circumstances, to pay for their services and no advertising or promotion is given to the patient, the provider may excuse any portion of fees to insure that the patient may receive the necessary procedure.
- (9) Unlicensed assistants – Licensees shall not allow staff personnel to perform procedures or services in the clinic for which the personnel do not hold the license or certification required for such performance. This includes those services for which certification as a chiropractic therapy assistant or a chiropractic x-ray technologist is required. Violators will be subject to a civil penalty of up to one thousand dollars

(\$1000.00) per month for each employee found to be practicing without a license. Failure to pay any assessed civil penalty may result in additional disciplinary action.

Authority: T.C.A. §§ 63-4-101, 63-4-106, 63-4-114, 63-4-119, and 63-4-123.

Rule 0260-02-.21 Chiropractic Preceptor Program is amended by deleting the rule, but not its title, in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

(1) Applications for Preceptor Program

An application will be considered by the board or its designee, based upon:

- (a) If the preceptor named in the application is in good standing with the board.
- (b) If the application for the chiropractic preceptor program includes an intern who is serving his/her internship with a chiropractic college accredited by the Council on Chiropractic Education (CCE), registered with the Commission on Accreditation of the U.S. Department of Education.

(2) Conditions for Practicing Under an Preceptor Program

- (a) An intern must have approval from the chiropractor preceptor of the findings/diagnosis and case management plan of all patients assigned for examination and care before commencing treatment. With the approval, an intern will be allowed to perform all diagnostic tests and therapeutic interventions as provided in T.C.A. § 63-4-101.
 - (b) The preceptor program will be discontinued upon graduation of the intern.
 - (c) In the event of a vacation or a prolonged illness the chiropractor preceptor must make arrangements for continued supervision by a licensed chiropractic physician. These arrangements must include obtaining a letter from the new chiropractor preceptor addressed to the previous preceptor stating that he/she will take the responsibility for the supervision as set out in subparagraph (2)(a) above. The previous preceptor must also forward a copy of the letter to the Board Administrative Office.
 - (d) Collection of fees for services and filing claims to third-party-payers must be in the name of the chiropractor preceptor (attending physician).
- (3) Supervision – An intern must be supervised by a chiropractic physician licensed in Tennessee. The preceptor shall be on the facility premises while the intern is conducting patient care.

Authority: T.C.A. §§ 63-4-106, 63-4-107, 63-4-108, and 63-4-121.

Rule 0260-02-.24 Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies is amended by deleting the rule title in its entirety and substituting instead the following language, so that as amended, the new rule title shall read:

0260-02-.24 Chiropractic Professional Corporations (CPC) and Chiropractic Professional Limited Liability Companies (CPLLC).

Authority: T.C.A. §§ 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-4-101, 63-4-103, 63-4-106, 63-4-107, 63-4-114, and 63-4-119.

Rule 0260-02-.24 Chiropractic Professional Corporations (CPC) and Chiropractic Professional Limited Liability Companies (CPLLC) is amended by deleting subparagraphs (1)(b) and (2)(b) in their entirety, including their parts and subparts, and substituting instead the following language, so that as amended, the new subparagraphs (1)(b) and (2)(b) shall read:

- (1) (b) Ownership of Stock - With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:
1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or
 2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:
 - (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic services in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
 - (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or
 - (iii) A combination of professionals authorized by subparts (i) and (ii) as long as those professionals are licensed to practice their professions in Tennessee.
- (2) (b) Membership - With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:
1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or
 2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:
 - (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic services in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
 - (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or
 - (iii) A combination of professionals authorized by subparts (i) and (ii) as long as those professionals are licensed to practice their professions in Tennessee.

Authority: T.C.A. §§ 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-4-101, 63-4-103, 63-4-106, 63-4-107, 63-4-114, and 63-4-119.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Richard Cole, D.C.	X				
Andrea L. Selby, D.C.				X	
Joseph Frank Amato, D.C.	X				
Cole James Hosenfeld	X				
Chris Alexander, D.C.	X				
Sheila Fitzgerald	X				
Nancy Strawn				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Chiropractic Examiners (board/commission/ other authority) on 12/18/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/27/15 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 12/18/15 (mm/dd/yy)

Date: 2/10/17

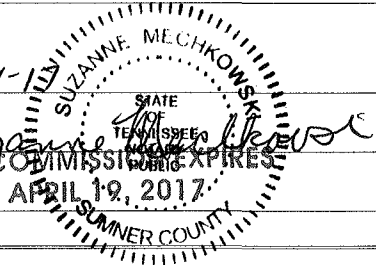
Signature: Mark Cole

Name of Officer: Mark Cole
Assistant General Counsel
Title of Officer: Department of Health

Subscribed and sworn to before me on: 2-1-17

Notary Public Signature: Suzanne Mechkowski

My commission expires on: APRIL 19, 2017



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
2/10/2017
Date

Department of State Use Only

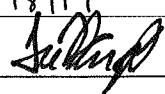
SS-7039 (June 2016)

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RDA 1693

Filed with the Department of State on: 2/17/17

Effective on: 5/18/17


Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Board of Chiropractic Examiners
Rulemaking Hearing
December 18, 2015

Public Comments

There were two written comments submitted regarding the proposed rules. The first written comment was from Timothy Scott Newton, President of the Tennessee Physical Therapy Association (TPTA). The second commenter was John Williams, an attorney for the Tennessee Chiropractic Association (TCA), who submitted a letter to the Board and orally addressed the Board at the rulemaking hearing. Mr. William's oral comments were an accurate representation of his written comments.

Mr. Newton's letter stated TPTA's concerns that the term "physical therapeutics" as used in Rule 0260-02-.01(20) infringes on the practice of physical therapy under T.C.A. § 63-13-310(b)-(c) and Tennessee Attorney General Opinion 12-27. He stated that TPTA's concern is with the term being used, not its definition. Mr. Newton requested the Board to strike the term "physical therapeutics" from paragraph (20) and replace it with something similar, like "physical agent modalities."

Mr. Williams responded to the comments from the Tennessee Physical Therapy Association (TPTA) regarding the use of the term "physical therapeutics" in these rules. He explained that part of the licensure process requires licensees to pass an exam containing a physiotherapy component. He also stated that:

The TCA's position [is] that "physical therapeutics" is a part of the practice of every chiropractic physician and should be defined and used in the rules . . . if the General Assembly had wished to prohibit the use of the term . . . [it] would have included the words . . . in T.C.A. § 63-13-310(b). It did not do so.

The Board rejected this change. Board member, Cole James Hosenfeld, responded to Mr. Newton's letter and stated that physical therapy modalities is just a part of a litany of services that chiropractors provide and that while "physical therapy" is a protected term that is representative of a discipline, "physical therapeutics" is a service that transcends discipline. Additionally, Richard Cole, D.C., added that the Board's intention is not to have chiropractors hold themselves out to be physical therapists, but to the contrary, the Board intends to punish those practitioners who do so. He stated that the Board artfully and carefully chose to bring clarity to what its practitioners do without infringing on the practice of physical therapists.

Mr. Williams also addressed the Board with several requested corrections. He first requested that the Board amend language to the definition of "subluxation" so as to make the definition grammatically conform to the wording of other listed definitions.

The Board voted to accept the change to the definition of "subluxation."

Secondly, Mr. Williams asked the Board to amend the proposed language in Rule 0260-02-.02(2) by inserting the word "a" between the words "of" and "chiropractic" and the words "and shall include:" at the end of the sentence to make clear that the language includes tasks that are part of a chiropractic physician's scope of practice.

The Board also voted to accept this change.

Next, Mr. Williams requested the Board to amend Rule 0260-02-.02(4) by deleting the period at the end of subparagraph (a) and replacing it with a semicolon with the word "and." Mr. Williams also asked the Board to move the last sentence in subparagraph (b) to new subparagraph (c).

The Board accepted each change.

The next request was to amend Rule 0260-02-.12(7)(f) by adding waiver language to the end of the subparagraph.

The Board did not accept this change as it determined that existing waiver language contained in Rule 0260-02-.12(8) was sufficient to satisfy this request.

Mr. Williams also requested that the Board amend Rule 0260-02-.21(3) by deleting the first sentence and replacing it with the language "an extern must be supervised by a chiropractic physician licensed in Tennessee." He further requested that the Board delete the following two sentences and retain the last sentence of the paragraph.

The Board accepted these changes but changed the word "extern" to "intern." Additionally, the Board voted to change the word "extern" to "intern" in all parts of the rule.

Lastly, Mr. Williams requested that the Board amend the proposed language in Rule 0260-02-.24(1)(b)2(iii) by adding the words "to practice their professions in Tennessee" to the end of the subpart to conform with the proposed language as listed in Rule 0260-02-.24(2)(b)2(iii).

The Board voted to accept this change.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) **The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

These proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

These proposed rule amendments exhibit clarity, conciseness, and lack of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

These proposed rule amendments do not affect flexible compliance and/or reporting requirements for small businesses.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

These proposed rule amendment do not affect friendly schedules or deadlines for compliance and/or reporting requirements.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

These proposed rule amendments do not consolidate or simplify compliance or reporting requirements for small businesses.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

These proposed rule amendments do not establish performance standards for small business as opposed to design or operation standards required for the proposed rules.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

These rule amendments do not create entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Chiropractic Examiners

Rulemaking hearing date: 12/18/2015

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

Those practitioners engaged in the practice of chiropractic or business offering chiropractic services will be subject to and will bear the cost of, and/or benefit of the proposed rule amendments. The costs will be minimal.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

The proposed rule amendments will require additional paperwork to be reviewed by the Board, but the effect of such regarding reporting, recordkeeping and other administrative costs should be minimal.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

Small businesses and consumers will likely benefit from the proposed rule amendments as the chiropractic corporations will have to be owned by individuals that are licensed by this Chiropractic Board.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of these proposed rule amendments.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: None.

State: None.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

The proposed rule amendments do not provide for exemption for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These amendments include defining the scope of practice for chiropractic physicians, and incorporate the policy changes made since the last rule amendments were passed. Additionally, the amendments set forth a discipline for failing to complete CE's and of chiropractors using unlicensed chiropractic therapy assistants and x-ray technicians.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Those practitioners engaged in the practice of chiropractic or businesses offering chiropractic services will be affected by these rule amendments.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mark Cole, Assistant General Counsel, Department of Health.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Mark Cole, Assistant General Counsel, Department of Health.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Mark.Cole@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**RULES
OF
TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 0260-02
GENERAL RULES GOVERNING CHIROPRACTIC EXAMINERS**

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0260-02-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, joint mobility or alignment.
- (2)(4) Advertising - Includes, but is not limited to business solicitation, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or any other means designed to secure public attention.
- (3)(2) Applicant - Any individual seeking licensure by the board who has submitted an official application and paid the application fee.
- (4)(3) Board - The Tennessee Board of Chiropractic Examiners.
- (5)(4) Board Administrative Office - The office of the Unit Director assigned to the board located at 665 Mainstream Drive, Nashville, TN 37243.
- (6)(5) Board Designee - Any person who has received a written delegation of authority from the board to perform board functions subject to review and ratification by the full board where provided by these rules.
- (6) ~~Chiropractic Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, with or without recoil and directed by specific anatomical listings designed to reduce or correct a subluxated unit.~~

(Rule 0260-02-.01, continued)

~~(7) Chiropractic Physical Therapeutics - A category of a physical agent utilized as ancillary therapy to adjustive procedures which may give additional physiological support to the five (5) components of a subluxation complex preceding or following specific adjustive procedures.~~

~~(7)(8)~~ Closed Files - An administrative action which renders an incomplete or denied file inactive.

~~(8)(9)~~ Department - Tennessee Department of Health.

~~(9)(10)~~ Division - The Division of Health Related Boards, Tennessee Department of Health, from which the board receives administrative support.

~~(10)(14)~~ Documentation - Refers to and includes, but is not limited to, notations made by the provider or his designated assistant in the patient record, relevant reports from other providers, electronically obtained and/or stored information and all diagnostic imaging, etc.

~~(11)(12)~~ Excessive - That which fails to be substantiated beyond the quantity of procedures customarily performed or utilized by a prudent person similarly trained, skilled and experienced in a specific diagnostic or treatment procedure or technique in question.

~~(12)(13)~~ Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also, the required application fees.

~~(13)(14)~~ Good Moral Character - The quality of being highly regarded in personal behavior and professional ethics.

~~(14)(15)~~ He/she Him/her - When "he" appears in the text of these rules, the word represents both the feminine and masculine genders.

~~(15)(16)~~ HRB - When the acronym HRB appears in the text of these rules, the HRB represents Health Related Boards.

~~(16)(17)~~ License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an "artistically designed" license as well as other versions bearing an expiration date.

~~(18) Manipulation - A passive movement for the purpose of testing joint space mobility and/or a manual intervention utilized for releasing muscles and less contractible structures that have lost elasticity with their effects on joint function, and which is not designed to bring about articular change when locked out of its physiologic joint space and/or range of motion.~~

(17) Manipulation - A passive therapeutic intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, mobility or alignment.

~~(18)(19)~~ National Board - Means the National Board of Chiropractic Examiners.

~~(19)(20)~~ Person - Any individual, firm, corporation, partnership, organization, or body politic.

~~(20) Physical Therapeutics - Physical agents, rehabilitative and/or therapeutic procedures utilized in the restoration and maintenance of health.~~

(21) Registrant - Any person who has been lawfully issued a license.

~~(22) Subluxation - When one or the other of two adjacent articular surfaces has lost its normal position, affecting its active, passive or anatomical end range and is classified less than a~~

(Rule 0260-02-.01, continued)

~~dislocation. A subluxation complex includes one or more of its five components which may result in a primary, related and/or attending diagnosis.~~

- ~~(22) Subluxation - An abnormal condition where one or the other of two adjacent articular surfaces has lost its articular or neurological function, position, or alignment and is classified less than a dislocation.~~
- (23) Substantiation - Any test, examination, recorded symptom or other observation of the patient (or, in the case of a minor or otherwise legally incompetent person, reported to the provider or his staff by the parent or legal guardian) by the provider and determined by said provider to be useful in arriving at a treating or management diagnosis and/ or the determination of what, how, when, where and why to examine, treat, consult or refer a patient.
- ~~(24) Therapeutic Care - Any approved care of specific chiropractic adjustive procedures utilized in patient care, for the purpose of returning the patient to a stabilized or pre-clinical status.~~
- ~~(24) Therapeutic Care - An approved, adjustive, manipulative, nutritional, therapeutic or rehabilitative treatment administered by or ordered by a chiropractic physician for the restoration and maintenance of health.~~
- (25) Use of Title or Description - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationary, announcements, business cards, or other means of professional identification.
- (26) Written Evidence - Includes, but is not limited to, written verification from supervisors or other professional colleagues familiar with the applicant's work.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-103, 63-4-105, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-112, 63-4-114, 63-4-122, and 63-4-123. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 27, 2002; effective December 11, 2002.

0260-02-.02 SCOPE OF PRACTICE.

- (1) Any person who possesses a valid unsuspended and unrevoked license issued by the Board has the right to use the title licensed chiropractic physician. No other person shall assume this title on any work, letter, sign, figure, advertisement, or device to indicate that the person using the same is a licensed chiropractic physician. The work performed includes offering case management procedures and recommendations for health care and services to the public.
- ~~(2) The scope of practice of chiropractic physicians shall be as set forth in T.C.A. §§ 63-4-101.~~
- ~~(2) The scope of practice of a chiropractic physician shall be as set forth in T.C.A. § 63-4-101 and shall include:~~
 - ~~(a) As a portal of entry provider, a chiropractic physician has authority to make a differential diagnosis that may include the use of patient history, examination techniques, lab analysis and analytical instruments for the purpose of determining vital signs and screening of health status, orthopedic and neurological testing, range of motion and muscles testing and diagnostic evaluation and/or imaging of the human body that may be revealed in a state of pathology, as a basis for making clinical judgments as to the patient's condition, degree or nature of treatment needed and management and rehabilitation of the human body which is in the opinion of the provider, appropriate for the restoration and maintenance of health.~~

(b) A chiropractic physician has the authority to perform an adjustment, manipulation or treatment which may include physical therapeutic interventions to the human frame and/or soft tissues for the restoration and/or supportive care and/or maintenance of health.

(c) The chiropractic physician's responsibility for patient care, case management, and the protection of the patient includes the authority to make a proper referral to a particular health specialist for consultation or collaborative care, and also for treatments, therapeutic procedures, recommendations, recording and reporting to third-party payers, preparing narratives, giving of depositions and in-court testimony as an expert witness and determination of impairment ratings.

(d) The scope of practice of a chiropractic physician includes such supportive care as nutritional evaluation, recommendation and supplementation, patient management in their mental and physical environment, and due regard for patients concerning diet, hygiene, sanitation and rehabilitation.

(e) The scope of practice of a chiropractic physician includes the ordering, from a licensed or certified laboratory, analysis of blood, urine, or other bodily fluids, secretions or excretions, for the diagnosis and management of the patient.

(f) The Board of Chiropractic Examiners does not recognize any one document, guideline, textbook, clinical trial or study as the exclusive endorsement for setting standards of practice.

(3) Spinal manipulation / Spinal adjustment

(a) Training must be performed in chiropractic institutions or institutions that specialize in spinal manipulative therapy. Spinal manipulation is a highly skilled maneuver that requires adequate training. Four hundred (400) hours of classroom instruction and eight hundred (800) hours of supervised clinical training are considered a minimum level of education to properly administer the techniques.

~~(b) Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, or Sweat instrumentation.~~

(b) Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, mechanical and/or electromechanical devices.

~~(c) Manipulation moves the spinal segments beyond their normal range of motion for the correction of nerve interference and articular dysfunction, but without exceeding the limits of anatomical integrity.~~

(c) Manipulation moves the spinal segments beyond their normal range of motion for the restoration of neurological integrity, and/or correction of articular dysfunction, but without exceeding the limits of anatomical integrity.

~~(d) A chiropractic diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation procedure.~~

(d) A differential diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation/adjustment procedure.

~~(4) Acupuncture — Any licensed chiropractic physician who practices acupuncture shall, prior to commencing such practice, complete two hundred and fifty (250) hours of an acupuncture~~

~~course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners Acupuncture Exam.~~

- (4) Acupuncture – A licensed chiropractic physician who practices acupuncture must complete two hundred and fifty (250) hours of an acupuncture course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners (NBCE) Acupuncture Exam. Prior to engaging in the practice of acupuncture, a chiropractic physician must:
- (a) request that an official transcript be sent directly to the Board's Administrative Office from an accredited acupuncture program demonstrating successful completion of at least 250 hours training and education; and
 - (b) request that official proof be sent directly to the Board's Administrative Office from the NBCE demonstrating successful completion of the acupuncture exam.
 - (c) Upon receipt, the Board office shall provide a letter to proceed with the practice of acupuncture.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-114, 63-4-120, 63-4-121, 63-4-122, 63-6-1002. **Administrative History:** Original rule filed December 5, 1978; effective April 2, 1979. Repeal and new rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed October 24, 2002; effective January 7, 2003. Amendment filed June 3, 2004; effective August 17, 2004. Amendment filed April 10, 2007; effective June 24, 2007.

0260-02-.03 NECESSITY OF CERTIFICATION.

- (1) Prior to the engagement of the practice of chiropractic in Tennessee, a person must hold a current Tennessee license or temporary license issued pursuant to rule 0260-02-.14.
- (2) It is unlawful for any person who is not licensed in the manner prescribed in T.C.A. §§ 3-4-101 et seq. to represent himself/herself as a licensed chiropractor or to hold himself/herself out to the public as being licensed by means of using a title on signs, mailboxes, address plates, stationary, announcements, telephone listings, calling cards, or other instruments of professional identification.
- (3) Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the titles "chiropractor," "chiropractic physician" and "doctor of chiropractic," to use the acronym "D.C.," and to practice chiropractic, as defined in T.C.A. §§ 63-4-101. Any person licensed by the Board to whom this rule applies must use one of the titles authorized by this rule in every "advertisement" [as that term is defined in rule 0260-02-.20 (2) (a)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the licensee to disciplinary action pursuant to T.C.A. §§ 63-4-114 (4), (13), and (16).
- (4) Chiropractic is one of the healing arts and as such the practice of which is restricted to those persons credentialed by the board. Persons engaging in the practice of chiropractic without being credentialed are in violation of T.C.A. §§ 63-1-123.
- (5) Licensed chiropractic physicians by virtue of their license shall be qualified to operate x-ray equipment and order examinations of Imagery for diagnostic purposes pursuant to T.C.A. §§ 63-4-119.

(Rule 0260-02-.11, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, and 63-4-112. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0260-02-.12 CONTINUING EDUCATION.

- (1) Basic requirements - The Board of Chiropractic Examiners requires each licensee to complete twenty-four (24) clock hours of Board-approved continuing education each calendar year (January 1 — December 31).

~~(a) Acupuncture — Licensees who practice acupuncture shall have six (6) classroom hours each year of the required twenty-four (24) hours in the area of acupuncture. Such licensees must have first met the requirements of Rule 0260-02-.02(4). No credit for continuing education shall be awarded beyond the six (6) hours each year. Licensees who do not practice acupuncture shall not be granted credit for acupuncture continuing education.~~

(a) Acupuncture — Licensees who practice acupuncture shall have six (6) classroom hours each year of the required twenty-four (24) hours in the area of acupuncture. Such licensees must have first met the requirements of Rule 0260-02-.02(4). No credit for continuing education shall be awarded beyond the six (6) hours each year.

- (b) Cardiopulmonary Resuscitation (CPR) – Two (2) hours of the twenty-four (24) hour requirement may be in CPR training.

~~(c) No prior approval is required for continuing education courses conducted by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or CPR training provided by the American Heart Association or the American Red Cross.~~

(c) No prior approval is required for continuing education courses conducted or approved by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or CPR training provided by the American Heart Association or the American Red Cross.

- (d) Prior approval is required for all course providers not mentioned in subparagraph (c) of this rule, and may be obtained by submitting the following information to the board's administrative office at least thirty (30) days prior to the scheduled date of the course:

1. A course description or outline; and
2. Names of all lecturers; and
3. Brief résumé of all lecturers; and
4. Number of hours of educational credit requested; and
5. Date of course; and
6. Copies of materials to be utilized in the course; and
7. How verification of attendance is to be documented.

- (e) Whenever the Board decides that there is information that is crucial for licensees to have, it may prepare and send that information to all continuing education providers in a format no larger than two (2) pages. All approved continuing education providers must,

(Rule 0260-02-.12, continued)

as a prerequisite to remaining an approved provider, reproduce and distribute this information from the Board to every licensee attending each of its individual continuing education courses or group of courses.

(2) New licensee requirements

- (a) A six (6) hour Board approved course in risk management, sexual/professional boundaries, and Tennessee statutory and regulatory chiropractic jurisprudence must be taken within twelve (12) months prior to licensure or within the first six (6) months of licensure. If taken prior to licensure, the course must be an additional course beyond the regular chiropractic school program. If taken within the first six (6) months after licensure, the course shall not constitute part of the twenty-four (24) clock hour continuing education requirement in paragraph (1) of this rule for the first calendar year that continuing education is required.
- (b) New licensee by examination or reciprocity – New licensees, whether by examination or reciprocity, shall be exempted from the continuing education requirements of 0260-02-.12(1) for the calendar year in which they are licensed, but must take the six (6) hour course as described above in 0260-02-.12(2)(a).

~~(3) Current licensee requirement – Before January 1, 2008 every licensee who has not already done so must submit satisfactory proof of having successfully completed, as part of the annual continuing education requirement, the six (6) hour course described in subparagraph (2) (a) of this rule. It is the Board's intent that the six (6) hour course described in subparagraph (2) (a) of this rule must be completed once by all licensees.~~

(3)(4) Documentation

~~(a) Each licensee shall send proof of completion of the annual continuing education requirement to the board's administrative office so that it is received no later than January 15th of the year immediately following the end of each calendar year. Such proof may be transmitted electronically provided the board has capability for electronic receipt of proof. When proof is mailed to the board's administrative office, such proof must be one (1) or more of the following:~~

(a) The licensee must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the following proofs:

1. Original certificates or photocopies of original certificates verifying the licensee's attendance at continuing education program(s). The original certificates or photocopies of original certificates must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.
2. Original letters or photocopies of original letters on official stationery from the continuing education program's sponsor indicating date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.
3. Original documents or photocopies of original documents verifying successful completion of a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in paragraph (5). The original documents or photocopies of original documents must include the

(Rule 0260-02-.12, continued)

clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.

- (b) Each licensee must retain original documents or photocopies of original documents which verify proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.

~~(c) The licensee must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the proofs described in subparagraph (a).~~

- ~~(c)~~(d) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the practice of chiropractic. If the board determines that the training can not be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.

(4)(5) Multi-Media Distance Learning

- (a) Continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats. Multi-Media courses may include courses utilizing:

1. The Internet
2. Closed circuit television
3. Satellite broadcasts
4. Correspondence courses
5. Videotapes
6. CD-ROM
7. DVD
8. Teleconferencing
9. Videoconferencing
10. Distance learning

~~(b) A maximum of six (6) credit hours may be granted for multi-media courses during each calendar year. If the licensee practices acupuncture, three (3) of these six (6) hours may pertain to such acupuncture practice.~~

(b) A maximum of six (6) credit hours may be granted for distance learning courses during each calendar year. If the licensee practices acupuncture, three (3) of these six (6) hours may pertain to such acupuncture practice.

(Rule 0260-02-.12, continued)

~~(5)~~(6) Continuing education credit will not be allowed for the following:

- (a) Regular work activities, administrative staff meetings, case staffing/reporting, etc.
- (b) Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches.
- (c) Training specifically related to policies and procedures of an agency.
- (d) Courses that pertain to the promotion and growth, and the business management of a chiropractic practice.

~~(6)~~(7) Continuing Education for Reactivation or Reinstatement of Retired, Revoked, or Expired Licensure.

(a) Reactivation of Retired Licensure

- 1. An individual whose license has been retired for one year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reactivation. Those hours will be considered replacement hours and can not be counted toward meeting the calendar year end requirement.
- 2. Any individual requesting reactivation of a license which has been retired for more than one (1) year must submit, along with the reactivation request, verification which indicates the attendance and completion of twenty-four (24) hours of continuing education for the year in which the license is to be reactivated. The continuing education hours must have been begun and successfully completed before the date of reactivation.

(b) Reactivation of Revoked Licensure – No person whose license has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as that for those licenses which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.

(c) Reactivation or Reinstatement of Expired Licensure – No person whose license has expired may be reactivated or reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reactivation or reinstatement must equal the hours required, had the license remained in an active status, and must have been begun and successfully completed before the date of reactivation or reinstatement.

(d) Continuing education hours obtained as a prerequisite for reactivating or reinstating a license may not be counted toward the calendar year requirement.

~~(7)~~(8) Violations

(a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.

(b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.

(Rule 0260-02-.12, continued)

- (c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
- ~~(d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) above may be subject to disciplinary action.~~
- (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) above may be subject to disciplinary action. That disciplinary action will include: (1) Assessment of a civil penalty in the amount of six hundred dollars (\$600.00), which must be paid no later than 30 days after the assessment becomes final; and (2) A requirement that the licensee must make up the hours in which he/she is deficient, in addition to the continuing education hours necessary to be obtained annually. The deficient hours must be made up in the subsequent year. Failure to fulfill these requirements may result in additional disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

(8)(9) Waiver of Continuing Education

- (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education if it can be shown to the board that compliance was beyond the physical capabilities of or would constitute undue hardship to the person seeking the waiver.
- (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the board's administrative office:
 - 1. A written request for a waiver which specifies what requirements is sought to be waived and written and signed explanation of the reason for the request.
 - 2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the board.
- (c) A waiver approved by the board is effective only for the calendar year for which the waiver is sought.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-108, 63-4-101, 63-4-106 and 63-4-112. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 27, 2002; effective December 11, 2002. Amendment filed December 4, 2003; effective February 17, 2004. Amendments filed January 5, 2006; effective March 21, 2006. Amendment filed October 18, 2006; effective January 1, 2007. Amendment filed January 11, 2007; effective March 27, 2007. Amendment filed April 10, 2007; effective June 24, 2007. Amendments filed October 27, 2008; effective January 10, 2009. Amendment filed July 26, 2010; effective October 24, 2010. Amendment filed October 14, 2011; effective January 12, 2012.

0260-02-.13 PROFESSIONAL ETHICS. Immoral, unprofessional, unethical, or dishonorable conduct shall include, but not be limited to, the following:

- (1) Conduct designed to, or likely to, deceive, or harm the public.

(Rule 0260-02-.13, continued)

- (2) Being a party to or aiding and abetting the violation of these regulations or the laws of the State of Tennessee regulating the practice of chiropractic.
- (3) The intentional or negligent use of any false, fraudulent or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice in connection with any of the licensing requirements of T.C.A. §§ 63-4-101, et seq.
- ~~(4) Advertising or promoting, waiving, abrogating, or rebating the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligations for payment thereunder, unless the insurer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness. Advertising or promoting the same must include the intent of notice to the insurer and the record must include proof to the actual notice to the appropriate third party. If no advertising or promotion is given to any patient in the practice, the provider may excuse any portion or all fees to insure that all patients may receive all necessary procedures, if unable, due to circumstances, pay for their services.~~
- (4) Advertising or promoting, waiving, abrogating, or rebating the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligations for payment, unless the insurer is notified in writing of the fact of such waiver. Advertising or promoting the same must include the notice to the insurer and the record must include proof of the actual notice. If the patient is unable, due to circumstances, to pay for their services and no advertising or promotion is given to the patient, the provider may excuse any portion of fees to insure that the patient may receive the necessary procedure.
- (5) Grossly excessive use of examinations of a patient or a pattern of clearly excessive use of examinations of patients when patients are charged for this service or reimbursement of the examination(s) is requested from a third party. The conduct mentioned herein is presumed to have occurred when there is no documented, substantiated, finding(s) or condition(s) of the patient(s) which warrant(s) the use of examination(s) for a chiropractic diagnosis.
- (6) Grossly excessive use of care and treatment of a patient or a pattern of clearly excessive use of care and treatment of patients when patients are charged for this service or reimbursement of payment for the care and treatment is requested from a third party. The conduct mentioned herein is presumed to have occurred when there is no documented, substantiated finding(s) or condition(s) of the patient(s) based on a chiropractic diagnosis which warrant(s) the treatment(s) and care performed.
- (7) A chiropractic physician shall not overutilize or otherwise improperly use ionizing radiation. In order to avoid overutilization of ionizing radiation, a chiropractic physician shall observe the following guidelines:
 - (a) Routine radiography of any patient shall not be performed without due regard for clinical need;
 - (b) Subsequent radiographic evaluation of the patient shall not be undertaken without significant observable clinical indication, as determined by the treating chiropractic physician. The significant observable indication required by this subsection shall not apply to reevaluations of the spinal subluxation complex. The spinal subluxation complex is determined to be a significant observable indication.
- (8) Sexual misconduct.
 - (a) Licensees shall not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances or verbal or nonverbal conduct that is sexual in nature,

(Rule 0260-02-.13, continued)

that occurs in connection with the licensee's activities or roles as a licensee and that either is unwelcome, offensive, or creates a hostile workplace environment and the licensee knows or is told this, or is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.

- (b) Licensees shall not engage in sexual relationships with current patients, employees, or co-workers because such relationships are likely to impair judgment or be exploitative.
- (c) Licensees shall not accept as patients persons with whom they have engaged in sexual intimacies.
- (d) Licensees shall not engage in sexual intimacies with a former patient for at least six (6) months after cessation or termination of professional services.
- (e) Licensees must respect a patient's dignity at all times and should provide appropriate gowns and private facilities for dressing, undressing, and examination. A licensee should not be present in the room when a patient is dressing or undressing.
- (f) Licensees may have a chaperone present during examination for the protection of both the patient and the licensee. A licensee should refuse to examine sensitive parts of the patient's body without a chaperone present.
- (9) Unlicensed assistants – Licensees shall not allow staff personnel to perform procedures or services in the clinic for which the personnel do not hold the license or certification required for such performance. This includes those services for which certification as a chiropractic therapy assistant or a chiropractic x-ray technologist is required. Violators will be subject to a civil penalty of up to one thousand dollars (\$1000.00) per month for each employee found to be practicing without a license. Failure to pay any assessed civil penalty may result in additional disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-401, 63-4-106, and 63-4-114. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed April 14, 2003; effective June 2003.

0260-02-.14 REPEALED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-103, 63-4-106, 63-4-112, 63-4-114, 63-4-120, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Repeal filed October 14, 2011; effective January 12, 2012.

(Rule 0260-02-.20, continued)

shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

(6) Telemarketing.

- (a) Telemarketing or telephonic solicitation by licensees, their employees, or agents to victims of accidents or disaster shall be considered unethical if carried out within thirty (30) days of the accident or disaster, and subject the licensee to disciplinary action pursuant to T.C.A. §§ 63-4-114.
- (b) Telemarketing transcripts shall be maintained for a period of two (2) years following their utilization.
- (c) A log of contacts must be maintained for a period of two (2) years following the telemarketing encounter.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-114 and 63-4-122. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed April 10, 2007; effective June 24, 2007.

0260-02-.21 CHIROPRACTIC PRECEPTOR PROGRAM.~~(1) Application for Preceptor Program~~

~~An application will be considered by the board or its designee, based upon;~~

- ~~(a) If the preceptor named in the application is in good standing with the board.~~
- ~~(b) If the application for the chiropractic preceptor program includes an intern/extern whom is serving his/her internship with a chiropractic college accredited by the Council on Chiropractic Education (CCE), registered with the Commission on Accreditation of the U.S. Department of Education.~~

~~(2) Conditions for Practice Under a Preceptor Program~~

- ~~(a) The conditions for practice are the same as for a temporary licensee, as outlined in rule 0260-02-.14(2) and (3), additionally;~~
- ~~(b) The preceptor program will be discontinued upon graduation of the intern/extern; however, if the graduate has completed the application for licensure in this state and upon filing an application for temporary license, when approved, including the payment of the fee in accordance with rule 0260-02-.14(l), may continue, practicing as a temporary licensee.~~

(1) Applications for Preceptor Program

An application will be considered by the board or its designee, based upon:

- (a) If the preceptor named in the application is in good standing with the board.
- (b) If the application for the chiropractic preceptor program includes an intern who is serving his/her internship with a chiropractic college accredited by the Council on

(Rule 0260-02-.21, continued)

Chiropractic Education (CCE), registered with the Commission on Accreditation of the U.S. Department of Education.

(2) Conditions for Practicing Under a Preceptor Program

- (a) An intern must have approval from the chiropractor preceptor of the findings/diagnosis and case management plan of all patients assigned for examination and care before commencing treatment. With the approval, an intern will be allowed to perform all diagnostic tests and therapeutic interventions as provided in T.C.A. § 63-4-101.
- (b) The preceptor program will be discontinued upon graduation of the intern.
- (c) In the event of a vacation or a prolonged illness the chiropractor preceptor must make arrangements for continued supervision by a licensed chiropractic physician. These arrangements must include obtaining a letter from the new chiropractor preceptor addressed to the previous preceptor stating that he/she will take the responsibility for the supervision as set out in subparagraph (2)(a) above. The previous preceptor must also forward a copy of the letter to the Board Administrative Office.
- (d) Collection of fees for services and filing claims to third-party-payers must be in the name of the chiropractor preceptor (attending physician).

(3) Supervision – An intern must be supervised by a chiropractic physician licensed in Tennessee. The preceptor shall be on the facility premises while the intern is conducting patient care.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-107, 63-4-108, 63-4-120, and 63-4-121.

Administrative History: Original rule filed December 28, 1995; effective March 12, 1996.

0260-02-.22 SUBSTANTIATION OF SERVICES. It is intended that these procedures are the accepted standard(s) and anything less than this shall be considered unprofessional and unethical conduct in the practice of chiropractic and may subject a licensee to disciplinary action pursuant to T.C.A. §§ 63-4-114 (4).

- (1) These standards apply to all licensed chiropractic physicians. These standards also apply to those examinations advertised at a reduced fee or free (no charge) services.
- (2) Adequate patient records shall be legibly maintained.
- (3) Initial and follow-up services (daily records) shall consist of documentation to justify care.
- (4) If abbreviations or symbols are used in the daily recordkeeping, a key must be provided.
- (5) All patient records shall include but not be limited to:
 - (a) patient history
 - (b) subjective/objective findings
 - (c) examination
 - (d) diagnosis
 - (e) treatment,

(Rule 0260-02-.22, continued)

- (f) and reevaluation or referral.
- (6) In any disciplinary action against a chiropractic physician for any reason, the Board shall apply these minimal clinical standards.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-106, and 63-4-114. **Administrative History:** Original rule filed February 12, 1996; effective April 27, 1996.

0260-02-.23 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice Reporting Requirements - The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be set by statute, as provided in Public Chapter 373 of the Public Acts of 1999.
- (2) Criminal Conviction Reporting Requirements - For purposes of the "Health Care Consumer Right-To-Know Act of 1998, the following criminal convictions must be reported:
 - (a) Conviction of any felony; and
 - (b) Conviction or adjudication of guilt of any misdemeanor within the most recent ten (10) years, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - 1. Sex.
 - 2. Alcohol or drugs.
 - 3. Physical injury or threat of injury to any person.
 - 4. Abuse or neglect of any minor, spouse or the elderly.
 - 5. Fraud or theft.
 - (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-51-101, et seq., and Public Chapter 373 of the Public Acts of 1999. **Administrative History:** Original rule 0260-02-.23 filed March 14, 2000; effective May 28, 2000.

~~0260-02-.24 CHIROPRACTIC PROFESSIONAL CORPORATIONS AND CHIROPRACTIC PROFESSIONAL LIMITED LIABILITY COMPANIES.~~

0260-02-.24 Chiropractic Professional Corporations (CPC) and Chiropractic Professional Limited Liability Companies (CPLLC).

- (1) Chiropractic Professional Corporations (CPC) – Except as provided in this rule Chiropractic Professional Corporations shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.
 - (a) Filings – A CPC need not file its Charter or its Annual Statement of Qualifications with the Board.

(Rule 0260-02-.24, continued)

~~(b) Ownership of Stock — With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:~~

- ~~1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or~~
- ~~2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:~~
 - ~~(i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or~~
 - ~~(ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or~~
 - ~~(iii) A combination of professionals authorized by subparts (i) and (ii).~~

(b) Ownership of Stock - With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:

1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or
2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:
 - (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic services in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
 - (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or
 - (iii) A combination of professionals authorized by subparts (i) and (ii) as long as those professionals are licensed to practice their professions in Tennessee.

(c) Officers and Directors of Chiropractic Professional Corporations -

1. All, except the following officers, must be persons who are eligible to form or own shares of stock in a chiropractic professional corporation as limited by T.C.A. §§ 48-101-610 (d) and subparagraph (1) (b) of this rule:
 - (i) Secretary;
 - (ii) Assistant Secretary;

(Rule 0260-02-.24, continued)

(iii) Treasurer; and

(iv) Assistant Treasurer.

2. With respect to members of the Board of Directors, only persons who are eligible to form or own shares of stock in a chiropractic professional corporation as limited by T.C.A. §§ 48-101-610 (d) and subparagraph (1) (b) of this rule shall be directors of a CPC.

(d) Practice Limitations

1. Engaging in, or allowing another chiropractic physician incorporator, shareholder, officer, or director, while acting on behalf of the CPC, to engage in, chiropractic practice in any area of practice or specialty beyond that which is specifically set forth in the charter may be a violation of the professional ethics enumerated in Rule 0260-02-.13 and/or Tennessee Code Annotated, Section 63-4-114 (4).
2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a CPC.
3. Nothing in these rules shall be construed as prohibiting a CPC from electing to incorporate for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician incorporators, directors, officers, shareholders, employees or contractors of the CPC who are practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
4. Nothing in these rules shall be construed as prohibiting a chiropractic physician from owning shares of stock in any type of professional corporation other than a CPC so long as such ownership interests do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician while practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.

- (2) Chiropractic Professional Limited Liability Companies (CPLLC) - Except as provided in this rule Chiropractic Professional Limited Liability Companies shall be governed by either the provisions of Tennessee Code Annotated, Title 48, Chapter 248 or Public Chapter 286 of the Public Acts of 2005.

(a) Filings - Articles filed with the Secretary of State shall be deemed to be filed with the Board and no Annual Statement of Qualifications need be filed with the Board.

~~(b) Membership - With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:~~

- ~~1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or~~
- ~~2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:~~

(Rule 0260-02-.24, continued)

- ~~(i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or~~
- ~~(ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLL; and/or~~
- ~~(iii) A combination of professionals authorized by subparts (i) and (ii).~~

(b) Membership - With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLL doing business in Tennessee:

1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or
2. A foreign or domestic general partnership, CPC or CPLL in which all partners, shareholders, members or holders of financial rights are either:
 - (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic services in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
 - (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLL; and/or
 - (iii) A combination of professionals authorized by subparts (i) and (ii) as long as those professionals are licensed to practice their professions in Tennessee.

(c) Managers, Directors or Governors of a CPLL

1. All, except the following managers, must be persons who are eligible to form or become members or holders of financial rights of a chiropractic professional limited liability company as limited by T.C.A. §§ 48-248-401 and subparagraph (2) (b) of this rule:
 - (i) Secretary
 - (ii) Treasurer
2. Only persons who are eligible to form or become members or holders of financial rights of a chiropractic professional limited liability company as limited by T.C.A. §§ 48-248-401 and subparagraph (2) (b) of this rule shall be allowed to serve as a director, or serve on the Board of Governors of a CPLL.

(d) Practice Limitations

1. Engaging in, or allowing another chiropractic physician member, officer, manager, director, or governor, while acting on behalf of the CPLL, to engage in,

(Rule 0260-02-.24, continued)

chiropractic practice in any area of practice or specialty beyond that which is specifically set forth in the articles of organization may be a violation of the professional ethics enumerated in Rule 0260-02-.13 and/or Tennessee Code Annotated, Section 63-4-114 (4).

2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a CPLLC.
 3. Nothing in these rules shall be construed as prohibiting a CPLLC from electing to form for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Limited Liability Company Act or the Tennessee Revised Limited Liability Company Act so long as those purposes do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician members or holders of financial rights, governors, officers, managers, employees or contractors of the CPLLC who are practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
 4. Nothing in these rules shall be construed as prohibiting a chiropractic physician from being a member of any type of professional limited liability company other than a CPLLC so long as such membership interests do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician while practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
 5. All CPLLCs formed in Tennessee pursuant to Tennessee Code Annotated, Section 48-248-104 or Public Chapter 286 of the Public Acts of 2005, to provide services only in states other than Tennessee shall annually file with the Board a notarized statement that they are not providing services in Tennessee.
- (3) Dissolution - The procedure that the Board shall follow to notify the attorney general that a CPC or a CPLLC has violated or is violating any provision of Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005, shall be as follows but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated, Sections 48-101-624 or 48-248-409.
- (a) Service of a written notice of violation by the Board on the registered agent of the CPC and/or CPLLC or the secretary of state if a violation of the provisions of Tennessee Code Annotated, Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005 occurs.
 - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
 - (c) The notice of violation shall state that the CPC and/or CPLLC must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
 - (d) The notice of violation shall state that, if the Board finds that the CPC and/or CPLLC is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to Tennessee Code Annotated, Title 48.
 - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 but that the CPC and/or

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CPLLC, through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.

- (f) If, after the proceeding the Board finds that a CPC and/or CPLLC did violate any provision of Title 48, Chapters 101 and/or 248 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of either Tennessee Code Annotated, Sections 48-101-624 (1)-(3) and/or 48-248-409 (1)-(3) and/or Public Chapter 286 of the Public Acts of 2005.
- (4) Violation of this rule by any chiropractic physician individually or collectively while acting as a CPC or as a CPLLC may subject the chiropractic physician(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-4-114 (4).
- (5) The authority to own shares of stock or be members or holders of financial rights in an CPC or an CPLLC granted by statute or these rules to professionals not licensed in this state shall in no way be construed as authorizing the practice of any profession in this state by such unlicensed professionals.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-4-101, 63-4-103, 63-4-106, 63-4-107, 63-4-114, 63-4-119, and Public Chapter 286 of the Public Acts of 2005. **Administrative History:** Original rule filed December 18, 2003; effective March 2, 2004. Amendment filed March 16, 2007; effective May 30, 2007. Amendment filed August 23, 2012; effective November 21, 2012.

0260-02-.25 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS.

- (1) Free Health Clinic Practice Pursuant to T.C.A. §§ 63-1-201.
 - (a) Any chiropractor licensed to practice chiropractic in this state or any other state who has not been disciplined by any licensure board may have his/her license converted to or receive a Tennessee "Special Volunteer License," as defined in T.C.A. §§ 63-1-201, which will entitle the licensee to practice without remuneration solely within a "free health clinic," as defined by T.C.A. §§ 63-1-201, at a specified site or setting by doing the following:
 1. Obtaining from the Board's administrative office a "Special Volunteer License" application, completing it and submitting it along with any required documentation to the Board's administrative office; and
 2. Have the licensing authority of every state in which the chiropractor holds or ever held a license to practice submit directly to the Board's administrative office the equivalent of a "certificate of fitness" as described in T.C.A. §§ 63-1-118 which shows that the license has never been subjected to any disciplinary action and is free and clear of all encumbrances; and
 3. For chiropractors who have not been licensed in Tennessee, comply with all provisions of subparagraphs (2) (d), (2) (e), and (2) (f) of rule 0260-02-.05 and the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§ 63-51-101, et seq.; and