

CHAPTER 44E**STATE BOARD OF CHIROPRACTIC EXAMINERS****Authority**

N.J.S.A. 45:1-3.2, 45:9-14.5 et seq. and 45:9-41.23.

Source and Effective Date

R.2007 d.31, effective December 22, 2006.
See: 38 N.J.R. 3235(a), 39 N.J.R. 656(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 44E, State Board of Chiropractic Examiners, expires on December 22, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 44E, State Board of Chiropractic Examiners, was adopted as R.1991 d.320, effective July 1, 1991. See: 23 N.J.R. 1067(a), 23 N.J.R. 2023(b).

Subchapter 1, Scope of Practice, was adopted as R.1992 d.70, effective February 18, 1992. See: 23 N.J.R. 2100(a), 24 N.J.R. 642(a).

Pursuant to Executive Order No. 66(1978), Chapter 44E, State Board of Chiropractic Examiners, was readopted as R.1996 d.344, effective June 28, 1996. See: 28 N.J.R. 1592(a), 28 N.J.R. 3803(b).

Subchapter 3, Determinations with Respect to the Validity of Certain Diagnostic Tests, Special Requirements for Electrodiagnostic Tests and Other Special Examinations, was adopted as R.1999 d.76, effective March 1, 1999. See: 30 N.J.R. 3925(a), 31 N.J.R. 662(a).

Pursuant to Executive Order No. 66(1978), Chapter 44E, State Board of Chiropractic Examiners, was readopted as R.2001 d.257, effective June 26, 2001, and Subchapter 1A, Licensure, was adopted as R.2001 d.257, effective August 6, 2001. See: 33 N.J.R. 1329(a), 33 N.J.R. 2683(a).

Chapter 44E, State Board of Chiropractic Examiners, was readopted as R.2007 d.31, effective December 22, 2006. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS**13:44E-1.1 Scope of practice**

(a) The practice of chiropractic is that patient health care discipline whose methodology is the adjustment and/or manipulation of the articulations of the spine and related structures. During the initial consultation and before commencing chiropractic care, a licensee shall identify and document a clinical condition warranting chiropractic care. Nothing herein contained shall be deemed to prohibit a licensee from caring for chiropractic subluxation as determined by chiropractic analytical procedures. Chiropractic analysis which identifies the existence of a subluxation may be the basis for chiropractic care even in the absence of a subjective complaint or other objective findings.

(b) A chiropractic diagnosis or analysis shall be based upon a chiropractic examination appropriate to the presenting patient. Should the examination indicate abnormality not generally recognized as amendable to chiropractic care, a licensee shall refer the patient to an appropriate health care provider. Nothing herein contained shall preclude a licensee from rendering concurrent and/or supportive chiropractic care to any patient so referred.

(c) The following diagnostic and analytical procedures are within the scope of practice of a licensee:

1. The taking and ordering of X-rays limited to the osseous system;
2. The ordering, but not performing, of bioanalytical laboratory tests consistent with chiropractic practice;

3. The ordering or performing of reagent strip tests (dipstick urinalysis) consistent with chiropractic practice;

4. The ordering, but not performing, of such other diagnostic or analytical tests consistent with chiropractic practice including, but not limited to, computerized axial tomography (CT), magnetic resonance imaging (MRI), bone scan, invasive electromyography (EMG) and chest x-ray;

5. The requesting or performing of such other diagnostic or analytical tests consistent with chiropractic practice including, but not limited to, non-invasive muscle testing and tests using neurocalometer-type devices; and

6. The requesting or performing of electrodiagnostic tests or other special examinations, to the extent and in the manner authorized by N.J.A.C. 13:44E-3.

(d) A licensee may offer general nutritional advice to a patient when such advice is incidental to the chiropractic care being provided. A licensee shall not offer nutritional advice as treatment for a specific disease, defect, or deformity. A licensee shall not, incidental to chiropractic care, sell, dispense or derive any financial benefit from the sale of vitamins, food products or nutritional supplements. A licensee shall not represent himself or herself as a nutritional consultant.

(e) When clinically indicated, supported and documented in the patient record, a licensee may provide the following procedures in conjunction with chiropractic care to facilitate, enhance and/or prolong the effects of the chiropractic adjustment:

1. The ordering and/or administering of physical modalities; and
2. The ordering and/or administering of therapeutic, rehabilitative and/or strengthening exercises.

Amended by R.1996 d.344, effective August 5, 1996.

See: 28 N.J.R. 1592(a), 28 N.J.R. 3803(b).

Amended by R.1999 d.76, effective March 1, 1999.

See: 30 N.J.R. 3925(a), 31 N.J.R. 662(a).

In (c), substituted "requesting" for "ordering" and substituted "non-invasive muscle testing and tests using neurocalometer-type devices" for "neurocalometer, thermography, and non-invasive muscle testing" in 5, and added 6.

Amended by R.2001 d.257, effective August 6, 2001.

See: 33 N.J.R. 1329(a), 33 N.J.R. 2683(a).

In (a), inserted "and document" following "shall identify" and substituted "care" for "treatment"; in (b), substituted "examination" for "evaluation and "care" for "treatment"; rewrote (c); deleted (e).

Petition for Rulemaking.

See: 36 N.J.R. 589(a), 1615(a).

Public Notice: Withdrawal of Petition for Rulemaking.

See: 38 N.J.R. 2745(d).

Amended by R.2007 d.31, effective February 20, 2007.

See: 38 N.J.R. 3235(a), 39 N.J.R. 656(a).

In (c)5, inserted "; and" at the end; in (c)6, substituted a period for "; and" at the end; deleted (c)7; and added (e).

Case Notes

Chiropractors are not absolutely prohibited from performing extra-spinal adjustments; whether the adjustment of a structure beyond the spine properly falls within the scope of chiropractic practice is dependent on whether the adjustment bears a nexus to a condition of the spine. *Bedford v. Riello*, 195 N.J. 210, 948 A.2d 1272, 2008 N.J. LEXIS 772 (2008).

Chiropractor was not protected by either due process or fundamental fairness in connection with his application for staff membership at private hospital. *Petrocco v. Dover General Hosp. and Medical Center*, 273 N.J.Super. 501, 642 A.2d 1016 (A.D.1994), certification denied 138 N.J. 264, 649 A.2d 1284.

Private hospital which denied chiropractor's request for staff privileges afforded chiropractor more procedural protection than law required. *Petrocco v. Dover General Hosp. and Medical Center*, 273 N.J.Super. 501, 642 A.2d 1016 (A.D.1994), certification denied 138 N.J. 264, 649 A.2d 1284.

Rule imposes duty on chiropractor to examine and diagnose a patient to determine whether a condition is appropriate for chiropractic treatment, and, if it is not, to refer the patient to another kind of medical practitioner. *Rosenberg by Rosenberg v. Cahill*, 99 N.J. 318, 492 A.2d 371 (1985).

SUBCHAPTER 1A. LICENSURE

13:44E-1A.1 Licensing requirements for a chiropractor

(a) To be eligible for licensure as a chiropractor in New Jersey, an applicant shall:

1. Be at least 18 years of age;
2. Be of good moral character as demonstrated on the application;
3. Have successfully completed high school or its equivalent;
4. Have successfully:
 - i. Completed two years of study in an accredited college or university with at least one and one-half of the two years of study prior to commencing study in a chiropractic college or university within a course of study which meets the requirements set forth in N.J.S.A. 45:9-41.5; and
 - ii. Graduated from a chiropractic college or university that meets the requirements set forth in N.J.S.A. 45:9-41.5 during the applicant's entire course of study;
5. Have passed the National Board of Chiropractic Examiners Examination pursuant to N.J.A.C. 13:44E-2.13; and
6. Have passed the New Jersey Chiropractic Jurisprudence Examination.

Amended by R.2007 d.31, effective February 20, 2007.

See: 38 N.J.R. 3235(a), 39 N.J.R. 656(a).

In (a)4ii, substituted "that" for "and", "which".

13:44E-1A.2 Application for license: chiropractor

(a) An applicant for licensure as a chiropractor in New Jersey shall submit the following to the Board:

1. A completed application form provided by the Board which shall contain the applicant's name, address, social

security number, academic qualifications, licensure information from other states, resume, questions demonstrating moral character, confidential questions concerning the applicant's fitness to practice and child support questions;

2. Official transcripts demonstrating completion of the educational requirements pursuant to N.J.A.C. 13:44E-1A.1(a)4;

3. Proof of successful completion of the National Board of Chiropractic Examiners Examination pursuant to N.J.A.C. 13:44E-2.13;

4. The application fee set forth in N.J.A.C. 13:44E-2.5; and

5. A certification of authorization to perform and cooperate in a criminal history background check conducted pursuant to N.J.S.A. 45:1-28 et seq.

Amended by R.2007 d.31, effective February 20, 2007.

See: 38 N.J.R. 3235(a), 39 N.J.R. 656(a).

In (a)3, deleted "and" from the end; in (a)4, substituted "; and" for the period at the end; and added (a)5.

13:44E-1A.3 Applicants licensed in other states

(a) An applicant who is licensed to practice chiropractic by an examining and licensing board of another state shall be granted a license to practice chiropractic in New Jersey without further examination provided that:

1. The examining and licensing board of the applicant's state of licensure has licensure and examination requirements equivalent to those of this State;

2. The applicant furnishes an official transcript demonstrating that he or she has completed the educational requirements set forth in N.J.A.C. 13:44E-1A.1(a)4;

3. The Board has received evidence of the applicant's good standing in any jurisdiction where he or she is or has been licensed;

4. The applicant pays the endorsement license fee as set forth in N.J.A.C. 13:44E-2.5; and

5. The applicant has submitted a certification of authorization to perform and has cooperated in a criminal history background check pursuant to N.J.S.A. 45:1-28 et seq.

(b) An applicant for a licensure to practice chiropractic in this State who holds a valid license to practice chiropractic in another state shall be required to successfully complete the New Jersey Jurisprudence Examination.

(c) An applicant who holds a license in good standing to practice chiropractic in another state, who has five years of postgraduate chiropractic clinical experience and who does not satisfy the prerequisite educational requirements of N.J.A.C. 13:44E-1A.1(a)4i, shall be granted a license to practice chiropractic in New Jersey provided that the applicant has passed the National Board of Chiropractic Examiners Special Purposes Examination for Chiropractic.

Amended by R.2007 d.31, effective February 20, 2007.

See: 38 N.J.R. 3235(a), 39 N.J.R. 656(a).

In (a)3, deleted "and" from the end; in (a)4, substituted "; and" for the period at the end; and added (a)5.

13:44E-1A.4 Biennial license renewal; license expiration; reinstatement after expiration; inactive status; return from inactive status

(a) Licenses to practice chiropractic shall be issued for a period of two years and be renewed biennially. A licensee who seeks renewal of his or her license shall submit a license renewal application and the license renewal fee set forth in N.J.A.C. 13:44E-2.5 to the Board prior to the expiration of the current license.

(b) If a licensee does not renew his or her license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a license renewal fee and a late fee, as set forth in N.J.A.C. 13:44E-2.5.

(c) A license that is not renewed within 30 days of its expiration date shall expire. Any individual who continues to practice with an expired license after 30 days following the license expiration date shall be deemed to be engaged in unlicensed practice.

(d) An individual whose license has been expired for five years or less for failure to renew pursuant to (c) above may be reinstated by the Board after fulfilling the following:

1. Completion of a reinstatement application;

2. Payment of the reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:44E-2.5;

3. Submission of an affidavit of employment listing each job held during the period of license expiration that includes the name, address and telephone number of each employer; and

4. Completion of a criminal history background check as required by N.J.S.A. 45:1-28 et seq., if a criminal history background check has not been completed previously.

(e) An individual whose license has been expired for more than five years, and has been lawfully practicing in another jurisdiction, shall complete the requirements set forth in (d)1 through 4 above.

(f) An individual whose license has been expired for more than five years, and has not been lawfully practicing in another jurisdiction, shall:

1. Complete the requirements set forth in (d)1 through 4 above; and

2. Successfully complete the Special Purposes Examination for Chiropractic administered by the National Board of Chiropractic Examiners.

(g) Renewal applications shall provide the licensee with the option of either active or inactive status. A licensee electing inactive status shall pay the applicable inactive fee set forth in N.J.A.C. 13:44E-2.5 and shall not engage in practice.

(h) A licensee who elected inactive status and has been on inactive status for five years or less may be reinstated by the Board after fulfilling the following:

1. Payment of both the reinstatement and current fees as set forth in N.J.A.C. 13:44E-2.5;
2. Submission of an affidavit of employment listing each job held during the period the licensee was on inactive status including the name, address and telephone number of each employer; and
3. Completion of a criminal history background check as required by N.J.S.A. 45:1-28 et seq., if a criminal history background check has not been completed previously.

(i) A licensee who has been inactive for five or more years, and has been lawfully practicing in another jurisdiction, shall complete the requirements set forth in (h)1 through 3 above.

(j) A licensee who has been inactive for five years or more, and has not been lawfully practicing in another jurisdiction, shall:

1. Complete the requirements set forth in (g)1 through 3 above; and
2. Successfully complete the Special Purposes Examination for Chiropractic administered by the National Board of Chiropractic Examiners.

(k) Falsification of any information submitted with the renewal application may result in penalties and/or suspension of the license pursuant to N.J.S.A. 45:1-21 through 25.

Amended by R.2007 d.31, effective February 20, 2007.
See: 38 N.J.R. 3235(a), 39 N.J.R. 656(a).

Section was "Biennial license renewal". Added (d) through (j); and recodified former (d) as (k).

SUBCHAPTER 2. GENERAL RULES OF PRACTICE

13:44E-2.1 Advertising

(a) The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.

1. "Advertisement" means the attempt, directly or indirectly by publication, dissemination, solicitation, endorsement or circulation in print or electronic media or in any other way, to attract directly or indirectly any person to enter into an expressed or implied agreement to accept chiropractic services or care or goods related thereto.

2. "Electronic media" means, but is not limited to, radio, television, telephone, facsimile machine, and computer.

3. "Print media" means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, fliers or other publications, the content of which is disseminated by means of the printed word.

4. "Range of fees" means an expressly stated upper and lower limit on the fee charged for a professional service.

5. "Routine professional service" means a service which the advertising licensee, professional association or institution providing chiropractic care routinely performs.

(b) A licensed chiropractor who is actively engaged in the practice of chiropractic in the State of New Jersey may provide information to the public by advertising in print or electronic media.

(c) A licensee who engages in the use of advertising which contains the following shall be deemed to be engaged in professional misconduct:

1. Any statement, claim, or format which is false, fraudulent, misleading or deceptive;
2. Claims that the professional service performed or the materials used are superior to that which is ordinarily performed or used unless such claims can be substantiated by the licensee;
3. Promotion of a professional service which the licensee knows or should know is beyond the licensee's ability to perform;
4. Techniques of communication which appear to intimidate, exert undue pressure or undue influence over a prospective patient;
5. The communication of personally identifiable facts, data, or information about a patient without the patient's signed written permission obtained in advance;
6. The use of any misrepresentation;
7. The suppression, omission or concealment of any material fact under circumstances which a Board licensee knows or should know that the omission is improper or prohibits a prospective patient from making a full and informed judgment on the basis of the information set forth in the advertisement;
8. Any print, language or format which directly or indirectly obscures a material fact;
9. Any guarantee that services rendered will result in a cure; or
10. Any violations of (d) through (l) below.