

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

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

**Source and Effective Date**

R.2001 d.257, effective June 26, 2001.  
See: 33 N.J.R. 1329(a), 33 N.J.R. 2683(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 44E, State Board of Chiropractic Examiners, expires on June 26, 2006.

**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 by R.2001 d.257, effective August 6, 2001. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. PURPOSE AND SCOPE;  
DEFINITIONS**

13:44E-1.1 Scope of practice

**SUBCHAPTER 1A. LICENSURE**

13:44E-1A.1 Licensing requirements for a chiropractor  
13:44E-1A.2 Application for license: chiropractor  
13:44E-1A.3 Applicants licensed in other states  
13:44E-1A.4 Biennial license renewal

**SUBCHAPTER 2. GENERAL RULES OF PRACTICE**

13:44E-2.1 Advertising  
13:44E-2.2 Patient records  
13:44E-2.3 Sexual misconduct  
13:44E-2.4 Chiropractor of record; fee reimbursement  
13:44E-2.5 Fee schedule  
13:44E-2.6 Referral fees  
13:44E-2.6A Patient record review  
13:44E-2.7 Delegable tasks or functions of unlicensed assistants  
13:44E-2.7A Ordering of electro-therapy devices for home use  
13:44E-2.8 Notification of change of address; service of process  
13:44E-2.9 Display of license  
13:44E-2.10 Right to a hearing  
13:44E-2.11 Overutilization; excessive fees  
13:44E-2.12 Referral of patients to physical therapists

13:44E-2.13 Chiropractic examination  
13:44E-2.14 through 13:44E-2.15 (Reserved)

**SUBCHAPTER 3. DETERMINATIONS WITH RESPECT  
TO THE VALIDITY OF CERTAIN DIAGNOSTIC  
TESTS, SPECIAL REQUIREMENTS FOR  
ELECTRODIAGNOSTIC TESTS AND OTHER  
SPECIAL EXAMINATIONS**

13:44E-3.1 Definitions  
13:44E-3.2 Recognized diagnostic tests; permissible billing  
13:44E-3.3 Referable tests  
13:44E-3.4 Basic pre-test prerequisites and standards for patient evaluation applicable to electrodiagnostic tests and special examinations  
13:44E-3.5 Educational prerequisites applicable to electrodiagnostic tests and special examinations; certificate requirement  
13:44E-3.6 Informed consent; equipment; preparation for and performance of the electrodiagnostic test  
13:44E-3.7 Use of testing assistant  
13:44E-3.8 Preparation of test report; follow-up  
13:44E-3.9 Limitations on referrals  
13:44E-3.10 Fees  
13:44E-3.11 Application of prohibitions and limitations

**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;

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; and

7. In conjunction with a chiropractic adjustment, the ordering and/or administering of physical modalities where clinically indicated.

(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.

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).

#### Case Notes

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, which 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.

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

### 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:

4. Regular follow-up evaluations of the patient's participation in the at-home electro-therapy device program; and

5. The acknowledgment from the patient that a complete set of instructions for home use has been received pursuant to (c)7 above.

New Rule, R.2004 d.141, effective April 5, 2004.  
See: 35 N.J.R. 4828(a), 36 N.J.R. 1820(a).

### 13:44E-2.8 Notification of change of address; service of process

(a) A licensee of the Board of Chiropractic Examiners shall notify the Board in writing of any change of address from the address currently registered with the Board and shown on the most recently issued certificate. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 10 days following the change of address.

(b) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

New Rule, R.1994 d.120, effective March 7, 1994.  
See: 25 N.J.R. 3936(a), 26 N.J.R. 1230(b).  
Recodified from N.J.A.C. 13:44E-2.9 by R.2001 d.257, effective August 6, 2001.  
See: 33 N.J.R. 1329(a), 33 N.J.R. 2683(a).  
Former N.J.A.C. 13:44E-2.8, Delegable tasks or functions of unlicensed assistants, recodified to N.J.A.C. 13:44-2.7.

### 13:44E-2.9 Display of license

Each person holding a license to practice chiropractic in the State of New Jersey shall display the license and the current renewal certificate in a conspicuous place in his or her principal office or place of practice. In addition, the licensee shall display a duplicate issued by the Board of the current renewal certificate in all other facilities where the licensee practices.

New Rule, R.1994 d.121, effective March 7, 1994.  
See: 25 N.J.R. 3936(b), 26 N.J.R. 1231(a).  
Petition for Rulemaking.  
See 31 N.J.R. 3537(c).  
Recodified from N.J.A.C. 13:44E-2.10 and amended by R.2001 d.257, effective August 6, 2001.  
See: 33 N.J.R. 1329(a), 33 N.J.R. 2683(a).  
Substituted "duplicate issued by the Board" for "copy". Former N.J.A.C. 13:44E-2.9, Notification of change of address; service of process, recodified to N.J.A.C. 13:44E-2.8.

### 13:44E-2.10 Right to a hearing

Prior to any suspension, revocation or refusal to renew a license, the licensee shall have the right to request a hearing which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

New Rule, R.1994 d.121, effective March 7, 1994.  
See: 25 N.J.R. 3936(b), 26 N.J.R. 1231(a).  
Recodified from N.J.A.C. 13:44E-2.11 by R.2001 d.257, effective August 6, 2001.  
See: 33 N.J.R. 1329(a), 33 N.J.R. 2683(a).  
Former N.J.A.C. 13:44E-2.10, Display of license, recodified to N.J.A.C. 13:44E-2.9.

### Case Notes

Chiropractor engaged in misrepresentation and deception, professional misconduct, negligence, and absence of good moral character; suspension imposed. Matter of Soriero, 92 N.J.A.R.2d (BDS) 53.

Chiropractor's insensitivity to modesty and privacy requirements of adolescent patients constituted acts of simple negligence; civil penalty assessed. In Matter of Suspension or Revocation of License of Johnson, 92 N.J.A.R.2d (BDS) 33.

Purchase of narcotic analgesics from one patient and giving them to another patient; chiropractor's license suspended for one year and chiropractor required to perform 200 hours of community service. In Matter of Suspension or Revocation of License of Hollenbeck. 92 N.J.A.R.2d (BDS) 8.

### 13:44E-2.11 Overutilization; excessive fees

(a) A licensee shall not directly or indirectly engage in the rendering of any bill or the submission of any claim for service which:

1. Is not justified by the needs of the patient;
2. Is for any diagnostic or treatment services, goods or appliances which are excessive in quality or quantity;
3. Represents multiple charges for the same chiropractic services or care, goods or appliances;
4. Contains an excessive fee. A fee is excessive when, after a review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the fee is so high as to be manifestly unconscionable or overreaching under the circumstances. The charging of an excessive fee shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21. Factors which may be considered in determining whether a fee is excessive include, but are not limited to, the following:
  - i. The time and effort required;
  - ii. The novelty and difficulty of the procedure or chiropractic care;

- iii. The skill required to perform the procedure or chiropractic care properly;
  - iv. Any requirements or conditions imposed by the patient or by circumstances;
  - v. The nature and length of the professional relationship with the patient;
  - vi. The experience, reputation and ability of the licensee performing the services; and/or
  - vii. The nature and circumstances under which services are provided.
5. Is for services, goods or appliances which were not rendered or supplied; or
6. Is for a charge or claim which, due to the presence of insurance coverage, exceeds the usual and customary charges for such services, goods or appliances for patients who do not have insurance coverage.

New Rule, R.1994 d.122, effective March 7, 1994.

See: 25 N.J.R. 3937(a), 26 N.J.R. 1231(b).

Recodified from N.J.A.C. 13:44E-2.13 and 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)3, substituted "care" for "treatments"; in (a)4ii and iii, substituted "chiropractic care" for "treatment". Former N.J.A.C. 13:44E-2.11, Right to a hearing, recodified to N.J.A.C. 13:44E-2.10.

### 13:44E-2.12 Referral of patients to physical therapists

(a) A chiropractor providing physician direction for the initiation of physical therapy treatment by a physical therapist shall supply the physical therapist with the following information in writing:

- 1. The name of the patient;
- 2. The printed name of the referring chiropractor, including office address and phone number;
- 3. The signature of the chiropractor and the date;
- 4. The purpose of referral (for example, "physical therapy examination and treatment"); and
- 5. The spinal component of patient's problem.

(b) The referring chiropractor may verbally supply this information provided that a written confirmation is forwarded to the physical therapist within two weeks.

(c) After the physical therapist has completed the physical therapy examination and evaluation, the referring chiropractor shall consult with the physical therapist to:

- 1. Clarify any divergent assessments that the referring chiropractor and physical therapist may have made regarding the patient's needs;
- 2. Coordinate care and/or treatment programs in the event that the patient receives concurrent chiropractic and physical therapy. Any such concurrent care and/or treatment programs shall be compatible; and

3. Jointly determine a schedule of additional consultation that will allow the referring chiropractor to monitor the patient's on-going plan of care.

(d) The referring chiropractor shall document the initial and on-going consultation with the physical therapist in the patient's record.

New Rule, R.1994 d.123, effective March 7, 1994.

See: 25 N.J.R. 3938(a), 26 N.J.R. 1234(a).

Administrative Correction.

See: 26 N.J.R. 2590(a).

Recodified from N.J.A.C. 13:44E-2.14 and amended by R.2001 d.257, effective August 6, 2001.

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

In (c), rewrote the introductory paragraph, and in 2, inserted "care and/or" preceding "treatment" throughout. Former N.J.A.C. 13:44E-2.12 was reserved.

Petition for Rulemaking.

See: 35 N.J.R. 5623(a).

Petition for Rulemaking.

See: 36 N.J.R. 1616(a).

### 13:44E-2.13 Chiropractic examination

(a) Effective January 1, 2001, to obtain a license to practice chiropractic, a candidate shall successfully pass:

- 1. Parts I, II, III and IV of the National Board of Chiropractic Examiners Examination; and
- 2. The New Jersey State Board of Chiropractic Examiners written jurisprudence examination.

(b) The Board shall hold the New Jersey State Board of Chiropractic Examiners Jurisprudence Examination no less than twice per year at a date, time, and place designated by the Board.

(c) An applicant licensed in another state who seeks licensure by endorsement shall successfully pass the written jurisprudence examination administered by the New Jersey State Board of Chiropractic Examiners.

New Rule, R.2000 d.306, effective July 17, 2000.

See: 32 N.J.R. 780(a), 32 N.J.R. 2593(a).

Recodified from N.J.A.C. 13:44E-2.15 and amended by R.2001 d.257, effective August 6, 2001.

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

Deleted (a); recodified former (b) through (d) as (a) through (c); deleted (e). Former N.J.A.C. 13:44E-2.13, Overutilization; excessive fees, recodified to N.J.A.C. 13:44E-2.11.

### 13:44E-2.14 (Reserved)

Recodified to N.J.A.C. 13:44E-2.12 by R.2001 d.257, effective August 6, 2001.

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

Section was "Referral of patients to physical therapists".

### 13:44E-2.15 (Reserved)

Recodified to N.J.A.C. 13:44E-2.13 by R.2001 d.257, effective August 6, 2001.

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

Section was "Chiropractic examination".

**SUBCHAPTER 3. DETERMINATIONS WITH  
RESPECT TO THE VALIDITY OF CERTAIN  
DIAGNOSTIC TESTS, SPECIAL  
REQUIREMENTS FOR  
ELECTRODIAGNOSTIC TESTS AND OTHER  
SPECIAL EXAMINATIONS**

**13:44E-3.1 Definitions**

As used in this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

“Board” means the New Jersey State Board of Chiropractic Examiners.

“Chiropractic physician” means a chiropractor holding a license issued by the New Jersey State Board of Chiropractic Examiners.

“Clinically supported” means that a chiropractic physician, prior to selecting, performing or ordering the administration of a diagnostic test has:

1. Personally performed a physical examination, making an assessment of any current and/or historical subjective complaints, observations, objective findings, or neurological indications;
2. Considered any and all previously performed tests relating to the patient’s clinical condition and the results; and
3. Documented in the patient record positive and negative findings, observations and clinical indications to justify the test.

“Diagnostic test” means a professional service utilizing biomechanical, neurological, neurodiagnostic, radiological, vascular or any means, other than bioanalysis, intended to assist in establishing a diagnosis, for the purpose of recommending a course of treatment for the tested patient to be implemented by a chiropractic physician or other treating practitioner.

“Electrodiagnostic test” means a diagnostic test utilizing electrical current to measure and record electrical irritability, but is not intended to include surface electromyography (SEMG).

“Medical doctor” means an allopathic or osteopathic physician holding a plenary license issued by the New Jersey State Board of Medical Examiners.

“Normal” or “normally” means the usual, routine, customary or common experience and conclusion, which may in unusual circumstances differ from the actual judgment or course of treatment. The unusual circumstances shall be based on clinically supported findings of a chiropractic physician. The use of these terms is intended to indicate some flexibility and avoid rigidity in the application of these rules and to recognize the good faith educated judgment of a chiropractic physician.

“Practitioner” means a licensee of a professional board authorized to render health care services, including, but not limited to, chiropractic physicians, medical doctors, podiatric physicians, physical therapists and registered professional nurses.

“Significant beneficial interest” means any financial interest but does not include ownership of a building wherein the space is leased to a person at the prevailing rate under a straight lease agreement or any interest held in publicly traded securities.

“Special examination” means a diagnostic test, other than electrodiagnostic test, which is not routinely utilized by chiropractic physicians in the course of ordinary practice, such as specialized imaging studies. “Special examination” does not include x-rays, computer-supported range of motion testing, applied kinesiology, gait analysis, postural analysis tests or muscle testing devices, such as Dynatron or Cyber station.

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

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

In “Chiropractic physician”, substituted “chiropractor” for “chiropractic physician” preceding “holding a license”.

**13:44E-3.2 Recognized diagnostic tests; permissible  
billing**

(a) Consistent with the scope of practice, upon the attainment of education and training in the pertinent test and, with respect to electrodiagnostic tests or special examinations, a certificate of competency, a chiropractic physician may perform a diagnostic test and charge a patient or third party payor for that test, except as provided by (b) and (c) below.

(b) A chiropractic physician shall not bill for any diagnostic tests which have not been reliably demonstrated to identify conditions amenable to chiropractic care beyond the information ascertainable from the taking of a patient history and performance of a thorough clinical examination or which otherwise fail to yield data of sufficient clinical value in the development, evaluation or implementation of a plan of treatment, including the following:

1. Spinal diagnostic ultrasonography/ultrasound imaging of the spine;
2. Current perception threshold tests;
3. Iridology;
4. Reflexology; or
5. Surrogate arm mentoring.

(c) A chiropractic physician may bill for any of the following diagnostic tests which have recognized reliability and validity and can yield data of sufficient clinical value in the development, evaluation or implementation of a plan of treatment, when clinically supported, subject to the limitations noted:

1. Repetitive stimulation studies including reflex latency measurements such as F-wave studies, H-reflexes and sympathetic skin responses;

2. Somasensory evoked potential (SSEP), visual evoked potential (VEP) auditory evoked potentials (AEP), brainstem auditory evoked potential (BAEP) and dermatome evoked potential, or brain evoked potential (BEP) where the extent of response to treatment is not otherwise sufficiently ascertained from subjective reports and by objective findings or other diagnostic tests;

3. Thermography only when used to evaluate pain associated with reflex sympathetic dystrophy ("RSD") in a controlled setting;

4. Videofluoroscopy only in the evaluation of hypomobility syndrome and wrist/carpal hypomobility, where

there are findings of no range or aberrant range of motion or dysymmetry of facets;

5. Surface EMG;

6. Applied kinesiology and gait analysis; and

7. Computer-supported range of motion tests, postural analysis tests or muscle testing devices, such as Dynatron or Cyber station.

(d) Notwithstanding any limitations set forth in (b) above, a chiropractic physician may perform the enumerated diagnostic test, after assuring that written informed consent has been obtained from the patient, but in no case shall the patient or third party payor be billed or charged for the test.

Petition for Rulemaking.

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