

LOUISIANA ADMINISTRATIVE CODE

TITLE 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

PART XXVII. CHIROPRACTORS

CHAPTER 1. PRACTICE AND PROCEDURE

§101. Authority

These rules of practice and procedure are promulgated by the authority of R.S. 49:951 et seq., as amended, being the Louisiana Administrative Procedures Act. All rule-making and hearing procedures of this board are conducted according to the Louisiana Administrative Procedure Act.

§103. Domicile of Board, Time of Meeting, Special Meetings

A. The Board shall be domiciled in Baton Rouge, Louisiana. The regular meetings of the board shall be held at least twice in each year for the purpose of examining applicants and at any other time the board deems necessary, at a time and place designated by the president. Special meetings may be called by the president upon giving at least 72 hours notice, sent by registered or certified mail to the post office address of each member of the board and of persons who previously have indicated that they have business before the board.

B. The election of president, vice president and secretary treasurer of the board shall be held at the annual July meeting following the testing of licensed applicants.

§104. Rules of Order

All meetings of the board shall be conducted in accordance with Roberts Rules of Order.

§105. Written Examinations

All written examinations conducted by the board shall be administered to conceal the identity of licensure candidates.

§106. Definitions

By reference, all of the definitions set forth and contained in R.S. 49:951 through 49:966, inclusive, are incorporated herein, and for the purpose of hearings to be held hereunder, the following definitions shall prevail:

A. "Board" shall mean the Louisiana Board of Chiropractic Examiners.

B. "Hearing" shall mean a hearing called by the board under the authority of R.S. 37:2816A or R.S. 37:2803E.

C. "Appellant" shall mean a hearing called by the board under the authority of R.S. 37:2816A or R.S. 37:2803E.

§107. Adopting, Amending, or Repealing Rules

The board shall adopt, amend, or repeal any rule or regulation to govern its actions in strict accordance with R.S. 49:953.

§109. Commencement of Hearings

Hearings conducted by the board shall be instituted as authorized by R.S. 37:2816 or R.S. 37:2803E.

§111. Notice of Hearing

The board shall notify the person against whom a complaint has been made when said complaint appears to be sufficient cause for either suspension or revocation of a chiropractic license. This notice shall notify the person against whom the complaint is made thirty days prior to the hearing and such notice shall conform to the requirements of R.S. 49:955.

§113. Disposition of Complaint

The board shall conduct such investigations, order such hearings, and take such other actions as it finds necessary to make an intelligent decision on the complaint submitted for its review.

§115. Appearance

The person against whom the complaint has been made and upon notice being served, must appear at the date fixed for the hearing.

§117. Default in Appearing

In the event the person against whom the complaint has been made fails to appear at the hearing provided for and also provided that the referenced rules as to service has been complied with, the person so failing to appear or otherwise obtain approval of the board for his absence shall be deemed to be in default, and the evidence as received by the board at that time shall be entered into the record and may be taken as true and the order of the board entered accordingly.

§119. Hearing Procedure

The hearings called according to these rules and regulations shall be conducted by the board in accordance with the rules and procedures set forth in R.S. 49:955 et seq.

A. The chairman of the board or the vice-chairman in the absence of the chairman shall announce the title and docket number of the proceedings before the board and shall introduce into record evidence of the notice of hearing. Attorneys and/or other representatives of the appellant shall be recognized along with the representatives of the board and other proper parties.

B. The appellant shall then present his evidence subject to cross-examination by the board and other proper parties in those cases where the applicant requested the hearing to be held.

C. The board shall then present its evidence subject to cross-examination by the applicant and other proper parties.

D. Where the board has called the hearing on its own motion, the order of presentation of evidence shall be reversed.

E. The board may make an informal disposition of the case by stipulation, agreed settlement, consent, order, or default.

F. The board shall render its final decision and order in accordance with Section 4009 of these rules and regulations.

§121. Board's Decision

The decision of the board shall be rendered within 30 days after the matter is submitted, shall be in writing, and shall be dated and mailed to the appellant and his attorney of record by certified mail.

§123. Rehearings

A decision or order of the board shall be subject to rehearing, reopening, or reconsideration by the board within 10 days from the date of its entry. Rehearings, reopenings, or reconsiderations shall be conducted in strict accordance with R.S. 49:959.

§125. Recording of Hearing

The board shall make a full recording of all proceedings before it and shall at the request of any party or person, have prepared and furnished him with a copy of the transcript or any part thereof upon payment of the cost thereof. If said record is transcribed, it shall be made a part of the record in subject hearing.

§127. Judicial Review of Decision

A person who is aggrieved by a final decision or order of the board is entitled to judicial review in accordance with R.S. 49:964 whether or not he has applied to the board for rehearing. Proceedings for judicial review may be instituted in the district court of the parish in which the board is located within 30 days after mailing of notice of the final decision by the agency, or if a rehearing is requested, within 30 days after the decision thereon.

CHAPTER 3. PROFESSIONAL CONDUCT

§301. Use of Steel Balls

Repealed (Louisiana Register, Vol. 35, No. 05, May 20, 2009, p. 953).

§302. Surrogate Muscle Testing

Surrogate muscle testing is not within the scope of chiropractic practice in the state of Louisiana.

§303. Notification of Address

Each registered chiropractor, upon commencing to practice, shall forthwith notify the board of his office address or addresses, R.S. 37:2804(A) and R.S. 37:2803(E).

§304. HIV/HBV Precautions

Concerning the prevention of transmission of Human Immunodeficiency (HIV) and Hepatitis B Virus (HBV), the Doctor of Chiropractic will comply with the recommendations of the Center for Disease Control (CDC).

§305. Change of Address

Each chiropractor must notify the secretary of the Board of Chiropractic Examiners whenever his office address changes.

§306. Itemized Patient Billing

Repealed (Louisiana Register, Vol. 35, No. 05, May 20, 2009, p. 953).

§307. Advertising Practices

A. False, deceptive or misleading advertising is prohibited.

B. Statements in advertising which claim that specific physical illnesses, ailments or symptoms are alleviated by chiropractic care must be supported by clinical or scientific literature generally recognized by the chiropractic profession. The board may require the chiropractor making such assertions to provide the reference supporting the advertising claim.

C. Testimonials may be used if the word "ADVERTISEMENT" in capital letters of larger type size than the largest text of the testimonial appears directly above the testimonial. The doctor is responsible for any false, deceptive or misleading statements in the testimonial.

D. Advertisement may offer free goods or services or discounts in connection with chiropractic care only if the usual charge for those goods or services and the type of goods or services which are free or discounted are included in the advertising. In the case of print advertising, the usual charges for the offered goods or services must appear in bold print of the same or larger type size as the offer. In the case of television or radio advertising, the ad must clearly state, verbally, the usual charges for the offered goods or services.

1. The doctor must also provide a disclosure statement to be signed by the patient which explains:

a. specifically what services or goods are free or discounted;

b. Repealed (Louisiana Register, Vol. 35, No. 05, May 20, 2009, p. 953)

c. that additional services or goods which are subject to a charge shall not be rendered until such charges are disclosed in writing to the patient;

2. Repealed (Louisiana Register, Vol. 35, No. 05, May 20, 2009, p. 953)

3. This rule shall not be construed to relate to the negotiation of fees between a chiropractor and a patient or managed care organization or to prohibit the rendering of chiropractic services pro bono.

E.1. Repealed (Louisiana Register, Vol. 35, No. 05, May 20, 2009, p. 953)

2. The chiropractor must notify any third party liable for payment if any co-payment or deductible has been waived or met by a certificate issued by the chiropractor or an agent of the chiropractor. Such notification must be in writing and submitted with the first submission of a claim for payment for services.

F. Any advertisement that mentions automobile liability insurance shall state that "policy limitations apply" and must be in bold print. Any electronic advertisements must state that "policy limitations apply".

G. Free X-rays

1. A chiropractor shall not advertise "free x-rays" unless the advertisement states that:

a. x-rays shall be taken only if found necessary;

b. more than one x-ray is necessary for diagnostic purposes;

2. Free x-rays shall include a minimum of two views.

3. Additional x-rays must meet the disclosure requirements of §307.D.

H. Computer-generated or live, unsolicited telephone canvassing to prospective new patients is prohibited.

I. Cash or in-kind payments for patient referrals is prohibited.

J. Any violation of this section shall constitute grounds for disciplinary action or penalty by the board.

K. If any part of these rules or any rule herein is declared unlawful and/or unconstitutional, such determination shall not affect the validity of any other part or rule herein.

§308. Disclosures in Advertising.

A. Any chiropractor who engages in any of the practices specified in this Subsection shall include the disclosure statement in this Subsection in any advertising of such practice. The practices are as follows:

1. The practice of waiving all or part of a required deductible or co-payment amount under any policy of health insurance or other health benefit plan, to include the practice of offering any gift or gratuity, such as a health check which has the effect of reducing or eliminating a deductible and is so advertised.

2. Repealed (Louisiana Register, Vol. 35, No. 05, May 20, 2009, p. 953)

B. In addition, any chiropractor that reserves any right to seek any portion of the amount due for services rendered from the recipient of those services shall also include the following disclosure in all such advertising.

"Personal liability - In the event that your insurance or health benefits plan fails to pay all or part of any portion of the nonwaived charges for any services rendered, then you can be held personally liable for such amount."

C. "Advertising" or "advertisement" as used in this Section shall include, but not limited to, any communication to the public including communication by means of newspaper, magazines, circulars, direct mail, directories, radio, television, billboards and "Internet advertising". The disclosures required to be given by this Section shall be made clearly, conspicuously, and in meaningful sequence. In the case of written advertisement, the terms "limited eligibility" and "personal liability" shall be in all capital letters and shall be printed more conspicuously than other terminology required by this Section and shall in no event be printed in less than the equivalent of 10-point type, 0.075 inch computer type or elite size. In the case of television advertising, the required disclosure shall be made by both audio and visual transmission. All such disclosures shall be made in the English language.

D. Any violation of this Section shall constitute grounds for disciplinary action or penalty by the board.

§309. Future Care

It shall be considered unprofessional conduct for any chiropractor to enter into a contract which would obligate a patient to pay for care to be rendered in the future unless the contract provides that the patient is entitled to a complete refund for any care not received.

§310. Accident and Disaster Solicitation

A. On the outside of each solicitation letter in 10-point bold type at the bottom left hand corner of the envelope, there will be printed in red, capital letters, "THIS IS AN ADVERTISEMENT".

B. On the body of each solicitation letter, in the same type size as the letter, shall be contained the following paragraph in red lettering:

NOTICE: THIS IS AN ADVERTISEMENT. Your name and address and information relative to the accident in which you were involved were acquired from police documents. You are under no obligation to respond to this letter. Recipients of this advertisement should understand the importance of employing a health care provider and inquiry into the doctor's qualifications and experience is recommended.

C. No solicitation letters shall be sent to minors.

D. All solicitation letters shall be submitted to the board before publication to assure compliance with this rule and all other applicable board regulations. The board has six weeks to respond to this request.

E. A sample copy of each different solicitation letter shall be retained by the sender for a period of one year.

F. No solicitation letter to an accident victim should be sent before at least seven days have elapsed since the date of the accident.

G. Telemarketing, telephonic solicitation, digital communication by phone or communication by licensees and/or chiropractic facilities and their employees, or agents, by contract or otherwise, to victims of accidents or disaster shall be considered unethical if carried out within 30 days of the accident or disaster, and subject the licensee and/or chiropractic facility to action pursuant to R.S. 37:2804.

H. Telemarketing, telephonic solicitation, digital communication by phone or communication transcripts shall be regulated by the board and such transcripts shall be submitted to the board 60 days prior to use. The board shall reject or accept the transcript within 60 days of receipt by the board office. If the transcript is rejected, the board shall give the reasons for its rejection. No solicitation under this section may be used until approved by the board.

I. The telemarketing, telephonic solicitation, digital communication by phone or communication transcripts, taped and/or digital recording of the solicitation shall be maintained for a period of three years following their utilization. A log of the contact information and date of contact must be maintained for a period of three years, following the telemarketing encounter. Transcripts and logs shall be made available to the board upon request within 10 business days.

§311. Overutilization of Services

Overutilization of services is prohibited. Overutilization is the providing of treatment or diagnostic services the need for which cannot be substantiated by the clinical record of the patient, or reports, or any other pertinent facts or evidence. Such practice shall constitute a form of misrepresentation, deceit, unprofessional conduct, or gross misconduct.

§313. Records

Chiropractic physicians shall comply with a patient's authorization to provide records, or copies of such records, including x-rays to those whom the patient designates as authorized to inspect or receive all or part of such records. A reasonable charge may be made for the cost of duplicating records.

§315. Protection of Record

Chiropractic physicians shall preserve and protect the patient's confidences and records, except as the patient directs or consents or if the law requires otherwise.

§316. Internships

Certificates of internship must be displayed in a conspicuous place in the office in which the intern practices.

§317. X-ray Proficiency Holders

A. The board shall issue a certificate of proficiency in x-ray function to any chiropractic assistant who successfully completes a program in education and training in x-ray function and safety that has been approved by the Louisiana Board of Chiropractic Examiners.

B. Any holder of said proficiency certificate must register annually with the board on or before July 31, beginning in 1996. The board shall maintain a list of all x-ray proficiency certificate holders. Failure to register with the board on an annual basis shall result in removal of that person's name from the board's list of x-ray proficiency certificate holders.

§318. Specialty Register

Repealed (Louisiana Register, Vol. 35, No. 05, May 20, 2009, p. 953)

§319. Continuing Education - Risk Management

The phrase "risk management", as referred to in R.S. 37:2810(2), means the identification, investigation, analysis and evaluation of risks and the selection of the most advantageous method of correcting, reducing or eliminating identifiable risks.

§320. Specialty Advertising

A. The use of the terms or form of these terms, "specialize in" or "specialist", or the use of the letters indicating a degree or specialization on stationary, letterhead, business cards or other such publication is considered advertising for the purposes of this section. Generally recognized academic credentials such as B. A., B. S., M.S., J.D., M.D., Ph.D., etc. are exempted from this Rule when awarded by a college or university fully accredited by an association recognized by the Department of Health, Education and Welfare.

B. Only those licensees holding the final certification in postgraduate training and certification programs may hold themselves out to the public as possessing special knowledge skills or training. A licensee who utilizes any advertisement, which states that a licensee has special training or skills or is certified in a specialty that does not comply with Subparagraphs B.1.a-d, is engaged in deceptive and misleading advertising practices.

1. Specialty training must meet the following criteria. The course of study must:

a. be conducted under the auspices of and taught by the postgraduate

faculty of the chiropractic college fully accredited by the Council on Chiropractic Education;

b. consists of a minimum of 300 hours;

c. require completion of the certification examination given by a board independent of the entity which taught the course; and

d. meet such other criteria as the board deems appropriate.

2. The National Board of Chiropractic Examiners does not engage in specialty testing. The use of the designation, "Diplomate of the National Board of Chiropractic Examiners", or any derivative thereof, may give the false impression of certification or credentials beyond that required of all chiropractic licenses and is considered deceptive and misleading by Louisiana Board of Chiropractic Examiners.

C. The use of the terms or form of these terms, "certified in" or "certified by", or the use of letters indicating a degree or certification on stationary, letterhead, business cards or other such publication is considered advertising for the purpose of this section.

D Only those licensees holding the final certification in postgraduate training and certification programs may hold themselves out to the public as possessing special knowledge skills or training. A licensee who utilizes any advertisement, which states that a licensee has special training or skills or is certified in a specialty that does not comply with Subparagraphs D.1.a.-d., is engaged in deceptive and misleading advertising practices.

1. Certified training must meet the following criteria. The course of study must:

a. be conducted under the auspices of and taught by the postgraduate faculty of the chiropractic college fully accredited by the Council on Chiropractic Education;

b. consists of a minimum of 100 hours;

c. require completion of the certification examination given by a board independent of the entity which taught the course; and

d. meet such other criteria as the board deems appropriate.

CHAPTER 5. DUE PROCESS PROCEDURES FOR ETHICS VIOLATIONS

Subchapter A. Applicability

§501. Unethical Conduct

A. Unethical conduct shall be determined on the basis of the provisions of the rules and regulations of the Louisiana State Board of Chiropractic Examiners, ethical standards of chiropractors, and other provisions included in R.S. 37:2801 - 2827, specifically, if a chiropractor:

1. has been convicted of a felony or any offense involving moral turpitude; or

2. is using a narcotic or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person or to the public, or to an extent that such use impairs his ability to perform the work of a professional chiropractor with safety to the public; or

3. has impersonated another person holding a license as a chiropractor or allowed another person to use her/her license; or

4. has used fraud or deception in applying for a license or in taking an examination provided in the Act; or

5. has accepted commissions or rebates or other forms of remuneration for referring clients to other persons; or

6. has allowed his/her name or license issued under the Act to be used in connection with any person or persons who perform chiropractic services outside of the area of their training, experience or competence; or

7. has willfully or negligently violated the ethical standards of chiropractors subscribed to by the Board of Chiropractic Examiners; or

8. has willfully or negligently violated any of the provisions of the Act.

§503. Application of Procedures

These procedures shall apply only in the consideration of alleged violations by licensed chiropractors.

NOTE: The board will answer complaints regarding the ethical practices of non-licensed persons by making referrals elsewhere when appropriate; for example, to better business bureaus, professional associations, agencies, private legal counsel, or the district attorney of the appropriate judicial district.

§505. Initiation of Complaint

Complaints may be initiated by any citizen of the state, another licensed chiropractor, or by the board on its own initiative.

§507. Declaratory Statements

A. The board may issue a declaratory statement in response to a request for clarification of the effect of rules and regulations of R.S. 37:2801 et seq.

1. A request for a declaratory statement is made in the form of a petition to the board. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute or rules and regulations to which the petitioner relates;
- c. a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or by its potential application to her/him, or in which (s)he is uncertain of its effect.

2. Said petition shall be considered by the board at its next regularly scheduled meeting provided that the petition has been filed at least 21 days prior to said meeting.

3. The declaratory statement of the board on said petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

Subchapter B. Procedures for Processing Complaints and Inquiries

§511. Processing Complaints and Inquiries

A. Upon receipt of complaints or inquiries, the board will take immediate action.

1. Anonymous letters of complaint against individuals shall not be recognized as a basis for formal action.

2. If the information in the complaint is insufficient, the board may request further information by either written correspondence or an informal inquiry.

B. All complaints received shall be assigned a sequentially ordered complaint code number which shall be utilized in all official references.

C. At its next meeting, the board shall officially receive and act upon all complaints and inquiries received.

D. Upon receipt of the complaint, the board shall determine if the complaint refers to an ethical issue.

E. The identity of all parties to a complaint shall be revealed to the involved parties except if contrary to law.

F. The board shall inform the complainant of the initial determination.

1. No Action
2. Informal Inquiry
3. Informal Hearing
4. Formal Hearing

Subchapter C. Conduct of Informal Inquiry/Hearing (non-adversarial procedure)

§519. Informal Inquiry Procedures

A. The licensee shall be given adequate prior notice of the informal inquiry and possible hearing of the issues to be discussed. Adequate notice includes:

1. informing the licensee in writing that a complaint has been filed,
2. a short and plain statement of the nature of the complaint,
3. a reference to the particular sections of the statutes, rules, and/or ethical standards of the board which appear to have been involved,
4. copies of the law and the rules and regulations of the board, and
5. a request for the licensee's cooperation in obtaining a full understanding of the circumstances which led to the allegation.

B. The licensee is requested to provide within 30 days, a written statement giving the licensee's view of the situation which is the subject of the complaint so that the board may be cognizant of the relevant aspects of the case.

- C. 1. Evaluating the findings of the informal inquiry. Upon receipt of a reply from the licensee, the board shall review the information and determine if a violation may have occurred and if so, what standard(s) have been violated.
- 2. If the determination of the board is that the issues raised by the complainant would constitute a violation of standards, the board shall then determine whether:
 - a. further investigation by correspondence is indicated,
 - b. further investigation by an informal hearing is indicated,
 - c. institution of formal hearing procedures is indicated.

§521. Informal Hearing Procedures

The board shall conduct informal hearings in executive session in accordance with the following:

- A. It is expected that the licensee not have an attorney or other advisors present, although it is his right to do so.
- B. Witnesses may be called, but are not placed under oath and no subpoenas are issued.
- C. Statements made at the informal hearing may not be introduced at a formal hearing unless all parties consent.
- D. No transcript of the informal hearing is made.

§523. Evaluating the Findings of the Informal Hearing

- A. If the board decides that the subject of the complaint is a violation of standards, and the disciplinary proceedings are warranted, the board shall then determine whether:
 - 1. the violation merits informal disposition or
 - 2. a formal hearing will be held.
- B. The board, in determining for informal disposition, shall order actions such as:
 - 1. A settlement between the person making the complaint and the licensee. This settlement shall be written, signed by the licensee and the complainant and submitted to the board within 30 days of the informal hearing.
 - 2. A consent order describing the disciplinary action which will be taken. A consent order shall be signed by the licensee, the chairman and the vice-chairman of the board.

§525. Refusal to Respond or Cooperate With the Board

A. If the licensee does not respond to the original inquiry within 30 days, a follow-up letter shall be sent to the licensee by registered or certified mail, return receipt requested.

B. If the licensee refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the licensee's failure to cooperate and shall inform the licensee that the lack of cooperation may result in action which could eventually lead to suspension or revocation of license, or other appropriate legal action under the law.

§527. Withdrawal of a Complaint

If the complainant wishes to withdraw a complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

§529. Emergency Action Required

If, at any point in the informal proceedings described above, the board finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the board is hereby given authority to obtain a restraining order from a judge of the appropriate court to suspend the license pending formal hearing proceedings for revocation of license or other disciplinary action. This formal hearing shall be promptly instituted.

Subchapter D. Conduct of Formal Hearing

§535. Initiating the Process

A. The board initiates a formal hearing by issuing full notice of the hearing. A formal hearing may be the result of a complaint made by any manner specified in the informal procedures.

B. Once full notice of the formal hearing has been served, no board member or officially designated hearing officer may communicate with any party to a formal hearing or to that party's representative concerning any issue of fact or law in that formal hearing.

C. Full Notice

1. The written notice shall recite specific acts which the licensee is alleged to have committed and shall assert that those acts violate a statute or rule of the board.

2. The notice shall include:

a. A statement of the date, time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes, rules or ethical standards involved.

d. A short and plain statement of the matters asserted which shall be the subject of the hearing.

e. A statement of the rights of the parties.

3. Notice shall be given to all parties 30 days in advance of the proceedings to allow a reasonable opportunity for preparation.

4. The notice shall be delivered by registered or certified mail, return receipt requested. If the licensee cannot be found by this or other reasonable methods, the board may hold a hearing in the licensee's absence.

NOTE: It is the licensee's obligation to keep the board informed of his/her whereabouts.

5. The content of the notice limits the scope of the hearing and of the evidence which may be introduced.

6. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

D. Designation of Hearing Officer

1. The hearing officer is responsible for ensuring that the hearing is orderly and fair and that it progresses in an expeditious manner.

CHAPTER 7. Peer Review Committee

§701. Purpose and Composition of Committee

A. Area covered. State of Louisiana.

B. Structure. The Louisiana Peer Review Committee shall function under the Louisiana Board of Chiropractic Examiners, a state agency created and empowered by the legislature to license and regulate the practice of Chiropractic in Louisiana in accordance with LSA Title 37, 2801 et seq., LSA R.S. 37:1734 and LSA R.S. 49:950 et seq.

C. Purpose. The purpose of the committee is to review, upon request of any party involved, any matter relative to the appropriateness of care rendered by any Doctor of Chiropractic licensed to practice and practicing in the state of Louisiana.

D. 1. Composition of Committee. The committee shall be comprised of five doctors of chiropractic currently licensed by the State of Louisiana and practicing within the State of Louisiana, and appointed by the Louisiana Board of Examiners.

2. All chiropractors chosen to serve on the committee shall attend a peer review school. In that the Board of Examiners will be administering and functioning as an appeals option, its members shall also attend the peer review school. The Board of Examiners shall bear the cost of this special training.

E. Per diem/expenses. Committee will be afforded a per diem payment and reimbursement for reasonable expenses incurred as a result of attending review meetings. Per diem shall not exceed \$50 per day plus mileage at the current state rate, all as required by and set forth in LSA R.S. 37:2802(F). Members will be reimbursed only from review fees collected.

F. Who may submit claims. Chiropractic physicians, third party reimbursement organizations, patients, professional standards review organizations, health maintenance organizations may request a review if they are directly involved in the claim by the fact of being the patient treated, the doctor administering or receiving payment for the treatment or the third party contracting to pay the claim.

G. 1. All costs of administering this program will be borne by the peer review committee out of fees charged.

2. Any party making a peer review request will be charged a fee to cover the administrative costs of performing the review. The fee will be commensurate with the administrative costs.

§702. Guidelines

For the purpose of claims review, this board authorizes the use of the Chiropractic Manual, 2nd Edition, as a reference for assessing the appropriateness of chiropractic health care. Recognizing that it is impossible to set forth specific parameters of care appropriate for each individual case, the board intends this manual to serve only as a general guide for standards of care within the chiropractic profession. Specifically, these guidelines are not meant to provide absolute "cut-off" points for treatment. In assessing appropriateness of care, it is imperative that the reviewer remain sensitive to the normal variants in a chiropractic practice and the necessity for treatment tailored to the specific needs of each individual patient. The level and frequency of treatment implemented should be in accordance with the physical and analytical findings substantiated by the appropriate reports and diagnostic information.

§703. Procedure for Review

A. All reviews will be blind reviews. The identity of the patient and treating physician will be unknown to the committee.

B. The review will be conducted upon request by any party as defined in Section 701(F). Participation will be made available to non-requesting party or parties. Participation by the non-requesting party or parties is not mandatory.

C. No requests for review shall be assessed or actual reviews conducted by the committee unless a quorum is present and participating. Three of the five members shall constitute a quorum.

D. A member of the Board of Examiners appointed for a one-year term by the board shall serve as chairman of the Peer Review Committee and have voting power only in the case of a tie. The board member shall review all final decisions of the Peer Review Committee to insure proper procedure has been followed in the review process.

1. If the board member determines that proper procedure has been followed, then the recommendation of the Peer Review Committee stands and any party to the review shall have the appeal options set out in Subsection E. The board member who serves as chairman of the Peer Review Committee shall be recused in the case of appeal to the board.

2. If the board member determines that proper procedure has not been followed, he shall state the violation of procedure in writing and submit same to the Peer Review Committee at which point the case will be reconsidered by the committee.

E. Appeals Process. An appeal of any decision rendered by the Peer Review Committee shall, at the option of the person appealing, either be:

1. submitted to the members of the Board of Examiners for review.

a. Any person aggrieved by a decision of the Peer Review Committee shall submit to the board within 10 days of receipt of notice of the ruling of the Peer Review Committee a notice of intent to appeal. All notices shall be forwarded via certified mail.

b. Upon receipt of the notice of appeal, the board shall notify the opposing party of appeal and schedule a hearing date.

c. The Peer Review Committee will then transfer the record to the board.

d. The appealing party may submit additional evidence or material within 20 days of the hearing and the opposing party may reply within 10 days of the scheduled hearing.

e. The parties may present oral argument to the board at the appeal hearing. Each party will be allowed 20 minutes.

f. The decision of the Board of Chiropractic Examiners shall be final.

2. Placed in Binding Arbitration.

a. Arbitration shall be conducted by a committee of three chiropractors; one chosen by the treating chiropractor, one by the insurer, patient, or whoever constitutes the opposite party in dispute, and the third chiropractor chosen by the originally selected two. If no agreement can be reached by the original two chiropractors as to the third, within 10 days of their appointment, the board of examiners shall appoint the third chiropractor within 30 days of receiving notice of such lack of agreement. All parties involved shall agree in advance to abide by the decision of the arbitration committee.

b. The aggrieved party shall notify the board of his intent to appeal by binding arbitration within 10 days of receipt of notice of the ruling of the Peer Review Committee. All notices shall be forwarded via certified mail.

c. The board will schedule the appointment of arbitrators giving the appealing and opposing parties 25 days to select an arbitrator, then giving the two arbitrators an additional 10 days to select the third arbitrator.

d. The Arbitration Panel will schedule a hearing within 60 days of the formation of the panel.

e. The Peer Review Committee will forward the record to the arbitration committee.

f. The appealing party may submit additional evidence or material within 20 days of the hearing and the opposing Party may reply within 10 days of the scheduled hearing.

g. The parties may present oral arguments to the Arbitration Committee at the appeal hearing. Each party will be allowed 20 minutes.

h. The decisions of the Arbitration Panel shall be final.

CHAPTER 9. ILLEGAL PAYMENTS; REQUIRED DISCLOSURE OF FINANCIAL INTERESTS

Subchapter A. (Reserved)

§901. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a chiropractic physician's financial interest in another health care provider to whom or to which the chiropractic physician refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Chiropractic physicians owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, prescribing, recommending, or referring patients for financial recompense. The purpose of these rules and the laws they implement is to prevent payment by or to a chiropractic physician as a financial incentive for the referral of patients to a chiropractic physician or other health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed and applied so as to give effect to such purposes and intent.

§903. Definitions and Construction

A. Definitions. As used in this Chapter:

Board - the Louisiana State Board of Chiropractic Examiners.

Chiropractic Physician - a Doctor of Chiropractic pursuant to R.S. 37:2801 et seq.

Financial Interest - an ownership or investment interest established through debt, equity or other means and held, directly or indirectly, by a chiropractic physician or a member of the chiropractic physician's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice - a group of two or more chiropractic physicians or other health care providers legally organized as a general partnership, registered limited

liability partnership, professional corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each chiropractic physician who is a member of the group provides substantially the full range of services which the chiropractic physician routinely provides, including consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel;

b. for which substantially all of the services of the chiropractic physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined;

d. in which no chiropractic physician who is member of the group directly or indirectly receives compensation based on the volume or value of referrals by the chiropractic physician, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed services or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such chiropractic physician;

Health Care Item - any substance, product, device, equipment, supplies or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider - any person licensed by a department, board, commission or other agency of the state of Louisiana to provide, or which does in fact provide, preventive, diagnostic, or therapeutic health care services or items.

Immediate Family - as respects a chiropractic physician, the chiropractic physician's spouse, children, parents and siblings.

Investment Interest - a security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership, bonds, debentures, notes or other debt instruments.

Payments - the tender, transfer, distribution, exchange or provision of money, goods, services, or anything of economic value.

Person - and includes a natural person or a partnership, corporation, organization, association, facility, institution, or any governmental subdivision, department, board, commission or other entity.

Remuneration for Referral - any arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a chiropractic physician, or an immediate family member of such a chiropractic physician, and other health care provider which is intended to induce referrals by the chiropractic physician to the health care provider or by the health care provider to the chiropractic physician, other than any amount paid by an employer to an employee, who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

B. Construction. Masculine terms whatsoever used in this Chapter shall be deemed to include the feminine.

Subchapter B. Illegal Payments

§905. Prohibition of Payments for Referrals

A. A chiropractic physician shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the chiropractic physician for the furnishing or arranging for the furnishing of any health care item or service.

B. A chiropractic physician shall not knowingly and willfully solicit, receive or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

§907. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §905 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

B. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128(B)(b) of the Federal Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the Secretary of the United States Department of Health and Human Services, through the Office of the Inspector General, pursuant to §1128(b)(3)(E) of the Act, through regulations promulgated at 42 C.F.R. §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §905 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

§909. Effect of Violation

Any violation of or failure of compliance with the prohibitions and provisions of §905 of this Chapter shall be deemed a violation of the Chiropractic Practice Act, R.S. 37:2801 et seq., as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a chiropractic physician culpable of such violation.

Subchapter C. Disclosure of Financial Interests in Third-Party Health Care Providers

§911. Required Disclosure of Financial Interest

Mandatory Disclosure. A chiropractic physician shall not make any referral of a patient outside the chiropractic physician's group practice for the provision of health care items or services by another health care provider in which the referring chiropractic physician has a financial interest (as defined by §903.A), unless, in advance of any referral, the referring chiropractic physician discloses to the patient, in accordance with §915 of this Chapter, the existence and nature of such financial interest.

§913. Prohibited Arrangements

Any arrangement or scheme, including cross-referral arrangements, which a chiropractic physician knows or should know has a principal purpose of ensuring or inducing referrals by the chiropractic physician to another health care provider, which, if made directly by the chiropractic physician would be a violation of §911, shall constitute a violation of §911.

§915. Form of Disclosure

A. Required Contents. The disclosure required by §911 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making referral, and shall include:

1. the chiropractic physician's name, address and telephone number;
2. the name and address of the health care provider to whom the patient is being referred by the chiropractic physician;
3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and
4. the existence and nature of the chiropractic physician's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §911 of this Chapter may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of the Disclosure of Financial Interest form, which may be obtained from the Board of Examiners, shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

§917. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of or failure of compliance with the prohibitions and provisions of §911 of this Chapter shall be deemed a violation of the Chiropractic Practice Act, R.S. 37:2801 et seq., as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a chiropractic physician culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by §917, upon proof of violation of §911 by a chiropractic physician, the board may order that all or any portion of any amounts paid by a patient, for health care items or services furnished upon a referral by the chiropractic physician in violation of §911, be refunded by the chiropractic physician to such patient and/or third-party payor, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third-party payors.