

BOARD OF CHIROPRACTIC EXAMINERS
29 HAZEN DRIVE
CONCORD, NEW HAMPSHIRE 03301-6504
271-4560

REVISION NOTE:

Document #4671, eff 9-7-89, made extensive changes to the wording, format, and structure of Chapters Ch 100 through Ch 600 of the Board of Chiropractic Examiners, particularly Section Ch 101.02, Chapter 200 and Parts Ch 303, 305, 402, and 403.

Document #4671 supersedes all prior filings for the rules of the Board. The prior filings include:

#1488, eff 11-20-79; ss by #2052, eff 6-9-82; amd by #2518, eff 10-26-83; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89

CHAPTER Ch 100 ORGANIZATIONAL RULES

PART Ch 101 PURPOSE

Ch 101.01 Purpose. These rules implement the statutory responsibilities of the New Hampshire board of chiropractic examiners created by RSA 316-A:2 which include, but are not limited to:

- (a) Examination and licensure of chiropractors;
- (b) Oversight and discipline of licensees; and
- (c) The development of ethical and other professional standards to be followed by licensees.

Source. #1488, eff 11-20-79; ss by #2052, eff 6-9-82; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #7516, eff 6-27-01

PART Ch 102 DEFINITIONS

Ch 102.01 Definitions. The following terms shall have the meanings indicated:

- (a) "Active movement" means unassisted movement.
- (b) "Adjustment" means any of a wide variety of specific manual or mechanical interventions by a doctor of chiropractic directed at joints or anatomic regions that:
 - (1) Potentially involve the opening of a joint within its parapsychologic zone and usually produce an associated audible "click" or "pop"; and
 - (2) Are made for the purpose of reducing or correcting the subluxations or structural dysfunctions of joints and muscles that are associated with neurological alterations.
- (c) "Administrative assistant" means the board's staff director having delegated authority from the board to perform administrative and clerical functions for the board.

(d) "Board" means the board of chiropractic examiners created by RSA 316-A:2.

(e) "Dynamic thrust" means a force introduced by a doctor of chiropractic that causes a physiological change.

(f) "Financial interest" means an interest of a board member or employee in any matter which potentially or actually affects the financial condition of such member or employee, the spouse, child or parent of such member or employee, or a business partner or business associate of such member or employee.

(g) "Histopathology" means the pathology of the cells.

(h) "Kinesiotherapy" means the pathology of movement and biomechanics.

(i) "Manipulation" means any intervention by a doctor of chiropractic directed at joints or anatomic regions for the purpose of normalizing the joint range of motion that:

(1) Utilizes active, passive and resistive movement of the body with or without the use of dynamic thrust; and

(2) Potentially includes the opening of a joint within its parapsychologic zone, which usually produces an audible "click" or "pop".

(j) "Myopathy" means the pathology of muscles and connective tissues.

(k) "Neurophysiology" means the pathology and physiology of nerves and their conductive function.

(l) "Parapsychologic zone" means the space within which a joint can move without injury.

(m) "Passive movement" means assisted movement.

(n) "Personal interest" means an interest of a board member or employee in a licensing, disciplinary or other matter directly affecting such member or employee, or directly affecting the spouse, sibling, child, grandchild, parent or grandparent of such member or employee.

(o) "Professional interest" means an interest of a board member or employee in any licensing, disciplinary or other matter affecting a business partner or business associate of such member or employee.

(p) "Resistive movement" means movement against resistance.

(q) "Subluxation" means any alteration, whether or not detected by x-rays, of the biomechanical or physiological dynamics of contiguous spinal and paraspinal structures and joints of the body which:

(1) By affecting the nervous system, results in dysfunction of the tissues innervated, which:

a. Could:

1. Vary in degree from slight to severe;

2. Appear at the site of the subluxation or anywhere along the course of the involved nerves; and

3. Include both structural and functional components; and
- b. Cause:
1. Variations in kinesiopathology, neuropathophysiology, myopathology or histopathology;
 2. Biomechanical or bioelectrical abnormalities; or
 3. Any combination of the results mentioned in this subparagraph; and
- (2) Can be detected, reduced or corrected by a doctor of chiropractic regardless of the presence or absence of symptoms or disease.

Source. #1488, eff 11-20-79; ss by #2052, eff 6-9-82; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #7516, eff 6-27-01

PART Ch 103 AGENCY ORGANIZATION

Ch 103.01 Composition of the Board. The board consists of 5 members who meet the eligibility requirements of RSA 316-A:2.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #7516, eff 6-27-01

Ch 103.02 Officers. The board has a chairperson and a secretary-treasurer elected by the board at an election held, at a minimum, once every 2 years.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #7516, eff 6-27-01; ss by #8971, eff 9-11-07

Ch 103.03 Staff. There is an administrative assistant designated by the board and there are such other staff members as are necessary to perform the record-keeping and other statutory functions of the board and to oversee the board's day-to-day operations.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #7516, eff 6-27-01

Ch 103.04 Committees. Committees shall consist of one or more board members who are directed by the chairperson to investigate and make recommendations to the board on any matter which is within the authority of the board.

Source. #7516, eff 6-27-01

Ch 103.05 Meetings. The board shall meet quarterly, and at such additional times as may be called for by the chairperson or by vote of the board.

Source. #7516, eff 6-27-01

Ch 103.06 Minutes.

(a) Minutes shall be kept of board meetings and of official actions taken by the board.

(b) Such minutes shall record those members who participate in each vote, and shall separately record the position of members who choose to dissent, abstain or concur.

Source. #7516, eff 6-27-01

Ch 103.07 Public Attendance at Meetings. Pursuant to RSA 91-A members of the public shall have the right to attend and record all board meetings which are public sessions and not authorized by RSA 91-A:3, II to be closed to the public.

Source. #7516, eff 6-27-01

PART Ch 104 PUBLIC INFORMATION

Ch 104.01 Office Location, Telephone Number, Number for TTY/TDD Users and Mailing Address.

(a) The board's office is located in the Health and Welfare Building at 29 Hazen Drive in Concord, New Hampshire.

(b) The office telephone number is (603) 271-4560.

(c) In-state TTY/TDD users may reach the office by calling Relay New Hampshire at 711 or 1 (800) 735-2964.

(d) Requests for information may be made by telephone, by mail or by TTY/TDD.

(e) Written requests for information, written submissions to the board, and other correspondence shall be addressed as follows:

Administrative Assistant
New Hampshire Board of Chiropractic Examiners
29 Hazen Drive
Concord, New Hampshire 03301-6504.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #7516, eff 6-27-01

Ch 104.02 Inspection and Copies of Public Records.

(a) Pursuant to RSA 91-A:4 members of the public shall have the right to inspect and copy the public records of the board, including all meeting minutes not confidential pursuant to RSA 91-A:3, III.

(b) Members of the public may inspect such public records at the office of the board.

(c) Persons desiring copies of such public records shall:

(1) Submit a request in writing which identifies as particularly as possible the information being sought; and

(2) Pay the actual cost of the copies.

(d) If records are requested which contain both public information and information exempt from disclosure pursuant to RSA 91-A or any other law, the board shall delete the information which is exempt from disclosure and provide the remaining information.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #7516, eff 6-27-01

CHAPTER Ch 200 PRACTICE AND PROCEDURES

PART Ch 201 DEFINITIONS

Ch 201.01 Definitions. Except where the context makes another meaning manifest, the following words have the meanings indicated:

(a) "Adjudicative proceeding" means "adjudicative proceeding" as defined in RSA 541-A, I, namely, "the procedure to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36."

(b) "Appearance" means a written notification to the board that a party, an intervenor or the representative of a party or intervenor intends to actively participate in a hearing.

(c) "Complaint" means a complaint against a licensee pursuant to RSA 316-A:22, I(b).

(d) "Contested case" means "contested case" as defined in RSA 541-A:1, IV, namely, "a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after notice and an opportunity for hearing."

(e) "Declaratory ruling" means "declaratory ruling" as defined in RSA 541-A:1, V, namely, "an agency ruling as to the specific applicability of any statutory provision or of any rule or order of the agency."

(f) "Hearing" means "adjudicative proceeding" as defined by RSA 541-A:1, I.

(g) "Intervenor" means a person without the status of a party but participating in a hearing to the extent permitted by the presiding officer acting pursuant to RSA 541-A:32.

(h) "Motion" means a request to the presiding officer for an order or ruling directing some act to be done in favor of the proponent of the motion, including a statement of justification or reasons for the request.

(i) "Order" means "order" as defined in RSA 541-A:1, XI, namely, "the whole or part of an agency's final disposition of a matter, other than a rule, but does not include an agency's decision to initiate, postpone, investigate or process any matter, or to issue a complaint or citation."

(j) "Party" means "party" as defined by RSA 541-A:1, XII, namely, "each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party."

(k) "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than the board.

(l) "Petition" means any request to the board, including complaints about licensee misconduct, seeking an order or any other action or relief, other than an application for the issuance or renewal of a license or a motion.

(m) "Presiding officer" means presiding officer as defined in RSA 541-A:1, XIV, namely, "that individual to whom the board has delegated the authority to preside over a proceeding, if any; otherwise it shall mean the chairperson of the board."

(n) "Proof by a preponderance of the evidence" means a demonstration by admissible evidence that a fact is more probable than not to be true.

- (o) "Public comment hearing" means a hearing held pursuant to RSA 541-A:11.
- (p) "Record" means, in a contested case, the materials set forth in RSA 541-A:31, VI.
- (q) "Rulemaking petition" means a petition made pursuant to RSA 541-A:4, I.

Source. #1488, eff 11-20-79; ss by #2052, eff 6-9-8; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

PART Ch 202 CONSTRUCTION OF RULES; RIGHT TO A HEARING; WAIVER OF RULES

Ch 202.01 Principles of Construction.

- (a) The board shall resolve all disputes about matters within its statutory jurisdiction.
- (b) Ch 203 through Ch 211 shall be construed to achieve:
 - (1) The acquisition of sufficient information to make fair and reasoned decisions, including decisions on contested denials of licensure and about complaints filed against licensees; and
 - (2) The just, efficient and accurate resolution of all board investigations and proceedings.

Source. #1488, eff 11-20-79; ss by #2052, eff 6-9-82; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 202.02 Right to a Hearing. Any person having a dispute with the board shall be entitled to a hearing of the dispute if:

- (a) The legal rights, duties or privileges of that person will be determined in the course of deciding the outcome of the dispute; and
- (b) Constitutional, statutory or case law requires the board to hold a hearing before determination of those rights, duties or privileges.

Source. #8159, eff 9-8-04

Ch 202.03 Waiver of Rules. The presiding officer, upon the motion of any party or intervenor, or on his or her own initiative, shall waive any requirement or limitation imposed by Ch 203 through Ch 211 when the waiver:

- (a) Appears to be lawful; and
- (b) Is more likely to promote the just and efficient resolution of the pending dispute than would adherence to a particular rule or limitation.

Source. #8159, eff 9-8-04

PART Ch 203 APPEARANCES AND REPRESENTATION

Ch 203.01 Filing Appearances. A party or intervenor or the representative of the party or intervenor shall file an appearance that includes the following information:

- (a) The docket number assigned by the board or a brief identification of the case;
- (b) A statement identifying the person filing the appearance as a party, an intervenor or a representative of a party or intervenor;
- (c) Whether any representative is an attorney; and
- (d) The daytime address and telephone number of the party, intervenor or representative.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 203.02 Representation.

(a) Corporations, partnerships and other legal entities which are not natural persons shall be represented only by an attorney or an officer, director, or managing partner with express and unqualified written authority to act on behalf of the entity concerning the matter in question.

(b) Any party or intervenor shall be permitted to be represented by counsel, but the board shall not appoint or pay for counsel.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

PART Ch 204 TIME PERIODS

Ch 204.01 Computation of Time. Any time period specified in this chapter shall begin with the day following the act, event, or default, and shall include the last day of the period, unless it is Saturday, Sunday, or a state legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or a state legal holiday. When the period prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and state legal holidays shall be excluded from the computation.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 204.02 Changes in Allowed Times.

(a) Except where a time period is fixed by statute, the board shall use the standard in (b) below to:

- (1) Extend or shorten the time provided for the filing of any document; or
 - (2) Advance or postpone the time set for any oral hearing, pre-hearing conference or other part of an adjudicative proceeding.
- (b) A motion for a change of time shall be granted upon the board's finding of:

- (1) Due diligence by the moving party; and
- (2) Probable injury to the moving party if the motion is not granted outweighing any detriment likely to be suffered by any other party, intervenor or the public if the motion is granted.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 204.03 Limitations. A motion to for a change of time shall not be filed within 3 business days of the event sought to be advanced or postponed.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

PART Ch 205 FILING, FORMAT AND SERVICE OF DOCUMENTS

Ch 205.01 Filing of Documents with the Board.

(a) A document shall be considered filed when it has been received at the board's office and conforms to the requirements of this chapter.

(b) Correspondence to the board shall be addressed to the board in care of its administrative assistant at the address in Ch 104.01(e).

(c) With the exception of routine correspondence, license applications and renewals and complaints against licensees, documents shall be filed with an original and 6 copies.

(d) Documents shall be rebuttably presumed to have been issued by the board or the presiding officer on the date noted on the document.

(e) Documents shall be rebuttably presumed to have been filed with the board on the date of receipt, as evidenced by a date stamp placed on the document by the board or its staff in the normal course of business.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 205.02 Format of Documents.

- (a) All correspondence, petitions, motions, replies and other documents to be filed shall:
- (1) If related to an adjudicative proceeding, include the title and, if known, the docket number of the proceeding;
 - (2) Be typewritten or clearly printed on durable paper 8 1/2 by 11 inches in size;
 - (3) Be signed by the proponent of the document, or, if the proponent appears by a representative, by the representative; and

(4) If related to an adjudicative proceeding, include a statement certifying that a copy of the document has been delivered to all parties and intervenors.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 205.03 Signing and Veracity of Documents.

(a) All complaints, petitions, motions and replies shall be signed by the proponent of the document or, if proponent appears by a representative, by the representative.

(b) The signature on a document filed with the board shall constitute a certification that:

(1) The signer has read the document;

(2) The signer is authorized to file it;

(3) To the best of the signer's knowledge, information and belief, there are good grounds to support it; and

(4) The document is not filed for purposes of delay or harassment.

(c) A breach of the certification described in (b) above by an individual who is not a licensee or the representative of a licensee shall, to the extent consistent with justice and applicable law, be a basis for entering an order adverse to the individual committing the breach.

(d) A breach of the certification described in (b) above by an individual who is a licensee or the representative of a licensee shall constitute licensee misconduct pursuant to RSA 316-A:22, II(c) subjecting the licensee to disciplinary action.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 205.04 Service of Documents.

(a) Complaints against licensees shall be in writing and filed with the board without service upon the licensees.

(b) Petitions for rulemaking and petitions for declaratory rulings shall be filed with the board without service upon other persons.

(c) Copies of all petitions, motions, exhibits, memoranda and other documents filed by any party or intervenor in the course of an adjudicative proceeding shall be served by mail by that party or intervenor on all other parties and intervenors.

(d) All notices, orders, decisions or other documents issued by the presiding officer or the board shall be served on all parties and intervenors in hand or by certified mail.

(e) Mail service of a document relating to a proceeding shall be made by depositing into the United States mail a copy of the document in an envelope bearing:

(1) The name of the person intended to receive the document;

(2) The full address, including zip code, last provided to the board by such person;

(3) Prepaid first class postage; and

(4) In the case of a document issued by the presiding officer or the board, the prepaid return receipt for certified mail.

(f) When a party or intervenor has appeared by a representative, service shall be upon the representative unless otherwise ordered by the board, provided, however, that timely service which is actually received by a party or intervenor shall be sufficient regardless of whether the representative was also served.

(g) Except for documents distributed at a pre-hearing conference or hearing, every document required to be served upon parties and intervenors in an adjudicative proceeding shall be accompanied by a certificate of service signed by the person making service, stating the method and date of service and the persons served.

Source. #8159, eff 9-8-04

PART Ch 206 PLEADINGS, PETITIONS AND MOTIONS

Ch 206.01 Petitions and Replies to Petitions.

(a) The only pleadings permitted shall be petitions and replies to petitions. There shall be no response by a petitioner to a reply by a respondent.

(b) Petitions shall contain:

(1) The name and address of the petitioner;

(2) The name and address of the petitioner's representative, if any;

(3) A concise statement of the facts which caused the petitioner to request the board to act;

(4) If the petition is a complaint of licensee misconduct as set forth in RSA 316-A:22, II, the specific facts and circumstances believed to constitute misconduct;

(5) The identification of any statutes, rules, orders or other legal authority which entitles the petitioner to have the board act as requested;

(6) The action which the petitioner requests the board to take; and

(7) The name and address of the person, if any, against whom the petitioner complains, or against whom the petitioner wishes the board to take action.

(c) Replies to petitions shall contain:

(1) The name and address of the respondent;

(2) The name and address of the representative of the respondent, if any;

(3) A statement admitting or denying each fact alleged in the petition pursuant to (c)(3) or (c)(4) above;

(4) A statement admitting or denying the authority identified by the petitioner pursuant to (c)(5) above;

(5) A concise statement of every additional fact which causes the respondent to request the board not to act, or to act differently from the way requested by the petitioner;

(6) The identification of any statutes, rules, orders or other legal authority not identified in the petition which has a bearing upon the subject matter of the petition; and

(7) The action which the respondent requests the board to take.

(d) Replies to petitions shall be filed with the board within 30 days from the date of the petition.

(3) Any fact stated in the petition which is not denied in the reply shall be deemed admitted or agreed to by the respondent.

(f) A statement that the respondent lacks sufficient knowledge to admit or deny a fact stated in the petition shall be treated as a denial of that fact.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 206.02 Motions and Objections To Motions.

(a) Unless presented during an oral session of an adjudicative proceeding, motions and objections to motions shall be in writing.

(b) Motions shall state clearly and concisely:

(1) The purpose of the motion;

(2) The relief sought by the motion;

(3) The statutes, rules, orders or other authority authorizing the relief sought by the motion; and

(4) The facts claimed to constitute grounds for the relief requested by the motion.

(c) Except for objections to motions for rehearing, objections to written motions shall be filed within 15 days after the filing of the motion. If no objection is filed within that period, the board shall assume that there is agreement by all parties and intervenors.

(d) Objections to motions shall state clearly and concisely:

(1) The action which the party filing the reply wishes the board to take on the motion;

(2) The statutes, rules, orders or other authority relief upon in defense of the motion;

(3) Any facts which are additional to or different from the facts stated in the motion; and

(4) A response to the facts stated in the motion.

(e) A motion shall be decided without a hearing unless the board determines that the efficiency of the adjudicative proceeding or justice requires one.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

PART Ch 207 PRESIDING OFFICER

Ch 207.01 Presiding Officer.

- (a) Adjudicative proceedings shall be conducted by a presiding officer.
- (b) The board chairman shall serve as presiding officer or shall designate another qualified person so to serve.
- (c) The board shall remove the presiding officer at any time without notice or hearing when the presiding officer:
 - (1) Is ill or unavoidably absent; or
 - (2) Refuses to withdraw in accordance with Ch 207.02.
- (d) The presiding officer shall possess all authority with respect to the procedural aspects of adjudicative proceedings possessed by the board itself.
- (e) The presiding officer shall as necessary:
 - (1) Regulate and control the course of the hearing, including the questioning of witnesses by board members;
 - (2) Facilitate settlement of the dispute that is the subject of the hearing;
 - (3) Administer oaths and affirmations;
 - (4) Request that the board issue subpoenas to compel the attendance of witnesses or the production of documents;
 - (5) Receive relevant evidence and exclude irrelevant, immaterial or unduly repetitious evidence;
 - (6) Rule on procedural requests at the request of a party or intervenor or on the presiding officer's own motion;
 - (7) Question anyone who testifies to the extent required to make a full and fair record;
 - (8) Cause a complete recording of the hearing to be made, as specified in RSA 541-A:31, VII; and
 - (9) Take any other action consistent with applicable statutes, rules and case law necessary to conduct the hearing and complete the record in a fair and timely manner.
- (f) The presiding officer may receive offers of settlement and proposed consent decrees and present them to the board for consideration. When a written settlement offer or proposed

consent decree has been signed by the licensee, the presiding officer shall refer it to the board for consideration.

Source. #5624, eff 5-18-93; amd by #6288, eff 7-19-96; paragraphs (a) & (c) EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 207.02 Withdrawal of Presiding Officer.

(a) Upon his or her own initiative or upon the motion of any party or intervenor, the presiding officer shall withdraw from any hearing for good cause.

(b) Good cause shall exist if the presiding officer:

(1) Has a direct interest in the outcome of the hearing, including but not limited to, a financial or family relationship with any party or intervenor;

(2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of the case; or

(3) Personally believes that he or she cannot fairly judge the facts of the case.

(c) Mere knowledge of the issues or acquaintance with any party, intervenor or witness shall not constitute good cause for withdrawal.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

PART Ch 208 ADJUDICATIVE PROCEEDINGS

Ch 208.01 Notice Commencing an Adjudicative Proceeding.

(a) The board shall commence an adjudicative proceeding not related to the board's emergency suspension of a license pursuant to Ch 208.02 by issuing to all parties and any complainant against the licensee a notice meeting the requirements of (d) below.

(b) In the case of an adjudicative proceeding not related to the board's emergency suspension of a license the notice required by (a) above shall be issued at least 30 days before the first scheduled pre-hearing conference or hearing day.

(c) In the case of an adjudicative proceeding related to the board's emergency suspension of a license pursuant to Ch 208.02, the notice required by (a) above shall be:

(1) Accompanied by a copy of the board's suspension order issued pursuant to Ch 208.02(a); and

(2) Issued immediately upon ordering the license suspension.

(d) The notice commencing an adjudicative proceeding shall:

(1) Identify the parties to the proceeding;

(2) Summarize the subject matter of the proceeding and identify the issues to be resolved;

- (3) Specify the legal authority under which the hearing is to be held;
- (4) Refer to the particular sections of the statutes and rules involved;
- (5) State that each party has the right to have an attorney present to represent the party at the party's expense;
- (6) In the case of a hearing not related to the board's emergency suspension of a license, state that:
 - a. The licensee has the right to have the board provide a certified shorthand court reporter at the licensee's expense; and
 - b. The licensee's request for a certified shorthand court reporter shall be submitted in writing at least 10 days before the beginning of the hearing;
- (7) In the case of a hearing related to the board's emergency suspension of a license pursuant to Ch 208.02, state that the board shall provide a certified shorthand court reporter at the board's expense;
- (8) Specify the date by which, and the address where, appearances are to be filed;
- (9) Specify a deadline which is at least 3 days before the hearing for the submission of petitions to intervene;
- (10) Specify the date, time and location of the pre-hearing conference or, if there is to be no pre-hearing conference, of the hearing;
- (11) Identify the presiding officer; and
- (12) Identify the information to be kept confidential, if any, and the legal basis for keeping the information confidential.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 208.02 Procedure for Emergency Suspension of Licenses.

(a) Upon the unanimous vote of the board that public health, safety or welfare requires emergency action, the board shall immediately and without a hearing suspend a license by issuing a written order of suspension incorporating the finding.

(b) Pursuant to RSA 541-A:30, III, the board shall commence a hearing no later than 10 working days after the issuance of an order pursuant to (a).

(c) Unless the 10-day deadline in (b) is expressly waived by the licensee, the failure of the board to meet the deadline shall result in the automatic vacating of the order of license suspension.

(d) After the vacating of the order pursuant to (c) above, the board shall not again suspend the license on the basis of the same conduct which formed the basis for the vacated order without giving the licensee prior notice and the opportunity for a hearing.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 208.03 Deadline for Disciplinary Hearing Based on Complaint. Except in the case of a proceeding related to the board's emergency suspension of a license pursuant to Ch 208.02, a hearing based on a complaint of licensee misconduct shall be held within 3 months of the date of the notice commencing the proceeding unless otherwise agreed by the board, the complainant and the licensee.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 208.04 Docketing of the Case and Service of the Notice. The board shall:

- (a) Assign each adjudicative proceeding a separate docket number;
- (b) Provide a copy of the notice required by Ch 208.01 to the civil bureau of the department of justice;
- (c) Serve the notice required by Ch 208.01 on all parties and any complainant against a licensee in the manner required by Ch 205.04; and
- (d) Maintain in the board's office for public inspection those documents related to an adjudicative proceeding which are not made confidential by RSA 316-A:22, V or VI, or other provision of law.

Source. #8159, eff 9-8-04

Ch 208.05 Intervention Procedure.

- (a) Petitions for intervention shall:
 - (1) Describe in writing the petitioner's interest in the subject matter of the proceedings;
 - (2) Be submitted to the presiding officer; and
 - (3) Mailed in copy form to all parties identified in the notice commencing the hearing.
- (b) A petition for intervention shall be granted by the presiding officer if the petitioner complied with (a) above at least 3 days before the hearing and the presiding officer determines that:
 - (1) The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests might be affected by the proceedings or the petitioner qualifies as an intervenor under law; and
 - (2) The intervention sought would not impair the interests of justice and the orderly and prompt conduct of the proceedings.
- (c) The presiding officer shall grant a petition for intervention at any time if:
 - (1) The petitioner complied with (a) above; and

(2) The presiding officer determines that the intervention sought would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.

Source. #8159, eff 9-8-04

Ch 208.06 Effect of Intervention.

(a) Approval of intervention by the presiding officer shall apply only to the proceeding in which the petition for intervention was granted.

(b) Notwithstanding the provisions of this chapter, an intervenor's right to participate in an adjudicative proceeding shall be subject to any limitations or conditions imposed by the presiding officer pursuant to RSA 541-A:32, III.

(c) An intervenor shall take the proceedings as he or she finds them and no portion of the proceeding shall be repeated because of the fact of intervention.

Source. #8159, eff 9-8-04

Ch 208.07 Pre-Hearing Conferences.

(a) Pre-hearing conferences shall address one or more of the following:

- (1) Opportunities and procedures for settlement;
- (2) Opportunities and procedures for simplification of the issues;
- (3) Amendments to the pleadings;
- (4) Admissions of fact and of documents;
- (5) Limitations on the number of witnesses;
- (6) Procedures to govern the proceedings;
- (7) The distribution to the parties and intervenors of written testimony and exhibits;
- (8) Consolidation of the examination of witnesses; and
- (9) Any other matters contributing to the prompt and orderly conduct of the proceeding.

(b) Pre-hearing conferences, with the exception of settlement discussions, shall be recorded.

(c) The presiding officer shall issue an order summarizing the matters determined at the pre-hearing conference.

Source. #8159, eff 9-8-04

Ch 208.08 Mandatory Pre-Hearing Disclosure of Witnesses and Exhibits. At least 5 days before the hearing the parties and intervenors shall provide to the other parties and intervenors:

(a) A list of all witnesses to be called at the hearing together with a brief summary of their testimony;

- (b) A list of all documents and exhibits to be offered as evidence at the hearing;
- (c) A copy of each document intended to be offered as evidence at the hearing; and
- (d) An offer to inspect at times and places of convenience to the other parties and intervenors the non-documentary exhibits intended to be offered as evidence at the hearing.

Source. #8159, eff 9-8-04

Ch 208.09 Disclosure and Discovery.

- (a) Upon the written request of a party or intervenor, the board shall disclose to the parties and intervenors any information which is in the possession of the board and which is reasonably related to the subject matter of the proceedings.
- (b) Neither the board nor any officer or employee thereof shall be subject to discovery additional to that set forth in (a) above.
- (c) Any party wishing discovery against another party, shall seek it by a motion identifying exactly the discovery requested and the method of discovery.
- (d) The motion for discovery shall be granted when:
 - (1) The parties and intervenors cannot adequately address the factual issues in the proceedings without it;
 - (2) The method of discovery is reasonable and will not cause material unfairness or unreasonable expenses to any party or intervenor; and
 - (3) The discovery will not unreasonably delay the proceedings.

Source. #8159, eff 9-8-04

Ch 208.10 Subpoenas.

- (a) Subpoenas for the attendance of witnesses and the production of documents and things shall be issued upon the order of the board.
- (b) A party or intervenor requesting the board to issue a subpoena shall attach a copy of the proposed subpoena to his or her motion and pay the costs of service, if any.
- (c) A subpoena shall be served in any manner authorized by law. The date, time and method of service shall be written on the reverse of the original copy of the subpoena by the person making service before he or she files that copy with the board.
- (d) A person to whom a board subpoena is directed may file a motion to quash or modify the subpoena within the time period which is the longer of:
 - (1) Seven days after service of the subpoena; or
 - (2) Before the date specified in the subpoena for compliance.
- (e) If the board denies the motion to quash or to modify the subpoena, the person to whom the subpoena is directed shall comply with the subpoena or any modification thereof within the time period which is the longest of:

- (1) The balance of the time prescribed in the subpoena;
- (2) Three days from the date of the board's order; or
- (3) The time period specified in the board's order.

Source. #8159, eff 9-8-04

Ch 208.11 Ex Parte Communications. Once a notice commencing an adjudicative proceeding has been issued, no party or intervenor shall communicate, or cause another to communicate, with any member of the board, the presiding officer or any person advising the board in connection with the adjudicative proceeding, except in accordance with this chapter.

Source. #8159, eff 9-8-04

Ch 208.12 Evidence and Argument.

(a) Where there is no dispute as to the material facts, the proceedings shall be limited to the submission of memoranda wherein are argued the conclusions the parties and any intervenor wish the board to draw from the facts.

(b) Oral argument, other than a brief opening and closing statement, shall be permitted only when requested in a written motion granted by the presiding officer or the board on a finding that such argument is required for clarification of the issues.

(c) Proceedings shall not be conducted under the rules of evidence, but the evidentiary privileges recognized by the law of New Hampshire shall apply.

(d) Exhibits and testimony which will assist the board to arrive at the truth shall be admissible.

(e) The following data shall be inadmissible as evidence:

- (1) Irrelevant or immaterial data; and
- (2) Unduly repetitious or cumulative data.

(f) If the board officially notices a fact, it shall so state, and permit any party or intervenor, upon timely request, the opportunity to show the contrary.

(g) Witnesses appearing before the board shall testify under oath or affirmation.

(h) The testimony of witnesses, including intervenors, shall be offered in the order directed by the presiding officer.

(i) Unless called as witnesses, board staff shall have no role in any hearing.

(j) Board members present during adjudicative proceedings may make inquiry of witnesses, parties and intervenors.

(k) Post hearing legal memoranda shall be permitted subject to such filing deadlines as the presiding officer or the board require.

Source. #8159, eff 9-8-04

Ch 208.13 Burden and Standard of Proof.

(a) The party asserting the affirmative of a proposition shall have the burden of proving the truth of that proposition by a preponderance of the evidence.

(b) Without limiting the generality of (a) above, the proponents of motions and petitions shall have the burden of persuading the board that their motion or petition should be granted.

Source. #8159, eff 9-8-04

Ch 208.14 Recording the Hearing; Transcripts.

(a) Except in the circumstances described in (b) below, the presiding officer shall record the hearing by tape recording or any other method that will provide a verbatim record.

(b) A hearing on an emergency suspension of a license pursuant to RSA 541-A:30, III shall be recorded by a certified shorthand court reporter provided and paid for by the board.

(c) Any individual may request a transcript of a recording of a hearing by a written request which:

- (1) Is made no sooner than the last day of the hearing; and
- (2) Includes the promise to pay the cost of transcription.

(d) The board shall:

- (1) Provide the transcript if the request complies with (a) above; and
- (2) Provide it within 60 days of receipt of the request if the individual requesting it is the respondent in a disciplinary proceeding or the representative of the respondent.

(e) Upon the written request of any individual wishing an estimate of the cost of transcription the board shall:

- (1) Furnish the estimate; and
- (2) Furnish the transcript if the individual requests it in a letter promising to pay the estimated cost of transcription.

(f) A requested transcript shall be:

- (1) Available at the office of the board; or
- (2) Mailed upon the written agreement of the individual requesting the transcript that the date of mailing shall constitute compliance with the 60-day requirement of (d)(2) or (e)(2) above, as applicable.

(g) Pursuant to RSA 541-A:31, VII, the failure of the board timely to provide a transcript of a hearing when requested by the respondent in a disciplinary proceeding, or the representative of the respondent, shall result in dismissal with prejudice of the disciplinary proceeding.

Source. #8159, eff 9-8-04

Ch 209.01 Continuances.

(a) Any party or intervenor may make an oral or written motion that a hearing be delayed or continued to a later date or time.

(b) A motion for a delay or a continuance shall be granted if the presiding officer determines that there is good cause to do so.

(c) Good cause shall include:

(1) The unavailability of parties, intervenors, witnesses or attorneys necessary to conduct the hearing;

(2) The likelihood that a settlement will make the hearing or its continuation unnecessary; or

(3) Any other circumstances that demonstrate that a delay or continuance would assist in resolving the case fairly.

(d) If the later date, time and place are known when the hearing is being delayed or continued, the information shall be stated on the record. If the later date, time and place are not known at that time, the presiding officer shall as soon as practicable issue a written scheduling order stating the date, time and place of the delayed or continued hearing.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 209.02 Failure of a Party to Attend or Participate in the Hearing.

(a) A party shall be in default if the party:

(1) Has the overall burden of proof;

(2) Has been given notice in accordance with Ch 208.02; and

(3) Fails to attend the hearing.

(b) If a party is in default under (a) above, the case shall be dismissed.

(c) If a party who does not have the overall burden of proof fails to attend a hearing after having been given notice in accordance with Ch 208.02, the testimony and evidence of any other parties or intervenors shall be received and evaluated.

(d) If a party who has the overall burden of proof attends a hearing but fails to participate by presenting evidence or argument, a decision shall be entered against that party.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

PART Ch 210 PROPOSED FINDINGS AND RULINGS; DISPOSITION; CLOSING AND REOPENING THE RECORD

Ch 210.01 Proposed Findings of Fact and Rulings of Law.

(a) Each party other than the board shall submit proposed findings of fact and rulings of law at least 3 days before the beginning of the hearing.

(b) Upon request the board shall permit the submission, on a schedule ordered by the presiding officer, of supplemental or amended proposed findings of fact and rulings of law.

(c) In any case where proposed findings of fact and rulings of law are submitted, the decision shall include rulings on the proposals.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 210.02 Disposition.

(a) The board shall issue a decision or order, whether or not the record has been reopened pursuant to Ch 210.04, based on:

- (1) A hearing attended by a quorum of the board;
- (2) A written proposal for disposition meeting the requirements of paragraph (c) below; or
- (3) A hearing held pursuant to paragraph (d) (2).

(b) A board member shall not participate in the board's decision or order if he or she has not personally heard all of the testimony in the case, unless the decision or order does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.

(c) If a presiding officer has been delegated the authority to conduct the hearing in the absence of a quorum of the board, the presiding officer shall submit to the board a written proposal for disposition containing:

- (1) The disposition proposed by the presiding officer;
- (2) A statement of the reasons for the proposed disposition; and
- (3) Findings of fact and rulings of law necessary to the proposed disposition.

(d) If a proposed disposition submitted pursuant to paragraph (c) is adverse to a party or an intervenor, the board shall:

- (1) Serve a copy of it on each party and intervenor; and
- (2) Provide an opportunity to file objections and present briefs and oral arguments to the board.

(e) The board shall keep final decisions and orders in its records for at least 5 years following their dates of issuance, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 210.03 Closing the Record. After the conclusion of the hearing, the record shall be closed and no additional evidence shall be received into the record except as allowed by Ch 210.04.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 210.04 Reopening the Record.

(a) If no written proposal for disposition pursuant to Ch 210.02 (c) or decision or order pursuant to Ch 210.02 (a) has been issued, any party or intervenor may move to reopen the record for the inclusion in the record of specified evidence.

(b) A motion pursuant to (a) above shall be granted if:

- (1) There is no objection from any other party or intervenor;
- (2) The evidence sought to be included in the record was not available at the time of the hearing; and
- (3) The presiding officer determines that the evidence is relevant, material and non-duplicative and its inclusion in the record is necessary to a full and fair consideration of the issues to be decided.

(c) If there is an objection from a party or intervenor to a motion made pursuant to (a) above, the hearing shall be reopened for the purpose of receiving evidence, permitting cross-examination and permitting argument on the issue of reopening the record for the admission of the specified evidence.

(d) The presiding officer shall grant a motion to reopen the record if, after the reopened hearing described in (c) above, the hearing officer determines that the evidence:

- (1) Was not available at the time of the hearing;
- (2) Is relevant, material and non-duplicative; and
- (3) Is necessary to a full and fair consideration of the issues to be decided.

(e) If the presiding officer permits the reopening of the record for the admission of the specified evidence, the hearing officer shall extend the hearing reopened pursuant to (c) for the purpose of receiving evidence, permitting cross-examination and permitting argument on the substance of the evidence.

Source. #8159, eff 9-8-04

Ch 210.05 Rehearings. There shall be no rehearings.

Source. #8159, eff 9-8-04

PART Ch 211 INVESTIGATIONS

Ch 211.01 Investigations.

(a) The board shall initiate an investigation without receiving a written complaint and on its own initiative if:

(1) An investigation is required to enable it to determine with certainty the eligibility of an applicant for initial or renewed licensure; or

(2) It has or receives information giving it reasonable grounds to suspect that the following might be occurring or have occurred:

- a. A violation of RSA 316-A;
- b. A violation of the rules of the board; or
- c. Misconduct by a licensee.

(b) To the extent required to reach a conclusion about the matter under investigation, investigative procedures shall include, but not be limited to:

(1) Requests for additional information from complainants against licensees, including requests for a release of relevant medical records; and

(2) Face-to-face meetings with persons having relevant information.

(c) To conduct an investigation the board shall appoint:

- (1) A qualified attorney or other qualified individual;
- (2) A committee of qualified individuals;
- (3) A member of its staff; or
- (4) One or more members of the board.

(d) The board shall issue subpoenas for persons and documents pursuant to RSA 316-A:23-a.

(e) An investigation shall not commence a disciplinary hearing and shall not constitute an allegation of misconduct by a licensee.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8160, eff 9-8-04; ss by #10430, eff 10-5-13

PART Ch 212 RULEMAKING

Ch 212.01 Petitions for Rulemaking.

(a) Any person may seek the adoption, amendment or repeal of a rule by submitting to the board a petition pursuant to RSA 541-A:4.

(b) Each petition for rulemaking shall contain:

(1) The name and address of the individual petitioner or, if the request is that of an organization or other entity, the identity of such organization or entity and the name and address of the representative authorized by the entity to file the petition;

- (2) A statement of the purpose of the petition, whether the adoption, amendment or repeal of a rule;
- (3) If amendment or adoption of a rule is sought, the text proposed;
- (4) If amendment or repeal of a rule is sought, identification of the current rule sought to be amended or repealed;
- (5) Reference to the statutory provision that authorizes or supports the rulemaking petition; and
- (6) Information or argument useful to the board when deciding whether to begin the rulemaking process.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 212.02 Disposition of Petitions for Rulemaking.

(a) The board shall request additional information or argument from petitioner for rulemaking or from others if such additional information or argument is required to reach a decision.

(b) The board shall grant the petition for rulemaking if the adoption, amendment or repeal sought would not result in:

- (1) A rule that is not within the rulemaking authority of the board;
- (2) Duplication of a rule or of a statutory provision;
- (3) Inconsistency between the existing rules and the statutory mandate of the board;
- (4) Inconsistency of administrative rules one with another; or
- (5) Excessive burden upon the board in terms of cost or a reduction in efficiency or effectiveness.

(c) Within 30 days of receipt of a sufficient petition the board shall dispose of it in the following manner:

- (1) By notifying the petitioner that the petition is granted and beginning rulemaking proceedings as required by RSA 541-A:4; or
- (2) By notifying the petitioner in writing that the petition is denied and the reasons for its denial.

(d) The denial of a petition for rulemaking shall not entitle the petitioner to a hearing.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

PART Ch 213 DECLARATORY RULINGS

Ch 213.01 Petitions. Any person may request a declaratory ruling from the board on matters within its jurisdiction by filing an original and 6 copies of a petition setting forth the following information:

- (a) The exact ruling being requested;
 - (b) The statutory basis for the ruling, supported by a memorandum of law;
 - (c) The factual basis for the ruling, supported by affidavits;
 - (d) The reason why the issuance of a ruling on this subject would benefit the petitioner;
- and
- (e) The name and address of the petitioner.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

Ch 213.02 Board Action on Petitions.

(a) If examination of a petition for declaratory ruling reveals that persons other than the petitioner would be substantially affected by the requested ruling, the board shall serve the petition on such persons and advise them that they may file a reply pursuant to Ch 206.01(d).

(b) The petitioner and any persons served with the petition shall provide such further information or participate in such evidentiary or other proceedings as the board directs after reviewing the petition and any replies received.

(c) The board shall deny a petition when:

- (1) Other procedural options are available to the petitioner; or
- (2) The requested ruling would address the issues and the facts presented in a pending administrative or judicial proceeding.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8159, eff 9-8-04

PART Ch 214 PUBLIC COMMENT HEARINGS

Ch 214.01 Purpose. The purpose of this part is to provide uniform procedures for the conduct of public comment hearings held pursuant to RSA 541-A:11.

Source. #8159, eff 9-8-04

Ch 214.02 Public Access and Participation.

(a) Public comment hearings shall be open to the public, and members of the public shall be entitled to testify, subject to the limitations of Ch 214.03.

(b) People who wish to testify shall be asked to write on the speaker's list:

- (1) Their full names and addresses; and

(2) The names and addresses of organizations, entities or other persons whom they represent, if any.

(c) Written comments, which may be submitted in lieu of or in addition to oral testimony, shall be accepted for 10 days after the adjournment of a hearing or after the adjournment of a postponed or continued hearing.

Source. #8159, eff 9-8-04

Ch 214.03 Limitations on Public Participation. The board's chair or other person designated by the board to preside over a hearing shall:

(a) Refuse to recognize for speaking or revoke the recognition of any person who:

(1) Speaks or acts in an abusive or disruptive manner;

(2) Fails to keep comments relevant to the proposed rules that are the subject matter of the hearing; or

(3) Restates more than once what he or she has already stated;

(b) Limit presentations on behalf of the same organization or entity to no more than 3, provided that all those representing such organization or entity may enter their names and addresses into the record as supporting the position of the organization or entity.

Source. #8159, eff 9-8-04

Ch 214.04 Media Access. Public comment hearings shall be open to print and electronic media, subject to the following limitations when such limitations are necessary to allow a hearing to go forward:

(a) Limitation of the number of media representatives when their number together with the number of members of the public present exceeds the capacity of the hearing room;

(b) Limitation on the placement of cameras to specific locations within the hearing room;
or

(c) Prohibition of interviews conducted within the hearing room before or during the hearing.

Source. #8159, eff 9-8-04

Ch 214.05 Conduct of Public Comment Hearings.

(a) Public comment hearings shall be attended by a quorum of the board.

(b) Public comment hearings shall be presided over by the board chair or a board member knowledgeable in the subject area of the proposed rules who has been designated by the board to preside over the hearing.

(c) The person presiding over a hearing shall:

(1) Call the hearing to order;

(2) Identify the proposed rules that are the subject matter of the hearing and provide copies of them upon request;

- (3) Cause a recording of the hearing to be made;
 - (4) Recognize those who wish to be heard;
 - (5) If necessary, establish limits pursuant to Ch 214.03 and Ch 214.04;
 - (6) If necessary to permit the hearing to go forward in an orderly manner, effect the removal of a person who speaks or acts in a manner that is personally abusive or otherwise disrupts the hearing;
 - (7) If necessary, postpone or move the hearing; and
 - (8) Adjourn or continue the hearing.
- (d) A hearing shall be postponed in accordance with RSA 541-A:11, IV when:
- (1) The weather is so inclement that it is reasonable to conclude that people wishing to attend the hearing will be unable to do so;
 - (2) The person designated by the board to preside over the hearing is ill or unavoidably absent; or
 - (3) Postponement will facilitate greater participation by the public.
- (e) A hearing shall be moved to another location in accordance with RSA 541-A:11, V when the original location is not able to accommodate the number of people who wish to attend the hearing.
- (f) A hearing shall be continued past the scheduled time or to another date in accordance with RSA 541-A:11, III when:
- (1) The time available is not sufficient to give each person who wishes to speak a reasonable opportunity to do so; or
 - (2) The capacity of the room in which the hearing is to be held does not accommodate the number of people who wish to attend and it is not possible to move the hearing to another location.

Source. #8159, eff 9-8-04

PART 215 EXPLANATION OF ADOPTED RULES

Ch 215.01 Requests for Explanation of Adopted Rules. Any interested person may, within 30 days of the final adoption of a rule, request a written explanation of that rule by making a written request including:

- (a) The name and address of the person making the request; or
- (b) If the request is that of an organization or other entity, the name and address of such organization or entity and the name and address of the representative authorized by the organization or entity to make the request.

Source. #8160, eff 9-8-04; ss by #10431, eff 10-5-13

Ch 215.02 Contents of Explanation. The board shall, within 90 days of receiving a request in accordance with Ch 215.01, provide a written response which:

- (a) Concisely states the meaning of the rule adopted;
- (b) Concisely states the principal reasons for and against the adoption of the rule in its final form; and
- (c) States, if the board did so, why the board overruled any arguments and considerations presented against the rule.

Source. #8160, eff 9-8-04; ss by #10431, eff 10-5-13

CHAPTER Ch 300 LICENSING REQUIREMENTS

PART Ch 301 DEFINITIONS

REVISION NOTE:

Document #6288, effective 7-19-96, repealed Ch 301.03 and renumbered all remaining sections of Ch 301. Document #6288 only renumbered, but did not readopt, existing sections Ch 301.03 through Ch 301.05 and, therefore, did not change their effective dates. Document #6288 renumbered and readopted existing sections Ch 301.06 through Ch 301.08 and also repealed former section Ch 301.10.

Ch 301.01 Definitions.

(a) "Notify in writing" means:

(1) Notify by written communication sent by mail to the mailing address furnished by the applicant; or

(2) Notify by electronic means using the electronic address furnished by the applicant.

(b) "National Board of Chiropractic Examiners (NBCE)" means a nonprofit organization which designs and administers an examination including written and practice components testing proficiency in chiropractic.

(c) "National provider identifier" means a unique identification number for certain health care providers issued by the national Centers for Medicare & Medicaid Services through the National Plan and Provider Enumeration System.

Source. #1488, eff 11-20-79; ss by #2052, eff 6-9-82; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93; amd by #6288, eff 7-19-96 (See Revision Note at part heading for Ch 301); paragraphs (a), (b), (d)-(f) and subparagraphs (c)(1), (2), and (4) EXPIRED: 5-18-99; paragraphs (c)(3) EXPIRED: 7-19-04

New. #8187, eff 10-8-04; ss by #9357, eff 1-10-09

PART Ch 302 APPLICATION PROCEDURE

Ch 302.01 Granting of Initial License. The board shall grant an initial license to practice chiropractic to any applicant who complies with the application process specified by Ch 302.02, meets the qualifications set forth in Ch 303, and has paid the license fee specified by Ch 306.01 (b).

Source. #1488, eff 11-20-79; ss by #2052, eff 6-9-82; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8187, eff 10-8-04; ss by #10432, eff 10-5-13

Ch 302.02 Application Process. Persons who wish to apply for an initial license to practice chiropractic shall do so by submitting or arranging to be submitted to the board the following material:

(a) A signed and completed application form provided by the board and which contains the information specified in Ch 302.04 and the certifications and acknowledgements specified in Ch 302.05;

(b) The attachments required by Ch 302.07;

(c) A transcript of the scores achieved by the applicant on the examinations required by Ch 304.01(a), submitted directly to the board by NBCE; and

(d) Two references from experienced doctors of chiropractic who:

(1) Use the form described in Ch 302.08; and

(2) Have the following knowledge of the applicant's competence in chiropractic:

a. In the case of an applicant whose chiropractic training was completed within 5 years of the application, actual knowledge gained in a supervisory capacity; and

b. In the case of an applicant whose chiropractic training was completed more than 5 years before the application, actual knowledge gained in any professional relationship with the applicant.

Source. #1488, eff 11-20-79; ss by #2052, eff 6-9-82; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8187, eff 10-8-04; ss by #10432, eff 10-5-13

Ch 302.03 Application Processing Procedure.

(a) An application shall be effective on the date assigned by the board as the filing date.

(b) The board shall assign as the filing date of an application the date that the board has received the materials specified in Ch 302.02.

(c) If the board for the purpose of determining the applicant's qualification for licensure requires any information or documents additional to the materials submitted in compliance with Ch 302.02, it shall:

(1) So notify the applicant in writing within 60 days of the filing date; and

(2) Specify the information or documents which the applicant is required to submit.

(d) The application shall be dismissed if the applicant does not submit the additional information and documents requested pursuant to paragraph (c) above within 60 days.

(e) When the board has received the materials specified in Ch 302.02 and any additional information or documents requested pursuant to paragraph (c) above, the applicant shall be

entitled, after paying the examination fee specified in Ch 306.01 (a), to take the jurisprudence examination described in Ch 304.01(b).

Source. #1488, eff 11-20-79; ss by #2716, eff 5-17-84; ss by #3136, eff 10-18-85; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93; ss by #6288, eff 7-19-96; EXPIRED: 7-19-04

New. #8187, eff 10-8-04; ss by #10432, eff 10-5-13

Ch 302.04 Information Required by the Application Form. An applicant for initial licensure shall supply the following information on the application form:

(a) The applicant's full name, any previously used names or maiden names, physical address, mailing address, telephone number and e-mail address, if any;

(b) The applicant's social security number, date of birth, height, weight, eye color and hair color;

(c) The applicant's national provider identifier, if known;

(d) The applicant's physical address for the past 5 years;

(e) Whether the applicant has any physical, mental or other condition or disability affecting the applicant's ability to practice chiropractic;

(f) Whether the applicant has any physical, mental or other condition or disability for which continuing remedial or therapeutic action is required to ensure the applicant's continuing ability to practice chiropractic;

(g) Whether the applicant uses alcohol or controlled or non-controlled drugs in a manner affecting the applicant's ability to practice chiropractic;

(h) Whether the applicant has ever been convicted of a felony or misdemeanor;

(i) If any answer to (e), (f), (g) or (h) is affirmative, a summary statement explaining the answer and specifying as applicable:

(1) The physical, mental or other condition or disability;

(2) The remedial or therapeutic action;

(3) The use of alcohol or controlled or non-controlled drugs; and

(4) The charges of which the applicant was convicted, the conviction date, and the sentence imposed or other disposition;

(j) For each post secondary educational institution attended by the applicant, regardless of degrees earned, the following information:

(1) The name of the institution;

(2) The address of the institution;

(3) The dates of the applicant's attendance; and

(4) The degree awarded by the institution, if any;

(k) For any chiropractic college attended, its name, address, the dates attended by the applicant, and the date of the applicant's graduation;

(l) Whether the applicant currently holds, or has previously held, any professional license, certification or registration to practice any method of healing other than chiropractic;

(m) If the answer to (l) is affirmative, the type of license(s) held and the issuing jurisdiction or state;

(n) Whether the applicant currently holds, or has previously held, any license to practice chiropractic;

(o) For every license to practice chiropractic held in the past or at present:

(1) The issuing jurisdiction or state;

(2) The license date;

(3) The license number; and

(4) If applicable, the reason the applicant no longer holds the license;

(p) Whether the applicant has ever been refused:

(1) A license to practice chiropractic; or

(2) Any other professional license, certification or registration;

(q) For every refusal of a license, certification or registration as described in paragraph (p) above:

(1) The name and address of the licensing, certifying or registering body;

(2) The date of refusal; and

(3) The reason for the refusal;

(r) Whether the applicant has ever had any disciplinary action taken by any other jurisdiction against the applicant's chiropractic license or any other professional license, certification or registration;

(s) Whether, during the past 10 years there have been, or whether there are now, complaints pending, or investigations being conducted, in connection with any professional license, certification or registration previously or currently held by the applicant;

(t) Whether, to the best of the applicant's knowledge, there are currently pending any malpractice claims, settlements or judgments;

(u) Whether, in the past 10 years, any malpractice claims have been settled or resolved, or malpractice judgments issued, against the applicant; and

(v) If any answer to (r), (s), (t) or (u) is affirmative, a detailed written explanation of the circumstances.

Source. #5624, eff 5-18-93; ss by #6288, eff 7-19-96; EXPIRED: 7-19-04

New. #8187, eff 10-8-04; ss by #9357, eff 1-10-09

Ch 302.05 Signature to Statement Required. An applicant for initial licensure shall sign and date the following statement preprinted on the application form:

“I herewith apply for a license to practice chiropractic in accordance with RSA 316-A and the rules of the New Hampshire Board of Chiropractic Examiners. I am the applicant identified in the application and the submitted photograph is a true likeness of me. I will notify the board in writing within 30 days of any change in the information provided in the application, even after the application has been granted and a license issued. I consent to the board's use for all purposes of the mailing and electronic addresses provided to the board in the application or thereafter. The information provided on the application form and the documentation provided to support the application are, to the best of my knowledge and belief, true, accurate, complete and unaltered. I acknowledge that, pursuant to RSA 641:3, I, the knowing making of a false statement on the application form is punishable as a misdemeanor, and, should I knowingly provide the board with any false, inaccurate, incomplete or altered information or documentation, the board has the authority to deny the application or, after a hearing, to take disciplinary action against any license issued to me.”

Source. #8187, eff 10-8-04; ss by #10433, eff 10-5-13

Ch 302.06 Effect of Applicant's Signature. The effect of the applicant's signing the statement described in Ch 302.05 shall be that the applicant:

(a) States that he or she is applying for a license to practice chiropractic in accordance with RSA 316-A and the rules of the New Hampshire board of chiropractic examiners;

(b) Certifies that he or she is the individual identified in the application and that the submitted photograph is a true likeness of him or her;

(c) Promises that he or she will notify the board in writing within 30 days of any change in the information provided in the application, even after the application has been granted and a license issued;

(d) Consents to the board's use for all purposes of the mailing and electronic addresses provided to the board in the application or thereafter;

(e) Certifies that the information provided on the application form and the documentation provided to support the application are, to the best of knowledge and belief, true, accurate, complete and unaltered; and

(f) Acknowledges that, pursuant to RSA 641:3, I, the knowing making of a false statement on the application form is punishable as a misdemeanor, and that, if he or she knowingly provides the board with any false, inaccurate, incomplete or altered information or documentation, the board has the authority to deny the application or, after a hearing, to take disciplinary action against any license issued to him or her.

Source. #8187, eff 10-8-04; ss by #10433, eff 10-5-13

Ch 302.07 Required Attachments to the Application Form. The applicant shall attach to the application form the following items:

- (a) An original, recent photograph of the applicant;
- (b) An official transcript from each post secondary educational institution, including chiropractic colleges, attended by the applicant; ~~and~~
- (c) Photocopies of any current licenses, certifications or other documents showing permission to practice chiropractic in any other state or jurisdiction;
- (d) A photocopy of the chiropractic diploma;
- (e) Two reference letters from practicing doctors of chiropractic, signed and dated, providing the information in Ch 302.08(a) and (b)(1) through (b)(3), or two reference forms completed in compliance with Ch 302.08; and
- (f) A current resume, that is, a curriculum vitae.

Source. #8187, eff 10-8-04; ss by #10433, eff 10-5-13

Ch 302.08 References. References shall be provided by doctors of chiropractic either in a signed and dated letter providing the information in Ch 302.08(a) and (b)(1) through (b)(3) below or on a form supplied by the board which:

- (a) Contains the statement of the doctor of chiropractic that he or she has had the experience of supervising or knowing the applicant and that the applicant has been found by him or her to be a person of high moral character and worthy of the New Hampshire board of chiropractic examiners' recognition and confidence; and
- (b) Requires the person making the statement to provide the following:
 - (1) His or her name, address and telephone number;
 - (2) The name of the applicant;
 - (3) The period during which he or she has supervised or known the practice of the applicant;
 - (4) His or her signature to the acknowledgement preprinted on the form that, pursuant to RSA 641:3, I the knowing making of a false statement on the reference form is punishable as a misdemeanor; and
 - (5) The date of signing of the form.

Source. #8187, eff 10-8-04; ss by #10433, eff 10-5-13

Ch 302.09 Notice of Decision on the Application for Licensure.

(a) The board shall issue its decision on the application within 120 days of the filing date or of the date that the board is in receipt of any additional information or documents requested pursuant to Ch 302.03 (c).

(b) The board shall notify the applicant of its decision in writing.

Source. #8187, eff 10-8-04; ss by #10433 eff 10-5-13

PART Ch 303 QUALIFICATIONS FOR INITIAL LICENSURE

Ch 303.01 Qualifications. An applicant shall be qualified for initial licensure if the applicant meets the requirements set forth in this part and passes the examinations specified in Ch 304.

Source. (See Revision Note before Chapter heading Ch 100) #4671, eff 9-7-89; ss by #5624, eff 5-18-93; amd by #6288, eff 7-19-96; intro. and paragraphs (a) & (c) EXPIRED: 5-18-99; paragraph (b) EXPIRED: 7-19-04

New. #8187, eff 10-8-04; ss by #10434, eff 10-5-13

Ch 303.02 Experience and Educational Requirements.

(a) All applicants for initial licensure shall have:

(1) Graduated from a degree granting chiropractic college which is accredited by an established chiropractic accrediting body approved by the United States Department of Education; or

(2) Completed a chiropractic program at a chiropractic institution accredited by a regional accrediting agency approved by the United States Department of Education.

(b) An applicant who matriculated in a chiropractic school or college between January 1, 1951 and January 1, 1968 shall be a graduate of a legally chartered or incorporated school of chiropractic requiring for graduation completion of a course of study of not less than 3,600 classroom hours in 4 academic years.

(c) An applicant for initial licensure who matriculated in a chiropractic school or college after January 1, 1968 shall be a graduate of a legally chartered or incorporated school of chiropractic requiring for graduation completion of a course of study of not less than 4,000 classroom hours in 4 academic years.

Source. #8187, eff 10-8-04; ss by #10434, eff 10-5-13

Ch 303.03 Disqualification Based on Character.

(a) An applicant shall be disqualified for initial licensure if:

(1) The applicant, or someone acting on the applicant's behalf, has knowingly submitted false information to the board in connection with the application;

(2) The applicant can not be relied upon to practice competently and safely because of physical or mental disability or other condition or disability, or because of use of alcohol or controlled or non-controlled drugs;

(3) Evidence of disciplinary action taken against the applicant by a licensing body or a professional society or association indicates that the applicant cannot be relied upon to practice competently, safely and honestly; or

(4) Conviction of a felony or misdemeanor indicates that the applicant cannot be relied upon to practice competently, safely and honestly.

(b) The board shall make any investigations required to determine whether there are reasons for disqualification on the grounds specified in (a) above.

Source. #8187, eff 10-8-04; ss by #10434, eff 10-5-13

PART 304 EXAMINATIONS

Ch 304.01 Examination Requirements.

(a) Before submitting an application for licensure an applicant shall have taken and passed parts I, II, III and IV of the NBCE examinations and have the scores submitted directly to the board by the NBCE.

(b) An applicant shall take and pass with a score of at least 70% correct answers a written jurisprudence examination mailed to the applicant by the board and testing knowledge of RSA 316-A and these rules.

(c) Such jurisprudence examination shall be completed and returned to the board within 20 days.

(d) The applicant shall date and sign a statement preprinted on the jurisprudence examination which states that the applicant has read and understands RSA 316-A and the administrative rules of the board.

Source. #8187, eff 10-8-04; ss by #10435, eff 10-5-13

Ch 304.02 Payment of Jurisprudence Examination Fee; Notification of Examination Results.

(a) The examination fee specified by Ch 306.01(a):

(1) Shall be paid by the applicant before the applicant takes the jurisprudence examination for the first time; and

(2) Shall entitle any applicant failing the jurisprudence examination to one re-administration of the examination.

(b) The board shall notify the applicant in writing of the results of the jurisprudence examination within 30 days of the date of the jurisprudence examination or of any re-administration of the examination.

Source. #8187, eff 10-8-04; ss by #10435, eff 10-5-13

PART Ch 305 LICENSURE BY ENDORSEMENT

Ch 305.01 Qualifications for Licensure by Endorsement. An applicant shall be qualified for licensure by endorsement if the applicant:

- (a) Is currently licensed, permitted or otherwise authorized to practice chiropractic in another state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico;
- (b) Has been in active practice for at least 3 consecutive years in the licensing jurisdiction in question during the 5 years immediately preceding the application;
- (c) Has met the educational requirements specified in Ch 303.02;
- (d) Has already taken and passed the following parts of the NBCE examinations:
 - (1) Part I;
 - (2) Part II;
 - (3) Part III if the applicant was licensed after January 1, 1990; and
 - (4) Part IV if the applicant was licensed after January 1, 1996.
- (e) Has passed the examination described in Ch 304.01(b);
- (f) Is not disqualified pursuant to Ch 305.02; and
- (g) Has paid the fees set forth in Ch 306.01(a) and (b).

Source. #8187, eff 10-8-04; ss by #10436, eff 10-5-13

Ch 305.02 Disqualification Based on Character.

- (a) An applicant for licensure by endorsement shall be disqualified if:
 - (1) The applicant, or someone acting on the applicant's behalf, has knowingly submitted false information to the board in connection with the application;
 - (2) The applicant can not be relied upon to practice competently and safely because of physical or mental disability or other condition or disability, or because of use of alcohol or controlled or non-controlled drugs;
 - (3) Evidence of disciplinary action taken against the applicant by a licensing body or a professional society or association indicates that the applicant cannot be relied upon to practice competently, safely and honestly; or
 - (4) Conviction of a felony or misdemeanor indicates that the applicant cannot be relied upon to practice competently, safely and honestly.
- (b) The board shall make any investigations required to determine whether there are reasons for disqualification on the grounds specified in (a) above.

Source. #8187, eff 10-8-04; ss by #10436, eff 10-5-13

Ch 305.03 Application Process. Persons who wish to apply for licensure by endorsement shall do so by submitting or arranging to be submitted to the board the following materials:

- (a) A completed application form provided by the board requiring the information specified in Ch 302.04 and a signature to the statement described in Ch 302.05;
- (b) An original, recent photograph of the applicant;
- (c) Photocopies of any current licenses, certifications or other documents showing permission to practice chiropractic in any jurisdiction described in Ch 305.01(a);
- (d) A transcript of the scores achieved by the applicant on the examinations required by Ch 305.01(d), submitted directly to the board by NBCE; and
- (e) Two references from experienced doctors of chiropractic who:
 - (1) Use the form or provide letters as described in Ch 302.08; and
 - (2) Have the following knowledge of the applicant's competence in chiropractic:
 - a. In the case of an applicant whose chiropractic training was completed within 5 years of the application, actual knowledge gained in a supervisory capacity; and
 - b. In the case of an applicant whose chiropractic training was completed more than 5 years before the application, actual knowledge gained in any professional relationship with the applicant.

Source. #8187, eff 10-8-04; ss by #10436, eff 10-5-13

Ch 305.04 Decision on the Application for Licensure by Endorsement.

- (a) The board shall issue its decision on the application for licensure by endorsement within 120 days of the date that the board is in receipt of:
 - (1) The materials described in Ch 305.03; and
 - (2) Any additional information or documents the board has requested.
- (b) The board shall notify the applicant of its decision in writing.

Source. #8187, eff 10-8-04; ss by #10436, eff 10-5-13

PART Ch 306 FEES

Ch 306.01 Fee Schedule. The fees set by the Board pursuant to RSA 316-A:5 shall be as follows:

(a) Examination fee	\$175.00
(b) License fee	\$175.00
(c) Biennial renewal fee	\$385.00
(d) Provision of mailing list	\$ 25.00
(e) Verification of good standing	\$ 25.00

Source. #8187, eff 10-8-04; ss by #9450, eff 4-7-09

CHAPTER Ch 400 CONTINUED STATUS

PART Ch 401 DEFINITIONS

Ch 401.01 “Continuing education hour” means an hour that includes at least 50 minutes of active instruction and is credited by the board against the continuing education requirements set forth in Ch 404.01(a).

Source. #1488, eff 11-20-79; ss by #2052, eff 6-9-82; ss by #2716, eff 5-17-84; ss by #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06; ss by #9356, eff 1-10-09

Ch 401.02 “Federation of Chiropractic Licensing Boards (FCLB)” means a national non-profit organization of chiropractic regulatory boards maintaining a database containing information on both disciplinary actions taken by chiropractic regulatory boards and exclusions from medicare and medicaid reimbursement by the U.S. Department of Health & Human Services.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06; ss by #9356, eff 1-10-09

Ch 401.03 “Healthcare Integrity and Protection Data Bank (HIPD)” means a data bank created by the Secretary of the U.S. Department of Health and Human Services containing information about fraud and abuse by health care practitioners and entities.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06; ss by #9356, eff 1-10-09

Ch 401.04 “National Board of Chiropractic Examiners (NBCE)” means a nonprofit organization which designs and administers examinations including written and practice components testing proficiency in chiropractic.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06

Ch 401.05 "National provider identifier" means a unique identification number for certain health care providers issued by the national Centers for Medicare & Medicaid Services through the National Plan and Provider Enumeration System.

Source. #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06; ss by #9358, eff 1-10-09

Ch 401.06 “Preparatory and complementary procedures” means procedures that are currently taught in accredited chiropractic colleges through the professional degree program or at the post-graduate level.

Source. #9358, eff 1-10-09 (from Ch 401.05)

PART Ch 402 RENEWAL OF LICENSE

Ch 402.01 Eligibility for License Renewal. The board shall renew the license to practice chiropractic of a renewal applicant who:

- (a) Complies with the application process;
- (b) Meets the continuing education requirements of Ch 404;
- (c) Pays the renewal fee specified by Ch 306.01(c); and
- (d) Is not subject to licensure denial pursuant to Ch 402.09.

Source. (See Revision Note before Chapter heading Ch 100) #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06

Ch 402.02 Expiration of License.

(a) Pursuant to RSA 316-A:19, initial and renewed licenses shall expire automatically on July 1 of each odd numbered year.

(b) An individual whose license has expired and has not been renewed shall not practice chiropractic until a new license has been issued.

Source. (See Revision Note before Chapter heading Ch 100) #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06

Ch 402.03 Application for Renewal.

(a) Licensees wishing to renew their licenses shall submit to the office of the board before June 1 of the renewal year the following completed renewal application packet:

- (1) The completed renewal application form described in Ch 402.05;
- (2) The signed statement described in Ch 402.06;
- (3) The supporting documents specified by Ch 402.08; and
- (4) Payment of the renewal fee specified by Ch 306.01(c).

(b) The completed renewal application packet shall be submitted no sooner than March 1 of the renewal year.

(c) The board shall waive the June 1 deadline for submission of the completed renewal application packet for the following reasons:

- (1) Personal illness within 6 months prior to the June 1 deadline which is sufficiently serious to prevent the renewal applicant from engaging in his or her usual work for at least 2 consecutive weeks;
- (2) Illness in the household or of a member of the immediate family within 6 months prior to the June 1 deadline which is sufficiently serious to prevent the renewal applicant from engaging in his or her usual work for at least 2 consecutive weeks;
- (3) Death in the household or of a member of the immediate family within 6 months prior to the June 1 deadline;
- (4) Active military duty;
- (5) The destruction by fire, flood or other accidental or natural disaster, within 6 months prior to the June 1 deadline, of continuing education or other records required to complete the renewal application packet; or
- (6) Failure to complete the continuing education required for renewal.

(d) To obtain a waiver of the June 1 deadline for submission of the completed renewal application packet the renewal applicant shall submit:

- (1) A completed renewal application form;
- (2) If the waiver is sought for any reason in (c)(1) through (c)(5) above, a written statement of the applicant's need for the waiver together with documentation of the facts establishing the need;
- (3) If the waiver is sought for the reason in (c)(6) above, a note written directly on the renewal application form indicating how the renewal applicant intends to complete required continuing education in time to submit its documentation by the next to last working day of June;
- (4) The renewal fee;
- (5) The documents required by Ch 402.08(a)(1) and Ch 402.08(b); and
- (6) The materials required by Ch 402.08(a)(2) documenting the continuing education completed to date.

(e) The waiver of the June 1 deadline for submission of the completed renewal application packet shall not extend the period for submission of such packet beyond the next-to-last working day of June.

Source. (See Revision Note before Chapter heading Ch 100) #4671, eff 9-7-89; ss by #5624, eff 5-18-93; amd by #6288, eff 7-19-96; paragraphs (a), (b), (d)-(g) EXPIRED: 5-18-99; paragraph (c) EXPIRED: 7-19-04

New. #8739, eff 10-11-06

Ch 402.04 Processing of Applications for Renewal.

(a) If, after review of the completed renewal application packet, the board requires any additional information the board shall:

- (1) So notify the applicant within 30 days of the filing date; and
- (2) Specify the information, which the applicant is required to submit.

(b) The board shall make a decision on an application for renewal within 120 days of timely receipt of the completed application packet or any information it has requested pursuant to (a) above.

(c) Upon its decision to deny an application for licensure renewal the board shall give the applicant written notice of:

- (1) Its proposed decision;
- (2) The reason(s) for its proposed decision; and
- (3) The fact that the applicant has the right to challenge the proposed decision by requesting a hearing within 60 days of receipt of the notice.

(d) No proposed denial of an application for licensure renewal shall be final until the renewal applicant has had the opportunity to challenge the denial of the application by requesting a hearing pursuant to Ch 200 within 60 days of receipt of notice of the proposed denial.

(e) An individual whose application for license renewal has been finally denied shall be entitled to reimbursement of the renewal fee.

(f) An individual whose application for license renewal has been denied or whose license has expired shall not practice chiropractic until a new license has been issued.

Source. (See Revision Note before Chapter heading Ch 100) #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06

Ch 402.05 Renewal Application Form. An applicant for licensure renewal shall supply the following information on the renewal application form:

(a) The renewal applicant's:

- (1) Full name;
- (2) New Hampshire license number;
- (3) Business physical address and business telephone number;
- (4) Residential address and residential telephone number;
- (5) Mailing address, if different from business and residential addresses;
- (6) E-mail address, if any;

- (7) Fax number, if any;
- (8) Any previously used names or maiden names;
- (9) Date of birth; and
- (10) National provider identifier, if known;

(b) If not previously provided to the board, the renewal applicant's social security number, written immediately below the following preprinted statement:

"The Board of Chiropractic Examiners is required by RSA 161-B:11 to obtain your social security number for the purpose of child support enforcement. Except for its use in child support enforcement, your social security number will not be used by the Board of Chiropractic Examiners and will be held confidential."

- (c) The renewal applicant's height, weight, eye color and hair color;
- (d) Whether the renewal applicant has any physical, mental or other condition or disability affecting the applicant's ability to practice chiropractic;
- (e) Whether the renewal applicant has any physical, mental or other condition or disability for which continuing remedial or therapeutic action is required to ensure the applicant's continuing ability to practice chiropractic;
- (f) Whether the renewal applicant uses alcohol or controlled or non-controlled drugs in a manner affecting the applicant's ability to practice chiropractic;
- (g) Whether the renewal applicant has since last issuance or renewal of his or her New Hampshire license been convicted of a felony or misdemeanor;
- (h) If the answer to (d), (e), (f) or (g) is affirmative, a summary statement explaining the answer and specifying as applicable:
 - (1) The physical, mental or other condition or disability;
 - (2) The remedial or therapeutic action;
 - (3) The use of alcohol or controlled or non-controlled drugs; and
 - (4) The charges of which the renewal applicant was convicted, the conviction date, and the sentence imposed or other disposition;
- (i) Whether the renewal applicant currently holds any professional license, certification or registration to practice any method of healing other than chiropractic;
- (j) If the answer to (i) is affirmative, the type of license(s), certification(s) or registration(s) held and the issuing jurisdiction or state;
- (k) Whether the renewal applicant currently holds, or has been issued since last issuance or renewal of his or her New Hampshire license, any license to practice chiropractic issued by another jurisdiction;
 - (l) For every such license to practice chiropractic:
 - (1) The issuing jurisdiction or state;

- (2) The license date;
- (3) The license number; and
- (4) If applicable, the reason the renewal applicant no longer holds the license;

(m) Whether, since last issuance or renewal of his or her New Hampshire license, there has been any disciplinary action by any other jurisdiction against the renewal applicant's chiropractic or other professional license, certification or registration;

(n) Whether there are now, or have been since last issuance or renewal of his or her New Hampshire license, complaints made or investigations conducted in connection with any professional license, certification or registration previously or currently held by the renewal applicant;

(o) Whether, to the best of the renewal applicant's knowledge, there are now, or have been since last issuance or renewal of licensure, any malpractice claims, settlements or judgments against the renewal applicant;

(p) Whether a complaint has been brought against the renewal applicant in any court or professional or business organization of which he or she is a member; and

(q) If the answer to (m), (n), (o) or (p) is affirmative, a detailed written explanation of the circumstances.

Source. (See Revision Note before Chapter heading Ch 100) #4671, eff 9-7-89; ss by #5624, eff 5-18-93, EXPIRED: 5-18-99

New. #8739, eff 10-11-06; ss by #9358, eff 1-10-09

Ch 402.06 Signature to Statement Required. An applicant for renewal licensure shall sign and date the following statement preprinted on the renewal application form:

“I herewith apply for renewal of my license to practice chiropractic. I am the applicant identified in the renewal application. I will notify the board in writing within 30 days of any change in the information provided in the renewal application, even after the application has been granted and my license has been renewed. I consent to the board's use for all purposes of the mailing and electronic addresses provided to the board in the renewal application or thereafter.

The information provided on the renewal application form and the documentation provided to support the renewal application are, to the best of my knowledge and belief, true, accurate, complete and unaltered. I acknowledge that, pursuant to RSA 641:3, I, the knowing making of a false statement on the renewal application form is punishable as a misdemeanor, and, should I knowingly provide the board with any false, inaccurate, incomplete or altered information or documentation, the board has the authority to deny the renewal application or, after a hearing, to take disciplinary action against the renewed license issued to me.

I have read and understand RSA 316-A and the current administrative rules of the New Hampshire Board of Chiropractic Examiners.”

[Source.](#) #8739, eff 10-11-06

Ch 402.07 Effect of the Renewal Applicant's Signature. The effect of the renewal applicant's signing the statement described in Ch 402.06 shall be that he or she:

- (a) States that he or she is applying for a renewal of a license to practice chiropractic;
- (b) Certifies that he or she is the individual identified in the renewal application.
- (c) Promises that he or she will notify the board in writing within 30 days of any change in the information provided in the renewal application, even after the application has been granted and the license renewed;
- (d) Consents to the board's use for all purposes of the mailing and electronic addresses provided to the board in the renewal application or thereafter;
- (e) Certifies that the information provided on the renewal application form and the documentation provided to support the renewal application are, to the best of the applicant's knowledge and belief, true, accurate, complete and unaltered;
- (f) Acknowledges that, pursuant to RSA 641:3, I, the knowing making of a false statement on the renewal application form is punishable as a misdemeanor, and that, if he or she knowingly provides the board with any false, inaccurate, incomplete or altered information or documentation, the board has the authority to deny the renewal application or, after a hearing, to take disciplinary action against the renewed license; and
- (g) Certifies that he or she has read and understands RSA 316-A and the current administrative rules of the New Hampshire Board of Chiropractic Examiners.

[Source.](#) #8739, eff 10-11-06

Ch 402.08 Required Documents. The renewal applicant shall submit:

- (a) Photocopies of any current licenses, certifications or other documents showing authorization to practice chiropractic in any other jurisdiction, if not previously submitted to the board;
- (b) Documentation of having met the continuing education requirements of Ch 404 in the form of:
 - (1) One or more transcripts issued by the school or college which sponsored the course; or
 - (2) One or more certifications or vouchers of course attendance stating:
 - a. The name of the renewal applicant;
 - b. The title of the course;
 - c. The name of the sponsor of the course;
 - d. The beginning and ending hours and dates of the course;
 - e. The location of the course;
 - f. The continuing education hours credited by the sponsor of the course; and

g. The score or grade given to the renewal applicant, if any; and

(c) If the renewal applicant's disability requires the applicant to fulfill the continuing education requirement entirely by electronic participation, a reasonable accommodation request in the form of a statement describing the disability and how the disability prevents the renewal applicant from fulfilling any of the continuing education requirement through attendance at courses in the presence of the instructor; and

(d) If the renewal applicant has been certified or re-certified in a specialty since the applicant's last renewal of licensure, a copy of the front and back of the certificate.

Source. #8739, eff 10-11-06

Ch 402.09 Denial of Application for Licensure Renewal.

(a) An application for renewal of licensure shall be denied when a partial or complete application packet is received in the board's office after the next-to-last working day of June of the renewal year.

(b) An application for renewal of licensure shall be denied if, upon investigation, there is clear evidence that:

- (1) The continuing education requirements have not been met;
- (2) Information on the renewal application or its associated documents is false, inaccurate or misleading; or
- (3) The renewal applicant cannot be relied upon to practice competently and safely because of:
 - a. Physical or mental disability or other condition or disability;
 - b. Use of alcohol or controlled or non-controlled drugs;
 - c. Reasons revealed in the course of disciplinary action taken against the applicant by a licensing body or a professional society or association;
 - d. Reasons revealed by conviction of a felony or misdemeanor; or
 - e. Misconduct done during any preceding period of licensure in any jurisdiction.

(c) The board shall make any investigations required to determine whether there are reasons for denial of the application for licensure renewal.

Source. #8739, eff 10-11-06

PART Ch 403 MISCONDUCT AND SANCTIONS

Ch 403.01 Misconduct. Misconduct shall be:

(a) The practice of fraud or deceit in procuring or attempting to procure a license to practice chiropractic;

(b) Conviction of a felony or any offense involving moral turpitude;

(c) Any unprofessional conduct negatively affecting the practice of chiropractic, including but not limited to:

- (1) Disrespect for the patient as further described in Ch 403.02;
- (2) Sexual conduct as further described in Ch 403.03;
- (3) Professional dishonesty as further described in Ch 403.04;
- (4) The failure to comply with the ongoing requirements of Ch 406; and
- (5) The failure to report to the board that an individual is practicing chiropractic without a license when the licensee is reasonably certain that this is true;

(d) Negligent or willful acts performed in a manner inconsistent with the health or safety of persons under the care of the licensee;

(e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the licensee unfit to practice chiropractic;

(f) Mental or physical incompetence to practice chiropractic;

(g) Willful or repeated violation of the provisions of RSA 316-A or the board's administrative rules; and

(h) Disciplinary suspension without reinstatement or disciplinary revocation of a license to practice chiropractic in another jurisdiction.

Source. #8739, eff 10-11-06

Ch 403.02 Disrespect to a Patient as Unprofessional Conduct. The following shall constitute unprofessional conduct negatively affecting the practice of chiropractic:

(a) Revealing a patient's personal or health information without either the consent of the patient or a court order requiring the disclosure;

(b) Knowingly exaggerating or minimizing the patient's condition or prospects for recovery;

(c) Failing to give the patient adequate information about proposed and present treatment;

(d) Failing to protect the patient's bodily privacy to the extent consistent with effective diagnosis and treatment;

(e) Terminating a patient's treatment without making a referral to another practitioner when doing so could jeopardize the patient's health or welfare;

(f) Failing upon request by a patient to refer the patient to another practitioner;

(g) Failure to take the utmost care during diagnostic imaging and to minimize a patient's exposure to radiation; and

(h) Failure to provide complete and accurate patient records within 10 business days of receipt of the patient's request to the patient or to any person or entity designated by the patient to receive them.

[Source.](#) #8739, eff 10-11-06

Ch 403.03 Sexual Conduct as Unprofessional Conduct.

(a) Unless the licensee and the patient entered into a sexual relationship, spousal relationship or a domestic partnership before their relationship became that of chiropractor and patient, the following acts shall constitute unprofessional conduct negatively affecting the practice of chiropractic:

- (1) Sexual relations between a licensee and the licensee's patient, even if:
 - a. The sexual relations were initiated by the patient; or
 - b. The patient consented to the sexual relations;
- (2) Engaging in behavior which might reasonably be interpreted by a patient to be sexual; and
- (3) Engaging in verbal behavior which might reasonably be interpreted by a patient as sexual, seductive or sexually demeaning.

(b) For the purpose of applying the rules in (a) above, the chiropractor-patient relationship shall continue for 6 months after chiropractic treatment has ended.

[Source.](#) #8739, eff 10-11-06

Ch 403.04 Professional Dishonesty as Unprofessional Conduct. Unprofessional conduct negatively affecting the practice of chiropractic shall include but not be limited to:

(a) Proposing to a potential patient, or actually performing, treatment which is not necessary in light of the licensee's examination of the patient and the resulting findings;

(b) Implementing, or assisting in preparing or verifying, a report supporting a false or exaggerated claim of physical disability or a report concealing a physical disability;

(c) Presenting a bill for payment which is not:

- (1) Itemized; and
- (2) Clear and understandable; and

(d) Charging for services not rendered.

[Source.](#) #8739, eff 10-11-06

Ch 403.05 Sanctions.

(a) Pursuant to RSA 316-A:22, III disciplinary measures available to the board to sanction misconduct shall be:

- (1) License revocation;
- (2) A reprimand;
- (3) Suspension, limitation or restriction of the license to practice for a period of up to 5 years;

(4) The requirement that the licensee engage in continuing education to remediate the deficiency which caused the licensee's misconduct; and

(5) The imposition of a civil fine not to exceed:

a. \$1,000 for each instance of misconduct; and

b. In the case of continuing misconduct, \$100 per day as long as the misconduct continues.

(b) An individual whose license has been revoked shall not be re-licensed to practice chiropractic in New Hampshire.

[Source.](#) #8739, eff 10-11-06

Ch 403.06 Procedure for Imposition of Sanctions. Other than immediate license suspension authorized by RSA 541-A:30, III and Ch 208.02(a), the board shall impose disciplinary sanctions only:

(a) After prior notice to the licensee in accordance with Ch 208.01(a) and opportunity for the licensee to be heard; or

(b) Pursuant to an agreed upon settlement between the board and the licensee expressed in a written order of the board.

[Source.](#) #8739, eff 10-11-06

Ch 403.07 Determinations Required for Sanctions.

(a) In determining which sanction or combination of sanctions to impose, the board shall:

(1) First determine the nature of the act or omission constituting the misconduct done by the licensee;

(2) Next determine whether the misconduct has one or more of the characteristics listed in (b) below; and

(3) Finally, apply the standards in (c) below.

(b) The characteristics shall be:

(1) The misconduct actually caused physical or mental harm to the patient or another person;

(2) The misconduct had the potential to cause physical or mental harm to the patient or another person;

(3) The misconduct repeated earlier misconduct done by the licensee, as determined by:

a. An earlier hearing;

b. An earlier settlement agreement predicated on the same misconduct by the licensee; or

c. An admission by the licensee;

- (4) The misconduct was not the first misconduct by the licensee, as determined by:
 - a. An earlier hearing;
 - b. An earlier settlement agreement predicated on misconduct by the licensee; or
 - c. An admission by the licensee;
 - (5) The misconduct was intentional rather than the result of negligence or inadvertence; and
 - (6) The same kind of misconduct was the subject of an official warning previously issued pursuant to Ch 403.08.
- (d) The board shall select appropriate sanction(s):
- (1) From the list in Ch 403.05(a); and
 - (2) By choosing, in light of the characteristics determined pursuant to (b) above, the sanction most likely to:
 - a. Protect public health and safety;
 - b. Prevent future misconduct by the licensee;
 - c. Take into account any acknowledgement of fault by the licensee and any cooperation by the licensee with the board's investigation of misconduct;
 - d. Correct any attitudinal, educational or other deficiencies which led to the licensee's misconduct;
 - e. Encourage the responsible practice of chiropractic; and
 - f. Demonstrate to the licensee and the public the board's intention to insure that its licensees practice in accordance with applicable law and the public welfare.

[Source.](#) #8739, eff 10-11-06

Ch 403.08 Official Warning. Pursuant to RSA 316-A:3, XIII the board shall issue a non-public official warning in the form of a letter of concern to a licensee if it determines through investigation that the licensee has engaged in a violation of Ch 406.

[Source.](#) #8739, eff 10-11-06

PART Ch 404 CONTINUING EDUCATION REQUIREMENTS

Ch 404.01 Continuing Education Hours and Courses.

(a) Applicants for renewal of their licenses to practice chiropractic, unless issued an initial license within the 12 months preceding its expiration date, shall obtain at least 20 hours of continuing education biennially in accordance with (b) below.

- (b) Continuing education courses shall be:
- (1) Selected from the list in (c) below; and
 - (2) Taken as specified in (d) and (e) below.

- (c) Continuing education courses shall be selected from the following list:
- (1) Courses which are approved or conducted by:
 - a. The International Chiropractors Association;
 - b. The American Chiropractic Association; or
 - c. Any state-chartered chiropractic school or college;
 - (2) Courses on the topics set forth in Ch 405.04 (h) and sponsored by a school or college accredited by CCE or any other national or regional accrediting agency approved by the United States Department of Education;
 - (3) Emergency and first aid courses sponsored by the American Red Cross or the American Heart Association, provided that no more than 4 hours shall be credited; and
 - (4) Courses, which have been pre-approved by the board pursuant to Ch 405.
- (d) Continuing education courses shall be taken as follows:
- (1) By attendance at the course in the presence of the instructor; or
 - (2) By electronic participation in accordance with (e) below, including but not limited to, on-line participation and live video-conferencing, provided that:
 - a. The hours of electronic participation shall constitute no more than 25 percent of the total hours of required continuing education; or
 - b. The renewal applicant's proven disability requires the applicant to fulfill the continuing education requirement entirely by electronic participation.
- (e) To be eligible for continuing education credit, electronic course participation shall include receipt of a score or grade of 80% or higher.

Source. #8739, eff 10-11-06

PART Ch 405 PRE-APPROVAL OF COURSES

Ch 405.01 Procedure for Obtaining Pre-Approval of Continuing Education Courses.

- (a) Requests for the board's pre-approval of courses for continuing education status shall be made by any sponsoring organization, school, college or individual at least 60 days before the beginning of the course for which pre-approval is sought.
- (b) Pre-approval of courses for continuing education status shall remain valid for 2 calendar years beginning on January 1 of the first year for which they are approved unless the pre-approval is earlier revoked pursuant to Ch 405.03.
- (c) Those wishing to have the board pre-approve courses for continuing education status shall:
 - (1) Complete and submit the board-provided application form described in (d) below; and

- (2) Submit as supporting documents:
 - a. The curriculum vitae of the course instructor(s); and
 - b. Any lecture notes or other material to be distributed to the students taking the course.
- (d) The information to be provided on the application form shall be:
 - (1) The name of the course sponsor;
 - (2) The title of the course;
 - (3) A description of the subject matter and topics of the course;
 - (4) The beginning and ending hours and dates of the course;
 - (5) The location of the course;
 - (6) The name of the instructor(s);
 - (7) A list of the textbooks, materials and equipment to be used by the instructor(s) or the students; and
 - (8) A list of products, merchandise or equipment promoted by, or sold through, the course by the instructor(s) or the course sponsor.
- (e) The application form shall be signed and dated by the course sponsor or an agent of the course sponsor directly beneath a preprinted statement that gives permission for a representative of the board to audit the course at no charge.
- (f) The effect of the signature called for by (e) above shall be:
 - (1) To assert that the information on the application form and in the curriculum vitae of the instructor(s) is complete and accurate to the best of the signer's knowledge and belief; and
 - (2) To promise that a representative of the board will be permitted to audit at no charge the course for which pre-approval is sought.

Ch 405.02 Notification of Course Pre-Approval.

- (a) Upon pre-approving a continuing education course the board shall issue to the sponsoring organization, school, college or individual a course approval notice containing:
 - (1) A course number assigned by the board;
 - (2) The title of the course;
 - (3) The beginning and ending hours and dates of the course; and
 - (4) The number of continuing education hours to be credited by the board.
- (b) The board shall:
 - (1) Keep a list of currently pre-approved courses; and

- (2) Provide the list to licensees upon request.

Source. #8739, eff 10-11-06

Ch 405.03 Denial of Course Pre-Approval and Revocation of Course Pre-Approval After Notice and Opportunity for a Hearing.

(a) An application for pre-approval of a course for continuing education status shall be denied if the application form or supporting documents show that the course does not meet the requirements of Ch 405.04.

(b) Course pre-approval already granted by the board shall be revoked if the board's audit of the course or other evidence shows that:

- (1) The application form for pre-approval or the related supporting documents do not describe the course with substantial accuracy; or

- (2) The course does not meet the requirements of Ch 405.04.

(c) Before acting to deny pursuant to (a) above or revoke pursuant to (b) above, the board shall:

- (1) Give written notice to the course sponsor of its intention to deny or revoke, stating the reasons for that intention; and

- (2) Provide the course sponsor with the opportunity to challenge the intended action through a hearing in accordance with the applicable rules of Ch 200.

Source. #8739, eff 10-11-06

Ch 405.04 Standards for Board Pre-Approval of Courses. To be pre-approved for continuing education status courses shall:

(a) Contribute to the growth of the professional knowledge and competence in the practice of chiropractic;

(b) Feature subjects and topics, instructors, textbooks and equipment that reflect a current level of chiropractic education and research;

(c) Include procedures for checking attendance at each session;

(d) Assign no more than 10 hours of credit for a full day session;

(e) Not be courses in general business skills or practices;

(f) Not be vehicles for the marketing of products, merchandise or equipment;

(g) Provide those completing the course with:

- (1) A transcript; or

- (2) A certificate or voucher of course attendance stating:

- a. The name of the person taking the course;

- b. The title of the course;

- c. The name of the sponsor of the course;
 - d. The beginning and ending hours and dates of the course;
 - e. The location of the course;
 - f. The continuing education hours credited; and
 - g. The score or grade given to the person taking the course, if any; and
- (h) Consist primarily, but not necessarily exclusively, of instruction in one or more of the following subjects

- (1) Chiropractic adjusting technique;
- (2) Chiropractic philosophy;
- (3) Analysis of vertebral subluxation;
- (4) Chiropractic ethics and jurisprudence;
- (5) Diagnostic imaging;
- (6) Physical diagnosis;
- (7) Clinical laboratory diagnosis;
- (8) Orthopedics;
- (9) Neurology;
- (10) Emergency and first aid procedures;
- (11) Nutritional physiology;
- (12) Physiological therapeutics and rehabilitation;
- (13) Electrodiagnostic procedures;
- (14) Public health and safety; and
- (15) Risk management and record keeping.

Source. #8739, eff 10-11-06

PART Ch 406 ONGOING REQUIREMENTS

Ch 406.01 Obligation to Keep Board Records Current. A licensee shall notify the board within 30 days of any changes in the licensee's:

- (a) Full name;
- (b) Physical address;
- (c) Mailing address;
- (d) Telephone number;

(e) E-mail address, if the licensee has one; or

(f) National provider identifier.

Source. #8739, eff 10-11-06; ss by #9358, eff 1-10-09

Ch 406.02 Obligation to Maintain Patient Records.

(a) A licensee shall maintain patient records including at least the following:

- (1) A description of the patient's chief complaint or reason for initiating care;
- (2) A history, which includes any significant events:
 - a. Related to the patient's chief complaint or reason for initiating care; and
 - b. Occurring in the patient's general health history;
- (3) A record of diagnostic, analytic and chiropractic procedures including:
 - a. Any findings from examination and x-ray;
 - b. A diagnosis or analysis;
 - c. A description of the care rendered at each visit including therapeutic modalities and other ancillary procedures;
 - d. Any changes in the plan of care together with the reason for such changes; and
 - e. A record of the patient's response to chiropractic care; and
- (4) The images taken for diagnostic purposes.

(b) The patient records described in (a) above shall be retained for 5 years following the end of treatment or the age of majority of the patient, whichever comes later.

(c) A licensee shall develop a plan:

- (1) For the disposition of patient records after the expiration of the retention period mandated by (b) above; and
- (2) For the management of patient records if, during the mandated retention period, the licensee has:
 - a. Died;
 - b. Retired;
 - c. Become unable to practice because of physical or mental incapacity; or
 - d. Lost his or her license to practice.

(d) The licensee shall provide the board with the name, address and telephone number of any person or entity identified by the plan required by (c)(2) above as future custodian of the patient records.

Source. #8739, eff 10-11-06; ss by #9358, eff 1-10-09

Ch 406.03 Obligation to Post Documents At Place of Practice. A licensee shall:

(a) Post in a prominent location at his or her principal place of practice the document(s) showing current licensure; and

(b) Make available to the public a notice reading "Complaints concerning doctors of chiropractic shall be sent to the NH Board of Chiropractic Examiners, Health and Human Service Building, 29 Hazen Drive, Concord, NH 03301-6504".

Source. #8739, eff 10-11-06

Ch 406.04 Obligation to Advertise Truthfully and Clearly.

(a) If a licensee chooses to advertise his or her chiropractic services, he or she shall do so in written, spoken or recorded messages which are:

- (1) Complete and truthful;
- (2) Not intended or having the effect to defraud or deceive the reader or listener;
- (3) Not intended or having the effect to mislead or confuse the reader or listener; and
- (4) Without ambiguity and stated in clear and simple language that a lay person with reasonable ability to comprehend when reading or listening would be able to understand without assistance.

(b) Messages deemed by the board to violate (a) above shall include but not be limited to, messages:

- (1) Intended or likely to create a false expectation of the favorable results from chiropractic treatment;
- (2) Intended or likely to create a false expectation of the cost of treatment or the amount of treatment to be provided; or
- (3) Likely to deceive or mislead because in context they represent only a partial disclosure of the conditions and relevant facts of the extent of treatment the licensee expects to provide.

(c) If a licensee in his or her advertising makes a claim based on one or more research studies, the licensee shall clearly identify the relevant research study or studies and make copies of such research studies available to the board upon request.

(d) The effect of (a) through (c) above shall be to impose the obligations therein upon the licensee even if the advertising is done on behalf of the licensee by the licensee's employee or a student being mentored by the licensee.

Source. #8739, eff 10-11-06; ss by #9451, eff 4-7-09

Ch 406.05 Prohibited Advertising.

(a) A licensee shall not advertise his or her services as providing a cure for any condition or use the word "cure" to imply that the licensee's services provide a cure for any condition.

(b) A licensee shall not guarantee the results of chiropractic services, or use the word "guarantee" to imply that the licensee guarantees the results of his or her services.

(c) A licensee shall not advertise himself or herself as having special expertise unless the licensee:

- (1) Holds a specialty certification from a certifying body;
- (2) Identifies the specialty certification and the certifying body in the advertisement; and
- (3) Provides the board with a copy of the specialty certification.

(d) The effect of (a) through (c) above shall be to impose the prohibitions therein upon the licensee even if the advertising is done on behalf of the licensee by the licensee's employee or a student being mentored by the licensee.

Source. #8739, eff 10-11-06; ss by #9451, eff 4-7-09

Ch 406.06 Advertising the Cost of Services.

(a) A licensee shall not engage in bait and switch advertising.

(b) A licensee shall not advertise any service as "free" unless the advertisement clearly and specifically states:

- (1) All the component services which will or might be performed at the time of, or as part of, the service;
- (2) As to each such component service, whether that service will be free or, if not, the exact amount which will be charged for it; and
- (3) The expiration date of the offer of free service.

(c) The effect of (a) and (b) above shall be to impose the prohibitions therein upon the licensee even if the advertising is done on behalf of the licensee by the licensee's employee or a student being mentored by the licensee.

Source. #8739, eff 10-11-06; ss by #9451, eff 4-7-09

Ch 406.07 Obligation to Include Name and Professional Title on Advertising. A licensee shall place on business signs, business letterhead, business cards and business advertising:

(a) Pursuant to RSA 316-A:25, I, the following designation: "Doctor", the name of the licensee, "chiropractor";

(b) His or her name followed by the title "doctor of chiropractic";

(c) His or her name followed by the designation "DC"; or

(d) His or her name followed by the title "chiropractor".

[Source.](#) #8739, eff 10-11-06

Ch 406.08 Obligation to Report Certain Complaints to the Board. A licensee shall report to the board a complaint made against the licensee in any court or in any professional or business organization of which the licensee is a member:

- (a) As soon as the licensee becomes aware of the complaint; and
- (b) In answering the question in Ch 402.05(q), on the licensee's license-renewal application form.

[Source.](#) #8739, eff 10-11-06

Ch 406.09 Preparatory and Complementary Procedures. A licensee shall not use preparatory and complementary procedures unless the licensee learned such procedures at an accredited chiropractic college or through a program of continuing education sponsored by an accredited chiropractic college.

[Source.](#) #8739, eff 10-11-06

PART Ch 407 THE BOARD'S OBLIGATION TO REPORT FINAL DISCIPLINARY ACTIONS

Ch 407.01 The Board's Obligation to Inform the Public of Final Disciplinary Actions. The board shall report final disciplinary actions:

- (a) On its website, if any;
- (b) Upon inquiry to the office of the board; and
- (c) To the HIPD through the FCLB.

[Source.](#) #8739, eff 10-11-06

PART Ch 408 INACTIVE LIST

Ch 408.01 Placement on the Inactive List.

(a) Pursuant to the provisions of RSA 316-A:21 the board shall maintain an inactive list and place on the list a licensed chiropractor who:

- (1) Does not intend to engage in practice as a chiropractor in New Hampshire; and
- (2) Makes a written request to the board to be placed on the list.

(b) An individual on the inactive list shall not be required to renew his or her license or pay a renewal fee as long he or she remains inactive by not practicing chiropractic.

[Source.](#) #8739, eff 10-11-06

Ch 408.02 Restoration to Active Status.

- (a) An individual wishing to be restored to active status shall:
 - (1) Present no basis for licensure denial pursuant to Ch 402.09(b);

- (2) If inactive for 3 years or fewer, have met during the period of inactivity the continuing education requirements of Ch 404.01; and
 - (3) If inactive for more than 3 years:
 - a. Take and pass the NBCE special purposes examination for chiropractic; or
 - b. Meet the eligibility requirements for licensure by endorsement which are set forth in Ch 305.01(a) through (e).
- (b) An inactive individual shall be restored to active status for the current licensing biennium if he or she:
- (1) Meets the eligibility requirements in (a) above;
 - (2) Pays the renewal fee for the current biennium;
 - (3) Submits a completed application form provided by the board requiring the information specified in Ch 302.04 and a signature to the statement described in Ch 302.05; and
 - (4) Submits the supporting materials called for by (c) below.
- (c) The supporting materials to be submitted for restoration to active status shall be:
- (1) A recent photograph of the individual wishing to be restored to active status;
 - (2) Photocopies of all licenses, certifications or other documents showing authorization to practice, which are currently effective or were effective during the period that the individual has been inactive;
 - (3) If the individual wishing to be restored to active status has been inactive for 3 years or fewer, the documents listed in Ch 402.08(b); and
 - (4) If the individual wishing to be restored to active status has been inactive for more than 3 years and has taken the NBCE special purposes examination for chiropractic, the scores on that examination sent directly from NBCE.

Source. #8739, eff 10-11-06

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RULE NUMBER	STATUTE IMPLEMENTED
Ch 101.01(a)	RSA 316-A:3, I-VII and RSA 316-A:20
Ch 101.01(b)	RSA 316-A:22, I and III
Ch 101.01(c)	RSA 316-A:22, II and RSA 316-A:3, VIII, XII, XIII and XVIII
Ch 102	RSA 541-A:7
Ch 103.01	RSA 316-A:2
Ch 103.02	RSA 541-A:16, I(a)
Ch 103.03 and Ch 103.04	RSA 541-A:16, I(a)
Ch 103.05	RSA 316-A:7
Ch 103.06 and Ch 103.07	RSA 91-A:16, I(a)
Ch 104.01	RSA 541-A:16, I(a)
Ch 104.02	RSA 541-A:16, I(a) and RSA 91-A:4
Ch 201.01	RSA 541-A:7
Ch 202.01	RSA 541-A:7
Ch 202.02	RSA 541-A:30-a, III(j)
Ch 203	RSA 541-A:30-a, III(b)
Ch 204	RSA 541-A:30-a, III(f)
Ch 205	RSA 541-A:30-a, III(a); RSA 541-A:30-a, I
Ch 206	RSA 541-A:30-a, I
Ch 207.01	RSA 541-A:30-a, I
Ch 207.02	RSA 541-A:30-a, III(k)
Ch 208.01(a)(b) and (c)	RSA 541-A:30-a, I
Ch 208.01(d)	RSA 541-A:31, III; RSA 541-A:30-a, I
Ch 208.02	RSA 541-A:30, III
Ch 208.03 and Ch 208.04	RSA 541-A:30-a, I
Ch 208.05 and Ch 208.06	RSA 541-A:30-a, III(g); RSA 541-A:30-a, I; RSA 541-A:32
Ch 208.07	RSA 541-A:30-a, I; RSA 541-A:31, V(b) and (c)
Ch 208.08 and Ch 208.09	RSA 541-A:30-a, III(c)
Ch 208.10 and Ch 208.11	RSA 541-A:30-a, I
Ch 208.12(a) through (h)	RSA 541-A:30-a, I
Ch 208.12(i)	RSA 541-A:30-a, III(g)
Ch 208.12(j) and (k)	RSA 541-A:30-a, I
Ch 208.13	RSA 541-A:30-a, III(d) and (e)
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