

CHIROPRACTIC

CHAPTER 40

CHIROPRACTIC EXAMINERS

[Prior to 7/29/87, Health Department[470] Ch 141]

GENERAL

645—40.1(151) Definitions. The following definitions shall be applicable to the rules of the Iowa board of chiropractic examiners:

“*Accredited sponsor*” means an Iowa board of chiropractic examiners approved college (refer to Iowa Code section 151.4 and rule 40.11(151), Iowa Administrative Code) or an approved nonprofit organization sponsoring continuing education activities which has been accredited by the board as a sponsor pursuant to these rules.

“*Active licensee*” means any person licensed to practice chiropractic in Iowa who has met all conditions of license renewal and maintains a current license to practice in this state.

“*Approved program or activity*” means a continuing education program activity meeting the standards set forth in these rules. All continuing education activities classified as such by the accredited sponsor shall be deemed automatically approved.

“*Board*” shall mean the board of chiropractic examiners of the state of Iowa.

“*C.C.E. (Council on Chiropractic Education)*” shall mean the Educational Standards of Chiropractic Colleges and bylaws which are on file in the office, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, and in accordance with 17A.6(3), a copy may be obtained for the actual cost of reproduction.

“*Chiropractic intern*” means a chiropractic student of an approved college of chiropractic in the student’s last academic quarter, semester, or trimester of study, who is eligible for graduation from the college of chiropractic except for completion of a preceptorship program.

“*Chiropractic practice Acts*” shall mean Iowa Code chapter 151 and those provisions of the Iowa Code which incorporate by explicit reference to the practice of chiropractic.

“*Chiropractic preceptor*” means a chiropractic physician licensed and practicing in Iowa pursuant to Iowa Code chapter 151, who accepts a chiropractic student into the practice for the purpose of providing the chiropractic student with a clinical experience of the practice of chiropractic.

“*Chiropractic resident*” means a graduate chiropractic physician who has received a doctor of chiropractic degree from a college of chiropractic approved by the board.

“*Chiropractic student*” means a student of an approved college of chiropractic.

“*Continuing education*” means that education which is obtained by a person licensed to practice chiropractic in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

“*Department*” shall mean the Iowa department of public health.

“*Director*” shall mean the director of public health.

“*Disciplinary proceeding*” shall mean any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

“*Elective credit hours*” means programs for continuing education which do not require board review for relevance to chiropractic practice in the state of Iowa, but must be related to the chiropractic profession, the public, or community health in general.

“*Hour of continuing education*” means a clock hour spent after July 1, 1978, by a licensee in actual attendance at or completion of an approved continuing education activity.

“*Inactive licensee*” means any person licensed to practice chiropractic in Iowa who has met all conditions of officially placing the license on inactive status and may not practice chiropractic until the reentry requirements as defined in these rules are met.

“*License*” shall mean a certificate issued to a person licensed to practice chiropractic under the laws of this state.

“*Licensee*” shall mean a person licensed to practice chiropractic.

“*Licensee discipline*” or “*discipline*” shall mean any sanction the board may impose upon its licensees for conduct which threatens or denies persons of this state a high standard of professional care.

“*Malpractice*” shall mean any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a chiropractic physician in the practice of the profession.

“*Nondesignated credit hours*” means programs offered by non-CCE-approved institutions or non-IBCE-approved institutions, organizations or foundations which may be acceptable in fulfilling IBCE continuing education requirements.

“*Order*” shall mean a requirement, procedure or standard of specific or limited application adopted by the board relating to any matter the board is authorized to act upon, including the professional conduct of licensees and the examination for licensure and licensure of any person under the laws of this state.

“*Peer review*” shall mean evaluation of professional services rendered by a professional practitioner.

“*Peer review committee*” shall mean one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

“*Preceptorship practice*” means the chiropractic practice of a single chiropractic physician or group of chiropractic physicians in a particular business or clinic, into which a licensed practicing chiropractic physician has accepted a chiropractic intern for the limited purpose of providing the chiropractic intern with a clinical experience in the practice of chiropractic.

“*Prescribed credit hours*” means continuing education programs approved by the Iowa board of chiropractic examiners for sponsorship of continuing education material in the state of Iowa.

“*Profession*” shall mean chiropractic.

“*Respondent*” shall mean any individual(s) who shall be charged in a complaint with a violation of professional ethics or practice or both.

“*Rule*” shall mean a requirement, procedure, or standard of general applicability prescribed by the board relating to either the administration or enforcement of the chiropractic profession.

645—40.2(151) Description of board. The purpose of the board of chiropractic examiners is to administer, interpret and enforce the provisions of Iowa Code chapter 151 and those other provisions of the Iowa Code which incorporate by explicit or implicit reference the practice of chiropractic. These powers include but are not limited to the examination of candidates, determining the eligibility of candidates for licensure by examination and endorsement, investigating violations and infractions of the laws relating to the practice of chiropractic, and revoking, suspending or otherwise disciplining a chiropractic physician who has violated the provisions of the chiropractic practice Acts.

645—40.3(151) Organization of board. The board is comprised of five members licensed to practice chiropractic and two representatives of the general public. The members are appointed by the governor and confirmed by the senate. The term of office is for three years. The board:

40.3(1) Is a policymaking body relative to matters involving chiropractic education and licensure, postgraduate training and discipline.

40.3(2) Conducts business according to established policy as approved by the members.

40.3(3) Organizes annually and elects a chairperson, vice chairperson, superintendent of examinations, and a secretary from its membership.

a. “*Chairperson*” shall preside at all meetings of the board. Shall have power to vote. Shall appoint committees when necessary to study issues, and shall follow Robert’s Rules of Order.

- b. “*Vice chairperson*” shall act in the capacity of chairperson in the absence of that officer.
- c. “*Secretary*” shall keep an accurate and complete record of all transactions of the board. Copies of all such records will become public record and will be on file in the board office, Lucas State Office Building, Des Moines, Iowa 50319-0075 or its designated office.
- d. “*Superintendent of examinations*” shall supervise the examination and make arrangements for the holding of the examinations in a proper manner.

40.3(4) Governs its proceedings by Robert’s Rules of Order, Revised.

40.3(5) Receive the administrative and clerical support of a board administrator, hired by the department, who:

- a. Is not a member of the board.
- b. Under guidance of the members of the board performs administrative activities relating to the department in the administration and enforcement of the laws relative to the practice of chiropractic.

40.3(6) Has the statutory authority to:

- a. Administer, interpret, and enforce the laws and administrative rules relating to the practice of chiropractic;
- b. Review or investigate, or both, upon written complaint or upon its own motion pursuant to other evidence received by the board, alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline;
- c. Determine in any case whether an investigation, or further investigation, or a disciplinary proceeding is warranted;
- d. Initiate and prosecute disciplinary proceedings;
- e. Impose licensee discipline;
- f. Petition the district court for enforcement of its authority with respect to licensees or with respect to other persons violating the laws which the board is charged with administering;
- g. Establish and register peer review committees;
- h. Refer to a registered peer review committee for investigation, review, and report to the board, any complaint or other evidence of an act or omission which the board reasonably believes to constitute cause for licensee discipline.

However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction;

- i. Determine and administer the annual renewal of licenses;
- j. Establish and administer rules for continuing education requirements as a condition to license renewal.

645—40.4(151) Official communications. All official communications, including submissions and requests, should be addressed to the Board Administrator, Iowa Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075.

645—40.5(151) Office hours. The office of the board is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week.

645—40.6(151) Meetings. Regular meetings of the board ordinarily are held at least quarterly. The board utilizes licensing examinations administered by the National Board of Chiropractic Examiners twice each year. At the discretion of the board, three-day licensing examinations may be administered by the board. These examinations may be in addition to national licensing examinations or in lieu of same. Information concerning the dates and locations for meetings and examinations may be obtained from the board’s office.

645—40.7(151) Public meetings. All meetings of the board shall be open and public and all citizens of Iowa shall be permitted to attend any meeting, except as otherwise provided by statute.

40.7(1) The board may, by a vote of two-thirds of its members, hold a closed session for the following reasons:

- a.* To review or discuss records which are required or authorized by state or federal law to be kept confidential.
- b.* To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosures would be likely to prejudice or disadvantage the position of the board in that litigation.
- c.* To discuss the contents of a licensing examination.
- d.* To initiate licensee disciplinary investigations or proceedings.
- e.* To discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code chapter 17A.
- f.* To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, which if disclosed would enable law violators to avoid detection.
- g.* To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.
- h.* To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.

40.7(2) Reserved.

645—40.8(151) Petition to promulgate, amend or repeal a rule.

40.8(1) An interested person or other legal entity may petition the board requesting the promulgation, amendment or repeal of a rule.

40.8(2) The petition shall be in writing, signed by or on behalf of the petitioner and contain a detailed statement of:

- a.* The rule that the petitioner is requesting the board to promulgate, amend or repeal. Where amendment of an existing rule is sought, the rule shall be set forth in full with the matter proposed to be deleted therefrom enclosed in brackets and proposed additions thereto shown by underlining or bold-face.
- b.* Facts in sufficient detail to show the reasons for the proposed action.
- c.* All propositions of law to be asserted by petitioner.
- d.* Sufficient facts to show how petitioner will be affected by adoption, amendment or repeal of the rule.
- e.* The name and address of petitioner and of any other person known to be interested in the rule sought to be adopted, amended or repealed.

40.8(3) The petition shall be in typewritten or printed form, captioned BEFORE THE IOWA BOARD OF CHIROPRACTIC EXAMINERS, and shall be deemed filed when received by the board administrator.

40.8(4) Upon receipt of the petition the board administrator shall:

- a.* Within ten days mail a copy of the petition to any parties named therein. The petition shall be deemed served on the date of mailing to the last-known address of the party being served.

- b.* Shall advise petitioner that petitioner has 30 days within which to submit written views.
- c.* May schedule oral presentation of petitioner's view if the board so directs.
- d.* Shall, within 60 days after date of submission of the petition, either deny the petition or initiate rule-making proceedings in accordance with Iowa Code chapter 17A.

40.8(5) In the case of a denial of a petition to promulgate, amend or repeal a rule, the board or its board administrator shall issue an order setting forth the reasons in detail for denial of the petition. The order shall be mailed to the petitioner and all other persons upon whom a copy of the petition was served.

645—40.9(151) Oral presentations. Prior to adoption, amendment, or repeal of any rule, the board shall give Notice of Intended Action by causing said notice to be published in the Iowa Administrative Bulletin. Written comments relating to the proposed action by the board may be submitted to the board at its official address no later than 20 days after the notice has been published.

The Administrative Rules Review Committee may, under the provisions of Iowa Code section 17A.8(6), on its own motion or on written request by any individual or group, review this proposed action at a regular or special meeting where the public or interested persons may be heard. An oral presentation shall be scheduled prior to the adoption, amendment or repeal of any rule(s) provided the request for presentation is in writing, received no later than 20 days after the notice has been published and the request for presentation is made by: 25 interested persons, a governmental subdivision, an agency, an association of 25 persons, or upon the discretion of the board.

40.9(1) The chairperson of the board or a presiding officer appointed by the board shall preside over the oral presentation.

a. The date, time and location of the oral presentation shall be set by the board. The appropriate individuals, governmental subdivisions, agencies or associations making the request shall be notified of said date, time and location of presentation by certified mail.

b. Any individual(s) may present either written or oral comments pertinent to the rule(s) for which the oral presentation has been scheduled. Any individual(s) desiring to make written comments shall submit these comments to the presiding officer prior to the presentation date. Any individual(s) desiring to make an oral presentation shall submit a written request to the board prior to the presentation date.

c. The authority of the chairperson of the board or presiding administrative law judge during the oral presentation includes:

- (1) Setting a ten-minute time limit on oral presentations if necessary;
- (2) Excluding any individual(s) who may be either disruptive or obstructive to the oral presentation; and
- (3) Ruling that the oral presentation or discussion, or both, is not pertinent to the oral presentation.

d. The conduct of the chairperson of the board or presiding officer during the oral presentation shall include but need not be limited to:

- (1) Open the oral presentation and receive appearances.
- (2) Enter the oral presentation into the public record.
- (3) Receive oral presentations.
- (4) Read into the official public record written comments which have been submitted.
- (5) Adjourn the oral presentation.

40.9(2) Reserved.

645—40.10(151) Declaratory rulings.

40.10(1) Upon petition filed by any individual, partnership, corporation, association, governmental subdivision, private or public organization or state agency, the board may issue a declaratory ruling as to the applicability of statutes and rules, policy statements, decisions and orders under its jurisdiction.

40.10(2) A petition for a declaratory ruling shall be typewritten or printed and at the top of the first page shall appear in capitals the words: PETITION FOR DECLARATORY RULING BEFORE THE IOWA BOARD OF CHIROPRACTIC EXAMINERS.

40.10(3) The petition shall include the name and official title, if any, address and telephone number of each petitioner. If the request is at the behest of an entity mentioned in subrule 40.10(1) it shall name the entity.

40.10(4) The body of the petition shall contain:

a. A detailed statement of facts upon which petitioner requests the board to issue its declaratory ruling.

b. The statute, rule, policy statement, decision or order for which a ruling is sought.

c. The exact words, passages, sentences or paragraphs which are the subject of inquiry.

d. The specific questions presented for declaratory ruling.

e. A consecutive numbering of each multiple issue presented for declaratory ruling.

f. A statement as to how the agency should rule and why. A brief may be attached thereto.

40.10(5) The petition shall be filed either by serving it personally to the board administrator or by mailing it to the Board Administrator, Iowa Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075.

40.10(6) The board administrator shall acknowledge receipt of petitions or return petitions not in substantial conformity with the above rules.

40.10(7) The board may decline to issue a declaratory ruling for the following reasons:

a. A lack of jurisdiction.

b. A lack of clarity of the issue and facts presented.

c. The issue or issues presented are pending resolution by a court of Iowa or by the attorney general.

d. The issue or issues presented have been resolved by a change in circumstances or by other means.

e. The issue or issues are under investigation for purposes of formal adjudication.

f. The petition does not comply with the requirements imposed by subrules 40.10(1) to 40.10(5).

g. Where a ruling would necessarily determine the legal rights of other parties not represented in the proceeding.

40.10(8) In the event the board declines to make a ruling, the board administrator shall notify the petitioners of the fact and the reasons for the refusal.

40.10(9) When the petition is in proper form and has not been declined, the board shall issue a ruling disposing of the petition within a reasonable time after its filing.

40.10(10) Rulings shall be mailed to petitioners and to other parties at the discretion of the board administrator. Rulings shall be indexed and available for public inspection.

40.10(11) A declaratory ruling by the board shall have a binding effect upon subsequent board decisions and orders which pertain to the party requesting the ruling and in which the factual situation and applicable law are indistinguishable from that presented in the petition for declaratory ruling. To all other parties and in factual situations which are distinguishable from that presented in the petition, a declaratory ruling shall serve merely as precedent.

645—40.11(151) Rules pertaining to schools.

40.11(1) Rules pertaining to the practice of chiropractic at a chiropractic college clinic shall be equal to the standards established by the Council on Chiropractic Education existing as of February 1, 1991.

40.11(2) All chiropractic colleges in order to be approved by the board of chiropractic examiners shall first have status with the Commission on Accreditation of the Council on Chiropractic Education, as recognized by the U.S. Office of Education, existing as of February 1, 1991.

40.11(3) The following procedures are established for an institution to obtain equivalent approval by the board of examiners:

a. Standards. The standards against which the institution will be evaluated shall be those published and utilized by the Council on Chiropractic Education existing as of February 1, 1991.

b. Self-study. A comprehensive self-study shall be required of the applying institution which measures its performance against the objectives of the institution and the standards of the board of examiners. After review of the self-study the board shall render a decision that the self-study is either: (1) satisfactory, (2) unsatisfactory in terms of the report, or (3) unsatisfactory in terms of content. If unsatisfactory, the board will furnish the institution with a bill of particulars. An inspection of the institution shall not be made until the self-study is satisfactory.

c. Inspection. Inspection of the institution shall be conducted by an examining team selected by the board and shall consist of a minimum of five members. Two shall have doctorates in the basic sciences; one shall have a doctorate in college administration; and two shall be doctors of chiropractic.

(1) The inspection team shall determine firsthand if the applicant institution meets the established standards and is meeting its own institutional objectives.

(2) Expenses of the inspection team shall be borne by the applicant institution.

(3) The inspection team shall furnish the board with a comprehensive report of the team findings after having provided the institution with opportunity to comment on its findings.

d. Decision. The board of examiners will make its decision on the basis of the comprehensive report of the inspection team after providing the institution opportunity for a hearing on the report. If a member of the board has participated in the inspection, the member shall not participate in the decision-making process.

COLLEGES AND COLLEGE-BASED PROGRAMS

40.11(4) Students—treatment of patients.

a. Unlicensed practice by chiropractic interns and chiropractic residents. The board may approve the unlicensed practice of chiropractic in this state by a bona fide student of a chiropractic college which offers an approved preceptorship program, if the chiropractic college preceptorship program, the chiropractic preceptor and practice of chiropractic by the intern meet the criteria established by the Council on Chiropractic Education. The board may approve the unlicensed practice of chiropractic in this state by a chiropractic resident in an approved postgraduate chiropractic preceptorship program, if the postgraduate chiropractic preceptorship program, the chiropractic preceptor and the practice of chiropractic by the chiropractic resident meet the criteria established by the Council on Chiropractic Education.

b. Approved chiropractic college preceptorship programs. The board shall approve a chiropractic college preceptorship program which includes all of the following criteria:

(1) Is operated by a chiropractic college approved by the board. The board shall consider whether the college is accredited by the Council on Chiropractic Education, and shall also consider the degree of consumer protection provided by the defined standards and practices of the chiropractic college's preceptor program, as well as the degree of consumer protection demonstrated by the actual operation of the chiropractic college's preceptor program.

(2) Is an established component of the curriculum of the chiropractic college.

(3) Certifies to the board, on forms supplied by the school:

1. That all chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period, and

2. That no chiropractic physician who is a preceptor shall supervise more than one chiropractic intern for the duration of a given preceptorship period.

(4) Certifies to the board on forms supplied by the school that all chiropractic physicians who participate as preceptors have been fully credentialed by the sponsoring chiropractic college.

(5) Certifies to the board on forms supplied by the school that the chiropractic preceptor and the chiropractic intern have agreed on the goals of the preceptor to be completed by the chiropractic intern.

(6) Upon request, provides a current list to the board of the chiropractic physicians in Iowa who are preceptors in the program.

c. Approved postgraduate preceptorship programs. The board shall approve a preceptorship program for the training of chiropractic residents which meets all of the following criteria:

(1) Is operated by a chiropractic college approved by the board. The board shall consider whether the college is accredited by the Council on Chiropractic Education, and shall also consider the degree of consumer protection provided by the defined standards and practices of the chiropractic college's preceptor program, as well as the degree of consumer protection demonstrated by the actual operation of the chiropractic college's preceptor program.

(2) Is an established postgraduate program of the chiropractic college.

(3) Certifies to the board, on forms supplied by the school:

1. That all chiropractic residents who participate in the postgraduate preceptorship program have graduated from a college of chiropractic approved by the board, and

2. That no chiropractic physician who is a preceptor shall supervise more than one chiropractic resident for the duration of a given preceptorship period.

(4) Certifies to the board on forms supplied by the school that all chiropractic physicians who participate as preceptors are fully credentialed in accordance with current guidelines for chiropractic preceptorship established by the Council on Chiropractic Education.

(5) Certifies to the board, on forms supplied by the college, that the chiropractic resident preceptor and the chiropractic resident have agreed on the goals of the preceptor program to be completed by the chiropractic resident.

(6) Upon request, provides to the board a current list of the chiropractic physicians in Iowa who are preceptors in the program.

d. Approved chiropractic preceptors. The board shall approve a chiropractic physician to be a chiropractic physician preceptor if the chiropractic physician meets all of the following conditions:

(1) Certifies to the board, on forms supplied by the school, that:

1. The chiropractic physician preceptor has been continuously licensed in the United States for the previous five years and currently holds a license in Iowa, that there are no pending disciplinary actions or malpractice awards granted against the chiropractic physician preceptor, and that there have been no board disciplinary actions taken within the last three years against the chiropractic physician preceptor.

2. The chiropractic physician preceptor is fully credentialed in accordance with current guidelines for chiropractic preceptorship established by the Council on Chiropractic Education.

3. The chiropractic physician preceptor is responsible for the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.

4. The chiropractic physician preceptor will identify the chiropractic intern or chiropractic resident to the patients of the preceptorship practice in such a way that no patient will tend to be misled as to the status of the chiropractic intern or chiropractic resident. The chiropractic intern or chiropractic resident will wear an identification badge at all times in the presence of preceptorship patients.

5. The chiropractic physician preceptor will supervise no more than one chiropractic intern or chiropractic resident for the duration of a given preceptorship period.

6. The chiropractic physician preceptor will exercise direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times during which the chiropractic intern or chiropractic resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.

e. Termination of preceptorship. A preceptorship shall terminate upon the occurrence of the earliest applicable of the following events.

(1) For a chiropractic intern participating in a preceptorship program, graduation from the college of chiropractic operating the program.

(2) For a chiropractic resident participating in a postgraduate preceptorship program, the passage of 12 months since graduation from a board-approved college of chiropractic.

(3) For either a chiropractic intern preceptorship or a chiropractic resident preceptorship, any of the following:

1. The filing of formal disciplinary decisions against a chiropractic preceptor, the nature of which is a criminal offense and the circumstances of which substantially relate to the practice of chiropractic.

2. The filing of formal disciplinary decisions against a chiropractic physician preceptor for violation of statutes or administrative rules pertaining to the practice of chiropractic.

3. The granting of a malpractice award against a chiropractic physician preceptor in a civil action for malpractice.

40.11(5) The student enrolled at an approved chiropractic college in the state of Iowa will be able to treat patients under the license of the clinic director or designated licensed doctor associated with the clinic of the college who must be a currently licensed Iowa chiropractic physician and the board so notified of the name of the doctor. The clinic will operate under the license of the clinic director or designated licensed doctor associated with the clinic.

645—40.12(151) General requirements.

40.12(1) Beginning July 1, 1982, the licensure period shall be from July 1 of the even-numbered year to June 30 of the subsequent even-numbered year.

40.12(2) The board shall assess a penalty equal to the renewal fee if more than 30 days have passed since the expiration date.

40.12(3) Any licensee who allows the license to lapse by failing to renew within one year of the expiration date shall be required to pay the penalty set forth in 40.12(2) and all past renewal fees then due provided the fees shall not exceed \$500 as computed by the board and show evidence of 18 hours of accredited continuing education, which constitutes an organized program of learning, which contributes directly to the professional competency of the licensee for each lapsed year. Hours need not exceed 90 hours for reinstatement, if obtained within the past two years, except when there is a demonstrated deficiency for specialized education as determined by the board through a personal interview with the applicant. A licensee may be reinstated without examination upon approval by the board.

40.12(4) The board may affiliate with the Federation of Chiropractic Licensing Boards.

40.12(5) Any official action or vote of the board taken by mail or by other means shall be preserved by the board administrator in the same manner as the minutes of the regular meetings.

40.12(6) Any legal proceedings where applicable shall be conducted in a manner as stipulated in Iowa Code chapters 17A, 147, 151.

40.12(7) Persons licensed to practice chiropractic shall keep their license publicly displayed in the primary place of practice. When a person licensed to practice chiropractic changes residence or place of practice, notification shall be sent to the Iowa Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075.

40.12(8) Every license to practice chiropractic shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee, without exception. Application for renewal shall be made in writing to the board accompanied by the required fee at least 30 days prior to the expiration of such license. Every renewal shall be displayed in connection with the original license. The board shall notify each licensee by mail prior to the expiration of a license. Failure to renew the license within a reasonable time after the expiration shall not invalidate the license, but a reasonable penalty may be assessed by the board.

This rule is intended to implement Iowa Code sections 147.7, 147.9 and 147.10.

645—40.13(151) Rules for conducting examinations.

40.13(1) The applicant shall submit a completed application on a form prescribed by the board with required credentials and fee. The completed application must include the following:

a. A photostatic copy of chiropractic diploma (no larger than 8½ × 11 inches) from an approved college or a letter of graduation intent from a college registrar within 120 days of examination date. However, no license to practice will be issued until the board administrator has received a copy of the signed diploma.

b. Rescinded IAB 2/12/97, effective 3/19/97.

c. Official transcript of grades of the National Board of Chiropractic Examiners.

d. The applicant shall have received certification from the National Board of Chiropractic Examiners attesting to the successful completion of the required examination after July 1, 1973, or a basic science certificate issued prior to July 1, 1973.

(1) Effective August 1, 1976, all electives of the National Board examination are required.

(2) Effective January 1, 1987, Part III of the National Board examination is required.

(3) Effective January 1, 1996, Part IV of the National Board examination is required.

e. Each applicant shall submit three written character references on the application. The references shall not be from members of the chiropractic profession.

f. Each applicant must include a record of the number and date of chiropractic license obtained in other states, if any, the manner in which such license or licenses were obtained, and a statement as to whether or not any license so issued has ever been suspended or revoked.

g. Each application shall include a chronologic statement as to all the places where the candidate has practiced, if any, type of practice engaged in and the period of time so engaged.

h. One passport-size photograph of the applicant taken within the previous six months.

40.13(2) Any candidate applying for licensure shall be required to appear for a personal interview before the board or before a member thereof, unless waived by the board.

40.13(3) The board shall require written, oral or practical examinations of any applicant.

40.13(4) Any candidate who fails the examination may take a second examination at a regularly scheduled examination upon payment of the examination fee. The candidate shall be required to repeat the entire examination if a previous examination is failed. Additional repeats of the examination are permitted at the discretion of the board.

40.13(5) Examinations given by the board will be held at a location and time specified by the board.

40.13(6) All applicants matriculating after October 1, 1975, will be graduated from a college having status with the C.C.E. (Council on Chiropractic Education) as of the date of the applicant's graduation. (See 40.11(151).)

645—40.14(151) Licensure by reciprocity or endorsement.

40.14(1) Each applicant shall submit a completed application form accompanied by a fee of \$100.

40.14(2) A license to practice chiropractic by reciprocity or by endorsement may be issued on the basis of an examination in substantially all of the subjects required by this board given by a state examining board having reciprocal or endorsement relations with the board, provided, however, that the applicant must comply with all other requirements for licensure by examination in this state.

40.14(3) If any state with which this state has reciprocal or endorsement relations places any limitations or restrictions upon licentiates of this state, the same limitations or restrictions may be imposed upon licentiates of such state applying for admission to practice in this state on the basis of reciprocity or endorsement.

40.14(4) The statement made in the application must be reviewed and verified by the state examining board issuing the original license, certifying under seal as to the subjects in which the applicant was examined, the grade obtained in each subject and the general average attained in the entire examination.

40.14(5) In all cases the board reserves the right to review the examination papers and grades upon which reciprocal or endorsement certification may be granted before accepting the same.

40.14(6) No reciprocal license or license by endorsement shall be issued except on the basis of a license received by examination. The applicant must have had two years of full-time practice before applying for license by reciprocity or endorsement.

40.14(7) Rescinded IAB 8/19/92, effective 9/23/92.

40.14(8) Rescinded IAB 8/19/92, effective 9/23/92.

40.14(9) The chiropractic examiners may require written, oral or a practical examination of any applicant for licensure by reciprocity or endorsement.

645—40.15(151) License renewal date. A license to practice chiropractic shall expire on the thirtieth of June of every even-numbered year.

645—40.16(151) License-examination-renewal fees. The following fees shall be collected by the board:

40.16(1) For the basic application fee required of all applicants, \$50. For a license to practice chiropractic, issued upon the basis of examination given by the chiropractic examiners, \$225.

40.16(2) For the biennial renewal fee of a license to practice chiropractic, \$100. Renewal fees shall be received by the board before the end of the last month of the renewal period.

40.16(3) For a certified statement that a licensee is licensed in this state, \$10.

40.16(4) For a duplicate license, which shall be so designated on its face, upon satisfactory proof the original license issued by the Iowa department of public health has been destroyed or lost, or if necessary for display in additional place of practice, \$10.

40.16(5) For a penalty fee for failure to complete required continuing education within the compliance period, \$100.

This rule is intended to implement Iowa Code section 147.80.

645—40.17(151) Specified forms to be used. All applications for examinations, certificates and licenses shall be on forms prescribed by the board. These forms may include, but not be limited to, the following, and where practicable, any one or more of the following forms may be consolidated into a single form.

Board Form:	Form Title:
1.	Application for a license to practice chiropractic on the basis of examination.
2.	Application for reinstatement of license to practice chiropractic.
3.	Application for renewal of a chiropractic license.
4.	Complaint form.
5.	Report of continuing chiropractic education.
6.	Certificate of exemption from continuing education requirements.
7.	Application for waiver of minimum education requirements due to disability or illness.

645—40.18(151) Temporary certificate.

40.18(1) The board may, in its discretion, issue a temporary certificate authorizing the applicant to practice chiropractic whenever, in the opinion of the board, a need exists and the applicant possesses the qualifications prescribed by the board for the certificate, which shall be substantially the same as those required under Iowa Code chapter 151. A temporary certificate shall be issued for one year and, at the discretion of the board, may be annually renewed, not to exceed two additional years, at a fee of \$100 per year.

40.18(2) Each applicant shall:

a. Submit a completed application on a form prescribed by the board with required credentials and fee. The completed application must be on file at least 30 days prior to the date of the examination and must include the following:

(1) A photostatic copy of chiropractic diploma (no larger than 8½ x 11 inches) from an approved college or a letter of graduation intent from a college registrar within 120 days of examination date. However, no license to practice will be issued until the board administrator has received a copy of the signed diploma.

(2) A photostatic copy of high school diploma (no larger than 8½ x 11 inches).

(3) Official transcript of grades of the National Board of Chiropractic Examiners.

b. Submit documentation from the National Board of Chiropractic Examiners attesting to the successful completion of the required examination after July 1, 1973, or a basic science certificate issued prior to July 1, 1973.

(1) Effective August 1, 1976, all electives of the National Board examinations are required.

(2) Effective January 1, 1987, Part III of the National Board examinations is required.

(3) Effective January 1, 1996, Part IV of the National Board examinations is required.

c. Submit three written character references on the application form. The references shall not be from members of the chiropractic profession.

d. Include a record of the number and date of chiropractic license(s) obtained in other states, if any, the manner in which such license or licenses were obtained, and a statement as to whether or not any license so issued has ever been suspended or revoked.

e. Include a chronological statement as to all the places where the candidate has practiced, if any, type of practice engaged in and the period of time so engaged.

f. Submit two copies of a passport-size photograph of the applicant taken within the previous six months.

40.18(3) Applicants may be required to satisfactorily complete a written, oral, or practical examination. In any case, the board shall require the applicant to appear for a personal interview before the board or a member of the board.

40.18(4) The temporary certificate may be canceled at any time without a hearing for reasons deemed sufficient to the board. The certificate may be canceled:

a. For any of the grounds for which licensee discipline may be imposed.

b. If the temporary certificate holder applies for a permanent license, is examined, and fails the examination.

Cancellation will be effective three days after mailing the notice of cancellation by registered mail. This rule is intended to implement Iowa Code section 151.12.

UTILIZATION AND COST CONTROL REVIEW

645—40.19(514F) Utilization and cost control review.

40.19(1) The board shall establish U.C.C.R. (Utilization and Cost Control Review) committee(s). The name(s) of the committee(s) shall be on file with the board and available to the public. The designation of the committee(s) shall be reviewed annually.

40.19(2) Members of the U.C.C.R. committee shall:

- a. Hold a current license.
- b. Practice chiropractic in the state of Iowa for a minimum of five years.
- c. Be actively involved in a chiropractic practice during the term of appointment as a U.C.C.R. committee member.
- d. Not assist in the review or adjudication of claims in which the committee member may reasonably be presumed to have a conflict of interest.

40.19(3) Procedures for utilization and cost control review. A request for review may be made to the board by any person governed by the various chapters of Title XX of the Code, self-insurers for health care benefits to employees, other third-party payers, chiropractic patients or licensees.

a. The fee for service shall be \$100, which will be made payable directly to the U.C.C.R. committee. The committee shall make a yearly accounting to the board.

b. A request for service shall be submitted to the executive director of the U.C.C.R. committee on an approved submission form and shall be accompanied by four copies of all information. All references to identification and location of patient and doctor shall be deleted and prepared for blind review by the executive director of the U.C.C.R. committee. The information shall be forwarded to the U.C.C.R. committee.

c. The U.C.C.R. committee shall respond in writing to the parties involved with its findings and recommendations within 90 days. The committee shall review the appropriateness of levels of treatment and give an opinion as to the reasonableness of charges for diagnostic or treatment services rendered as requested. The U.C.C.R. committee shall submit a quarterly report of their activities to the board.

40.19(4) Types of cases reviewed shall include:

- a. Utilization.
- (1) Frequency of treatment,
 - (2) Amount of treatment,
 - (3) Necessity of service,
 - (4) Appropriateness of treatment.
- b. Usual and customary service.

40.19(5) Criteria for review may include but are not limited to:

- a. Was diagnosis compatible and consistent with information?
- b. Were X-ray and other examination procedures adequate, or were they insufficient or nonrelated to history or diagnosis?
- c. Were clinical records adequate, complete, and of sufficient frequency?
- d. Was treatment consistent with diagnosis?
- e. Was treatment program consistent with scientific knowledge and academic and clinical training in accredited chiropractic colleges?
- f. Were charges reasonable and customary for the service?

40.19(6) Members of the U.C.C.R. committee shall observe the requirements of confidentiality imposed by Iowa Code chapter 272C.

40.19(7) Action of the U.C.C.R. committee does not constitute an action of the board.

This rule is intended to implement Iowa Code sections 514F.1 and 514F.2.

645—40.20 Reserved.

DISCIPLINE

645—40.21(151,272C) General. The board has authority to impose discipline for any violation of the chiropractic practice Acts or the rules promulgated thereunder. The board also has authority to impose discipline for violations of other provisions of the Iowa Code and the other rules promulgated thereunder to the extent said provisions concern the practice of chiropractic.

645—40.22(151,272C) Method of discipline. The board has authority to impose the following disciplinary sanctions:

- a.* Revocation of license.
- b.* Suspension of license until further order of the board or for a specified period.
- c.* Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
- d.* Probation.
- e.* Require additional education or training.
- f.* Require a reexamination.
- g.* Impose civil penalties not to exceed \$1,000.
- h.* Issue citation and warning.
- i.* Such other sanctions allowed by law as may be appropriate.

645—40.23(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

- a.* The relative seriousness of the violation as it relates to assuring the citizens of this state a high standard of professional care.
- b.* The facts of the particular violation.
- c.* Any extenuating circumstances or other countervailing considerations.
- d.* Number of prior violations or complaints.
- e.* Seriousness of prior violations or complaints.
- f.* Whether remedial action has been taken.
- g.* Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee.

645—40.24(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 40.22(151,272C) including civil penalties in an amount not to exceed \$1,000, when the board determines that the licensee is guilty of the following acts or offenses:

40.24(1) Fraud in procuring a license.

- a.* Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice chiropractic and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the state department of health any false or forged diploma, or certificate or affidavit or identification or qualification in making an application for a license in this state.
- b.* Reserved.

40.24(2) Professional incompetency.

a. Professional incompetency includes, but is not limited to:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the chiropractic physician's practice;

(2) A substantial deviation by the chiropractic physician from the standards of learning or skill ordinarily possessed and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances;

(3) A failure by a chiropractic physician to exercise in a substantial respect that degree of care which is ordinarily exercised by the average chiropractic physician in the state of Iowa acting in the same or similar circumstances;

(4) A willful or repeated departure from or the failure to conform to the minimal standard or acceptable and prevailing practice of chiropractic in the state of Iowa.

(5) Failure to maintain clinical and fiscal records in support of services rendered for a minimum of five years from one of the following dates as applicable. For the purposes of this rule, clinical records shall include all laboratory and diagnostic imaging studies.

1. For an adult patient in an uncontested case, the last office visit.

2. For a minor patient in an uncontested case, the last office visit plus the age of 18 years.

(6) Failure to comply with the health department standards for radiation-emitting equipment as used by a doctor of chiropractic, set forth in Iowa Code chapter 136C.

b. Reserved.

40.24(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a chiropractic physician in the practice of chiropractic and includes any representation contrary to the chiropractic physician's legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare and may operate to the injury of another.

b. Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of chiropractic ethics and code of ethics as set out in rule 40.51(147,272C) as interpreted by the board.

c. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a chiropractic physician to possess and exercise that degree of skill, learning and care expected of a reasonably prudent chiropractic physician acting in the same or similar circumstances in this state or when a chiropractic physician is unable to practice chiropractic with reasonable skill and safety to patients as a result of a mental or physical impairment or chemical abuse.

40.24(4) Habitual intoxication or addiction to the use of drugs.

a. Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the inability of a chiropractic physician to practice chiropractic with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other type of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other type of material which may impair a chiropractic physician's ability to practice the profession with reasonable skill and safety.

b. Reserved.

40.24(5) Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

a. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession includes, but is not limited to, the conviction of a chiropractic physician who has committed a public offense in the practice of the profession which is defined or classified as a felony under state or federal law, or who has violated a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the practice of chiropractic, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon the licensee as a chiropractic physician in this state.

b. Reserved.

40.24(6) Fraud in representations as to skill or ability.

a. Fraud in representations as to skill or ability includes, but is not limited to, a chiropractic physician having made misleading, deceptive or untrue representations as to the chiropractic physician's competency to perform professional services for which the chiropractic physician is not qualified to perform by training or experience.

b. Reserved.

40.24(7) Use of untruthful or improbable statements in advertisements.

a. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a chiropractic physician in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

- (1) Inflated or unjustified expectations of favorable results.
- (2) Self-laudatory claims that imply that the chiropractic physician is a skilled chiropractic physician engaged in a field or specialty of practice for which the chiropractic physician is not qualified.
- (3) Representations that are likely to cause the average person to misunderstand; or
- (4) Extravagant claims or to proclaim extraordinary skills not recognized by the chiropractic profession.

b. Reserved.

40.24(8) Willful or repeated violations of the provisions of this Act.

a. Willful or repeated violations of the provisions of this Act includes, but is not limited to, a chiropractic physician having intentionally or repeatedly violated a lawful rule or regulation promulgated by the board of chiropractic examiners or the state department of health or violated a lawful order of the board or the state department of health in a disciplinary hearing or has violated the chiropractic practice Acts or rules promulgated thereunder.

b. Reserved.

40.24(9) Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of chiropractic.

40.24(10) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the board of chiropractic examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

40.24(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice chiropractic.

40.24(12) Being guilty of a willful or repeated departure from, or the failure to conform to, the chiropractic practice Acts or rules promulgated therein. An actual injury to a patient need not be established.

40.24(13) Inability to practice chiropractic with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

40.24(14) Willful or repeated violation of lawful rule or regulation promulgated by the board.

40.24(15) Violating a lawful order of the board, previously entered by the board in a disciplinary hearing.

40.24(16) Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

40.24(17) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

40.24(18) Indiscriminately or promiscuously prescribing, administering or dispensing any order for other than lawful purpose.

40.24(19) Submission of a false report of continuing education or failure to submit the annual report of continuing education.

40.24(20) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

40.24(21) Failure to comply with a subpoena issued by the board.

40.24(22) Failure to file the reports required by rule 40.32(272C) concerning acts or omissions committed by another licensee.

40.24(23) Repeated malpractice.

40.24(24) Obtaining any fee by fraud or misrepresentation.

40.24(25) Negligence in failing to exercise due care in the delegation of chiropractic services to or supervision of assistants, employees or other individuals, whether or not injury results.

40.24(26) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code chapter 151.

40.24(27) Failure to maintain clean and sanitary conditions at the premises in keeping with sound public health standards.

40.24(28) Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

40.24(29) Failure to report child abuse or dependent adult abuse.

40.24(30) Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

a. Reporting incorrect treatment dates for the purpose of obtaining payment;

b. Reporting charges for services not rendered;

c. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

d. Aiding a patient in fraudulently obtaining payment from a third-party payer.

40.24(31) Practicing without a current license or practicing when a license is lapsed.

40.24(32) Failure to notify the board of a change of name or address within 30 days of its occurrence.

This rule is intended to implement Iowa Code section 232.69.

645—40.25(272C) Procedure for peer review. A complaint made to the board by any person relating to licensure or concerning the professional conduct of a licensee may be assigned to a peer review committee for review, investigation and report to the board.

645—40.26(272C) Peer review committees.

40.26(1) The board may establish or register, or both, one peer review committee with subcommittees in each Iowa congressional district. Each subcommittee shall consist of at least three licensees appointed by the board for a rotating term of one to three years. The board may establish and register other peer review committees in an emergency or under unusual circumstances.

40.26(2) The board shall determine which peer review committee will review a case and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the board. Each report shall contain the recommendations of the peer review committee relative to disciplinary action by the board.

40.26(3) The board may provide investigatory and related services to peer review committees upon request.

40.26(4) A peer review committee may determine the method to be used in making its investigation or that it is unable to investigate the report upon a complaint, and return the complaint together with an explanation to the board.

40.26(5) The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code chapter 272C.

40.26(6) Members of the peer review committee shall not be liable for acts, omissions or decisions made in connection with service on the peer review committee. However, such immunity from civil liability shall not apply if such act is done with malice.

645—40.27(272C) Duties of peer review committees.

40.27(1) The peer review committees shall submit to the board for approval the procedures to be used for review, investigation and handling of all complaints.

40.27(2) The peer review committees shall thoroughly investigate all complaints and make written recommendation to the board.

a. Written recommendations shall contain a statement of facts, the recommendation for disposition, and the rationale supporting the recommendation.

b. The written recommendations shall be signed by the members of the peer review committees concurring in the report.

645—40.28(272C) Board review of recommendations. The board shall consider and act upon recommendations of the peer review committees at the next board meeting held after submission of the written recommendations.

40.28(1) If the board finds that reasonable basis exists for further action, it shall notify the licensee who is the subject of the complaint and the complainant that further action will be taken and state the reasons for its determination. Unless informal stipulation and settlement is arrived at, the board shall proceed to a hearing on the matter in accordance with the procedural process set out in subrule 40.47(9).

40.28(2) Reserved.

645—40.29(272C) Reporting of judgments or settlements. Each licensee shall report to the board every adverse judgment in a malpractice action to which the licensee is a party, and every settlement of a claim against the licensee alleging malpractice. The report together with a copy of the judgment or settlement must be filed with the board within 30 days from the date of said judgment or settlement.

645—40.30(272C) Investigation of reports of judgments and settlements. Reports received by the board from the commissioner of insurance, insurance carriers and licensees involving adverse judgments in a professional malpractice action, and settlement of claims alleging malpractice, which involve acts or omissions which constitute negligence, careless acts or omissions in the practice of chiropractic shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of written complaints.

645—40.31(272C) Reporting of acts or omissions. Each licensee, having first-hand knowledge of acts or omissions set forth in rule 40.24(272C) shall report to the board those acts or omissions when committed by another person licensed to practice chiropractic. The report shall include the name and address of the licensee and the date, time and place of the incident.

645—40.32(272C) Failure to report licensee. Upon obtaining information that a licensee failed to file a report required by rule 40.31(272C) within 30 days from the date the licensee initially acquired the information, the board may initiate a disciplinary proceeding against the licensee who failed to make the required report.

645—40.33(272C) Immunities. A person shall not be civilly liable as a result of filing a report or complaint with the board or peer review committee, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, such immunity from civil liability shall not apply if the act is done with malice.

645—40.34(272C) Doctor-patient privileged communications. The privilege of confidential communication between the recipient and the provider of health care services shall not extend to afford confidentiality to medical records maintained by or on behalf of the subject of an investigation by the board, or records maintained by any public or private agency or organization, which relate to a matter under investigation. No provisions of Iowa Code section 622.10, except as it relates to an attorney of the licensee, or stenographer or confidential clerk of the attorney, shall be interpreted to restrict access by the board, its staff or agents to information sought in an investigation being conducted by the board.

645—40.35(272C) Confidentiality of investigative files. Complaint files, and investigation files, and all other investigation reports and other investigative information in the possession of the board or peer review committee acting under the authority of the board or its employees or agents which relates to licensee discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee and the board, its employees and agents involved in licensee discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, a final written decision and finding of fact of the board in a disciplinary proceeding shall be public record.

645—40.36(151) Acupuncture.

40.36(1) “Acupuncture” is the procedure of puncturing the skin with needles for treatment.

40.36(2) Rescinded IAB 8/19/92, effective 9/23/92.

40.36(3) Venipuncture for withdrawal of blood is not an acupuncture procedure.

645—40.37(151) Nonprofit nutritional product sales.

40.37(1) Profit shall mean all moneys remaining after the cost of operating a chiropractic practice.

40.37(2) The sale price of the nutritional product may not include a profit exceeding the cost of the practice overhead and the product.

645—40.38(151) Chiropractic insurance consultant.

40.38(1) Definition. The term "*chiropractic insurance consultant*" shall mean an Iowa-licensed chiropractic physician registered with the board who serves as a liaison and advisor to an insurance company and who advises said insurance company of: Iowa standards of recognized and accepted chiropractic services and procedures permitted by the Iowa Code and administrative rules; and advice on the propriety of chiropractic diagnosis and care.

40.38(2) Licensed chiropractic physicians shall not hold themselves out as chiropractic insurance consultants unless they meet the following requirements:

- a. Hold a current license.
- b. Practice chiropractic in the state of Iowa for a minimum of five years.
- c. Be actively involved in a chiropractic practice during the term of appointment as a chiropractic insurance consultant.

40.38(3) Rescinded IAB 8/19/92, effective 9/23/92.

This rule is intended to implement Iowa Code sections 151.1 and 151.11.

645—40.39(151) Adjunctive procedures.

40.39(1) Adjunctive procedures defined. Procedures related to differential diagnosis.

40.39(2) Any applicant for licensure to practice chiropractic in the state of Iowa who chooses to be tested in limited adjunctive procedures, those limited procedures must be adequate for the applicant to come to a differential diagnosis in order to pass the examination.

40.39(3) Applicants for licenses to practice chiropractic who refuse to utilize any of the adjunctive procedures which they have been taught in approved colleges of chiropractic must adequately show the examiners that they can come to an adequate differential diagnosis without the use of adjunctive procedures.

This rule is intended to implement Iowa Code sections 151.1 and 151.11.

645—40.40(151) Physical examination. The chiropractic physician is to perform physical examinations to determine human ailments, or the absence thereof, utilizing principles taught by chiropractic colleges. Physical examination procedures shall not include prescription drugs or operative surgery.

645—40.41(151) Gonad shielding. Gonad shielding of not less than 0.25 millimeter lead equivalent shall be used for chiropractic patients who have not passed the reproductive age during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedure.

645—40.42 to 40.46 Reserved.

DISCIPLINARY PROCEDURE

645—40.47(147,151,17A,272C) Disciplinary procedure.

40.47(1) *Proceedings.* The proceeding for the revocation or suspension of a license to practice chiropractic or to discipline a person licensed to practice chiropractic or the denial of a license, shall be substantially in accord with the following procedures which is an alternative to the procedure stated in Iowa Code sections 147.58 to 147.71.

40.47(2) *Investigations.* The board shall, upon receipt of a complaint in writing, or may upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline.

40.47(3) *Form and content of the written complaint.* The complaint shall be in writing and signed by at least one complainant or an authorized representative of the complainant. (Or an official form may be used. This form may be obtained from the board upon request.)

a. The complaint shall contain the following information:

- (1) The full name and address of the complainant.
- (2) The full name, address and telephone number, if known, of the respondent.
- (3) A concise statement of the facts which clearly and accurately apprises the board of the allegations against the respondent.

b. Reserved.

40.47(4) *Place and time of filing.* The complaint may be delivered personally or by mail to the board administrator of the board. The current office address is Lucas State Office Building, Des Moines, Iowa 50319-0075.

a. Timely filing is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

b. Reserved.

40.47(5) *Investigation of allegations.* In order to determine if probable cause exists for a hearing on the complaint, the board or someone designated by the board shall cause an investigation to be made into the allegations of the complaint or the board may refer the complaint to a registered peer review committee for investigation, review and report to the board. In this regard, the person complained of may be furnished with information concerning the complaint and given the opportunity to informally present a position or defense respecting the allegations of the complaint prior to the commencement of a contested case. This position or defense may be submitted in writing but a personal conference with the board administrator, investigator or peer review committee may be had as a matter of right upon request.

40.47(6) *Investigation report.* Upon completion of the investigation, the investigator or designee shall prepare a report for the board's consideration.

40.47(7) *Informal settlement.* The board or the respondent may request that an informal conference be held to determine whether licensee discipline can be resolved in a just manner and in furtherance of the public interest. Neither the board nor respondent is required to use this informal procedure. If the board and respondent agree to negotiate a settlement, the various points of a proposed settlement, including a stipulated statement of facts, shall be set forth in writing. The proposed settlement shall be binding if approved by the board and signed by both the board chairperson (or a member designated by the chairperson) and the respondent.

40.47(8) Ruling on the initial inquiry.

a. Rejection. If a determination is made by the board to reject the case, the complaint shall be returned to the complainant along with a statement specifying the reasons for rejection. A letter of explanation concerning the decision of the board shall be sent to the respondent.

b. Requirement of further inquiry. If determination is made by the board to order further inquiry, the complaint and recommendations by the investigator(s) shall be returned to the investigator(s) along with a statement specifying the information deemed necessary.

c. Acceptance of the case. If a determination is made by the board to initiate disciplinary action, the board may enter into an informal settlement, issue a citation or warning or recommend formal disciplinary proceedings.

40.47(9) Order for hearing. The board may, upon its own motion or upon receipt of a complaint in writing, and shall, if such a complaint is filed by the commissioner of public health, issue an order fixing the time and place for hearing thereon, a written notice of hearing together with a statement of the charges, shall be served upon the licensee at least 30 days before said hearing in the manner required for the service of notice of the commencement of an ordinary action or by certified mail return receipt requested.

40.47(10) Notice by publication. If the licensee has absented or removed himself or herself from the state, the notice and statement of the charges shall be so served at least 30 days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by said rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the board shall proceed with the hearing as hereinafter provided.

40.47(11) Statement of charges. The statement of charges shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, and shall be in sufficient detail to enable the efficient preparation of the respondent's defense. The statement of charges shall specify the statute(s) and any rule(s) which are alleged to have been violated, and may also include the additional information which the board deems appropriate to the proceeding.

40.47(12) Legal representation. Every statement of charges and notice of hearing prepared by the board shall be reviewed and approved by the office of the attorney general, which shall be responsible for the legal representation of the public interest in all proceedings before the board.

40.47(13) Notice of hearing. The notice of hearing shall state:

- a.* The date, time and place of hearing.
- b.* A statement that the party may be represented by legal counsel at the hearing.
- c.* A statement of the legal authority and jurisdiction under which the hearing is to be held.
- d.* A reference to the statutes and rules involved.
- e.* A short and plain statement of the matter asserted.
- f.* A statement that the respondent has the right to appear at a hearing and be heard.
- g.* A statement requiring the respondent to submit an answer of the type specified in subrule 40.47(14) within 20 days after receipt of the notice of hearing.
- h.* A statement requiring the respondent within a period of 10 days after receipt of the notice of hearing to:

- (1) Acknowledge receipt of the notice of hearing.
- (2) State whether or not the respondent will be present at the hearing.
- (3) State whether the respondent will require an adjustment of date and time of the hearing; and
- (4) Furnish the board with a list of witnesses the respondent intends to have called.

40.47(14) Form of answer. The answer shall show venue as "Before the Iowa Board of Chiropractic Examiners" and shall be captioned "Answer".

- a.* The answer shall contain the following information:

- (1) The name, address and telephone number of the respondent.
- (2) Specific statements regarding any or all allegations in the complaint which shall be in the form of admissions, denials, explanations, remarks or statements of mitigating circumstances.
- (3) Any additional facts or information the respondent deems relevant to the complaint and which may be of assistance in the ultimate determination of the case.

b. Reserved.

40.47(15) *Request for a more definitive statement.* The respondent may at any time request the board to make the statement of charges more definite and certain, by submitting to the board a written request indicating the matters concerning which a more definite statement is necessary in order to facilitate the preparation of the respondent's defense. The board will respond to a request for a more definite statement within ten days of receipt thereof.

40.47(16) *Prehearing conferences.* The presiding officer or administrative law judge either on a motion or at the request of either the board or the respondent may hold a prehearing conference which shall be scheduled not less than two days prior to the hearing. Notice by ordinary mail shall be given to each party of the date, time and place of the prehearing conference.

40.47(17) *Appearance.* The licensee shall have the right to appear in person or by attorney before the board at the licensee's expense.

40.47(18) *Subpoena powers.* In connection with the initial inquiry set forth in 40.47(8), the board is authorized by law to subpoena books, papers, records and any other real evidence whether or not privileged or confidential under law, to help it determine whether it should institute a contested case proceeding (hearing). After service of the notice of hearing contemplated by subrules 40.47(9) and 40.47(10), the following procedures are available to the parties in order to obtain relevant and material evidence:

a. Board subpoenas for books, papers, records and other real evidence will be issued to a party upon request. Application should be made to the board specifying the evidence sought. Subpoenas for witnesses may also be obtained. The board shall issue all subpoenas for both parties upon request.

b. Discovery procedures applicable to civil actions are available to the parties in a proceeding under these rules.

c. Evidence obtained by subpoena or through discovery shall be admissible at the hearing if it is otherwise admissible under subrule 40.47(24) or by statute.

d. The evidence outlined in Iowa Code section 17A.13(2), where applicable and relevant, shall be available to the party upon request.

40.47(19) *Refusal to obey subpoena.* In the event of a refusal to obey a subpoena, the board may petition the district court for its enforcement. Upon proper showing, the district court shall order the person to obey the subpoena, and if the person fails to obey the order of the court, the person may be found guilty of contempt of court. The presiding officer of a hearing panel or an administrative law judge may also administer oaths and affirmations, take or order that depositions be taken, and grant immunity to a witness from disciplinary proceedings initiated either by the board or by other state agencies which might otherwise result from the testimony to be given by the witness to the panel.

40.47(20) *Failure by respondent to appear.* If a respondent, upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the board or hearing panel shall proceed with the conduct of the hearing, and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

40.47(21) *Record of proceedings.* Oral proceedings shall be recorded either by mechanical or electrical means, or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained for at least five years from the date of decision. Any party to a proceeding may record, at the party's own expense, stenographically or electronically, any portion or all of the proceedings.

40.47(22) Hearings. A hearing may be conducted before the board or before a three-member hearing panel appointed by the board chairperson. A hearing may also be conducted by an administrative law judge in accordance with Iowa Code section 17A.11.

a. When, in the opinion of a majority of the board, it is desirable to obtain specialists within an area of practice of the profession when holding disciplinary hearings, the board may appoint a panel of not less than three specialists not having a conflict of interest to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

b. When a hearing is held before the board or a three-member hearing panel, the board chairperson or someone designated by the chairperson shall act as the presiding officer. The presiding officer or administrative law judge shall be in control of the proceedings and shall have the authority to administer oaths, to admit or exclude testimony or other evidence and to rule on all motions and objections.

c. The presiding officer and other board members have the right to conduct a direct examination at the outset of a witness's testimony or at a later stage thereof. Direct examination and cross-examination by board members is subject to objections properly raised in accordance with the rules of evidence noted in subrule 40.47(24).

d. The hearing shall be open to the public unless the licensee or the licensee's attorney requests in writing that the hearing be closed to the public.

40.47(23) Order of proceedings. Before giving testimony, each witness shall be informed of the board membership present (hearing panel), of the identity of the primary parties or their representatives, and of the fact that all testimony is being recorded.

a. Hearings before the board or a panel of the board or before an administrative law judge shall generally follow the order established by these rules, subject to modification at the discretion of the board or of the panel of the board conducting the proceedings.

(1) The presiding officer or designee shall read the specification of charges and the answer thereto, or other responsive pleading, filed by the respondent prior to the hearing.

(2) The assistant attorney general representing the public interest before the board shall make an opening statement.

(3) The respondent or respondents shall each be offered the opportunity to make an opening statement. A respondent may elect to reserve the respondent's opening statement until just prior to the representation of evidence by the respondent.

(4) The presentation of evidence on behalf of the public.

(5) The presentation of evidence on behalf of the respondent(s).

(6) Rebuttal evidence on behalf of the public.

(7) Rebuttal evidence on behalf of the respondent(s).

(8) Closing arguments first on behalf of the public, then on behalf of the respondent, and then on behalf of the public.

b. Reserved.

40.47(24) Rules of evidence—documentary, evidence—official notice.

a. Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial.

b. Objections to evidentiary offers may be made and shall be noted in the record. Motions and offers to amend the pleadings may also be made at the hearing and shall be noted in the record together with the rulings thereon.

c. Subject to the above requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

d. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given the opportunity to compare the copy with the original, if available. Accurate copies of the document offered at the hearing shall be furnished to those members of the board sitting at the hearing and to opposing parties.

e. Witnesses at the hearing, or persons whose testimony has been submitted in written form if available, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

f. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the board. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the board determines as part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

40.47(25) Trial decision.

a. When four or more members of the board preside over the reception of the evidence at the hearing, its decision is a final decision.

b. In order to impose disciplinary action, an affirmative vote of at least four members of the board is required.

c. When a panel of three specialists presides over the reception of the evidence at the hearing, a transcript of the proceedings, together with exhibits presented and the findings of fact of the panel, shall be considered by the board at the earliest practicable time. The respondent or the respondent's attorney, or both, upon notice prescribed by the board, shall have the opportunity to appear personally to present the respondent's position and arguments to the board. The decision of the board is a final decision.

d. If the hearing is conducted by a three-member hearing panel as specified in subrule 40.47(22) or by an administrative law judge, the decision is a proposed decision and subject to the review provisions of 40.47(28).

e. A proposed or final decision shall be in writing and shall consist of the following parts:

(1) A concise statement of the facts which support the findings of fact.

(2) Findings of fact. A party may submit proposed findings of fact and where this is done, the decision shall include a ruling on each proposed finding.

f. Conclusions of law which shall be supported by cited authority or reasoned opinion.

g. The decision or order which sets forth the action to be taken or the disposition of the case.

h. The decision may include any of the following:

(1) That the respondent be exonerated.

(2) Revocation of license.

(3) Suspension of license until further order of the board or for a specified period.

(4) Prohibit permanently, until further order of the board or for a specific period, the engaging in specified procedures, methods or acts.

(5) Probation.

(6) Require additional education or training.

(7) Require reexamination.

(8) Impose civil penalties not to exceed \$1,000.

(9) Issue citation and warning.

(10) Such other sanctions allowed by law as may be appropriate.

40.47(26) Confidentiality. At no time prior to the release of the final decision by the board shall any portion or the whole thereof be made public or be distributed to any persons other than the parties.

40.47(27) *Notification of decision.* All parties to a proceeding hereunder shall be promptly furnished with a copy of any final or proposed decision or order either in person or by first-class mail, or by telephone if necessary to ensure that the parties learn of the decision or order first. A final decision shall be sent by certified mail to the licensee's last-known post office address.

40.47(28) *Proposed decision—appeal to board procedures and requirements.* A proposed decision as defined in subrule 40.47(25) becomes a final decision unless appealed in accordance with the following procedure:

a. A proposed decision may be appealed to the board or a quorum thereof by a party to the decision who is adversely affected thereby. An appeal is commenced by serving on the board administrator, either in person or by certified mail, a notice of appeal within ten days after service of the proposed decision or order on the appealing party. The appealing party shall be the appellant and all other parties to the appeal shall be the appellee.

b. Within ten days after service of the notice of appeal, the appellant shall serve eight copies of the exceptions, if any, together with the brief and argument to the board. The appellant shall also furnish copies to each appellee by first-class mail. Any appellee to the appeal shall have 14 days following service of exceptions and brief on the board to file a responsive brief and argument.

Except for the notice of appeal, the above time requirements will be extended by stipulation of the parties and may be extended upon application approved by a member of the board or board administrator.

c. Oral argument of the appeal is discretionary but may be required by the board upon its own motion. At the times designated for filing briefs and arguments either party may request oral argument. If a request for oral argument is granted or such is required by the board upon its own motion, the board administrator shall notify all parties of the date, time and place. The board chairperson or a designated board member shall preside at the oral argument and determine the procedural order of the proceedings.

d. The record on appeal shall be the entire record made before the hearing panel or administrative law judge.

40.47(29) *Motion for rehearing.* Within 20 days after issuance of a final decision, any party may file an application for a rehearing. The application shall state the specific grounds for rehearing and the relief sought and copies thereof shall be timely mailed to all other parties. The application shall be deemed denied if not granted within 20 days after service on the board administrator.

a. Upon a rehearing, the board may consider facts not presented in the original proceeding if:

(1) Such facts arose subsequent to the original proceedings; or

(2) The party offering such evidence could not reasonably have provided such evidence at the original proceedings; or

(3) The party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding.

b. The decision made upon a rehearing may incorporate by reference any and all parts of the decision made upon the conclusion of the original proceeding.

40.47(30) *Filing of decision.* The final decision of the board, presiding officer or administrative law judge shall be filed with the department of health.

40.47(31) *Judicial review and appeal.* Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act.

40.47(32) *Board's decision.* The board's decision shall remain in force and effect until the appeal is finally determined and disposed of upon its merit.

40.47(33) *Rules of general applicability.* Ex parte communications, separation of functions, judicial review and appeals shall be in accordance with the terms of the Iowa administrative procedure Act.

40.47(34) *Publication of decisions.* Final decisions of the board relating to disciplinary procedures shall be transmitted to the appropriate professional association(s), Federation of State Chiropractic Boards, and a newspaper(s) of general circulation to be selected by the board.

40.47(35) Reinstatement. Any person whose license to practice chiropractic has been revoked, or suspended by the board, may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension.

a. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, an initial application for reinstatement may not be made until one year has elapsed from the date of the board's final decision or from the date of informal settlement.

b. All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the respondent's license. Such application shall be docketed in the original case in which the license was revoked or suspended. All proceedings upon the petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

d. An order of reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law, and must be based upon the affirmative vote of at least four or more members of the board. This order will be published as provided for in subrule 40.41(34).

40.47(36) License denial. Any request to have a hearing before the board concerning the denial of a license shall be submitted by the applicant in writing to the board at the address in subrule 40.47(4) by certified mail, return receipt requested, within 30 days of a mailing of a notice of denial of license.

645—40.48 to 40.50 Reserved.

PRINCIPLES OF PROFESSIONAL ETHICS

645—40.51(147,272C) Principles of chiropractic ethics. The following principles of chiropractic ethics are hereby adopted by the board relative to the practice of chiropractic in this state.

40.51(1) These principles are intended to aid chiropractic physicians individually and collectively in maintaining a high level of ethical conduct. These are standards by which a chiropractic physician may determine the propriety of the chiropractic physician's conduct in the chiropractic physician's relationship with patients, with colleagues, with members of allied professions, and with the public.

40.51(2) The principal objective of the chiropractic profession is to render service to humanity with full respect for the dignity of man. Chiropractic physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

40.51(3) Chiropractic physicians should strive continually to improve chiropractic knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

40.51(4) A chiropractic physician should practice a method of healing founded on a scientific basis, and should not voluntarily associate professionally with anyone who violates this principle.

40.51(5) The chiropractic profession should safeguard the public and itself against chiropractic physicians deficient in moral character or professional competence. Chiropractic physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

40.51(6) A chiropractic physician may choose whom to serve. In an emergency, however, services should be rendered to the best of the chiropractic physician's ability. Having undertaken the case of a patient, the chiropractic physician may not neglect the patient; and, unless the patient has been discharged, the chiropractic physician may discontinue services only after giving adequate notice.

40.51(7) A chiropractic physician should not dispose of services under terms or conditions which tend to interfere with or impair the free and complete exercise of professional judgment and skill or tend to cause a deterioration of the quality of chiropractic care.

40.51(8) A chiropractic physician should seek consultation upon request; in doubtful or difficult cases; or whenever it appears that the quality of chiropractic service may be enhanced thereby.

40.51(9) A chiropractic physician may not reveal the confidences entrusted in the course of chiropractic attendance, or the deficiencies observed in the character of patients, unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

40.51(10) The honored ideals of the chiropractic profession imply that the responsibilities of the chiropractic physician extend not only to the individual, but also to society where these responsibilities deserve interest and participation in activities which have the purpose of improving both the health and well-being of the individual and the community.

PROCEDURES FOR USE OF CAMERAS AND
RECORDING DEVICES AT OPEN MEETINGS

645—40.52(151,272C) Conduct of persons attending meetings.

40.52(1) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

40.52(2) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board person presiding at the meeting.

645—40.53 to 40.60 Reserved.

CONTINUING EDUCATION

645—40.61(272C) Definitions. Rescinded IAB 2/12/97, effective 3/19/97.

645—40.62(272C) Continuing education requirements.

40.62(1) Each person licensed to practice chiropractic in this state shall complete during the biennium ending in an odd-numbered year a minimum of 60 hours of continuing education.

40.62(2) The continuing education compliance period shall extend from January 1 of every even-numbered year to December 31 of every odd-numbered year, during which period attendance at approved continuing education may be used as evidence of fulfilling continuing education requirements for the subsequent biennial renewal period beginning July 1 of the even-numbered years.

40.62(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity which meets the requirement herein and is approved by the board pursuant to rule 40.64(151).

40.62(4) Carryover credit of continuing education shall not be permitted.

40.62(5) It is the responsibility of each licensee to finance their costs of continuing education.

40.62(6) If a new license holder is licensed during the first year of the biennial continuing education period, the license holder is only required to complete 30 hours of continuing education for renewal. If a new license holder is licensed during the second year of the biennial continuing education period, the license holder will be exempt from meeting the continuing education requirements for the first license renewal. The new license holder will be required to obtain 60 hours of continuing education for the second license renewal. Effective January 1, 1998, at least 40 percent of the accrued hours must be prescribed credit hours. The remaining hours may be accrued as follows:

1. Not more than 10 percent of the hours from elective, self-study activities.

2. Not more than 10 percent of the hours from prescribed child abuse, dependent adult abuse, or OSHA training hours.
3. Not more than 14 percent of the hours from elective state, district, or organizational meetings.
4. Not more than 20 percent of the hours from elective chiropractic practice management.
5. Not more than 60 percent of the hours from undergraduate teaching at a CCE- or IBCE-approved institution. (Prescribed)
6. Not more than 60 percent of the hours from postgraduate teaching through a CCE- or IBCE-approved institution or organization, but no more than equal to the hours accrued for the initial session per subject matter. (Prescribed)

645—40.63(151) Standards for approval. A continuing education activity shall be qualified for approval if the board determines that:

40.63(1) It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

40.63(2) It pertains to common subjects or other subject matters which integrally relate to the current national and international standards of the practice of chiropractic; and

40.63(3) It is conducted by individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or written outline which substantively pertains to the subject matter of the program. Except as may be allowed pursuant to rule 40.71(151) hereof, no licensee shall receive credit exceeding 10 percent of the biennial total required hours for self-study, including TV viewing, video or sound-recorded programs, correspondence work, or research, or by other similar means as authorized by the board.

645—40.64(151) Approval of sponsors, programs, and activities.

40.64(1) Accreditation of sponsors. An approved college or nonprofit organization which desires accreditation as a sponsor of courses, programs, or other continuing education activities, shall apply for accreditation to the board stating its educational history for the preceding two years, including:

- a. Dates and subjects offered.
- b. Total hours of instruction presented.
- c. Names and qualifications of instructors.
- d. Monitoring and certification procedures.

Standard for programs and activities shall meet the requirements set forth in rule 40.63(151).

By January 31 of each year, commencing January 31, 1980, all accredited sponsors shall submit a report in writing to the board disclosing the educational programs provided for Iowa licensees during the preceding calendar year including dates, titles and hours of instruction provided each licensee in a form approved by the board.

The board may at any time reevaluate an accredited sponsor. If after such reevaluation, the board finds there is basis for consideration of revocation of the accreditation of an accredited sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least 30 days prior to said hearing. The decision of the board after such hearing shall be final.

40.64(2) Accreditation for sponsors shall be terminated four years from the date of approval. By January 31, one year previous to the date of termination, each sponsor shall be required to reapply for approval. The application shall include those items listed under rule 40.64(1).

40.64(3) Rescinded, effective August 12, 1981.

40.64(4) Review of programs. The board may monitor or review any continuing education program already approved by the board and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted in the program.

40.64(5) When it is necessary to monitor a sponsor of continuing education, the sponsor shall reimburse the board member for necessary traveling and other expenses in accordance with the guidelines of the state of Iowa for board members and per diem at the rate of \$40 per day for each day actually spent in travel and monitoring of the program.

This rule is intended to implement Iowa Code section 272C.2.

645—40.65(272C) Hearings. In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right within 20 days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 40.47(147,151,17A,272C). If the hearing is conducted by an administrative law judge, the administrative law judge shall submit a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the administrative law judge. The decision of the board or decision of the administrative law judge after adoption by the board shall be final.

645—40.66(272C) Reports and records. Each licensee shall file evidence of continuing chiropractic education satisfactory to the board previous to the date of relicensure in which claimed continuing education hours were completed. A report of continuing chiropractic education on a form furnished by the board shall be sent to the Board Administrator, Iowa Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075, or to any other address as may be designated on the form.

40.66(1) The board relies upon each individual licensee's integrity in certifying to compliance with the continuing chiropractic education requirements herein provided. Nevertheless, the board reserves the right to require, if it so elects, any licensee to submit, in addition to such report, further evidence satisfactory to the board demonstrating compliance with the continuing chiropractic education requirements herein provided. Accordingly, it is the responsibility of each licensee to retain or otherwise be able to have, or cause to be made, available at all times, reasonably satisfactory evidence of such compliance.

40.66(2) The licensee shall maintain a file in which records of the activities are kept, including dates, subjects, duration of programs, registration receipts where appropriate and other appropriate documentations for a period of three years after the date of the program.

645—40.67(272C) Attendance record. The board shall monitor licensee attendance at approved programs by random inquiries of accredited sponsors.

645—40.68(272C) Attendance report. Rescinded IAB 2/12/97, effective 3/19/97.

645—40.69(272C) Exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of chiropractic in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

645—40.70(272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of chiropractic in the state of Iowa, satisfy the following requirements for reinstatement:

40.70(1) Submit written application for reinstatement to the board upon forms provided by the board; and

40.70(2) Furnish in the application evidence of one of the following:

a. The practice of chiropractic in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Completion of a total number of accredited continuing education hours substantially equivalent under these rules computed by multiplying 30 by the number of years a certificate of exemption shall have been in effect for the applicant. Hours need not exceed 90 hours for reinstatement, if obtained within the past two years, except when there is a demonstrated deficiency for specialized education as determined by the board through a personal interview with the applicant; or

c. Successful completion of the Iowa state license examination conducted within one year immediately prior to the submission of such application for reinstatement.

645—40.71(272C) Exemptions for active practitioners. A chiropractic physician licensed to practice chiropractic shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services, or for periods that the licensee is a resident of another state or district having a continuing education requirement for the profession and meets all requirements of that state or district for practice therein, or for periods that the licensee is a government employee working as a licensed chiropractic physician and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the board. Prior to engaging in active practice in Iowa, the licensee shall submit for board approval evidence of continuing education obtained in another state or district.

645—40.72(272C) Physical disability, illness or exemption of continuing education. The board may, in individual cases involving physical disability, illness or for other just cause determined by the board, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and a physician licensed in the state of Iowa. Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability, or illness or other just cause determined by the board upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—40.73(272C) Reinstatement of lapsed license. Application for reinstatement of a lapsed license may not preclude disciplinary actions by the board as provided in this chapter.

40.73(1) A licensee who allows a license to lapse by failing to renew such license within 60 days of renewal date may be reinstated as follows:

a. Submit a completed application for reinstatement of a license to practice chiropractic.

- b. Pay the renewal fee(s) as required by subrules 40.12(2) and 40.12(3).
- c. Have a personal interview with the board at the board's request.
- d. Provide evidence of completion of 30 hours of continuing education for each lapsed year.

Hours need not exceed 90 hours if obtained within the past two years, except when there is a demonstrated deficiency for specialized education as determined by the board through a personal interview.

(1) The board may grant an extension of time of up to one year to allow compliance with continuing education requirements for reinstatement.

(2) An exemption from the required reporting of continuing education for the purpose of reinstatement of an active practitioner may be granted by the board in accordance with rule 40.72(272C).

40.73(2) The board may require a licensee applying for reinstatement to successfully complete the state examination when, through a personal interview, the board finds reason to doubt the licensee's ability to practice with reasonable skill and safety.

These rules are intended to implement Iowa Code sections 147.32, 147.76 and 272C.2.

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