

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

LCB FILE NO. R114-23I

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CHIROPRACTIC PHYSICIAN'S BOARD OF NEVADA

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LCB File No. R***-23

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

AUTHORITY: NRS 634.030 and 634.014 and NRS 622.530.

CHAPTER 634 - CHIROPRACTIC PHYSICIANS AND CHIROPRACTIC ASSISTANTS

CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

~~— NAC 634.130 Regular meetings. (NRS 634.030, 634.040) Regular meetings of the Board will be held at its principal office or at any other place and time as the Board may specify.~~

~~— [Bd. of Chiropractic Exam'rs, Rule of Practice No. 2, § 2.2, eff. 12-8-74]~~

LICENSING AND CERTIFICATION

Examinations

~~— NAC 634.220 Fingerprinting and investigation of applicants. (NRS 634.030, 634.131) Each applicant for examination and each applicant for reinstatement of an expired license to active status pursuant to NRS 634.131 must:~~

~~— 1. Submit one set of his or her fingerprints on a standard fingerprint card with his or her application and pay any associated costs; and~~

~~— 2. Agree to a background investigation.~~

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

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

(a) An examination on the statutes and regulations of this State which are related to the practice of chiropractic, other than those set forth in this chapter and chapter 634 of NRS; and

(b) Any other subject or examination that the Board determines to be necessary. An examination required by the Board pursuant to this paragraph may include, without limitation, an examination on clinical rationale.

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

NAC 634.300 Examinations for licensure: Period for taking; failure to pass; failure to

appear. (NRS 634.030, 634.070)

1. Except as otherwise provided in subsection 2 and NAC 634.215:
 - (a) If a person applies for a license to practice chiropractic in Nevada, the application remains open for 1 year after the date of the first examination that the person is eligible to take.
 - (b) Subject to the limitations set forth in this section, during the period in which an application is open, an applicant may take any required examination at such times as may be allowed by the Board and the testing vendor, if any.
 - (c) If an applicant does not, on the first attempt, pass an examination that is administered by the Board, the applicant may retake the examination one time without paying an additional fee.
 2. If an applicant provides evidence satisfactory to the Board that the applicant failed to appear for an examination because of exceptional circumstances, the Board may:
 - (a) Allow the applicant to take the next scheduled examination without the payment of an additional fee; and
 - (b) If necessary, extend the period during which the application is open.
 3. If an applicant for a license to practice chiropractic fails on two occasions to pass any portion of the examinations administered pursuant to NRS 634.070, the applicant shall:
 - (a) Refrain from supervised practice; ~~or~~
 - ~~(b) Submit a new application for examination in accordance with NRS 634.080.~~
 4. An applicant for a license to practice chiropractic who fails to appear for examination within 1 year after being first qualified therefor:
 - (a) Shall be deemed to have withdrawn his or her application; and
 - (b) Forfeits the application fee.
- ↪ If the applicant applies thereafter for a license, he or she must establish eligibility for that license in accordance with the provisions of this chapter and chapter 634 of NRS.

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

1. At least once each year, the Board will administer an examination to applicants for a certificate as a Chiropractic assistant.
2. The examination will consist of the following subjects, including, without limitation:
 - (a) Radiographic technology, protection, quality control and positioning of the patient;
 - (b) Ancillary procedures and applications relating to chiropractic; and
 - (c) The provisions of NRS and NAC that are related to the practice of chiropractic.
3. An applicant who receives a score of at least 75 percent for a closed-book examination or a score of at least ~~[90]~~ 75 percent for an open-book examination is entitled to a certificate as a Chiropractic assistant.
4. If an applicant fails to receive a score of at least 75 percent for a closed-book examination or a score of at least ~~[90]~~ 75 percent for an open-book examination the first time he or she takes the examination, the applicant may retake the examination ~~[within 1 year]~~ *the next scheduled exam* without payment of an additional fee.
5. If an applicant who receives training and employment as a Chiropractic assistant trainee pursuant to subparagraph (2) of paragraph (a) of subsection 2 of NAC 634.355 fails to receive a score of at least 75 percent for a closed-book examination or a score of at least ~~[90]~~ 75 percent for an open-book examination after two attempts ~~[and wishes to continue working as a Chiropractic assistant trainee, the supervising licensee must, within 30 days after the date of the notice from the Board of the results of the examination, submit a plan for additional training to the Board. The chair of the test committee will:~~
 - ~~—(a) Approve or deny the plan; and~~
 - ~~—(b) Determine whether the Chiropractic assistant trainee may continue working as a Chiropractic assistant trainee.~~
- ~~6. If, pursuant to paragraph (b) of subsection 5, the chair of the test committee determines that a Chiropractic assistant trainee may continue working as a Chiropractic assistant trainee, the Chiropractic assistant trainee may continue working as a Chiropractic assistant trainee if he or she:~~

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

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

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

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

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

(b) Forfeits any application fees paid to the Board; and

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

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

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

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

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

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

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

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

Chiropractic Assistants

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

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

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

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

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

(a) Satisfies one of the following:

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

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

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

3. Evidence of an applicant's completion of approved training pursuant to subparagraph (2) of

paragraph (a) of subsection 2 must consist of a certification by each licensee who supervised the work and training of the applicant.

4. The Board may, at its discretion:

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

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

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

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

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

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

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

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

ADVERTISING AND OTHER COMMUNICATIONS

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

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

(a) Includes any false claim; or

(b) Intended or has a tendency to:

(1) Deceive or mislead the public; or

(2) Create unrealistic expectations in any particular case.

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

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

1. Certified; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—1. Certified; or~~

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

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

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

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

publication of the telephone directory or other type of media.

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

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

~~—(b) The licensee who advertises the service shall ensure that:~~

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

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

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

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

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

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

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

~~— NAC 634.565— Advertisement of 24-hour service. (NRS 634.030)— No licensee or referral bureau for licensees may advertise 24-hour service unless a licensee is available at all times to perform any chiropractic service which may be needed.~~

PRACTICE BEFORE THE CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

Rules of Practice

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

~~1.— An interested party who is or may be directly and substantially affected by a hearing may appear, introduce evidence and, at the discretion of the Board, otherwise participate in the proceeding.~~

~~—2.— A party shall appear at the beginning of a hearing, or at a time designated by the presiding officer, by giving his or her name and address and stating his or her position or interest in the hearing to the presiding officer. This information must be recorded in the transcript of the hearing.~~

1. ~~3.~~ A party who is entitled to appear may appear in person or by an attorney.

2. ~~4.~~ An attorney who appears as counsel in any proceeding must be an attorney at law who is admitted to practice and is in good standing before the highest court of any state. If the attorney is not admitted to practice in the State of Nevada, he or she must be associated with a Nevada attorney.

3. ~~5.~~ Any attorney of record who wishes to withdraw from a proceeding before the Board must immediately notify the Board or the presiding officer in writing of that fact and name the party whom he or she represents.

~~—6.— As used in this section, “interested party” means a person who believes that he or she may be affected by a proceeding but who does not seek to participate in the proceeding.~~

~~**NAC 634.625— Participation by staff of Board. (NRS 634.030)— The staff of the Board may appear**~~

at any hearing and has all of the rights of participation of a party to the proceeding.

—[Bd. of Chiropractic Exam'rs, Rule of Practice No. 3, § 3.7, eff. 12-8-74]

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

—1. ~~A complaint as described in NRS 634.160 may be made against a licensee charging him or her with one or more of the causes set forth in chapter 634 of NRS for which he or she is subject to disciplinary action.~~

—2. ~~The original complaint must be in writing and filed with the Executive Director of the Board.~~

Hearings

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

—1. ~~Hearings will be held before one or more members of the Board.~~

—2. ~~A hearing which has been previously continued may be reset upon a notice of not less than 10 days.~~

—3. ~~Hearings will be held at a place in the State as designated by the Board in the notice of hearing.~~

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

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

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

—1. ~~Evidence at the hearing must be presented in the following order:~~

—(a) ~~Opening statements by counsel for complainant and respondent. Respondent may defer his or her opening statement until the completion of the complainant's case.~~

—(b) ~~Presentation of complainant's case, which may be followed by cross-examination.~~

—(c) ~~Presentation of respondent's case, which may be followed by cross-examination.~~

—(d) ~~Rebuttal testimony, if any.~~

—(e) ~~Argument by respective counsel, in the following order:~~

—(1) ~~Opening argument for complainant.~~

—(2) ~~Argument for respondent.~~

—(3) ~~Closing argument for complainant.~~

—2. ~~As used in this section:~~

—(a) ~~“Complainant” means a person who complains to the Board of any act. If the Board initiates a proceeding, it may be a complainant.~~

—(b) ~~“Respondent” means a person against whom a complaint has been filed or of whom an investigation has been commenced.~~

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

—1. ~~With the approval of the presiding officer, the parties may stipulate any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record.~~

—2. ~~A stipulation is binding upon all parties so stipulating and may be regarded by the Board as evidence at the hearing.~~

—3. ~~The Board may require proof by evidence of the facts stipulated in addition to the stipulation of the parties.~~

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

—1. ~~In conducting any investigation, inquiry or hearing, the Board, its officers or employees are not~~

~~bound by the technical rules of evidence and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Board.~~

~~—2.— Rules of evidence recognized by the courts of Nevada will be followed generally but may be relaxed by the Board when deviation from the technical rules of evidence will aid in ascertaining the facts.~~

~~—3.— When an objection is made to the admissibility of evidence, the evidence may be received subject to a later ruling by the Board.~~

~~—4.— The Board may exclude inadmissible, incompetent, cumulative or irrelevant evidence, or order that presentation of that evidence be discontinued.~~

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

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

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

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

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

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

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

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

ENFORCEMENT

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

~~—1.— A licensee;~~

~~—2.— A chiropractic assistant;~~

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

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

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

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