

## **CHAPTER 43-06 CHIROPRACTORS**

### **43-06-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the state board of chiropractic examiners.
2. "The practice of chiropractic" includes:
  - a. The examination, evaluation, and diagnosis by means including x-ray, other appropriate diagnostic imaging, clinical laboratory procedures, or pertinent examinations taught by chiropractic colleges accredited by the council on chiropractic education or its successor;
  - b. The treatment of patients by means of the adjustment or manipulation of the spinal column, the vertebral articulations, the appendicular skeleton not excluding the skull, and of any displaced tissue of any kind or nature;
  - c. The practice of physiotherapy, electrotherapy, or hydrotherapy;
  - d. All other procedures taught by chiropractic colleges accredited by the council on chiropractic education or its successor; and
  - e. The rating and reporting of any permanent impairment of function and the providing of professional opinions regarding any matter included in this definition of practice of chiropractic as set out herein.

The practice of chiropractic does not include prescribing for or administering to any person any medicine or drug to be taken internally which is now or hereafter included in materia medica, nor performing any surgery, except as is provided in this section, nor practicing obstetrics.

### **43-06-02. Who exempt from the provisions of this chapter.**

This chapter does not apply to:

1. Chiropractors from the District of Columbia, or other states, territories, or countries who are in actual consultation in this state.
2. Students duly enrolled in a college of chiropractic approved and accredited by the council on chiropractic education, or its successor, who have completed chiropractic studies and who are continuing their training under a preceptorship program and performing the duties of an intern under the supervision of a chiropractor licensed in the state of North Dakota who has received approval to supervise such internship by the board and said students having received approval to participate in such internship by the board.
3. A graduate of any approved and accredited college of chiropractic who has for the first time made application for license by examination to practice chiropractic in the state of North Dakota, and who, under the supervision of a North Dakota licensed chiropractor, performs the duties of an intern, provided that a supervising chiropractor has certified to the board that the graduate is of good character and competent chiropractic ability. The authorization granted by the board terminates within fifteen months from the date issued by the board.
4. Nothing in this chapter is to be construed to impinge upon the practice of medicine by a physician and surgeon or an osteopathic physician and surgeon who has adequate training in the use of manipulative and adjustive procedures of the spine and appendicular skeleton.

### **43-06-03. State board of chiropractic examiners - Members - Appointment - Qualifications.**

The state board of chiropractic examiners shall consist of five members appointed by the governor. Each person appointed must:

1. Have a license to practice chiropractic in North Dakota.
2. Have been a resident of this state and have practiced chiropractic in this state for at least five consecutive years immediately before appointment to the board.

3. Remain a resident of this state and continue in active practice in this state during the term of office.

#### **43-06-04. Board of chiropractic examiners - Members - Term of office.**

Each member of the board shall qualify by taking the oath of office required of civil officers and shall hold office for a term of five years and until the member's successor is appointed and qualified. The terms of office of the members of the board must be so arranged that one term and only one expires on the thirty-first day of August of each year. Vacancies on the board must be filled by appointment by the governor. When a vacancy occurs on the board by expiration of the term, death, or resignation of a member, or removal for other cause, the North Dakota chiropractic association shall nominate, by procedure adopted in the bylaws of said association, to the governor three qualified persons for each vacancy. The governor shall appoint a member to fill the vacancy on the board from the three nominees.

##### **43-06-04.1. Powers of board.**

1. The board shall administer the provisions of this chapter and the administrative rules of the board relating to the practice of chiropractic. It has all powers, rights, and duties as provided in chapter 28-32.
2. The board shall pass upon the qualifications of applicants for licenses to practice chiropractic. It shall examine and renew the licenses of duly qualified applicants.
3. The board shall regulate the practice of chiropractic and shall enforce the provisions of this chapter and the rules of the board. The board shall investigate complaints of violations and cause the prosecution of persons violating the provisions of this chapter or the administrative rules of the board.
4. The board may appoint a peer review committee and employ such personnel and incur such expenses as may be necessary for the performance of the board's duties and the enforcement of this chapter.
5. The board may inspect upon complaint or probable cause, at all reasonable times, any chiropractic office or place where chiropractic services are performed.
6. The board may adopt and amend administrative rules, consistent with the provisions of this chapter governing the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter, and proper performance of its duties, including:
  - a. A code of ethical conduct governing the practice of chiropractic.
  - b. Requirements, standards, and examinations to determine the intellectual, educational, scientific, technical, and professional qualifications of applicants for license.
  - c. Matters pertaining to the content and conduct of examination.
  - d. Matters pertaining to the operation and registration of chiropractic facilities.
  - e. Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic.
  - f. The quantity, type, and character of postgraduate study to be done by any licensee in order to comply with the provisions of this chapter.
  - g. Set policies and procedures on what constitutes professional or unprofessional conduct.

#### **43-06-05. Meetings of board - When held - Place of meeting - Quorum - Officers - Seal - Compensation - Expenses - How paid.**

The board shall hold regular meetings for the examination of applicants twice yearly at approximate six-month intervals and such special meetings as it may deem necessary. The meetings shall be held at such places as the board may designate. Three members of the board constitute a quorum. At the first meeting of the board of each calendar year, the members of the board shall elect from their membership a president, vice president, and secretary-treasurer. Each shall hold office for one year and until a successor is elected and qualified. The board shall have a seal and may adopt appropriate rules necessary to carry out the provisions of this

chapter. A member of the board shall receive compensation in an amount to be fixed by regulation of the board for each day or portion thereof spent in the discharge of duties, such mileage as is provided by section 54-06-09, and must be reimbursed for actual and necessary expenses incurred in the discharge of official duties in accordance with section 44-08-04. In addition to the compensation, expenses, and mileage, the secretary-treasurer of the board shall receive such salary as must be fixed by a resolution of the board adopted at a regular meeting.

**43-06-06. Fund - How disbursed - Where deposited.**

Repealed by S.L. 1971, ch. 510, § 15.

**43-06-07. Records of the board.**

The board shall keep a record of all its proceedings and a register of applications for licenses to practice chiropractic showing:

1. The name and location of the institution from which each applicant received the applicant's degree of doctor of chiropractic.
2. The date when the degree of doctor of chiropractic was granted.
3. Whether the applicant was licensed or rejected.

The register is prima facie evidence of all matters recorded in it.

**43-06-08. License required - Application - Examination required - Fee.**

No person may practice chiropractic in this state unless that person has a license from the state board of chiropractic examiners. Any person who desires a license shall apply to the board and submit to an examination. Each applicant shall present with the application a diploma from a college of chiropractic accredited by the council on chiropractic education or its successor, or a photocopy of the same, or a certificate from the college stating that the applicant is a student in good standing in the student's last trimester, and proof that the applicant has the required qualifications. The board may allow an applicant to take the examination during the period that the applicant is attending the applicant's last trimester but may not issue a license until the applicant has graduated and has provided the board with a diploma as provided in this section. Before beginning the examination, the applicant shall pay to the secretary-treasurer of the board a fee, to be determined by the board from time to time, of an amount not to exceed two hundred dollars. The examination must be held twice yearly at intervals of approximately six months with date and place to be determined by the board.

**43-06-09. Chiropractor - Qualifications.**

An applicant for examination to practice chiropractic in this state shall have a degree or a certificate proving enrollment in the last trimester of college received from an approved and accredited college of chiropractic. An approved and accredited college of chiropractic within the meaning of this chapter is a college of chiropractic that is approved by the board and accredited by the council on chiropractic education or its successor.

**43-06-09.1. Conviction not bar to licensure - Exceptions.**

Conviction of an offense does not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a chiropractor or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

**43-06-10. Examination - Subjects covered.**

The examination for a license to practice chiropractic in this state must be in the manner and form as prescribed by the board from time to time. It must cover the following subjects:

1. Anatomy.
2. Physiology.
3. Diagnosis.
4. Nutrition.
5. Nonsurgical orthopedics.

6. Chemistry.
7. Pathology.
8. Public health.
9. Neurology.
10. Chiropractic jurisprudence.
11. Chiropractic philosophy, ethics, adjusting, and patient management as taught by approved and accredited colleges of chiropractic.
12. X-ray and diagnostic imaging.

**43-06-10.1. National board examination.**

The board may in its discretion accept all parts of the national board examination in lieu of part of an examination for a license, providing all other requirements are met but shall require examination in chiropractic jurisprudence and practical examinations.

**43-06-11. License - When issued - Who issues - Title used by licensed chiropractor.**

A license to practice chiropractic in this state must be issued by the board to an applicant who has submitted proof of the required qualifications and passed the required examination. No license to practice chiropractic may be granted except upon the affirmative vote of at least three of the members of the board. A licensed chiropractor may use the title doctor of chiropractic, chiropractor, chiropractic physician, or D.C.

**43-06-11.1. Criminal history record checks.**

The board may require any applicant or licensee under this chapter to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a criminal history record check are the responsibility of the applicant or licensee.

**43-06-12. Reexamination - Fee.**

If an applicant for a license to practice chiropractic fails to pass the examination, the board, within one year after rejection, may permit that person to retake the examination, upon the payment of a fee, to be determined by the board from time to time, of an amount not to exceed two hundred dollars.

**43-06-13. Term of license - Renewal - Fee - Requirements.**

A license to practice chiropractic in this state is valid for one year only and must be renewed on or before the first day of September of each year. The fee for renewal of a license must be determined by the board but may not exceed two hundred dollars. The board shall establish by rule the number of hours necessary for annual continuing education. Before it issues a renewal license, the board shall require each applicant who has a license to practice in this state to attend a postgraduate course sponsored by a college of chiropractic, accredited by the council on chiropractic education, or its successor, a health-related seminar sponsored by an equally accredited college or university, a medical seminar qualifying for continuing education credits, or at least a two-day educational program arranged by the North Dakota chiropractic association and approved by the board. A license which has not been renewed, as a result of nonpayment of annual registration fees required by this chapter or as a result of the failure by the licensee to attend the required annual continuing education, may be reinstated upon payment to the board of the amount of renewal fees then in default or by certification that the required continuing education has been completed within sixty days after the expiration of the previous license. In either case, the board may charge an additional administrative fee to be fixed by the board not to exceed four hundred dollars. In addition to the payment of fees, the board, after an investigation, may require a chiropractor whose license has not been renewed to submit to a reexamination as to the applicant's qualifications to practice chiropractic before the applicant is reinstated, if the board in the exercise of its discretion finds and determines that the best interests of the public and the applicant will be served thereby.

#### **43-06-14. License - How recorded.**

Repealed by S.L. 1989, ch. 506, § 17.

#### **43-06-14.1. Peer review of services and fees.**

1. The board, upon receipt of an inquiry from a patient, a third-party payer, including any governmental agency, or a chiropractor as to whether a chiropractor licensed in this state properly utilized services and rendered or ordered appropriate treatment or services and whether the cost of the treatment was unconscionable for a particular patient, may appoint a peer review committee for the purpose of investigation of the matter and rendering an opinion thereon.
2. The peer review committee must be appointed by the board and function as its agent and may consist of different individuals for review of different cases.
3. The peer review committee shall investigate each inquiry submitted by the board. It shall examine such witnesses, review such patient and business records, and otherwise take whatever action is necessary to best ascertain the facts. It shall transmit all information it possesses to the board and shall report its findings to the board. The board shall furnish copies of the findings to the patient, chiropractor, and third-party payer. The finding of the peer review committee on each inquiry must include a determination of whether the chiropractor properly utilized services and rendered or ordered appropriate treatment or services and whether the cost of the treatment was unconscionable.
4. The determinations of the peer review committee must be presumed valid and may be considered as prima facie evidence in any further proceedings by the board.
5. The acceptance of, or the request of, payment for treatment rendered to a patient by a chiropractor constitutes the consent of the chiropractor to the submission of all necessary records and other information concerning the treatment to the board or peer review committee.
6. The board may adopt rules it considers necessary and appropriate to implement the peer review system and activities established under this chapter.
7. All data and information, including patient records acquired by the board or the peer review committee, in the exercise of its duties and functions, are confidential and closed to the public. All board and peer review committee meetings wherein patient testimony or records are taken or reviewed are confidential and closed to the public.
8. Any third-party payer, including any governmental agency, making a request under this section may be charged a fee by the board equal to the administration costs of performing the review.

#### **43-06-15. Grounds for revocation or suspension of license or other action of the board - Sworn statement - Investigation - Hearing.**

1. The board may revoke, suspend, or take such other action as provided in this section regarding the license of any chiropractor in this state who:
  - a. Has a mental or physical condition such that the person is unable to safely engage in the practice of chiropractic.
  - b. Has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and thereafter has not been declared competent or released from supervision.
  - c. Is suffering from alcoholism or drug addiction which endangers the public by impairing the chiropractor's ability to practice safely.
  - d. Procured the license to practice by fraud or mistake.
  - e. Has engaged in unprofessional or dishonorable conduct, including false or misleading advertising, rendering excessive or inappropriate treatment, or charging unconscionable fees.
  - f. Has been convicted of a crime involving moral turpitude, illegal possession or distribution of drugs, or any crime that would affect the person's ability to practice as a licensed chiropractor. A copy of the record of conviction or plea of guilty or nolo contendere is conclusive evidence.

- g. Has been aided, assisted, or enabled any unlicensed person to practice chiropractic contrary to this chapter or rule of the board.
    - h. Has engaged in the practice of abortion.
    - i. Has made use of any advertising statement of a character tending to deceive or mislead the public.
    - j. Has failed to maintain a chiropractic facility in safe and sanitary conditions.
    - k. Has incurred a suspension or revocation in another jurisdiction as a result of acts similar to acts described in this section or rule of the board. A certified copy of the suspension or revocation in the other jurisdiction is conclusive evidence.
    - l. Has committed any violation of the provisions of this chapter and the code of ethics or rules as adopted by the board, including the failure to submit for physical or mental examination or to provide information as required by the board.
    - m. Has practiced chiropractic while the license to practice was suspended or revoked.
    - n. Has, while under probation, violated its terms.
  2. Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a sworn statement and other reports and information to the board under subsection 5 or for otherwise reporting to the board violations or alleged violations under this chapter. The reports are not public records.
  3. Members of the board and persons employed by the board or engaged in the investigation or prosecution of violations and in the preparation and management of charges of violations of this chapter on behalf of the board, including members of any peer review committee, are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.
  4. A doctor of chiropractic who is the subject of an investigation by, or on behalf of, the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by, or on behalf of, the board relating to the subject of the investigation and providing copies of patient health records, as reasonably requested by the board, to assist the board in its investigation.
  5. Any person, including a member of the board, may file a sworn statement and other reports and information with any member of the board against a licensed chiropractor charging the chiropractor with any of the offenses or conditions set forth in subsection 1, which statement must set forth a specification of the charges. When the statement has been filed, the board shall make an investigation as provided by subsection 6.
  6. When the statement and other reports and information have been filed, the board shall notify the licensed chiropractor of the allegations and shall thereafter make an investigation for the purpose of determining whether the allegations in the statement constitute a basis for further proceedings. The investigation must be conducted in such manner and at such time and place as in the judgment of the board will best ascertain the facts. The board may appoint a peer review committee. The board, in order to pursue the investigation, has the power to subpoena and examine witnesses and records, including patient records, and to copy, photograph, or take samples. It may require the licensed chiropractor to give statements under oath, to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and review any relevant medical or psychological records, including test results and x-rays relative to the examination or treatment of the licensed chiropractor. A written request from the board constitutes authorization to release information. The medical or psychological information is not public record.
  7. If, based on the investigation or report from a peer review committee, the board has reasonable cause to believe that there is a basis for further proceedings, the board shall prepare a complaint and serve it, along with a notice of hearing, on the licensed chiropractor and thereafter proceed with a hearing on the matter under chapter 28-32.

All hearings must be held in Bismarck at the state capitol unless the board and the licensed chiropractor agree otherwise.

8. After the hearing, the board, under section 28-32-39, shall make and give notice of its determination or decision as to whether the offenses charged have been committed or the conditions charged do not exist. If the finding is in the negative, the board shall dismiss the charges. If the finding is in the affirmative, the board shall:
  - a. Revoke the license;
  - b. Suspend the licensee's right to practice for a period not to exceed one year;
  - c. Suspend its judgment of revocation on terms and conditions determined by the board;
  - d. Place the licensee on probation; or
  - e. Take any other disciplinary action which the board in its discretion considers proper, including the ordering of an adjustment to a patient's bill or refund of such amount previously paid, including reasonable interest from the date of the order, to a patient or payer of any unconscionable fees for chiropractic services.
  - f. In addition to the actions imposed in subdivisions a through e, the board may:
    - (1) Require payment of all costs of proceedings resulting in a disciplinary action.
    - (2) Impose a civil penalty not exceeding ten thousand dollars for each separate violation, to deprive the chiropractor of any economic advantage gained by reason of the violation found and to reimburse the board for the cost of the investigation and proceedings.
9. In cases of revocation, suspension, or probation, the board shall record the facts of the case and all actions of the board.
10. On the expiration of a term of suspension, the licensee must be reinstated by the board if the chiropractor applies to the board and furnishes evidence, satisfactory to the board, that the licensee is then of good character and conduct or restored to good health and that the licensee has not practiced chiropractic during the term of suspension and is competent to practice in this state. If the evidence fails to establish those facts to the satisfaction of the board, the board may require the applicant to submit to an examination in accordance with sections 43-06-08 through 43-06-12 or shall proceed to hearing on revocation with notice as provided in subsection 7.
11. Any licensed chiropractor may take corrective action or voluntarily relinquish the chiropractor's license to the board before a formal order of the board on such terms and conditions as may be agreed by the licensed chiropractor and the board.

#### **43-06-16. Duties of chiropractor.**

Every licensed chiropractor practicing in this state shall:

1. Observe all state and municipal regulations relating to the control of contagious and infectious diseases.
2. Sign death and birth certificates.
3. Sign certificates pertaining to public health.
4. Report to the proper health officer in the manner required of licensed physicians.

All certificates signed by a chiropractor licensed to practice in this state are of the same force and effect as those signed by other licensed physicians.

#### **43-06-17. Right of chiropractor to practice in public and private hospitals and institutions.**

A licensed chiropractor may practice in any public or private hospital or other institution in this state, when requested so to do by any patient or the guardian of any patient.

#### **43-06-18. State's attorney to enforce law.**

The state's attorney of each county in this state shall enforce section 43-06-19 and prosecute all violations thereof, and the secretary-treasurer of the board, under the direction of the board, shall aid in the enforcement of this chapter.

**43-06-19. Penalty.**

Any person who fraudulently procures a license to practice chiropractic or who, without complying with the provisions of this chapter:

1. Practices or attempts to practice chiropractic;
2. Advertises as a chiropractor; or
3. Uses the terms or letters, doctor of chiropractic, chiropractor, D.C., chiropractic physician, or any other title that will induce the belief that the person is engaged in the practice of chiropractic,

is guilty of a class B misdemeanor.