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CHIROPRACTIC PHYSICIAN'S BOARD OF NEVADA

4600 Kietzke Lane, M-245 | Reno, Nevada 89502-5000
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NOTICE OF INTENT TO ACT UPON A PROPOSED REGULATION **R114-23**

Notice of Hearing for the Adoption of a Regulation of the Chiropractic Physicians' Board of Nevada

Intent to Adopt Regulation

NOTICE IS HEREBY GIVEN that the Chiropractic Physicians' Board of Nevada will hold a public hearing to consider amendments to Nevada Administrative Code (NAC) 634. The hearing is scheduled to begin at **8:45 a.m. on Thursday, January 11, 2024 at**

Join Zoom Meeting

<https://us06web.zoom.us/j/81259966648?pwd=cdQqvu5biSNlaqBIuotwdNymB0wYb4.1>

Meeting ID: 812 5996 6648

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The purpose of the hearing is to receive comments from all interested persons regarding the adoption of a regulation that pertains to Chapter 634 of the Nevada Administrative Code, LCB File No. R114-23.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation.

The purpose of the proposed regulation is to reorganize and combine certain provisions governing advertising; revise provisions relating to examinations required for applicants for a license to practice chiropractic or certification as a chiropractic assistant; repeal provisions relating to chiropractic services and meetings of and practice before the Chiropractic Physicians' Board of Nevada; and providing other matters properly relating thereto. In all cases, it is the Board's intent to make the regulations less burdensome and clearer.

2. Either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

NAC 634 Existing law requires the Chiropractic Physicians' Board of Nevada to adopt reasonable regulations for the transaction of business and to enable the Board to carry out its duties under the provisions of law governing chiropractic physicians and chiropractic assistants. (NRS 634.030) Existing regulations prescribe certain requirements relating to advertising, specifically: (1) prohibiting a licensee from communicating in a false or misleading manner; (2) requiring a licensee to clearly designate himself or herself as a licensee in any advertisement; and (3) limiting the circumstances under which a licensee can advertise that he or she is an expert or specialist.

Section 1 of this regulation reorganizes and combines these provisions.

- NAC 634 *Existing regulations require an applicant for a license to practice chiropractic who fails on two occasions to pass any portion of an examination prescribed by the Board to either: (1) refrain from supervised practice; or (2) submit a new application for examination. (NAC 634.300) **Section 2** of this regulation eliminates the latter option and instead requires such an applicant who fails twice to pass any portion of such an examination to refrain from supervised practice.*
- NAC 634 ***Sections 3 and 4** of this regulation lower the passing score for an open-book examination from 90 percent to 75 percent for an applicant for a certificate as a chiropractic assistant. **Section 3** also: (1) revises the timeframe in which an applicant for a certificate as a chiropractic assistant may retake a failed examination without payment of an additional fee; and (2) eliminates provisions that allow such an applicant who fails to pass the required examinations after two attempts to continue to work as a chiropractic assistant trainee.*
- NAC 634 *Existing regulations authorize the Board, for good cause shown, to extend the training period of a chiropractic assistant trainee and allow the trainee to take a later scheduled examination. (NAC 634.360) **Section 5** of this regulation eliminates this authorization. Existing regulations authorize an interested party to appear, introduce evidence and, at the discretion of the Board, otherwise participate in a hearing before the Board. (NAC 634.620) **Section 8** of this regulation eliminates these provisions.*
- NAC 634 *Existing law requires the Board to hold regular meetings in this State at a place designated by the President and Secretary of the Board to transact business semiannually. Existing law also requires written notice of such meetings to include the time, place, location and agenda of the meeting. (NRS 634.040) Existing regulations provide that regular meetings of the Board will be held at its principal office or any other place specified by the Board. (NAC 634.130) **Section 10** of this regulation repeals these provisions.*
- NAC 634 *Existing law requires each applicant for a license to practice chiropractic or to practice as a chiropractic assistant, or an applicant for the reinstatement of an expired license, to submit a complete set of fingerprints to the Board. (NRS 634.093, 634.131) Existing regulations also require each applicant for examination or reinstatement to submit fingerprints to the Board and agree to a background investigation. (NAC 634.220) **Section 10** repeals this provision as it duplicates provisions of the Nevada Revised Statutes.*
- NAC 634 *Existing regulations set forth specific criteria relating to advertising and other communications by licensees, which includes: (1) requiring a licensee to maintain a copy of all documents relating to his or her advertisements for at least 2 years; (2) prohibiting a licensee from representing that he or she is affiliated with certain providers of health care under certain circumstances; (3) requiring that advertisements and written communication contain certain contact information of the licensee; (4) prohibiting certain false and deceptive advertising; (5) requiring a licensee to honor, for certain durations of time, an advertised fee or range of fees and to provide a statement of disclosure to a patient under certain circumstances regarding free or discounted services; and (6) prohibiting a licensee from advertising 24-hour service unless the licensee is available at all times. (NAC 634.515-634.565) **Section 10** repeals all such provisions relating to advertising and other communications. **Section 6** of this regulation makes conforming changes relating to the repeal of these provisions.*

NAC 634 Existing regulations set forth a number of additional provisions relating to the rules of practice and hearings before the Board. (NAC 634.615-634.775) Existing regulations provide that the staff of the Board may appear at any hearing and have all the rights of participation of a party to the proceeding. (NAC 634.625) **Section 10** repeals this provision.

NAC 634 Existing law requires the Board to file a written complaint with the Executive Director of the Board if the Board becomes aware that grounds for initiating disciplinary may exist as to a person practicing chiropractic or a business entity providing chiropractic services. (NRS 634.160) Existing regulations specify that a written complaint may be made against a licensee for possible disciplinary action. (NAC 634.635) **Section 10** repeals this provision as it duplicates provisions of Nevada Revised Statutes.

NAC 634 Existing regulations establish certain procedures governing hearings before the Board and set forth: (1) who will preside over a hearing; (2) the process for resetting a hearing that has been continued; and (3) the location of where a hearing will be held. (NAC 634.710) Existing regulations also establish provisions concerning hearings in relation to: (1) the preliminary procedure; (2) testimony; (3) the order of presentation of evidence; (4) stipulations; (5) rules of evidence; (6) offers of proof; (7) continuances; (8) transcripts; and (9) the submission of matters for decision and the dissemination of orders. (NAC 634.720, 634.730, 634.735, 634.745, 634.750, 634.755, 634.760, 634.770, 634.775) **Section 10** repeals all such provisions. **Sections 7 and 9** of this regulation make conforming changes relating to the repeal of these provisions.

NAC 634 Existing regulations authorize the Board to initiate proceedings relating to certain violations even if the public is not harmed and no complaint has been filed against: (1) a licensee; (2) a chiropractic assistant; (3) an applicant for a license to practice chiropractic under certain circumstances; (4) a student who is authorized to perform chiropractic pursuant to the preceptor program; and (5) a person who holds a temporary license to practice chiropractic. (NAC 634.810) **Section 10** also repeals this provision.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

The text of the proposed regulation may be inspected and copied at the office of the Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Suite M245, Reno, NV 89502. Text of the proposed regulation may also be inspected online at <http://chirobd.nv.gov> or <http://leg.state.nv.us/register/2022Register/R115-23P.pdf>.

4. A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects.

There are no anticipated adverse or beneficial economic effects on the chiropractic profession or public.

(b) Both immediate and long-term effects.

There are no anticipated immediate or long-term economic effects on the chiropractic profession or public.

5. A statement identifying the methods used by the Chiropractic Physicians' Board in determining the impact on a small business prepared pursuant to subsection 3 of NRS

233B.0608:

The CPBN's intent to consider potential additions, deletions, and amendments to NAC Chapter 634 was published on the agenda for the November 2, 2023 meeting. There was no testimony raised with the proposed regulations.

Copies of the November 2, 2023 Notice of Public Workshop to Consider the Proposed Regulation Changes and the Proposed Regulation Changes were e-mailed to all licensee's and chiropractic assistants, whose email addresses are on file with the CPBN and were posted at the Nevada Attorney General's Office and the State of Nevada Library and Archives.

6. The estimated cost to the agency for enforcement of the proposed regulation.

There will be no significant cost to the Chiropractic Physicians' Board for enforcement of the proposed regulation.

7. A description of any regulations of other state or local government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Chiropractic Physicians' Board is not aware of any similar regulations of other state or government agencies that the proposed regulations overlap or duplicate.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

This proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

This proposed regulation does not include any provision that is more stringent than a federal regulation that regulates the same activity.

10. The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

Persons wishing to comment upon the proposed action of the Chiropractic Physicians' Board of Nevada may appear and make oral comment at the scheduled public hearing, or may address their comments, data, views, or arguments, in written form, to the Chiropractic Physicians' Board of Nevada, Attention: Julie Strandberg, 4600 Kietzke Lane, Suite M245, Reno, Nevada 89502-5000, by fax at 775-688-1920, or by email: chirobd@chirobd.nv.gov. Written submissions must be received by the Chiropractic Physicians' Board on or before December 31, 2023. If no person who is directly affected by the proposed action appears to request to make an oral presentation, the Chiropractic Physicians' Board may proceed immediately to act upon any written submission.

Copies of the notice and the regulations to be adopted or amended will be available at the Chiropractic Physicians' Board of Nevada, 4600 Kietzke Lane, Suite M245, Reno, NV 89502. A copy of this notice and the regulation to be adopted or amended has been submitted for posting for inspection by members of the public during business hours at the Nevada State Library and Archives, 100 Stewart Street, Carson City, NV 89701. Copies of this notice and the proposed regulation will be mailed to members of the public upon

request.

This notice and the text of the proposed regulation has been submitted to the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.us>. This information is also available at the Chiropractic Physicians' Boards' website at <http://chirobd.nv.gov>.

Upon adoption of any regulation, the agency, if requested to do so by an interested person either before adoption within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

A copy of this notice of intent to act upon a regulation has been emailed to all licensees and chiropractic assistants whose email addresses are registered with the Chiropractic Physicians' Board, and mailed to all persons who have requested in writing that they be placed upon a mailing list, which is maintained by the Chiropractic Physicians' Board for this purpose.

Copies may be obtained in person, by mail, or by calling 775-688-1923.

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

LCB File No. R114-23

December 8, 2023

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

AUTHORITY: § 1, NRS 634.018 and 634.030; § 2, NRS 634.030 and 634.070; §§ 3 and 6-9, NRS 634.030; §§ 4 and 5, NRS 634.030 and 634.123; § 10, NRS 634.018, 634.030, 634.040, 634.131, 634.140 and 634.160.

A REGULATION relating to chiropractic; reorganizing and combining certain provisions governing advertising; revising provisions relating to examinations required for applicants for a license to practice chiropractic or certification as a chiropractic assistant; repealing provisions relating to chiropractic services and meetings of and practice before the Chiropractic Physicians' Board of Nevada; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Chiropractic Physicians' Board of Nevada to adopt reasonable regulations for the transaction of business and to enable the Board to carry out its duties under the provisions of law governing chiropractic physicians and chiropractic assistants. (NRS 634.030) Existing regulations prescribe certain requirements relating to advertising, specifically: (1) prohibiting a licensee from communicating in a false or misleading manner; (2) requiring a licensee to clearly designate himself or herself as a licensee in any advertisement; and (3) limiting the circumstances under which a licensee can advertise that he or she is an expert or specialist. (NAC 634.521, 634.536, 634.550) **Section 1** of this regulation reorganizes and combines these provisions.

Existing regulations require an applicant for a license to practice chiropractic who fails on two occasions to pass any portion of an examination prescribed by the Board to either: (1) refrain from supervised practice; or (2) submit a new application for examination. (NAC 634.300) **Section 2** of this regulation eliminates the latter option and instead requires such an applicant who fails twice to pass any portion of such an examination to refrain from supervised practice.

Sections 3 and 4 of this regulation lower the passing score for an open-book examination from 90 percent to 75 percent for an applicant for a certificate as a chiropractic assistant. **Section 3** also: (1) revises the timeframe in which an applicant for a certificate as a chiropractic assistant may retake a failed examination without payment of an additional fee; and (2) eliminates provisions that allow such an applicant who fails to pass the required examinations after two attempts to continue to work as a chiropractic assistant trainee.

Existing regulations authorize the Board, for good cause shown, to extend the training period of a chiropractic assistant trainee and allow the trainee to take a later scheduled examination. (NAC 634.360) **Section 5** of this regulation eliminates this authorization.

Existing regulations authorize an interested party to appear, introduce evidence and, at the discretion of the Board, otherwise participate in a hearing before the Board. (NAC 634.620) **Section 8** of this regulation eliminates these provisions.

Existing law requires the Board to hold regular meetings in this State at a place designated by the President and Secretary of the Board to transact business semiannually. Existing law also requires written notice of such meetings to include the time, place, location and agenda of the meeting. (NRS 634.040) Existing regulations provide that regular meetings of the Board will be held at its principal office or any other place specified by the Board. (NAC 634.130) **Section 10** of this regulation repeals these provisions.

Existing law requires each applicant for a license to practice chiropractic or to practice as a chiropractic assistant, or an applicant for the reinstatement of an expired license, to submit a complete set of fingerprints to the Board. (NRS 634.093, 634.131) Existing regulations also require each applicant for examination or reinstatement to submit fingerprints to the Board and agree to a background investigation. (NAC 634.220) **Section 10** repeals this provision as it duplicates provisions of the Nevada Revised Statutes.

Existing regulations set forth specific criteria relating to advertising and other communications by licensees, which includes: (1) requiring a licensee to maintain a copy of all documents relating to his or her advertisements for at least 2 years; (2) prohibiting a licensee from representing that he or she is affiliated with certain providers of health care under certain circumstances; (3) requiring that advertisements and written communication contain certain contact information of the licensee; (4) prohibiting certain false and deceptive advertising; (5) requiring a licensee to honor, for certain durations of time, an advertised fee or range of fees and to provide a statement of disclosure to a patient under certain circumstances regarding free or discounted services; and (6) prohibiting a licensee from advertising 24-hour service unless the licensee is available at all times. (NAC 634.515-634.565) **Section 10** repeals all such provisions relating to advertising and other communications. **Section 6** of this regulation makes conforming changes relating to the repeal of these provisions.

Existing regulations set forth a number of additional provisions relating to the rules of practice and hearings before the Board. (NAC 634.615-634.775) Existing regulations provide that the staff of the Board may appear at any hearing and have all the rights of participation of a party to the proceeding. (NAC 634.625) **Section 10** repeals this provision.

Existing law requires the Board to file a written complaint with the Executive Director of the Board if the Board becomes aware that grounds for initiating disciplinary may exist as to a person practicing chiropractic or a business entity providing chiropractic services. (NRS 634.160) Existing regulations specify that a written complaint may be made against a licensee for possible disciplinary action. (NAC 634.635) **Section 10** repeals this provision as it duplicates provisions of Nevada Revised Statutes.

Existing regulations establish certain procedures governing hearings before the Board and set forth: (1) who will preside over a hearing; (2) the process for resetting a hearing that has been continued; and (3) the location of where a hearing will be held. (NAC 634.710) Existing regulations also establish provisions concerning hearings in relation to: (1) the preliminary procedure; (2) testimony; (3) the order of presentation of evidence; (4) stipulations; (5) rules of evidence; (6) offers of proof; (7) continuances; (8) transcripts; and (9) the submission of matters

for decision and the dissemination of orders. (NAC 634.720, 634.730, 634.735, 634.745, 634.750, 634.755, 634.760, 634.770, 634.775) **Section 10** repeals all such provisions. **Sections 7 and 9** of this regulation make conforming changes relating to the repeal of these provisions.

Existing regulations authorize the Board to initiate proceedings relating to certain violations even if the public is not harmed and no complaint has been filed against: (1) a licensee; (2) a chiropractic assistant; (3) an applicant for a license to practice chiropractic under certain circumstances; (4) a student who is authorized to perform chiropractic pursuant to the preceptor program; and (5) a person who holds a temporary license to practice chiropractic. (NAC 634.810) **Section 10** also repeals this provision.

Section 1. Chapter 634 of NAC is hereby amended by adding thereto a new section to read as follows:

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

1. Includes any false claim;

2. Is intended or has the tendency to:

(a) Deceive or mislead the public; or

(b) Create unrealistic expectations in any particular case;

3. Fails to clearly identify the licensee as a holder of a license to practice chiropractic in this State; or

4. Holds the licensee out as being:

(a) Certified; or

(b) An expert or specialist other than an expert witness,

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

Sec. 2. NAC 634.300 is hereby amended to read as follows:

634.300 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 ~~fr~~

~~—(a) Refrain~~ *refrain* from supervised practice . ~~fr~~

~~—(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.

Sec. 3. NAC 634.305 is hereby amended to read as follows:

634.305 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 *or open-book* examination ~~[for a score of at least 90 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 *or open-book* examination ~~[for a score of at least 90 percent for an open book examination]~~ the first time he or she takes the examination, the applicant may retake the examination ~~[within 1 year]~~ *at the time of 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 *or open-book* examination ~~[for a score of at least 90 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 *or open-book* examination .
~~[for a score of at least 90 percent for an open-book examination.~~

~~8.]~~ **6.** An applicant for a certificate as a chiropractic assistant who fails on two occasions 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.]~~

Sec. 4. NAC 634.355 is hereby amended to read as follows:

634.355 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 *or open-book* examination ~~[or a score of at least 90 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 *or open-book* examination ~~[or a score of at least 90 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.

Sec. 5. NAC 634.360 is hereby amended to read as follows:

634.360 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]~~ 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.]~~

Sec. 6. NAC 634.515 is hereby amended to read as follows:

634.515 The following information included in an advertisement or written communication shall be deemed to be in compliance with ~~[NAC 634.515 to 634.565, inclusive:]~~ *this section and section 1 of this regulation:*

1. Information relating to the licensee or chiropractic office, including, but not limited to:
 - (a) The name of the licensee or chiropractic office;
 - (b) A list of licensees associated with a chiropractic office and their designations, such as doctor of chiropractic, chiropractor or chiropractic physician;
 - (c) The address and telephone number of the office; and
 - (d) The hours during which the office will be open or the licensee will be available.
2. The date on which a license was issued to the licensee by the Board or by the licensing agency of another state.
3. Technical and professional licenses granted by this or any other state.
4. The ability of the licensee or persons employed by the licensee or in the chiropractic office to speak a language other than English.
5. The fields of chiropractic in which the licensee is certified or is a specialist, subject to the restrictions of ~~[NAC 634.550.]~~ *section 1 of this regulation.*
6. Information regarding prepaid or group plans for health care services in which the licensee participates.
7. The types of credit cards, if any, which are accepted.
8. The fee for an initial consultation or a schedule of fees . ~~[provided in accordance with NAC 634.556.]~~
9. The use of the name and address of a licensee or chiropractic office in a public service announcement or in connection with a charitable, civic or community program or event.

Sec. 7. NAC 634.610 is hereby amended to read as follows:

634.610 1. NAC 634.610 to ~~[634.775,]~~ **634.765**, inclusive, *and section 1 of this regulation* govern all practice and procedure before the Chiropractic Physicians' Board of Nevada, except as otherwise directed by the Board.

2. Each provision of NAC 634.610 to ~~[634.775,]~~ **634.765**, inclusive, *and section 1 of this regulation* must be liberally construed to secure a just, speedy and economical determination of all issues presented to the Board.

3. In special cases, for good cause shown and when not contrary to statute, the Board may permit deviation from a provision of NAC 634.610 to ~~[634.775,]~~ **634.765**, inclusive, *and section 1 of this regulation* if it finds that compliance is impractical or unnecessary.

Sec. 8. NAC 634.620 is hereby amended to read as follows:

634.620 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.~~

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

~~[4.]~~ **2.** 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.

~~[5.]~~ 3. 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.]~~

Sec. 9. NAC 634.715 is hereby amended to read as follows:

634.715 1. If the party who filed the complaint or the licensee fails to appear at the hearing scheduled by the Board and no continuance has been requested or granted, the Board may hear the evidence of those witnesses who have appeared and proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required by NAC ~~[634.720 to 634.775,]~~ **634.725 634.740 and 634.765. [inclusive.]**

2. Where, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing scheduled by the Board or fails to request a continuance thereof, he or she may, within a reasonable time, but not more than 15 days, apply to the Secretary of the Board at the office of the Board to reopen the proceedings. The Board, if it finds that the cause for failing to appear is sufficient and reasonable, will immediately fix a time and place for the hearing and give the person notice thereof. At the time and place fixed by the Board, the person may testify in his or her own behalf or present other evidence. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the Board.

Sec. 10. NAC 634.130, 634.220, 634.311, 634.518, 634.521, 634.525, 634.530, 634.536, 634.541, 634.545, 634.550, 634.556, 634.565, 634.625, 634.635, 634.710, 634.720, 634.730, 634.735, 634.745, 634.750, 634.755, 634.760, 634.770, 634.775 and 634.810 are hereby repealed.

TEXT OF REPEALED SECTIONS

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.