

**RULES  
OF  
TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS  
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 0260-02  
GENERAL RULES GOVERNING CHIROPRACTIC EXAMINERS**

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**0260-02-.01 DEFINITIONS.** As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) Advertising - Includes, but is not limited to business solicitation, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or any other means designed to secure public attention.
- (2) Applicant - Any individual seeking licensure by the board who has submitted an official application and paid the application fee.
- (3) Board - The Tennessee Board of Chiropractic Examiners.
- (4) Board Administrative Office - The office of the Unit Director assigned to the board located at 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243.
- (5) Board Designee - Any person who has received a written delegation of authority from the board to perform board functions subject to review and ratification by the full board where provided by these rules.
- (6) Chiropractic Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, with or without recoil and directed by specific anatomical listings designed to reduce or correct a subluxated unit.
- (7) Chiropractic Physical Therapeutics - A category of a physical agent utilized as ancillary therapy to adjustive procedures which may give additional physiological support to the five

(Rule 0260-02-.01, continued)

- (5) components of a subluxation complex preceding or following specific adjustive procedures.
- (8) Closed Files - An administrative action which renders an incomplete or denied file inactive.
- (9) Department - Tennessee Department of Health.
- (10) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the board receives administrative support.
- (11) Documentation - Refers to and includes, but is not limited to, notations made by the provider or his designated assistant in the patient record, relevant reports from other providers, electronically obtained and/or stored information and all diagnostic imaging, etc.
- (12) Excessive - That which fails to be substantiated beyond the quantity of procedures customarily performed or utilized by a prudent person similarly trained, skilled and experienced in a specific diagnostic or treatment procedure or technique in question.
- (13) Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also, the required application fees.
- (14) Good Moral Character - The quality of being highly regarded in personal behavior and professional ethics.
- (15) He/she Him/her - When "he" appears in the text of these rules, the word represents both the feminine and masculine genders.
- (16) HRB - When the acronym HRB appears in the text of these rules, the HRB represents Health Related Boards.
- (17) License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an "artistically designed" license as well as other versions bearing an expiration date.
- (18) Manipulation - A passive movement for the purpose of testing joint space mobility and/or a manual intervention utilized for releasing muscles and less contractible structures that have lost elasticity with their effects on joint function, and which is not designed to bring about articular change when locked out of its physiologic joint space and/or range of motion.
- (19) National Board - Means the National Board of Chiropractic Examiners.
- (20) Person - Any individual, firm, corporation, partnership, organization, or body politic.
- (21) Registrant - Any person who has been lawfully issued a license.
- (22) Subluxation - When one or the other of two adjacent articular surfaces has lost its normal position, affecting its active, passive or anatomical end range and is classified less than a dislocation. A subluxation complex includes one or more of its five components which may result in a primary, related and/or attending diagnosis.
- (23) Substantiation - Any test, examination, recorded symptom or other observation of the patient (or, in the case of a minor or otherwise legally incompetent person, reported to the provider or his staff by the parent or legal guardian) by the provider and determined by said provider

(Rule 0260-02-.01, continued)

to be useful in arriving at a treating or management diagnosis and/ or the determination of what, how, when, where and why to examine, treat, consult or refer a patient.

- (24) Therapeutic Care - Any approved care of specific chiropractic adjustive procedures utilized in patient care, for the purpose of returning the patient to a stabilized or pre-clinical status.
- (25) Use of Title or Description - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationary, announcements, business cards, or other means of professional identification.
- (26) Written Evidence - Includes, but is not limited to, written verification from supervisors or other professional colleagues familiar with the applicant's work.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-103, 63-4-105, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-112, 63-4-114, 63-4-122, and 63-4-123. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 27, 2002; effective December 11, 2002.

#### **0260-02-.02 SCOPE OF PRACTICE.**

- (1) Any person who possesses a valid unsuspended and unrevoked license issued by the Board has the right to use the title licensed chiropractic physician. No other person shall assume this title on any work, letter, sign, figure, advertisement, or device to indicate that the person using the same is a licensed chiropractic physician. The work performed includes offering case management procedures and recommendations for health care and services to the public.
- (2) The scope of practice of chiropractic physicians shall be as set forth in T.C.A. §63-4-101.
- (3) Spinal manipulation / Spinal adjustment
  - (a) Training must be performed in chiropractic institutions or institutions that specialize in spinal manipulative therapy. Spinal manipulation is a highly skilled maneuver that requires adequate training. Four hundred (400) hours of classroom instruction and eight hundred (800) hours of supervised clinical training are considered a minimum level of education to properly administer the techniques.
  - (b) Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, or Sweat instrumentation.
  - (c) Manipulation moves the spinal segments beyond their normal range of motion for the correction of nerve interference and articular dysfunction, but without exceeding the limits of anatomical integrity.
  - (d) A chiropractic diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation procedure.
- (4) Acupuncture – Any licensed chiropractic physician who practices acupuncture shall, prior to commencing such practice, complete two hundred and fifty (250) hours of an acupuncture course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners Acupuncture Exam.

(Rule 0260-02-.02, continued)

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-114, 63-4-120, 63-4-121, 63-4-122, 63-6-1002. **Administrative History:** Original rule filed December 5, 1978; effective April 2, 1979. Repeal and new rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed October 24, 2002; effective January 7, 2003. Amendment filed June 3, 2004; effective August 17, 2004. Amendment filed April 10, 2007; effective June 24, 2007.

### 0260-02-.03 NECESSITY OF LICENSURE.

- (1) Prior to the engagement of the practice of chiropractic in Tennessee, a person must hold a current Tennessee license or temporary license issued pursuant to rule 0260-02-.14.
- (2) It is unlawful for any person who is not licensed in the manner prescribed in T.C.A. §63-4-101 et seq. to represent himself/herself as a licensed chiropractor or to hold himself/herself out to the public as being licensed by means of using a title on signs, mailboxes, address plates, stationary, announcements, telephone listings, calling cards, or other instruments of professional identification.
- (3) Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the titles "chiropractor," "chiropractic physician" and "doctor of chiropractic," to use the acronym "D.C.," and to practice chiropractic, as defined in T.C.A. §§ 63-4-101. Any person licensed by the Board to whom this rule applies must use one of the titles authorized by this rule in every "advertisement" [as that term is defined in rule 0260-02-.20 (2) (a)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the licensee to disciplinary action pursuant to T.C.A. § 63-4-114 (4), (13), and (16).
- (4) Chiropractic is one of the healing arts and as such the practice of which is restricted to those persons credentialed by the board. Persons engaging in the practice of chiropractic without being credentialed are in violation of T.C.A. §63-1-123.
- (5) Licensed chiropractic physicians by virtue of their license shall be qualified to operate x-ray equipment and order examinations of Imagery for diagnostic purposes pursuant to T.C.A. §63-4-119.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-123, 63-1-145, 63-4-101, 63-4-106, 63-4-107, 63-4-114, 63-4-119, 63-4-120, 63-4-122 and 63-4-123. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed October 29, 2008; effective January 12, 2009.

### 0260-02-.04 QUALIFICATIONS FOR LICENSURE.

- (1) To qualify for licensure by examination, a chiropractic physician must:
  - (a) Provide evidence that he/she is well regarded in moral character and professional ethics (rule 0260-02-.05(l)(g)).
  - (b) Education:

(Rule 0260-02-.04, continued)

1. Provide proof of attendance at a chiropractic college for four (4) school years of not less than nine (9) months each and graduation from a chiropractic college having status with the Commission on Accreditation of the Council on Chiropractic Education, or graduation from an international chiropractic college approved by the Board; and
  2. If not included in the documentation required in part (1) (b) 1., submit proof of additional parachiropractic education as follows:
    - (i) Before licensure will be granted to an applicant matriculating in a chiropractic college prior to year 2000, the applicant must provide a transcript of grades showing a minimum of two (2) full academic years of college or university work of at least sixty (60) semester hours or its equivalent from an accredited institution; or
    - (ii) Before licensure will be granted to an applicant matriculating in a chiropractic college in year 2000 and beyond, the applicant must provide proof that a bachelor's level education or its equivalent has been obtained from an accredited college or university.
  3. The educational requirements of part (1) (b) 2. of this rule are applicable regardless of whether that education was obtained before or after matriculating into a chiropractic college.
- (c) Examination. Evidence of completing the National Chiropractic Board Examination, pursuant to rule 0260-02-.08 (1).
- (2) To qualify for licensure by criteria (reciprocity), a chiropractic physician must:
- (a) Provide evidence that he/she is well regarded in moral character and professional ethics as provided in subparagraph 0260-02-.05 (1) (g).
  - (b) Possess a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years.
  - (c) Provide documentation from the state or other jurisdiction of prior practice attesting to the length of time in practice, along with any disciplinary action taken against the license while in practice.
  - (d) Provide proof of successful completion of the Special Purposes Examination for Chiropractors (SPEC) as administered by the National Board or its successor.
  - (e) Complete the educational requirements in subparagraph (1) (b) of this rule.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-105, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed August 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed June 3, 2004; effective August 17, 2004.

**0260-02-.05 PROCEDURES FOR LICENSURE.** To become licensed as a chiropractic physician in Tennessee, a person must comply with the following procedures and requirements:

- (1) Licensure by Examination
  - (a) An application packet shall be requested from the board's administrative office.
  - (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all fees required by the form and these rules to the board's administrative office.
  - (c) Applications will be accepted throughout the year, and applicants shall be scheduled to take the examinations required in Rule 0260-02-.08.
  - (d) An applicant shall submit with his/her application a passport type photograph. The photo must be signed by the applicant.
  - (e) It is the applicant's responsibility to request a transcript pursuant to T.C.A. §63-4-108(3) which must be submitted directly from the school to the board's administrative office.
  - (f) It is the applicant's responsibility to request that documentation be submitted, directly from the applicant's chiropractic school to the board's administrative office, of graduation from a chiropractic educational institution in compliance with T.C.A. §63-4-108(2). The chiropractic institution granting the degree of Doctor of Chiropractic must have been accredited with the commission on accreditation of the council on chiropractic education or its successor at the time the degree was granted. The documentation must show that the degree has been conferred.
  - (g) An applicant shall submit evidence of good moral character. Such evidence shall be one recent (within the preceding 12 months) original letter from a licensed chiropractic physician attesting to the applicant's personal character and professional ethics on the signator's letterhead.
  - (h) An applicant shall request that his/her National Board scores be submitted directly to the Board's administrative office from the testing agency.
  - (i) An applicant shall disclose the circumstances surrounding any of the following:
    1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
    2. The denial of licensure application by any other state or the discipline of licensure in any state.
    3. Loss or restriction of licensure.
    4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory, common, or case law.

(Rule 0260-02-.05, continued)

- (j) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
  - (k) If an applicant holds or has ever held a license to practice as a chiropractic physician in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of license) from each such licensing board which indicates the applicant holds or held an active license and whether it is in good standing presently or was at the time it became inactive.
  - (l) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both version must be submitted.
  - (m) Personal resumes are not acceptable and will not be reviewed.
  - (n) Application review and licensure decisions shall be governed by rule 0260-02-.07.
- (2) Licensure by Criteria (Reciprocity).
- (a) An application packet shall be requested from the board's administrative office.
  - (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all fees required by the form and these rules to the board's administrative office.
  - (c) Applications will be accepted throughout the year. Supporting documents requested in these instructions must be received in the board office within 60 days of receipt of the application by the Board Administrative Office or the file will be deemed abandoned and closed.
  - (d) An applicant shall submit with his/her application a signed and notarized passport type photograph taken within the preceding 12 months. (The photo is to be signed by the applicant and the notary seal must be stamped on the back of the photograph).
  - (e) An applicant shall submit evidence of good moral character. Such evidence shall be one recent (within the preceding 12 months) original letter from a licensed chiropractic physician attesting to the applicant's personal character and professional ethics on the signator's letterhead.
  - (f) An applicant shall disclose the circumstances surrounding any of the following:
    - 1. Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
    - 2. The denial of licensure application by any other state or the discipline of licensure in any state.
    - 3. Loss or restriction of licensure.
    - 4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity, or any other civil action remedy recognized under the country's or state's statutory, common or case law.

(Rule 0260-02-.05, continued)

- (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (h) If an applicant holds or has ever held a license to practice as a chiropractic physician in another state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of endorsement (verification of license) from the licensing board which indicates the applicant holds or held an active license and whether it is in good standing presently or was at the time it became inactive. The applicant must be licensed in at least one (1) other state for a period of two (2) full years.
- (i) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both versions must be submitted.
- (j) Personal resumes are not acceptable and will not be reviewed.
- (k) Application review and licensure decisions shall be governed by rule 0260-02-.07.
- (l) Examination of licensure by criteria (reciprocity) applicants.
  - 1. An individual who possesses a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years will not be required to have passed Parts 1, 2, 3, and 4 of the National Board Examination.
  - 2. An individual who possesses a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years shall provide proof of successful completion of the Special Purposes Examination for Chiropractors (SPEC) as administered by the National Board or its successor.
- (m) All other reciprocity applicants will be required to have passed the National Board as a pre-requirement pursuant to rule 0260-02-.08.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-108, 63-4-109, 63-4-110, 63-4-111, 63-4-114, and Public Chapter 618 of the Public Acts of 2000. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Amendment filed December 8, 1989; effective January 22, 1990. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed March 17, 2006; effective May 31, 2006.

#### **0260-02-.06 FEES.**

- (1) The fees are as follows:
  - (a) Application and Criteria (Reciprocity) fee - A fee to be paid by all applicants including those seeking licensure by reciprocity. It must be paid each time an application for licensure is filed.
  - (b) Late Renewal fee - A non-refundable fee to be paid when an individual fails to timely renew a license.

(Rule 0260-02-.06, continued)

- (c) Renewal fee - A non-refundable fee to be paid by all licensees. This fee also applies to individuals who reactivate a retired or lapsed license.
  - (d) Replacement License or Certificate fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" license or renewal certificate.
  - (e) State Regulatory fee - To be paid by all individuals at the time of application and with all renewal applications.
  - (f) Externship Certificate fee - To be paid by all individuals at the time of application who are requesting to be issued an externship certificate.
- (2) All fees shall be established by the board. Fees may be reviewed and changed at the discretion of the board. except as otherwise provided by statute.
- (3) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division of Health Related Boards. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Board of Chiropractic Examiners.
- (4) Fee Schedule:
- | Amount   | Fee Schedule:                          |
|----------|--|
| \$350.00 | (a) Application                        |
| 50.00    | (b) Late Renewal                       |
| 275.00   | (c) Renewal (biennial)                 |
| 75.00    | (d) Replacement License or Certificate |
| 350.00   | (e) Criteria (Reciprocity)             |
| 100.00   | (f) Externship Certificate             |
| 10.00    | (g) State Regulatory (biennial)        |

**Authority:** T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-106, 63-1-107, 63-1-108, 63-1-118, 63-4-103, 63-4-106, 63-4-107, 63-4-108, 63-4-110, 63-4-111, 63-4-112, 63-4-120, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed December 17, 1996; effective March 1, 1997. Amendment filed March 20, 1997; effective June 3, 1997. Amendment filed May 6, 1999; effective July 18, 1999. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed March 18, 2003; effective June 1, 2003.

#### **0260-02-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS.**

- (1) An application packet shall be requested from the board's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the board's Unit Director, provided that approval of all applications is made and ratified by the board.

(Rule 0260-02-.07, continued)

- (3) If an application is incomplete when received in the board's administrative office, the applicant will be notified of the deficiency. The requested information must be received in the board's administrative office within (60) days of the request.
- (4) If the requested information is not received within (60) days of the request, the application file shall become inactive and the applicant notified. No further board action will take place until the application is completed pursuant to the rules governing the application process.
- (5) If a completed application has been denied and ratified as such by the board the action shall become final and the following shall occur:
  - (a) A notification of the denial shall be sent by the board's administrative office by certified mail, return receipt requested. Specific reasons for denial will be stated such as incomplete information, unofficial records, examination failure or other matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial.
  - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§4-5-301, et seq.) to contest the denial and the procedure necessary to accomplish that action.
  - (c) An applicant has a right to a contested case hearing only if the licensure denial is based on subjective or discretionary criteria.
  - (d) An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if after review and attempted resolution by the board's administrative staff, the licensure application can not be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal. Such request must be made in writing to the board within 30 days of the receipt of the notice of denial from the board.
- (6) The board or its designee may delay a decision on eligibility to take the examination for any applicant for whom the board wishes additional information for the purpose of clarifying information previously submitted. This request is to be in writing and sent by certified mail, return receipt requested. The applicant's response must be made and received at the Board's Administrative Office within 60 days from the date of receipt of the notice by the applicant or the application will be closed.
- (7) If the board finds it has erred in the issuance of a license, the board will give written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within 30 days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to rule 0260-02-.07(5).
- (8) Abandonment of Application
  - (a) An application shall be deemed abandoned and closed if the application has not been completed by the applicant within 60 days after it was initially submitted and reviewed.
  - (b) The above action must be ratified by the board.

(Rule 0260-02-.07, continued)

- (c) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.
- (9) If an applicant requests an entrance for licensure, and wishes to change that application to a different type of entrance, a new application, with supporting documents and appropriate fee(s) must be submitted, i.e., reciprocity to examination.
- (10) Interviews
  - (a) Applicants, who by virtue of any criteria for licensure in the areas of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates derogatory information or a potential risk to the public health, safety and welfare, may be required to present themselves to the Board for an interview before final licensure may be granted. The interviews, which may be required, are considered part of the licensure process.
  - (b) Applicants who have completed all requirements and procedures for licensure and who are not impacted by subparagraph (a) shall present themselves to a Board member for an interview which shall include a discussion regarding the applicant's knowledge and understanding of pertinent statutes, regulations and ethics codes. The applicant shall schedule the interview to occur within sixty (60) days of his/her receipt of the Board's written approval to commence.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 4-5-301, 63-4-102, 63-4-103, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-111, 63-4-112, 63-4-114, 63-4-115, and Public Chapter 618 of the Public Acts 2000.

**Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed April 12, 2002; effective June 26, 2002. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed October 29, 2008; effective January 12, 2009.

#### **0260-02-.08 EXAMINATIONS.**

- (1) The examination of applicants for a license to practice chiropractic will consist of the National Board Examination as directed by the Board. Each applicant must successfully pass all examinations before receiving a license to practice chiropractic unless this requirement is specifically waived pursuant to T.C.A. §63-4-111.
- (2) A score of 375 on each part of the National Board of Chiropractic Examiners' Examinations and Physiotherapy shall be the minimum passing score for each applicant.

**Authority:** T.C.A. §§4-5-1011, 4-5-202, 4-5-204, 4-5-209, 63-1-107, 63-1-108, 63-4-103, 63-4-106, 63-4-107, 63-4-109, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Amendment filed August 30, 1990; effective October 14, 1990. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed March 20, 1997; effective June 3, 1997. Amendment filed May 29, 1998; effective August 12, 1998. Amendment filed December 13, 2000; effective February 26, 2001.

#### **0260-02-.09 RENEWAL OF LICENSE.**

- (1) Renewal Application

(Rule 0260-02-.09, continued)

- (a) The due date for license renewal is the expiration date indicated on the licensee's initial certificate of registration or renewal certificate.
  - (b) Methods of Renewal
    1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:  

[www.tennesseeanytime.org](http://www.tennesseeanytime.org)
    2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
  - (c) A license issued pursuant to these rules is renewable by the expiration date. To be eligible for renewal an individual must submit to the Division of Health Related Boards on or before the expiration date the following:
    1. A completed and signed renewal application form.
    2. The renewal and state regulatory fees as provided in rule 0260-02-.06.
  - (d) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired License - Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:
    - (a) Payment of all past due renewal fees and state regulatory fees; and
    - (b) Payment of the late renewal fee, pursuant to Rule 0260-02-.06; and
    - (c) Submission of evidence of completion of continuing education requirements pursuant to rule 0260-02-.12.
  - (3) Licensure renewal and reinstatement applications shall be treated as licensure applications and review decisions shall be governed by this rule and rule 0260-02-.07.
  - (4) Anyone submitting a signed renewal form or letter which is found to be untrue may be subjected to disciplinary action as provided in rule 0260-02-.15.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-1-108, 63-4-103, 63-4-106, 63-4-112, and 63-4-114.

**Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed April 12, 2002; effective June 26, 2002. Amendment filed September 27, 2002; effective December 11, 2002.

#### **0260-02-.10 PROFESSIONAL PEER ASSISTANCE.**

- (1) The Board has the prerogative to refer for assessment(s), and if needed, treatment for presenting problem(s), any licensee or applicant voluntarily or involuntarily coming before the Board.

(Rule 0260-02-.10, continued)

- (2) As an alternative to disciplinary action, or as part of a disciplinary action, the Board may utilize the services of a professional assistance program, as approved by the Board, for situations regarding licensee substance abuse, chemical abuse, or lapses in professional and/or ethical judgments. Information regarding persons entering the program upon referral by this Board shall be confidential.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-136, 63-4-106, 63-4-114, and 63-4-115. **Administrative History:** Original rule filed September 13, 2002; effective November 27, 2002.

#### **0260-02-.11 RETIREMENT AND REACTIVATION OF LICENSE.**

- (1) A person who holds a current license and does not intend to practice as a “licensed chiropractic physician” may apply to convert an active license to retired status. An individual who holds a retired license will not be required to pay the renewal fee.
- (2) A person who holds an active license may apply for retired status in the following manner:
  - (a) Obtain form, complete, and submit to the board’s administrative office an affidavit of retirement form.
  - (b) Submit any documentation which may be required to the board’s administrative office.
- (3) Licensure holders whose license has been retired may re-enter active status by doing the following:
  - (a) Submit a written request for licensure reactivation to the board’s administrative office.
  - (b) Pay the licensure renewal fees and state regulatory fees as provided in rule 0260-02-.06. If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the board will require payment of the late renewal fee and past due renewal fees.
- (4) Licensure reactivation applications shall be treated as licensure applications and review decisions shall be governed by rule 0260-02-.07.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-106, and 63-4-112. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

#### **0260-02-.12 CONTINUING EDUCATION.**

- (1) Basic requirements - The Board of Chiropractic Examiners requires each licensee to complete twenty-four (24) clock hours of Board-approved continuing education each calendar year (January 1 – December 31). If the licensee practices acupuncture, six (6) of these twenty-four (24) hours shall pertain to such acupuncture practice.
  - (a) No prior approval is required for continuing education courses conducted by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or the Tennessee Chiropractic Society.
  - (b) Prior approval is required for all course providers not mentioned in subparagraph (1) (a) of this rule, and may be obtained by submitting the following information to the board’s administrative office at least thirty (30) days prior to the scheduled date of the course:

(Rule 0260-02-.12, continued)

1. A course description or outline; and
  2. Names of all lecturers; and
  3. Brief résumé of all lecturers; and
  4. Number of hours of educational credit requested; and
  5. Date of course; and
  6. Copies of materials to be utilized in the course; and
  7. How verification of attendance is to be documented.
- (c) Whenever the Board decides that there is information that is crucial for licensees to have it may prepare and send that information to all continuing education providers in a format no larger than two (2) pages. All approved continuing education providers must, as a prerequisite to remaining an approved provider, reproduce and distribute this information from the Board to every licensee attending each of its individual continuing education courses or group of courses.
- (2) New licensee requirements
- (a) A six (6) hour Board approved course in risk management, sexual/professional boundaries, and Tennessee statutory and regulatory chiropractic jurisprudence shall constitute part of the twenty-four (24) clock hour continuing education requirement in paragraph (1) of this rule for the first calendar year that continuing education is required.
  - (b) New licensee by examination - Submitting proof of successful completion of all education and examination requirements necessary for licensure in Tennessee, pursuant to paragraphs 0260-02-.04 (1) and 0260-02-.08 (1), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which the applicant is approved for licensure.
  - (c) New licensee by criteria (reciprocity) - Submitting proof of successful completion of all education and examination requirements necessary for licensure in Tennessee, pursuant to paragraph 0260-02-.04 (2), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which such education and training requirements for licensure in another state were completed.
- (3) Current licensee requirement - Before January 1, 2008 every licensee who has not already done so must submit satisfactory proof of having successfully completed, as part of the annual continuing education requirement, the six (6) hour course described in subparagraph (2) (a) of this rule. It is the Board's intent that the six (6) hour course described in subparagraph (2) (a) of this rule must be completed once by all licensees.
- (4) Documentation
- (a) Each licensee shall send proof of completion of the annual continuing education requirement to the board's administrative office so that it is received no later than January 15th of the year immediately following the end of each calendar year. Such

(Rule 0260-02-.12, continued)

proof may be transmitted electronically provided the board has capability for electronic receipt of proof. When proof is mailed to the board's administrative office, such proof must be one (1) or more of the following:

1. Original certificates or photocopies of original certificates verifying the licensee's attendance at continuing education program(s). The original certificates or photocopies of original certificates must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.
  2. Original letters or photocopies of original letters on official stationery from the continuing education program's sponsor indicating date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.
  3. Original documents or photocopies of original documents verifying successful completion of a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in paragraph (5). The original documents or photocopies of original documents must include the clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.
- (b) Each licensee must retain original documents or photocopies of original documents which verify proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.
- (c) The licensee must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the proofs described in subparagraph (a).
- (d) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the practice of chiropractic. If the board determines that the training can not be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (5) Multi-Media
- (a) Continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats. Multi-Media courses may include courses utilizing:
    1. The Internet
    2. Closed circuit television
    3. Satellite broadcasts

(Rule 0260-02-.12, continued)

4. Correspondence courses
  5. Videotapes
  6. CD-ROM
  7. DVD
  8. Teleconferencing
  9. Videoconferencing
  10. Distance learning
- (b) A maximum of six (6) credit hours may be granted for multi-media courses during each calendar year. If the licensee practices acupuncture, three (3) of these six (6) hours may pertain to such acupuncture practice.
- (6) Continuing education credit will not be allowed for the following:
- (a) Regular work activities, administrative staff meetings, case staffing/reporting, etc.
  - (b) Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches.
  - (c) Training specifically related to policies and procedures of an agency.
  - (d) Courses that pertain to the promotion and growth, and the business management of a chiropractic practice.
- (7) Continuing Education for Reactivation or Reinstatement of Retired, Revoked, or Expired Licensure.
- (a) Reactivation of Retired Licensure
    1. An individual whose license has been retired for one year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reactivation. Those hours will be considered replacement hours and can not be counted toward meeting the calendar year end requirement.
    2. Any individual requesting reactivation of a license which has been retired for more than one (1) year must submit, along with the reactivation request, verification which indicates the attendance and completion of twenty-four (24) hours of continuing education for the year in which the license is to be reactivated. The continuing education hours must have been begun and successfully completed before the date of reactivation.
  - (b) Reactivation of Revoked Licensure – No person whose license has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as that for those licenses which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.

(Rule 0260-02-.12, continued)

- (c) Reactivation or Reinstatement of Expired Licensure – No person whose license has expired may be reactivated or reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reactivation or reinstatement must equal the hours required, had the license remained in an active status, and must have been begun and successfully completed before the date of reactivation or reinstatement.
  - (d) Continuing education hours obtained as a prerequisite for reactivating or reinstating a license may not be counted toward the calendar year requirement.
- (8) Violations
- (a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.
  - (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
  - (c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
  - (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) above may be subject to disciplinary action.
  - (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.
- (9) Waiver of Continuing Education
- (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education if it can be shown to the board that compliance was beyond the physical capabilities of or would constitute undue hardship to the person seeking the waiver.
  - (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the board's administrative office:
    - 1. A written request for a waiver which specifies what requirements is sought to be waived and written and signed explanation of the reason for the request.
    - 2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the board.
  - (c) A waiver approved by the board is effective only for the calendar year for which the waiver is sought.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-106 and 63-4-112. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed August 26, 2002; effective November 9, 2002. Amendment

(Rule 0260-02-.12, continued)

*filed September 13, 2002; effective November 27, 2002. Amendment filed September 27, 2002; effective December 11, 2002. Amendment filed December 4, 2003; effective February 17, 2004. Amendments filed January 5, 2006; effective March 21, 2006. Amendment filed October 18, 2006; effective January 1, 2007. Amendment filed January 11, 2007; effective March 27, 2007. Amendment filed April 10, 2007; effective June 24, 2007. Amendments filed October 27, 2008; effective January 10, 2009.*

**0260-02-.13 PROFESSIONAL ETHICS.** Immoral, unprofessional, unethical, or dishonorable conduct shall include, but not be limited to, the following:

- (1) Conduct designed to, or likely to, deceive, or harm the public.
- (2) Being a party to or aiding and abetting the violation of these regulations or the laws of the State of Tennessee regulating the practice of chiropractic.
- (3) The intentional or negligent use of any false, fraudulent or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice in connection with any of the licensing requirements of T.C.A. §§63-4-101, et seq.
- (4) Advertising or promoting, waiving, abrogating, or rebating the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligations for payment thereunder, unless the insurer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness. Advertising or promoting the same must include the intent of notice to the insurer and the record must include proof to the actual notice to the appropriate third party. If no advertising or promotion is given to any patient in the practice, the provider may excuse any portion or all fees to insure that all patients may receive all necessary procedures, if unable, due to circumstances, pay for their services.
- (5) Grossly excessive use of examinations of a patient or a pattern of clearly excessive use of examinations of patients when patients are charged for this service or reimbursement of the examination(s) is requested from a third party. The conduct mentioned herein is presumed to have occurred when there is no documented, substantiated, finding(s) or condition(s) of the patient(s) which warrant(s) the use of examination(s) for a chiropractic diagnosis.
- (6) Grossly excessive use of care and treatment of a patient or a pattern of clearly excessive use of care and treatment of patients when patients are charged for this service or reimbursement of payment for the care and treatment is requested from a third party. The conduct mentioned herein is presumed to have occurred when there is no documented, substantiated finding(s) or condition(s) of the patient(s) based on a chiropractic diagnosis which warrant(s) the treatment(s) and care performed.
- (7) A chiropractic physician shall not overutilize or otherwise improperly use ionizing radiation. In order to avoid overutilization of ionizing radiation, a chiropractic physician shall observe the following guidelines:
  - (a) Routine radiography of any patient shall not be performed without due regard for clinical need;
  - (b) Subsequent radiographic evaluation of the patient shall not be undertaken without significant observable clinical indication, as determined by the treating chiropractic physician. The significant observable indication required by this subsection shall not apply to reevaluations of the spinal subluxation complex. The spinal subluxation complex is determined to be a significant observable indication.
- (8) Sexual misconduct.

(Rule 0260-02-.13, continued)

- (a) Licensees shall not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the licensee's activities or roles as a licensee and that either is unwelcome, offensive, or creates a hostile workplace environment and the licensee knows or is told this, or is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.
- (b) Licensees shall not engage in sexual relationships with current patients, employees, or co-workers because such relationships are likely to impair judgment or be exploitative.
- (c) Licensees shall not accept as patients persons with whom they have engaged in sexual intimacies.
- (d) Licensees shall not engage in sexual intimacies with a former patient for at least six (6) months after cessation or termination of professional services.
- (e) Licensees must respect a patient's dignity at all times and should provide appropriate gowns and private facilities for dressing, undressing, and examination. A licensee should not be present in the room when a patient is dressing or undressing.
- (f) Licensees may have a chaperone present during examination for the protection of both the patient and the licensee. A licensee should refuse to examine sensitive parts of the patient's body without a chaperone present.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-401, 63-4-106, and 63-4-114. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed April 14, 2003; effective June 2003.

#### **0260-02-.14 EXTERNSHIP CERTIFICATE.**

- (1) Externship Certificate Application - An application for an externship certificate will be considered only after an individual has filed an application for licensure and the file is complete and the applicant has been accepted for the next scheduled examination. The externship certificate fee shall accompany the application for an externship certificate.
  - (a) The applicant for an externship certificate and the chiropractic/supervisor shall complete and sign their portion of the form which shall include the supervisor's license number, the name of the clinic/office, address and phone number where the extern will be practicing.
  - (b) The chiropractic/supervisor and applicant for an externship certificate must be interviewed by a board member, and by affixing their signatures affirm and attest that they will each hold responsibility to the other and the rules and regulations governing the practice of chiropractic in Tennessee.
  - (c) It will be the responsibility of the chiropractic/supervisor to mail the application and fee to the interviewing board member for his/her signature if the interview is conducted by telephone. Notwithstanding, the interviewing board member, after completion, will submit the application for registration to the board's Unit Director.
- (2) Conditions for Practicing Under an Externship Certificate.

(Rule 0260-02-.14, continued)

- (a) An extern must have approval from the chiropractic/supervisor of the findings/diagnosis and case management plan of all patients assigned for examination and care before commencing treatment. With this approval, an extern will be allowed to perform all diagnostic tests and therapeutic interventions as provided in T.C.A. § 63-4-101.
  - (b) Collection of fees for services and filing claims to third-party-payers must be in the name of the chiropractic/ supervisor (attending physician).
  - (c) Externship is to last no longer than three hundred sixty-five (365) days from the date of certificate issuance. Applicants who provide proof of illness or hardship that hindered their ability to complete exam requirements as provided in Rule .08 of this chapter may, at the board's discretion, be allowed a second year of externship upon payment of a second externship certificate fee.
  - (d) If the extern fails to meet qualifications for a permanent license within the time period provided in subparagraph (2) (c) the Board's Unit Director will issue a letter to be sent by certified mail, return receipt requested, to the chiropractic/supervisor and extern which will serve as notification that the externship certificate becomes invalid and expired and must be returned within fourteen (14) days to the Board's administrative office. The extern must cease to practice upon receiving this notification.
  - (e) In the event of a vacation or a prolonged illness the chiropractic/supervisor must make arrangements for continued supervision by a licensed chiropractic physician and submit a letter from the new chiropractic/ supervisor, addressed to the previous supervisor, stating that he/she will take the responsibility as previously outlined for the supervision and forward a copy of said letter to Board's administrative office.
  - (f) When the externship certificate becomes invalid for any reason or expires, it must be returned to the Board office within fourteen (14) days. The supervisor shall be responsible for monitoring this requirement, and the Board will notify the supervisor when the externship certificate become invalid.
- (3) Supervision - For purposes of this rule, supervision is defined as the direct oversight of the extern by a Tennessee licensed chiropractic physician. The chiropractic/supervisor must be available for approval of examination findings/diagnosis and management plan, including subsequent changes that may alter the management/treating program. The chiropractic/supervisor must conduct and evaluate case studies with the extern on each visit of interactive reassessment throughout the management/treating program of each patient. The supervisor shall be on the facility premises while the extern is conducting patient care.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-103, 63-4-106, 63-4-112, 63-4-114, 63-4-120, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001.

#### **0260-02-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, SCREENING PANELS, SUBPOENAS, AND ASSESSMENT OF COSTS.**

- (1) Upon a finding by the board that a chiropractic physician has violated any provision of the T.C.A. §§63-4-101, et seq., or the rules promulgated thereto, the board may impose any of the following actions separately or in any combination deemed appropriate to the offense.
  - (a) Advisory Censure - This is a written action issued to the chiropractic physician for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.

(Rule 0260-02-.15, continued)

- (b) Formal censure or reprimand - This is a written action issued to a chiropractic physician for one time and less severe violation(s). It is a formal disciplinary action.
  - (c) Probation - This is a formal disciplinary action which places a chiropractic physician on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.
  - (d) Licensure Suspension - This is a formal disciplinary action which suspends an individual's right to practice for a fixed period of time. It contemplates the reentry of the individual into the practice under the licensure previously issued.
  - (e) Licensure Revocation - This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the licensure previously issued. If revoked, it relegates the violator to the status he possessed prior to application for licensure. However, the board may in its discretion allow the reinstatement of a revoked certificate or license upon conditions and after a period of time which it deems appropriate.

No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one year unless otherwise stated in the board's revocation order.
  - (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
    - 1. During any period of probation, suspension; or
    - 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
    - 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
    - 4. As a stand-alone requirement(s) in any disciplinary order.
  - (g) Civil penalty - A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
  - (h) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.

(Rule 0260-02-.15, continued)

- (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
  2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
  3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
- (b) Procedures
1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
    - (i) A copy of the previously issued order; and
    - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
    - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
  2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
    - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
    - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
  3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
  4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

(Rule 0260-02-.15, continued)

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance  
Board of Chiropractic Examiners

Petitioner's Name: \_\_\_\_\_  
 Petitioner's Mailing Address: \_\_\_\_\_

Petitioner's E-Mail Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

Attorney for Petitioner: \_\_\_\_\_  
 Attorney's Mailing Address: \_\_\_\_\_

Attorney's E-Mail Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is

(Rule 0260-02-.15, continued)

also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
  1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:
    - (i) A copy of the previously issued order; and
    - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
    - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
  2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
    - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
    - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
  3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
  4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.

(Rule 0260-02-.15, continued)

- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification  
Board of Chiropractic Examiners

Petitioner's Name: \_\_\_\_\_

Petitioner's Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Petitioner's E-Mail Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Attorney for Petitioner: \_\_\_\_\_

Attorney's Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Attorney's E-Mail Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Petitioner's Signature

(4) Civil Penalties

(Rule 0260-02-.15, continued)

- (a) Purpose - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to Public Chapter 389, Acts of 1989.
- (b) Schedule of Civil Penalties
  1. A Type A civil penalty may be imposed whenever the board finds the person who is required to be licensed or certified by the board is guilty of a willful and knowing violation of the Chiropractic Examiners Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be an imminent substantial threat to the health, safety and welfare of an individual client or the public. For purposes of this section, a Type A civil penalty shall include, but not be limited to, a person who willfully and knowingly is or was practicing as a chiropractic physician without a license from the board.
  2. A Type B civil penalty may be imposed whenever the board finds the person required to be licensed or certified by the board is guilty of a violation of the Chiropractic Examiners Practice Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of clients or the public.
  3. A Type C civil penalty may be imposed whenever the board finds the person required to be licensed or certified by the board is guilty of a violation of the Chiropractic Examiners Practice Act or regulations promulgated pursuant thereto, which are neither directly detrimental to the clients or public, nor directly impact their care, but have only an indirect relationship to client care or the public.
- (c) Amount of Civil Penalties
  1. Type A civil penalties shall be assessed in the amount of not less than \$500 and not more than \$ 1000.
  2. Type B civil penalties may be assessed in the amount of not less than \$100 and not more than \$500.
  3. Type C civil penalties may be assessed in the amount of not less than \$50 and not more than \$100.
- (d) Procedures for Assessing Civil Penalties
  1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
  2. Civil Penalties may also be initiated and assessed by the board during consideration of any Notice of Charges. In addition, the board may, upon good cause shown, assess type and amount of civil penalty which was not recommended by the Division.
  3. In assessing the civil penalties pursuant to these rules the board may consider the following factors:

(Rule 0260-02-.15, continued)

- (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
    - (ii) The circumstances leading to the violation;
    - (iii) The severity of the violation and the risk of harm to the public;
    - (iv) The economic benefits gained by the violator as a result of non-compliance; and
    - (v) The interest of the public.
  4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of T.C.A. Title 4, Chapter 5.
- (5) Screening Panels - Any screening panel(s) established pursuant to T.C.A. §63-4103:
  - (a) Shall have concurrent authority with the Board members and any individual chiropractor designated by the Board pursuant to rule 0260-02-.19 (7), to do the acts enumerated therein and subject to the conditions contained therein.
    1. A Screening panel(s) comprised of three (3) or more persons shall elect a chairperson prior to convening to conduct business. The screening panel(s) shall include at least one (1) but no more than three (3) licensed chiropractors who may be members of the board or may serve voluntarily or through employment by or under contract with the board.
    2. A Screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
  - (b) After review of a complaint by the Board's consultant, or after completion of an investigation by the Division, a screening panel may upon request of either the state, or the licensee who is the subject of an investigation, or upon agreement of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
    1. Neither the Rules of Civil Procedure, the rules of Evidence or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panels(s).
      - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
      - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
    2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.

(Rule 0260-02-.15, continued)

3. A licensee who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.
4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee who is the subject of an investigation being considered by a screening panel.
5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
  - (i) Approved by a majority of the members of the screening panel which issued them; and
  - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee; and
  - (iii) Subsequently presented to and ratified by the Board or a duly constituted panel of the Board.

(6) Subpoenas

- (a) Purpose - Although this rule applies to persons and entities other than chiropractors, it is the Board's intent as to chiropractors that they be free to comprehensively treat and document treatment of their patients without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Board that the subpoena power outlined herein shall be strictly proscribed. Such power shall not be used by the division or board investigators to seek other incriminating evidence against chiropractors when the division or board does not have a complaint or basis to pursue such an investigation. Thus, unless the division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, then no subpoena as contemplated herein shall issue.

- (b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:

1. Probable Cause

- (i) For Investigative Subpoenas - shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, that a violation of the Chiropractic Practice Act or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or items to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.
- (ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way to establish a more restrictive burden of proof than the existing

(Rule 0260-02-.15, continued)

preponderance of the evidence in any civil disciplinary action which may involve the person(s) or items that are the subject of the subpoena.

2. Presiding Officer - For investigative subpoenas shall mean any elected officer of the board, or any duly appointed or elected chairperson of any panel of the board, or any screening panel, and any hearing officer, arbitrator or mediator.

(c) Procedures

1. Investigative Subpoenas

- (i) Investigative subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators, and its legal staff.
- (ii) An applicant for such a subpoena must either orally or in writing notify the Board Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:
  - (I) The time frame in which issuance is required so the matter can be timely scheduled; and
  - (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the division or board.
    - I. In no event shall such subpoena be broadly drafted to provide investigative access to chiropractic records of other patients who are not referenced either in the notice of charges or a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or board consideration of a chiropractor's conduct, act, or omission; and
  - (III) Whether the proceedings for the issuance is to be conducted by physical appearance or electronic means; and
  - (IV) The name and address of the person for whom the subpoena is being sought, or who has possession of the items being subpoenaed.
- (iii) The Board's Unit Director shall cause to have the following done:
  - (I) In as timely a manner as possible arrange for either an elected officer of the board, or any screening panel, or any hearing officer, arbitrator or mediator to preside and determine if the subpoena should be issued; and
  - (II) Establish a date, time and place for the proceedings to be conducted and notify the presiding officer, the applicant and the court reporter; and
  - (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:

(Rule 0260-02-.15, continued)

- I. Preserve a verbatim record of the proceeding; and
  - II. Prevent the person presiding over the proceedings and/or signing the subpoena from being allowed to participate in any manner in any disciplinary action of any kind formal or informal which may result which involves either the person or the documents or records for which the subpoena was issued.
- (iv) The Proceedings
- (I) The applicant shall do the following:
    - I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and
    - II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
    - III. Obtain, complete and provide to the presiding officer a subpoena which specifies the following:
      - A. The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed; and
      - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought if that location is known; and
      - C. A brief, general description of any items to be produced pursuant to the subpoena; and
      - D. The date, time and place for compliance with the subpoena.
    - IV. Provide the presiding officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.
- (v) The Presiding Officer shall do the following:
- (I) Be selected only after assuring the Board Unit Director that he or she has no prior knowledge of or any direct or indirect interest in or relationship with the person(s) being subpoenaed and/or the licensee who is the subject of the investigation; and
  - (II) Commence the proceedings and swear all necessary witnesses; and
  - (III) Hear and maintain the confidentiality, if any, of the evidence presented at the proceedings; and

(Rule 0260-02-.15, continued)

- (IV) Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and
  - (V) Determine based solely on the evidence presented in the proceedings whether probable cause exists and if so, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry; and
  - (VI) Sign the subpoena as ordered to be issued; and
  - (VII) Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for issuance of subpoenas in the matter.
2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case hearing pursuant to Title 4, Chapter 5 of the Tennessee Code Annotated, this definition shall not apply. All such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.
- (d) Subpoena Forms
- 1. All subpoena shall be issued on forms approved by the Board.
  - 2. The subpoena forms may be obtained by contacting the Board's Administrative Office.
- (e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of procedure for contested cases of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.
- (7) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§63-1-144 and 63-4-115.

**Authority:** T.C.A. §§4-5-101, 4-5-202, 4-5-204, 4-5-217, 4-5-223, 4-5-224, 4-5-225, 4-5-311, 63-1-117, 63-1-122, 63-1-134, 63-1-144, 63-4-102, 63-4-103, 63-4-104, 63-4-106, 63-4-114, and 63-4-115.

**Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Notice of withdrawal to rule 0260-02-.15(4)(c) filed and effective November 23, 1999. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed December 14, 1999; effective February 22, 2000. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed August 2, 2004; effective October 16, 2004. Amendment filed February 1, 2006; effective April 17, 2006. Amendment filed October 29, 2008; effective January 12, 2009.

#### **0260-02-.16 LICENSE.**

- (1) Display of License - Every person licensed by the board in this state shall display his/her license in a conspicuous place in his/her office and, whenever required, exhibit such license to the board or its authorized representatives.

(Rule 0260-02-.16, continued)

- (2) Replacement License - A license holder whose "artistically designed" license has been lost or destroyed may be issued a replacement document upon receipt of a written request in the board administrative office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the required fee pursuant to rule 0260-02-.06.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-109, and 63-4-106. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

#### **0260-02-.17 CHANGE OF ADDRESS AND/OR NAME.**

- (1) Change of Address - Each person holding a license who has had a change of address or place of employment, shall file in writing with the board his/her current address, giving both old and new addresses. Such requests shall be received in the board's administrative office no later than 30 days after such change is effective and must reference the individual's name, profession, and license number.
- (2) Change of Name - An individual registered with the board shall notify the board in writing within 30 days of a name change and will provide both the old and new names. A request for name change must also include a copy of the official document involved and reference the individual's profession, board, and license number.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-108, and 63-4-106. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

**0260-02-.18 MANDATORY RELEASE OF PATIENT RECORDS.** The mandatory release of patient records shall be as set forth in T.C.A. §§63-2-101 and 63-2-102.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-2-102, and 63-4-106. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed June 3, 2004; effective August 17, 2004.

#### **0260-02-.19 BOARD MEMBERS, OFFICERS, CONSULTANTS, RECORDS, DECLARATORY ORDERS, AND ADVISORY RULINGS.**

- (1) Description of Organization
  - (a) The Board of Chiropractic Examiners is composed by law of seven members appointed by the governor to staggered terms of five (5) years. Each member shall serve until a successor is appointed.
  - (b) The composition of the board shall include five (5) licensed chiropractic physicians who are residents in Tennessee and have been actively engaged in practice of their profession in Tennessee for a period of at least five (5) years; and two (2) consumer members who are not affiliated with the practice of chiropractic.
  - (c) Appointments are made from a list of qualified candidates by the governor.
- (2) Purpose of the Board
  - (a) The board is charged by law with the responsibility of regulating the practice of chiropractic in order to protect the citizens of Tennessee, additionally;
  - (b) The board, by formulating and administering examinations, credentializes candidates for licensure and continues this credentialization process by approving educational seminars for licensees in appropriate subject material, or specific educational

(Rule 0260-02-.19, continued)

requirements for an individual licensee as conditions that may be appropriate as the results of a censure, reprimand or action taken in a formal hearing conducted or ratified by the board.

- (3) Board Meetings
  - (a) The time, place, and frequency of board meetings shall be at the discretion of the board, except at least one meeting shall be held annually.
  - (b) Special meetings are called at the discretion of the board president or at the written request from four (4) members of the board.
  - (c) Four members of the board shall at all times constitute a quorum.
  - (d) All meetings of the board shall be open to the public.
- (4) The board shall elect from its members the following officers:
  - (a) President - who shall preside at all board meetings, appoint committees and correspond with other board members when appropriate.
  - (b) Vice President - whose duties will be to preside at a particular meeting in the absence or unavailability of the president. To serve only upon the issuance of notification from the president which will also be given to the board Unit Director.
  - (c) Secretary - who along with the board Unit Director shall be responsible for correspondence from the board and to execute all official documents which require the seal of the board to be affixed.
- (5) Responsibilities of the board include, but are not limited to:
  - (a) Adopt and revise rules and regulations as may be necessary to carry out its powers and duties.
  - (b) Adopt and/or administer examinations;
  - (c) Examine for, deny, withhold, or approve the license of applicants and renew licenses;
  - (d) Appoint designee(s) to assist in the performance of its duties, (i.e., examination proctors); and
  - (e) Conduct hearings.
- (6) Board Conflict of Interests - Any board member having an immediate personal, private, or financial interest in any matter pending before the board shall disclose the fact in writing, and shall not vote upon such matter.
- (7) The board shall not delegate its authority to select aboard consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:
  - (a) Meet with the Board attorney to review complaints received against licensees.
  - (b) Acting in concert with the attorney to send warning letters of a non-disciplinary nature to licensees, where appropriate, and close complaint files determined by the consultant and the attorney not to constitute violations of the practice act.

(Rule 0260-02-.19, continued)

- (c) Recommend whether and what type disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.
  - (d) Recommend whether and/or what terms a disciplinary action might be settled. Any disciplinary matter proposed for settlement must be subsequently reviewed, evaluated and ratified by the full board before it becomes effective.
  - (e) Undertake any other matter authorized by a majority vote of the board.
- (8) Records and Complaints
- (a) All requests, applications, notices, other communications and correspondence shall be directed to the board's administrative office. Any requests or inquiries requiring a board decision or official board action, except documents relating to disciplinary actions or hearing request, must be received 14 days prior to a scheduled board meeting and will be retained in the board's administrative office and presented to the board at the board meeting.
  - (b) All records of the board, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the board's administrative office during normal business hours.
  - (c) Copies of public records shall be provided to any person upon payment of the cost of copying.
  - (d) Complaints made against a licensee become public information only upon the filing of a notice of charges by the Department of Health.
  - (e) All complaints should be directed to the Investigations Section of Health Related Boards.
- (9) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division.

Declaratory Order Petition forms can be obtained from the Board's administrative office.

- (10) Advisory Rulings - Any person who is affected by any matter within the jurisdiction of the Board and who holds a license issued pursuant to Chapter 4 of Title 63 of the Tennessee Code Annotated, may submit a written request for an advisory ruling subject to the limitations imposed by T.C.A. §63-4-103 (4). The procedures for obtaining and issuance of advisory rulings are as follows:
- (a) The licensee shall submit the request to the Board Administrative Office on the form contained in subparagraph (e) providing all the necessary information; and
  - (b) The request, upon receipt, shall be referred to the Board's administrative staff for research, review and submission of a proposed ruling to the Board for its consideration at the next meeting after the draft ruling has been approved by the Board's consultant and advisory attorney; and
  - (c) The Board shall review the proposed ruling and either make whatever revisions or substitutions it deems necessary for issuance or refer it back to the administrative staff for further research and drafting recommended by the Board; and

(Rule 0260-02-.19, continued)

- (d) Upon adoption by the Board the ruling shall be transmitted to the requesting licensee. The ruling shall have only such effect as is set forth in T.C.A. §63-4-103 (4).
- (e) Any request for an advisory ruling shall be made on the following form, a copy of which may be obtained from the Board's Administrative Office:

Board of Chiropractic Examiners  
Request for Advisory Ruling

Date: \_\_\_\_\_

Licensee's Name: \_\_\_\_\_

Licensee's Address: \_\_\_\_\_

Zip Code: \_\_\_\_\_

License Number: \_\_\_\_\_

1. The specific question or issue for which the ruling is requested:  
\_\_\_\_\_

2. The facts that gave rise to the specific question or issue:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The specific statutes and/or rules which are applicable to the question or issue:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Licensees Signature

Mail or Deliver to: Administrator  
Tennessee Board of Chiropractic Examiners  
227 French Landing, Suite 300  
Heritage Place, MetroCenter  
Nashville, TN 37243

- (11) The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-114, and 63-4-115.. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed August 26, 2002; effective November 9, 2002. Amendments filed October 10, 2005; effective December 24, 2005. Amendment filed March 16, 2007; effective May 30, 2007.

**0260-02-.20 ADVERTISING.**

- (1) Policy Statement. The lack of sophistication on the part of many members of the public concerning chiropractic services, the importance of the interests affected by the choice of a chiropractic physician and the foreseeable consequence of unrestricted advertising by chiropractic physicians, which is recognized to pose special possibilities for deception, require that special care be taken by chiropractic physicians to avoid misleading the public. The chiropractic physician must be mindful that advertising by chiropractic physicians is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.
- (2) Definitions.
  - (a) Advertisement - Informational communication, as further defined in rule 0260-02-.01 (1), to the public in any manner designed to attract public attention to the practice of a chiropractic physician who is licensed to practice in Tennessee.
  - (b) Material Fact. Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of practitioners to serve his own particular needs.
  - (c) Bait and Switch Advertising. An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise, in order to sell something usually at a higher fee or on a basis more advantageous to the advertiser.
  - (d) Discounted Fee shall mean a fee offered or charged by a person or organization for any product or service that is less than the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee."
- (3) Advertising Fees and Services.
  - (a) Fixed Fees. Fixed fees may be advertised for any service. It is presumed unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professionally recognized components within generally accepted standards that are required to complete the service.
  - (b) Range of Fees. A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception of the public.
  - (c) Discount Fees. Discount fees may be advertised if
    1. The discount fee in fact is lower than the licensee's customary or usual fee charge for the service; and
    2. the licensee provided the same quality and components of service and material at the discounted fee that are normally provided at the regular non-discounted fee for that service.
  - (d) Related Services and Additional Fees. Related services which may be required in conjunction with the advertised service for which additional fees will be charged must be identified as such in any advertisement.

(Rule 0260-02-.20, continued)

- (e) Time Period of Advertised Fees. Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time.
  - 1. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next scheduled publication whichever is later whether or not the services are actually rendered or completed within that time.
- (4) Advertising Content. The following acts or omissions in the context of advertisement: by any licensee shall constitute unethical and unprofessional conduct, and subject the licensee to disciplinary action pursuant to T.C.A. §63-4-114.
  - (a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.
  - (b) The misleading use of an unearned or non-health degree in any advertisement.
  - (c) Promotion of a professional service which the licensee knows or should know is beyond the licensee's ability to perform.
  - (d) Statements that the licensee is a certified acupuncturist.
  - (e) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective patient.
  - (f) Any appeals to an individual's anxiety in an excessive or unfair manner.
  - (g) The use of any personal testimonial attesting to a quality of competence of a service or treatment offered by a licensee that is not reasonably verifiable.
  - (h) Utilization of any statistical data or other information based on past performances or predication of future services, which creates an unjustified expectation about results that the licensee can achieve.
  - (i) The communication of personally identifiable facts, data, or information about a patient without first obtaining patient consent.
  - (j) Any misrepresentation of a material fact.
  - (k) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
  - (l) Statements concerning the benefits or other attributes of chiropractic procedures or products that involve significant risks without including:
    - 1. A realistic assessment of the safety and efficiency of those procedures or products; and
    - 2. The availability of alternatives; and
    - 3. Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.

(Rule 0260-02-.20, continued)

- (m) Any communication which creates an unjustified expectation concerning the potential results of any treatment.
  - (n) Failure to comply with the rules governing advertisement of fees and services and advertising records.
  - (o) The use of “bait and switch” advertisements. Where the circumstances indicate “bait and switch” advertising, the Board may require the licensee to furnish to the board or its designee data or other evidence pertaining to those sales at the advertised fee as well as other sales.
  - (p) Misrepresentation of a licensee’s credentials, training, experience or ability.
  - (q) Failure to include the corporation, partnership or individual licensee’s name and address and telephone number in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:
    - 1. Upon request provide a list of all licensees practicing at that location; and
    - 2. Maintain and conspicuously display at the licensee’s office, a directory listing all licensees practicing at that location.
  - (r) Failure to disclose that fact of giving compensation or anything of value to representatives of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement make the fact of compensation apparent.
  - (s) After thirty (30) days, the use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings. This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.
  - (t) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.
  - (u) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services.
- (5) Advertising Records and Responsibility.
- (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed professional employees acting as an agent of such firm or entity.
  - (b) Any and all advertisements are presumed to have been approved by the licensee named therein.
  - (c) A recording of every advertisement communicated by electronic media, and a copy of any other form of advertisement shall be retained by the licensee for a period of two (2) years from the last date of broadcast or publication and be made available for review upon request by the board or its designee.

(Rule 0260-02-.20, continued)

- (d) Severability. It is hereby declared that the sections, clauses, sentences and parts of these rules are severable, are not matters of mutual essential inducement, and any of them shall be excised if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reasons be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.
- (6) Telemarketing.
- (a) Telemarketing or telephonic solicitation by licensees, their employees, or agents to victims of accidents or disaster shall be considered unethical if carried out within thirty (30) days of the accident or disaster, and subject the licensee to disciplinary action pursuant to T.C.A. §63-4-114.
  - (b) Telemarketing transcripts shall be maintained for a period of two (2) years following their utilization.
  - (c) A log of contacts must be maintained for a period of two (2) years following the telemarketing encounter.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-114 and 63-4-122. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed April 10, 2007; effective June 24, 2007.

#### **0260-02-.21 CHIROPRACTIC PRECEPTOR PROGRAM.**

- (1) Application for Preceptor Program
- An application will be considered by the board or its designee, based upon;
- (a) If the preceptor named in the application is in good standing with the board.
  - (b) If the application for the chiropractic preceptor program includes an intern/extern whom is serving his/her internship with a chiropractic college accredited by the Council on Chiropractic Education (CCE), registered with the Commission on Accreditation of the U.S. Department of Education.
- (2) Conditions for Practice Under a Preceptor Program
- (a) The conditions for practice are the same as for a temporary licensee, as outlined in rule 0260-02-.14(2) and (3), additionally;
  - (b) The preceptor program will be discontinued upon graduation of the intern/extern, however, if the graduate has completed the application for licensure in this state and upon filing an application for temporary license, when approved, including the payment of the fee in accordance with rule 0260-02-.14(l), may continue, practicing as a temporary licensee.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-107, 63-4-108, 63-4-120, and 63-4-121. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

**0260-02-.22 SUBSTANTIATION OF SERVICES.** It is intended that these procedures are the accepted standard(s) and anything less than this shall be considered unprofessional and unethical conduct in the practice of chiropractic and may subject a licensee to disciplinary action pursuant to T.C.A. §63-4-114 (4).

- (1) These standards apply to all licensed chiropractic physicians. These standards also apply to those examinations advertised at a reduced fee or free (no charge) services.
- (2) Adequate patient records shall be legibly maintained.
- (3) Initial and follow-up services (daily records) shall consist of documentation to justify care.
- (4) If abbreviations or symbols are used in the daily recordkeeping, a key must be provided.
- (5) All patient records shall include but not be limited to:
  - (a) patient history
  - (b) subjective/objective findings
  - (c) examination
  - (d) diagnosis
  - (e) treatment,
  - (f) and reevaluation or referral.
- (6) In any disciplinary action against a chiropractic physician for any reason, the Board shall apply these minimal clinical standards.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-106, and 63-4-114. **Administrative History:** Original rule filed February 12, 1996; effective April 27, 1996.

**0260-02-.23 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.**

- (1) Malpractice Reporting Requirements - The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be set by statute, as provided in Public Chapter 373 of the Public Acts of 1999.
- (2) Criminal Conviction Reporting Requirements - For purposes of the "Health Care Consumer Right-To-Know Act of 1998, the following criminal convictions must be reported:
  - (a) Conviction of any felony; and
  - (b) Conviction or adjudication of guilt of any misdemeanor within the most recent ten (10) years, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
    1. Sex.
    2. Alcohol or drugs.
    3. Physical injury or threat of injury to any person.

(Rule 0260-02-.23, continued)

4. Abuse or neglect of any minor, spouse or the elderly.
  5. Fraud or theft.
- (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-51-101, et seq., and Public Chapter 373 of the Public Acts of 1999. **Administrative History:** Original rule 0260-02-.23 filed March 14, 2000; effective May 28, 2000.

**0260-02-.24 CHIROPRACTIC PROFESSIONAL CORPORATIONS AND CHIROPRACTIC PROFESSIONAL LIMITED LIABILITY COMPANIES.**

- (1) Chiropractic Professional Corporations (CPC) – Except as provided in this rule Chiropractic Professional Corporations shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.
- (a) Filings – A CPC need not file its Charter or its Annual Statement of Qualifications with the Board.
- (b) Ownership of Stock – Only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:
1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or
  2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians.
- (c) Officers and Directors of Chiropractic Professional Corporations -
1. All, except the following officers, must be persons who are eligible to form or own shares of stock in a chiropractic professional corporation as limited by T.C.A. § 48-101-610 (d) and subparagraph (1) (b) of this rule:
    - (i) Secretary;
    - (ii) Assistant Secretary;
    - (iii) Treasurer; and
    - (iv) Assistant Treasurer.
  2. With respect to members of the Board of Directors, only persons who are eligible to form or own shares of stock in a chiropractic professional corporation as limited by T.C.A. § 48-101-610 (d) and subparagraph (1) (b) of this rule shall be directors of a CPC.
- (d) Practice Limitations

(Rule 0260-02-.24, continued)

1. Engaging in, or allowing another chiropractic physician incorporator, shareholder, officer, or director, while acting on behalf of the CPC, to engage in, chiropractic practice in any area of practice or specialty beyond that which is specifically set forth in the charter may be a violation of the professional ethics enumerated in Rule 0260-02-.13 and/or Tennessee Code Annotated, Section 63-4-114 (4).
  2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a CPC.
  3. Nothing in these rules shall be construed as prohibiting a CPC from electing to incorporate for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician incorporators, directors, officers, shareholders, employees or contractors of the CPC who are practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
  4. Nothing in these rules shall be construed as prohibiting a chiropractic physician from owning shares of stock in any type of professional corporation other than a CPC so long as such ownership interests do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician while practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
- (2) Chiropractic Professional Limited Liability Companies (CPLLC) - Except as provided in this rule Chiropractic Professional Limited Liability Companies shall be governed by either the provisions of Tennessee Code Annotated, Title 48, Chapter 248 or Public Chapter 286 of the Public Acts of 2005.
- (a) Filings - Articles filed with the Secretary of State shall be deemed to be filed with the Board and no Annual Statement of Qualifications need be filed with the Board.
  - (b) Membership - Only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:
    1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or
    2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians.
  - (c) Managers, Directors or Governors of a CPLLC
    1. All, except the following managers, must be persons who are eligible to form or become members or holders of financial rights of a chiropractic professional limited liability company as limited by T.C.A. § 48- 248-401 and subparagraph (2) (b) of this rule:
      - (i) Secretary

(Rule 0260-02-.24, continued)

(ii) Treasurer

2. Only persons who are eligible to form or become members or holders of financial rights of a chiropractic professional limited liability company as limited by T.C.A. § 48-248-401 and subparagraph (2) (b) of this rule shall be allowed to serve as a director, or serve on the Board of Governors of a CPLLC.

(d) Practice Limitations

1. Engaging in, or allowing another chiropractic physician member, officer, manager, director, or governor, while acting on behalf of the CPLLC, to engage in, chiropractic practice in any area of practice or specialty beyond that which is specifically set forth in the articles of organization may be a violation of the professional ethics enumerated in Rule 0260-02-.13 and/or Tennessee Code Annotated, Section 63-4-114 (4).
  2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a CPLLC.
  3. Nothing in these rules shall be construed as prohibiting a CPLLC from electing to form for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Limited Liability Company Act or the Tennessee Revised Limited Liability Company Act so long as those purposes do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician members or holders of financial rights, governors, officers, managers, employees or contractors of the CPLLC who are practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
  4. Nothing in these rules shall be construed as prohibiting a chiropractic physician from being a member of any type of professional limited liability company other than a CPLLC so long as such membership interests do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician while practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
  5. All CPLLCs formed in Tennessee pursuant to Tennessee Code Annotated, Section 48-248-104 or Public Chapter 286 of the Public Acts of 2005, to provide services only in states other than Tennessee shall annually file with the Board a notarized statement that they are not providing services in Tennessee.
- (3) Dissolution - The procedure that the Board shall follow to notify the attorney general that a CPC or a CPLLC has violated or is violating any provision of Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005, shall be as follows but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated, Sections 48-101-624 or 48-248-409.
- (a) Service of a written notice of violation by the Board on the registered agent of the CPC and/or CPLLC or the secretary of state if a violation of the provisions of Tennessee Code Annotated, Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005 occurs.
  - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).

(Rule 0260-02-.24, continued)

- (c) The notice of violation shall state that the CPC and/or CPLLC must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
  - (d) The notice of violation shall state that, if the Board finds that the CPC and/or CPLLC is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to Tennessee Code Annotated, Title 48.
  - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 but that the CPC and/or CPLLC, through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.
  - (f) If, after the proceeding the Board finds that a CPC and/or CPLLC did violate any provision of Title 48, Chapters 101 and/or 248 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of either Tennessee Code Annotated, Sections 48-101-624 (1)-(3) and/or 48-248-409 (1)-(3) and/or Public Chapter 286 of the Public Acts of 2005.
- (4) Violation of this rule by any chiropractic physician individually or collectively while acting as a CPC or as a CPLLC may subject the chiropractic physician(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-4-114 (4).
  - (5) The authority to own shares of stock or be members or holders of financial rights in an CPC or an CPLLC granted by statute or these rules to professionals not licensed in this state shall in no way be construed as authorizing the practice of any profession in this state by such unlicensed professionals.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-4-101, 63-4-106, 63-4-107, 63-4-114, and Public Chapter 286 of the Public Acts of 2005. **Administrative History:** Original rule filed December 18, 2003; effective March 2, 2004. Amendment filed March 16, 2007; effective May 30, 2007.

#### **0260-02-.25 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS.**

- (1) Free Health Clinic Practice Pursuant to T.C.A. §63-1-201.
  - (a) Any chiropractor licensed to practice chiropractic in this state or any other state who has not been disciplined by any licensure board may have his/her license converted to or receive a Tennessee "Special Volunteer License," as defined in T.C.A. §63-1-201, which will entitle the licensee to practice without remuneration solely within a "free health clinic," as defined by T.C.A. §63-1-201, at a specified site or setting by doing the following:
    - 1. Obtaining from the Board's administrative office a "Special Volunteer License" application, completing it and submitting it along with any required documentation to the Board's administrative office; and

(Rule 0260-02-.25, continued)

2. Have the licensing authority of every state in which the chiropractor holds or ever held a license to practice submit directly to the Board's administrative office the equivalent of a "certificate of fitness" as described in T.C.A. §63-1-118 which shows that the license has never been subjected to any disciplinary action and is free and clear of all encumbrances; and
  3. For chiropractors who have not been licensed in Tennessee, comply with all provisions of subparagraphs (2) (d), (2) (e), and (2) (f) of rule 0260-02-.05 and the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§63-51-101, et seq.; and
  4. Submitting the specific location of the site or setting of the free health clinic in which the licensee intends to practice along with proof of the clinic's private, and not-for-profit status.
- (b) A chiropractor holding a Special Volunteer License is not required to pay any fee for its issuance or the required biennial renewal pursuant to the Division of Health Related Board's biennial birthdate renewal system.
- (c) A chiropractor holding a Special Volunteer License may not do any of the following:
1. Practice chiropractic anywhere other than in the free health clinic site or setting specified in the application; and
  2. Charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of medical or any other services; and
  3. Practice for any free health clinic that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
- (d) Special Volunteer Licenses are subject to all of the following
1. All rules governing renewal, retirement, reinstatement and reactivation as provided by rules 0260-02-.09 and .11, except those requiring the payment of any fees; and
  2. The rules governing continuing education as provided by rule 0260-02-.12; and
  3. Disciplinary action for the same causes and pursuant to the same procedures as all other licenses issued by the Board.
- (2) Practice Pursuant to the "Volunteer Health Care Services Act" T.C.A. §§63-6-701, et seq.
- (a) Any chiropractor licensed in this or any other state, territory, district or possession of the United States whose license is not under a disciplinary order of suspension or revocation may practice chiropractic in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§63-6-701 through 63-6-707 and rule 1200-10-1-.12 of the Division of Health Related Boards.
  - (b) Any person who may lawfully practice chiropractic in this or any other state, territory, district or possession of the United States under an exemption from licensure and who is not under a disciplinary order of suspension or revocation and who is not and will not

(Rule 0260-02-.25, continued)

“regularly practice,” as defined by T.C.A. §63-6-703 (3) may practice chiropractic in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§63-6-701 through 63-6-707 and rule 1200-10-1-.12 of the Division of Health Related Boards.

- (c) A chiropractor or anyone who practices under an exemption from licensure pursuant to this rule may not charge any fee or receive chiropractic compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of medical or any other services; and may not practice for any organization that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
  - (d) Any organization that organizes or arranges for the voluntary provision of health care services on residents of Tennessee may utilize persons described in subparagraphs (a) and (b) to practice chiropractic only when it has complied with the provisions of T.C.A. §§63-6-701 through 63-6-707 and rule 1200-10-1-.12 of the Division of Health Related Boards.
- (3) Application review and licensure decisions for these types of licensure or organization registration shall be governed by rule 0260-02-.07.

#### **0260-02-.26 CHIROPRACTIC RECORDS.**

- (1) Purposes – The purposes of these rules are:
  - (a) To recognize that chiropractic records are an integral part of the practice of chiropractic as defined in T.C.A. § 63-4-101.
  - (b) To give chiropractic physicians, their professional and non-professional staff, and the public direction about the content, transfer, retention, and destruction of those records.
  - (c) To recognize that a distinction exists between a chiropractic physician’s records created by the patient’s chiropractic physician and the records of chiropractic services provided to a hospitalized patient created by or at the request of and that are under the control of a hospital as defined by T.C.A. § 68-11-302 (4).
- (2) Conflicts – As to chiropractic records, these rules should be read in conjunction with the provisions of T.C.A. §§ 63-2-101 and 102, and are not intended to conflict with those statutes in any way. Those statutes, along with these rules, govern the subjects that they cover in the absence of other controlling state or federal statutes or rules to the contrary.
- (3) Applicability – These rules regarding chiropractic records shall apply only to those records, the information for which was obtained by chiropractic physicians or their professionally licensed employees, or those over whom they exercise supervision, for purposes of services provided in any clinical setting and not to those records for a hospitalized patient created by or at the request of and that are under the control of a hospital as defined by T.C.A. § 68-11-302 (4), or any health care facility or entity owned or operated by the hospital.
- (4) Chiropractic Records
  - (a) Duty to Create and Maintain Chiropractic Records – As a component of the standard of care and of minimal competency a chiropractic physician must cause to be created and cause to be maintained a chiropractic record for every patient for whom he or she,

(Rule 0260-02-.26, continued)

and/or any of his or her professionally licensed supervisees, performs services or provides professional consultation.

- (b) Notice – Anywhere in these rules where notice is required to be given to patients of any chiropractic physician that notice shall be required to be issued within thirty (30) days of the date of the event that triggers the notice requirement, and may be accomplished by public notice.
- (c) Distinguished from Hospital Records - The chiropractic records covered by these rules are separate and distinct from those records of chiropractic services provided to hospitalized patients created by or at the request of and that are under the control of a hospital as defined by T.C.A. § 68-11-302 (4), or any health care facility or entity owned or operated by the hospital.
  - 1. The provisions of T.C.A. Title 68, Part 11, Chapter 3 govern records created by or at the request of and that are under the control of a hospital as defined by T.C.A. § 68-11-302 (4).
  - 2. The chiropractic records covered by these rules are those that are created prior to, during or after the hospitalization of a patient that are not created by or at the request of a hospital as defined by T.C.A. § 68-11-302 (4), or any health care facility or entity owned or operated by the hospital and that are not under the control of that hospital.
  - 3. Even though the records covered by these rules may, of necessity, reference provision of services in the hospital setting and the necessary initial work-up and/or follow-up to those services, that does not make them “hospital records” that are regulated by or obtainable pursuant to T.C.A. Title 68, Part 11, Chapter 3.
- (d) Content – All chiropractic records, or summaries thereof, produced in the course of the practice of chiropractic for all patients shall include all information and documentation listed in T.C.A. § 63-2-101 (c) (2) and such additional information that is necessary to insure that a subsequent reviewing or treating chiropractic physician can both ascertain the basis for the diagnosis, treatment plan and outcomes, and provide continuity of care for the patient.
- (e) Transfer
  - 1. Records of Chiropractic Physicians upon Death or Retirement - When a chiropractic physician retires or dies while in practice, patients seen by the chiropractic physician in his/her office during the immediately preceding thirty-six (36) months shall be notified by the chiropractic physician, or his/her authorized representative and urged to find a new chiropractic physician and be informed that upon authorization, copies of the records will be sent to the new chiropractic physician. This notification requirement shall not apply to a patient when there have been fewer than two (2) office patient encounters within the immediately preceding eighteen (18) months.
  - 2. Records of Chiropractic Physicians upon Departure from a Group - The responsibility for notifying patients of a chiropractic physician who leaves a group practice whether by death, retirement or departure shall be governed by the chiropractic physician’s employment contract.
    - (i) Whomever is responsible for that notification must notify patients seen by the chiropractic physician in his/her office during the immediately preceding thirty-six (36) months of his/her departure, except that this

(Rule 0260-02-.26, continued)

notification requirement shall not apply to a patient when there have been fewer than two (2) office patient encounters within the immediately preceding eighteen (18) months.

- (ii) Except where otherwise governed by provisions of the chiropractic physician's contract, those patients shall also be notified of the chiropractic physician's new address and offered the opportunity to have copies of their chiropractic records forwarded to the departing chiropractic physician at his or her new practice. Provided however, a group shall not withhold the chiropractic records of any patient who has authorized their transfer to the departing chiropractic physician or any other chiropractic physician.
  - (iii) The choice of chiropractic physicians in every case should be left to the patient, and the patient should be informed that upon authorization his/her records will be sent to the chiropractic physician of the patient's choice.
3. Sale of a Chiropractic Practice - A chiropractic physician or the estate of a deceased chiropractic physician may sell the elements that comprise his/her practice, one of which is its goodwill, i.e., the opportunity to take over the patients of the seller by purchasing the chiropractic physician's records. Therefore, the transfer of records of patients is subject to the following:
- (i) The chiropractic physician (or the estate) must ensure that all chiropractic records are transferred to another chiropractic physician or entity that is held to the same standards of confidentiality as provided in these rules.
  - (ii) Patients seen by the chiropractic physician in his/her office during the immediately preceding thirty-six (36) months shall be notified that the chiropractic physician (or the estate) is transferring the practice to another chiropractic physician or entity who will retain custody of their records and that at their written request the copies of their records will be sent to another chiropractic physician or entity of their choice. This notification requirement shall not apply to a patient when there have been fewer than two (2) office patient encounters within the immediately preceding eighteen (18) months.
4. Abandonment of Records – For purposes of this section of the rules death of a chiropractic physician shall not be considered as abandonment.
- (i) It shall be a prima facie violation of T.C.A. § 63-4-114 for a chiropractic physician to abandon his practice without making provision for the security, or transfer, or otherwise establish a secure method of patient access to their records.
  - (ii) Upon notification that a chiropractic physician in a practice has abandoned his practice and not made provision for the security, or transfer, or otherwise established a secure method of patient access to their records patients should take all reasonable steps to obtain their chiropractic records by whatever lawful means available and should immediately seek the services of another chiropractic physician.
- (f) Retention of Chiropractic Records – Chiropractic records, including x-rays, radiographs, and other imaging products shall be retained for a period of not less than ten (10) years from the date of the chiropractic physician's or his supervisees' last professional contact with the patient except for the following:

(Rule 0260-02-.26, continued)

1. Chiropractic records for incompetent patients shall be retained indefinitely.
2. Chiropractic records of minors shall be retained for a period of not less than one (1) year after the minor reaches the age of majority or ten (10) years from the date of the chiropractic physician's or his supervisees' last professional contact with the patient, whichever is longer.
3. X-rays, radiographs and other imaging products may be destroyed if there exists separate interpretive records.
4. Notwithstanding the foregoing, no chiropractic record involving services which are currently under dispute shall be destroyed until the dispute is resolved.

(g) Destruction of Chiropractic Records

1. No chiropractic record shall be singled out for destruction other than in accordance with established office operating procedures.
2. Records shall be destroyed only in the ordinary course of business according to established office operating procedures that are consistent with these rules.
3. Records may be destroyed by burning, shredding, or other effective methods in keeping with the confidential nature of the records.
4. When records are destroyed, the time, date and circumstances of the destruction shall be recorded and maintained for future reference. The record of destruction need not list the individual patient chiropractic records that were destroyed but shall be sufficient to identify which group of destroyed records contained a particular patient's chiropractic records.

- (5) Violations – Violation of any provision of these rules is grounds for disciplinary action pursuant to T.C.A. §§ 63-4-114 (4) and/or (12).

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-4-101, 63-4-106, and 63-4-114.  
**Administrative History:** Original rule filed October 10, 2005; effective December 24, 2005. Amendment filed January 11, 2007; effective March 27, 2007.