

CHAPTER 446

CHIROPRACTIC EXAMINING BOARD

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Cross-reference: See definitions in s. 440.01.

446.01 Definitions. In this chapter:

(1) “Examining board” means chiropractic examining board.

(2) “Practice of chiropractic” means:

(a) To examine into the fact, condition, or cause of departure from complete health and proper condition of the human; to treat without the use of drugs as defined in s. 450.01 (10) or surgery; to counsel; to advise for the same for the restoration and preservation of health or to undertake, offer, advertise, announce or hold out in any manner to do any of the aforementioned acts, for compensation, direct or indirect or in expectation thereof; and

(b) To employ or apply chiropractic adjustments and the principles or techniques of chiropractic science in the diagnosis, treatment or prevention of any of the conditions described in s. 448.01 (10).

History: 1975 c. 383; 1977 c. 418 s. 929 (41); 1985 a. 146 s. 8.

Cross Reference: See also s. Chir 4.01, Wis. adm. code.

A physician, subject to certain limitations, may advise a patient whether or not continued chiropractic care is necessary without engaging in the unauthorized practice of chiropractic. 68 Atty. Gen. 316.

Physical therapists and massage therapists are not prohibited from performing the activities that are within their respective scopes of practice, even if those activities extend in some degree into the field of chiropractic science. OAG 1-01.

446.02 Chiropractic regulated. (1) Except as provided in sub. (9), no person may engage in the practice of chiropractic or attempt to do so or hold himself or herself out as authorized to do so, unless such person:

(a) Is licensed by the examining board; and

(b) Meets the requirements of continuing education for license renewal as the examining board may require, which requirements shall include current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction. During the time between initial licensure and commencement of a full 2-year licensure period new licensees shall not be required to meet continuing education requirements. Any person who has not engaged in the practice of chiropractic for 2 years or more, while holding a valid license under this chapter, and desiring to engage in such practice, shall be required by the examining board to complete a continuing education course at a school of chiropractic approved by the examining board or pass a practical examination administered by the examining board or both.

(2) (a) The examining board shall grant a license to practice chiropractic to a qualified person who submits an application for the license to the department on a form provided by the department, accompanied by satisfactory evidence of completion of the educational requirements established in the rules promulgated under par. (b), passes the examination described under sub. (3) and pays the license fee specified in s. 440.05 (1).

(b) The examining board shall promulgate rules establishing educational requirements for obtaining a license under par. (a). The rules shall require that an application for the license that is received by the department after June 30, 1998, be accompanied by satisfactory evidence that the applicant satisfies all of the following:

1. Has a bachelor’s degree from a college or university accredited by an accrediting body listed as nationally recognized by the secretary of the federal department of education.

2. Has graduated from a college of chiropractic approved by the examining board.

3. Has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(c) The examining board shall issue a certificate to a chiropractor who is licensed under this chapter, who submits satisfactory evidence that the chiropractor has completed 48 hours of postgraduate study in nutrition that is approved by the examining board, and who pays a one-time certification fee of \$25.

(3) Examination shall be in the subjects usually taught in such reputable schools of chiropractic, and shall be conducted at least twice a year at such times and places as the examining board determines. The examination shall include a practical examination of the applicant as prescribed by the examining board. In lieu of its own written examination, the examining board may accept, in whole or in part, the certificate of the national board of chiropractic examiners.

(3g) (a) The examining board may grant a license to practice chiropractic to an individual who is licensed in good standing to practice chiropractic in another state or territory of the United States or in another country if the applicant presents the license to the examining board, pays the fee specified in s. 440.05 (2) and meets the requirements established in rules promulgated under par. (b).

(b) The examining board shall promulgate rules establishing additional requirements for obtaining a license under par. (a), including a requirement that each person licensed under this subsection has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(3r) The examining board may promulgate rules providing for the granting of a temporary permit to practice chiropractic to an individual who is licensed to practice chiropractic in another state or territory of the United States or in another country, and establishing requirements for practicing chiropractic under a temporary permit. Any rules promulgated under this subsection shall require an individual seeking a temporary permit under this subsection to submit evidence satisfactory to the examining board that the individual has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(4) The renewal date and renewal fee for all licenses granted by the examining board are specified under s. 440.08 (2) (a).

NOTE: Sub. (4) is amended eff. 7-1-09 by 2007 Wis. Act 20 to read:

(4) The renewal date for all licenses granted by the examining board is specified under s. 440.08 (2) (a), and the renewal fee for such licenses is determined by the department under s. 440.03 (9) (a).

(5) The examining board shall keep a complete record of all applications, examinations, licenses, fees and proceedings.

(6) No person may practice chiropractic in this state under any other given name or any other surname than that under which he or she was originally licensed or registered to practice chiropractic in this or any other state in any instance in which the examining board, after a hearing, finds that practicing under the changed name operates to unfairly compete with another practitioner or to mislead the public as to identity or to otherwise result in detriment to the profession or the public. This subsection does not apply to a change of name resulting from marriage or divorce.

(6m) No chiropractor may provide counsel, direction, guidance, advice, or a recommendation to a patient regarding the health effects of vitamins, herbs, or nutritional supplements unless the chiropractor has been issued a certificate under sub. (2) (c). This subsection does not apply to a chiropractor licensed under this chapter who is certified as a dietician under subch. V of ch. 448.

(7) (a) Except as provided in par. (b), a chiropractor who is licensed under this chapter may delegate to a person who is not licensed under this chapter the performance of services that are adjunctive to the practice of chiropractic if the services are performed under the direct, on-premises supervision of the chiropractor.

(b) A chiropractor may not delegate to a person who is not licensed under this chapter the making of a diagnosis, the performance of a chiropractic adjustment, the analysis of a diagnostic test or clinical information or any practice or service that the examining board, by rule, prohibits a chiropractor from delegating to a person who is not licensed under this chapter.

(c) A chiropractor who delegates the performance of a service that is adjunctive to the practice of chiropractic to a person who is not licensed under this chapter shall verify, according to standards and procedures established by the examining board by rule, that the person has adequate education, training and experience to perform the delegated service safely, and is responsible for that person's performance of the delegated service.

(7m) (a) A chiropractor shall create and maintain a patient record for every patient the chiropractor examines or treats. A patient record created and maintained under this paragraph shall contain complete and comprehensive health care information, as defined by the examining board by rule.

(b) A chiropractor shall preserve a patient record created and maintained under par. (a) for at least 3 years after the chiropractor makes his or her last entry or notation in the patient record or for any longer period that is otherwise required by law.

(8) Every practicing chiropractor shall have in effect professional liability insurance. The examining board shall promulgate rules establishing the minimum amount of insurance required under this subsection.

(9) No license under this chapter is required for any of the following:

(a) A student or graduate of a college of chiropractic who practices chiropractic, in a program for the clinical training of students and graduates that is reviewed and approved by the examining board, under the supervision of a chiropractor who is approved by the examining board to supervise the clinical training of the student or graduate and who is licensed under this chapter and is responsible for the student's or graduate's practice in an infirmary, clinic, hospital or private chiropractic office that is connected or associated for training purposes with a college of chiropractic approved by the examining board.

(b) An individual who is licensed to practice chiropractic in another state or territory of the United States and who practices chiropractic under the jurisdiction of the U.S. armed forces, as defined in s. 40.02 (57m), federal public health service or U.S. department of veterans affairs.

(c) An individual who is licensed to practice chiropractic in another state or territory of the United States or in another country and who holds a temporary permit that is granted under the rules promulgated under sub. (3r).

(d) A person who performs services that are adjunctive to the practice of chiropractic and that are delegated to the person under sub. (7).

History: 1975 c. 39, 199, 383; 1977 c. 29, 418; 1979 c. 98, 162, 337; 1981 c. 380; 1991 a. 39; 1993 a. 31; 1995 a. 94, 166; 2001 a. 70; 2005 a. 25; 2007 a. 20, 104.

Cross Reference: See also *Chir.*, Wis. adm. code.

A chiropractor has no duty to refer to a physician a patient who is not treatable through chiropractic means. Chiropractors aren't held to medical standard of care. *Kerkman v. Hintz*, 142 Wis. 2d 404, 418 N.W.2d 795 (1988).

A chiropractor has a duty of informed consent to make such disclosures as will enable a reasonable person under the circumstances confronting the patient to exercise the right to consent to, or to refuse, the procedure proposed or to request an alternative treatment or method of diagnosis. *Hannemann v. Boyson*, 2005 WI 94, 282 Wis. 2d 664, 698 N.W.2d 714, 03–1527.

446.03 Reprimand; license revocation, limitation or suspension. The examining board, by order, may reprimand a licensee or registrant and may deny, limit, suspend or revoke any license or certificate of registration if the licensee or registrant:

- (1) Obtained the license or certificate through error or fraud;
- (2) Is addicted to alcohol or other drugs;
- (3) Is hereafter convicted in a court of competent jurisdiction, either within or without this state, or in federal court, of any violation of any law governing the practice of chiropractic or of any felony, subject to ss. 111.321, 111.322 and 111.335, a certified copy of the record of conviction to be conclusive evidence of such conviction;
- (4) Has obtained or sought to obtain anything of value by fraudulent representation in the practice of chiropractic;
- (5) Is guilty of unprofessional conduct;
- (6) Has continued practice, knowingly having an infectious or contagious disease; or
- (7) If the applicant or registrant maintains a professional connection or association with any other person continuing to violate this chapter after 10 days' notice in writing by the department.

History: 1977 c. 29, 125, 418; 1981 c. 334 s. 25 (1); 1981 c. 380; 1983 a. 289; 1991 a. 39.

446.04 Unprofessional conduct. Unprofessional conduct includes, without limitation because of enumeration:

- (1) Any conduct of a character likely to deceive or defraud the public;
- (2) Loaning of a chiropractic license or certificate to anyone;
- (4) Splitting or dividing any fee for chiropractic service with any person except an associate licensed chiropractor;
- (5) Use of unprofessional advertising which shall include without limitation because of enumeration:
 - (a) Any advertising statement of a character tending to deceive or mislead the public;
 - (b) Advertising professional superiority or performance of professional services in a superior manner.

History: 1979 c. 162, 337, 355; 1987 a. 264, 1991 a. 207, 315.
Cross Reference: See also s. *Chir.* 6.01, Wis. adm. code.

446.05 Procedure for hearings. (1) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to the conduct of any licensed chiropractor who, it has reason to believe, violated s. 446.02 or 446.03. The person complained against may proceed to review any action of the examining board under ch. 227.

(2) Upon application and satisfactory proof that the cause of such revocation or suspension no longer exists, the examining board may reinstate any license or registration suspended or revoked by it. This subsection does not apply to a license or registration that is suspended under s. 440.13 (2) (c) or that is revoked under s. 440.12.

History: 1977 c. 418; 1997 a. 191, 237.

446.06 Injunction to enforce this chapter. If it appears upon complaint to the examining board by any person or it is known to the examining board that any person is violating this chapter, the examining board or the district attorney of the proper county may investigate and may, in addition to any other reme-

dies, bring action in the name of and on behalf of the state against any such person to enjoin such person from such violations.

History: [1981 c. 390 s. 252](#).

446.07 Penalty. Anyone violating this chapter may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

History: [1997 a. 283](#); [2001 a. 109](#).