

## CHAPTER 25

# Department of Labor, Licensing and Regulation— South Carolina Board of Chiropractic Examiners

(Statutory Authority: 1976 Code § 40–9–30, as amended)

### **25–1. Organization, Administration and Procedure.**

**Purpose.** The Board of Chiropractic (“Board”) was created to protect the health, safety and welfare of the public. This purpose is achieved through the establishment of minimum qualifications for entry into the profession and through swift and effective discipline for those practitioners who violate the applicable laws or rules promulgated thereunder.

**HISTORY:** Amended by State Register Volume 17, Issue No. 4, eff April 23, 1993; State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 37, Issue No. 6, eff June 28, 2013.

### **25–2. Application for Licensure.**

A. **Application.** Any person desiring to be licensed as a chiropractor must apply to the Board and provide all information and documentation required by the Board. Applications and accompanying documents will be valid for one (1) year from the initial application date. After one (1) year, a new application with attendant documents and appropriate fees must be submitted. Applicants must be within ninety (90) days of graduation or graduated, and have passed all applicable National Board examinations. Applications must include:

(1) Pre-professional education transcript. A certified copy of the applicant’s transcript from an accredited pre-professional college. An applicant’s transcript must indicate two years (60 semester hours) toward a degree from a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency of equal status and recognition.

(2) Chiropractic college transcript. A certified copy of the applicant’s transcript from a chiropractic college accredited by or has recognized candidate status with the Council of Chiropractic Education or with the Commission on Accreditation of the Straight Chiropractic Academic Standards Association or meets equivalent standards. Students who are within ninety (90) days of graduation may submit an attested letter from the chiropractic college establishing estimated date of graduation.

(3) National Board of Chiropractic Examiners scores. Applicants must have completed and passed all required parts of the National Board examinations prior to application for the South Carolina examination.

(a) Graduates from Chiropractic College prior to July 1, 1987, must have passed Parts I and II and/or passed an examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV.

(b) Graduates from Chiropractic College on or after July 1, 1987, but before January 1, 1997, must have passed Parts I, II and III and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV.

(c) Applicants graduating from a Chiropractic College on or after January 1, 1997, must have passed Parts I, II, III, and IV with the National Board of Chiropractic Examiners (NBCE) recommended passing score.

(4) South Carolina Board of Chiropractic Examiners Ethics and Jurisprudence Examination. Applicants shall be tested in South Carolina law and ethics and pass with a score of seventy-five

percent (75%) or more. If an applicant fails to achieve a score of seventy-five percent (75%) or more the applicant may retake the examination within one (1) year.

(5) Verification(s) of Licensure. Complete verification of licensure, active or inactive, is required from each state in which the applicant is or has been licensed.

(6) Photographs. Two (2) recent passport-size photographs of the applicant.

(7) Fee schedule.

Licensure fees will be established by the Department in conjunction with the Board and adjudicated in accordance with Sections 40–9–50 and 40–1–50(D).

B. Denial of application. An application may be denied if the applicant has committed any act which indicates that the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action against a licensed chiropractor.

**HISTORY: Amended by State Register Volume 17, Issue No. 4, eff April 23, 1993; State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 24, Issue No. 6, eff June 23, 2000; State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 37, Issue No. 6, eff June 2, 2013.**

### **25–3. Licensure by Endorsement.**

A license may be granted for applicants who meet the following requirements:

A. Applicant must have practiced for one (1) continuous year immediately preceding application to this Board.

B. Applicants who matriculated after July 1, 1987, must meet all National Board examination requirements as set forth in Section 25–2.

C. Applicants who matriculated prior to July 1, 1987, must:

(1) have passed a state examination substantially equivalent to the National Board examinations or passed National Board Parts I and II;

(2) if National Board examination Parts I and II have not been passed, a Waiver form must be completed and submitted from the state in which the applicant was licensed by examination, to include subjects tested and grades.

D. Verification of licensure from every state where a license has been held, active or inactive, current or expired. Verification must be received directly from the respective state board to the South Carolina Board of Chiropractic Examiners.

E. Applicant must take and pass the South Carolina Ethics and Jurisprudence Examination with a score of 75% or more.

F. Applications for endorsement are valid for one year only, and the application must be completed within one (1) year of the initial application date.

**HISTORY: Amended by State Register Volume 17, Issue No. 4, eff April 23, 1993; State Register 23, Issue No. 6, eff June 25, 1999; State Register Volume 24, Issue No. 6, eff June 23, 2000; State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 37, Issue No. 6, eff June 28, 2013.**

### **25–4. Volunteer Licensure under Special Circumstances.**

A. Volunteer and Special Event Licensure. The board shall issue a volunteer or special event license for one calendar year or a part of a year, renewable annually upon approval by the Board. A volunteer or special event license must limit practice to a specific site(s) and practice setting(s) and purpose. The board must not charge application or licensure fees or other fees in connection with the issuance or renewal of a volunteer or special event license. Requirements for a volunteer or special event license shall be as follows:

(1) satisfactory completion of a volunteer or special event license, including documentation of chiropractic school graduation and practice history;

(2) documentation of specific proposed practice sites and settings and proposed practice purposes, as provided for in subsections B or C;

(3) documentation that applicant has been previously issued an unrestricted license to practice chiropractic in this state or another state of the United States;

(4) documentation that applicant has never been the subject of any disciplinary action in any jurisdiction;

(5) for volunteer licenses, documentation and acknowledgment that the applicant has no expectation of payment or compensation and must not receive any payment or compensation, either direct or indirect or monetary or in-kind, for chiropractic care or any health services rendered.

#### B. Practice purposes for volunteer licenses.

During the period for which a volunteer license is issued, the following are the practice purposes upon which a volunteer license may be issued and renewed:

(1) Needy and Indigent Care. A chiropractor's practice must be exclusively and totally devoted to providing chiropractic care to the needy and indigent in South Carolina.

(2) State of emergency. A chiropractor's practice must be exclusively and totally devoted to providing chiropractic care to citizens of the State in areas which have been declared by the Governor to be in a state of emergency.

C. Emergency License. This license shall be for chiropractors who wish to devote their expertise exclusively to providing chiropractic care to citizens of the State in areas which have been declared by the Governor's office to be in a state of emergency. It will limit practice to a specific site(s) and practice setting(s). There will be no licensure or other fees associated with this Emergency License. Requirements for the Emergency License shall be as follows:

(1) satisfactory completion of a Volunteer License Application, including documentation of chiropractic school graduation and practice history;

(2) documentation of specific proposed practice location(s); and

(3) documentation that applicant has a current, unrestricted license to practice chiropractic in this state or another state of the United States;

D. Special Event License. A chiropractor's practice must be exclusively and totally devoted to providing chiropractic care while traveling with a team or organization in this State. A chiropractor issued a license pursuant to this section may treat only members of the team or organization with which the chiropractor is associated during the period in which the team or organization is in this State. The special event license must be issued by the Board prior to the event for which the license is required.

**HISTORY:** Added by State Register Volume 17, Issue No. 5, Part 1, eff May 28, 1993. Amended by State Register Volume 19, Issue No. 4, eff April 28, 1995; State Register 23, Issue No. 6, eff June 25, 1999; State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 37, Issue No. 6, eff June 28, 2013.

## 25-5. Professional Practices.

#### A. Lapsed or Expired Licenses.

(1) A chiropractor whose license has been expired for more than twelve (12) months but fewer than three (3) years, may reactivate the license by submitting an Application for Reinstatement, satisfactory evidence of continuing education, if applicable and each year's license fee plus the applicable penalty.

(2) A chiropractor whose license has been expired for three (3) years or longer must complete a new application and take and pass the SPEC examination, or meet requirements in effect at the time of the new application.

B. Continuing Education. As a pre-requisite for biennial renewal of a practitioner's license, the licensee must complete a minimum of thirty-six (36) hours of approved professional continuing education, no more than half of which may be online. Of the thirty-six (36) continuing education hours, two (2) hours are required in rules and regulations of the S.C. Board of Chiropractic Examiners (limited to four (4) hours per renewal period) and two (2) hours in risk management which include, but are not limited to, boundary or public health issues.

(1) Acceptable educational programs or courses are those that are:

(a) presented and/or sponsored by accredited chiropractic colleges;

(b) taught by post-graduate level instructors of an accredited college or school approved by the Board; or

(c) presented and/or sponsored by other individuals or organizations approved by the Board.

(2) In addition, continuing education may also be granted by:

(a) administering Part IV of the National Board of Chiropractic Examination may count toward twelve (12) hours of continuing education;

(b) further, attendance at Federation of Chiropractic Licensing Boards/National Board of Chiropractic Examiners (FCLB/NBCE) meetings may be accepted as twelve (12) hours of continuing education per meeting;

(c) teaching a course at an accredited college may provide the number of continuing education hours commensurate with the hours earned by the students taking the course;

(d) out-of-state licensees meeting their home state's continuing education requirements will satisfy the Board's continuing education requirements;

(e) teaching an approved continuing education seminar, which may provide the number of continuing education hours equal to the number of hours taught in the course limited to eighteen (18) hours per renewal period.

(3) Sponsor Requirements. All sponsors seeking approval for educational programs must submit a written request to the Board Administrator at least ninety (90) days prior to the scheduled date of the presentation, be PACE (Providers of Approved Continuing Education)-approved (provided it is within the scope of chiropractic practice), South Carolina Chiropractic Association, Palmetto State Chiropractic Association, or other associations or organizations approved by the Board in its discretion. Non-PACE-approved providers shall:

(a) have a mechanism for the maintenance of records for no fewer than three (3) years;

(b) have a method of monitoring and verifying attendance;

(c) provide each participant adequate documentation of participation in the program to include:

(i) name and license number of participant;

(ii) name and address of the sponsoring individual(s) or organization;

(iii) name of program;

(iv) number of hours completed;

(v) date and location of program;

(vi) authorized signature.

(d) not present sales promotions during the continuing education seminar or presentation. Sales promotions are appropriate by sponsors or instructors outside the seminar or presentation, or outside the room during a seminar or presentation.

(4) Program Approval Requirements. Requests for program approval must include the following information:

(a) name and address of the sponsoring individual(s) or organization;

(b) instructors' name and credentials;

(c) outline of program content;

(d) the number of actual 60-minute hours of instruction;

(e) the method of monitoring and certifying attendance;

(f) location at which the program will be presented;

(g) the dates on which the program will be presented;

(h) course approval is valid for two (2) renewal periods.

(5) Program approval will be based on the following criteria:

(a) The program will enhance the practitioner's knowledge and skill in the practice of chiropractic as defined by state law.

(b) The instructors are sufficiently qualified in the field of instruction either by practical or academic experience or both.

(c) The program will be held in a suitable setting, conducive to learning.

(d) Adequate monitoring or certifying measures are provided.

(6) Practice-building subject matter (administration, finance, etc.) will not be approved for license renewal.

(7) Comprehensive Approval. A comprehensive approval allows the provider or sponsor to submit an application indicating all course offerings for a given calendar year. Requests for a comprehensive approval may be submitted to the Board office at least ninety (90) days prior to the beginning of each year or ninety (90) days prior to the beginning of a scheduled program. Providers and sponsors shall be responsible for renewal approval.

C. Retention and Audit. Licensees must maintain copies of attendance certificates for four (4) years from the last renewal date. The Board may conduct random audits of licensees on an annual or biennial basis to certify compliance with continuing education requirements.

D. Waiver During Period of Temporary Medical Disability. The Board reserves the right to waive continuing education requirements for individual cases involving extraordinary hardship or incapacitating illness. A licensee may be eligible for waiver or extension who, upon written application to the Board and for good cause shown, demonstrates that the applicant is unable to participate in a sufficient number of regular continuing education programs for license renewal.

E. Therapeutic Modalities. Usage of therapeutic modalities is permitted only by those chiropractors who have passed the National Board of Chiropractic Examiners (NBCE). Chiropractors licensed in South Carolina prior to June 1, 1986, are exempt from this examination. Therapeutic modalities are limited to those modalities within the chiropractic scope of practice.

(1) Permitted Machines. The following machines are approved for use in therapeutic modalities:

- (a) high Frequency Diathermy: Shortwave diathermy, Microwave diathermy, Ultrasound;
- (b) low Frequency Direct current: Low voltage galvanism, High voltage galvanism;
- (c) alternating Current: Sine Wave, Faradic, Transcutaneous Stimulation;
- (d) medium Frequency Current: Interferential;
- (e) combination currents: Ultrasound with sine, Ultrasound with high voltage, Sine with galvanism;
- (f) cold laser and intense pulse light (IPL) therapy;
- (g) such other machines as may be approved by the Board, in its discretion.

(2) The following therapy procedures are approved for use in therapeutic modalities:

- (a) heat: hot moist packs, heating pads, infrared, paraffin, ultraviolet;
- (b) cold: cold packs, ice massages, ice therapy;
- (c) hydrotherapy: whirlpool, hubbard tanks;
- (d) nutritional therapies;
- (e) exercise and massage;
- (f) rehabilitation and rehabilitative procedures;
- (g) manipulation under anesthesia.

(3) The following traction therapies are approved for use in therapeutic modalities: cervical, thoracic, lumbar, pelvic, intersegmental.

(4) Use of Diagnostic Equipment and Testing Procedures. A chiropractor may request diagnostic and testing procedures, consistent with all other applicable laws and regulations, and may perform those tests which are consistent with the chiropractic scope of practice as approved by the Board in its discretion.

F. Terms and Definitions.

(1) Accepted terms are Chiropractic Physician, D.C., Chiropractor, Doctor of Chiropractic.

(2) Chiropractors may not refer to themselves as physical therapists or physiotherapists.

G. Licensees who fail to meet the continuing education requirements will be notified in writing of their deficit, ordered to cease practice, and advised to obtain continuing education. Failure of the

continuing education audit results in a lapsed license. After the Board is in receipt of the approved continuing education credits, the Board staff will reinstate the license to active status.

The following sanctions will be imposed:

- (1) First Offense: Private Reprimand and \$2000 fine and automatic audit for the next two (2) audit periods; or
- (2) Second Offense: Hearing scheduled before the Board.

If evidence is received that the licensee continued to practice after an order to cease and desist from practice, the matter will be scheduled for a hearing before the Board, and the licensee will not be permitted to resume practice pending hearing and until further order of the Board.

#### H. Manipulation Under Anesthesia (MUA)

(1) For purposes of this regulation, Manipulation Under Anesthesia (MUA) means a manipulation of the spinal column and its immediate articulations by a licensed practitioner (DC, MD or DO) of a patient who is under the administration of anesthesia performed by a physician licensed in this state who is Board certified or Board eligible in anesthesiology by the American Board of Medical Specialties or American Osteopathic Association.

(2) Manipulation under anesthesia (MUA) may be performed by a DC in collaboration with an MD or DO, as long as the MUA is performed in accordance with this regulation. MUA shall be performed by two practitioners (doctor of chiropractic, "DC," and a medical physician, "MD," or doctor of osteopathic medicine, "DO") who constitute the collaborative treatment team and have attained their certificates of training in MUA as described in this regulation. The two MUA practitioners must be in addition to the anesthesiologist. One practitioner must be designated primary practitioner; the second practitioner will serve as the first assistant. Practitioners, including MDs and DOs, performing MUA must be appropriately trained through a course of instruction approved by their respective boards.

(3) The practitioners must have proper training demonstrated by successful completion of a postgraduate educational course approved by their respective boards.

(4) The DC must have proper training demonstrated by successful completion of a postgraduate educational course approved by the Board or which has been approved by a Council on Chiropractic Education (CCE) accredited chiropractic college prior to performing the procedure.

(5) MUA must be performed in an appropriately licensed hospital or ambulatory surgical center or office based surgical facility approved by American Association of Ambulatory Surgery Facilities (AAASF); Accreditation Association for Ambulatory Health Care (AAAHC); the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or the Healthcare Facilities Accreditation Program (HFAP), a division of the American Osteopathic Association; or any other agency approved by the South Carolina Board of Medical Examiners in statute or regulation.

(6) The patient must receive a medical evaluation and clearance prior to undergoing MUA. It is the responsibility of the MD or DO to conduct an appropriate medical evaluation regarding the patient's ability to undergo the procedure. A physician licensed and Board certified or Board eligible as a medical specialist in anesthesiology must complete an evaluation of the patient's suitability for undergoing anesthesia in accordance with American Society of Anesthesiologists (ASA) standards of care for Monitored Anesthesia Care (MAC).

(7) It shall be the responsibility of the practitioners (DC, MD or DO) to submit their documentation of appropriate training in MUA to their respective boards in accordance with the established parameters of this regulation.

(8) Patient safety shall be of paramount concern, and shall be regulated by proper training, patients' selection criteria, medical clearance for anesthesia, and by following the standards and protocols for the performance of MUA.

(9) Failure of a practitioner to follow the standard of care contained in this section while performing MUA shall constitute unprofessional conduct.

**HISTORY:** Amended by State Register Volume 17, Issue No. 4, eff April 23, 1993; State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003; State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 37, Issue No. 6, eff June 28, 2013.

## **25-6. Professional Conduct.**

A. Unprofessional Acts. The following acts or activities by a licensee of this Board constitute unprofessional, unethical or illegal conduct and grounds for disciplinary action. The following acts are not to be considered all-inclusive and are subject to revisions and additions necessary to carry out the Board's purpose of protecting the health, safety and welfare of the public.

(1) Limitation of Practice. Persons licensed by the Board shall be limited to:

- (a) the care and performance of therapeutic or hygienic treatment of patients;
- (b) the x-ray of patients; and
- (c) such other procedures as are generally used in the practice of chiropractic.

(2) Such other procedures as are generally used in the practice of chiropractic shall be limited to:

- (a) the use of diagnostic and therapeutic procedures;
- (b) the adjustment and manipulation of articulations;
- (c) the treatment of inter-segmental disorders for alleviation of related neurological, muscular, and osseous joint complex aberrations.

(3) Patient care shall be conducted with due regard for environmental, hygiene, sanitation, rehabilitation and physiological therapeutic procedures designed to assist in the restoration and maintenance of neurological and osseous integrity.

(4) Diagnostic or therapeutic procedures shall not include the use of:

- (a) drugs;
- (b) surgery;
- (c) cauterization;
- (d) desiccation or coagulation of tissues;
- (e) rectal examinations;
- (f) gynecological examinations;
- (g) obstetrics;
- (h) catheterization with a needle;
- (i) injecting of dyes for radiological procedures;
- (j) lumbar puncture to obtain spinal fluid;
- (k) treatment of cancer or x-ray therapy.

(5) Fraud or deceit in applying for a license or in taking an examination.

(6) Making misleading, deceptive, untrue or fraudulent representations or communications in the practice of chiropractic.

(7) Unprofessional conduct, gross incompetence, negligence or misconduct in the practice of chiropractic.

(8) Disobedience to a lawful rule or order of the Board.

(9) Practicing while license is suspended or lapsed.

(10) Being convicted of a felony or misdemeanor.

(11) Having a license to practice chiropractic suspended, revoked or refused or receiving other disciplinary actions by the proper chiropractic licensing authority of another state, territory, possession or country.

(12) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition. In enforcing this paragraph, the Board shall, upon probable cause, have authority to compel a chiropractor to submit to a mental or physical examination by physicians approved by the Board.

(13) Knowingly aiding, assisting, procuring or advising any unlicensed person to practice chiropractic contrary to this act or regulations of the Board.

(14) Committing immoral or unprofessional conduct. Unprofessional conduct shall include any departure from, or failure to conform to, the standards of acceptable and prevailing chiropractic practice. Actual injury to a patient need not be established.

(15) Improper charges, fraud. Improper charges constitute a form of fraudulent and deceptive practice. Improper charges or fraud may include, but are not limited to: Intentionally submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.

(16) Advertising x-ray services restricted. Advertising free x-ray services without explanation of need or otherwise implying indiscriminate use of x-radiation is prohibited.

#### B. X-ray and Patient Records Release.

(1) A patient or the patient's legal representative has a right to receive a copy of patient records and x-rays, or have the records transferred, upon written request, when accompanied by a written authorization from the patient or patient's representative to release the record and to receive these records within fourteen (14) calendar days of the date of request.

(2) A chiropractor may rely on the representations of a health and life insurance carrier or administrator of health and life insurance claims that the authorization of the patient or of a person upon whose status the patient's claim depends for release of the record is on file with the carrier as an authorization to release medical information.

(3) Unpaid charges incurred by the patient are not grounds for refusal to release records.

(4) A chiropractor may charge reasonable costs for copying patient records not to exceed those found in statute.

#### C. Closure of or departure from a chiropractic practice.

(1) In accordance with 25-6(F), when departing or closing a chiropractic practice, current and former patients and the board must be notified by written or electronic mail correspondence a minimum of sixty (60) days prior to the closure. The notice must include:

- (a) the office closing date;
- (b) where records will be stored;
- (c) how to obtain records;
- (d) a release of information form
- (e) deadline for submitting records request; and
- (f) information on how to contact a new chiropractor/healthcare provider.

(2) An announcement should be placed in the local newspaper of the closure at least sixty (60) calendar days prior to the closure.

D. In the event the chiropractor chooses to terminate the relationship with the patient and no longer plans to provide or render professional services, the patient shall be notified in writing by certified mail at his or her last known address and a copy sent to the board administrator. The chiropractor shall offer the patient a referral to seek other care and the ability to obtain his or her records.

E. Specialty Certification. Practitioners may not advertise or hold themselves out as a specialist or specializing in any activity unless the practitioner is certified from:

(1) a specialty council approved by the American Chiropractic Association or International Chiropractors Association;

(2) a specialty taught by a chiropractic school accredited by the Council on Chiropractic Education, or its equivalent specialty board or council; or

(3) a specialty approved by the Board.

F. Chiropractic Records. A practitioner must keep written chiropractic records justifying the course of treatment of the patient for a minimum of ten (10) years for adult patients and at least thirteen (13) years for minors. These minimum record-keeping periods begin on the last date of treatment.



G. Contagious and Infectious Diseases. In all cases of known or suspected contagious or infectious diseases occurring within this State, the attending practitioner shall report such disease to the county health department within twenty-four (24) hours, stating the name and address of the patient and the nature of the disease.

(1) The Department of Health and Environmental Control shall designate the diseases it considers contagious and infectious.

(2) Any practitioner who fails to comply with this provision is subject to penalties imposed by the appropriate health department.

**HISTORY:** Amended by State Register Volume 17, Issue No. 4, eff April 23, 1993; State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 37, Issue No. 6, eff June 28, 2013.

## **25-7. Code of Ethics.**

A. Doctors of Chiropractic shall be guided by the highest standards of moral conduct. Chiropractors shall exemplify professional qualities in all dealings with patients, the general public and other members of the profession.

B. The Doctor of Chiropractic reserves the option to establish a chiropractor/patient relationship.

(1) A chiropractor/patient relationship requires that the chiropractor make an informed judgment based on training and experience. This will require that the chiropractor:

(a) discuss with the patient the analysis and the evidence for it, and the risks and benefits of various treatment options; and

(b) ensure the availability of the chiropractic coverage for patient follow-up care.

C. The Doctor of Chiropractic owes a duty to maintain the highest degree of skill and care by keeping abreast of all new developments in Chiropractic to improve knowledge and skill in the Science, Art and Philosophy of Chiropractic.

D. A Doctor of Chiropractic holds in confidence all information obtained at any time during the course of the chiropractor/patient relationship except where required by law or to protect the welfare of the patient or community.

E. A chiropractor may not assume to speak for the chiropractic profession. The chiropractor should qualify remarks as a personal opinion and not necessarily that of the profession.

F. The commission of an act of sexual misconduct or sexual relations by a chiropractor with a patient is unprofessional conduct and cause for disciplinary action pursuant to Section 25-6 of this chapter. Sexual misconduct is defined as engaging in, soliciting or otherwise attempting to engage in, any form of sexual relationship, activity or contact with a current patient, or with a former patient who has received a professional consultation, diagnostic service or therapeutic service within the past ninety (90) days.

**HISTORY:** Amended by State Register Volume 17, Issue No. 4, eff April 23, 1993; State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 37, Issue No. 6, eff June 28, 2013.

## **25-8. Advertising and Solicitation.**

A. Professional Standards. Advertising practices by chiropractors should be ethical and professional.

B. For the purpose of this regulation, the terms communication, solicitation or advertisement shall mean any message, written broadcast or offer made by or on behalf of a licensee.

C. Signs, solicitations, or advertisements shall clearly indicate that chiropractic services are being offered.

D. A communication, solicitation or advertisement shall not:

(1) contain a material misrepresentation of fact or law, or omit a fact necessary to make the statement considered as a whole not materially misleading;

(2) create an unjustified expectation about results the chiropractor can achieve, or state or imply that the chiropractor can achieve results that violate the rules of Professional Conduct, the Code of Ethics, or other law;

(3) compare the chiropractor's services with other chiropractors' or practitioners' services, unless the comparison can be factually substantiated;

(4) fail to indicate clearly, expressly or by context, that it is an advertisement;

(5) involve intrusion, coercion, duress, compulsion, intimidation, threats, or harassing conduct, particularly those communications requiring an immediate response such as in-person or live telephone contact;

(6) solicit a prospective patient while transmitted at the scene of an accident or en route to a hospital, emergency care center or other health care facility;

(7) involve the payment, receipt of a commission or other gratuity for referral of patients. The chiropractor must limit the source of his professional income to services actually rendered by him or under his supervision, to his patients.

E. Every licensee shall display prominently in the licensee's office the word chiropractor or D.C.

**HISTORY:** Amended by State Register Volume 17, Issue No. 4, eff April 23, 1993; State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 37, Issue No. 6, eff June 28, 2013.

## **25-9. Disciplinary Actions and Procedures.**

A. Complaint; Determination of Just Cause. Any action of the Board shall commence only after the Board receives a written complaint. If the Board determines, after a preliminary investigation, the facts are not sufficient to support an alleged violation, the Complainant will be notified, and the complaint dismissed.

(1) Initial complaints regarding alleged professional misconduct that involve what may be determined to be an imminent threat to the public, incorporating a finding to that effect in an order, may require the issuance of a temporary suspension order. A temporary suspension order may be issued without a prior hearing being afforded to the licensee, in which event the licensee may request by the close of the next business day after receipt of the order a review by an administrative hearing officer. The fact of suspension or restriction of a license, and the fact of any subsequent related action, is public information under the Freedom of Information Act after issuance of an order, unless a review by the administrative hearing officer has been timely requested in writing. Filing a written request for a review by the administrative hearing officer does not stay the temporary suspension and no stay may be issued; however, the fact of the issuance of the temporary suspension order must not be made public until the time for requesting a review has passed or the administrative hearing officer issues an order after a review hearing. Upon proper written request, a review hearing must be held by the administrative hearing officer within three business days of the filing of the request for review, unless otherwise agreed by the parties. If the issuance of the temporary suspension order is not sustained by the administrative hearing officer, the matter must remain confidential and must not be made public, except to the extent the Board considers it relevant to the final decision of the Board.

B. Formal Complaint and Board Hearing. If the Board determines sufficient facts exist to support an alleged violation, disciplinary action will proceed as follows:

(1) The Office of General Counsel shall provide thirty (30) days' notice to the Complainant and the Respondent and schedule a hearing before the Board.

(2) The General Counsel's office shall present the case for the Complainant before the Board.

(3) The Respondent and counsel shall have the right to appear before the Board at such hearing, submit briefs and be heard in oral argument.

(4) Thereafter, the Board will file a final certified report of its findings of fact, conclusions of law and disciplinary action to be taken.

(5) The Board will notify the Complainant and the Respondent of such action.

(6) A decision by the Board to revoke, suspend or otherwise restrict a license, or to limit or otherwise discipline a licensee, shall require a majority vote by the Board.

(7) A decision by the Board to revoke, suspend or otherwise restrict a license or to limit or otherwise discipline a licensee, or one who is found to be practicing chiropractic in noncompliance with this chapter shall not become effective until the tenth (10) day following the date of delivery to the Respondent of a written copy of the decision. The Board's decision will constitute a final administrative decision.

C. Appeal of Decision. The Board's final administrative decision shall be subject to appeal to the Administrative Law Court. The Respondent shall serve notice of the appeal upon the Board within thirty (30) days from the delivery date of the Board's decision to the Respondent. Service of a petition for a review of the decision shall stay the Board's decision pending completion of the appellate process.

D. Proceedings Confidential Until Filed. As authorized by Sections 40-9-97 and 30-4-70, S. C. Code of Laws 1976, unless and until otherwise ordered by this Board, all proceedings and documents relating to complaints and hearings thereon and to proceedings in connection therewith shall be confidential, unless the Respondent shall in writing request that they be public. The Administrator of the Board shall keep secure in the Board's offices all written records and documents pertaining to disciplinary procedures.

**HISTORY: Added by State Register Volume 26, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 4, eff April 24, 2009; State Register Volume 37, Issue No. 6, eff June 28, 2013.**