

# 2016 Proposed Changes to North Dakota Administrative Rules Title 17

Removed material is ~~everstruck~~ and added material is underlined.  
Sections that are not being changed were omitted from this document.

## Chiropractic Examiners, Board of

### Article

- 17-01 General Administration
- 17-02 Chiropractic Licensure
- 17-03 Disciplinary Matters

**ARTICLE 17-01  
GENERAL ADMINISTRATION**

Chapter  
17-01-01            Organization of Board

**CHAPTER 17-01-01  
ORGANIZATION OF BOARD**

Section  
17-01-01-01 Organization and Functions of the Board of Chiropractic Examiners

**17-01-01-01. Organization and functions of the board of chiropractic examiners.**

1. **History.** The board of chiropractic examiners was first established in 1915 under laws now codified as North Dakota Century Code chapter 43-06. North Dakota was the first state in the United States to issue a license to practice chiropractic.
2. **Functions.** One function of the board is to examine, or designate a testing agency to examine, candidates coming into the state to see if they are qualified to practice chiropractic in North Dakota. It is also the function of the board to prevent those who are unqualified from practicing chiropractic in the state.
3. **Board membership.** The board consists of five members appointed by the governor. Each member is a doctor of chiropractic. Members of the board serve five-year terms, and one term expires each year. Board members annually elect from board membership the president, vice president, and secretary-treasurer of the board.
4. **Secretary-treasurer.** The secretary-treasurer of the board is elected by the board and is responsible for overseeing the board's activities as stated in section 17-01-03-02.
5. **Executive director.** The board may hire an executive director to oversee the clerical needs administrative duties of the board, and who will answer to the board president.
6. **Inquiries.** Any questions or suggestions concerning these rules should be sent to the executive director.

**History:** Amended effective December 1, 1981; March 1, 1986; April 1, 1988; July 1, 1990; April 1, 2001; July 1, 2008; January 1, 2016; January 1, 2017.

**General Authority:** NDCC 43-06-04.1

**Law Implemented:** NDCC 28-32-02.1, 43-06-04, 43-06-04.1

**CHAPTER 17-01-02  
BOARD MEETINGS**

Section  
17-01-02-03        Board Expenses

**17-01-02-03. Board expenses.** Each member of the board of chiropractic examiners shall be reimbursed for the member's expenses for each day the member is actually engaged in performing the duties of the member's office as provided for in North Dakota Century Code section 44-08-04, and such mileage and travel expenses as are provided for in North Dakota Century Code section 54-06-09 and additional allowance for other necessary expenses incurred. Each member of the board shall receive compensation in the amount of two hundred and fifty dollars for each day or portion thereof spent in the discharge of the member's duties.

**History:** Effective April 1, 1982; amended effective April 1, 1984; February 1, 1990; April 1, 2001; July 1, 2008; January 1, 2017.

**General Authority:** NDCC 28-32-02, 43-06-05

**Law Implemented:** NDCC 43-06-05, 44-08-04, 54-06-09

**ARTICLE 17-02  
CHIROPRACTIC LICENSURE**

Chapter	
17-02-01	Admission to Practice Chiropractic
17-02-03	Reporting Requirements
17-02-04	Authority of Chiropractors

**CHAPTER 17-02-01  
ADMISSION TO PRACTICE CHIROPRACTIC**

Section	
17-02-01-01.2	Definitions
17-02-01-02.	Application for licensure
17-02-01-08	Examination Subjects and Requirements
17-02-01-09	Declaration [Repealed]
17-02-01-16	<u>Reactivation of an Inactive License</u>

**17-02-01-01.2. Definitions.**

1. Unless specifically stated otherwise, all definitions found in North Dakota Century Code section 43-06-01 are applicable to this title.
2. "Actual consultation" as used in North Dakota Century Code section 43-06-02 means seeking or giving professional advice, opinions, or assistance in conjunction with a licensed chiropractor in this state with regard to a specific patient for the purpose of providing chiropractic treatment to the patient.
3. In this title, unless the context or subject matter otherwise requires:
  - a. "National board" means the national board of chiropractic examiners or its successor or equivalent as determined by the board.
  - b. "Special purposes examination for chiropractic" or "SPEC" means the special purposes examination for chiropractic offered by the national board.
  - c. "Ethics and boundaries examination" or "E&B" means the ethics and boundaries examination offered by the Ethics and Boundaries Assessment Services, LLC (EBAS).

**History:** Effective May 1, 1993; amended effective April 1, 2001; July 1, 2008; January 1, 2016; January 1, 2017.

**General Authority:** NDCC 28-32-02, 43-06-04.1

**Law Implemented:** NDCC 43-06-02, 43-06-10, 43-06-10.1

**17-02-01-02. Application for licensure.** Application shall be made on the official form issued by the board. The forms may be secured upon application to the executive director. Additionally, the applicant must complete the jurisprudence requirement under subsection 5 of section 17-02-01-02.1.

**History:** Amended effective February 1, 1990; April 1, 2001; January 1, 2017.

**General Authority:** NDCC 28-32-02, 43-06-04.1, 43-06-05

**Law Implemented:** NDCC 43-06-08

**17-02-01-08. Examination subjects and requirements.** Examinations will be provided by the national board, or its successor, except for jurisprudence, which will be administered by the board. An applicant must satisfy the following criteria:

1. The applicant must hold a diploma from a chiropractic college fully accredited by the council on chiropractic education or its successor or equivalent as determined by the board.
2. If the applicant graduated before 1966, the applicant must have been in active practice and have passed five examinations (x-ray, orthopedics, jurisprudence, nutrition, and neurology) and also five practicals (x-ray, spinal biomechanics, extremity adjusting, first aid, and case management).
3. If the applicant graduated between 1966 and 1988, the applicant must have passed parts I and II of the national board examination. In addition, the applicant must have passed part IV or the SPEC.

4. If the applicant graduated between July 1988 and January 1997, the applicant must have passed parts I, II, and III of the national board examination. In addition, the applicant must have passed part IV or the SPEC.
5. If the applicant graduated after January 1997, the applicant must have passed parts I, II, III, and IV of the national board examination.
6. Passing grades for part IV of the national board examination are effective for seven years after which time the applicant may be required to take and pass the SPEC.
7. Graduates after January 1, 2001, must reflect a passing score on the national board's physiotherapy examination.

**History:** Amended effective February 1, 1990; April 1, 2001; July 1, 2008; January 1, 2016.

**General Authority:** NDCC 28-32-02, 43-06-04.1, 43-06-05

**Law Implemented:** NDCC 43-06-10, 43-06-10.1

**17-02-01-16. Reactivation of an inactive license.** An applicant for reactivation of an inactive license will be considered if the following conditions are met:

1. The applicant must provide a letter from all states in which that chiropractor has practiced since their North Dakota license became inactive indicating that they are in good standing to practice chiropractic in that other state or states.
2. The applicant must appear before the Board if they cannot show proof of active practice in some state or jurisdiction for at least six months of the last three years.
3. The applicant must take and pass the special purposes examination for chiropractic (SPEC) test if it has been three or more years since the chiropractor was in active practice in any state. The Board may select to have any holder of an inactive license applying for reactivation take the SPEC test or any other evaluation at its discretion.
4. The applicant must have successfully passed the jurisprudence examination in the past twelve months.
5. The applicant agrees to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All cost associated with obtaining a criminal history record check are the responsibility of the applicant.

**History:** Effective January 1, 2017

**General Authority:** NDCC 28-32-02, 43-06-04.1, 43-06-08

**Law Implemented:** NDCC 43-06-11.1; 43-06-13

## CHAPTER 17-02-03 REPORTING REQUIREMENTS

Section

17-02-03-01 Filing Addresses

**17-02-03-01. Filing addresses.** Every chiropractor shall file with the executive director of the board of examiners a valid email address and the chiropractor's mailing address in the city and location of the place where the chiropractor conducts practice and shall report the name of any other city and place wherein the chiropractor maintains a branch office for the purpose of practice.

**History:** Amended effective April 1, 2001; January 1, 2017.

**General Authority:** NDCC 28-32-02, 43-06-04.1, 43-06-05

**Law Implemented:** NDCC 43-06-13

**CHAPTER 17-02-04  
AUTHORITY OF CHIROPRACTORS**

Section

17-02-04-06 Needle Acupuncture

17-02-04-07 Dry Needling

**17-02-04-06. Needle acupuncture.**

1. "Needle acupuncture" means a system of diagnosis and treatment for the purpose of restoring the body back to health which includes the utilization of needles which may be manipulated or stimulated by hand as well as by electric, magnetic, light, heat, or ultrasound. "Needle acupuncture" does not include electric point stimulation, the use of pressure adjunctive techniques for muscle, ligamentous, or neurologic stimulation or inhibition, or the drawing of blood for the purpose of clinical diagnostic laboratory evaluation.
2. A chiropractor may only practice needle acupuncture if the chiropractor is certified to practice needle acupuncture by the board.
3. A minimum of one hundred hours of training in needle acupuncture sponsored by a council of chiropractic education accredited college of chiropractic is required before a chiropractor may be certified to practice needle acupuncture.
4. The one hundred hours of training in acupuncture must be certified by the sponsoring college and registered by the sponsoring college with the executive director of the board.
5. When the required hours of training are registered by the sponsoring college, the board will issue the chiropractor a letter certifying that the chiropractor is authorized to practice needle acupuncture.
6. Any person who is authorized by the board to practice needle acupuncture must complete, as a part of the licensed chiropractors' annual requirement, two hours of continuing education in acupuncture or acupuncture-related subjects.
7. If a license holder fails to complete the continuing education requirement in subsection 6, they must pay an administrative fee of \$100.00 and provide proof of required continuing education hours in order to re-instate their ability to perform needle acupuncture.
8. If a license holder fails to complete the continuing education requirement in subsection 6 for more than one year, but less than three years, the license holder must pay the administrative fee of \$100.00 plus provide proof of completion of an approved 12-hour re-certification seminar.
9. If a license holder fails to complete the continuing education requirement in subsection 6 for three or more years, the license holder must successfully pass the NBCE Acupuncture Exam, or equivalent.

**History:** Effective May 1, 1993; amended effective April 1, 2001; January 1, 2017.

**General Authority:** NDCC 28-32-02, 43-06-04.1

**Law Implemented:** NDCC 43-06-04.1

**17-02-04-07. Dry needling.**

1. Dry needling is a method of treatment and rehabilitation for neuromusculoskeletal conditions. Dry needling is based on western medical concepts including the art of examination, diagnosis, and case management.
2. A chiropractor may only practice dry needling if the chiropractor is certified by the board.
3. A minimum of fifty hours of face-to-face course study, which must include dry needling safety, is required before a chiropractor may be fully certified to practice dry needling. Online study is not considered appropriate training.
4. A temporary limited-scope certification is available for approved courses that divide the minimum training into successive independent modules. The board must be provided verification of completion prior to the temporary limited-scope certification being issued. The temporary limited-scope certification expires after eighteen months.
5. The face-to-face course of study must be sponsored by an institution accredited by the council of chiropractic or its equivalent or another course of study deemed appropriate by the board.

6. When the verification of required hours of training is provided to the board, the board will issue the chiropractor a letter confirming that the chiropractor is authorized to practice dry needling.

History: Effective January 1, 2017.

General Authority: NDCC 28-32-02, 43-06-04.1

Law Implemented: NDCC 43-06-04.1

## ARTICLE 17-03 DISCIPLINARY MATTERS

Chapter  
17-03-01 Unprofessional Conduct

### CHAPTER 17-03-01 UNPROFESSIONAL CONDUCT

Section  
17-03-01-01 Unprofessional Conduct

**17-03-01-01. Unprofessional conduct.** The board may revoke, suspend, or deny a license to any person otherwise qualified or licensed by the board who is found to have committed unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

1. Exploitation of patients for financial gain, which includes:
  - a. Overutilization of chiropractic services. Overutilization is defined as services rendered or goods or appliances sold by a chiropractor to a patient for the financial gain of the chiropractor or a third party which are excessive in quality or quantity to the justified needs of the patient.
  - b. Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient.
  - c. Exercising undue influence on a patient or client, including the promotion or the sale of services, goods, or appliances in such a manner as to exploit the patient or client.
  - d. The administration of treatment or the use of diagnostic procedures which are excessive as determined by the customary practices and standards of the local community of licensees.
2. Willfully harassing, abusing, or intimidating a patient, either physically or verbally.
3. Failing to maintain the chiropractic standard of care for a patient record and a billing record for each patient which accurately reflects the evaluation or treatment, or both, of the patient and the fees charged to the patient. Unless otherwise provided, all patient records must be retained for at least ten years.
4. The willful or grossly negligent failure to comply with the substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of the profession.
5. Any conduct which has endangered or is likely to endanger the health, welfare, or safety of the public including habitual alcohol abuse, illegal use of controlled substances, or conducting unauthorized experiments or tests upon patients.
6. Conviction of a crime which is substantially related to the qualifications, functions, or duties of a chiropractor.
7. Conviction of a felony or any offense involving moral turpitude, dishonesty, or corruption.
8. Violation of any of the provisions of law regulating the dispensing or administration of narcotics, dangerous drugs, or controlled substances.
9. The commission of any act involving moral turpitude or dishonesty, whether the act is committed in the course of the individual's activities as a licenseholder or otherwise.
10. Knowingly making or signing any false certificate or other document relating to the practice of chiropractic care which falsely represents the existence or nonexistence of a state of facts.
11. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violations of, or conspiring to violate any provision of the law or the rules adopted by the board.

12. Making or giving any false statement or information in connection with the application for issuance of a license.
13. Participation in any act of fraud or misrepresentation.
14. Except as required by law, the unauthorized disclosure of any information about a patient revealed or discovered during the course of examination or treatment.
15. The offering, delivering, receiving, or accepting of any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration as compensation or inducement for referring patients to any person.
16. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which a licensee knows or has reason to know that the licensee is not competent to perform, or performing without adequate supervision professional services which a licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger.
17. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, by experience, or by licensure, to perform them.
18. Advertising or soliciting for patronage that is not in the public interest, which includes:
  - a. Advertising or soliciting which is false, fraudulent, deceptive, or misleading.
  - b. Advertising or soliciting which guarantees any service or result.
  - c. Advertising or soliciting which makes any claim relating to professional services or products or the cost or price thereof which cannot be substantiated by the licensee.
  - d. Advertising or soliciting which make claims of professional superiority which cannot be substantiated by the licensee.
  - e. Advertising or soliciting which is based upon a claim that the chiropractor uses a secret or special method of treatment and the chiropractor refuses to divulge the secret or special method of treatment to the board.
  - f. Advertising no out-of-pocket expenses or practicing same.
  - g. Advertising free examination or service.
  - h. Advertising which offers free items to induce patients to receive care.
19. Violation of any term of suspension or probation imposed by the board.
20. Initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a current patient, even if the patient attempts to sexualize the relationship, except when the patient is the chiropractor's spouse.

**History:** Effective February 1, 1990; amended effective April 1, 2001; July 1, 2008; January 1, 2016; January 1, 2017.

**General Authority:** NDCC 43-06-04.1, 43-06-15

**Law Implemented:** NDCC 43-06-15