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Governor
State of Missouri

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Loree V. Kessler, MPA
Executive Director

**State Board of Chiropractic Examiners
OPEN AGENDA
Tentative Agenda
November 19, 2009 – 8:00 a.m.
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City Missouri 65109**

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
November 19, 2009 – 8:00 a.m.
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City Missouri 65109

Call to Order	Dr. Homer Thompson, Board President
Approval of Agenda	
1. Approval of Minutes	
• Mail Ballot August 28, 2009	
• Mail Ballot September 11, 2009	
• Mail Ballot September 17, 2009	
• Mail Ballot October 23, 2009	
• Conference Call October 30, 2009	
2. Financial Report	Loree Kessler
3. Regulation Changes	Loree Kessler
4. Life University Preceptorship	
5. Bax 3000	
6. ACA Chiropractic Diplomate Exam	
7. Forms	
• Application for Continuing Education Course Review	
• Application for CE Seminar/Session Content Review	
• Continuing Education Seminar Approval / Disapproval	
• Continuing Education Tracking Form	
• Reactivation of License and Letter	
• Reactivation of MTAA Certification and Letter	
• Reactivation of Insurance Consultant Certification and Letter	
8. Boutique or Concierge Chiropractic	Dr. Madosky
9. Jurisprudence Exam Statistics	
10. Legislation	
• Acupuncture	
2010 Meeting Schedule	

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
November 19, 2009 – 8:00 a.m.
Division of Professional Registration
3605 Missouri Boulevard – Jefferson City, Missouri

At 8:12 a.m., the Missouri State Board of Chiropractic Examiners meeting was called to order by Dr. Homer Thompson, Board President, at the Missouri Division of Professional Registration, 3605 Missouri Boulevard 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., Member
William Madosky, D.C., Member
Jack Rushin, D.C., Member

Staff Present

Loree Kessler, Executive Director
Jeanette Wilde, Executive I
Greg Mitchell, Counsel

Visitors

Kathleen Wilcoxson, MSCA
Dr. Roger Ott (Via telephone conference call)
Dr. Ralph Barrale, Logan College of Chiropractic

Dr. Thompson stated he would be voting in open and closed session.

A motion was made by Dr. Carver and seconded by Dr. Madosky to approve the open session agenda adding a discussion regarding information from the Illinois Chiropractic Society and oxygen therapy and an article regarding the reform of discipline within health care professions. Board members voting aye: Dr. James, Dr. Madosky, Dr. Carver, Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.

A motion was made by Mr. Nahon and seconded by Dr. Carver to approve the open session minutes of the following: August 28, September 11 and October 23 mail ballots; the September 17 board meeting; and October 30 conference call. Board members voting aye: Dr. James, Dr. Madosky, Dr. Carver, Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.

Financial Report

The executive director provided an overview of probable review by the Missouri General Assembly of all dedicated funds throughout state government indicating that the department is assembling an overview of funds in excess of 2.25% their respective appropriation and offering such funds as a short term solution to the general revenue shortfall. More detailed information would be available when the legislature convenes and the board will be kept informed accordingly. A motion was made by Dr. Carver and seconded by Dr. James to approve the financial report. Board members voting aye: Dr. James, Dr. Madosky, Dr. Carver, Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.

Regulatory Language

The board reviewed the suggested language and made changes. A copy of the language is included with the open session minutes. The board requested the executive director and counsel finalize the language and prepare any fiscal notes or small business impact statements for review at the March, 2010 meeting.

Life University Preceptorship

A motion was made by Dr. Rushin and seconded by Dr. James to approve Life University's proposal for preceptorship. Board members voting aye: Dr. James, Dr. Madosky, Dr. Carver, Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.

Bax 3000

A motion was made by Dr. James and seconded by Dr. Carver for the board to review the Bax 3000 web site and be prepared to discuss at the March, 2010 meeting. Board members voting aye: Dr. James, Dr. Madosky, Dr. Carver, Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.

ACA Chiropractic Diplomate Examination

A motion was made by Dr. James and seconded by Dr. Carver for the executive director to contact ACA and obtain information relating to the course of instruction of the 300 diplomate program, instructors, and development of the examination from ACA. If possible, a conference call with a representative of the ACA Council of Chiropractic Acupuncture would be helpful as well.

Forms & Form Letters

A motion was made by Dr. Carver and seconded by Dr. James to approve revisions to the following forms and form letters; Application for Continuing Education Course Approval, Application for CE Seminar/Session Content Review, Continuing Education Approval/Disapproval Form, (upon removing the reference to "risk management") Continuing Education Tracking Form, reinstatement of Missouri license letter, Application to Reactivate/Renew Missouri license, letter regarding initial application/reinstatement of MTAA certification, Application/Reinstatement of MTAA Certification, letter regarding initial application/reinstatement of insurance consulting certification and Application/Reinstatement of Insurance Consultant Certification. Board members voting aye: Dr. James, Dr. Madosky, Dr. Carver, Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.

Boutique/Concierge Chiropractic

The board reviewed the information provided by Dr. Madosky relating to this type of service. The executive director was asked to contact the Consumer Protection section of the Attorney General's office to determine if that agency had ever received complaints regarding this type of service.

Jurisprudence Examination

A motion was made by Dr. Carver and seconded by Dr. Rushin authorizing the executive director to proceed with the development of an open book jurisprudence examination. Cost not to exceed \$3,000. Board members voting aye: Dr. James, Dr. Madosky, Dr. Carver, Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.

Acupuncture Legislation

The board reviewed potential amendments to the acupuncture statute regarding merging the acupuncture fund into the chiropractic board fund and various administrative changes. Dr. James explained his role on the advisory committee and the executive director provided an overview of the meeting agendas and schedule. No official action taken by the board.

At 9:38 a.m., the board took a recess until 9:57 a.m.

Meeting Schedule

The following is a tentative meeting schedule for 2010

January 4, 2010 Noon telephone conference call

March 18, 2010 face to face meeting in Jefferson City

June 10, 2010 face to face meeting in Jefferson City

September 16, 2010 face to face meeting in Jefferson City

November 18, 2010 face to face meeting in Jefferson City

At 9:58 a.m. a motion was made by Dr. Carver and seconded by Mr. Nahon 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. Madosky, Dr. Carver Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.

At 1:58 p.m. a motion was made by Dr. Madosky and seconded by Mr. Nahon to convene in open session and adjourn the meeting. Board members voting aye: Dr. James, Dr. Madosky, Dr. Carver Dr. Rushin, Mr. Nahon, and Dr. Thompson. Motion carried unanimously.



Executive Director

Approved by Board on January 4, 2010

20 CSR 2070-2.060 Professional Conduct Rules

PURPOSE: This rule explains the professional conduct of licensed chiropractic physicians.

(1) Each licensed chiropractic physician shall notify the board of his/her business and residential address and telephone number(s) and immediately shall inform the board of any change of address or telephone number within fifteen (15) days of such change. Notification shall be sent to the board at 3605 Missouri Boulevard, or PO Box 672, Jefferson City, MO 65102-0672, contacting the board office at (573) 751-2104, or sending an email to chiropractic@pr.mo.gov.

(2) A chiropractic service may be considered routine for an individual practitioner if it has the following characteristics:

(A) It is performed frequently in the doctor's office;

(B) It is usually provided at a set fee;

(C) It is provided at little or no variance in technique; and

(D) It includes all professionally recognized components within generally accepted standards.

(3) Each licensed chiropractic physician shall inform the board of anyone who may be practicing chiropractic in Missouri without a license.

(4) A chiropractic physician, when presenting him/herself to patients and the public, is directed to determine as far as is reasonably possible and consistent with chiropractic procedures—

(A) The cause(s) of the patient's abnormalities or deformities; and

(B) Whether chiropractic treatments are reasonably likely to improve or assist in improving these abnormalities or deformities.

(5) A licensed chiropractic physician shall not—

(A) Increase charges when a patient utilizes a third-party payment program;

(B) Report incorrect treatment dates for the purpose of obtaining payments;

(C) Report charges for services not rendered; or

(D) Report incorrectly services rendered for the purpose of obtaining greater payment than he/she is entitled to.

(6) Advertisement or Solicitation.

(A) For the purpose of this rule, the terms "advertisement" and "solicitation" shall be defined as follows:

1. Advertisement—any form of public notice, regardless of medium, using a licensee's name, trade name or other professional designation of the licensee or chiropractic firm;

2. Solicitation—any form of request or plea, regardless of medium, used to entice or urge a person to use the services of a licensee or chiropractic firm;

3. A licensee may advertise or solicit through public media, such as a telephone directory, physician's directory, newspaper or other periodical, outdoor billboard, radio, television, or through direct mail advertising or solicitation distributed generally to persons not known to need chiropractic care of the kind provided by the chiropractor, if such advertisement or solicitation is in accordance with this section;

4. A licensee may initiate individual written communications, not involving personal or telephone contact, to persons known or likely to need chiropractic care of the kind provided by the licensee. All such individual written communication[s] to persons known or likely to need chiropractic care of the kind provided by the licensee shall be labeled at the top of the first page with the word "SOLICITATION" and shall contain the following notice:

SOLICITATION. The determination of a need for chiropractic care and the choice of a chiropractor are extremely important decisions and should not be based solely upon advertisements, solicitations or self-proclaimed expertise. This notice is required by the Missouri State Board of Chiropractic Examiners.

5. A licensee may initiate personal contact, including telephone contact, with a person for the purpose of offering to provide chiropractic care subject to the provisions of subsection (6)(D) herein. Any such personal contact, including telephone contact, which is made on behalf of a licensee by any third party or parties, shall be deemed to be contact made directly by the licensee for purposes of compliance with these rules.

(B) Every [advertisement or] solicitation shall include the following:

1. The name of at least one (1) licensee responsible for its content and any potential violation of section 331.060, RSMo; and 2. The term “chiropractor,” “doctor of chiropractic,” “chiropractic physician,” or “D.C.”

(C) Advertisements and solicitations may contain:

1. The educational background of the licensee;
2. The basis on which fees are determined, including charges for specific services, so long as fees advertised remain effective for a reasonable time;
3. Available credit; and
4. Any other information that is not false, misleading or deceptive.

(D) A licensee shall not initiate an individual written communication under paragraph (6)(A)3. or personal contact, including telephone contact under paragraph (6)(A)5., if the licensee knows or reasonably should know that the physical, emotional, or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing the services of a chiropractor. A written communication sent and received or a personal contact directed to any person known to have been involved in an accident, if made within thirty (30) days after such

accident, is presumed to be written at a time or made at a time when the writer knows or reasonably should know that the physical, emotional, or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing a chiropractor, unless such written communication or personal contact, including telephone contact, is directed to a close friend, relative or former patient.

(E) An advertisement or solicitation, as defined in this rule, shall not be false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed. [False, misleading and/or deceptive shall include, but not be limited to, the following contents or omissions:

1. Any untrue statement;
2. Any matter, or presentation or arrangement of any matter, in a manner or format which is false, misleading or deceptive to the public;
3. Omission of any fact which under the circumstances makes the statement false, misleading or deceptive to the public;
4. Transmission in a manner which involves coercion, intimidation, threats or harassing conduct;
5. An attempt to attract patronage in a manner which castigates, impugns, disparages, discredits or attacks other healing arts and sciences or other chiropractic physicians;
6. Any self-laudatory statements; or
7. Transmission to a person who has made known to the licensee a desire not to receive communication from the licensee.

(F) The board presumes the following forms of advertising and/or solicitation to be false, misleading and/or deceptive and in violation of subsection (6)(E) of this rule:

1. An advertisement or solicitation which contains guarantees or warranties regarding the result of a licensee’s services;
2. An advertisement or solicitation which contains testimonials about or endorsements of a licensee, unless—
 - A. The advertisement or solicitation complies with subsection (6)(E) of this rule; and
 - B. The testimonial or endorsement is made by the person who actually received the services or who has personal knowledge as to the facts stated, excepting however, testimonials and endorsements may be made by paid actors so long as the advertisement or solicitation contains a notice stating that paid actors have been used;
3. An advertisement or solicitation which is transmitted at the scene of an accident or en route to a hospital, emergency care center or other health care facility;
4. Any advertisement or solicitation using the phrase “no out-of-pocket expense,” “we accept what your insurance will pay” or any similar statement prior to the retention of services that a payment made by an insurance carrier or other third party payor with copayment or deductible features will be accepted by the licensee as payment in full, unless the advertisement shall also contain the following notice:

“This offer is only valid after the applicable insurance carrier or third party payor has been notified of the terms of the offer.” The licensee will provide written notice disclosing the terms of such offer, agreement or waiver on any billing and/or third party claim.

(G) For the purpose of this rule, all required notices shall be at least ten (10) points in height if the advertisement or solicitation is written or printed and at least eighteen (18) point font if the advertisement or solicitation is made by means of television. Notices may be oral, if the form of advertisement or solicitation will not allow it to be in printed form.

(H) A licensee shall retain for two (2) years a true and correct copy or recording of any advertisement or solicitation made by written or electronic media along with a record of when and where it was used. Upon written request, the licensee shall make the copy or recording available to the board and, if requested, shall provide to the board evidence to support any factual or objective claim contained in the advertisement or solicitation.

(7) A chiropractic office shall not be closed until the board has been provided with information which in the board’s view is sufficient to assure the board that adequate measures have been taken by the licensee or licensee’s heirs to provide for the transfer of patient records, including X-rays, to either the patient or another health care provider of the patient’s choosing or to assure the board that the patient does not desire the records delivered to him/her or another health care provider.

(8) The licensee shall retain patient records for at least seven (7) years.

(9) Failure of the licensee to comply with section 191.227, RSMo shall be considered unprofessional conduct.

(10) Minimal record keeping standards apply to all licensed chiropractic physicians, chiropractic assistants and certified chiropractic technicians. These standards also apply to those examinations advertised at a reduced fee or free (no charge) service.

(A) Adequate patient records shall be legibly maintained. Initial and follow-up services (daily records) shall consist of documentation to justify care. If abbreviations or symbols are used in the daily record keeping, a key must be provided.

(B) Minimum record keeping regarding a patient shall include patient history, symptomatology, examination, diagnosis, prognosis and treatment.

(C) Provided the board takes disciplinary action against a chiropractic physician for any reason, these minimal clinical standards will apply. It is understood that these procedures are the accepted standard(s) and anything less than this shall be considered unprofessional conduct in the practice of chiropractic.

(11) A nutritional evaluation which is in response to stimulation of the olfactory nerve receptors and those procedures including holding vitamins, minerals, herbs or any food or food product in the hand, laying vitamins, minerals, herbs or any food or food product on or near the skin and touching various areas of the skin, are unproven, could lead to errors in diagnosis and are potentially detrimental to the health of the patient being evaluated and is considered unprofessional conduct in the practice of chiropractic.

(A) Nutritional evaluation shall include history; type of dysfunction; laboratory tests, if necessary; physical diagnosis; and dietary inadequacies. Nutritional evaluation without these procedures is deemed unprofessional conduct.

(B) Nutritional evaluation which is in response to stimulation of the gustatory nerve receptors is not a diagnostic procedure but may be used as an adjunctive procedure when used in conjunction with subsection (10)(A).

(12) Any licensee who performs a chiropractic review under section 376.423, RSMo without having obtained a certification from the board or is not in compliance with 20 CSR 2070-4 of the board’s rules shall be deemed to have engaged in unprofessional conduct in the practice of chiropractic.

(13) Violation of the Health Care Payment Fraud and Abuse Act, *Missouri Revised Statutes* section 191.900 et seq. or the “antikickback” portions of the Medicare/Medicaid anti-fraud and abuse statute, 42 *United States Code* section 1320a-7b[b], by knowingly and willingly offering, paying, soliciting or receiving remuneration in order to induce business reimbursed under the Medicare or state administered health care programs will be considered

unprofessional or improper conduct in the practice of chiropractic. Conduct will not be considered a violation of this rule, if the ownership or investment interest in such service meets the requirements of the “safe harbor” provisions of Title 42 *Code of Federal Regulations* part 1001.]

*AUTHORITY: sections 331.060 and 331.100.2, RSMo 2000. * This rule originally filed as 4 CSR 70-2.060. This version of rule filed Dec. 17, 1975, effective Dec. 27, 1975. Amended: Filed April 6, 1978, effective Aug. 11, 1978. Amended: Filed July 5, 1978, effective Oct. 13, 1978. Rescinded and readopted: Filed Dec. 9, 1981, effective April 11, 1982. Rescinded and readopted: Filed July 9, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 12, 1983, effective Jan. 13, 1984.*

Amended: Filed June 11, 1985, effective Oct. 26, 1985. Rescinded and readopted: 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 March 4, 1991, effective July 8, 1991. Amended: Filed Sept. 17, 1991, effective Feb. 6, 1992. Amended: Filed Dec. 3, 1991, effective April 9, 1992. Amended: Filed Jan. 23, 1992, effective June 25, 1992. Amended:

Filed Feb. 4, 1992, effective June 25, 1992. Amended: Filed May 13, 1992, effective Jan.

15, 1993. Amended: Filed June 15, 1992, effective Jan. 15, 1993. Amended: Filed July 22, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 21, 1995, effective June 30, 1996. Amended: Filed Nov. 6, 1996, effective May 30, 1997. Amended: Filed April 29, 1998, effective Nov. 30, 1998. Amended: Filed July 31, 2003, effective Jan. 30, 2004. Amended: Filed April 1, 2005, effective

Oct. 30, 2005. Moved to 20 CSR 2070-2.060, effective Aug. 28, 2006. Amended: Filed June 27, 2007, effective Jan. 30, 2008.

**Original authority: 331.060, RSMo 1939, amended 1969, 1971, 1972, 1981, 1987; and 331.100.2, RSMo 1939, amended 1949, 1969, 1980, 1981.*

- (1) Each licensed chiropractic physician shall notify the board of the business and residential address and telephone number(s) and immediately shall inform the board of any change of address or telephone number within fifteen (15) days of such change. Notification shall be sent to the board at 3605 Missouri Boulevard, or PO Box 672, Jefferson City, MO 65102-0672, faxing the board office at (573) 751-0735, or sending an email to chiropractic@pr.mo.gov.
- (2) A licensed chiropractic physician shall inform the board of anyone who may be practicing chiropractic in Missouri without a license.
- (3) A chiropractic office shall not be closed until the board has been provided with information which in the board's view is sufficient to assure the board that adequate measures have been taken by the licensee or licensee's heirs to provide for the transfer of patient records, including X-rays, to either the patient or another health care provider of the patient's choosing or to assure the board that the patient does not desire the records delivered to him/her or another health care provider.
- (4) The licensee shall retain patient records for at least seven (7) years.
- (5) Failure of the licensee to comply with section 191.227, RSMo shall be considered unprofessional conduct.
- (6) Minimal record keeping standards apply to all licensed chiropractic physicians, chiropractic assistants and certified chiropractic technicians. These standards also apply to those examinations advertised at a reduced fee or free (no charge) service.
- (A) Adequate patient records shall be legibly maintained. Initial and follow-up services (daily records) shall consist of documentation to justify care. If abbreviations or symbols are used in the daily record keeping, a key must be provided.
- (B) Minimum record keeping regarding a patient shall include patient history, symptomatology, examination, diagnosis, prognosis and treatment.
- (C) A licensed chiropractic physician shall not—
1. Increase charges when a patient utilizes a third-party payment program;
 2. Falsify treatment dates; or
 3. Falsify charges for treatment(s) not provided.
- (D) Provided the board takes disciplinary action against a chiropractic physician for any reason, these minimal clinical standards will apply. It is understood that these procedures are the accepted standard(s) and anything less than this shall be considered unprofessional conduct in the practice of chiropractic.
- (7) For the purpose of this regulation an advertisement shall be defined as any form of public notice, regardless of medium, using a licensee's name, trade name, or other professional designation of the licensee or chiropractic business.
- (A) Any advertisement shall include the name of the licensee responsible for the content of the advertisement and the term chiropractor, doctor of chiropractic, chiropractic physician, or DC.
- (B) An advertisement shall not refer to phrases such as "no out-of-pocket expense," "we accept what your insurance will pay" or any similar statement prior to the retention of services that a payment made by an insurance carrier or other third party payor with copayment or deductible features will be accepted by the licensee as payment in full, unless the advertisement shall also contain the following statement, "This offer is only valid after the applicable insurance carrier or third party payor has been notified of the terms of the offer." The licensee will provide written notice to the patient disclosing the terms of such offer, agreement or waiver on any billing and/or third party claim.
- (C) The licensee shall maintain a written record of a testimonial or endorsement made by a patient receiving chiropractic treatment for a minimum of three (3) years from the date of publication or airing the advertisement. Testimonials and/or endorsements made by paid actors shall include a statement that paid actors have been used.
- (8) A solicitation shall be defined as any form of request or plea, regardless of medium, used to entice or urge a person to utilize a chiropractic physician.

1. For the purpose of this regulation, any contact for the purpose of soliciting or offering chiropractic treatment made on behalf of a chiropractic physician by any third party or parties, shall be deemed to be contact made by the chiropractic physician.
 2. Any solicitation shall include the name of the licensee responsible for the content of the advertisement and the term chiropractor, doctor of chiropractic, chiropractic physician, or DC and shall not be false, misleading or deceptive.
 3. A chiropractic physician shall not solicit an individual(s) within thirty (30) days of an accident, if the chiropractic physician knows or reasonably should know that the physical, emotional, or mental state of the person makes it unlikely that the person would exercise reasonable judgment regarding chiropractic treatment.
 4. A chiropractic physician shall not solicit or transmit a solicitation at the scene of an accident or en route to a hospital, emergency care center or other health care facility.
 5. A solicitation shall not refer to phrases such as “no out-of-pocket expense,” “we accept what your insurance will pay” or any similar statement prior to the retention of services that a payment made by an insurance carrier or other third party payor with copayment or deductible features will be accepted by the licensee as payment in full, unless the advertisement shall also contain the following statement, “This offer is only valid after the applicable insurance carrier or third party payor has been notified of the terms of the offer.” The licensee will provide written notice to the patient disclosing the terms of such offer, agreement or waiver on any billing and/or third party claim.
- (9) A nutritional evaluation which is in response to stimulation of the olfactory nerve receptors and those procedures including holding vitamins, minerals, herbs or any food or food product in the hand, laying vitamins, minerals, herbs or any food or food product on or near the skin and touching various areas of the skin, are unproven, could lead to errors in diagnosis and are potentially detrimental to the health of the patient being evaluated and is considered unprofessional conduct in the practice of chiropractic.
- (A) Nutritional evaluation shall include history; type of dysfunction; laboratory tests, if necessary; physical diagnosis; and dietary inadequacies. Nutritional evaluation without these procedures is deemed unprofessional conduct.
- (B) Nutritional evaluation which is in response to stimulation of the gustatory nerve receptors is not a diagnostic procedure but may be used as an adjunctive procedure when used in conjunction with subsection (10)(A).
- (10) Any licensee who performs a chiropractic review under section 376.423, RSMo without having obtained a certification from the board or is not in compliance with 20 CSR 2070-4 of the board’s rules shall be deemed to have engaged in unprofessional conduct in the practice of chiropractic.
- (11) Violation of the Health Care Payment Fraud and Abuse Act, *Missouri Revised Statutes* section 191.900 et seq. or the “antikickback” portions of the Medicare/Medicaid anti-fraud and abuse statute, 42 *United States Code* section 1320a-7b[b], by knowingly and willingly offering, paying, soliciting or receiving remuneration in order to induce business reimbursed under the Medicare or state administered health care programs will be considered unprofessional or improper conduct in the practice of chiropractic. Conduct will not be considered a violation of this rule, if the ownership or investment interest in such service meets the requirements of the “safe harbor” provisions of Title 42 *Code of Federal Regulations* part 1001.

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*] **shall complete twenty-four (24) hours of continuing education as defined in 20 CSR 2070-2.080(3) and (5);** 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.]

(5) The remaining required continuing education hours may be obtained from one or more of following areas:

(A) Board approved continuing education programs, seminars, and/or workshops;

(B) Continuing education programs, seminars, and/or workshops related to the practice of chiropractic and not approved by the board for formal continuing education hours.

(C) 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 written by the licensee and published in professional books, textbooks, scholarly, 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; or

(D) Individual Study. Individual study shall consist of reading material relating to the practice of chiropractic to include relevant books, text books, journals, periodicals, case studies and research, whether in printed format, via the Internet, or 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*] **remaining** 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)](A).

(8) Chiropractic physicians who teach continuing education approved by the board may receive **biennially** up to a maximum of twenty-four (24) hours of continuing education credit for teaching courses [in general subjects] **as defined in 20 CSR 2070-2.080(3)(A) [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*] **previous biennial renewal cycle**, in addition to the current [*reporting period*] **biennial cycle**. 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.] **If a licensee attends the same board approved continuing education course more than once during a biennial cycle, the licensee shall be eligible for CE credit only once.**

(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 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 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 the chiropractic physician must return to a CCE accredited chiropractic college for a course of study. A course of study for reactivation 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.

(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] **ethical practices as defined in 20 CSR 2070-2.080 (3)(A)3;**

(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 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.

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