

(c) An opinion by a non-attending chiropractor which states that prior chiropractic care was not documented pursuant to N.J.A.C. 13:44E-2.2 shall clearly note the specific deviations from the patient record requirements of N.J.A.C. 13:44E-2.2.

(d) Opinions which state that prior chiropractic care was not necessary, not required or palliative shall clearly state the rationale upon which the opinion is based.

(e) (Reserved)

(f) An opinion by a non-attending chiropractor that diagnostic testing, referrals or consultations were not properly documented or performed in accordance with N.J.A.C. 13:44E-2.2 and 13:44E-3 shall clearly note the specific deviations from those rules.

(g) Opinions which state that prior diagnostic testing, referrals or consultations were not necessary shall clearly state the rationale upon which the opinion is based.

(h) Any opinion rendered regarding the evaluation of prior chiropractic care, the termination of chiropractic care, or the necessity of diagnostic testing and/or referrals or consultation shall be consistent with N.J.S.A. 45:9-14.5 and N.J.A.C. 13:44E-1.1. Violations of any of the provisions set forth in this section shall constitute professional misconduct

pursuant to N.J.S.A. 45:1-21(e) and may subject licensees to penalties as set forth in N.J.S.A. 45:1-22 and 45:1-25.

New Rule, R.2001 d.448, effective December 3, 2001.

See: 32 N.J.R. 3970(a), 33 N.J.R. 4140(a).

Administrative correction.

See: 34 N.J.R. 300(a).

13:44E-2.7 Delegable tasks or functions of unlicensed assistants

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

(b) Under the direct supervision of, and when delegated by, a licensed chiropractor, an unlicensed assistant, including a graduate of a recognized program of study in chiropractic, may perform tasks or functions including, but not limited to, the following:

1. Completing a medical history of a patient;
2. Preparing the patient for chiropractic care;
3. Writing into the patient record subjective complaints from the patient and objective findings provided by the licensee;
4. Performing a urinary dipstick analysis;
5. Taking and recording vital signs;
6. Preparing and developing X-ray films;

7. Providing patient education activities;
8. Providing instruction in activities of daily living; and
9. Administering cryotherapy, hot packs, mechanical traction and non-invasive surface screening.

(c) A licensee shall not permit an unlicensed assistant to:

1. Examine, diagnose or analyze a patient;
2. Perform massage;
3. Take X-rays (unless permitted by license issued by the Department of Environmental Protection);
4. Perform a chiropractic adjustment;
5. Administer the following physical modalities:
 - i. Ultraviolet (B and C bands) or electromagnetic rays including, but not limited to, deep heating agents, microwave diathermy, short-wave diathermy and ultrasound; or
6. Perform any task or function for which the skill, training and judgment of a licensed chiropractor is required to safely and competently perform such task or function.

(d) A licensee who permits an unlicensed assistant to perform any task or function incidental to the rendering of chiropractic care shall:

1. Be responsible for the performance of all delegated tasks or functions performed by such individual;
2. Directly supervise the unlicensed assistant; and
3. Ensure that such individual is competent to perform all delegated tasks or functions. The licensee shall provide any instruction or training necessary to ensure competence and shall make such inquiry as may be necessary to ensure that a satisfactory level of education exists so as to conclude that the unlicensed individual may render any delegated tasks or functions with reasonable skill and safety.

(e) The licensee shall write all instructions for duties to be performed by unlicensed assistants on the patient's chart and shall make the chart available at all times to the unlicensed assistant carrying out the instructions.

(f) Prior to the performance of any delegated tasks or functions by an unlicensed assistant, the unlicensed assistant shall determine whether the patient's physical status has materially changed since the patient's prior office visit. In such event, the unlicensed assistant shall not proceed with the performance of any delegated tasks or functions until the licensee has reexamined the patient or authorized the performance of a delegated task or function.

New Rule, R.1996 d.344, effective August 5, 1996.
See: 28 N.J.R. 1592(a), 28 N.J.R. 3803(b).

Recodified from N.J.A.C. 13:44E-2.8 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 (b)1, substituted "of a" for "with the"; in (b)2, substituted "care" for "treatment". Former N.J.A.C. 13:44E-2.7, Referral fees, recodified to N.J.A.C. 13:44E-2.6.

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).