

Title 17

Chiropractic Examiners, Board of

Article

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**ARTICLE 17-01
GENERAL ADMINISTRATION**

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

Section	
17-01-01-01	Organization and Functions of the Board of Chiropractic Examiners
17-01-01-02	Fees

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.
4. Board members annually elect from board membership the president, vice president, and secretary treasurer of the board.
5. **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.
6. **Executive director.** The board may hire an executive director to oversee the clerical needs of the board, and who will answer to the board president.
7. **Inquiries.** Any questions or suggestions concerning these rules should be sent to the executive director.

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

General Authority: NDCC 43-06-04.1

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

17-01-01-02. Fees. The board charges the following fees:

1. For an application for initial licensure, three hundred dollars.

2. For renewal of a license, three hundred dollars for active status or one hundred dollars for inactive status.
3. To change from inactive to active status, two hundred dollars.
4. For a duplicate license, twenty-five dollars.
5. The additional administrative fee for late renewals is two hundred dollars.

History: Effective April 1, 2001; amended effective July 1, 2008; April 1, 2014.

General Authority: NDCC 43-06-04.1

Law Implemented: NDCC 43-06-08, 43-06-13

CHAPTER 17-01-02 BOARD MEETINGS

Section

- 17-01-02-01 Regular or Special Meetings
- 17-01-02-02 Procedural Rules
- 17-01-02-03 Board Expenses

17-01-02-01. Regular or special meetings. The board will hold regular meetings at least twice a year. Regular or special meetings may be called at anytime when the opinion of the board justifies such action.

History: Amended effective April 1, 1984; April 1, 2001.

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

Law Implemented: NDCC 43-06-05

17-01-02-02. Procedural rules. All proceedings of the board shall be governed by Robert's Rules of Order.

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

Law Implemented: NDCC 43-06-05

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 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.

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

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

CHAPTER 17-01-03 DUTIES OF OFFICERS

Section

- 17-01-03-01 Duties of President
- 17-01-03-02 Duties of Secretary-Treasurer
- 17-01-03-02.1 Duties of Executive Director
- 17-01-03-03 Joint Duties of President and Secretary-Treasurer [Repealed]
- 17-01-03-04 Other Duties

17-01-03-01. Duties of president. The president shall preside at all meetings of the board, and shall perform such other duties as generally devolve upon that office and as prescribed by law. In the president's absence the vice president shall preside and perform the duties of the president. In the absence of both the president and vice president, the secretary-treasurer shall preside and perform the duties of the president.

History: Amended effective February 1, 1990.
General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-05

17-01-03-02. Duties of secretary-treasurer. The secretary-treasurer will review and sign minutes of all meetings as prepared by the executive director. Authorization by the secretary-treasurer is required for any checks that exceed five hundred dollars. The secretary-treasurer will review the bank statements each month. The secretary-treasurer will assume the duties of the executive director if the position is unfilled.

History: Amended effective April 1, 2001.
General Authority: NDCC43-06-04.1
Law Implemented: NDCC 43-06-05

17-01-03-02.1. Duties of executive director. The executive director is the filing, recording, and corresponding officer of the board. The executive director shall keep on file a register showing names and addresses and complete registration of all chiropractors who have been licensed by the board. The executive director shall be custodian of the seal and affix the same to documents when necessary. The executive director shall collect and receipt for all money received, keep an accurate account of the same and deposit all such money after each regular or special meeting of the board with the bank selected by the board. The executive director shall keep an accurate record of all money received and disbursed and report the condition of the finances to the board after each board meeting or whenever required to do so. The executive director shall take the minutes of each board meeting and make a complete record of the minutes, to be signed by the secretary-treasurer, which shall be kept in a book provided for that purpose. The executive director will keep the board compliant with the state's open meetings laws.

History: Effective April 1, 2001.
General Authority: NDCC 43-06-04.1
Law Implemented: NDCC 43-06-04.1, 43-06-05, 43-06-07

17-01-03-03. Joint duties of president and secretary-treasurer. Repealed effective February 1, 1990.

17-01-03-04. Other duties. The officers and members of the board shall perform such duties as are enjoined upon them by law.

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

ARTICLE 17-02 CHIROPRACTIC LICENSURE

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17-02-02	License Revocation [Repealed]
17-02-02.1	License Revocation or Suspension
17-02-03	Reporting Requirements
17-02-04	Authority of Chiropractors

CHAPTER 17-02-01 ADMISSION TO PRACTICE CHIROPRACTIC

Section

17-02-01-01	Educational Requirements [Repealed]
17-02-01-01.1	Approved Schools [Repealed]
17-02-01-01.2	Definitions
17-02-01-02	Applications for Licensure
17-02-01-02.1	Reciprocity
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17-02-01-04	Photo
17-02-01-05	Examination Number [Repealed]
17-02-01-06	Examination Requirements [Repealed]
17-02-01-07	Conduct of Examination [Repealed]
17-02-01-08	Examination Subjects and Requirements
17-02-01-09	Declaration [Repealed]
17-02-01-10	License Issued
17-02-01-10.1	License Displayed
17-02-01-11	Second Examination [Repealed]
17-02-01-12	Licenses Recorded [Repealed]
17-02-01-13	License Renewal and Fees
17-02-01-14	License Renewal - Special Purposes Examination for Chiropractic [Repealed]
17-02-01-15	Lapsed Licenses

17-02-01-01. Educational requirements. Repealed effective February 1, 1990.

17-02-01-01.1. Approved schools. Repealed effective February 1, 1990.

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.
 - 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.

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.

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

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

Law Implemented: NDCC 43-06-08

17-02-01-02.1. Reciprocity. An applicant for reciprocal licensure will be considered by the board if the following conditions are met:

1. The applicant has a license and is in good standing to practice chiropractic in another state or jurisdiction;
2. The applicant has been licensed to practice chiropractic for at least the preceding two years in the other state or jurisdiction;
3. The applicant has successfully passed the appropriate parts of the national board on an earlier occasion;
4. The applicant successfully passes the special purposes examination for chiropractic or part IV of the national board examination, or qualifies for the license transfer application, unless waived by the board for good cause; and
5. The applicant ~~successfully passes the jurisprudence examination required by North Dakota law~~ provides an affidavit acknowledging that the applicant has read and understands North Dakota statutes and administrative rules governing the practice of chiropractic.
6. The applicant applies for a temporary license under the "travel to treat" program as authorized under North Dakota Century Code chapter 43-51.

History: Effective May 1, 1993; amended effective April 1, 2001; July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-10.1

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

17-02-01-03. Fee for examination. Repealed effective February 1, 1990.

17-02-01-04. Photo. An unmounted photograph of the applicant, three and one-half inches [8.89 centimeters] by five and one-half inches [13.97 centimeters], shall be pasted in the space provided on the application before filing with the board. The photograph shall have been taken within one year of the date of application.

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

Law Implemented: NDCC 43-06-08

17-02-01-05. Examination number. Repealed effective April 1, 2001.

17-02-01-06. Examination requirements. Repealed effective April 1, 2001.

17-02-01-07. Conduct of examination. Repealed effective April 1, 2001.

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 equivalent.
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.

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

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

17-02-01-09. Declaration. Repealed effective April 1, 2001.

17-02-01-10. License issued. When it shall have been determined by the board that any candidate has successfully passed the examination and made satisfactory demonstration of the clinical art, and is a person of good moral character, there shall be issued to such candidate a license to practice chiropractic, which must be signed by all members of the board.

History: Amended effective February 1, 1990.

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

Law Implemented: NDCC 43-06-08

17-02-01-10.1. License displayed. If a licensed chiropractor moves from the chiropractor's primary location, the office of the executive director must be notified of the change of location of the chiropractor. A current certificate or duplicate certificate issued by the board must at all times be displayed in each office of the chiropractor. In case of loss by fire or other destruction, a duplicate certificate may be issued by the board at a regular meeting upon receipt of satisfactory evidence of the destruction.

History: Effective February 1, 1990; amended effective April 1, 2001.

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

Law Implemented: NDCC 43-06-04.1

17-02-01-11. Second examination. Repealed effective February 1, 1990.

17-02-01-12. Licenses recorded. Repealed effective February 1, 1990.

17-02-01-13. License renewal and fees.

1. Every chiropractor who has been licensed by the board shall renew the license by remitting a renewal fee on or before September first of each year and completing the questionnaire provided by the board. For applicants who receive an initial license after July first, the license will be deemed to be automatically renewed on September first for an additional year without payment of an additional renewal fee.
2. Subject to subsection 3, a license which has not been renewed as a result of nonpayment of the annual registration fee may be reinstated upon payment to the board of past renewal fees plus an additional administrative fee set by the board. Proof of appropriate continuing education hours must be presented.
3. If a license has not been renewed during a continuous two-year period, no renewal of the license may be issued unless the applicant passes the special purposes examination for chiropractic or part IV of the national board examination, or has passed part IV within the seven years immediately preceding the date of application for renewal, unless waived by the board for good cause. Further, the applicant must pass complete the jurisprudence examination required requirement under North Dakota law subsection 5 of section 17-02-01-02.1.

History: Amended effective April 1, 1984; February 1, 1990; May 1, 1993; April 1, 2001; July 1, 2008.
General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-04.1, 43-06-13

17-02-01-14. License renewal - Special purposes examination for chiropractic. Repealed effective April 1, 2001.

17-02-01-15. Lapsed licenses. Notwithstanding the provisions in this chapter regarding renewal of lapsed licenses, once a license has lapsed, the person who held the lapsed license may not practice chiropractic or use a title reserved under state law for individuals who are licensed by the board until the individual's license is renewed or until a new license is issued. A person whose license has lapsed but who continues to practice chiropractic or use a restricted title violates state law and this chapter. Such a violation is grounds for denying an application by the former licensee for renewal of the lapsed license or for a new license.

History: Effective April 1, 2001.
General Authority: NDCC 43-06-04.1
Law Implemented: NDCC 43-06-04.1

CHAPTER 17-02-02 LICENSE REVOCATION

[Repealed effective February 1, 1990]

CHAPTER 17-02-02.1 LICENSE REVOCATION OR SUSPENSION

Section

- 17-02-02.1-01 Relicensure After Revocation
- 17-02-02.1-02 License Suspension

17-02-02.1-01. Relicensure after revocation. A chiropractor who has had the chiropractor's license revoked is not eligible to apply for relicensure for at least one year following the date the revocation order was signed by a board official, unless otherwise specified in the order.

History: Effective July 1, 2008.
General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-04.1, 43-06-13

17-02-02.1-02. License suspension. During a period of suspension the suspended chiropractor shall not provide or assist in any type of patient care or patient communications.

History: Effective July 1, 2008.
General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-04.1, 43-06-13

CHAPTER 17-02-03 REPORTING REQUIREMENTS

Section

- 17-02-03-01 Filing Addresses
- 17-02-03-02 Reporting Contagious or Infectious Diseases
- 17-02-03-03 Releasing Patients from Quarantine [Repealed]
- 17-02-03-04 Reporting Child Abuse

17-02-03-01. Filing addresses. Every chiropractor shall file with the executive director of the board of examiners the chiropractor's 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.
General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-13

17-02-03-02. Reporting contagious or infectious diseases. To comply with the state law regarding contagious or infectious diseases, the chiropractor shall immediately notify the health officer of the community of the existence of such diseases.

History: Amended effective February 1, 1990.
General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-16

17-02-03-03. Releasing patients from quarantine. Repealed effective April 1, 2001.

17-02-03-04. Reporting child or vulnerable adult abuse. A chiropractor having knowledge of or reasonable cause to suspect that there is child or vulnerable adult abuse or neglect is mandated to report the circumstances to the department of human services if the knowledge or suspicion is derived from information received by the chiropractor in the chiropractor's professional capacity.

History: Effective July 1, 2008.
General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-04.1, 43-06-13, 50-25.1-03, 50-25.2-03

CHAPTER 17-02-04 AUTHORITY OF CHIROPRACTORS

Section

17-02-04-01	Rights and Privileges
17-02-04-02	Signing Death Certificates
17-02-04-03	Advertising
17-02-04-04	Definition of Practice of Chiropractic [Repealed]
17-02-04-05	School Certifications [Repealed]
17-02-04-06	Needle Acupuncture

17-02-04-01. Rights and privileges. Unless otherwise limited by statute, chiropractors shall be entitled to all rights and privileges of physicians and surgeons in this state.

History: Amended effective February 1, 1990.
General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-01, 43-06-17

17-02-04-02. Signing death certificates. In case of the death of any patient, the chiropractor shall be required to fill out and sign such certificate of death as is required by statute.

General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05
Law Implemented: NDCC 43-06-16

17-02-04-03. Advertising. Chiropractors will be privileged to advertise their practice in any legitimate manner set forth in the American chiropractic association code of ethics adopted by this state, except as limited or prohibited in section 17-03-01-01.

History: Amended effective February 1, 1990; April 1, 2001.
General Authority: NDCC 43-06-04.1, 43-06-15
Law Implemented: NDCC 43-06-15

17-02-04-04. Definition of practice of chiropractic. Repealed effective February 1, 1990.

17-02-04-05. School certifications. Repealed effective February 1, 1990.

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.

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

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
17-03-02	Professional Education

**CHAPTER 17-03-01
UNPROFESSIONAL CONDUCT**

Section	
17-03-01-01	Unprofessional Conduct
17-02-01-02	Telemarketing-Marketing
17-03-01-03	Use of Special Purposes Examination for Chiropractic or the Ethics and Boundary Examination for Disciplinary Purposes
17-03-01-04	Code of Ethics
17-03-01-05	<u>Prepaid Care Plans</u>

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.
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.

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

Law Implemented: NDCC 43-06-15

17-03-01-02. Telemarketing Marketing.

1. Chiropractors who use telemarketing marketing, either personally or through a professional company, are responsible for any representations made or statements given.
2. All telemarketing marketing must comply with the rules pertaining to advertising adopted by the board.
3. Chiropractors who use telemarketing are required to keep records regarding the telemarketing for a period of two years. The records must include the script used, the name of the individual or company conducting the telemarketing, and the dates the telemarketing was conducted.
4. Chiropractors must make available to the board a copy of their telemarketing marketing records upon the board's request.

History: Effective May 1, 1993.

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

Law Implemented: NDCC 43-06-04.1, 43-06-15

17-03-01-03. Use of special purposes examination for chiropractic or the ethics and boundary examination for disciplinary purposes. The board may require any person who is found to have committed unprofessional conduct to take the special purposes examination for chiropractic or the ethics and boundary examination provided by the national board of chiropractic examiners. Passing of one or both of these examinations may be made a requirement for continued licensure or to unencumber a suspended license.

History: Effective May 1, 1993; amended effective July 1, 2008.

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

Law Implemented: NDCC 43-06-15

17-03-01-04. Code of ethics. The board adopts the 2000 2007 edition of the American chiropractic association code of ethics as the code of ethical conduct governing the practice of chiropractic in the state of North Dakota.

History: Effective April 1, 2001; amended effective July 1, 2008.

General Authority: NDCC 43-06-04.1

Law Implemented: NDCC 43-06-04.1

17-03-01-05 Prepaid care plans. Any arrangement or agreement between a chiropractor and a patient for a course of future treatment for which funds in an amount of \$500 or more during any twelve month period are collected in advance of these services shall be considered a prepaid care plan within the meaning of this section. Services under a prepaid care plan may cost less than if the services were purchased individually. The reduction in cost must bear a reasonable relationship to the expense avoided by the provider due to reduced accounting and debt collection activities in accordance with Office of Inspector General (OIG) Advisory Opinion 08-03, regarding prompt payment discount. The prepaid care plan may provide for either an annual or monthly fee out of pocket. A chiropractor who offers such a plan is subject to the following requirements:

1. Escrow account. A designated escrow account insured by the FDIC shall be established for deposit of all funds received in connection with the prepaid care plan. Such funds shall not be commingled with a chiropractor's personal or business account.
 - a. All instruments, including checks and deposit slips, shall bear the phrase "Escrow Account."
 - b. The chiropractor shall maintain a clear accounting of all funds received, including date and from whom the funds were received.
 - c. The chiropractor shall maintain a clear accounting of all disbursements including the dates and to whom the disbursements were made, and to which patient the disbursements are to be applied or accounted for.
 - d. If a patient's deposit in the escrow account earns in excess of \$5.00 during a twelve month period, the interest must be paid or credited to the patient by the end of the period.
 - e. No more than one account is required regardless of the number of prepaid plans maintained by the chiropractor.
 - f. Funds shall only be transferred out of the escrow account for the following reasons:
 - i. After services, goods, or appliances have been provided to the patient, and only in the usual and customary amounts specifically related to the services, goods, or appliances provided.
 - ii. To reimburse the patient any amounts owed following a notice by either the patient or the chiropractor to terminate the prepaid plan. Any amounts shall be transferred according to the written agreement.
 - iii. Payment to the patient of interest earned when it exceeds \$5.00 per twelve month period.
 - g. The chiropractor shall cause a reconciliation of the escrow account to be made no less than quarterly, with a copy provided to the patient, and shall retain a copy of the reconciliations and all supporting documents for no less than seven years.

2. Written plan. All prepaid care plans require a written plan, signed by both the chiropractor and the patient, with a copy maintained in the patient's record and a copy provided to the patient, and shall include at least the following:
 - a. A list of all services, goods, and appliances which are covered by the plan.
 - b. A list of all fees related to the services described in the plan.
 - c. A statement that an accounting can be requested by the patient at any time. This accounting shall:
 - i. be provided to the patient within five working days of a written or verbal request;
and
 - ii. itemize all fees used to calculate any reimbursement.
 - d. An explanation of the reimbursement policies and formulae which are used in returning unused funds to the patient in the event of early termination by either the chiropractor or the patient.
 - e. An explanation of any policy modifying the plan in the event of a injury, such as an auto injury or work-related injury or in the event of extended absence or new illness. These explanations shall be separately initialed by the patient.
 - f. A provision that the patient will be notified in writing when the patient's account reaches a zero balance.
 - g. A statement that indicates that the chiropractor makes no claim or representation that a particular treatment, procedure, or service, or any combination of treatments, procedures, or services, is guaranteed to result in a particular clinical outcome.
 - h. A statement that the patient has the right to cancel the prepay plan without penalty within three business days of entering into the plan by submitting a written and signed cancellation notice, and upon the chiropractor's receipt of the cancellation notice, the chiropractor shall have seven working days to fully refund any unused funds to the patient. This right of cancellation shall not be waived or otherwise surrendered.
3. Early termination. The patient shall have the right to terminate the prepaid plan at any time; under such circumstances as, but not limited to, completing care early, moving or a new injury or illness. The chiropractor can terminate the prepaid plan at any time, for good and sufficient cause, except the chiropractor must ensure that patient abandonment does not occur.
 - a. In event of early termination of a prepaid plan by the patient, the maximum fee charged cannot exceed the chiropractor's usual and customary fee for services rendered.
 - b. In event of early termination of a prepaid plan by the chiropractor, any cost reduction for the package of services must be prorated when determining the amount of repayment.
 - c. In event of early termination of a prepaid plan, the fee for the unused portion must be returned with no penalty.
4. Prepaid plans must be compliant with all applicable state and federal laws.
5. When providing care as a part of a prepaid plan a chiropractor must provide competent, necessary care in a timely and professional manner. All care recommended and rendered must be clinically justified and appropriately documented.
6. A prepaid plan is not health insurance and does not meet the Affordable Care Act "individual mandate" requirements for health insurance coverage.
7. The regulations in this section do not release a chiropractor from any contractual obligations that he or she has with an insurer or other entity. A chiropractor who is contracted with an insurance carrier must adhere to the terms of their provider contract in regards to the collection of co-payments, co-insurances, and applied deductibles. A chiropractor shall not bill a reimbursement entity or a patient for any amount exceeding what is earned and distributed to the chiropractor.

8. Failure to abide with the requirements of this section is unprofessional conduct.

**CHAPTER 17-03-02
PROFESSIONAL EDUCATION**

Section

17-03-02-01	Professional Education
17-03-02-02	Peer Review
17-03-02-03	Report of Disciplinary Actions

17-03-02-01. Professional education.

1. All licensees shall complete a minimum of twenty hours of approved continuing chiropractic education per year. Only hours earned at board-approved continuing chiropractic education programs will be acceptable. In order to receive board approval, a continuing chiropractic education program must meet one of the following:
 - a. A program sponsored by the board;
 - b. A program approved by providers of approved continuing education (PACE);
 - c. A program sponsored by a college of chiropractic accredited by the council on chiropractic education or its successor or equivalent;
 - d. A health-related seminar sponsored by an equally accredited college or university;
 - e. A medical seminar qualifying for continuing education credits; or
 - f. An educational program arranged by the North Dakota chiropractic association and approved by the board.
2. In order to have a program approved, the sponsor shall submit to the board the following information in addition to any other information requested by the board:
 - a. A detailed course outline or syllabus including such items as the method of instruction and the testing materials.
 - b. The qualifications and subjects taught by each instructor appearing in the program.
 - c. The procedure to be used for recording attendance of those attendees seeking to apply for continuing chiropractic education credit.
 - d. The instructor is approved by the board of chiropractic examiners.
3. The board must be the sole determinant of whether the courses are approved for continuing chiropractic education credit. The board shall make that determination based on the information submitted to it. In making its decision, the board shall determine whether or not the course submitted for credit meets the basic objectives and goals of continuing chiropractic education. Those basic goals include the growth of knowledge, the cultivation of skills and greater understanding, the continual striving for excellence in chiropractic care, and the improvement of health and welfare of the public.
4. On or before September first of each year, licensees may elect to renew their licenses as inactive. The inactive status is at a reduced fee for those licensees who do not practice, consult, or provide any service relative to the chiropractic profession in the state. The inactive licensee does not have to provide proof of continuing educational hours. Any inactive licensee may

activate the license at any time by paying an additional fee and showing proof of twenty hours of continuing education in the last twelve months.

5. All licensees must have four hours of professional boundary study every three years prior to renewal of their licenses. These four hours will be included in the annual twenty-hour requirement in the year taken.
6. During the first calendar year a new license is issued to practice chiropractic in North Dakota, the licensee will be required to attend a seminar put on by the board. The seminar will be provided twice a year without charge.

History: Effective February 1, 1990; amended effective April 1, 2001; July 1, 2008.

General Authority: NDCC 43-06-13, 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-13

17-03-02-02. Peer review.

1. Peer review must be performed by a committee of three individuals appointed by the president of the board. Membership on the committee shall consist of three licensed chiropractors, none of whom may be in a direct or indirect business or personal relationship with the provider, insurer, or patient whose care is being reviewed.
2. The peer review committee shall investigate cases any complaint referred by the board that concerning whether a licensed chiropractor: may have violated any standard of practice.
 - a. ~~Properly utilized services;~~
 - b. ~~Rendered or ordered appropriate treatment or services; or~~
 - c. ~~Charged unconscionable fees or charges for treatment.~~
3. ~~The fees and charges for treatment include all services provided to the consumer regardless of the monetary consideration paid to the health care provider.~~
4. ~~The term "unconscionable fees or charges" means:~~
 - a. ~~Charges for improperly utilized services; or~~
 - b. ~~Unreasonable charges for provider services, tests, or treatments.~~
5. ~~The term "properly utilized services" means a determination of whether the services provided were necessary and reasonable as substantiated by clinical records and reports of the provider.~~

History: Effective February 1, 1990; amended effective July 1, 2008.

General Authority: NDCC 43-06-14.1

Law Implemented: NDCC 43-06-14.1

17-03-02-03. Report of disciplinary actions. The board will report all final disciplinary actions to CIN-BAD, the internet database of the federation of chiropractic licensing boards. In addition, by law, the board will report all final disciplinary actions to the federal health care integrity and protection database. The board will also publish all final disciplinary actions in its newsletter, distributed to all licenseholders and to select state newspapers.

History: Effective April 1, 2001; amended effective July 1, 2008.

General Authority: NDCC 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-15