

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

Chapter 44E, State Board of Chiropractic Examiners, expires on December 22, 2011.

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: 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

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 v. 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 "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

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 that:

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

In the introductory paragraph of (a), substituted "that" for "which"; and in (a)4vii, substituted a semicolon for the period at the end.

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

(a) A chiropractor providing referral or 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).

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

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

In the introductory paragraph of (a), inserted "referral or".

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 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.

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)2, deleted "written" preceding "jurisprudence".

13:44E-2.14 Independent chiropractic examinations

(a) For the purposes of this section, "independent chiropractic examination" means the taking of a history and the performance of a clinical examination of a patient conducted in this State by a chiropractor, other than the attending chiropractor, at the request of a third party, for the purpose of evaluating the patient's current condition and the preparation of a written report.

(b) A chiropractor performing an independent chiropractic examination in the State of New Jersey shall:

1. Hold a valid license to practice chiropractic in the State of New Jersey pursuant to N.J.S.A. 45:9-41.8 or 45:9-41.10; and
2. Have at least two years of clinical experience post-licensure if licensed after August 2, 2004.

(c) A licensed chiropractor performing an independent chiropractic examination shall:

1. Complete a patient record pursuant to N.J.A.C. 13:44E-2.2;
2. Document in the patient record and report the nature and extent of records reviewed including other information presented such as results of diagnostic imaging and/or diagnostic testing;
3. Perform and document in the patient record and in any resulting report, a history, clinical examination and a chiropractic analysis or diagnosis, pursuant to N.J.A.C.

13:44E-1.1(b), that includes the specific tests, examinations or observations performed, and the results and evaluation of these specific tests, examinations or observations together with a review of the patient's response to prior care.

4. Document the clinical rationale for an opinion expressed with respect to the patient's present condition in the patient record and report;

5. Not make any recommendations directly to the patient for alterations in care by the attending chiropractor except with respect to the advice required by N.J.A.C. 13:44E-2.2(f)3. If such advice of an abnormality or condition is given to the patient and referral to another health care professional is recommended, such findings shall be documented in the patient record and report;

6. Not solicit the patient for care; and

7. Author and sign the independent chiropractic examination report.

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".

Former section, "Referral of patients to physical therapists" was 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).

New Rule, R.2004 d.307, effective August 2, 2004.

See: 35 N.J.R. 3753(a), 36 N.J.R. 3557(a).

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)3, inserted a comma following "report" and substituted "that" for "which".

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.