

## 233 CMR: BOARD OF REGISTRATION OF CHIROPRACTORS

### 233 CMR 2.00: DEFINITIONS AND INDIVIDUAL REGISTRATION REQUIREMENTS

#### Section

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#### 2.01: Definitions

For purposes of 233 CMR 2.00 through 5.00, the following terms shall have the following meanings:

Board means the Massachusetts Board of Registration of Chiropractors.

Business Records means any materials other than Patient Records kept in the ordinary course of a Chiropractic business.

Certificate of Registration means a certificate issued by the Board to an individual who has met the requirements for registration as a chiropractor, as set forth in M.G.L. c. 112, §§ 89 through 97 and 233 CMR 2.00, authorizing that individual to engage in the practice of Chiropractic in the Commonwealth of Massachusetts.

Chiropractic means “chiropractic”, as defined in M.G.L. c. 112, § 89.

Chiropractic Facility means a place, office, clinic or establishment in which Chiropractic Treatment is provided or in which Business Records or Patient Records related to Chiropractic Treatment are used or stored which has been licensed by the Board pursuant to M.G.L. c. 112, § 89.

Chiropractor, D.C., Doctor of Chiropractic or Chiropractic Physician means a person who lawfully practices Chiropractic pursuant to a license issued by the Board under M.G.L. c. 112, §§ 89 through 97 and 233 CMR 2.00 *et seq.*

Chiropractor of Record means the Chiropractor who has been designated by a Chiropractic Facility as the Chiropractor responsible for the operation of the Chiropractic Facility in compliance with the laws of the Commonwealth and 233 CMR.

Chiropractic Treatment means providing Chiropractic care directly to patients or reviewing and evaluating care provided by other Chiropractors.

Compliance Plan is a documented set of standards, procedures, and policies that addresses the administrative and clinical protocols of a Chiropractic Facility or of a Solo Practice.

Council on Chiropractic Education or C.C.E. means the Council on Chiropractic Education, or any successor agency which is recognized by the United States Department of Education as the accrediting body for Chiropractic colleges and schools.

Employee Record is a list of all individuals employed by a Chiropractic Facility, including the following information for each employee: name, address, social security number, date of birth, job title, and dates of employment at the Chiropractic Facility. For the purposes of 233 CMR 5.00 *et seq.*, an Employee Record is considered a Business Record.

Expired means the date of validity has passed. A lapsed or inactive license is also expired.

Individual Registration Renewal Certificate means a certificate issued annually by the Board to a registered Chiropractor upon payment of the license fee as provided in M.G.L. c. 112, § 96 and upon presentation of evidence satisfactory to the Board that he or she has completed the prescribed educational requirements for renewal.

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Limited Liability Company means any “limited liability company” or “foreign limited liability company” as defined by M.G.L. c. 156C, § 2.

Limited Liability Partnership means any “registered limited liability partnership” or “foreign registered limited liability partnership”, as defined in M.G.L. c. 108A, § 1.

NBCE means the National Board of Chiropractic Examiners.

Operator means the person who oversees the day to day operations of a Chiropractic business. The Operator may also be the Chiropractor of Record, but is not required to be the Chiropractor of Record.

Patient Record means all recorded information regarding a patient’s clinical history, examination findings, diagnosis, treatment, and consent as outlined in 233 CMR 4.05(1), including billing records associated with and documenting patient care.

Primary Chiropractic Procedure means a chiropractic adjustment or manipulation, done either by hand or by instrumentation, which is applied directly to the body for the purpose of maintaining or improving health.

Regulation means the whole or any part of every rule, regulation, standard or other requirement of general application adopted by the Board to implement or interpret M.G.L. c. 112, § 89 through 97. The term “regulation”, however, shall not include, without limitation, the following:

- (a) advisory rulings;
- (b) rules relating to the internal management of the Board and not directly related to the rights or procedures available to the public; and
- (c) decisions rendered by the Board in adjudicatory proceedings.

The term “regulation” also shall not include, without limitation, advisory, policy or informational guidelines or pronouncements which are intended to clarify any ambiguities in the application of 233 CMR, or to educate members of the Chiropractic profession and/or the general public. Such advisory, policy or informational guidelines or pronouncements shall not in and of themselves have the force and effect of law.

Solo Practice means a place, office, clinic or establishment in which Chiropractic Treatment is provided or in which Business Records or Patient Records related to Chiropractic Treatment are used or stored and which meets all of the following requirements:

- (a) Only one licensed chiropractor holds an ownership interest in the business organization or entity that operates the place, office, clinic or establishment;
- (b) The licensed chiropractor holds a 51% controlling ownership interest in the business organization or entity that operates the place, office, clinic or establishment;
- (c) The licensed chiropractor directs and controls the operation of the business and has access to and control over all Business and Patient Records; and
- (d) No other chiropractor is employed by, or provides chiropractic treatment on behalf of the business organization or in the place, office, clinic or establishment.

However the chiropractor who owns the chiropractic practice may contract with or otherwise employ one or more other chiropractors to provide substitute Chiropractic Treatment in the chiropractic owner’s absence provided that the cumulative substitute coverage provided within a given registration period does not exceed 25 business days; or 60 business days in the cases of a documented disability of the chiropractor owner; or 90 business days for a documented maternity or paternity leave of the chiropractor owner. If the chiropractor owner needs more days of substitute coverage within any given registration period then provided in 233 CMR 2.01: Solo Practice, he or she must make application to the Board.

Supportive Procedures and Therapies means those modes of care, as defined and set forth in 233 CMR 4.02, which may be administered, dispensed or prescribed in addition to the primary Chiropractic procedure, including the use of braces, casting, supports, traction, thermal modalities, ultrasound, electrical modalities, hydrotherapy, myotherapy, dietary and nutritional advice, and rehabilitative exercise therapy, for the purpose of assisting a patient to achieve a timely and favorable clinical outcome.

2.02: Requirements for Individual Registration by Examination

The Board shall grant a certificate of registration as a chiropractor to any person who submits all of the following:

- (1) a properly completed application for registration on the form provided by the Board for that purpose;
- (2) written proof satisfactory to the Board that the applicant is at least 18 years of age and that the applicant is of good moral character;
- (3) an official transcript, or other written proof satisfactory to the Board, verifying that the applicant has completed at least two years (60 credit hours) of instruction in a curriculum leading to a baccalaureate degree in liberal arts or science at a college or university accredited by the United States Department of Education;
- (4) an official transcript, or other written proof satisfactory to the Board, verifying that the applicant has graduated from a school or college of Chiropractic accredited by the Council on Chiropractic Education, or an equivalent accrediting body as determined by the Board;
- (5) an official transcript from the National Board of Chiropractic Examiners (NBCE) verifying that the applicant has received a passing grade on Parts I, II, III and IV, as well as the special Physiotherapy (supportive procedures and therapies) section, of the national board examination administered by NBCE;
- (6) satisfactory written proof that the applicant has received a passing grade on the Massachusetts jurisprudence examination administered by the Board or its designee; and
- (7) payment of all application, examination, and registration fees established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B.

2.03: Requirements for Individual Registration by Reciprocity

- (1) Any person who is registered or licensed as a chiropractor under the laws of any other state or territory of the United States, and who applies for registration as a chiropractor in the Commonwealth of Massachusetts after December 31, 1997, shall be granted a certificate of registration by the Board if he or she submits all of the documentation required by 233 CMR 2.02(1) through 233 CMR 2.02(7).
- (2) An applicant for registration by reciprocity may submit, in lieu of the NBCE national board examination transcript required by 233 CMR 2.02(5), a certified written statement from the licensing or registration authority of the state in which he or she is licensed verifying that his or her license in that state is current and in good standing, and that he or she has practiced pursuant to that license for at least three years. Such an applicant shall be approved for registration by reciprocity only if the requirements for licensure in that state which were in effect on the date he or she obtained that license were substantially equivalent to the requirements for registration in Massachusetts which were in effect on that same date.

2.04: Good Moral Character Requirement

- (1) An application for registration as a chiropractor, whether by examination pursuant to 233 CMR 2.02 or by reciprocity pursuant to 233 CMR 2.03, shall be accompanied by such written documentation as the Board may reasonably require in order to determine whether the applicant is of "good moral character".
- (2) If the Board receives information about an applicant for registration which reasonably raises a question about whether that applicant is of "good moral character", the Board shall conduct a further inquiry into the relevant facts and circumstances before making a final decision on the application.
  - (a) Determinations about whether an applicant for registration possesses the "good moral character" required for registration shall be made on an individualized case-by-case basis.

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- (b) If the Board determines, in its discretion, that such steps are reasonably necessary, the Board may require the applicant to appear personally before the Board, and/or furnish additional written information to the extent permitted by applicable state or federal law.
- (c) The burden of demonstrating that the applicant possesses the good moral character required for registration shall rest with the applicant.

(3) Conduct which reasonably raises a question about whether an applicant possesses the “good moral character” required for registration includes, but is not necessarily limited to, any of the following:

- (a) Conviction of any criminal offense, other than a routine traffic violation;
- (b) Disciplinary action taken against any professional license, registration or certification held by the applicant by the applicable governmental authority of any state, territory or political subdivision of the United States or Canada; or
- (c) Conduct which is not within the meaning of 233 CMR 2.04(3)(a) or 233 CMR 2.04(3)(b), but which nevertheless involves any of the following:
  - 1. Failure to exercise proper regard for the applicant’s own health, welfare or safety;
  - 2. Failure to exercise proper regard for the health, welfare, safety or legal rights of another person; or
  - 3. Fraud, deception or lack of honesty or truthfulness.

(4) For purposes of 233 CMR 2.04(3), the term “conviction” means any of the following:

- (a) a final judgment entered after a jury verdict of guilty or a judicial finding of guilty;
- (b) a plea of guilty;
- (c) a plea of *no lo contendere* (no contest); or
- (d) any other plea or finding which is treated by the court as a plea or finding of guilty.

The standards in 233 CMR 2.04(4)(a) through (d) shall apply regardless of the law of the jurisdiction in which the disposition occurred.

(5) For purposes of 233 CMR 2.04(3), the term “disciplinary action” means any of the following:

- (a) Denial of a license, registration or certification for any reason other than failure to meet the educational, experiential or examination requirements established by applicable law or regulation for that license, registration or certification;
- (b) Refusal to issue a license, registration or certification for any reason other than failure to meet the educational, experiential or examination requirements established by applicable law or regulation for that license, registration or certification;
- (c) Revocation or suspension of a license, registration or certification;
- (d) Placement of a license, registration or certification on probation;
- (e) Issuance of a letter of censure;
- (f) Issuance of a written reprimand; or
- (g) Any other adverse action against the applicant’s license, registration or certification which constitutes “disciplinary action” under the applicable laws and/or regulations of the jurisdiction in which that adverse action was taken.

(6) In determining whether an application for registration should be denied because the applicant has been convicted of a criminal offense, within the meaning of 233 CMR 2.04(3)(a), or the applicant has been the subject of a disciplinary action by the applicable governmental authority of another jurisdiction, within the meaning of 233 CMR 2.04(3)(b), the Board shall consider all of the relevant facts and circumstances, including but not limited to the following:

- (a) The nature of the criminal offense(s) or conduct which gave rise to the disciplinary action;
- (b) The date of the criminal conviction(s) or date of the disciplinary action;
- (c) The age of the applicant at the time of the criminal conviction(s) or age and level of professional experience at the time of the conduct which gave rise to the disciplinary action;
- (d) The number of criminal conviction(s) or number of disciplinary actions taken against the applicant;
- (e) The nature and severity of the sentence or sanction imposed for each criminal conviction or nature and severity of the disciplinary sanction(s) imposed;
- (f) Whether the conduct which gave rise to the criminal conviction or disciplinary action demonstrates an intentional or deliberate disregard for the life, health, safety or welfare of others;

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- (g) Whether the conduct which gave rise to the criminal conviction or disciplinary action involved the commission of acts of physical or sexual violence or coercion against another person;
  - (h) Whether the conduct which gave rise to the criminal conviction or disciplinary action otherwise poses a continued or continuing risk to the health, safety or welfare of the public;
  - (i) Whether the conduct which gave rise to the criminal conviction or disciplinary action involved trafficking in, or illegally manufacturing, controlled substances as defined by applicable state or federal law;
  - (j) Whether the conduct which gave rise to the criminal conviction or disciplinary action involves fraud, deception, a lack of honesty, a lack of truthfulness or veracity, or a lack of personal integrity or trustworthiness;
  - (k) Whether there is a significant relationship between the conduct which gave rise to the criminal conviction or disciplinary action and the nature of the activities which the applicant will be authorized to perform if the registration is granted;
  - (l) Whether there is a significant relationship between the conduct which gave rise to the criminal conviction or disciplinary action and the ability of the applicant to practice the profession with a reasonable degree of skill and safety;
  - (m) Whether there is a significant relationship between the conduct which gave rise to the criminal conviction or disciplinary action and the ability of the applicant to practice the profession in accordance with generally accepted standards of sound professional practice; and
  - (n) Evidence of rehabilitation of the applicant, including but not limited to successful completion of parole or court-ordered probation; the making of restitution; satisfactory completion of court-ordered community service; evidence that the applicant has subsequently taken actions to mitigate the consequences of his or her criminal conduct; evidence of remorse, *etc.*
  - (o) Evidence of satisfactory compliance with any terms or conditions of probation or other remedial measures included in the disciplinary sanction imposed; and
  - (p) Evidence that the applicant has subsequently taken other actions to mitigate the harmful consequences of the conduct which gave rise to the disciplinary action and/or to prevent a recurrence of that conduct.
- (7) In determining whether an application for registration should be denied because the applicant has engaged in conduct which did not result in either a criminal conviction or a disciplinary action, but which is within the meaning of 233 CMR 2.04(3)(c), the Board shall consider all of the relevant facts and circumstances, including but not limited to the following:
- (a) The nature of the conduct in question;
  - (b) The date(s) of the conduct in question;
  - (c) The age of the applicant at the time of the conduct in question;
  - (d) Whether the conduct demonstrates an intentional or deliberate disregard for the life, health, safety or welfare of others;
  - (e) Whether the conduct involved the commission of acts of physical or sexual violence or coercion against another person;
  - (f) Whether the conduct otherwise poses a continued or continuing risk to the health, safety or welfare of the public;
  - (g) Whether the conduct involved trafficking in, or illegally manufacturing, controlled substances;
  - (h) Whether the conduct demonstrates fraud, deception, lack of honesty, a lack of truthfulness or veracity, or a lack of personal integrity or trustworthiness;
  - (i) Whether there is a significant relationship between the conduct and the nature of the activities which the applicant will be authorized to perform if the license is granted;
  - (j) Whether there is a significant relationship between the conduct and the ability of the applicant to practice the profession with a reasonable degree of skill and safety;
  - (k) Whether there is a significant relationship between the conduct and the ability of the applicant to practice the profession in accordance with generally accepted standards of sound professional practice;
  - (l) Evidence as to whether the applicant has engaged in remedial action which mitigates the consequences of the conduct in question; and
  - (m) Evidence as to whether the conduct in question is characteristic of or representative of the applicant's conduct generally.

2.05: Renewal of Individual Registration

- (1) A certificate of registration issued to a chiropractor by the Board pursuant to 233 CMR 2.02 or 233 CMR 2.03 shall be valid from the date of issue until March 31<sup>st</sup> of the next calendar year.
- (2) On or before April 1<sup>st</sup> of each calendar year, each registered chiropractor shall apply for renewal of his or her registration on forms prescribed or furnished by the Board, and shall pay such fees for renewal of that registration as may be established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B.
- (3) As a condition for renewal of his or her registration, each registered chiropractor shall certify, under the pains and penalties of perjury, that he or she has completed at least 12 hours of continuing education in courses or programs approved by the Board, as required by 233 CMR 3.01, or that he or she has obtained a waiver of this continuing education requirement pursuant to 233 CMR 3.02.

2.06: Inactive Status; Individual Reinstatement

- (1) Any registered chiropractor who fails to file his or her application for renewal of his or her registration on or before April 1<sup>st</sup>, or who otherwise fails to meet the requirements for renewal of his or her registration, shall be placed on inactive registration status by the Board. A registered chiropractor who is placed on inactive registration status by the Board shall not engage in the practice of Chiropractic in the Commonwealth of Massachusetts until such time as his or her registration is returned to active status.
- (2) A chiropractor whose registration has been placed on inactive status for a period of five years or less may return to active status if:
  - (a) He or she pays all registration renewal and other fees due for the current registration period and all previous registration periods dating back to the date on which he or she was placed on inactive status; and
  - (b) He or she submits written proof satisfactory to the Board that he or she has completed at least 12 hours of continuing education for each registration period which has elapsed since the date on which he or she was placed on inactive status.
- (3) A chiropractor whose registration has been placed on inactive status for a period of more than five years may return to active status if:
  - (a) He or she satisfies all requirements of 233 CMR 2.06(2); and
  - (b) He or she attains a passing score on the Massachusetts jurisprudence examination administered by the Board.In the event that the chiropractor seeking to return to active status pursuant to 233 CMR 2.06(3) has practiced in another state or territory of the United States while he or she was on inactive status in Massachusetts, he or she shall also submit a certified written statement from the licensing or registration authority of each state or territory in which he or she practiced reflecting the status of his or her license to practice Chiropractic in that state or territory.

REGULATORY AUTHORITY:

233 CMR 2.00: M.G.L. c. 112, §§ 90 and 96.