CHAPTER 446

CHIROPRACTIC EXAMINING BOARD

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446.01 Definitions. In this chapter:

(1d) "Adjunctive services" means services that are preparatory or complementary to the practice of chiropractic. "Adjunctive services" includes all of the following:

(a) The taking and preparation of preliminary patient histories, as defined by the examining board by rule.

(b) Providing physiotherapy treatment, as defined by the examining board by rule.

(1h) "Chiropractic radiological technician" means an individual who holds a certificate as a chiropractic radiological technician granted by the examining board.

(1p) "Chiropractic technician" means an individual who holds a certificate as a chiropractic technician granted by the examining board.

(1t) "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; 2009 a. 28.

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 satisfies all of the following:

(a) Is licensed by the examining board.

(b) Submits evidence satisfactory to the examining board that the person 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. The person shall include the approval number assigned under sub. (5) (b) to each educational program completed by the person to satisfy the requirements of this paragraph. 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) 1. The examining board shall grant a license to engage in the practice of 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 examinations 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.

4. Has successfully completed the examinations required under sub. (3).

(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, except that no certificate fee is required under this paragraph for an individual who is eligible for the veterans fee waiver program under s. 45.44.

(3) The examining board shall require each applicant for licensure to successfully complete the following examinations:

(b) Parts I, II, III, and IV of the examination administered by the National Board of Chiropractic Examiners. An applicant successfully completes Part III of that examination if the applicant scores at least 438 on that part. An applicant successfully completes Part IV of that examination if the applicant scores at least 475 on that part.

(c) An examination approved by the examining board that tests the applicant's knowledge of the laws of this state relating to the practice of chiropractic, including the provisions of this chapter and any rules promulgated by the examining board under this section.

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

(b) The examining board shall assign a unique approval number to each continuing education program approved by the examining board under s. 446.028.

(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 pars. (b) and (d), a chiropractor who is licensed under this chapter may delegate to a person who is not licensed under this chapter the performance of adjunctive services 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.

(d) 1. Beginning on July 1, 2010, a chiropractor may delegate X−ray services only to a chiropractic radiological technologist.

2. Beginning on July 1, 2010, a chiropractor may delegate adjunctive services only to a chiropractic technologist.

(7d) (a) A chiropractor shall evaluate each patient before commencing treatment of the patient to determine whether the patient has a condition that is treatable by the practice of chiropractic. The evaluation shall be based upon an examination that is appropriate to the patient. To conduct the evaluation, the chiropractor shall utilize chiropractic science, as defined by the examining board by rule, and the principles of education and training of the chiropractic profession.

(b) A chiropractor shall discontinue the practice of chiropractic on a patient if, at any time after the evaluation under par. (a) or during or following treatment of the patient, the chiropractor determines or reasonably believes that the patient's condition is not treatable by the practice of chiropractic, or will not respond to further practice of chiropractic by the chiropractor, except that a chiropractor may provide maintenance, supportive, and wellness care to the patient if the patient is being treated by another health care professional.

(c) A chiropractor who discontinues the practice of chiropractic as required in par. (b) shall inform the patient of the reason for discontinuing the practice of chiropractic and shall refer the patient to a physician licensed under subch. II of ch. 448. A chiropractor may continue to provide maintenance, supportive, and wellness care to a patient referred under this paragraph who requests these services from the chiropractor. A referral under this paragraph shall describe the chiropractor's findings. If the referral is written, the chiropractor shall provide the patient with a copy and shall maintain a copy in the patient's records. If the referral is oral, the chiropractor shall communicate the referral directly to the physician, shall notify the patient about the referral, and shall make a written record of the oral referral. The written record of the oral referral shall include the name of the physician to whom the patient was referred and the date of the referral. The chiropractor shall maintain a copy of the written record of the oral referral in the patient's records.

(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 adjunctive services that are delegated to the person under sub. (7).

(10) (a) A chiropractor may waive all or a portion of an insured patient's copayments, coinsurance, or deductibles due to a chiropractor who engages in the practice of chiropractic on behalf of the insured patient if all of the following are satisfied:

1. The chiropractor receives from and maintains written documentation of the patient's financial hardship, as defined by the examining board by rule.

2. The chiropractor accurately reports to the patient's insurer the actual fee charged, if any, to the patient. If the chiropractor waives all or a portion of the patient's copayments, coinsurance, or deductibles due to the chiropractor, the chiropractor may not seek payment from the insurer for any portion of the copayment, coinsurance, or deductible waived by the chiropractor unless the claim for the services related to the copayment, coinsurance, or deductible is reduced by an equal amount. In this subdivision and in par. (b), "insurer" has the meaning given in s. 600.03 (27).

(b) A chiropractor who violates par. (a) shall refund the insurer for all payments received from the insurer that are related to the day on which a patient's payment was waived or reduced or for the course of treatment for which the patient's payment was waived or reduced.

(11) The examining board shall promulgate rules implementing s. 446.08.

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; 2009 a. 28; 2011 a. 32, 209; 2013 a. 20, 345.

Cross−reference: See also Chir, Wis. adm. code.

446.025 Regulation of chiropractic radiological technicians. (1) (a) No person may provide X−ray services on behalf of a chiropractor in connection with the practice of chiropractic unless the person is a chiropractic radiological technician and is under the direct, on−premises supervision of a chiropractor licensed under this chapter.

(b) No person may designate himself or herself as a "chiropractic radiological technician" or "chiropractor radiological technician," use or assume the title "chiropractic radiological technician" or "chiropractor radiological technician" or any title that includes "chiropractic radiological technician"or "chiropractor radiological technician," append to the person's name the letters "C.R.T.," or use any other title or designation that represents or implies that he or she is a chiropractic radiological technician unless the person is certified by the examining board under this section.

(2) (a) The examining board shall certify as a chiropractic radiological technician an individual who does all of the following:

1. Submits an application to the department on a form provided by the department.

2. Pays the fee specified in s. 440.05 (1).

3. Submits evidence satisfactory to the examining board that the individual has completed a course of study approved by the examining board.

4. Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory to the examining board that the individual does not have an arrest or conviction record.

5. Completes any other requirements established by the examining board by rule.

(b) The department shall assign a unique certificate number to each individual certified under this section.

(3) (a) The renewal date and fees for a certificate issued under this section are specified in s. 440.08 (2) (a).

(b) A chiropractic radiological technician shall, at the time that he or she applies for renewal of a certificate under par. (a), submit evidence satisfactory to the examining board that he or she has completed at least 12 continuing educational credit hours in programs established by rules promulgated by the examining board.

History: 2009 a. 28.

446.026 Regulation of chiropractic technicians. (1) (a) No person may provide adjunctive services unless the person is a chiropractic technician and is under the direct, on−premises supervision of a chiropractor licensed under this chapter.

(b) Except as provided in s. 446.025 (1) (b), no person may designate himself or herself as a "chiropractic technician" or "chiropractor technician," use or assume the title "chiropractic technician" or "chiropractor technician" or any title that includes "chiropractic technician" or "chiropractor technician," append to the person's name the letters "C.T.," or use any other title or designation that represents or implies that he or she is a chiropractic technician unless the person is certified by the examining board under this section.

(2) (a) The examining board shall certify as a chiropractic technician an individual who does all of the following:

1. Submits an application to the department on a form provided by the department.

2. Pays the fee specified in s. 440.05 (1).

3. Submits evidence satisfactory to the examining board that the individual has completed a course of study approved by the examining board.

4. Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory to the examining board that the individual does not have an arrest or conviction record.

5. Completes any other requirements established by the examining board by rule.

(b) The department shall assign a unique certificate number to each individual certified under this section.

(3) (a) The renewal date and fees for a certificate issued under this section are specified in s. 440.08 (2) (a).

(b) A chiropractic technician shall, at the time that he or she applies for renewal of a certificate under par. (a), submit evidence satisfactory to the examining board that he or she has completed at least 6 continuing educational credit hours in programs established by rules promulgated by the examining board.

History: 2009 a. 28.

446.028 Continuing education approval; program sponsors. Each program sponsor of a continuing education program required to be completed by a chiropractor as a condition of license renewal shall submit the program to the examining board for approval. In this section, "program sponsor" means the Wisconsin Chiropractic Association, the International Chiropractors Association, a college of chiropractic approved by the examining board, and a college of medicine or osteopathy accredited by an accrediting body listed as nationally recognized by the secretary of the federal department of education. "Program sponsor" does not include an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide instruction in the use of an automated external defibrillator.

History: 2009 a. 28.

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

(1) Obtains the license, certificate, or certificate of registration 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.

(7) 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; 2009 a. 28.

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

(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 includes, without limitation because of enumeration, all of the following:

(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; 2009 a. 28.

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.

(1m) (a) 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 chiropractic radiological technician who, it has reason to believe, violated s. 446.025 or 446.03. The person complained against may proceed to review any action of the examining board under ch. 227.

(b) 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 chiropractic technician who, it has reason to believe, violated s. 446.026 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, certificate, or registration suspended or revoked by it. This subsection does not apply to a license, certificate, 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; 2009 a. 28.

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 remedies, 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.

446.08 Informed consent. Any chiropractor who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable chiropractor standard is the standard for informing a patient under this section. The reasonable chiropractor standard requires disclosure only of information that a reasonable chiropractor would know and disclose under the circumstances. The chiropractor's duty to inform the patient under this section does not require disclosure of any of the following:

(1) Detailed technical information that in all probability a patient would not understand.

(2) Risks apparent or known to the patient.

(3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

(4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(5) Information in cases where the patient is incapable of consenting.

(6) Information about alternate modes of treatment for any condition the chiropractor has not included in his or her diagnosis at the time the chiropractor informs the patient.

History: 2013 a. 345.