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CHAPTER 9.

 CHIROPRACTORS AND CHIROPRACTIC

**SECTION 40‑9‑10.** Definitions.

As used in this chapter:

(a) “Chiropractic” is defined as that science and art which utilizes the inherent recuperative powers of the body and deals with the relationship between the nervous system and the spinal column, including its immediate articulations and the role of this relationship in the restoration and maintenance of health.

(b) “Chiropractic practice” is defined as the spinal analysis of any interference with normal nerve transmission and expression, and by adjustment to the articulations of the vertebral column and its immediate articulations for the restoration and maintenance of health and the normal regimen and rehabilitation of the patient without the use of drugs or surgery.

(c) “Analysis” is defined as physical examination, the use of x‑ray and procedures generally used in the practice of chiropractic.

(d) Any machine used in “chiropractic practice” or “analysis” must first be approved by the South Carolina Board of Chiropractic Examiners.

(e) “Preceptorship” or “residency training program” means a clinical program of an approved college of chiropractic in which a chiropractic intern or resident practices chiropractic under the direct supervision of a licensed chiropractor.

(f) “Chiropractic preceptor” means a person licensed under this chapter who is approved by the board to supervise chiropractic students in the performance of chiropractic at a location other than the premises of a chiropractic college in which the student is enrolled. A chiropractic preceptor must:

(1) have been licensed to practice chiropractic in South Carolina for not less than five years;

(2) not have been publicly or privately sanctioned by a chiropractic licensure board in any state;

(3) sign a sworn statement that he or she has not knowingly violated state or federal rules or regulations including, but not limited to, those pertaining to the repayment of guaranteed federally funded student loans;

(4) receive written approval of the chiropractic college to serve as an adjunct faculty member for the purpose of an individual student’s preceptorship or residency training program;

(5) supervise no more than one chiropractic student at a time at a location other than the premises of the chiropractic college in which the student is enrolled.

(g) “Direct supervision” means the chiropractic preceptor must be within the immediate patient treatment area and available to the student at all times.

**SECTION 40‑9‑20.** License required; students participating in a preceptorship or residency training program excepted.

(A) No person may practice chiropractic in this State without a license issued by the South Carolina Board of Chiropractic Examiners as provided in this chapter, except students participating in a preceptorship or residency training program may perform without a license chiropractic procedures under the direct supervision of a chiropractic preceptor. These procedures and this supervision must be practiced within the confines of the appropriate chiropractic college or office of a licensed chiropractor.

(B) No charges for professional service may be made to any patient or to his insurance company for any work performed on the patient by the students or by the licensed chiropractor on the college staff while supervising the students or by the licensed chiropractor in an office while supervising the students. However, the chiropractic college or the office of the licensed chiropractor may charge the patient for the actual costs and expenses it incurs for the use of its clinical property or facilities by the patient.

(C) This section does not apply to any chiropractic college which has failed to attain accredited status from the Council on Chiropractic Education or its successors or from the Commission on Accreditation of the Straight Chiropractic Academic Standards Association.

**SECTION 40‑9‑25.** Students may perform procedures.

A student enrolled in a preceptorship or residency training program may perform chiropractic procedures only if:

(a) the student has met all academic requirements for graduation from an accredited chiropractic college approved by the board; and

(b) the chiropractic procedures are performed only under the direct supervision of the student’s chiropractic preceptor.

**SECTION 40‑9‑30.** Board of Chiropractic Examiners; members; terms; removal; quorum and meetings; regulations; powers.

(A) There is hereby created the South Carolina Board of Chiropractic Examiners consisting of eight members. One licensed chiropractor must be appointed by the Governor from each congressional district and must be a chiropractor residing and practicing in the district the chiropractor represents. The board shall certify in writing to the Governor the names of the two nominees who received the highest number of votes in each district’s election conducted pursuant to Section 40‑9‑37. The Governor may reject any or all of the nominees upon satisfactory showing of the unfitness of those rejected. If the Governor declines to appoint any of the nominees submitted, additional nominees must be submitted in the same manner. One member of the board, who must be a licensed and practicing chiropractor, must be appointed by the Governor from the State at large, and one member, who may not be a member of the chiropractic or medical profession, must be appointed by the Governor. The conduct of the balloting for the nominees for the board from the respective congressional districts is the responsibility of the Board of Chiropractic Examiners. Each chiropractic member must be a licensed and practicing chiropractor in South Carolina in good standing for a period of five years preceding the date of appointment to the board.

(B) All terms are for four years and until their successors are appointed and qualify. The Governor may remove a member of the board who is guilty of continued neglect of board duties, guilty of a misdemeanor or a felony, or who is found to be incompetent. No member may be removed without first giving the member an opportunity to refute the charges filed against that member who must be given a copy of the charges at the time they are filed.

(C) The South Carolina Board of Chiropractic Examiners shall meet at least twice a year at a time and place as determined by the board. The board shall hold elections for its officers each year. The board may call additional meetings when necessary for the transaction of board business. The board shall adopt regulations for its government, for judging the professional and ethical competence of chiropractors, including compliance with the code of chiropractic ethics, and for the discipline of chiropractors. A majority of the board constitutes a quorum for the transaction of business.

(D) The board may:

(1) establish suitable procedures for carrying out its duties pursuant to this chapter;

(2) execute certificates which must be accepted in the courts of this State and by an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 as the best evidence of the minutes of the board and the best evidence of whether a person is registered under the requirements of this chapter;

(3) adopt and revise regulations not inconsistent with the law as may be necessary to carry out this chapter including, but not limited to, regulations concerning patient care and treatment, solicitation of patients, and advertising; however, the board may not prohibit or discriminate against advertising in any particular media;

(4) conduct investigations and cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for this;

(5) keep a record of all its proceedings;

(6) (reserved);

(7) fix the time for holding its meetings;

(8) examine, license, and renew the licenses of qualified applicants and certify applicants as to their ability and as to the degree of their practice of chiropractic as authorized under the laws of this State; however, the nonchiropractic member of the board may not participate in the examination of a license applicant on matters of technical or professional nature; the board shall use the National Board Examination of the National Board of Chiropractic Examiners in lieu of the state written examination for persons graduating from an approved chiropractic college pursuant to Section 40‑9‑40 after July 1, 1982;

(9) judge the professional and ethical competence of chiropractors, establish a code of chiropractic ethics, and provide for the discipline of chiropractors;

(10) order the revocation, suspension, or restriction of the license of a licensee to practice chiropractic or take other disciplinary action, including assessing a civil fine for a violation of this chapter;

(11) assess and collect costs from a licensee for investigating a complaint and conducting proceedings pursuant to this chapter.

**SECTION 40‑9‑31.** Procedures for revoking, suspending, or restricting a license or disciplining a licensee; appeal to Administrative Law Court; stay pending appeal.

(A) An action of the board relating to the revocation or suspension of a license or other action restricting a license or disciplining a licensee must be taken only after a written complaint of misconduct has been filed with the board in accordance with regulations promulgated by the board. After receiving a complaint a closed hearing must be held by an examiner selected by the board after thirty days’ notice to the complainant and the licensee or their counsel. The Attorney General’s office, upon request of the board, shall present the case for the complainant before the examiner. Upon receipt of the examiner’s report, the board shall notify the complainant and the licensee and the licensee’s counsel of the time and place at which the board will consider the report for the purpose of determining its action on the report; the notice must be given not less than ten days before the meeting. The complainant and the licensee and the licensee’s counsel have the right to appear before the board at the meeting, submit briefs, and be heard in oral argument in opposition to or in support of the recommendations of the board. The Attorney General’s office also has the right to appear before the board and submit briefs and be heard in oral argument. Upon its final review the board may either dismiss the complaint or find that the licensee is guilty of misconduct meriting sanction. The board shall file a final certified report of the proceedings before it with the secretary of the board who shall notify the complainant and the licensee and the licensee’s counsel of this action. A decision of the board to revoke, suspend, or restrict a license or to limit or discipline a person engaging in the practice of chiropractic requires a majority vote of the membership of the board. The board’s decision may be appealed to an administrative law judge as provided under Article 5 of Chapter 23 of Title 1, which shall hear the matter upon petition filed by the licensee with an administrative law judge as provided under Article 5 of Chapter 23 of Title 1, and served upon the secretary of the board within ten days from the date of delivery of the board’s decision to the licensee. A decision by the board to revoke, suspend, or restrict a license or to limit or discipline a licensee or one who is found to be practicing chiropractic without complying with this chapter is not effective until the tenth day following the date of delivery of a written copy of the decision to the licensee. Service of a petition for a review of the decision stays the board’s decision pending completion of the appellate process.

(B) If a licensee is found to have violated this chapter or a regulation promulgated under this chapter, in addition to or instead of taking action to revoke, suspend, or restrict the license of the licensee, the board may assess a civil fine of up to two thousand dollars for each violation, but the total fine may not exceed ten thousand dollars.

**SECTION 40‑9‑35.** Compensation of members of the board.

Members of the Board and persons authorized by the Board, engaged in business for the Board, shall receive for their services a per diem as determined by the Board, and travel expenses as provided by law for state boards, committees and commissions. Such compensation shall be paid from board funds.

**SECTION 40‑9‑36.** Executive Director.

The Director of the Department of Labor, Licensing, and Regulation, pursuant to Section 40‑73‑15 may appoint and employ a qualified person to serve as executive director, and shall fix his compensation and define his duties. The executive director of the board shall have the power to make contracts, with board approval, for the furtherance of the board’s functions and the management of the office. The Director of the Department of Labor, Licensing, and Regulation may employ such other persons as may be necessary to carry on its work. The salaries of employees and necessary expenses incurred in the performance of their duties shall be paid out of funds held by the board.

**SECTION 40‑9‑37.** Conduct of advisory election.

Each chiropractor, licensed pursuant to Title 40, Chapter 9, Code of Laws of South Carolina, 1976, and residing within the congressional district from which the appointment is to be made, shall be entitled to vote in the advisory election. A ballot shall be sent by certified mail to each licensed chiropractor residing in that congressional district from which the appointment is to be made. The ballot shall contain the name of each chiropractor licensed pursuant to this chapter and residing within the congressional district from which the appointment is to be made, as indicated by the records of the Board of Chiropractic Examiners or its predecessor. For the initial election the records used shall be the records of the South Carolina Board of Chiropractic Examiners on May 10, 1978. A space shall be provided for write‑in votes for qualified candidates whose names do not appear on the ballot. The ballot shall specify the date by which the returned ballot must be received by the agency conducting the advisory election. The ballots shall be opened at 9:00 A.M. on the day following the date specified for the receipt of the ballots and the results shall be tabulated. The tabulated results shall be immediately forwarded to the Governor.

**SECTION 40‑9‑38.** Vacancies.

Vacancies on the Board shall be filled in the manner of the original appointment for the unexpired term.

**SECTION 40‑9‑39.** Limitation on consecutive terms.

Notwithstanding any other provision of law, no appointive member of the above Board shall be allowed to serve more than two full consecutive terms on the Board; provided, however, that an appointive member who has served for the remainder of a former member’s unexpired term shall be allowed to then serve two additional full terms.

**SECTION 40‑9‑40.** Qualifications of applicants for licenses.

No person may be granted a license to engage in the practice of chiropractic unless he presents proof that he has at least two years of pre‑professional college credits from a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency of equal status and recognition and that he is a graduate of a chiropractic college which is accredited by or has recognized candidate status with the Council on Chiropractic Education or with the Commission on Accreditation of the Straight Chiropractic Academic Standards Association or meets equivalent standards.

**SECTION 40‑9‑45.** Prerequisite educational requirements for students of chiropractic colleges chartered by State.

All students of any chiropractic college chartered by the State shall have two years of preprofessional college credits from a college or university accredited by the Southern Association of Colleges and Secondary Schools or an accrediting agency of equal status and recognition prior to enrollment. Provided, that the educational qualifications required of students entering chiropractic colleges shall not apply to students enrolled prior to July 1, 1974.

**SECTION 40‑9‑50.** Filing of credentials and payment of fee.

All applicants for a license examination shall file with the Secretary of the Board, on or before a specified date to be determined by the Board, a completed application to be provided by the Board, supported by proper credentials and the payment of a fee to be set by the Board.

**SECTION 40‑9‑60.** Reexamination.

In case the applicant fails in the first examination, he shall be entitled to a second examination at the next regular meeting of the Board.

**SECTION 40‑9‑70.** Reciprocal registration; fee.

The Board shall have authority to grant licensure in accordance with item (8) of Section 40‑9‑30 by reciprocity to applicants from states having commensurate requirements as provided in this chapter and which also grant reciprocal privileges to licensees of this State provided that an applicant shall have been in practice in that state for at least one year.

**SECTION 40‑9‑80.** Annual renewal of license; discretion of board to fix or waive fee; forfeiture; reinstatement.

(a) The Board may set and charge annually a fee for the renewal of a license and set the renewal fee for license holders not practicing in the State or for those inactive at a lower fee than for those practicing in the State. The Board may waive the renewal fee for all licensees who are serving on active duty in the Armed Services of the United States at the time the fee is due.

(b) If the license renewal fee is not paid by the first of July of each year, or within sixty days from the mailing of notice by the Board, whichever is later, the license shall automatically expire and be forfeited. Such license can only be reinstated upon payment of all sums due, and the Board may assess such delinquent holder an additional sum not to exceed twenty‑five percent of the amount due as a penalty.

**SECTION 40‑9‑85.** Volunteer chiropractor license authorizing care of needy and indigent.

(A) The South Carolina Board of Chiropractic Examiners is authorized to issue a special volunteer license for chiropractors who wish to devote their expertise exclusively to providing chiropractic care to the needy and indigent in South Carolina. The board will waive all application fees, examination fees, and annual registration fees for any chiropractor licensed in accordance with this section.

(B) The board shall promulgate regulations outlining the qualifications for the issuance of a special volunteer license.

**SECTION 40‑9‑90.** Grounds for revocation or suspension of licenses.

Misconduct which constitutes grounds for a revocation, suspension or other restriction of a license or other discipline of a licensee shall be based upon a satisfactory showing to the Board of any of the following:

(1) That any false, fraudulent or forged statement has been used, or any fraudulent, deceitful or dishonest act has been practiced by the holder of a license in connection with any of the licensing requirements.

(2) That the holder of a license is addicted to alcohol or drugs to such a degree as to render him unfit to practice chiropractic.

(3) That the holder of a license has been convicted of the illegal or unauthorized practice of chiropractic.

(4) That the holder of a license has knowingly performed any act which in any way assists an unlicensed person to practice chiropractic.

(5) That the holder of a license has sustained any physical or mental disability which renders further practice by him dangerous to the public.

(6) That the holder of a license has violated the code of ethics or regulations as adopted by the State Board of Chiropractic Examiners.

(7) That the holder of a license is guilty of engaging in any dishonorable, unethical or unprofessional conduct that is likely to deceive or harm the public.

(8) That the holder of a license is guilty of the use of any false or fraudulent statement in any document connected with the practice of chiropractic.

(9) That the holder of a license is guilty of obtaining fees or assisting in obtaining such fees under dishonorable, false or fraudulent circumstances.

(10) That the holder of a license has intentionally violated or attempted to violate, directly or indirectly, or is assisting in or abetting the violation or conspiring to violate any provisions or terms of the laws of chiropractic practice.

(11) That the holder of a license is guilty of the commission of any act, during the course of practice conducted pursuant to a license issued under this chapter, that constitutes fraud, dishonest dealing, illegality, incompetence or gross negligence.

In addition to all other remedies and actions provided for in this chapter, the license of any chiropractor adjudged mentally incompetent by any court of competent jurisdiction shall be automatically suspended by the Board until he is adjudged by the court or in any other manner provided by law as being restored to mental competency.

**SECTION 40‑9‑95.** Investigations and proceedings.

For the purpose of any investigation or proceeding under the provisions of this chapter, the board or any person designated by it may administer oaths and affirmations, subpoena witnesses, take testimony, and require the production of any documents or records which the board deems relevant to the inquiry. In the case of contumacy by, or refusal to obey a subpoena issued to any person, an administrative law judge as provided under Article 5 of Chapter 23 of Title 1, upon application by the board, may issue an order requiring the person to appear before the board or the person designated by it and produce documentary evidence and to give other evidence concerning the matter under inquiry.

Whenever the board has sufficient evidence that any person is violating any provision of this chapter, it may, in addition to all other remedies, order such person to immediately desist and refrain from such conduct. The board may apply to an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 for an injunction restraining the person from such conduct. An administrative law judge as provided under Article 5 of Chapter 23 of Title 1 may issue a temporary injunction ex parte, and upon notice and full hearing may issue any other order in the matter it deems proper. No bond shall be required of the board by an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 as a condition to the issuance of any injunction or order contemplated by the provisions of this section.

**SECTION 40‑9‑97.** Privileged communications; immunity.

Every communication, whether oral or written made by or on behalf of any person or firm to the Board or any person designated by it to investigate or otherwise hear matters relating to the revocation, suspension or other restriction on a license or other discipline of a licensee, whether by way of complaint or testimony, shall be privileged; and no action or proceeding, civil or criminal, shall lie against any such person or firm by or on whose behalf such communication shall have been made by reason thereof, except upon proof that such communication was made with malice.

No provision of this chapter shall be construed as prohibiting the respondent or his legal counsel from exercising the respondent’s constitutional right of due process under the law, nor to prohibit the respondent from normal access to the charges and evidence filed against him as a part of due process under the law.

**SECTION 40‑9‑110.** Penalties.

It shall be unlawful for any person to practice chiropractic in violation of the provisions of this chapter, and any person violating any provisions thereof shall upon conviction be fined not more than five hundred dollars or imprisoned for a period not to exceed thirty days, or both, at the discretion of the court. Each violation shall constitute a separate offense. The provisions of this section shall apply to any person or firm aiding or abetting in any violation of this chapter.