

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.

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; license expiration; reinstatement after expiration; inactive status; return from inactive status

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 Independent chiropractic examinations
13:44E-2.15 Permissible practice structures

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; 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 "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