

## CHAPTER 148

### OCCUPATIONS IN PROTECTION OF PUBLIC HEALTH

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#### 148.01 CHIROPRACTIC.

Subdivision 1. For the purposes of sections 148.01 to 148.10, "chiropractic" is defined as the science of adjusting any abnormal articulations of the human body, especially those of the spinal column, for the purpose of giving freedom of action to impinged nerves that may cause pain or deranged function.

Subd. 2. The practice of chiropractic is not the practice of medicine, surgery, or osteopathy.

Subd. 3. Chiropractic practice includes those noninvasive means of clinical, physical, and laboratory measures and analytical xray of the bones of the skeleton which are necessary to make a determination of the presence or absence of a chiropractic condition. The practice of chiropractic may include procedures which are used to prepare the patient for chiropractic adjustment or to complement the chiropractic adjustment. The procedures may not be used as independent therapies or separately from chiropractic adjustment. No device which utilizes heat or sound shall be used in the treatment of a chiropractic condition unless it has been approved by the Federal Communications Commission. No device shall be used above the neck of the patient. Any chiropractor who utilizes procedures in violation of this subdivision shall be guilty of unprofessional conduct and subject to disciplinary procedures according to section 148.10.

**History:** 1983 c 346 s 1

#### 148.031 CONTINUING EDUCATION.

The board shall adopt rules requiring continuing education for chiropractors licensed under this chapter who regularly practice in the area of workers' compensation. These rules shall include rules relating to continuing education designed to assure the coordination of treatment, rehabilitation, and other chiropractic services provided to injured employees under chapter 176. Rules relative to education under chapter 176 shall be adopted jointly with the commissioner of labor and industry. These rules shall be consistent with section 214.12.

**History:** 1983 c 290 s 18

#### 148.06 APPLICATION; EXAMINATION; LICENSE; FEE.

Subdivision 1. **License required; qualifications.** No person shall practice chiropractic in this state without first being licensed by the state board of chiropractic examiners. The applicant shall have earned at least one-half of all academic credits required for awarding of a baccalaureate degree from the University of Minnesota, or other university, college or community college of equal standing, in subject matter determined by the board, and taken a four-year resident course of at least eight months each in a school or college of chiropractic that is fully accredited by the council on chiropractic education or fully accredited

by an agency approved by the United States office of education or their successors. The board may recommend a two-year prechiropractic course of instruction to any university, college or community college which in its judgment would satisfy the academic prerequisite for licensure as established by this section.

An examination for a license shall be in writing and shall include testing in:

(a) The basic sciences including but not limited to anatomy, physiology, bacteriology, pathology, hygiene, and chemistry as related to the human body or mind;

(b) The clinical sciences including but not limited to the science and art of chiropractic, chiropractic physiotherapy, diagnosis, roentgenology and nutrition; and

(c) Professional ethics and any other subjects that the board may deem advisable.

The board may consider a valid certificate of examination from the National Board of Chiropractic Examiners as evidence of compliance with the written examination requirements of this subdivision. The applicant shall be required to give practical demonstration in vertebral palpation, nerve tracing, adjusting and any other subject that the board may deem advisable. A license, counter-signed by the members of the board and authenticated by the seal thereof, shall be granted to each applicant who correctly answers 75 percent of the questions propounded in each of the subjects required by this subdivision and meets the standards of practical demonstration established by the board. Each application shall be accompanied by a fee set by the board. The fee shall not be returned in the event of failure to pass, but the applicant may, within one year, present himself for examination without the payment of an additional fee. The board may grant a license to an applicant who holds a valid license to practice chiropractic issued by the appropriate licensing board of another state or country, provided the applicant meets the other requirements of this section and satisfactorily passes the practical examination before the board.

**History:** 1983 c 346 s 2

#### 148.07 RENEWAL FEES; EXPENSES.

*[For text of subd 1, see M.S.1982]*

Subd. 2. **Expenses.** The expenses of administering sections 148.01 to 148.101 shall be paid from the appropriation made to the state board of chiropractic examiners. Expenditures and revenues must be managed in accordance with the statewide accounting principles and requirements of the commissioner of finance.

**History:** 1983 c 346 s 3

#### 148.08 RULES AND REGULATIONS.

*[For text of subd 2, see M.S.1982]*

Subd. 3. **Rules.** The board of chiropractic examiners shall promulgate rules necessary to administer sections 148.01 to 148.101 to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms, whether or not used in sections 148.01 to 148.101, if the definitions are not inconsistent with the provisions of sections 148.01 to 148.101.

**History:** 1983 c 346 s 4

**148.10 LICENSES REVOKED; NEW LICENSES.**

Subdivision 1. **Grounds.** The state board of chiropractic examiners may refuse to grant, or may revoke, suspend, condition, limit, restrict or qualify a license to practice chiropractic, or may cause the name of a person licensed to be removed from the records in the office of the clerk of the district court for:

(1) the publishing or distributing, or causing to be published or distributed, in newspapers, magazines, directories, pamphlets, posters, cards, or in any other manner by advertisement, wherein the term "cure" or "guarantee to cure" or similar terms are used; which is hereby declared to be fraudulent and misleading to the general public;

(2) the employment of fraud or deception in applying for a license or in passing the examination provided for in section 148.06;

(3) the practice of chiropractic under a false or assumed name or the impersonation of another practitioner of like or different name;

(4) the conviction of a crime involving moral turpitude;

(5) habitual intemperance in the use of alcohol or drugs;

(6) failure to pay the annual renewal license fee;

(7) Advanced physical or mental disability;

(8) The revocation or suspension of a license to practice chiropractic; or other disciplinary action against the licensee; or the denial of an application for a license by the proper licensing authority of another state, territory or country;

(9) The violation of, or failure to comply with, the provisions of sections 148.01 to 148.101, the rules of the state board of chiropractic examiners, or a lawful order of the board;

(10) Unprofessional conduct; or

(11) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, professional incompetence, senility, drunkenness, use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition. If the board has probable cause to believe that a person comes within this clause, it shall direct the person to submit to a mental or physical examination. For the purpose of this clause, every person licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a person to submit to such examination when directed shall constitute an admission of the allegations against him, unless the failure was due to circumstances beyond his control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A person affected under this clause shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of chiropractic with reasonable skill and safety to patients.

In any proceeding under this clause, neither the record of proceedings nor the orders entered by the board shall be used against a person in any other proceeding.

For the purposes of clause (4), conviction shall be deemed to include a criminal proceeding in which a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

For the purposes of clauses (4) and (5), a copy of the judgment or proceeding under seal of the clerk of the court or of the administrative agency which entered

the same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of its contents.

For the purposes of clause (10), unprofessional conduct means any unethical, deceptive or deleterious conduct or practice harmful to the public, any departure from or the failure to conform to the minimal standards of acceptable chiropractic practice, or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

- (a) Gross ignorance of, or incompetence in, the practice of chiropractic;
- (b) Making suggestive, lewd, lascivious or improper advances to a patient;
- (c) Performing unnecessary services;
- (d) Charging a patient an unconscionable fee or charging for services not rendered;
- (e) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;
- (f) Perpetrating fraud upon patients, third party payers, or others, relating to the practice of chiropractic; and
- (g) Any other act that the board by rule may define.

*[For text of subd 2, see M.S.1982]*

**Subd. 3. Reprimand; penalties; probation.** In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing, adjudges unqualified or whom the board, after a hearing, finds to have performed one or more of the acts described in subdivision 1:

- (a) Publicly reprimand or censure the person;
- (b) Place the person on probation for the period and upon the terms and conditions that the board may prescribe; and
- (c) Require payment of all costs of proceedings resulting in the disciplinary action.

**Subd. 4. Temporary suspension.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend a license for not more than 60 days if the board finds that a person has violated a statute or rule which the board is empowered to enforce and continued practice by the person would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the person, specifying the statute or rule violated. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act. The person shall be provided with at least 20 days notice of any hearing held pursuant to this subdivision.

**History:** 1983 c 346 s 5-7

#### **148.191 OFFICERS; RULES; EXECUTIVE DIRECTOR.**

*[For text of subd 1, see M.S.1982]*

**Subd. 2.** The board is authorized to adopt and, from time to time, revise rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of sections 148.171 to 148.299. The board shall prescribe by rule curricula and standards for schools and courses preparing persons for

licensure under sections 148.171 to 148.299. It shall conduct or provide for surveys of such schools and courses at such times as it may deem necessary. It shall approve such schools and courses as meet the requirements of sections 148.171 to 148.299 and board rules. It shall examine, license and renew the license of duly qualified applicants. It shall hold examinations at least once in each year at such time and place as it may determine. It shall by rule adopt, evaluate and periodically revise, as necessary, requirements for licensure and for registration and renewal of registration as defined in section 148.231. It shall cause the prosecution of all persons violating sections 148.171 to 148.299 and have power to incur such necessary expense therefor. It shall keep a record of all its proceedings.

*[For text of subd 3, see M.S.1982]*

**History:** 1983 c 260 s 36

### 148.56 OPTOMETRISTS.

**Subdivision 1. Optometry defined.** Any person shall be deemed to be practicing optometry within the meaning of sections 148.52 to 148.62 who shall display a sign, such as an eye, a pair of eyes, a pair of glasses or spectacles, or who shall in any way advertise himself as an optometrist, or who shall employ any means for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof, or have in his possession testing appliances for the purpose of the measurement of the powers of vision, or diagnose any optical deficiency or deformity, visual or muscular anomaly of the human eye, or prescribe lenses, prisms, or ocular exercises for the correction or the relief of same, or who holds himself out as being able to do so.

**Subd. 2. Unlawful practices.** It shall be unlawful for any person who is not licensed as an optometrist in this state to fit, sell, or dispose of, or to take, receive, or solicit any order for the fitting, sale, or disposition of, any spectacles, eye glasses, or lenses for the correction of vision in any place within the state other than an established place of business wherein such spectacles, eye glasses, or lenses are commonly sold and dealt in; and it shall be unlawful for any person, not licensed as an optometrist thereunder, to sell or dispose of, at retail, any spectacles, eye glasses, or lenses for the correction of vision in any established place of business or elsewhere in this state except under the supervision, direction, and authority of a duly licensed optometrist holding a certificate under sections 148.52 to 148.62, who shall be in charge of and in personal attendance at the booth, counter, or place where such articles are sold or disposed of.

**Subd. 3. Unregulated sales.** Nothing in sections 148.52 to 148.62 shall be construed to apply to the sale of toy glasses, goggles consisting of plano-white or plano-colored lenses or ordinary colored glasses or to the replacement of duplications of broken lenses, nor to sales upon prescription from persons legally authorized by the laws of this state to examine eyes and prescribe glasses therefor, nor shall it apply to regularly licensed physicians and surgeons. Sections 148.52 to 148.62 also do not apply to the sale of spectacles, used for reading or fishing, and containing only simple lenses having a plus power of up to and including 3.25, at an established place of business that sells prescription eyewear, without advertising other than price marking on the spectacles, if no attempt is made to test the eyes. The term "simple lenses" does not include bifocals.

**Subd. 4. License required.** It shall be unlawful for any person to engage in the practice of optometry without first procuring and filing for record a certificate of registration as a licensed optometrist pursuant to this section.

**History:** 1983 c 301 s 146