Agency Name: Board of Chiropractic Examiners - Labor, Licensing and Regulation

Statutory Authority: 40-1-70 and 40-9-30

Document Number: 3206

Proposed in State Register Volume and Issue: 32/2

House Committee: Medical, Military, Public and Municipal Affairs Committee

Senate Committee: Medical Affairs Committee

120 Day Review Expiration Date for Automatic Approval 03/20/2009

Final in State Register Volume and Issue: 33/4

Status: Final

Subject: Application, renewal and continuing education

History: 3206

By Date Action Description Jt. Res. No. Expiration Date

- 02/22/2008 Proposed Reg Published in SR

- 04/24/2008 Received by Lt. Gov & Speaker 03/31/2009

H 04/29/2008 Referred to Committee

S 04/29/2008 Referred to Committee

- 06/25/2008 Revised 120 Day Review Expiration Date

 for Automatic Approval 03/11/2009

H 02/10/2009 Committee Requested Withdrawal

 120 Day Period Tolled

- 02/19/2009 Withdrawn and Resubmitted 03/20/2009

S 02/24/2009 Resolution Introduced to Approve 462

- 03/20/2009 Approved by: Expiration Date

- 04/24/2009 Effective Date unless otherwise

 provided for in the Regulation

Resubmitted: February 19, 2009

Document No. 3206

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**BOARD OF CHIROPRACTIC EXAMINERS**

CHAPTER 25

Statutory Authority: 1976 Code Sections 40-1-70 and 40-9-30

25-1 et seq. Board of Chiropractic Examiners

**Synopsis:**

 The Department of Labor, Licensing and Regulation, Board of Chiropractic Examiners is amending its regulations 25-1 through 25-9 to make enforcement more cost effective and to reflect current professional standards for the practice of chiropractic, including requirements for continuing education as appropriate to assure continued competence.

**Instructions:**

 Replace 25-1 through 25-9 as printed below.

**Text:**

25‑1. Organization, Administration and Procedure.

Purpose. The Board of Chiropractic (“Board”) was created to protect the health, safety and welfare of the public. This purpose is achieved through the establishment of minimum qualifications for entry into the profession and through swift and effective discipline for those practitioners who violate the applicable laws or rules promulgated thereunder.

25‑2. Application for Licensure.

 A. Application. Any person desiring to be licensed as a chiropractor must apply to the Board and provide all information and documentation required by the Board. Applications and accompanying documents will be valid for one (1) year from the initial application date. After one (1) year, a new application with attendant documents and appropriate fees must be submitted. Applicants must be within ninety (90) days of graduation or graduated, and have passed all applicable National Board examinations prior to taking the Board examination. Applications must include:

 (1) Pre‑professional education transcript. A certified copy of the applicant’s transcript from an accredited pre‑professional college. An applicant’s transcript must indicate two years (60 semester hours) toward a degree from a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency of equal status and recognition.

 (2) Chiropractic college transcript. A certified copy of the applicant’s transcript from a chiropractic college accredited by or has recognized candidate status with the Council of Chiropractic Education or with the Commission on Accreditation of the Straight Chiropractic Academic Standards Association or meets equivalent standards. Students who are within ninety (90) days of graduation may submit an attested letter from the chiropractic college establishing estimated date of graduation.

 (3) National Board of Chiropractic Examiners scores. Applicants must have completed and passed all required parts of the National Board examinations prior to application for the South Carolina examination. Examination results must be received thirty (30) days prior to the administration of the South Carolina examination.

 (a) Graduates from Chiropractic College prior to July 1, 1987 must have passed Parts I and II and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV.

 (b) Graduates from Chiropractic College on or after July 1, 1987, but before January 1, 1997 must have passed Parts I, II and III and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV.

 (c) Applicants graduating from a Chiropractic College on or after January 1, 1997, must have passed Parts I, II, III, and IV with the National Board of Chiropractic Examiners (NBCE) recommended passing score.

 (4) South Carolina Board of Chiropractors State Examination. Applicants shall be tested in South Carolina law and ethics and pass with a score of seventy‑five percent (75%) or better. If an applicant fails to achieve a score of seventy‑five percent (75%) or better the applicant may retake the examination within one (1) year. Applicants will be permitted two (2) successive retake examinations. (5) Verification(s) of Licensure. Complete verification of licensure, active or inactive, is required from each state in which the applicant is or has been licensed.

 (6) Photographs. Two (2) recent passport size photographs of the applicant.

 (7) Fees. A payment to cover all fees.

 B. Denial of application. An application may be denied if the applicant has committed any act which indicates that the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action against a licensed chiropractor.

25‑3. Licensure by Endorsement. A license may be granted for applicants who meet the following requirements:

 A. Applicant must have practiced for one (1) continuous year immediately preceding application to this Board.

 B. Applicants who matriculated after July 1, 1987 must meet all National Board examination requirements as set forth in Section 25‑2.

 C. Applicants who matriculated prior to July 1, 1987 must:

 (1) have passed a state examination substantially equivalent to the National Board examinations or passed National Board Parts I and II;

 (2) if National Board examination Parts I and II have not been passed, a Waiver form must be completed and submitted from the state in which the applicant was licensed by examination, to include subjects tested and grades.

 D. Verification of licensure from every state where a license has been held, active or inactive, current or expired. Verification must be received directly from the respective state board to the South Carolina Board of Chiropractic Examiners.

 E. Applicant must be tested in South Carolina law and ethics and pass with a 75% or better. If applicant fails to achieve a score of 75% or better, the applicant may retake the examination within one (1) year. Failure of the second examination disqualifies the chiropractor for endorsement. The chiropractor must apply for license by examination. Applications for endorsement are valid for one year only and the application must be completed within one (1) year of initial application date.

25‑4. Waiver of Fees and Special Volunteer License.

 A. Waiver of Fees. The Board shall waive all application, examination and renewal fees for any chiropractor who otherwise meets all permanent licensure requirements if the chiropractor proves, to the satisfaction of the Board, that the chiropractor’s practice is to be exclusively and totally devoted to providing chiropractic care to the needy and indigent in South Carolina. To be eligible for the waiver of such fees, a chiropractor must acknowledge that there shall be no expectation of payment or compensation, direct or indirect, monetary or in-kind, for chiropractic or any health services rendered.

 B. Special Volunteer License. This license shall be issued for one calendar year, or a part thereof, renewable annually upon approval by the Board. It will limit practice to a specific site(s) and practice setting(s). There will be no licensure or other fees associated with this Special Volunteer License. Requirements for the Special Volunteer License shall be as follows:

 (1) satisfactory completion of a Special Volunteer License Application, including documentation of chiropractic school graduation and practice history;

 (2) documentation of specific proposed practice location(s);

 (3) documentation that applicant has been previously issued an unrestricted license to practice chiropractic in this state or another state of the United States;

 (4) documentation that applicant has never been the subject of any disciplinary action in any jurisdiction;

 (5) documentation that the applicant shall only practice under a supervising chiropractor(s) approved by the Board. Factors the Board shall consider for supervisor approval will include, but not be limited to:

 (a) the training and practice experience of the supervising chiropractor;

 (b) the current nature and extent of the supervising chiropractor’s practice;

 (c) the existence of any recent demonstration of the supervising chiropractor’s clinical competency; and

 (d) the number of Special Volunteer Licensees the chiropractor proposes to supervise;

 (6) documentation of the name(s) of supervising chiropractor(s) and that such chiropractor(s) has agreed to accept supervisory responsibility. All supervising chiropractors must possess an active, unrestricted permanent license to practice chiropractic in South Carolina. An approved supervising chiropractor must physically be on the premises whenever a Special Volunteer Licensee is practicing chiropractic;

 (7) documentation and acknowledgment that the applicant shall receive no payment or compensation, either direct or indirect, or have any expectation of payment or compensation for chiropractic services rendered. Moreover, the supervising chiropractor shall not receive any compensation or payment as the result of the Special Volunteer Licensee’s provision of chiropractic services.

25‑5. Professional Practices.

 A. Renewal Fees. Renewal fees shall be in accordance with Section 40-1-50(D) of the South Carolina Code of Laws, as amended.

 (1) Licenses shall be renewed biennially upon submission of the renewal fee and the Biennial Renewal Form.

 (2) A late fee will be assessed, in addition to the renewal fee, if renewal materials are received within two (2) months after the license renewal deadline date.

 B. Expired Licenses. The right to practice in South Carolina is suspended until the following requirements are met.

 (1) A chiropractor whose license has been expired for less than twelve (12) months may reactivate the license by submitting satisfactory evidence of continuing education, if applicable, payment of the license fee plus the applicable penalty.

 (2) A chiropractor whose license has been expired for more than twelve (12) months but less than three (3) years, may reactivate the license by submitting an Application for Reinstatement, satisfactory evidence of continuing education, if applicable and each year’s license fee plus the applicable penalty.

 (3) A chiropractor whose license has been expired for three (3) years or longer must complete a new application and meet requirements in effect at the time of application.

 C. Continuing Education. As a pre‑requisite for biennial renewal of a practitioner’s license, the licensee must complete a minimum of thirty-six (36) hours of approved professional continuing education. Of the thirty-six (36) continuing education hours, two (2) hours are required in rules and regulations of the S.C. Board of Chiropractic Examiners and two (2) hours in risk management which include, but are not limited to, boundary or public health issues.

 (1) Acceptable educational programs or courses are those that are:

 (a) presented and/or sponsored by accredited chiropractic colleges;

 (b) taught by post‑graduate level instructors of an accredited college or school approved by the Board; or

 (c) presented and/or sponsored by other individuals or organizations approved by the Board.

 (2) Sponsor Requirements. All sponsors seeking approval for educational programs must submit a written request to the Board Administrator at least ninety (90) days prior to the scheduled date of the presentation. Each provider shall:

 (a) have a mechanism for the maintenance of records for no less than three (3) years;

 (b) have a method of monitoring and verifying attendance;

 (c) provide each participant adequate documentation of participation in the program to include:

 (i) name and license number of participant;

 (ii) name and address of the sponsoring individual(s) or organization;

 (iii) name of program;

 (iv) number of hours completed;

 (v) date and location of program;

 (vi) authorized signature.

 (3) Program Approval Requirements. Requests for program approval must include the following information:

 (a) name and address of the sponsoring individual(s) or organization;

 (b) instructors’ name and credentials;

 (c) outline of program content;

 (d) the number of actual 60‑minute hours of instruction;

 (e) the method of monitoring and certifying attendance;

 (f) location at which the program will be presented;

 (g) the dates on which the program will be presented.

 (4) Program approval will be based on the following criteria:

 (a) The program will enhance the practitioner’s knowledge and skill in the practice of chiropractic as defined by state law.

 (b) The instructors are sufficiently qualified in the field of instruction either by practical or academic experience or both.

 (c) The program will be held in a suitable setting, conducive to learning.

 (d) Adequate monitoring or certifying measures are provided.

 (5) Practice building subject matter (administration, finance, etc.) will not be approved for license renewal.

 (6) Comprehensive Approval. A comprehensive approval allows the provider or sponsor to submit an application indicating all course offerings for a given calendar year. Requests for a comprehensive approval may be submitted to the Board office on an annual basis at least 90 days prior to the beginning of each year or ninety (90) days prior to the beginning of a scheduled program. Providers and sponsors shall be responsible for annual renewal approval.

 D. Retention and Audit. Licensees must maintain copies of attendance certificates for three (3) years from the last renewal date. The Board may conduct random audits of licensees on an annual or biennial basis to certify compliance with continuing education requirements.

 E. Waiver During Period of Temporary Medical Disability. The Board reserves the right to waive continuing education requirements for individual cases involving extraordinary hardship or incapacitating illness. A licensee may be eligible for waiver or extension who, upon written application to the Board and for good cause shown, demonstrates that the applicant is unable to participate in a sufficient number of regular continuing education programs for license renewal.

 F. Therapeutic Modalities. Usage of therapeutic modalities is permitted only by those chiropractors who have passed the National Board of Chiropractic Examiners’ (NBCE). Chiropractors licensed in South Carolina prior to June 1, 1986 are exempt from this examination. Therapeutic modalities are limited to those modalities within the chiropractic scope of practice.

 (1) Permitted Machines. The following machines are approved for use in therapeutic modalities:

 (a) high Frequency Diathermy: Shortwave diathermy, Microwave diathermy, Ultrasound;

 (b) low Frequency Direct current: Low voltage galvanism, High voltage galvanism;

 (c) alternating Current: Sine Wave, Faradic, Transcutaneous Stimulation;

 (d) medium Frequency Current: Interferential;

 (e) combination currents: Ultrasound with sine, Ultrasound with high voltage, Sine with galvanism;

 (f) such other machines as may be approved by the Board.

 (2) The following therapy procedures are approved for use in therapeutic modalities:

 (a) heat: hot moist packs, heating pads, infrared, paraffin, ultraviolet;

 (b) cold: cold packs, ice massages, ice therapy;

 (c) hydrotherapy: whirlpool, hubbard tanks;

 (d) nutritional therapies;

 (e) exercise and massage;

 (f) rehabilitation and rehabilitative procedures.

 (3) The following traction therapies are approved for use in therapeutic modalities: cervical, thoracic, lumbar, pelvic, intersegmental.

 (4) Use of Diagnostic Equipment and Testing Procedures. A chiropractor may request diagnostic and testing procedures, consistent with all other applicable laws and regulations, and may perform those tests which are consistent with the chiropractic scope of practice.

 (5) A chiropractor may perform non‑invasive EMG testing in order to diagnose and treat conditions within the scope of practice, provided the chiropractor has completed ten (10) hours of instruction offered by a qualified instructor approved by the South Carolina Chiropractic Board of Examiners.

 G. Terms and Definitions.

 (1) Accepted terms are Chiropractic Physician, D.C., Chiropractor, Doctor of Chiropractic.

 (2) Chiropractors may not refer to themselves as physical therapists or physiotherapists in any fashion.

25‑6. Professional Conduct.

 A. Unprofessional Acts. The following acts or activities by a licensee of this Board constitute unprofessional, unethical or illegal conduct and grounds for disciplinary action. The following acts are not to be considered all‑inclusive and are subject to revisions and additions necessary to carry out the Board’s purpose of protecting the health, safety and welfare of the public.

 (1) Limitation of Practice. Persons licensed by the Board shall be limited to:

 (a) the care and performance of therapeutic or hygienic treatment of patients;

 (b) the x‑ray of patients; and

 (c) such other procedures as are generally used in the practice of chiropractic.

 (2) Such other procedures as are generally used in the practice of chiropractic shall be limited to:

 (a) the use of diagnostic and therapeutic procedures;

 (b) the adjustment and manipulation of articulations;

 (c) the treatment of inter‑segmental disorders for alleviation of related neurological, muscular, and osseous joint complex aberrations.

 (3) Patient care shall be conducted with due regard for environmental, hygiene, sanitation, rehabilitation and physiological therapeutic procedures designed to assist in the restoration and maintenance of neurological and osseous integrity.

 (4) Diagnostic or therapeutic procedures shall not include the use of:

 (a) drugs;

 (b) surgery;

 (c) cauterization;

 (d) desiccation or coagulation of tissues;

 (e) rectal examinations;

 (f) gynecological examinations;

 (g) obstetrics;

 (h) catheterization with a needle;

 (i) injecting of dyes for radiological procedures;

 (j) lumbar puncture to obtain spinal fluid;

 (k) treatment of cancer or x‑ray therapy.

 (5) Fraud or deceit in applying for a license or in taking an examination.

 (6) Making misleading, deceptive, untrue or fraudulent representations or communications in the practice of chiropractic.

 (7) Unprofessional conduct, gross incompetence, negligence or misconduct in the practice of chiropractic.

 (8) Disobedience to a lawful rule or order of the Board.

 (9) Practicing while license is suspended or lapsed.

 (10) Being convicted of a felony or misdemeanor.

 (11) Having a license to practice chiropractic suspended, revoked or refused or receiving other disciplinary actions by the proper chiropractic licensing authority of another state, territory, possession or country.

 (12) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition. In enforcing this paragraph, the Board shall, upon probable cause, have authority to compel a chiropractor to submit to a mental or physical examination by physicians approved by the Board.

 (13) Knowingly aiding, assisting, procuring or advising any unlicensed person to practice chiropractic contrary to this act or regulations of the Board.

 (14) Committing immoral or unprofessional conduct. Unprofessional conduct shall include any departure from, or failure to conform to, the standards of acceptable and prevailing chiropractic practice. Actual injury to a patient need not be established.

 (15) Improper charges, fraud. Improper charges constitute a form of fraudulent and deceptive practice. Improper charges or fraud may include, but are not limited to: Intentionally submitting to any third‑party payor a claim for a service or treatment which was not actually provided to a patient.

 (16) Advertising x‑ray services restricted. Advertising free x‑ray services without explanation of need or otherwise implying indiscriminate use of x‑radiation is prohibited.

 B. X‑ray and Patient Records Release. (1) A patient or the patient’s legal representative has a right to receive a copy of patient records and x-rays, or have the records transferred, upon request, when accompanied by a written authorization from the patient or patient’s representative to release the record.

 (2) A chiropractor may rely on the representations of a health and life insurance carrier or administrator of health and life insurance claims that the authorization of the patient or of a person upon whose status the patient’s claim depends for release of the record is on file with the carrier as an authorization to release medical information.

 (3) Unpaid charges incurred by the patient are not grounds for refusal to release records.

 (4) A chiropractor may charge reasonable costs for copying patient records.

 C. Specialty Certification. Practitioners may not advertise or hold themselves out as a specialist or specializing in any activity unless practitioner is certified from:

 (1) a specialty council approved by the American Chiropractic Association or International Chiropractors Association;

 (2) a specialty taught by a chiropractic college accredited by the Council on Chiropractic Education, or its equivalent specialty board or council; or

 (3) a specialty approved by the Board.

 D. Chiropractic Records. A practitioner must keep written chiropractic records justifying the course of treatment of the patient for a minimum of ten (10) years for adult patients and at least thirteen (13) years for minors. These minimum record keeping periods begin to run from the last date of treatment.

 E. Contagious and Infectious Diseases. In all cases of known or suspected contagious or infectious diseases occurring within this State, the attending practitioner shall report such disease to the county health department within twenty‑four (24) hours, stating the name and address of the patient and the nature of the disease.

 (1) The Department of Health and Environmental Control shall designate the diseases it considers contagious and infectious.

 (2) Any practitioner who fails to comply with this provision is subject to penalties imposed by the appropriate health department.

25‑7. Code of Ethics.

 A. Doctors of Chiropractic shall be guided by the highest standards of moral conduct. Chiropractors shall exemplify professional qualities in all dealings with patients, the general public and other members of the profession.

 B. The Doctor of Chiropractic reserves the option to establish a chiropractor/patient relationship.

 (1) A chiropractor/patient relationship requires that the chiropractor make an informed judgment based on training and experience. This will require that the chiropractor:

 (a) discuss with the patient the analysis and the evidence for it, and the risks and benefits of various treatment options; and

 (b) ensure the availability of the chiropractic coverage for patient follow-up care.

 C. The Doctor of Chiropractic owes a duty to maintain the highest degree of skill and care by keeping abreast of all new developments in Chiropractic to improve knowledge and skill in the Science, Art and Philosophy of Chiropractic.

 D. A Doctor of Chiropractic holds in confidence all information obtained at any time during the course of the chiropractor/patient relationship except where required by law or to protect the welfare of the patient or community.

 E. A chiropractor may not assume to speak for the chiropractic profession on controversial subjects. The chiropractor should qualify remarks as a personal opinion and not necessarily that of the profession.

 F. The commission of an act of sexual misconduct or sexual relations by a chiropractor with a patient is unprofessional conduct and cause for disciplinary action pursuant to Section 25-6 of this chapter. Sexual misconduct is defined as engaging in, soliciting or otherwise attempting to engage in, any form of sexual relationship, activity or contact with a current patient, or with a former patient who has received a professional consultation, diagnostic service or therapeutic service within the past ninety (90) days.

25‑8. Advertising and Solicitation.

 A. Professional Standards. Advertising practices by chiropractors should be ethical and professional. B. For the purpose of this regulation, the terms communication, solicitation or advertisement shall mean any message, written broadcast or offer made by or on behalf of a licensee.

 C. Signs, solicitations, or advertisements shall clearly indicate that chiropractic services are being offered.

 D. A communication, solicitation or advertisement shall not:

 (1) contain a material misrepresentation of fact or law, or omit a fact necessary to make the statement considered as a whole not materially misleading;

 (2) create an unjustified expectation about results the chiropractor can achieve, or state or imply that the chiropractor can achieve results that violate the rules of Professional Conduct, the Code of Ethics, or other law;

 (3) compare the chiropractor’s services with other chiropractors’ or practitioners’ services, unless the comparison can be factually substantiated;

 (4) fail to indicate clearly, expressly or by context, that it is an advertisement;

 (5) involve intrusion, coercion, duress, compulsion, intimidation, threats, or harassing conduct, particularly those communications requiring an immediate response such as in‑person or live telephone contact;

 (6) solicit a prospective patient while transmitted at the scene of an accident or en route to a hospital, emergency care center or other health care facility;

 (7) involve the payment, receipt of a commission or other gratuity for referral of patients. The chiropractor must limit the source of his professional income to services actually rendered by him or under his supervision, to his patients.

 E. Every licensee shall display prominently in the licensee’s office the word chiropractor or D.C.

25‑9. Disciplinary Actions and Procedures.

 A. Complaint; Determination of Just Cause. Any action of the Board shall commence only after the Board receives a written complaint of misconduct. If the Board determines, after a preliminary investigation, the facts are not sufficient to support an alleged violation, the Complainant will be notified, and the complaint dismissed.

 B. Formal Complaint and Board Hearing. If the Board determines sufficient facts exist to support an alleged violation, disciplinary action will proceed as follows:

 (1) The Office of General Counsel shall provide thirty (30) days’ notice to the Complainant and the Respondent and schedule a hearing before the Board.

 (2) The General Counsel’s office shall present the case for the Complainant before the Board.

 (3) The Respondent and counsel shall have the right to appear before the Board at such hearing, submit briefs and be heard in oral argument.

 (4) Thereafter, the Board will file a final certified report of its findings of fact, conclusions of law and disciplinary action to be taken.

 (5) The Board will notify the Complainant and the Respondent of such action.

 (6) A decision by the Board to revoke, suspend or otherwise restrict a license, or to limit or otherwise discipline a licensee, shall require a majority vote by the Board.

 (7) A decision by the Board to revoke, suspend or otherwise restrict a license or to limit or otherwise discipline a licensee, or one who is found to be practicing chiropractic in noncompliance with this chapter shall not become effective until the tenth (10) day following the date of delivery to the Respondent of a written copy of the decision. The Board’s decision will constitute a final administrative decision.

 C. Appeal of Decision. The Board’s final administrative decision shall be subject to appeal to the Administrative Law Court. The Respondent shall serve notice of the appeal upon the Board within thirty (30) days from the delivery date of the Board’s decision to the Respondent. Service of a petition for a review of the decision shall stay the Board’s decision pending completion of the appellate process.

 D. Proceedings Confidential Until Filed. As authorized by Sections 40‑9‑97 and 30‑4‑70, S. C. Code of Laws 1976, unless and until otherwise ordered by this Board, all proceedings and documents relating to complaints and hearings thereon and to proceedings in connection therewith shall be confidential, unless the Respondent shall in writing request that they be public. The Administrator of the Board shall keep secure in the Board’s offices all written records and documents pertaining to disciplinary procedures.

**Fiscal Impact Statement:**

 There will be no increased costs to the State or its political subdivisions.

**Statement of Rationale:**

 The purpose of the amendments is to make enforcement more cost effective and to reflect current professional standards for the practice of chiropractic, including the requirements for continuing education as appropriate to assure continued competence.