

**BOARD OF CHIROPRACTIC  
Administrative Rules  
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effective date: July 15, 2012**

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### **BOARD OF CHIROPRACTIC**

# Administrative Rules

effective date: July 15, 2012

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## Part 1 General Information

### 1.1 Purpose

(a) The Board of Chiropractic ("the Board" ) has been created and given powers by Vermont law. Its purpose is to protect the public health, safety and welfare. It does this by setting standards for issuing licenses, licensing only qualified applicants, and regulating practices of license holders.

(b) The Board maintains a website at <http://vtprofessionals.org>. Practitioners should periodically consult the website for matters of interest to the profession.

### 1.2 Definitions

(a) "Accredited school of chiropractic" means:

- 1) an educational program leading to the doctor of chiropractic degree, accredited by an agency that is approved by the board, and which is recognized by the United States Department of Education for accreditation of programs of chiropractic education; or,
- 2) a foreign educational program that is accredited by a foreign chiropractic accrediting agency which is recognized and endorsed by the Council on Chiropractic Education (CCE-US).

(b) "Board" means: the State of Vermont Board of Chiropractic.

(c) "Direct supervision" means: a chiropractor agrees to procedures or treatment performed by appropriate personnel by being physically present at the chiropractic facility for consultation or intervention.

(d) "Director" means: the Director of the Office of Professional Regulation.

(e) "Good standing" means: the professional holds a current, unrestricted license.

(e) "Office" means: Office of Professional Regulation (OPR).

(f) "P.A.C.E." means: Providers of Approved Continuing Education, which is a service of the Federation of Chiropractic Licensing Boards.

(g) "Unprofessional Conduct" means: any violation of 3 V.S.A. § 129a or 26 V.S.A. § 541. Unprofessional conduct includes failing to comply with provisions of federal or state statutes or rules governing the practice of the profession.

(h) "Unrestricted license" means: the licensed or registered professional is not subject to a sanction.

(i) "V.S.A." means: Vermont Statutes Annotated, the official compilation of statutes enacted by the Vermont legislature.

**1.3 Business Location** The Board's business location is the Office of the Secretary of State, Office of Professional Regulation, National Life Bldg., North, FL2, Montpelier, VT 05620-3402. Address correspondence to "Board of Chiropractic" at the same address.

**1.4 Board Members and Officers** The Board is composed of three chiropractic physicians who are graduates of an accredited school of chiropractic, and two public members. Each member has been appointed by the governor for a five year term. A member may not serve more than two consecutive terms on the Board. Officers are elected once a year.

**1.5 Regular, Special and Emergency Meetings** The Board holds at least one regular annual meeting in September. It meets as needed, generally monthly. The chair or two members may call a special or emergency meeting if it is necessary. Information on meeting time and location maybe obtained from the Office or online at <http://vtprofessionals.org/>. A majority of Board members constitutes a quorum for all meetings. Formal action may be taken at a meeting if a majority of those present and voting are in favor of the action.

### **1.6 Laws That Govern the Board**

(a) The Board is created by Chapter 10 of Title 26 of the Vermont Statutes Annotated, which establishes the Board's responsibilities for setting standards, issuing licenses, and regulating the profession.

(b) Board powers are also conferred by subchapter III of Chapter 5 of Title 3 "Professional Regulation," and the statutes creating and governing the Office of Professional Regulation (3 V.S.A. §§ 121-131).

(c) In addition to the "Professional Regulation" statutes, the Board is subject to other state laws including the "Administrative Procedure Act" (3 V.S.A. §§ 801-849), the "Open Meeting Law" (1 V.S.A. §§ 310-314), the "Access to Public Records Law" (1 V.S.A. §§ 315-320), and the "Law of Professional Regulation" (3 V.S.A. §§ 121-131).

(d) In contested cases, the Board follows the Vermont Rules of Evidence, as amended by the Administrative Procedure Act. These laws set forth the rights of applicants, license holders and members of the public.

(e) The statutes are online at <http://www.leg.state.vt.us/statutes/chapters.cfm?Title=26>.

(f) The Office provides legal counsel to help the Board comply with all laws affecting Board business.

**1.7 Board Rules** The Board's rules have the effect of law and govern its proceedings. In making rules, the Board must follow the Administrative Procedure Act, Chapter 25 of Title 3 of the Vermont Statutes Annotated. These rules were approved by the Vermont Legislative Committee on Administrative Rules before adoption and are presumed valid. These rules have the force of law. 3 V.S.A. § 845(a).

**1.8 Legislative Changes Affecting Rules** Legislative changes from time to time may create inconsistencies between statutes and administrative rules. When a rule and a statute are inconsistent, the statute governs.

**1.9 Advisory Opinions** Interpretation of the meaning of Board Rules and statutes often occurs when the Board is deciding an unprofessional conduct case. The Board is not authorized to issue advisory opinions.

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## **Part 2 Information for Applicants**

**2.1 Need for a License** No person may practice chiropractic in Vermont without being currently licensed by the Board.

**2.2 Where to Request an Application** Applications and more information about the types of licenses and their requirements are available on line at <http://vtprofessionals.org> or from the Office.

**2.3 Licensure by Examination** Applicants for a license by examination must have:

(a) reached the age of majority;

(b) graduated from an accredited school of chiropractic as defined by these rules;

(c) passed the written and practical examinations approved by the Board. The examination(s) selected by the Board are specified on application forms;

(d) for foreign-educated applicants whose training, including texts, was not in the English language, successfully passed the TOEFL examination or other similar examination approved by the Board, and;

(e) successfully completed the Board's jurisprudence examination. The examination questions are available from the Office or online at <http://vtprofessionals.org>.

**2.4 Unprofessional Conduct and Licensing Decisions** A license may be denied or conditioned if the applicant has engaged in unprofessional conduct.

**2.5 Licensure by Endorsement**

(a) An applicant who is licensed and in good standing in another United States or Canadian jurisdiction, whose licensing requirements are substantially equivalent to Vermont, and who is otherwise eligible may be granted a license without written competency examination.

(b) The applicant must successfully complete the Board's jurisprudence examination. The examination questions are available from the Office or online at <http://vtprofessionals.org>.

**2.6 Right to a Written Decision, Grant or Preliminary Denial**

(a) The Board will notify applicants in writing of all decisions to either grant or deny a license or license renewal. If a license or renewal is denied, the Board will give the applicant specific reasons and will also inform the applicant of the right to appeal the Board's decision. This is called a "preliminary denial."

(b) The Board, or the Office on behalf of the Board, most often issues a preliminary denial of licensure or renewal when it appears from the application and accompanying documents that the applicant does not meet all of the requirements for licensure, or because of unprofessional conduct, should not be granted a license. When this occurs, the applicant is notified of the right to file an appeal which is heard as a formal hearing by the Board. At the hearing the burden of proof is on the applicant to show that the preliminary denial was in error. After that hearing the Board issues a final decision in writing. If the final decision is to deny a license or renewal, the written decision notifies the applicant of his or her appeal rights.

**2.7 Right to Appeal Licensing Decisions** If the applicant believes that the Board's final decision concerning the denial of a license or renewal is in error, the applicant may appeal the decision to the Director. The appeal must be filed within 30 days of the date of the denial. An appellate officer will review the record made before the Board for legal errors. Information about the appeal process may be obtained from the Office or online at <http://vtprofessionals.org/>.

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## Part 3 Information for Licensed Chiropractic Physicians

**3.1 Display of License** The Chiropractor's license, or a photo copy if the licensee practices at more than one location, must be conspicuously displayed in the licensee's place(s) of practice. Licensees may black out or cover their residence address if it appears on the license.

**3.2 Renewing a License** Licenses are issued for a two-year period, and must be renewed by the expiration date printed on the license certificate. The Office mails renewal notices in advance of the expiration date. A licensee is responsible for renewal whether a notice is received or not, and a license is not valid after its expiration. Those who practice after expiration of a license are subject to late fees before renewal, possible unprofessional conduct prosecution, or other penalties.

### 3.3 Late Renewals

(a) A lapsed license may be renewed within five years of expiration upon payment of the renewal fee, documentation of 24 hours of continuing education within 2 years preceding the application, and late renewal fee.

(b) To renew a license which has lapsed 5 years or more and the applicant has not held a license in good standing to practice chiropractic in another U.S. or Canadian jurisdiction during that period, a new application must be filed and application fee paid. An applicant must

(1) successfully complete within one year of applying the Special Purpose Examination for Chiropractors or its successor or equivalent examination approved by the Board; and,

(2) successfully complete the Board's jurisprudence examination. The examination questions are available from the Office or online at <http://vtprofessionals.org>.

(c) A renewal applicant whose Vermont license lapsed more than 5 years, but who has maintained a license in good standing in another U.S. or Canadian jurisdiction must document completion of 24 hours of continuing education in the two years preceding the application.

**3.4 Change of Name or Address** A licensee shall notify the Office within 30 days of any change of name or change of address. Notice of a change of name must be accompanied by legal proof of the change.

**3.5 Adjunctive Therapies** Adjunctive therapies are therapies a chiropractor may use in addition to chiropractic adjustment to treat patients. Chiropractors may use adjunctive therapies in which they have been adequately trained. Adjunctive therapies for chiropractic are physiotherapy modalities, rehabilitative exercises, nutritional therapy, massage techniques and acupuncture. Adjunctive therapy includes the use of topically applied therapeutic agents incident to any of the above listed therapies.

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## Part 4 Chiropractic Interns

**4.1 Registration of Chiropractic Interns** A student enrolled in the fourth academic year of an accredited school of chiropractic, upon registration as an intern, may practice under the supervision of a licensed chiropractor.

**4.2 Intern Registration** An applicant for intern registration must:

- (a) show current enrollment in an accredited school of chiropractic, and
- (b) provide an agreement to supervise from a Vermont licensed chiropractor.

**4.3 Documentation** Each licensed chiropractor who provides supervision of an intern must create and retain a supervisor's report and all records pertaining to services provided by the intern for no less than three years after the internship concludes.

**4.4 Permitted Activities / Liability**

(a) An intern may perform activities delegated to him or her by the supervising chiropractor, including the activities described in subdivision 521(3) of title 26 under the direct supervision of the chiropractor.

(b) "The supervising chiropractor shall be legally liable for such activities performed by the intern." 26 V.S.A. § 536.

**4.5 Board Jurisdiction** Intern applicants and approved interns are subject to the jurisdiction of the Board and subject to sanctions for any unprofessional conduct found.

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## Part 5. Continuing Professional Education

**5.1 Approval of Continuing Education Programs** A program or activity is acceptable if it facilitates learning which contributes to the growth of professional knowledge and competence.

**5.2 Exemption for Applicants Granted an Initial License to Practice by the Office**

There is no continuing education requirement before the first license renewal. For the subsequent renewals, the licensee must complete and document 24 hours of continuing education. The Board recommends, but does not require, continuing education for initial licensees during their first licensing period

**5.3 Documentation** Continuing education shall be documented on forms available from the Office or on line <http://vtprofessionals.org>.

**5.4 Failure to Certify Compliance** A licensee who fails to certify compliance with continuing education requirements on a renewal application may be denied renewal.

**5.5 Corrective Action Plans** The Board may require the licensee to develop and complete a specific corrective action plan of remedial course work within 90 days, See, 3 V.S.A. § 129(k).

**5.6 Continuing Professional Education Records**

(a) Responsibility for documenting the acceptability of a program or activity and the validity of the credits rests with the applicant.

(b) Documentation should be retained for a period of four years after the completion of the program.

(c) Documentation should consist of the following: course outline, statement of hours attended signed by the instructor, pamphlets, certificates of attendance received during the instruction, receipt of registration, or brief summary of the work content.

(d) Evidence of satisfactory completion of courses taken for scholastic credit in accredited universities and colleges is sufficient. Non-credit courses require a statement of the hours of attendance signed by the instructor.

### **5.7 Specially Designated Subjects**

(a) In its discretion, the Board may designate in advance not more than 12 hours in a specific subject area or areas related to public health and safety in which licensees will be required to obtain continuing education credit during the succeeding two-year license renewal period.

(b) In exercising its discretion, the Board will apply the following standards:

(1) there must be a demonstrated general need for licensees to acquire and maintain competence in the specific subject area or areas, including but not limited to an increase in complaints of unprofessional conduct in the specific subject area or areas;

(2) the Board must be assured that continuing education courses in the specific subject area or areas are reasonably available to licensees; and

(3) the Board must review any such designation prior to expiration of the two-year license renewal period to ascertain whether the designation should remain in place or should be removed.

### **5.8 Time**

(a) Only time spent in instruction, and not preparation time, will be credited.

(b) For university or college courses, each semester hour of credit shall equal 15 hours toward the requirement.

**5.9 Case-by-case approval** An individual course or activity may be approved upon submitting to the Board a course outline, instructor qualifications, sponsoring organization, and dates of presentation. Advance approval is not required.

**5.10 Pre-approval** Courses in the following categories are approved without further action by the Board:

(a) Postgraduate courses in core curriculum subjects offered for credit by a CCE-accredited school;

(b) Courses approved for continuing education credit by chiropractic boards of other states where the participant is licensed and practicing;

(c) Courses approved for continuing education credit toward category I of the Physician's Recognition Award of the American Medical Association, provided that such courses do not exceed 12 hours in a biennial renewal period;

(d) courses approved by P.A.C.E. for continuing education.

**5.11 Courses not approved** Approval will not be granted for:

(a) Courses in practice management;

(b) Courses in financial management.

**5.12 Modification of Continuing Education Requirement** Upon a showing of hardship, the Board may in its sole discretion modify the continuing education requirement.



- (a) To apply for modification, the licensee must submit a written statement not less than 60 days before expiration of the license renewal period setting forth the conditions of hardship with specificity.
- (b) After review, the Board shall send written notification of its decision, and the reasons therefore, to the licensee.

**5.13 Format of Continuing Education Programs** Continuing education will be accepted if:

(a) it is a course conducted or designed by a qualified instructor who will be able to instruct and interact in the formats below:

- (1) Classroom Instruction - Traditional in-classroom, with instructor and student interaction and written materials;
- (2) Interactive Television which permits continuous mutual communication between the instructor and all students, continuous observation of the instructor by all students, and continuous observation of all students by the instructor;
- (3) Distance Courses /Online Delivery Distance education courses are defined as programs whereby instruction does not take place in a traditional classroom setting but rather through other media where teacher and student communicate by electronic means; or

(b) it is self-study which may include printed or electronic media, if the study is demonstrated by a journal.

**5.14 Journals** The Board wishes to encourage practitioners to avail themselves of technical, profession related literature whenever possible. Toward that end, the Board will construe "individual course" as it appears in Board Rule 5.9 to include practitioner created journals.

(a) The Board will permit continuing education credit for journals at the rate of one hour for each 8 pages of chiropractic articles or texts read, summarized, and documented. Each entry should be dated. Documentation must occur at the time of the reading. **Effective with the 2014 biennial renewal**, practitioner created journals may not be used for more than 12 hours of the 24 hours of required continuing education.

(b) Journals of chiropractic readings must be retained by the licensee for 4 years.

(c) Journals are subject to audit upon request by the Board.

**5.15 Audits**

(a) Each biennium, the Board shall conduct a random audit of no fewer than ten percent (10%) of the licensees applying for renewal. The Board may also audit currently conditioned licensees, late renewing licensees, and licensees who in any of the preceding three (3) renewal cycles were initially found to have not met continuing education renewal requirements.

(b) When a licensee appears on the audit list, the Board will require documentation from the licensee showing a detailed account of the various credits claimed. The Board will review the documentation and determine if continuing education requirements have been satisfied.

(c) Licensees who upon audit are found to be deficient in continuing education may be permitted 90 days to develop and complete a corrective plan. 3 V.S.A. § 129(k).

(d) A licensee who fails to comply with a corrective plan is subject to license suspension or other disciplinary action by the Board.

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## Part 6 Competency Requirements of Licensees

**6.1 Ionizing Radiation** 26 V.S.A. § 525 requires licensees to demonstrate competency before applying ionizing radiation to human beings for diagnostic purposes.

(a) Competency to apply ionizing radiation to human beings is shown by graduation from a CCE accredited school of chiropractic.

(b) upon receipt of the application and payment of the required fee, the Board will issue the ionizing radiation endorsement.

### 6.2 Periodic competence re-certification

(a) A Board authorized evaluator shall visit premises as the Board deems necessary to conduct a competency evaluation of practicing chiropractors who use ionizing radiation on patients.

(b) The evaluation shall include, but not be limited to quality control evaluation, random film evaluation for collimation, film blackening, positioning, appropriate patient shielding, and processing; review of method of documentation of last menstrual period (LMP); report of equipment type, including film/screen combinations; and report on evaluation of processor chemicals and cleanliness of chemicals if manual processing technique used.

(c) The evaluation shall also include a quality control check of films selected randomly for diagnostic quality of film and quality control (collimation, processing, and appropriate patient shielding).

(d) the evaluation and re-certification fee is set by statute.

**6.3 Ionizing Radiation Endorsement Renewal** An ionizing radiation endorsement must be renewed every two years and a renewal fee must be paid. The licensee is responsible for renewing on time. An ionizing radiation endorsement not renewed by the expiration date will expire automatically. To reinstate an ionizing radiation endorsement after it has expired, a licensee must apply to the Board for approval and pay the required fee.

**6.4 Violations** The Attorney General or an OPR prosecuting attorney or a State's Attorney may bring a civil action to enjoin continuing violations of the law. Any person who applies ionizing radiation to human beings without having the proper endorsement or license may be subject to civil or criminal penalties.

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## Part . 7 Minimal Record Keeping Standards

### 7.1 Explanation

(a) These rules apply to all licensed chiropractic physicians during the normal course of care with new or established patients, regardless of whether the fee for services was charged, reduced, or waived by means of advertisement or otherwise.

(b) Chiropractic records are maintained to serve as a basis for planning patient care and for continuity in the evaluation of a patient's condition and treatment; to furnish documentary evidence of the course of the patient's clinical evaluation, treatment, and change in condition; and to document

communication between the practitioner responsible for the patient and any other health care professional who contributes to the patient's care.

(c) Chiropractic records shall be legibly maintained and shall contain sufficient information to:

- (1) identify the treating doctor and address where chiropractic care was provided;
- (2) identify the patient;
- (3) support the diagnosis/assessment;
- (4) substantiate the treatment; and
- (5) document the course and results of treatment accurately.

(d) Patient records shall include, at a minimum,

- (1) patient histories;
- (2) examination results;
- (3) test results;
- (4) records of substances dispensed, administered, or recommended;
- (5) reports of consultations and hospitalizations; and
- (6) copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician whether relied upon by the physician in determining the appropriate treatment of the patient or not.

(e) Initial and follow-up services (daily records) shall consist of documentation of current status and treatment rendered.

## 7.2 Patient Records

(a) All patient records shall include:

- (1) patient history;
- (2) condition presented or wellness care, or both; and
- (3) examination findings, including x-rays when clinically indicated.

(b) Abbreviations may be used in a patient's record, provided that the record also contains a legend or key explaining the meaning of any abbreviations used.

**7.3 Providing records** A licensed chiropractic physician must provide copies of a patient's records within 30 days, when the chiropractic physician receives a written request for the records from the patient, the patient's representative, or succeeding health care professionals or institutions. This rule applies to patient records which are in the possession of or under the control of the chiropractic physician. 3 V.S.A. § 129a(a)(8). Vermont statutes set permissible fees for copying and providing records. See, e.g. 18 V.S.A. § 9419.

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## PART 8 COMPLAINT PROCEDURES

**8.1 Disciplinary Procedure** The Board follows the Office procedure for processing, investigating, and prosecuting unprofessional conduct and unauthorized practice complaints. A copy of the complaint procedure may be obtained from the Office or online under "Disciplinary Procedures" at <http://vtprofessionals.org/>.

## 8.2 Grounds for Discipline

(a) Unprofessional conduct is defined by statutes 26 V.S.A. § 541(b) and 3 V.S.A. § 129a. Both apply to licensees, applicants and interns. Unprofessional conduct includes failing to comply with the

administrative rules governing the practice of a profession. 3 V.S.A. § 129a(a)(3).

(b) When a standard of unprofessional conduct in 3 V.S.A. § 129a conflicts with a standard set forth in a 26 V.S.A. § 541 or a standard set in these rules, the standard that is most protective of the public shall govern. 3 V.S.A. § 129a(e).

(c) No person subject to these rules may provide services which he or she is not qualified to perform or which are beyond the scope of his or her education, training, capabilities, experience, or practice.

(d) Advice: Licensees are advised to check 3 V.S.A. § 129a regularly for changes occurring after enactment of these rules. The statute may be found online at

<http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=03&Chapter=005&Section=00129a>

### **8.3 Sanctions for Unprofessional Conduct and Unauthorized Practice**

(a) Vermont statutes permit the Board to discipline a licensee following a hearing upon a finding of unprofessional conduct. Possible disciplinary actions the Board may impose on a license may include, but are not limited to:

- (1) warnings or reprimands;
- (2) suspension for a period of time to be determined by the Board;
- (3) revocation;
- (4) limitations on practice;
- (5) setting conditions for practice or resumption of practice;
- (6) denial of reinstatement; or
- (7) imposition of civil penalties.

(b) All Board disciplinary actions are public records available online or from the Office.

(c) The Board may levy a civil penalty of up to \$1,000.00 for each instance of unprofessional conduct or unauthorized practice.

(d) A person who violates 26 V.S.A. § 522 is subject to the penalties provided in 3 V.S.A. § 127(c).

**Effective date:** These rules become effective on July 15, 2012.

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