

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 4 CHIROPRACTIC PRACTITIONERS
PART 1 GENERAL PROVISIONS

16.4.1.1 ISSUING AGENCY: New Mexico Board of Chiropractic Examiners, PO Box 25101, Santa Fe, New Mexico 87504.
[11/16/97; 16.4.1.1 NMAC - Rn, 16 NMAC 4.1.1, 1/15/05]

16.4.1.2 SCOPE: All licensed chiropractic physicians.
[11/16/97; 16.4.1.2 NMAC - Rn, 16 NMAC 4.1.2, 1/15/05]

16.4.1.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of chiropractic in New Mexico and are promulgated pursuant to and in accordance with the Chiropractic Physician Practice Act, Sections 61-4-2, 61-4-4, 61-4-6, 61-4-12 and 61-4-13 NMSA 1978.
[11/16/97; 16.4.1.3 NMAC - Rn, 16 NMAC 4.1.3, 1/15/05]

16.4.1.4 DURATION: Permanent.
[11/16/97; 16.4.1.4 NMAC - Rn, 16 NMAC 4.1.4, 1/15/05]

16.4.1.5 EFFECTIVE DATE: November 16, 1997, unless a later date is cited at the end of a section.
[11/16/97; 16.4.1.5 NMAC - Rn & A, 16 NMAC 4.1.5, 1/15/05]

16.4.1.6 OBJECTIVE: To establish definitions, practicing without a license, annual registration displayed, duplicate license, change of address, advertising requirements and administrative fees. In doing so, a board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the board member to attend the meeting in person, and participation by such means shall constitute presence in person at the meeting. When a board member participates in a meeting by conference telephone or other similar communications equipment, each board member participating by telephone must be able to be identified when speaking, all participants must be able to hear each other at the same time, and members of the public attending the meeting must be able to hear any board member who speaks during the meeting.
[11/16/97; 16.4.1.6 NMAC - Rn, 16 NMAC 4.1.6, 1/15/05; A, 11/19/07]

16.4.1.7 DEFINITIONS:

A. "Chiropractic" means the science, art and philosophy of things natural, the science of locating and removing interference with the transmissions or expression of nerve forces in the human body by the correction of misalignments or subluxations of the articulations and adjacent structures, more especially those of the vertebral column and pelvis, for the purpose of restoring and maintaining health for treatment of human disease primarily by, but not limited to, adjustment and manipulation of the human structure. It shall include, but not be limited to, the prescription and administration of all natural agents in all forms to assist in the healing act, such as food, water, heat, cold, electricity, mechanical appliances, herbs, nutritional supplements, homeopathic remedies and any necessary diagnostic procedure, excluding invasive procedures, except as provided by the board by rule and regulation. It shall exclude operative surgery and prescription or use of controlled or dangerous drugs, except as permitted by statute and corresponding regulation.

B. "Board" means the New Mexico board of chiropractic examiners.

C. "Chiropractic physician" includes doctor of chiropractic, chiropractor and chiropractic physician and means a person who practices chiropractic as defined in the Chiropractic Physician Practice Act.

D. "Chiropractic assistant" means a person who practices under the on-premises supervision of a licensed chiropractic physician.

E. "Advertising" means any communication whatsoever, disseminated by any means whatsoever, to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services.

F. "Chiropractic adjustment" means the application of a precisely controlled force applied by hand or by mechanical device to a specific focal point on the anatomy for the purpose of creating a desired angular

movement in the skeletal joint structures in order to eliminate or decrease interference with neural transmission or to correct or attempt to correct a vertebral subluxation using, as appropriate, short lever, high velocity, low amplitude line of correction force to achieve the desired angular movement or neuromuscular reflex response.

G. "Mobilization" means a non-thrusting manual therapy involving movement of a joint within its physiological range of motion. Mobilization is a passive movement within the physiological joint space administered by a clinician for the purpose of increasing normalizing overall joint range of motion.

H. "Spinal manipulation or articular manipulation" means the application of a direct thrust or leverage to move a joint of the spine or extremity articulation to the parapsycho-physiologic end range movement but without exceeding the limits of anatomical integrity.

I. "Vertebral subluxation" means a complex of functional, structural or pathological articular changes, or combination thereof, that compromise articular junction, neural integrity and may adversely influence organ system function or general health and well being.

J. "Impairment fee" means: that in addition to the license renewal fee, each chiropractor subject to renewal will be assessed an impairment fee to be set aside for the purpose of the impaired practitioners program.

K. "NBCE" national board of chiropractic examiners.

L. "PACE" providers of approved continuing education.

M. "Application for licensure" applicants applying for licensure in New Mexico whether by examination or without examination must submit an application for licensure that will be provided by the board and available of the board site.

N. "Licensure by examination" applicants applying for licensure by examination in New Mexico are those candidates for licensure that have never held a chiropractic license in any other jurisdiction.

O. "Application for licensure without examination" applicants applying for licensure without examination are those who have held a chiropractic license in another jurisdiction.

P. "Complaint/review committee" an ad hoc committee established by the board to review all complaints and applicants with background findings. Complaint/review committee shall consist of (1) one professional board member, (1) one chiropractor with an active license for 5 years in New Mexico in good standing, the board's executive director, board's compliance liaison, and board's investigator. Recommendations regarding the complaints and licensure of the applicants will be given to the board at its next scheduled meeting.

Q. "Background findings" the board may deny, stipulate, or otherwise limit a license if it is determined the applicant holds or has held a license in another jurisdiction that is not in good standing, if proceedings are pending against the applicant in another jurisdiction, or information is received indicating the applicant is a danger to patients or is guilty of violating any of the provisions of the Chiropractic Physicians Practice Act, the Uniform Licensing Act, Impaired Health Care Providers Act. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board shall formally accept the approval of the application at the next scheduled meeting.

R. "Pre-paid treatment plans" include any agreement between a licensee and patient or prospective patient that includes payment or collection of money for treatment planned, anticipated or held in reserve to occur or potentially occur more than 14 days following the payment or collection of those monies.

S. Electronic signatures will be acceptable for applications submitted pursuant to NMSA 1978 sections 14-16-1 through 14-16-19.

[3/1/72, 9/18/80, 2/27/87, 3/5/93, 11/16/97, 10/31/98; 16.4.1.7 NMAC - Rn & A, 16 NMAC 4.1.7, 1/15/05; A, 4/10/06; A, 8/30/06; A, 8/20/12]

16.4.1.8 PRACTICING WITHOUT A LICENSE: The practice of chiropractic without a license will constitute grounds to refuse an applicant the right to sit the examination or to be granted a license, and may be prosecuted as a misdemeanor as a first offense fourth degree felony for a second offense.

[10/30/69, 2/28/87, 11/16/97; 16.4.1.8 NMAC - Rn, 16 NMAC 4.1.8, 1/15/05; A, 8/20/12]

16.4.1.9 ANNUAL REGISTRATION DISPLAYED: A copy of the license and certificate of annual registration shall at all times be displayed conspicuously in the office of the practitioner to whom it has been issued.

[10/30/69, 2/27/87, 11/16/97; 16.4.1.9 NMAC - Rn, 16 NMAC 4.1.9, 1/15/05]

16.4.1.10 DUPLICATE LICENSE: A duplicate license may be granted by the board to any practitioner upon proof of loss of the original license or an affidavit of need and payment of a fee as set forth in Subsection A of 16.4.1.13 NMAC.

[10/30/69, 2/27/87, 11/16/97, 10/31/98; 16.4.1.10 NMAC - Rn, 16 NMAC 4.1.10, 1/15/05; A, 4/10/06]

16.4.1.11 CHANGE OF ADDRESS: Any licensed chiropractor that changes their office or residence address must notify the board in writing within fifteen days.

[10/30/69, 2/27/87, 11/16/97, 10/31/98; 16.4.1.11 NMAC - Rn, 16 NMAC 4.1.11, 1/15/05]

16.4.1.12 [Reserved]

[3/1/72, 2/27/87, 9/18/80, 3/5/93, 10/31/93, 11/16/97, 10/31/98; 16.4.1.12 NMAC - Rn & A, 16 NMAC 4.1.12, 1/15/05; A, 4/10/06; A, 11/13/11; A, 01/01/12; Repealed, 8/20/12]

16.4.1.13 [Reserved]

[3/22/95, 11/16/97, 10/31/98, 1/29/99; 16.4.1.13 NMAC - Rn & A, 16 NMAC 4.1.13, 1/15/05; A, 4/10/06; A, 11/19/07; Repealed, 8/20/12]

16.4.1.14 INSPECTION OF PUBLIC RECORDS: The board operates in compliance with the Inspection of Public Records Act, NMSA 1978 Sections 14-2-1 through 14-2-12. The board administrator is the custodial of the board's records.

[16.4.1.14 NMAC - N, 4/10/06; A, 8/20/12]

16.4.1.15 MALPRACTICE INSURANCE: Chiropractic physicians shall maintain continuous malpractice insurance coverage in amounts equal to or greater than the amounts defined in the Medical Malpractice Act NMSA 1978 41-5-5 A (1).

[16.4.1.15 NMAC - N, 4/10/06]

16.4.1.16 PRE-PAID TREATMENT PLANS: Chiropractic physicians accepting pre-payment for services planned but not yet delivered must:

A. Establish an escrow account to hold all pre-payment funds.

(1) Funds may be removed from the escrow account following the delivery of services in such amounts equal to the chiropractors usual and customary charges for like services with any discounted percentage contained in the pre-paid agreement for the contracted treatment plan.

(2) Funds received in advance of the day services are delivered must be deposited into the escrow account in a timely manner.

B. The patient's file must contain the proposed treatment plan including enumeration of all aspects of evaluation, management and treatment planned to therapeutically benefit the patient relative to the condition determined to be present and necessitating treatment.

(1) The patient's financial file must contain documents outlining any necessary procedures for refunding unused payment amounts in the event that either the patient or the doctor discharge the others services or therapeutic association.

(2) The treatment plan in such cases were prepayment is contracted must contain beginning and ending dates and a proposed breakdown of the proposed treatment frequency, types of modalities and procedures included in the contracted treatment and methods of evaluating the patients progress or serial outcome assessment plan and method of recording or assessing patient satisfaction.

C. A contract for services and consent of treatment document must be maintained in the patient's file that specifies the condition for which the treatment plan is formulated, prognosis and alternate treatment options.

D. The chiropractic physician is responsible for providing all treatment appropriate and necessary to address and manage the condition including unforeseen exacerbations or aggravations, within the chiropractic physicians licensure, that may occur during the course of time for which the contract is active. This does not include alternative services procured by the patient or treatment by providers other than the treating chiropractor or those under the chiropractors direct supervision.

E. If nutritional products or other hard goods including braces, supports or patient aids are to be used during the proposed treatment plan the patient documents must state whether these items are included in the gross treatment costs or if they constitute a separate and distinct service and fee.

[16.4.1.16 NMAC - N, 4/10/06]

HISTORY OF 16.4.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

BCE 69-1, Board Rules and Regulations, filed 9/30/69.

BCE 69-1, Rule 10, Relating to Unethical Advertising, filed 1/31/72.

BCE 80-2, Relating to Unethical Advertising, filed 8/19/80.

Rule 2-87, Practicing Without a License, filed 1/28/87.

Rule 3-87, Annual Registration Displayed, filed 1/28/87.

Rule 10-87, Advertisements, filed 1/28/87.

Rule 4-87, Duplicate License, filed 1/28/87.

Rule 6-87, Change of Address, filed 1/28/87.

Rule 10-93 Advertising, filed 2/3/93.

Rule 10-93 Advertising, filed 10/1/93.

Rule 19-95, Administrative Fees, filed 2/20/95.

Rule 19-95, Administrative Fees, filed 3/31/95.

History of Repealed Material: [RESERVED]

Other History:

Rule 19-95, Administrative Fees (filed 3/31/95) renumbered, reformatted, and amended to 16 NMAC 4.1, Chiropractic Practitioners, General Provisions, effective 11/16/97.

16 NMAC 4.1, Chiropractic Practitioners, General Provisions (filed 10/17/97) renumbered, reformatted, amended and replaced by 16.4.1 NMAC, Chiropractic Practitioners, General Provisions, effective 1/15/05.