

EFFECTIVE  
10-20-2020

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 29

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 29 CHIROPRACTIC

001. SCOPE AND AUTHORITY. This chapter governs the licensure of chiropractors or chiropractic physicians under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 38-801 to 38-811 of the Chiropractic Practice Act and the Uniform Credentialing Act (UCA).

002. DEFINITIONS. Definitions are set out in the Chiropractic Practice Act, the Uniform Credentialing Act, 172 Nebraska Administrative Code (NAC) 10, and this chapter.

002.01 ACCOUNTABILITY. Being responsible and answerable for decisions and for the action or inaction of self and others, and for the resultant patient outcomes related to decisions and action or inaction.

002.02 ACUPUNCTURE. For the purposes of this chapter, acupuncture has the same meaning as Neb. Rev. Stat. § 38-2006.

002.03 CHIROPRACTIC ADJUSTMENT. The same as the term joint manipulation. A high velocity thrust, which carries a joint beyond the normal physiological range of motion and is accompanied by joint cavitations whether audible or inaudible. The patient cannot prevent motion beyond the physiological range. Joint manipulation commences where manual therapy or grades one through four mobilization ends. Motion beyond the physiological range of motion occurs without the patient's ability to control such motion. This includes, but is not limited to, a high velocity low amplitude thrust.

002.04 CHIROPRACTOR OR CHIROPRACTIC PHYSICIAN. An individual who is currently licensed or otherwise authorized to practice chiropractic under the Uniform Credentialing Act.

002.05 COMPLEX TASKS. Those tasks that require:

- (A) Chiropractic judgment to safely alter standard procedures pursuant to the needs of the client or patient;
- (B) Chiropractic judgment to determine how to proceed from one step to the next; or
- (C) The multi-dimensional application of the chiropractic service.

002.06 PROTOCOL. A written document that is created or approved by a chiropractor or chiropractic physician that guides subjective and objective data collection, and defines interventions, treatments, or tasks to be performed based upon the collected data.

002.07 STABLE OR PREDICTABLE. A situation where the client or patient's clinical and behavioral status and chiropractic care needs are determined by a chiropractor or chiropractic physician to be non-fluctuating and consistent or where the fluctuations are expected and the interventions are planned, including those clients or patients whose deteriorating condition is expected.

002.08 SUPERVISION. The provision of oversight that includes maintaining accountability to determine whether or not chiropractic care is adequate and delivered appropriately. Supervision includes the assessment and evaluation of client or patient condition and responses to the chiropractic plan of care, and evaluation of the competence of persons providing chiropractic care.

- (A) Direct supervision means that the responsible chiropractor or chiropractic physician is physically present in the clinical area, and is able to assess, evaluate, and respond immediately. Direct supervision does not mean that the responsible chiropractor or chiropractic physician must be in the same room, or "looking-over-the-shoulder" of the persons providing chiropractic care; and
- (B) Indirect supervision means that the responsible chiropractor or chiropractic physician is available through periodic inspection and evaluation and telecommunication for direction, consultation, and collaboration.

002.09 UNLICENSED PERSON. A person who does not have a license to practice chiropractic and who functions in an assistant or subordinate role to the chiropractor or chiropractic physician. Although unlicensed persons may be used to complement chiropractors or chiropractic physicians in the provision of chiropractic care, these persons cannot be used as a substitute for a licensed chiropractor or chiropractic physician.

003. LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the licensing requirements of Neb. Rev. Stat. §§ 38-801 to 38-811, 172 NAC 10, and this chapter.

003.01 DOCUMENTATION. The following documentation must be provided to the Department.

003.01(A) EDUCATION. Submit an official transcript, directly from the issuing institution, verifying graduation from a Board approved accredited college of chiropractic. Accreditation must be by the Council on Chiropractic Education-United States or The Councils on Chiropractic Education International.

003.01(B) EXAMINATION. Documentation of successful completion of the licensure examination sent directly to the Department from the National Board of Chiropractic Examiners:

- (i) For applicants who apply no more than 3 years after passing the examination, results of Parts I, II, III, IV, and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in

each part; or

- (ii) For applicants who have met the examination requirements in 172 NAC 29-003.01(B)(i) more than 3 years prior to the time of application, and who are not practicing in another jurisdiction at the time of application, documentation of successfully passing the National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the 3 years immediately preceding the application.

003.01(C) OTHER PROOF OF COMPETENCY. Documentation for applicants that are licensed in another jurisdiction.

- (i) For applicants who are currently licensed and practicing in another jurisdiction at the time of application:
  - (1) The examination set out in 172 NAC 29-003.01(B)(i); or
  - (2) Parts I, II and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part; and the National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375;
- (ii) For applicants currently licensed in another jurisdiction, but are not practicing at the time of application:
  - (1) The examination set out in 172 NAC 29-003.01(B)(i); or
  - (2) Parts I, II and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part and, the National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the 2 years immediately preceding the application and, documentation of completing 36 hours of approved continuing education within 24 months prior to making application.

004. USE OF UNLICENSED PERSONNEL. The full utilization of chiropractors or chiropractic physicians may require auxiliary client or patient care services provided by persons carrying out tasks, treatments, or interventions to support the provision of chiropractic services as assigned or directed by a licensed chiropractor or chiropractic physician. The scope of assignment or direction may vary depending on the level of judgment required for the task, treatment, or intervention, the knowledge and skills of the unlicensed person, the method and frequency of supervision, and the client or patient's condition, ability and willingness to be involved in the management of their own care.

004.01 ACCOUNTABILITY. A licensed chiropractor or chiropractic physician retains accountability for the application of the chiropractic service when making the decision to assign or direct chiropractic tasks, treatments, or interventions and for the adequacy of client or patient care and outcomes related to the assignment or direction decision.

004.02 ASSIGNMENT OF TASKS, TREATMENTS, OR INTERVENTIONS; ALLOWED. A licensed chiropractor or chiropractic physician may assign or direct unlicensed persons to perform selected tasks, treatments, or interventions that:

- (A) Reoccur frequently in the care of a client or patient or group of clients or patients;
- (B) Do not require the unlicensed person to exercise independent chiropractic judgment;
- (C) Do not require the performance of a complex tasks;
- (D) The results of the task, treatment, or intervention are predictable and the potential risk is minimal; and
- (E) Utilize a standard and unchanging procedure.

004.03 ASSIGNMENT OF TASKS, TREATMENTS, OR INTERVENTIONS; NOT ALLOWED.

Tasks, treatments, or interventions that may not be assigned or directed include, but are not limited to:

- (A) Tasks, treatments, or interventions that require a license or other credential, unless the individual has the required license or credential.
- (B) Activities, including data collection, problem identification, and outcome evaluation that require independent chiropractic judgment;
- (C) Coordination and management of care including collaborating, consulting, and referring; or
- (D) Tasks, treatments, or interventions that are complex based on the definitions of this chapter.

004.04 PATIENT OR CLIENT ASSESMENTS. An unlicensed person as assigned or directed by a chiropractor or chiropractic physician may contribute to the assessment of the health status or determination of diagnosis by a chiropractor or chiropractic physician of individuals including interactions of individuals with family members or group members by:

- (A) Collecting basic subjective and objective data from observations and interviews. The data to be collected must be identified by the chiropractor or chiropractic physician; and
- (B) Reporting and recording the collected data.

004.05 PATIENT OR CLIENT PLANS OF CARE. An unlicensed person as assigned or directed by a chiropractor or chiropractic physician may participate in the implementation of a plan of care for clients or patients by the performance of non-complex tasks, treatments, or interventions. This includes documenting and communicating completion of the tasks, treatments, or interventions and client or patient responses and seeking guidance and direction when appropriate.

004.06 SUPERVISION. A licensed chiropractor or chiropractic physician must provide direction to unlicensed persons or assign tasks, treatments, or interventions to unlicensed persons through either direct or indirect supervision or a combination of both.

004.06(A) INDIRECT SUPERVISION. Indirect supervision may occur when client or patient conditions are stable or predictable, and the client or patient is competent to make informed decisions and provide necessary information relative to the tasks, treatments, or interventions. Indirect supervision may be provided through protocols and periodic inspection and evaluation in combination with plans of care.

004.06(A)(i) INDIRECT SUPERVISION THROUGH PROTOCOLS. When using protocols as a method of indirect supervision, the protocols approved by the chiropractor or chiropractic physician must:

- (1) Be written;
- (2) Identify any specific assessment data to be gathered and reported and the specific parameters for any task, treatment, or intervention to be performed; and
- (3) Identify tasks, treatments, or interventions that may be provided. Tasks, treatments, or interventions may include, but are not limited to:
  - (a) Monitoring client or patient's condition by the unlicensed person;
  - (b) The direct or provision of chiropractic tasks, treatments, or interventions;
  - (c) Referral to another licensed health care provider for service; or
  - (d) Consultation with the chiropractor or chiropractic physician for specific direction.

004.06(A)(ii) INDIRECT SUPERVISION THROUGH PERIODIC INSPECTION AND EVALUATION. When using periodic inspection and evaluation as a method of indirect supervision, the chiropractor or chiropractic physician must include:

- (1) An evaluation by the chiropractor or chiropractic physician to determine the adequacy of the protocols to serve the intended purpose; and
- (2) The availability of the chiropractor or chiropractic physician, or an appropriate substitute, to the unlicensed person by consultation and collaboration. An appropriate substitute may be another licensed practitioner in an emergency room, the client or patient's primary health care provider, or another specifically designated chiropractor or chiropractic physician.

004.06(B) DIRECT SUPERVISION. Direct supervision of unlicensed personnel is required when the client or patient is not competent to make informed decisions or cannot provide necessary information relative to the tasks, treatments, or interventions.

005. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10 and this chapter. All chiropractic licenses issued by the Department expire on August 1<sup>st</sup> of each even-numbered year.

005.01 WAIVER OF CONTINUING COMPETENCY REQUIREMENT DUE TO ILLNESS OR DISABILITY. The Department may waive continuing education requirements, in whole or in part, upon submission of proof that the license holder was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date.

006. CONTINUING EDUCATION. On or before August 1<sup>st</sup> of each even-numbered year, individuals holding an active license in the State of Nebraska must complete at least 36 hours of acceptable continuing education hours during the preceding 24-month period. The Board does not approve individual continuing education programs or activities. In order for a continuing

education activity or program to be acceptable for renewal or reinstatement of a license, the activity must relate directly to the practice of chiropractic and must include:

- (A) At least 4 hours related to technical skills in one or a combination of the following categories:
  - (i) Continuing education designed to enhance the practitioner's technical and clinical skill related to x-ray physics, quality control, x-ray production, and interpretation of diagnostic imaging; or
  - (ii) Continuing education designed to enhance the practitioner's skill in utilizing chiropractic adjustive technique; and
- (B) At least 4 hours related to practice issues in one or a combination of the following categories:
  - (i) Continuing education pertaining to Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS), infectious diseases and related conditions as they relate to chiropractic;
  - (ii) Continuing education designed to enhance the practitioner's awareness of gender sensitivity and sexual harassment issues, commonly referred to as boundary training;
  - (iii) Continuing education related to the chiropractic scope of practice in the State of Nebraska, which must include adopted practice guidelines and practice law specific to Nebraska only;
  - (iv) Continuing education designed to enhance the practitioner's skill related to ordering laboratory tests and interpreting information from laboratory tests;
  - (v) Continuing education designed to enhance the practitioner's skill in performing physical, neurological, and orthopedic examination procedures as they relate to chiropractic practice;
  - (vi) Continuing education related to prevention of fraud, system set-ups, coding, quality control, and standards of practice;
  - (vii) Continuing education pertaining to the provision of rehabilitative care as it relates to chiropractic practice;
  - (viii) Continuing education related to practice ethics as recognized by state or national associations; and
  - (ix) Continuing education related to the use of unlicensed personnel.

006.01 CONTINUING EDUCATION HOUR OR CREDIT CALCULATIONS: The following provides the hour calculations for acceptable continuing education:

006.01(A) ACADEMIC COURSEWORK. Courses taken either in person or online for college credit will be accepted for continuing education upon submission of a transcript by the college or university from which the course was taken. Continuing education hours will be awarded as follows:

- (i) One academic semester credit hour equates to 15 contact hours.
- (ii) One academic quarter credit hour equates to 10 contact hours.

006.01(B) CONFERENCES, WORKSHOPS, OR SEMINARS. Attendance at these types of offerings will be accepted for continuing education upon submission of a certificate of

completion which includes:

- (i) The date;
- (ii) The location;
- (iii) The course title;
- (iv) The number of hours awarded;
- (v) A signature by the representative of the offering; and
- (vi) A course brochure or course outline.

006.01(C) PRESENTERS, SPEAKERS, OR INSTRUCTORS. A licensee who is a presenter of a continuing education program may receive credit for the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program. Presentations will be accepted for continuing education upon submission of materials which show the content of the presentation, including:

- (i) The title and date of the presentation; and
- (ii) An outline or copies of the materials utilized in the presentation; or
- (iii) A copy of the presentation brochure that includes the name of the presenter.

006.01(D) INDEPENDENT STUDY. Independent study hours through written, audio or electronic media will be accepted for continuing education when the program has an examination to determine satisfactory completion of the program. Continuing education hours obtained through independent study cannot be used to fulfill the mandatory hours for technical skills or for practice issues required in 006.(A) and 006.(B). A maximum of 6 hours of credit may be obtained by independent study each 24 month renewal period. Credit will be given for the independent study upon submission of a certificate of completion which includes:

- (i) The date;
- (ii) The course title;
- (iii) The number of hours awarded;
- (iv) The course brochure or outline; and
- (v) The exam score.

006.01(E) REQUIREMENTS OF CONTINUING EDUCATION INSTRUCTORS. Instructors for programs on subject areas listed in 172 NAC 29-006.02(A) through (B) for purposes of meeting the mandatory continuing education requirement:

- (i) Must have provided at least 1 continuing education program relating to the practice of chiropractic each year for the previous 3 years; and
- (ii) The instructor must have specialized experience or training to meet the objectives of the course. The presenter of any course on interpreting diagnostic imaging must:
  - (1) Be a Diplomate of the American Chiropractic Board of Radiology or its equivalent; or
  - (2) Have 5 years of experience in teaching diagnostic imaging.

006.02 NON-ACCEPTABLE CONTINUING EDUCATION TOPIC AREAS. Examples of non-acceptable subject matter include, but are not limited to, practice promotion.

007. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. §38-179 and this chapter. Commission of any of the following acts or behavior constitutes unprofessional conduct.

007.01 COOPERATION. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;

007.02 PROFESSIONAL RELATIONSHIPS. Failure to safeguard the welfare of patients and maintain appropriate professional relationships with patients and other health care practitioners. This includes, but is not limited to:

- (A) Improper use of another person for one's own advantage;
- (B) Failure to decline to carry out chiropractic services that have been requested when the services are known to be contraindicated or unjustified;
- (C) Failure to decline to carry out procedures that have been requested when the services are known to be outside of the chiropractor's or chiropractic physician's scope of practice;
- (D) Verbally or physically abusing patients;
- (E) Falsification or unauthorized destruction of patient records;
- (F) Delegating to other personnel those patient related services when the clinical skills and expertise of a chiropractor or chiropractic physician is required;
- (G) Over-utilization of laboratory and x-ray procedures, and the devices or nutritional products that are in the best interest of the patient;
- (H) Failure to assure that the patient possesses enough information to enable intelligent choices in regard to proposed chiropractic treatment;
- (I) Failure to terminate a professional relationship when it becomes clear that the patient is not benefiting from further care or treatment; and
- (J) Failure to consult and seek the talents of other health care professionals when the consultation would benefit the patient or when the patient expressed a desire for the consultation.

007.03 SEXUAL HARASSMENT. Engaging in sexual misconduct which is defined as sexual harassment of patients or employees. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:

- (A) Providing or denying service to a client;
- (B) Creating an intimidating, hostile, or offensive environment for the patient or employee;  
or
- (C) Providing favorable reports for sexual favors.

007.04 SEXUAL RELATIONSHIP. Engaging in a sexual relationship during the provision of professional services, or for 3 months following the termination of professional services.

007.05 ADVERTISING, PUBLICITY AND SOLICITATION. The following outlines unprofessional conduct for chiropractors in relation to advertising, publicity and solicitation:

- (A) A chiropractor or chiropractic physician must not make a false or misleading communication about the chiropractor or chiropractic physician or the chiropractor's or chiropractic physician's services. A communication is false or misleading if:
  - (i) The chiropractor or chiropractic physician charges a fee for any chiropractic service conducted within 24 hours after performing a chiropractic service that was advertised as being free;
  - (ii) The chiropractor or chiropractic physician bills an insurance company or third-party payee for a service that has been offered through an advertisement to a prospective patient as free without explaining to the prospective patient which services are billable and which are free;
  - (iii) It contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
  - (iv) It is likely to create an unjustified expectation about the results the chiropractor or chiropractic physician can achieve, or states or implies that the chiropractor or chiropractic physician can achieve results by means that violate this chapter or the Uniform Credentialing Act; or
  - (v) It compares the chiropractor's or chiropractic physician's services with other chiropractor's or chiropractic physicians' services, unless the comparison can be factually substantiated;
- (B) Subject to the requirements of this chapter, a chiropractor or chiropractic physician may advertise services. A copy or recording of an advertisement or written communication must be kept for 1 year after its dissemination along with a record of when and where it was used;
- (C) A chiropractor or chiropractic physician or any person designated, contracted, or paid by a chiropractor or chiropractic physician must not solicit professional employment as a chiropractor or chiropractic physician for themselves, their partner or their associate, from any person when the professional employment concerns the evaluation or treatment of any injury or potential injury that relates to an accident or disaster involving the person to whom the solicitation is directed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the solicitation. This prohibition does not apply to any contact with any person who has sought their advice regarding employment of a chiropractor or chiropractic physician or other health care provider;
- (D) A chiropractor or chiropractic physician cannot compensate or give anything of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item;
- (E) A chiropractor or chiropractic physician or any person designated, contracted, or paid by a chiropractor or chiropractic physician cannot solicit professional employment as a chiropractor or chiropractic physician for themselves, their partner or associate, either through direct contact or through a written communication to, a potential patient, if:
  - (i) The chiropractor or chiropractic physician knows or reasonably should know that the physical, emotional, or mental state of the person is such that the person could not exercise reasonable judgment in employing a chiropractor or chiropractic physician;

- (ii) The person has made known to the chiropractor or chiropractic physician or their agent a desire not to receive communications from the chiropractor or chiropractic physician; or
  - (iii) The communication involves coercion, duress, fraud, misrepresentation, overreaching, harassment, intimidation, or undue influence;
- (F) If a chiropractor or chiropractic physician advertises a fee for a service, the chiropractor or chiropractic physician must render that service for no more than the fee advertised;
- (G) Unless otherwise specified, if a chiropractor or chiropractic physician advertises fee information, the chiropractor or chiropractic physician is bound by any representation made therein for a period of not less than 30 days after such advertisement;
- (H) On the front of each envelope in which an advertisement of a chiropractor or chiropractic physician is mailed or delivered on or the front of each post card, if the advertisement is printed on a post card, must be the words: "This is an advertisement." These words must be printed in type size at least as large as the print of the address and must be located in a conspicuous place on the envelope or card; or
- (I) An advertisement or written communication of a chiropractor or chiropractic physician seeking professional employment by a specific potential patient cannot reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the potential patient's medical problem.

007.06 SUPERVISION. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed chiropractor or chiropractic physician.

008. DIAGNOSTIC TESTING. A chiropractor or chiropractic physician who accepts a patient for any professional reason has a duty and responsibility to perform an appropriate clinical evaluation on that patient for the purpose of assessing the patient's current health status or identify if the patient is a proper subject for chiropractic care. Such a clinical evaluation may involve diagnostic procedures which aid in arriving at a clinical impression. The diagnostic procedures may include, but are not limited to, urine and blood analysis and diagnostic imaging.

009. REINSTATEMENT. The applicant must meet the requirements set out in 172 NAC 10.

010. FEES. Fees are set out in 172 NAC 2.