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Loree V. Kessler, MPA
Executive Director

**State Board of Chiropractic Examiners
OPEN AGENDA
Tentative Agenda
September 17, 2009 – 8:00 a.m.
Missouri Council of School Administrators
3550 Amazonas Drive, Jefferson City Missouri**

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the Missouri State Board of Chiropractic Examiners, P.O. Box 672, 3605 Missouri Boulevard, Jefferson City, Missouri 65102 or by calling (573) 751-0018 to ensure available accommodations. The text telephone for the Deaf or Hard of Hearing is 800/735-2966 or 800/735-2466 for Voice Relay Missouri.

Except to the extent disclosure is otherwise required by law, the Missouri State Board of Chiropractic Examiners is authorized to close meetings, records and votes, to the extent they relate to the following: Chapter 610.021 subsections (1), (3), (5), (7), (13), (14), and Chapter 324.001.8 and 324.001.9 RSMo.

The Board may convene in closed session at any time during the meeting. If the meeting is closed, the appropriate section will be announced to the public, with the motion and vote recorded in open session minutes.

Please see attached agenda for this meeting.

Attachment

OPEN AGENDA
Tentative Agenda
September 17, 2009 – 8:00 a.m.
Missouri Council of School Administrators
3550 Amazonas Drive, Jefferson City, Missouri

Call to Order	Dr. Homer Thompson, Board President
Approval of Agenda	
1. Approval of Minutes	
• Mail Ballot July 9, 2009	
• Mail Ballot July 17, 2009	
• Mail Ballot of June 12, 2009	
• Board meeting June 4, 2009	
2. Financial Report	
3. Missouri State Board of Chiropractic Examiners vs Charles Johnson, D.C.	
• Disciplinary Hearing 9:30 a.m.	
4. Small Business Regulatory Fairness Board	Loree Kessler
5. Regulatory Amendments	Loree Kessler
Legislation (no materials)	Loree Kessler
Upcoming Meetings	
• November 13-15, 2009 NBCE Part IV	
• November 19, 2009 Board Meeting Jefferson City	
Continuing Education (no materials)	Dr. Thompson

Motions to Close

Section 610.021 subsections (14), 324.001.8 and 324.001.9 RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to the licensee or applicant section 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under the subsection 610.021 RSMo which authorizes this agency to go into closed session during those meetings.

OPEN SESSION MINUTES
Missouri State Board of Chiropractic Examiners
September 17, 2009 – 8:00 a.m.
Missouri Council of School Administrators
3550 Amazonas Drive – Jefferson City, Missouri

At 8:07 a.m., the Missouri State Board of Chiropractic Examiners meeting was called to order by Dr. Homer Thompson, Board President, at the Missouri Council of School Administrators, 3550 Amazonas Drive in Jefferson City, Missouri. The Executive Director facilitated roll call.

Board Members Present

Homer Thompson, D.C., President
Rick James, D.C., Secretary
Paul Nahon, Public Member
Gary Carver, D.C.
William Madosky, D.C.
Jack Rushin, D.C. (Via telephone conference)

Staff Present

Loree Kessler, Executive Director
Jeanette Wilde, Executive I
Greg Mitchell, Counsel
Sarah Ledgerwood, Division Counsel (Counsel to Board for Charles Johnson, DC Disciplinary Hearing)

Visitors

Dr. Roger Ott
Dr. Michael Taylor

A motion was made by Dr. James and seconded by Dr. Carver to approve the open session agenda adding the jurisprudence examination and newsletter to the discussion. Dr. James amended his motion and Dr. Carver amended his second to include a discussion regarding injectable nutrients. Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.

A motion was made by Dr. Carver and seconded by Dr. James to approve the open session minutes of the July 9 and 17 and June 12 mail ballots. Dr. Carver requested clarification concerning the motion relating to injectable nutrients in the June 4 open session minutes and staff indicated that the motion was made by Dr. James with a second by Dr. Madosky. The minutes would be amended adding Dr. James to the motion. Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.

Financial Report

The executive director provided an overview of income and expenses from the current fiscal year noting that the report covered only one month of fiscal year 2010. The board requested clarification of the sweep to general revenue and the executive director explained that the sweep of approximately \$59,000 had not yet been made by the Treasurer's office and the board would be notified when the reduction in the fund occurred. A motion was made by Dr. Carver and seconded by Dr. Madosky to approve the

financial report. Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.

The board took a brief recess at 8:17 a.m. and reconvened at 8:20 a.m.

Small Business Regulatory Fairness Board

The board reviewed the PowerPoint presentation provided by the Fairness Board. No official action required.

Regulatory Amendments

The board reviewed the amendments, fiscal notes, and small business impact statements relating to 20 CSR 2070-2.031/Meridian Therapy/Acupressure/Acupuncture, 20 CSR 2070-2.080 Biennial Licensure Renewal, 20 CSR 2070-2.081 Postgraduate Education, and 20 CSR 2070-4.010 Chiropractic Insurance Consultant.

The board discussed amending 20 CSR 2070-2.080 Biennial Licensure Renewal removing the term "boundary training" . The executive director explained that it was uncertain if the language could be amended as part of the current rulemaking process or another regulatory amendment would be required. A motion was made by Mr. Nahon and seconded by Dr. Carver for staff to proceed with drafting the language to remove the term "boundary training" and replace it with "ethical practices". Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.

A motion was made by Mr. Nahon and seconded by Dr. James to approve the amendments to be published in the October 1, 2009 *Missouri Register*, Requests for Rulemaking, and Small Business Impact Statements. Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.

A copy of the amendments, fiscal notes and impact statements are included with the minutes.

Legislation

The executive director reported that the request for the division to include language removing the term "gross negligence" (see section 331.100.5 RSMo) was not approved by the Department of Insurance. The board discussed providing information to the state association concerning the matter and requested the executive director attending the October meeting of the state association board of directors.

Upcoming Meetings

Dr. James indicated he would be an associate examiner for Part IV in Kansas City and Dr. Madosky would be an associate examiner in St. Louis. Dr. Carver is the chief examiner at the Kansas City site.

The board was reminded of the November 19, 2009 meeting at the Division of Professional Registration.

Injectable Nutrients

Dr. Taylor provided the board with information regarding the progress of similar efforts in other states. The board discussed the utilization of over the counter medications by chiropractic physicians as well. No official action taken by the board. The board thanked Dr. Taylor for his continued interest.

Jurisprudence Examination

A motion was made by Dr. James and seconded by Dr. Carver for staff to obtain cost estimates and formats for a jurisprudence examination, provide an overview regarding other states' requirements for

jurisprudence examination, and develop a timeline for potential development of the examination. Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.

At 9:30 a.m., the board took a recess until 9:40 a.m.

At 9:42 a.m.. the disciplinary hearing Missouri State Board of Chiropractic Examiners vs. Charles Johnson, DC was held.

At 10:02 a.m. a motion was made by Dr. James and seconded by Dr. Madosky to convene in closed session pursuant to section 610.021 subsections (14), 324.001.8 and 324.001.9 RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to the licensee or applicant section 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under the subsection 610.021 RSMo which authorizes this agency to go into closed session during those meetings. Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.

At 1:38 p.m. a motion was made by Dr. James and seconded by Dr. Carver to convene in open session. Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.

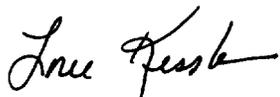
Newsletter

The board discussed the draft newsletter sent by the executive director and suggested articles regarding recent changes to the co pay law and a recent class action lawsuit involving billing for chiropractic services. It was suggested the executive consult with the articles state association regarding these articles.

Miscellaneous

The executive director reminded the board that while amendments to the open session can be made at a meeting, the preference is to have such requests submitted in advance of the meeting, in order to be posted on the web site. The board advised the staff that requests to address the board or add discussion items to the agenda must be submitted at least forty-eight hours in advance to facilitate posting on the board's web site.

At 1:56 p.m. a motion was made by Dr. Carver and seconded by Dr. James to adjourn the meeting. Board members voting aye: Dr. James, Dr. Thompson, Mr. Nahon, Dr. Madosky, Dr. Carver and Dr. Rushin. Motion carried unanimously.



Executive Director

Approved by Board on November 19, 2009

20 CSR 2070-2.031 Meridian Therapy/Acupressure/Acupuncture

PURPOSE: This rule sets out the acceptable qualifications, procedures and continuing education requirements for the use of meridian therapy/acupressure/acupuncture (in this rule Meridian Therapy) by Missouri licensed chiropractors.

(1) When used in the rules of the board, the terms Meridian Therapy or acupressure or acupuncture shall mean methods of diagnosing and the treatment of a patient by stimulating specific points on or within the body by various methods including, but not limited to, manipulation, heat, cold, pressure, vibration, ultrasound, light, electrocurrent and shortneedle insertion for the purpose of obtaining a biopositive reflex response by nerve stimulation.

(2) Acceptable practice and use of Meridian Therapy shall be limited to those methods and procedures that are commonly taught in chiropractic colleges having status with the Council on Chiropractic Education or are methods or procedures which have been approved by the board.

(3) In order to ensure that the public health and safety are protected and to maintain high standards of trust and confidence in the chiropractic profession and ensure the proper conduct of the chiropractic practice involving the use of Meridian Therapy, the requirements contained in this rule must be met prior to one engaging in therapeutic procedures or announcing the availability of therapeutic procedures to the public.

(A) Each licensee seeking to provide Meridian Therapy in any of its aspects shall obtain a certificate from the board, which shall indicate that the licensee has complied with the provisions of this rule and has met the minimum standards contained in this rule. The application for a certificate shall be on a form provided by the board, **and accompanied by the required fee.**

(B) In addition to the other information required to be provided on the application, each applicant shall certify to the board that s/he has either—1) successfully completed at least one hundred (100) hours' training, of undergraduate or postgraduate or a combination of each, in the use and administration of Meridian Therapy, which training was presented by a college of chiropractic having status with the Council on Chiropractic Education or 2) successfully completed at least one hundred (100) hours' training in the use and administration of Meridian Therapy in a course of study approved by the board.

(C) Effective March 1, 2005, an applicant for certification in Meridian Therapy shall pass the examination for acupuncture administered by the National Board of Chiropractic Examiners (N.B.C.E.) or an exam approved by the board.

(D) In order to maintain a valid certificate in Meridian Therapy, a licensee who holds a certificate at the time of making his/her license renewal must certify to the board that s/he has completed biennially a minimum of twelve (12) hours of continuing education, approved by the board, in Meridian Therapy. This continuing education shall apply toward attainment of the twelve (12) required hours of continuing education pursuant to 20 CSR 2070-2.080(5), the general studies category of continuing education.

1. Continuing education in the area of Meridian Therapy, acupuncture, and acupressure may also be submitted to the board for approval as formal continuing education hours.

(E) If a licensee allows his/her certification to lapse, the certification may be *[reactivated]* **reinstated** up to three (3) years after it has lapsed *[upon]* **by submitting an application for reinstatement on a form provided by the board, accompanied by the required fee, and upon** the presentation to the board of twelve (12) hours of postgraduate study in Meridian Therapy, acupuncture, or acupressure prior to reinstatement of certification. The postgraduate study must be a course approved by the board.

(F) If a licensee allows his/her certification to lapse for more than three (3) years the licensee shall comply with the requirements of subsection (3)(B) of this rule, providing the hours were not used to obtain the original certification.

(4) Any licensee who shall advertise or announce to the public in any communication or solicitation that s/he engages in or provides Meridian Therapy in any of its aspects without having first complied with this rule shall be deemed to have engaged in false, misleading or deceptive advertising.

(5) Sterilization of Nondisposable Needles and Disposition of Disposable Needles.

(A) Where nondisposable needles are used for acupuncture, the needles must be sterilized by—

1. Autoclave;
2. Dry heat sterilization; or
3. Ethylene oxide sterilization in accordance with directions of the manufacturer.

(B) Needles must be individually packaged for each patient. The individually packaged needles must either be discarded following patient treatment or sterilized according to the methods of sterilization listed in subsection (5)(A) when nondisposable needles are used.

(C) Needles must be disposed of according to Missouri and federal laws regarding disposal of infectious waste. In addition, all needles must be placed in rigid, leakproof and puncture resistant containers and sealed before disposal pursuant to 10 CSR 80-7.010. Noncorrosive needles must be used.

AUTHORITY: sections 331.010, 331.030.5 and .8, and 331.050.1, RSMo Supp. 2007 and section 331.100.2, SB 788, Second Regular Session, Ninety-fourth General Assembly, 2008. This rule originally filed as 4 CSR 70-2.031. Original rule filed Jan. 5, 1987, effective April 11, 1987. Amended: Filed March 4, 1994, effective Aug. 8, 1994. Amended: Filed April 14, 2000, effective Oct. 30, 2000. Amended: Filed April 1, 2004, effective Sept. 30, 2004. Moved to 20 CSR 2070-2.031, effective Aug. 28, 2006. Amended: Filed Aug. 15, 2008, effective Feb. 28, 2009.*

**Original authority: 331.010, RSMo 1939, amended 1969, 1982, 1995, 2004, 2007; 331.030, RSMo 1939, amended 1945, 1947, 1949, 1969, 1981, 1988, 1993, 1995, 1997, 2007; 331.050, RSMo 1939, amended 1945, 1947, 1969, 1981, 1987, 1999, 2001, 2004; and 331.100.2, RSMo 1939, amended 1949, 1969, 1980, 1981, 2008.*

REQUEST FOR RULEMAKING

Rule Number and Name 20 CSR 2070-2.031 Meridian Therapy/Acupressure/Acupuncture

Type of Rulemaking

- New Rule
- Amendment
- Rescission
- Emergency - If so, what is the needed effective date? _____

Priority of Rulemaking

If not an emergency rulemaking request, explain why an expedited process is warranted.

Purpose of Rulemaking

Purpose Statement for the Proposal (This will be the official statement filed with the proposal.)

2.031(3)(A) amends the regulation adding an application fee for certification in meridian therapy/acupressure/acupuncture (MTAA) .

2.031(3) (E) amends the regulation adding an application and corresponding fee to reinstate a certification in meridian therapy/acupressure/acupuncture (MTAA)

Please explain why the regulatory language is needed:

2.031(3)(A) is added to correspond with the fee rule that lists an application fee for MTAA certification.

2.031(3)(E) is needed to allow the board to charge a fee to applicants wanting to reinstate the MTAA certification after it has been expired and to make the language consistent throughout the regulation.

Public Entity/State Agency Fiscal Impact

Will this rule have a fiscal impact for your board? YES NO

If yes, please complete the following tables:

Personal Service Costs

- This table will outline the employees and their classifications that are affected by the rule proposal along with a summary of the duties that are being performed and the estimated time it will take to complete the process. *Examples are shown in red.*

EMPLOYEE NAME	JOB TITLE	DUTIES BEING PERFORMED	ESTIMATED AMOUNT OF TIME TO COMPLETE EACH ITEM
Jane Doe	Executive I	Reviews Application for Completeness; Prepares and Sends Follow Up Letters	5 minutes

John Doe	License Tech I	Prepares File for Board Review	3 minutes
Jane Doe	Executive Director	Approves application; addresses any areas of concern related to review of documents	10 minutes
<u>Jeanette Wilde</u>	<u>Executive I</u>	<u>Reviews application for completeness; Prepares and Sends Compliance Letters</u>	<u>15 minutes</u>
<u>Loree Kessler</u>	<u>Executive Director</u>	<u>Confers with Executive I regarding continuing education compliance</u>	<u>5 minutes</u>
<u>Board Member</u>	<u>_____</u>	<u>Responds to questions regarding content of acupuncture continuing education not previously approved by the board</u>	<u>15 minutes</u>

Expense and Equipment Costs

- This table will outline the expense and equipment costs (i.e., applications, letterhead envelopes, postage, lodging, meals, etc.). *Examples are shown in red.*

Expenses and Materials	Cost Per Item	Number of Items	Total Cost
Letterhead	\$ 0.20	500	\$100
Envelopes	\$0.15	500	\$75
Postage	\$0.41	500	\$205
<u>Letterhead</u>	<u>.20</u>	<u>5</u>	<u>1.00</u>
<u>Envelopes</u>	<u>.15</u>	<u>5</u>	<u>.75</u>
<u>Postage</u>	<u>.44</u>	<u>5</u>	<u>2.20</u>

Private Entity Fiscal Impact

Will this rule have a fiscal impact on members of the public (i.e., applicants, licensees, continuing education providers, etc)? YES NO

If yes, please complete the following table:

- This table will outline the type, number, and way that entities will be affected by this proposal and the date that these figures are based on. *Examples are shown in red.*

Classification of Entities Affected	# of Licensees/Applicants Affected by Change	How the Licensees will be Affected	What are the Figures Based On?
Applicants for Initial	45	Fee \$20 increase	FY05-FY07 Actuals

Licensure			
Applicants for Initial Licensure	45	Notary \$2.50	
Applicants for Initial Licensure	45	Transcript \$10	
<u>Applicants for MTAA reinstatement</u>	<u>5</u>	<u>Reinstatement fee \$25</u>	<u>Average FY 08-09 inquires</u>
<u>Copy continuing education certificates</u>	<u>5</u>	<u>10 pages x .40 per page = \$4.00</u>	<u>Section 191.227 RSMo and commerical copy costs</u>
<u>Postage mailing verification of CE compliance and reinstatement application</u>	<u>5</u>	<u>1.00</u>	<u>FY 07-08 audit of MTAA certified licensees</u>

What is the expected growth rate of the entities affected by this change? *Examples are shown in red.* No
anticipated growth rate.

2% based on FY 05 – FY07 Actuals

20 applicants based on FY 07 Actuals

Will this rulemaking request have an impact on small business? YES NO

If yes, please fill out the Small Business Impact Statement. If no, please give a brief statement explaining why this amendment will not have an impact on small business.

**Small Business Regulatory Fairness Board
Small Business Impact Statement**

Date: July 8, 2009

Rule Number: 20 CSR 2070-2.031

Name of Agency Preparing Statement: Department of Insurance, Financial Institutions and Professional Registration, State Board of Chiropractic Examiners

Name of Person Preparing Statement: Loree Kessler

Phone Number: 573/751-2104

Email: loree.kessler@pr.mo.gov

Name of Person Approving Statement:

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

The board noted that the regulation lacked information regarding the fee that must accompany the application for certification in meridian therapy/acupressure/acupuncture (MTAA). The fee is included in 20 CSR 2070-2.090; however, reference to a fee was not included within the regulation outlining the requirements for certification. The language was amended to reduce the confusion for applicants desiring the MTAA certification.

Throughout the year, the board receives requests from current and former licensees regarding the reinstatement of the MTAA certification once it has expired. In the past, the board has requested the applicant send a written letter and documentation regarding compliance with the post doctoral or continuing education requirements. To make the application process easier and faster, the board developed a reinstatement form that will be merged with the current application for MTAA certification resulting in one multipurpose form that outlines documentation, includes applicable fees, and reduces unnecessary delays and documentation.

Please explain how your agency has involved small businesses in the development of the proposed rule.

Four board members are certified in MTAA and have first hand experience in complying with the regulation. Additionally, in the course of attending continuing education seminars, board members have talked to seminar participants on streamlining the reinstatement process of the MTAA certification.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

Agency cost

Executive I - \$6.36 per application

Executive Director - \$3.90 per application

Board Member – \$1.56 per application

Income

5 applications @ \$25 per application = \$125

A benefit of having the reinstatement fee accompany the application form is a decrease in processing delays.

Section 331.070.1 RSMo requires any revenue collected, "...shall not substantially exceed the cost and expense of administering this chapter."

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Any licensee wanting to reinstate the MTAA certification will need to submit an application and fee. The board believes that including language regarding a reinstatement fee will not adversely affect an applicant. Instead, it will avoid delays in processing the application.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

Reinstatement fee = \$25

Copy fee = \$4.00

Postage = \$1.00

Total = \$30 to reinstate the MTAA certification

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Any licensee wanting to reinstate the MTAA certification will need to submit an application and fee. By including the fee with the application, the processing time and issuance of the certification will take less time. Once a certification has been issued, the licensee can begin advertising and providing acupuncture.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_x__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.

20 CSR 2070-2.080 Biennial License Renewal

PURPOSE: This rule establishes the licensure renewal requirements.

(1) A license shall be renewed biennially contingent upon the licensee completing the required hours of continuing education as defined in 20 CSR 2070-2.080(2):

(A) For the purpose of this regulation one (1) hour of continuing education shall consist of at least fifty (50) minutes of instruction or study;

(B) A chiropractic physician issued a license within one (1) year of graduation from an approved chiropractic college shall be exempt from the continuing education requirements for the calendar year that the license was issued; and

(C) A chiropractic physician at least sixty-five (65) years old and licensed in this state for at least thirty-five (35) years shall complete at least twenty-four (24) hours of formal continuing education biennially as defined in 20 CSR 2070-2.080(4). The remaining biennial hours of continuing education shall be waived.

(2) Every two (2) years (hereinafter referred to as biennially) and prior to the expiration date of a license a licensee shall complete forty-eight (48) hours of continuing education as defined in 20 CSR 2070-2.080(3) and (5). If a licensee is unable to complete the required biennial continuing education, the licensee may submit a written request to the board for an extension in order to comply with the continuing education requirement and shall pay the required late continuing education fee.

(3) At least twenty-four (24) hours of the required forty-eight (48) hours of continuing education shall be earned by attending formal continuing education programs, seminars, and/or workshops that have been approved by the board.

(A) A licensee shall obtain the required formal continuing education hours from no less than three (3) of the following formal categories:

1. Diagnostic imaging (X ray);
2. Differential or physical diagnosis or both;
3. Ethical practices. Continuing education courses acceptable for this area include topics such as professionalism, doctor-patient relationship, legal issues and responsibilities, confidentiality, and advertising;
4. Emergency procedures. Cardiopulmonary resuscitation (CPR) and/or first aid offered by the American Red Cross or other board-approved sponsoring organization shall be acceptable as meeting the continuing education requirements for this category;
5. Human immunodeficiency (HIV), infection diseases, and/or universal precautions;
6. Cerebrovascular accident (CVA) and/or transient ischemic attack (TIA);
7. Disc injury;
8. Aggravated spinal conditions and/or injury;
9. Record keeping and/or Subjective Objective Assessment Plan (SOAP) notes;
10. Soft tissue injury;
11. Nutrition;
12. Chiropractic principles and/or technique(s);
13. Health promotion and wellness;
14. Case studies in chiropractic that consist of presentations relating to articles published in scholarly journals, treatises, or textbooks used by board-approved Council of Chiropractic Education (CCE) colleges and/or universities and evidence-based and/or value-based studies;
15. Insurance consulting; or
16. Meridian Therapy/acupressure/acupuncture.

(4) Continuing education hours in compliance with 20 CSR 2070-2.080(3) may be obtained via the Internet pursuant to 20 CSR 2070-2.081(2)(A) and board approval.

(5) The remaining continuing education hours may consist of general studies as follows:

(A) Meetings. Registered attendance at relevant professional meetings which include, but are not limited to, national, regional, state and local professional association meetings and open meetings of the State Board of Chiropractic Examiners. To earn continuing education credits in this category, roll call must be taken and recorded in the official minutes of the meeting. A maximum of six (6) continuing education credit hours are allowable in this category during each continuing education reporting period but no more

than two (2) continuing education credits shall be earned per meeting. If the meeting is less than two (2) hours in duration, continuing education credits will be granted for actual attendance time but in increments of not less than one (1) hour. If the meeting has a duration of ninety (90) minutes, continuing education credits may be granted for one and

one-half (1.5) hours;

(B) Publications. Books and/or articles published by licensee in professional books, national or international journals, or periodicals. A maximum of six (6) continuing education credits are allowable in this category during each continuing education reporting period. Publications must be relevant to chiropractic to qualify for continuing education credits under this rule;

(C) Presentations. Chiropractic physicians teaching an approved postgraduate course may receive continuing education credits for teaching the course providing the instructor's name was submitted with the course content when requesting approval of the course;

(D) Home Study. Self-study of professional material including relevant books, journals, periodicals, videos, tapes, and other materials and preparation of relevant lectures and talks to public groups. Continuing education credits will be granted at the rate of one (1)

hour for reading a national or international journal or periodical and four (4) hours for reading a book. To qualify for continuing education credits under this category, the journal, periodical or book must be related to the clinical practice of chiropractic; and

(E) Individual Study. Relevant chiropractic courses subscribed via the Internet or by other electronic means.

(6) Chiropractic physicians who are faculty members at a CCE-accredited college may receive up to a maximum of forty-eight (48) hours biennially of continuing education credit for teaching or attending course(s) at a CCE-accredited chiropractic college:

(A) The areas of study shall be in compliance with 20 CSR 2070-2.080(3);

(B) For the purpose of this regulation, the faculty member must either teach or attend a course at a CCE-approved chiropractic college for a minimum of four (4) clock hours as defined in 20 CSR 2070-2.080(3);

(C) The twenty-four (24) biennial hours of general continuing education study may be obtained by teaching or attending course(s) relevant to chiropractic provided by a CCE approved chiropractic college; and

(D) The chiropractic college shall be responsible for submitting course(s) to the board for approval and for verifying attendance by the teacher or faculty member.

(7) Chiropractic physicians who teach continuing education approved by the board may receive up to a maximum of four (4) hours per year of continuing education credit for teaching courses in diagnostic imaging, differential or physical diagnosis or both, and risk management as defined in 20 CSR 2070-2.080(3)(C).

(8) Chiropractic physicians who teach continuing education approved by the board may receive up to a maximum of twenty-four (24) hours of continuing education credit for

teaching courses in general subjects biennially.

(9) Chiropractic physicians certified by the board in Meridian Therapy/acupressure/acupuncture (MTAA) or insurance consulting who teach continuing education approved by the board may receive up to twenty-four (24) hours biennially of continuing education for teaching courses pursuant to 20 CSR 2070-2.031(3) MTAA or 20 CSR 2070-4.030(2) insurance consulting.

(10) For the purpose of this regulation the teacher or instructor must teach a minimum of four (4) clock hours as defined in 20 CSR 2070-2.080(4)(A).

(11) A renewal license will not be issued until all renewal requirements have been met. If the licensee pays the continuing education penalty fee for continuing education credits earned late, those hours shall not be applied to the next reporting cycle. A licensee who has failed to obtain and verify, in a timely fashion, the requisite number of continuing education credits shall not engage in the practice of chiropractic unless an extension is obtained pursuant to section (13) of this rule.

(12) For the license renewal the licensee shall verify the number of continuing education credits earned during the last two (2) immediately preceding continuing education reporting periods. Effective March 1, 2009, the licensee shall verify the number of continuing education credits earned during the current biennial cycle on the renewal form provided by the board. The renewal form shall be mailed directly to the board office on or before the expiration date of the license. The licensee shall not submit the actual record of continuing education attendance to the board except in the case of a board audit.

(13) Each licensee shall maintain full and complete records of all continuing education credits earned for the two (2) previous reporting periods in addition to the current reporting period. Formal continuing education credit hours shall be documented by the sponsor of the approved continuing education program and provided to the licensee within thirty (30) days from the date of the program. The licensee is responsible for maintaining that record of attendance as set forth in 20 CSR 2070-2.081(2)(A)7. Continuing education credits earned through other continuing education experiences shall be documented by the licensee and such documentation shall contain, at a minimum, the number of hours earned, and these hours shall be separated in the various categories defined in 20 CSR-2070-2.080(3)(A). The board may conduct an audit of a licensee's formal continuing education hours as defined in 20 CSR 2070-2.080(3)(A) to verify compliance with the continuing education requirement. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries. A response is considered timely if received in the board office within thirty (30) days of a written request by the board for such information.

(14) A licensee who cannot complete the requisite number of continuing education credits because of personal illness, military service, or other circumstances beyond the licensee's control which the board deems to be sufficient to impose an insurmountable hardship may apply for an extension of time to complete the continuing education requirements. Any extension of time to complete the continuing education requirements will be granted solely in the discretion of the board. The licensee must make a written application for extension of time prior to the deadline for completion of the continuing education requirement. The licensee shall provide full and complete written documentation of the grounds supporting the reasons for which an extension is sought. A licensee who requests an extension of time to complete the requisite hours of continuing education shall not engage in the active practice of chiropractic until the board grants the licensee's request for extension and the licensee receives express written authorization to do so.

(15) The board shall not grant continuing education credit to any licensee for attending a continuing education course if the licensee attended a subsequent course on the same

subject matter during the same continuing education reporting period.

(16) Chiropractic physicians holding a Missouri license, but not practicing in Missouri, may use the approved continuing education hours required of the state in which they practice for license renewal, without prior approval, provided that the continuing education requirement is met and provided that the continuing education falls within the definition set forth in 20 CSR 2070-2.081. If the state in which the chiropractic physician is practicing does not have continuing education requirements for renewal or licensure reinstatement, the out-of-state chiropractic physician must earn the requisite number of continuing education hours required in Missouri and the hours shall be approved by the Missouri board or offered by a college of chiropractic accredited by the CCE.

(17) In order for the board to consider waiving the continuing education requirement for license renewal, all requests for waivers due to illness must be accompanied by a written statement from a practitioner of the healing arts stating the diagnosis, prognosis and length of time the chiropractic physician will be unable to practice or attend an educational program. Waivers due to illness may be granted only to a licensee who has suffered a personal illness or personal disability of a nature as to prevent him/her from engaging in the active practice of chiropractic for at least the majority of the continuing education reporting period.

(18) *[Reactivation/]*Reinstatement of License:

(A) A chiropractor that has been licensed in Missouri may apply for *[reactivation/]* reinstatement of an expired or inactive license upon submission of the following:

1. Application for *[reactivation/]*reinstatement;
2. *[Reactivation/]*Reinstatement fee;
3. Proof that the applicant has been licensed and eligible to practice in another state for at least one (1) year preceding the application for reinstatement;
4. Two (2) sets of fingerprints for the purpose of conducting a criminal background check by the Missouri State Highway Patrol and Federal Bureau of Investigation (FBI). The applicant shall provide proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor(s) for both a Missouri State Highway Patrol and FBI criminal background check. Proof shall consist of any documentation acceptable to the board. Any fees due for fingerprint background check shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor(s). For the purpose of application for licensure, the results of the criminal background shall be received in the board office prior to the issuance of a license and shall be valid for no more than one (1) year from the date the results of the criminal background check were received in the board office;
5. Completion of the required *[annual]* **biennial** continuing education hours for Missouri licensure renewal as defined in 20 CSR 2070-2.080(3) and (5); or
6. Completion of the continuing education hours required by the state in which the applicant is licensed.

(B) When a chiropractic physician applies to reinstate *[or reactivate]* a license that has been expired **or inactive** for at least five (5) years, and he/she has not been licensed and eligible to practice in another state for the five (5) years preceding the application for *[reactivation]* **reinstatement** the chiropractic physician must return to a CCE accredited chiropractic college for a course of study. A course of study for *[reactivation]* **reinstatement** of a license shall consist of passing a minimum of twelve (12) semester hours as follows:

1. Four (4) semester hours in chiropractic clinical reasoning;
2. Three (3) semester hours clinical diagnosis; and
3. Five (5) semester hours diagnostic imaging.

(C) The applicant for reinstatement shall document completion of the required course of study with an official transcript from the chiropractic college.

(D) A chiropractor with an expired or inactive Missouri license for less than five years from the expiration date and not licensed and eligible to practice in another state may apply for reinstatement of such license upon submission of the following:

1. Application for reinstatement;

2. Reinstatement fee;

3. Two (2) sets of fingerprints for the purpose of conducting a criminal background check by the Missouri State Highway Patrol and Federal Bureau of Investigation (FBI). The applicant shall provide proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor(s) for both a Missouri State Highway Patrol and FBI criminal background check. Proof shall consist of any documentation acceptable to the board. Any fees due for fingerprint background check shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor(s). For the purpose of application for licensure, the results of the criminal background shall be received in the board office prior to the issuance of a license and shall be valid for no more than one (1) year from the date the results of the criminal background check were received in the board office;

5. Completion of the required biennial continuing education hours for Missouri licensure renewal as defined in 20 CSR 2070-2.080(3) and (5);

(19) [Deadline for Renewal.]

[(A)] Applications for renewal shall be postmarked by the expiration date of the license.

(20) Chiropractic physicians acting as associate examiners for either the state board practical examination or the regional/national practical examination (Part IV) administered by the National Board of Chiropractic Examiners (N.B.C.E.) may receive up to a maximum of twenty-four (24) hours per year of continuing education credit for the administration of the examination:

(A) For the first full day of service provided to the N.B.C.E. in administering the Part IV examination, associate examiners will be credited with four (4) hours of continuing education in differential or physical diagnosis and four (4) hours of credit in general chiropractic continuing education;

(B) For the second full day of service provided to the N.B.C.E. in administering the Part IV examination, associate examiners will be credited with eight (8) hours of general chiropractic continuing education; (C) If a chiropractic physician should provide less than four (4) hours of service to the N.B.C.E. in any one administration of the Part IV examination, continuing education credit will not be available to that licensee. Continuing education credits earned from administering the Part IV examination shall be in the formal continuing education category;

(D) If the associate examiner attends the examiner orientation as part of the N.B.C.E. examination administration the associate examiner is eligible for two (2) hours of continuing education in boundary training for each full day the associate examiner participates in the N.B.C.E. administration;

(E) If the associate examiner proctors the X-ray portion of the N.B.C.E. the associate examiner is eligible for one (1) hour of continuing education in X-ray for each examination session. The associate examiner shall be eligible for up to four (4) hours of continuing education credit in X-ray for proctoring the X-ray portion of the examination the entire day; and

(F) Chiropractic physicians participating in the development of Parts I-IV, physiotherapy, or acupuncture examinations administered by the N.B.C.E. may submit proof of attendance to the board for continuing education approval.

(21) A licensee may submit an application to the board to be classified as inactive. An inactive licensee shall be defined as a chiropractic physician formally licensed by the board that has been approved for inactive status and is not engaged in the practice of chiropractic as defined in section 331.010, RSMo.

(22) If a bad check is received by the board to renew a license and if the replacement fee is not received prior to the expiration date of the license, the license will be not current and the licensee shall not practice until the [reactivation] **reinstatement** form and fee have been submitted to the board.

(23) Violation of any provision of this rule shall be deemed by the board to constitute misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of a chiropractic physician depending on the licensee's conduct. In addition, a licensee who has failed to complete and report in a timely fashion the requisite hours of continuing education and engages in the active practice of chiropractic without the express written authority of the board shall be deemed to have engaged in the unauthorized practice of chiropractic.

AUTHORITY: section 331.050, RSMo Supp.2007 and section 331.100.2, SB 788, Second Regular Session, Ninety-fourth General Assembly, 2008. This rule originally filed as 4 CSR 70-2.080. This version of rule filed Dec. 17, 1975, effective Dec. 27, 1975. Rescinded and readopted: Filed Dec. 9, 1981, effective March 11, 1982. Rescinded and readopted: Filed July 9, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 12, 1983, effective Jan. 13, 1984. Amended: Filed Dec. 10, 1984, effective April 11, 1985. Amended: Filed April 10, 1986, effective July 11, 1986. Amended: Filed Aug. 14, 1986, effective Nov. 13, 1986. Amended: Filed April 18, 1990, effective June 30, 1990. Amended: Filed April 30, 1991, effective Oct. 31, 1991. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed July 22, 1993, effective Jan. 31, 1994. Amended: Filed March 4, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 18, 1995, effective June 30, 1996. Amended: Filed July 23, 1998, effective Feb. 28, 1999. Amended: Filed April 14, 2000, effective Oct. 30, 2000. Amended: Filed July 31, 2003, effective Jan. 30, 2004. Amended: Filed April 1, 2005, effective Oct. 30, 2005. Moved to 20 CSR 2070-2.080, effective Aug. 28, 2006. Rescinded and readopted: Filed June 27, 2007, effective Jan. 30, 2008. Amended: Filed Aug. 15, 2008, effective Feb. 28, 2009.*

**Original authority: 331.050, RSMo 1939, amended 1945, 1947, 1969, 1981, 1987, 1999, 2001, 2004 and 331.100, RSMo 1939, amended 1949, 1969, 1980, 1981, 2008.*

REQUEST FOR RULEMAKING

Rule Number and Name 20 CSR 2070-2.080(18) Biennial License Renewal

Type of Rulemaking

- New Rule
 Amendment
 Rescission
 Emergency - If so, what is the needed effective date? _____

Priority of Rulemaking

If not an emergency rulemaking request, explain why an expedited process is warranted.

Purpose of Rulemaking

Purpose Statement for the Proposal (This will be the official statement filed with the proposal.)

Throughout the regulation, the reference to "reactivate" is being deleted in favor of the term "reinstate" or "reinstatement".

2.080 (18) (A)5 amends the timeframe for the continuing education requirement, as it relates to the reinstatement of a license to mirror the biennial cycle for licensure renewal.

2.080(18) (B) amends the requirement for the reinstatement of a license to include a license that has been inactive for more than five (5) years and the applicant does not maintain a current license in another state. Currently, the regulation addresses an expired license only.

2.080(18) (D) amends the regulation to address reinstatement of a license when the applicant is not currently licensed in another state and maintains an inactive license in Missouri for less than five (5) years. Currently, the regulation addresses an expired license only.

Please explain why the regulatory language is needed:

The terms reactivate and reinstate are very close in meaning. However, reinstatement is preferred by the board. The definition of reinstate is to restore to a previous effective state.

2.080 (18) (A)5 - Effective February 28, 2009 the deadline for completing continuing education requirements changed from annual to biennial to match the expiration date of the license. The continuing education requirements for reinstatement need to reflect the same cycle.

2.080(18) (B) - A license may be placed on inactive status for a maximum of five (5) years from the expiration date. If a former licensee wishes to return to practice within the five (5) year time frame, the regulation does not address how to do so. The amendment adds the inactive status to the regulation to enable an applicant for reinstatement to be aware of the requirements to reinstate the credential and legally practice in this state.

2.080(18) (D) - The inactive status was codified in 2004 with a licensee able to place a credential on inactive status beginning with the 2005-2007 biennial renewal cycle. Since implementation of the inactive status, the board has received requests to reinstate a Missouri license from former licensees not licensed in another state and with a Missouri licensed that has not been expired or inactive for five (5) years from the expiration date. In effect, there

is a gap in the reinstatement requirements to address this category of applicant for reinstatement and the amended language closes that gap.

Public Entity/State Agency Fiscal Impact

Will this rule have a fiscal impact for your board? YES NO

If yes, please complete the following tables:

Personal Service Costs

- This table will outline the employees and their classifications that are affected by the rule proposal along with a summary of the duties that are being performed and the estimated time it will take to complete the process.
Examples are shown in red.

EMPLOYEE NAME	JOB TITLE	DUTIES BEING PERFORMED	ESTIMATED AMOUNT OF TIME TO COMPLETE EACH ITEM
Jane Doe	Executive I	Reviews Application for Completeness; Prepares and Sends Follow Up Letters	5 minutes
John Doe	License Tech I	Prepares File for Board Review	3 minutes
Jane Doe	Executive Director	Approves application; addresses any areas of concern related to review of documents	10 minutes
<u>Jeanette Wilde</u>	<u>Executive I</u>	<u>Reviews reinstatement application for completeness; identifies deficiencies and communicates corrective measures to applicant</u>	<u>15 minutes</u>
<u>Loree Kessler</u>	<u>Executive Director</u>	<u>Approves application for reinstatement; addresses questions regarding applicable continuing education and communicates with board members regarding acceptable continuing education</u>	<u>5 minutes</u>
<u>Board Member</u>	<u>Board member</u>	<u>Reviews continuing education courses that were not approved by the board to determine if such hours can be used for reinstatement of the</u>	<u>30 minutes</u>

Expense and Equipment Costs

- This table will outline the expense and equipment costs (i.e., applications, letterhead envelopes, postage, lodging, meals, etc.). *Examples are shown in red.*

Expenses and Materials	Cost Per Item	Number of Items	Total Cost
Letterhead	\$ 0.20	500	\$100
Envelopes	\$0.15	500	\$75
Postage	\$0.41	500	\$205
<u>Letterhead</u>	<u>.20</u>	<u>10</u>	<u>2.00</u>
<u>Envelopes</u>	<u>.15</u>	<u>10</u>	<u>1.50</u>
<u>Postage</u>	<u>.44</u>	<u>10</u>	<u>4.40</u>
<u>Board Member Postage</u>	<u>1.00</u>	<u>5</u>	<u>5.00</u>

Private Entity Fiscal Impact

Will this rule have a fiscal impact on members of the public (i.e., applicants, licensees, continuing education providers, etc)? YES NO

If yes, please complete the following table:

- This table will outline the type, number, and way that entities will be affected by this proposal and the date that these figures are based on. *Examples are shown in red.*

Classification of Entities Affected	# of Licensees/Applicants Affected by Change	How the Licensees will be Affected	What are the Figures Based On?
Applicants for Initial Licensure	45	Fee \$20 increase	FY05-FY07 Actuals
Applicants for Initial Licensure	45	Notary \$2.50	
Applicants for Initial Licensure	45	Transcript \$10	
<u>Application for reinstatement</u>	<u>10</u>	<u>\$300(renewal fee \$200 & reinstatement fee \$100)</u>	<u>Average number of Inquires received FY 08-09</u>
<u>Postage</u>	<u>10</u>	<u>1.00</u>	<u>10.00</u>
<u>Registration for</u>	<u>10</u>	<u>\$2,500 - \$4,500</u>	<u>See *</u>

<u>Continuing Education Seminar(s)</u>			
<u>Lodging</u>	<u>10</u>	<u>\$2,140 - \$5,960</u>	<u>See *</u>
<u>Meals</u>	<u>10</u>	<u>\$780 - \$2,950</u>	<u>See *</u>
<u>Copy continuing education certificates</u>	<u>10</u>	<u>10 pages x .40 per page = 4.00</u>	<u>Section 191.227 RSMo and commerical copy costs</u>
<u>Background Check</u>	<u>10</u>	<u>\$52.20</u>	<u>Fee charged by L-1 Enrollment Services Division**</u>

What is the expected growth rate of the entities affected by this change? *Examples are shown in red.* None anticipated

*In calculating the private entity cost, the board surveyed three continuing education sponsors that provide a number of hours of board approved continuing education over a weekend or several days. In calculating lodging and meals, the board utilized the federal General Services Administration (GSA) per diem rates for destinations within the Continental United States (CONUS) except for the Branson area, as the actual lodging cost was available at the time the request for rulemaking was assembled. It must be noted that seminar attendants may pay a higher lodging rate during a seminar over several days, based upon location, lodging preferences, and availability. Finally, additional travel costs would include mileage from home to seminar and return trip and would vary based upon where the licensee lives.

Continuing Education Sponsors Surveyed (Forty-eight total hours required biennially)

Logan Chiropractic College, St Louis- Homecoming Event registration @ \$450 for fifty-one hours (51) of board approved continuing education

Lodging St. Louis - 4 nights x \$111 per night = \$411

Meals St. Louis - 5 days x \$59 = \$295

Cleveland College of Chiropractic, Overland Park, Kansas - Homecoming Event registration @ \$250 for twenty (20) hours of board approved continuing education

Lodging Kansas City area - 2 nights x \$107 = \$214

Meals Kansas City area - 3 days x \$49 = \$147

Missouri State Chiropractors Association Annual Convention \$290 for twenty-four (24) hours of board approved continuing education

Lodging - 4 nights x \$149 = \$596

Meals for Branson area - 2 days x \$39 = \$78 (majority of the meals are included w/cost of registration)

**L-1 Enrollment Services Division is the statewide vendor providing digital fingerprinting for the purpose of conducting background checks utilized by various state and local governing bodies.

2% based on FY 05 – FY07 Actuals

20 applicants based on FY 07 Actuals

Will this rulemaking request have an impact on small business? YES NO

If yes, please fill out the Small Business Impact Statement. If no, please give a brief statement explaining why this amendment will not have an impact on small business.

**Small Business Regulatory Fairness Board
Small Business Impact Statement**

Date: July 8, 2009

Rule Number: 20 CSR 2070-2.080

Name of Agency Preparing Statement: Department of Insurance, Financial Institutions and Professional Registration, Division of Professional Registration, State Board of Chiropractic Examiners

Name of Person Preparing Statement: Loree Kessler

Phone Number: 751-2104 Email: loree.kessler@pr.mol.gov

Name of Person Approving Statement:

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

The lack of regulatory clarity addressing the reinstatement of the license has resulted in former licensees being unable to reinstate the credential in a timely manner, taking continuing education that is not approved by the board, and incurring the corresponding time and monetary expense in doing so. Additionally, the cycle and corresponding requirements for continuing education need to be consistent whether reinstating or renewing a license. Regulatory clarification allows an applicant to reinstate the license by taking board approved continuing education in categories that interest the practitioner and without additional examination or returning to chiropractic college.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The regulatory language is based upon inquiries received from former licensees wanting to reinstate a license and post graduate program directors from Logan College of Chiropractic in St. Louis, Missouri and Cleveland Chiropractic College in Overland Park, Kansas.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

Executive I - \$6.36 per application
Executive Director - \$3.90 per application
Board Member = \$3.12 per application

The monetary benefit will result in a reinstatement fee being paid to the board by former licensees. The board anticipates collecting \$3,000 in revenue. Section 331.070.1 RSMo requires any revenue collected, "...shall not substantially exceed the cost and expense of administering this chapter."

The administrative benefit to the agency is requirements to reinstate a license are clearly outlined within the regulation, thereby reducing confusion when applying for reinstatement and corresponding delays in processing the reinstatement due to missing fees and/or documentation.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

A former licensee seeking to reinstate the license will need to comply with the requirements. It is anticipated that a perspective licensee will benefit from the requirement and not be adversely affected since continuing education covers a wide range of topics that will enhance the perspective licensee's working knowledge of changes and current practices within the profession.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

In calculating the private entity cost, the board surveyed three continuing education sponsors that provide a number of hours of board approved continuing education over a weekend or several days. In calculating lodging and meals, the board utilized the federal General Services Administration (GSA) per diem rates for destinations within the Continental United States (CONUS) except for the Branson area, as the actual lodging cost was available at the time the request for rulemaking was assembled. It must be noted that seminar attendants may pay a higher lodging rate during a seminar over several days, based upon location, lodging preferences, and availability. Finally, additional travel costs would include mileage from home to seminar and return trip and would vary based upon where the licensee lives.

Summary of direct costs for one applicant for reinstatement

Reinstatement fee = \$300

Postage \$1.00

Continuing Education Seminar Registration Fee ranges from \$250 - \$450

Lodging for multiple nights range from \$214 - \$596

Meals for multiple nights range from \$78 - \$295

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Applicants for reinstatement will be directly affected, pay the cost, and benefit from the information provided at the continuing education seminars.

Continuing education providers will benefit in the form of registration fees.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_x__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.

20 CSR 2070-2.081 Postgraduate Education

PURPOSE: This rule defines postgraduate education, sets out the requirements for sponsoring organizations and explains procedures for inactive chiropractic physicians to obtain a semester of review prior to reactivation of a license.

(1) Postgraduate study as used in this rule and as used in section 331.050, RSMo, is defined as a course of study designed to instruct individuals licensed as chiropractic physicians in Missouri. The term postgraduate study may be used interchangeably with the terms continuing education and postgraduate education.

(2) For board approval of postgraduate education programs, sponsoring organizations shall forward to the board *[two (2) copies]* **one (1) copy** of the completed application, syllabus or outline of material covered in the course and *vitae* on the speaker(s). This material must be received in the board office at least *[forty-five (45)]* **thirty (30)** days prior to the seminar to receive board approval. A request for approval of a seminar will not be considered by the board if the request is made after the seminar has occurred.

(A) Any sponsoring organization wishing to provide continuing education via the Internet shall submit a detailed explanation of the following:

1. Delivery format explaining how the continuing education material is presented to include applicable security safeguarding the licensee's identity;
2. Process used for gathering information for the continuing education course, to include if course material is updated, how often and who determines when such update is required;
3. Method used for monitoring attendance;
4. Time a licensee is allowed to complete the online continuing education course. The explanation must specify if a licensee has unlimited time and unlimited number of attempts to complete the continuing education course and if multiple attempts to complete the course are monitored;
5. Whether a posttest is required and, if so, how the results are reported to the licensee;
6. How a licensee communicates with the sponsoring organization in the event there are questions or problems;
7. Documentation provided to the licensee when a course is completed;
8. Amount of time a sponsoring organization maintains records of a licensee completing a course of study; and
9. Names and credentials of individuals responsible for the content of the continuing education course.

(B) A sponsoring organization wishing to provide continuing education via the Internet shall provide the board access to the online course for the purpose of reviewing areas such as content and delivery method.

(3) All postgraduate education programs shall be subject to the following criteria:

(A) The program shall meet the definition of postgraduate education as defined in section (1) of this rule;

(B) The sponsor shall properly monitor the attendance of the chiropractic physician at the program; and

(C) The sponsor shall notify the board of the date, title, hours, names of speakers and location of seminar and contact person.

(4) If any program submitted for board approval does not meet the requirements of section (3) of this rule, such program(s) will not be approved. **If an application for continuing education is not approved by the board or is incomplete, the application will be returned to the sponsoring organization with a written explanation regarding why the application was not approved or was incomplete. Upon correcting any deficiencies on the application, the sponsoring organization may resubmit the application and shall pay the applicable fee as required in 20 CSR 2070-2.090 (1)(O).**

(5) Continuing education programs in diagnostic imaging shall be taught by a Diplomate, American Board of Chiropractic Radiology (DACBR) or a medical radiologist.

(6) A continuing education program addressing a topic or combination of topics pursuant to 20 CSR 2070-2.080(3) shall be taught by an instructor with a doctor of chiropractic degree and expertise in the subject matter to be presented.

(A) Instructors for continuing education programs addressing a topic, or combination of topics, pursuant to 20 CSR 2070-2.080(3) that do not have a doctor of chiropractic degree shall document training and expertise in the subject matter to be presented. Such documentation shall include:

1. Undergraduate or graduate course work verified with a transcript; and/or 2. Work experience, seminars, workshops, or training verified with a resume or *vitae*.

(B) Continuing education sponsored totally or in part by a distributor, product line, or company or demonstrating, promoting, or endorsing a product or service must utilize instructors in compliance with CSR 2070- 2.080(6). The subject matter of the continuing education must address the diagnosis and treatment of conditions as authorized by section 331.010.1, RSMo. Product information shall not be the primary focus relating to diagnosis and/or treatment and shall be presented only as an adjunct to the course material.

(7) Any postgraduate program offered for license renewal must carry the following disclaimer: "Approval of this course is not an acknowledgement or ruling by the board that the methods taught in this course are recognized and approved by the board as the appropriate practice of chiropractic as defined in section 331.010, RSMo." This disclaimer shall be on all brochures and handouts or on a separate piece of paper distributed at each program.

(8) All postgraduate education sponsors shall provide each licensee with a certificate verifying his/her attendance at an approved postgraduate education seminar. The certificate shall be provided to the licensee by the sponsor within thirty (30) days from the date of the licensee's attendance at the seminar and it shall contain, at a minimum, the following information:

(A) Name, address, and telephone number of the sponsoring organization;

(B) Name, address, and license number of the licensee in attendance at the approved seminar;

(C) Course approval number which will be provided to the sponsor at the time the sponsor is notified by the board of its approval of the seminar;

(D) Title, date(s), and location of the seminar; and

(E) The total number of hours that the licensee was in attendance at the seminar. These hours must be reflected according to the categories defined in 20 CSR 2070- 2.080(3).

*AUTHORITY: section 331.050, RSMo Supp. 2007 and section 331.100.2, SB 788, Second Regular Session, Ninety-fourth General Assembly, 2008. * This rule originally filed as 4 CSR 70-2.081. Original rule filed April 16, 1990, effective June 30, 1990. Amended: Filed Aug. 26, 1993, effective April 9, 1994. Amended: Filed March 4, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 18, 1995, effective June 30, 1996. Amended: Filed July 23, 1998, effective Feb. 28, 1999. Amended: Filed July 31, 2003, effective Jan. 30, 2004. Moved to 20 CSR 2070-2.081, effective Aug. 28, 2006. Amended: Filed June 27, 2007, effective Jan. 30, 2008. Amended: Filed Aug. 15, 2008, effective Feb. 28, 2009.*

**Original authority: 331.050, RSMo 1939, amended 1945, 1947, 1969, 1987, 1999, 2001, 2004; and 331.100.2, RSMo 1939, amended 1949, 1969, 1980, 1981, 2008.*

REQUEST FOR RULEMAKING

Rule Number and Name 20 CSR 2070-2.081 Postgraduate Education

Type of Rulemaking

- New Rule
- Amendment
- Rescission
- Emergency - If so, what is the needed effective date? _____

Priority of Rulemaking

If not an emergency rulemaking request, explain why an expedited process is warranted.

Purpose of Rulemaking

Purpose Statement for the Proposal (This will be the official statement filed with the proposal.)

2.081(2) reduces the number of copies of application materials to be sent to the board and increases the amount of time a continuing education sponsor has to submit an application for continuing education approval.

2.081(4) authorizes the board to collect a fee for conducting multiple reviews of a continuing education application that is incomplete or not approved.

Please explain why the regulatory language is needed:

2.081(2) The board is encouraging providers to submit applications and corresponding materials via electronic mail. All materials will be maintained by the board in an electronic format with review notification emailed to board members and corresponding review results emailed to staff. Only one copy of an application and any attachments is needed to facilitate this process.

2.081(4) At the time the application is submitted, the continuing education sponsor pays \$5 per seminar session listed on the application. Unfortunately, continuing education sponsors submit incomplete applications missing documentation such as timeframe for seminar, location, instructor credentials, and contact information. Staff and board members expend additional time requesting this information by telephone, fax, and email and such efforts surpass the \$5 per session fee. Therefore, the amended language requires an incomplete or unapproved continuing education application to be returned to the continuing education sponsor with a written explanation and the cost to resubmit the application for board review.

Public Entity/State Agency Fiscal Impact

Will this rule have a fiscal impact for your board? YES NO

If yes, please complete the following tables:

Personal Service Costs

- This table will outline the employees and their classifications that are affected by the rule proposal along with a summary of the duties that are being performed and the estimated time it will take to complete the process.

Examples are shown in red.

EMPLOYEE NAME	JOB TITLE	DUTIES BEING PERFORMED	ESTIMATED AMOUNT OF TIME TO COMPLETE EACH ITEM
Jane Doe	Executive I	Reviews Application for Completeness; Prepares and Sends Follow Up Letters	5 minutes
John Doe	License Tech I	Prepares File for Board Review	3 minutes
Jane Doe	Executive Director	Approves application; addresses any areas of concern related to review of documents	10 minutes
<u>Jeanette Wilde</u>	<u>Executive I</u>	<u>Reviews Application for completeness; Notes discrepancies and assembles correspondence</u>	<u>20 minutes</u>
<u>Marla Klynott</u>	<u>Licensure Technician I</u>	<u>Assembles application packet for mailing; enters status information into continuing education database; mails compliance notification</u>	<u>10 minutes</u>
<u>Board Member</u>	<u>_____</u>	<u>Reviews application for continuing education</u>	<u>30 minutes</u>

Expense and Equipment Costs

- This table will outline the expense and equipment costs (i.e., applications, letterhead envelopes, postage, lodging, meals, etc.). *Examples are shown in red.*

Expenses and Materials	Cost Per Item	Number of Items	Total Cost
Letterhead	\$ 0.20	500	\$100
Envelopes	\$0.15	500	\$75
Postage	\$0.41	500	\$205
<u>Notification</u>	<u>.20</u>	<u>10</u>	<u>2.00</u>
<u>Envelopes</u>	<u>.15</u>	<u>10</u>	<u>1.50</u>
<u>Postage</u>	<u>1.00</u>	<u>10</u>	<u>10.00</u>

Private Entity Fiscal Impact

Will this rule have a fiscal impact on members of the public (i.e., applicants, licensees, continuing education providers, etc)? YES NO

If yes, please complete the following table:

- This table will outline the type, number, and way that entities will be affected by this proposal and the date that these figures are based on. *Examples are shown in red.*

Classification of Entities Affected	# of Licensees/Applicants Affected by Change	How the Licensees will be Affected	What are the Figures Based On?
Applicants for Initial Licensure	45	Fee \$20 increase	FY05-FY07 Actuals
Applicants for Initial Licensure	45	Notary \$2.50	
Applicants for Initial Licensure	45	Transcript \$10	
<u>Continuing Education Providers</u>	<u>10</u>	<u>Fee to resubmit \$5 - \$75*</u>	<u>FY 08 - 09 average of applications that were incomplete or not approved</u>
<u>Postage</u>	<u>10</u>	<u>1.00</u>	<u>FY 08 - 09 average of applications that were incomplete or not approved</u>

What is the expected growth rate of the entities affected by this change? *Examples are shown in red.* No anticipated growth rate.

*The cost for review of an application that is incomplete or not approved varies from seminar to seminar. Providers may submit continuing education for an entire year resulting in many sessions or a provider may submit only one seminar that lasts an entire day. Thus, a range of costs is used.

The board anticipates that as more continuing education providers utilize electronic mailing of seminar applications and corresponding documentation, the cost of postage, will decline.

2% based on FY 05 – FY07 Actuals
20 applicants based on FY 07 Actuals

Will this rulemaking request have an impact on small business? YES NO

If yes, please fill out the Small Business Impact Statement. If no, please give a brief statement explaining why this amendment will not have an impact on small business.

**Small Business Regulatory Fairness Board
Small Business Impact Statement**

Date: July 8, 2009

Rule Number: 20 CSR 2070-2.081

Name of Agency Preparing Statement: Department of Insurance, Financial Institutions and Professional Registration

Name of Person Preparing Statement: Loree Kessler

Phone Number: 573/751-2104 Email: loree.kessler@pr.mo.gov

Name of Person Approving Statement:

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

In order to reduce the cost of mailing and copying, the board is implementing a system to store and review continuing education applications electronically. Additionally, with documents scanned and reviewed by the board electronically, less time is needed for copying and mailing providing continuing education sponsors more time to assemble and submit an application for continuing to the board.

The staff and board member time required to review an application increases when a continuing education sponsor fails to properly complete the application form, submit the required fee, or provide documentation explaining continuing education content, and instructor qualifications. The board has modified the application to eliminate repetitious information and will calculate the fee required to reduce payment errors. However, continuing education sponsors that submit incomplete continuing education applications will need to pay the required fee for the staff and board to review materials again. Continued education sponsors submitting the application and corresponding material correctly will not incur this charge.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The board and staff monitor continuing education compliance to identify common errors made on the application. The board has modified the application to separate the continuing education sponsor information from the seminar content. Input was sought from continuing education providers to include Logan Chiropractic College and Cleveland College of Chiropractic, Missouri State Chiropractors Association as well as comments received at continuing education seminars attended by board members and staff.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

Agency Cost

Executive I = \$8.48 per application

Licensure Technician I = \$3.00 per application
Board Member = \$3.13 per application

Income

The board estimates per session fee paid for a second review of a previously submitted application will range from \$5 - \$75 depending upon the number of sessions listed on the application. Section 331.070.1 RSMo requires any revenue collected, "...shall not substantially exceed the cost and expense of administering this chapter."

The benefits for the agency is a reduction in the number of copies required for board review of a continuing education application and corresponding postage required for mailing responses. A second benefit will be a reduction in application errors thereby decreasing processing and review time.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Continuing education sponsors that fail to submit a complete application or wish to have an application reconsidered will be require to comply with the regulation and pay the fee.

Continuing education sponsors that complete the application correctly will not incur any additional cost and the application process will not be delayed.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

The board estimates per session fee paid for a second review of a previously submitted application will range from \$5 - \$75 depending upon the number of sessions listed on the application.

Postage \$1.00

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Continuing education sponsors will be required to bear the cost from the proposed rule. The option of electronic filing will reduce copy and postage costs. The reduction in board notification by continuing education providers will allow more time for providers to assemble application information and aid in reducing common errors associated with filing continuing applications.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No__x_

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.

20 CSR 2070-2.090 Fees

PURPOSE: This rule establishes and fixes the various fees and charges authorized by Chapter 331, RSMo.

(1) The following fees hereby are established by the State Board of Chiropractic Examiners:

- (A) Examination Fee \$300*
- (B) Reexamination Fee (per section) \$ 35 with maximum fee of \$105
- (C) Application Fee \$200
- (D) Renewal Fee \$200
- (E) Inactive Status Fee \$100
- (F) **License [Reactivation/]Reinstatement** Fee \$100
- (G) Certificate of Corporations Fee \$ 15
- (H) Certification of Licensure Fee \$ 10
- (I) Section Regrade Fee (Written Practical) \$ 25
- (J) Reevaluation Fee (Oral Practical) \$ 50
- (K) Meridian Therapy/Acupressure/ Acupuncture Certification Application Fee \$100
- (L) Preceptorship Program Application Fee \$ 35
- (M) Insurance Consultant Certification **Application** Fee \$100
- (N) Fingerprinting Fee (amount determined by the Missouri State Highway Patrol)
- (O) Continuing Education Sponsor Fee (per session) \$ 5
- (P) Annual Continuing Education Sponsor Fee \$500**
- (Q) Continuing Education Late Fee \$150
- (R) Bad Check Fee \$ 25
- (S) Temporary License Fee \$100
- (T) Renewal Temporary License \$ 25
- (U) Specialty Certification Review Fee \$150
- (V) Specialist Certification Application Fee \$100
- (W) **Specialty Certification Reinstatement Fee \$25**

*If the candidate has not taken the board examination within four (4) consecutive examinations for which the candidate would be eligible, the candidate must pay new examination fee. Candidates taking the N.B.C.E. regional/national practical examination (Part IV) will pay an examination fee directly to the N.B.C.E. This fee will be determined by the N.B.C.E. Applicants paying the three hundred dollar (\$300) Examination Fee will not be charged the two hundred forty dollar (\$240) Application Processing Fee.

**This fee provides continuing education sponsors with the option of paying one (1) annual fee in lieu of paying the five dollar (\$5) fee required with each session on an application for continuing education course approval. The annual fee must be paid with the first application filed by the continuing education sponsor for programs offered in any one continuing education reporting period. No additional fee will be assessed on subsequent applications for continuing education course approval filed for programs offered throughout the continuing education reporting period, regardless of the number of applications filed by the continuing education sponsor.

(2) All fees are nonrefundable.

(3) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: section 43.543 and 331.100.2, SB 788, Second Regular Session, Ninety-fourth General Assembly, 2008 and section 331.070, RSMo 2000. This rule originally filed as 4 CSR 70-2.090. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. Amended: Filed Dec. 10, 1984, effective April 11, 1985. Amended: Filed Aug. 14, 1986, effective Nov. 13, 1986. Amended: Filed Oct. 17, 1986, effective Jan. 30, 1987. Emergency amendment filed March 18, 1987, effective March 28, 1987, expired July 26, 1987. Amended: Filed March 18, 1987, effective May 28, 1987. Amended: Filed Dec. 1, 1988, effective April 13, 1989. Amended: Filed April 18, 1989, effective July 13, 1989. Amended: Filed April 18, 1990, effective June 30, 1990. Amended: Filed Aug. 14, 1990, effective Dec. 31, 1990. Amended: Filed Oct. 15, 1990, effective April 4, 1991. Emergency amendment filed Dec. 21, 1990, effective Dec. 31, 1990, expired April 29, 1991. Amended: Filed Dec. 3, 1990, effective April 29, 1991. Amended: Filed April 30, 1991, effective Oct. 31, 1991. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed Jan. 29, 1993, effective Aug. 9, 1993. Amended: Filed March 4, 1994, effective Aug. 28, 1994. Amended: Filed Sept. 13, 1995, effective March 30, 1996. Amended: Filed Jan. 24, 1996, effective July 30, 1996. Amended: Filed Nov. 6, 1996, effective May 30, 1997. Amended: Filed Jan. 20, 1998, effective Sept. 1, 1998. Amended: Filed July 23, 1998, effective Jan. 30, 1999. Amended: Filed June 15, 1999, effective Nov. 30, 1999. Amended: Filed April 14, 2000, effective Oct. 30, 2000. Amended: Filed July 31, 2003, effective Jan. 30, 2004. Amended: Filed April 1, 2005, effective Oct. 30, 2005. Amended: Filed June 29, 2005, effective Jan. 30, 2006. Moved to 20 CSR 2070-2.090, effective Aug. 28, 2006. Amended: Filed June 27, 2007, effective Jan. 30, 2008. Amended: Filed Aug. 15, 2008, effective Feb. 28, 2009.*

**Original authority: 43.543, RSMo 1993, amended 2003, 2005, 2008; 331.070, RSMo 1939, amended 1969, 1981, 1985; and 331.100.2, RSMo 1939, amended 1949, 1969, 1980, 1981, 2008.*

REQUEST FOR RULEMAKING



Rule Number and Name 20 CSR 2070-2.090 Fees

Type of Rulemaking

- New Rule
- Amendment
- Rescission
- Emergency - If so, what is the needed effective date? _____

Priority of Rulemaking

If not an emergency rulemaking request, explain why an expedited process is warranted.

Purpose of Rulemaking

Purpose Statement for the Proposal (This will be the official statement filed with the proposal.)

The amended language differentiates the fee required to reinstate a license, reinstate a specialty certification credential, or apply for insurance consultant certification.

Please explain why the regulatory language is needed:

The proposed amendments clearly designate fee types relating to certification and licensure. A specialty certification reinstatement fee is added in the event other specialty areas are approved by the board for certification.



Public Entity/State Agency Fiscal Impact

Will this rule have a fiscal impact for your board? YES NO

If yes, please complete the following tables:

Personal Service Costs

- This table will outline the employees and their classifications that are affected by the rule proposal along with a summary of the duties that are being performed and the estimated time it will take to complete the process.
Examples are shown in red.

EMPLOYEE NAME	JOB TITLE	DUTIES BEING PERFORMED	ESTIMATED AMOUNT OF TIME TO COMPLETE EACH ITEM
Jane Doe	Executive I	Reviews Application for Completeness; Prepares and Sends Follow Up Letters	5 minutes
John Doe	License Tech I	Prepares File for Board Review	3 minutes
Jane Doe	Executive Director	Approves application; addresses any areas of	10 minutes

		concern related to review of documents	
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Expense and Equipment Costs

- This table will outline the expense and equipment costs (i.e., applications, letterhead envelopes, postage, lodging, meals, etc.). *Examples are shown in red.*

Expenses and Materials	Cost Per Item	Number of Items	Total Cost
Letterhead	\$ 0.20	500	\$100
Envelopes	\$0.15	500	\$75
Postage	\$0.41	500	\$205
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Private Entity Fiscal Impact

Will this rule have a fiscal impact on members of the public (i.e., applicants, licensees, continuing education providers, etc)? YES NO

If yes, please complete the following table:

- This table will outline the type, number, and way that entities will be affected by this proposal and the date that these figures are based on. *Examples are shown in red.*

Classification of Entities Affected	# of Licensees/Applicants Affected by Change	How the Licensees will be Affected	What are the Figures Based On?
Applicants for Initial Licensure	45	Fee \$20 increase	FY05-FY07 Actuals
Applicants for Initial Licensure	45	Notary \$2.50	
Applicants for Initial Licensure	45	Transcript \$10	
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

What is the expected growth rate of the entities affected by this change? *Examples are shown in red.* _____
2% based on FY 05 – FY07 Actuals

20 applicants based on FY 07 Actuals

Will this rulemaking request have an impact on small business? YES NO

If yes, please fill out the Small Business Impact Statement. If no, please give a brief statement explaining why this amendment will not have an impact on small business.

—

20 CSR 2070-4.010 Chiropractic Insurance Consultant

PURPOSE: This rule sets out procedures for chiropractic physicians to become certified as chiropractic insurance consultants to perform third-party reviews, compensation for third party reviews and annual reports.

[(1) All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, must be certified to do so and shall notify the board biennially that they are engaged in those activities and the location where those activities are performed.

(2) No licensee may receive compensation from a third-party payor based in whole or in part upon the amount of fees the licensee recommends be reduced or denied when the licensee is reviewing files of persons other than his/her patients for the purpose of determining the adequacy or sufficiency of chiropractic treatments of the clinical indication for the treatments.

(3) All licensees must report biennially to the board the number of reviews which they conduct and the amount of their income derived from claims review expressed as a percentage of their total income from the practice of chiropractic.]

AUTHORITY: sections 331.060, 331.100.2 and 376.423, RSMo 2000. This rule originally filed as 4 CSR 70-4.010. Emergency rule filed Dec. 21, 1990, effective Dec. 31, 1990, expired April 29, 1991. Original rule filed Oct. 16, 1990, effective April 29, 1991. Amended: Filed Dec. 15, 2003, effective June 30, 2004. Moved to 20 CSR 2070-4.010, effective Aug. 28, 2006.*

*Original authority: 331.060, RSMo 1939, amended 1969, 1971, 1972, 1981, 1987; 331.100, RSMo 1939, amended 1949, 1969, 1980, 1981; and 376.423, RSMo 1990, amended 1992, 1993, 1997.

20 CSR 2070-4.020 Application for Certification of Insurance Consultant

PURPOSE: This rule states where to obtain application forms and when to send the proof of education that is needed to become certified as an insurance consultant.

[(1) Application shall be made on the form provided by the board. The application shall be signed by the applicant who shall swear that the information provided is true and correct according to the applicant's best knowledge, information and belief.

(2) Application forms may be obtained from the board office.

(3) Prior to obtaining certification, the licensee must submit proof that s/he has satisfied the requirements of section 376.423, RSMo. The licensee shall keep copies of all records proving compliance with section 376.423, RSMo for two (2) years and shall submit them to the board if requested.]

AUTHORITY: section 331.100.2, RSMo 1986. This rule originally filed as 4 CSR 70-4.020. Emergency rule filed Dec. 21, 1990, effective Dec. 31, 1991, expired April 29, 1991. Original rule filed Oct. 16, 1990, effective April 29, 1991. Moved to 20 CSR 2070-4.020, effective Aug. 28, 2006.*

*Original authority: 331.100, RSMo 1939, amended 1949, 1969, 1980, 1981.

20 CSR 2070-4.030 Renewal and Postgraduate Education

PURPOSE: This rule sets requirements for chiropractic insurance consultants to renew the certification and the required postgraduate education.

[(1) The chiropractic insurance consultant's certification shall be renewed biennially. The board shall send a notice to each certified consultant.

(2) To renew the certification, the chiropractic insurance consultant biennially shall obtain twelve (12) hours of postgraduate education in insurance consulting approved by the board. This continuing education shall apply toward attainment of the twelve (12) required hours of continuing education pursuant to 20 CSR 2070-2.080(5), the general studies category of continuing education.

(A) Continuing education in the area of insurance consulting may also be submitted to the board for approval as formal continuing education hours.]

AUTHORITY: sections 331.060 and 376.423, RSMo 2000 and section 331.050, RSMo Supp. 2007, and section 331.100.2, SB 788, Second Regular Session, Ninety-fourth General Assembly, 2008. This rule originally filed as 4 CSR 70-4.030. Original rule filed Feb. 15, 1991, effective July 8, 1991. Amended: Filed March 4, 1993, effective Sept. 9, 1993. Amended: Filed Dec. 15, 2003, effective June 30, 2004. Moved to 20 CSR 2070- 4.030, effective Aug. 28, 2006. Amended: Filed June 27, 2007, effective Jan. 30, 2008. mended: Filed Aug. 15, 2008, effective Feb.28, 2009.*

**Original authority: 331.050, RSMo 1939, amended 1945, 1947, 1969, 1981, 1987, 1999, 2001, 2004; 331.060, RSMo 1939, amended 1969, 1971, 1972, 1981, 1987;331.100, RSMo 1939, amended 1949, 1969, 1980, 1981, 2008; and 376.423, RSMo 1990, amended 1992, 1993, 1997.*

20 CSR 2070-4.0?? Chiropractic Insurance Consultant

Purpose: This rules sets out procedures for chiropractic physicians to become certified as chiropractic insurance consultants to perform third-party reviews, compensation for third party reviews and biennially reporting and renewal of the certification.

(1) A licensee reviewing chiropractic billing and medical records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, must be certified to do so if the purpose for such review is to assist any health insurance or managed care entity in making a determination regarding coverage or benefits. Any licensee engaging in such practice shall be deemed an “insurance consultant” and shall be subject to the provisions of this regulation. The requirements contained within this regulation must be met prior to engaging in insurance consulting.

(A) Application shall be made on a form provided by the board and accompanied by the required fee.

(B) Prior to obtaining certification, the applicant shall submit proof of meeting the requirements of section 376.423, RSMo.

(C) Upon approval of the application for certification, the licensee shall keep copies of records reviewed proving compliance with section 376.423, RSMO for two (2) years following review and shall submit them to the board upon request.

(2) No licensee may receive compensation from a third-party payor based in whole or in part upon the amount of fees the licensee recommends be reduced or denied when the licensee is performing services as an insurance consultant pursuant to this regulation.

(3) In order to maintain a valid certification in insurance consulting, a licensee holding a certificate at the time of license renewal shall certify to the board completion of a minimum of twelve (12) hours of continuing education in insurance consulting, approved by the board. Failure of the licensee to receive the renewal form shall not relieve the licensee of the duty to renew the certification. To renew the certification the licensee shall:

(A) Provide the number of claim reviews conducted during the biennial renewal cycle, the percentage of their income derived from claims review when compared to total income, and the percentage of income derived from the clinical practice of chiropractic.

(B) The continuing education shall apply toward attainment of the twelve (12) required hours of continuing education pursuant to 20 CSR 2070-2.080(5), in the general studies category of continuing education.

(4) Continuing education in the area of insurance consulting may also be submitted to the board for approval as formal continuing education hours.

(5) A certification in insurance consulting may be reinstated upon submitting an application, provided by the board, paying the required fee, and documenting twelve (12) hours of formal continuing education approved by the board. For the purpose of reinstatement of the insurance consultant certification, continuing education shall consist of the following:

- 1. Four (4) hours Medicare requirements, coding, and reimbursement; and**
- 2. Four (4) hours Subjective Objective Assessment Plan (SOAP) notes; and**
- 3. Four (4) hours billing and/or coding.**

(6) A licensee applying for reinstatement may submit other topics of formal continuing education to the board for review. The licensee shall be responsible for providing all documentation requested by the board and shall have the burden of demonstrating that the topics contribute to the licensee’s knowledge of insurance consulting.

REQUEST FOR RULEMAKING

Rule Number and Name 20 CSR 2070-4.0?? Chiropractic Insurance Consultant

Type of Rulemaking

- New Rule
- Amendment
- Rescission
- Emergency - If so, what is the needed effective date? _____

Priority of Rulemaking

If not an emergency rulemaking request, explain why an expedited process is warranted.

Purpose of Rulemaking

Purpose Statement for the Proposal (This will be the official statement filed with the proposal.)

20 CSR 2070-4.010, 4.020 and 4.030 are being rescinded with a new regulation promulgated that consolidates the information contained within these sections and adds language to address reinstating the insurance consultant certification.

Please explain why the regulatory language is needed:

Since 2001, the board has experienced a downturn in the number of licensees applying for or renewing the insurance consultant credential. Conversely, the board has experienced an increase in inquiries regarding reinstatement of the insurance consultant certification. The current regulation does not define how to reinstate the insurance consultant certification.

In its current format, the regulation is not well organized, resulting in confusion for licensees. The amended language consolidates and clarifies the requirements to obtain, maintain, and reinstate the insurance consultant certification.

Public Entity/State Agency Fiscal Impact

Will this rule have a fiscal impact for your board? YES NO

If yes, please complete the following tables:

Personal Service Costs

- This table will outline the employees and their classifications that are affected by the rule proposal along with a summary of the duties that are being performed and the estimated time it will take to complete the process.

Examples are shown in red.

EMPLOYEE NAME	JOB TITLE	DUTIES BEING PERFORMED	ESTIMATED AMOUNT OF TIME TO COMPLETE EACH ITEM
Jane Doe	Executive I	Reviews Application for Completeness; Prepares	5 minutes

		and Sends Follow Up Letters	
John Doe	License Tech I	Prepares File for Board Review	3 minutes
Jane Doe	Executive Director	Approves application; addresses any areas of concern related to review of documents	10 minutes
<u>Jeanette Wilde</u>	<u>Executive I</u>	<u>Reviews Application for completeness; prepares and sends follow up letters</u>	<u>15 minutes</u>
<u>Loree Kessler</u>	<u>Executive Director</u>	<u>Confers with board member regarding compliance with reinstatement requirements</u>	<u>5 minutes</u>
<u>Board Member</u>	<u>_____</u>	<u>Responds to staff inquiries regarding compliance with continuing education requirements</u>	<u>15 minutes</u>

Expense and Equipment Costs

- This table will outline the expense and equipment costs (i.e., applications, letterhead envelopes, postage, lodging, meals, etc.). *Examples are shown in red.*

Expenses and Materials	Cost Per Item	Number of Items	Total Cost
Letterhead	\$ 0.20	500	\$100
Envelopes	\$0.15	500	\$75
Postage	\$0.41	500	\$205
<u>Letterhead</u>	<u>.20</u>	<u>1 new application</u> <u>1 application to reinstate</u>	<u>\$.40</u>
<u>Envelopes</u>	<u>.15</u>	<u>1 new application</u> <u>1 application to reinstate</u>	<u>\$.30</u>
<u>Postage</u>	<u>.44</u>	<u>1 new application</u> <u>1 application to reinstate</u>	<u>\$.88</u>

Private Entity Fiscal Impact

Will this rule have a fiscal impact on members of the public (i.e., applicants, licensees, continuing education providers, etc)? YES NO

If yes, please complete the following table:

- This table will outline the type, number, and way that entities will be affected by this proposal and the date that these figures are based on. *Examples are shown in red.*

Classification of Entities Affected	# of Licensees/Applicants Affected by Change	How the Licensees will be Affected	What are the Figures Based On?
Applicants for Initial Licensure	45	Fee \$20 increase	FY05-FY07 Actuals
Applicants for Initial Licensure	45	Notary \$2.50	
Applicants for Initial Licensure	45	Transcript \$10	
<u>Application for certification</u>	<u>1</u>	<u>\$100</u>	<u>FY 09 applications received and</u>
<u>Application for reinstatement</u>	<u>1</u>	<u>\$25</u>	<u>inquiries received</u>
<u>Registration for Continuing Education Seminar Lodging</u>	<u>1 new application</u> <u>1 application for reinstatement</u>	<u>\$1,435 - \$1,610</u> <u>\$205 - \$230</u>	<u>See below</u> <u>See below</u>
<u>Meals</u>	<u>1 new application</u> <u>1 application for reinstatement</u>	<u>\$777</u> <u>\$111</u>	<u>See below</u> <u>See below</u>
<u>Copying continuing education certificates</u>	<u>1 new application</u>	<u>10 pages x .40 per page = \$4.00 x 2 applications = \$8.00</u>	<u>_____</u>

What is the expected growth rate of the entities affected by this change? *Examples are shown in red.* No anticipated growth rate

*In calculating the private entity cost estimate, the board contacted a provider of insurance consultant certification post graduate study. The entire course is a minimum of seven, day and a half sessions held on weekends. A licensee wanting to obtain insurance consultant certification would need to take entire the 100 hour post docturate course over seven weekends.

A licensee wanting to reinstate the insurance consultant certification could take one weekend session and obtain 12.5 hours of insurance consulting continuing education.

In calculating lodging and meals, the board utilized the federal General Services Administration (GSA) per diem rates for destinations within the Continental United States (CONUS) except for the Branson area, as the actual lodging cost was available at the time the request for rulemaking was assembled. It must be noted that seminar attendants may pay a higher lodging rate during a seminar over several days, based upon location, lodging

preferences, and availability. Finally, additional travel costs would include mileage from home to seminar and return trip and would vary based upon where the licensee lives.

Logan Chiropractic College St Louis - Insurance Consultant/Peer Review Certification

Weekends 2/2-3, 3/1-2, 4/5-6, 5/3-4, 6/7-8, 7/12-13 and 9/6-7. Early registration rate is \$205 per session or \$230 regular rate. This is reflected in the range of costs as well.

Lodging St. Louis - 7 nights at \$111 per night = \$711

Meals St. Louis - 3 meals per day x 7 days = 21 meals @ \$59 = \$1,239 (Seminar begins early afternoon of the first day until evening and convenes the morning of the second day and ends in the early afternoon.)

2% based on FY 05 – FY07 Actuals

20 applicants based on FY 07 Actuals

Will this rulemaking request have an impact on small business? YES NO

If yes, please fill out the Small Business Impact Statement. If no, please give a brief statement explaining why this amendment will not have an impact on small business.

**Small Business Regulatory Fairness Board
Small Business Impact Statement**

Date: July 8, 2009

Rule Number: 20 CSR 2070-4.010, 4.020, and 4.030 Rescinding and Filing new regulation

Name of Agency Preparing Statement: Department of Insurance, Financial Institutions and Professional Registration, State Board of Chiropractic Examiners

Name of Person Preparing Statement: Loree Kessler

Phone Number: 573/751-2104

Email: loree.kessler@pr.mo.gov

Name of Person Approving Statement:

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

The board compared the requirements to obtain an initial certification in insurance consulting i.e. one hundred hours of board approved post doctoral study, to the renewal requirements of twelve (12) hours of formal continuing education biennially. The board determined that a licensee reinstating the insurance consultant certification would likely experience greater benefit from continuing education seminars versus returning to the post doctoral one hundred hour course, since the licensee has been in active practice with previous experience in the profession.

Please explain how your agency has involved small businesses in the development of the proposed rule.

To make an accurate comparison of the 100 hour post doctoral program, a board member attended the course of study over a series of weekends in 2008. During the course, the board member talked to course attendants and the instructor on the benefits of the course for a new applicant and an experienced practitioner. This detail was shared with the board during the course of discussion involving this regulation.

Finally, during the course of a complaint investigation the board was advised by counsel to the respondent that the law and corresponding regulation were confusing regarding the reporting requirements for licensees providing insurance consulting. The regulation was revised to reduce confusion and provide accurate information concerning the practice of chiropractic when compared to insurance consulting.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

Agency cost

Executive I - \$6.36 per application

Executive Director - \$3.90 per application

Board Member – \$1.56 per application

Income

1 application for certification @ \$100 per application = \$100

1 applications for reinstatement @ \$25 per application = \$25

Total Income \$125

The benefit of the language within the regulation is that it defines how a licensee can obtain, maintain and reinstate the insurance consultant certification and eliminates confusion on where to obtain this detail with the board's regulations.

Section 331.070.1 RSMo requires any revenue collected, "...shall not substantially exceed the cost and expense of administering this chapter."

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Any licensee desiring to obtain or reinstate the insurance consultant credential will need to comply. It is anticipated that a new applicant for insurance consulting, as well as a licensee reinstating the credential will benefit from the requirement and not be adversely affected. Both post doctoral study and continuing education cover a wide range of topics relating to insurance consulting and enhance the licensee's working knowledge of changes within the profession.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

In calculating the private entity cost estimate, the board contacted a provider of insurance consultant certification post graduate study. The entire course is a minimum of seven, day and a half sessions held on weekends. A licensee wanting to obtain insurance consultant certification would need to take entire the 100 hour post doctoral course over seven weekends.

A licensee wanting to reinstate the insurance consultant certification could take one weekend session and obtain 12.5 hours of insurance consulting continuing education.

In calculating lodging and meals, the board utilized the federal General Services Administration (GSA) per diem rates for destinations within the Continental United States (CONUS) where an insurance consultant seminar was held in 2008. It must be noted that seminar attendees may pay a higher lodging rate during a seminar over several weekends, based upon location, lodging preferences, and availability. Finally, additional travel costs would include mileage from home to the seminar and return trip(s) and would vary based upon where the licensee lives.

Logan Chiropractic College St Louis - Insurance Consultant/Peer Review Certification

Weekends 2/2-3, 3/1-2, 4/5-6, 5/3-4, 6/7-8, 7/12-13 and 9/6-7. 100 hour course Early registration \$1,435 and regular rate \$1,610

Early registration rate is \$205 per session or \$230 regular rate. Lodging St. Louis 7 nights at \$111 per night = \$711 for 100 hour course

Meals St. Louis - 3 meals per day x 7 days = 21 meals @ \$59 = \$1,239 (Seminar begins early afternoon of the first day until evening and convenes the morning of the second day and ends in the early afternoon.)

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Any licensee desiring to obtain or reinstate the insurance consultant credential will need to comply and bear the cost of applying and completing the required continuing education.

Continuing education providers will benefit in the form of registration fees.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_x__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.