

**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. 16 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.

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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;

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).

#### 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:

1. "Licensee" means any person licensed to engage in the practice of chiropractic as regulated by the State Board of Chiropractic Examiners.

2. "Patient" means any person who is the recipient of a professional service rendered by a licensee for the purposes of diagnosis, care or a consultation relating to chiropractic care. "Patient" for purposes of this section also means a person who is the subject of professional examination even if the purpose of that examination is unrelated to care.

3. "Patient-chiropractor relationship" means an association between a chiropractor and patient wherein the licensee owes a continuing duty to the patient to be available to render professional services consistent with his or her chiropractic training and experience. The performance of any professional chiropractic service includes, but is not limited to, any consultation, examination, and care provided by a licensee in furtherance of chiropractic care or consultation.

4. "Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensee's body upon a part of the patient's body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or patient's body into or near the genital, anal or other opening of the other person's body. "Sexual contact" does not include the touching of a patient's body which is necessary during the performance of a generally accepted and recognized chiropractic technique.

5. "Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or nonverbal conduct that is sexual in nature, and which occurs in connection with a licensee's activities or role as a provider of chiropractic services, and that either: is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. "Sexual harassment" may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee with a patient, co-worker, employee, student or supervisee whether or not such individual is in a subordinate position to the licensee.

6. "Spouse" means the husband, wife or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee.

i. For purposes of this section, a long-term committed relationship means a relationship which is at least six months in duration.

(c) A licensee shall not engage in sexual contact with a patient with whom he or she has a patient-chiropractor relationship. The patient-chiropractor relationship is considered ongoing for purposes of this section, unless:

1. Professional services are terminated, by way of written notice to the patient and documentation in the patient record; or

2. The last professional service was rendered more than three months ago.

(d) A licensee shall not seek or solicit sexual contact with a patient with whom he or she has a patient-chiropractor relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(e) A licensee shall not engage in any discussion of an intimate sexual nature with a patient, unless that discussion is related to legitimate patient needs. Such discussion shall not include disclosure by the licensee of his or her own intimate sexual relationships.

(f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the patient unless necessary to the professional chiropractic services being rendered.

(g) A licensee shall not engage in sexual harassment in a professional setting while performing in a professional capacity.

(h) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or is for the sexual arousal, or sexual gratification of the licensee or patient or which constitutes an act of sexual abuse.

(i) Violation of any of the prohibitions or directives set forth at (c) through (h) above shall be deemed to constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) Nothing in this section shall be construed to prevent a licensee from rendering any professional chiropractic service to a spouse, providing that the rendering of such service is consistent with accepted standards of chiropractic care and that the performance of chiropractic services is not utilized to exploit the patient spouse for the sexual arousal or sexual gratification of the licensee.

(k) It shall not be a defense to any action under this section that:

1. The patient solicited or consented to sexual contact with the licensee; or

2. The licensee was in love with or had affection for the patient.

New Rule, R.1997 d.531, effective December 15, 1997.  
See: 29 N.J.R. 3770(b), 29 N.J.R. 5311(a).  
Amended by R.2001 d.257, effective August 6, 2001.

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

Substituted "care" for "treatment", and "chiropractor" for "physician" throughout; in (c)(1), substituted "Professional services are" for "Activity".

**13:44E-2.4 Chiropractor of record; fee reimbursement**

(a) Each patient in a chiropractic facility shall have a chiropractor of record who shall remain primarily responsible for assuring the proper implementation of the chiropractic services to be rendered to such patient regardless of whether the services are rendered by the chiropractor of record or by any other person rendering chiropractic services or ancillary care to the patient.

(b) The name of the chiropractor of record shall be conspicuously identified on the patient record. If the chiropractor of record is not identified on the patient record, it shall be presumed that the chiropractor of record is the owner of the practice in which the patient received care.

(c) Each chiropractor or any other person rendering services shall sign or initial each entry on the patient record pertaining to the services he or she provided. If no such entry appears on the patient record, it shall be presumed that such service was rendered by the chiropractor of record, unless the chiropractor of record establishes the identity of the individual who provided such services.

(d) In a multi-chiropractor practice, the chiropractor of record shall remain the chiropractor for a patient until a subsequent chiropractor affirmatively notes in the patient record that he or she is currently the chiropractor of record. In the event that the chiropractor of record leaves the practice, a successor chiropractor shall be designated if the patient elects to continue treatment in the facility.

(e) A new chiropractor of record shall review the patient's history and chiropractic records, examine the patient, if necessary, and either develop a new treatment plan or continue the pre-existing plan.

(f) Any chiropractor found to have rendered services in violation of N.J.S.A. 45:1-21 and the owner of the facility in which the licensee render such services shall be jointly and severally responsible for any restoration of patient fees as may be ordered by the Board.

New Rule, R.1991 d.427, effective August 19, 1991.  
 See: 23 N.J.R. 1280(a), 23 N.J.R. 2517(a).  
 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), substituted "care" for "treatment"; in (b), substituted "received care" for "was treated"; in (c), substituted "chiropractor of record establishes" for "latter shall establish"; in (d), substituted "chiropractor for a patient" for "same"; in (f), substituted "chiropractor" for "licensee".

**13:44E-2.5 Fee schedule**

(a) The following fees shall be charged by the Board:

- 1. Application Fee ..... \$125.00

- 2. Endorsement Fee ..... 75.00  
 (plus initial license fee)
- 3. Initial License Fee:
  - i. During the first year of a biennial renewal period ..... 350.00
  - ii. During the second year of a biennial renewal period ..... 175.00
- 4. Biennial License Renewal Fee..... 350.00
- 5. Duplicate License Fee ..... 25.00
- 6. Verification of Licensure Fee ..... 40.00
- 7. Late Renewal Fee ..... 50.00
- 8. Reinstatement Fee ..... 125.00  
 (plus all past due license fees)

Amended by R.1997 d.287, effective July 21, 1997.

See: 29 N.J.R. 734(a), 29 N.J.R. 3261(a).

In (a)4 and 5, raised license fees.

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

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

In (a), added 10.

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), deleted 2, and recodified existing 3 through 9 as 2 through 8.

**13:44E-2.6 Referral fees**

It shall be professional misconduct for a licensee to pay, offer to pay, or to receive from any person any fee or other form of compensation for the referral of a patient. This section shall not prohibit the division of fees among licensees engaged in a bona fide employment, partnership or corporate relationship for the delivery of professional services.

New Rule, R.1992 d.507, effective December 21, 1992.

See: 24 N.J.R. 1470(a), 24 N.J.R. 4557(a).

Recodified from N.J.A.C. 13:44E-2.7 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 "This section" for "The within prohibition". Former N.J.A.C. 13:44-2.6 was reserved.

**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;