

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

HOUSE BILL 415
RATIFIED BILL

AN ACT TO UPDATE VARIOUS LAWS OF THE PRACTICE AND LICENSURE OF
CHIROPRACTIC.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 8 of Chapter 90 of the General Statutes reads as rewritten:

"Article 8.

"Chiropractic.

"§ 90-139. Creation and membership of North Carolina State Board of Chiropractic Examiners.

(a) The North Carolina State Board of Chiropractic Examiners is created to consist of eight members appointed by the Governor and General Assembly. Six of the members shall be practicing doctors of chiropractic, who are residents of this State and who have actively practiced chiropractic in the State for at least eight consecutive years immediately preceding their appointments; four of these six members shall be appointed by the Governor, and two by the General Assembly in accordance with G.S. 120-121, one each upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. No more than three members of the Board may be graduates of the same college or school of chiropractic. The other two members shall be persons chosen by the Governor to represent the public at large. The public members shall not be health care providers nor the spouses of health care providers. For purposes of Board membership, "health care provider" means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

...

"§ 90-141. Organization; quorum.

The North Carolina State Board of Chiropractic Examiners shall elect such officers as they may deem necessary. Four members of the Board shall constitute a quorum for the transaction of business.

"§ 90-142. ~~Rules and regulations.~~Powers; duties.

The North Carolina State Board of Chiropractic Examiners ~~may adopt suitable~~ shall have the following powers and duties:

- (1) Administer and enforce the provisions of this Article.
- (2) Adopt, amend, or repeal rules and regulations for the performance of their duties as may be necessary to carry out and the enforcement of enforce the provisions of this Article.
- (3) Issue position statements and other interpretative guidelines.
- (4) Require an applicant or licensee to submit to the Board evidence of the applicant's or licensee's continuing competence to practice chiropractic.



- (5) Establish substantial equivalency under G.S. 90-143(b) and G.S. 90-143.1.
- (6) Set the passing scores for approved examinations under G.S. 90-143(b).
- (7) Establish certain reasonable fees as for applications for examination, licensure, provisional licensure, renewal of licensure, licensure verification, continuing education, and other administrative services provided by the Board. When the Board uses a testing service for the preparation, administration, or grading of examination, the Board may charge the applicant the actual cost of the examination services and a prorated portion of the examination fee for administration and processing of the examination. Examination fees are not refundable.
- (8) Establish certification standards for chiropractic clinical assistants.
- (9) Employ and fix the compensation of personnel and legal counsel that the Board deems necessary to carry out the provisions of this Article.
- (10) Establish by rule a process to assess civil penalties pursuant to G.S. 90-157.4.
- (11) Take disciplinary action pursuant to G.S. 90-154.2 and G.S. 90-154.3.
- (12) Seek injunctive relief through a court of competent jurisdiction for violations of this Article.

...

"§ 90-143.1. Applicants licensed in other states.

If an applicant for licensure is already licensed in another state to practice chiropractic, the Board shall issue a license to practice chiropractic to the applicant upon evidence that:

- (1) The applicant is currently an active, competent practitioner and is in good standing; and
- (2) The applicant has practiced at least one year out of the three years immediately preceding his or her application; and
- (3) The applicant currently holds a valid license in another state; and
- (4) No disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this State; and
- (5) The licensure requirements in the other state are equivalent to or higher than those required by this State.

Any license issued upon the application of any chiropractor from any other state shall be subject to all of the provisions of this Article with reference to the license issued by the North Carolina State Board of Chiropractic Examiners upon examination, and the rights and privileges to practice the profession of chiropractic under any license so issued shall be subject to the same duties, obligations, restrictions, and conditions as imposed by this Article on chiropractors originally examined by the North Carolina State Board of Chiropractic Examiners.

"§ 90-143.2. Certification of diagnostic imaging technicians.

(a) The North Carolina State Board of Chiropractic Examiners shall certify the competence of any person employed by a licensed chiropractor practicing in the State if the employee's duties include the production of diagnostic images, whether by X ray or other imaging technology. Applicants for certification must demonstrate proficiency in the following subjects:

- (1) Physics and equipment of radiographic imaging;
- (2) Principles of radiographic exposure;
- (3) Radiographic protection;
- (4) Anatomy and physiology;
- (5) Radiographic positioning and procedure.

The North Carolina State Board of Chiropractic Examiners may adopt rules pertaining to initial educational requirements, examination of applicants, and continuing education requirements as are reasonably required to enforce this provision.

(b) Any person seeking to renew a certification of competence previously issued by the Board shall pay to the secretary of the Board a fee as prescribed and set by the Board which fee shall not be more than fifty dollars (\$50.00).

...

"§ 90-143.4. Chiropractic clinical assistants; certification of competency.

...

(b) Any person employed as a chiropractic clinical assistant shall obtain a certificate of competency from the North Carolina State Board of Chiropractic Examiners (Board) within 180 days after the person begins employment. Certification shall not be required for employees whose duties are limited to administrative activities of a nonclinical nature. Except as otherwise provided in G.S. 90-142.1 and this section, it shall be unlawful for any person to practice as a chiropractic clinical assistant unless duly certified by the Board.

...

"§ 90-144. Meetings of the North Carolina State Board of Chiropractic Examiners.

The North Carolina State Board of Chiropractic Examiners shall meet at least once a year at such time and place as ~~said the Board shall determine at which meetings applicants for license shall be examined~~ and advertise. Applicants for licensure under this Article shall comply with G.S. 90-143(b).

"§ 90-145. Grant of license.

The North Carolina State Board of Chiropractic Examiners shall grant to each applicant who is found to be competent, upon examination, a license authorizing him or her to practice chiropractic in North Carolina.

"§ 90-146. Graduates from other states.

A graduate of a regular chiropractic school who comes into this State from another state may be granted a license by the North Carolina State Board of Chiropractic Examiners as required in this Article.

"§ 90-147. Practice without license a misdemeanor; injunctions.

Any person practicing chiropractic in this State without possessing a license as provided in this Article shall be guilty of a Class 1 misdemeanor.

The North Carolina State Board of Chiropractic Examiners may appear in its own name in the superior court in an action for injunctive relief to prevent violation of this section, and the superior court shall have the power to grant such injunction regardless of whether criminal prosecution has been or may be instituted. An action under this section shall be commenced in the superior court district in which the respondent resides or has his principal place of business or in which the alleged violation occurred.

"§ 90-148. Records of Board.

(a) The secretary of the North Carolina State Board of Chiropractic Examiners shall keep a record of the proceedings of the Board, giving the name of each applicant for license, and the name of each applicant licensed and the date of such license. The Board may order that any clinical care or patient records concerning the practice of chiropractic and relevant to a complaint received by the Board or an inquiry or investigation conducted by or on behalf of the Board shall be produced by the custodian of the records to the Board or for inspection and copy by representatives of or counsel to the Board. A chiropractor licensed by the Board or an establishment employing a chiropractor licensed by the Board shall maintain patient records for a minimum of seven years from the date the chiropractor terminates services to the patient and the patient services record is closed. A chiropractor licensed by the Board or a chiropractic assistant certified by the Board shall cooperate fully and in a timely manner with the Board and its designated representatives in an inquiry or investigation of the records conducted by or on behalf of the Board.

(b) Except as otherwise provided, all records, papers, and documents containing information collected and compiled by or on behalf of the Board shall be public records, provided

that any information that identifies a patient who has not consented to the public disclosure of services rendered to him or her shall be deleted or redacted, as appropriate.

(c) Records, papers, and other documents containing information collected or compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter shall not be considered public records as defined in G.S. 132-1. Any notice or statement of charges, notice of hearing, or decision rendered in connection with a hearing shall be a public record provided that information identifying a patient who has not consented to the public disclosure of his or her services by a person licensed or certified under this Article shall be redacted from the public record.

(d) The home addresses and personal email addresses of members of the Board shall not be public records as defined in G.S. 132-1, unless a Board member consents to the disclosure in writing.

(e) The home addresses and personal email addresses of licensees shall not be public records as defined in G.S. 132-1, unless the licensee consents to the disclosure in writing.

...

"§ 90-151. Extent and limitation of license.

Any person obtaining a license from the North Carolina State Board of Chiropractic Examiners shall have the right to practice the science known as chiropractic, in accordance with the method, thought, and practice of chiropractors, as taught in recognized chiropractic schools and colleges, but shall not prescribe for or administer to any person any medicine or drugs, nor practice osteopathy or surgery.

...

"§ 90-154. Grounds for professional discipline.

(a) The North Carolina State Board of Chiropractic Examiners may impose any of the following sanctions, singly or in combination, when it finds that a practitioner or applicant is guilty of any offense described in subsection (b):

...

(7) A civil penalty as allowed by this section.

(b) Any one of the following is grounds for disciplinary action by the Board under subsection (a):

~~(1) Advertising services in a false or misleading manner.~~

(2) Conviction of a felony or of a crime involving moral turpitude.

~~(3) Addiction—Physical, mental, emotional infirmity, including addiction to or severe dependency upon alcohol or any other drug that impairs the ability to practice safely.~~

(4) Unethical conduct as defined in G.S. 90-154.2.

(5) Negligence, incompetence, or malpractice in the practice of chiropractic.

(6) Repealed by Session Laws 1995, c. 188, s. 1.

(7) Not rendering acceptable care in the practice of the profession as defined in G.S. 90-154.3.

(8) Lewd or immoral conduct toward a patient.

(9) Committing or attempting to commit fraud, deception, or misrepresentation.

~~(10) Offering to waive a patient's obligation to pay any deductible or copayment required by the patient's insurer.~~

~~(11) Failing to honor promptly a patient's request for a copy of any claim form submitted to the patient's insurer.~~

~~(12) Rebating or offering to rebate to a patient any portion of the funds received from the patient's insurer, unless the sum rebated constitutes the refund of an overpayment to which the patient is lawfully entitled.~~

~~(13) Advertising any free or reduced rate service without prominently stating in the advertisement the usual fee for that service.~~

- (14) ~~Charging an insurer or other third party payor a fee greater than a patient would be charged for the same service if the patient were paying directly.~~
- (15) ~~Charging an insurer or other third party payor a fee greater than the advertised fee for the same service.~~
- (16) ~~Violating the provisions of G.S. 90-154.1.~~
- (17) ~~Physical, mental, or emotional infirmity of such severity as to impair the ability to practice safely.~~
- (18) ~~Violating the provisions of G.S. 90-151 regarding the extent and limitation of license.~~
- (19) ~~Concealing information from the Board or failing to respond truthfully and completely to an inquiry from the Board concerning any matter affecting licensure.~~
- (20) ~~Failing to comply with a decision of the Board that is final.~~
- (21) ~~Committing an act on or after October 1, 2007, which demonstrates a lack of good moral character which would have been a basis for denying a license under G.S. 90-143(b)(1), had it been committed before application for a license.~~
- (22) Engaging in any act or practice violative of any of the provisions of this Article or of any of the rules and regulations adopted by the Board or aiding, abetting, or assisting any other person in the violation of any of the provisions of this Article.

~~(e) If a licensee is found guilty in a contested case arising under subsection (b) of this section, the Board may assess the licensee the reasonable cost of the hearing held to make such a determination if the Board finds that the licensee's defense at the hearing was dilatory or not asserted in good faith.~~

~~§ 90-154.1. Collection of certain fees prohibited.~~

~~(a) Any patient or any other person responsible for payment has the right to refuse to pay, cancel payment, or be reimbursed for payment for any service, examination, or treatment other than the advertised reduced rate service, examination or treatment which is performed as a result of and within 72 hours of responding to any advertisement for a free or reduced rate service, free or reduced rate examination, or free or reduced rate treatment. Any further treatment shall be agreed upon in writing and signed by both parties.~~

~~(b) Any chiropractic advertisement that offers a free or reduced rate service, examination or treatment shall contain the following notice to prospective patients: "If you decide to purchase additional treatment, you have the legal right to change your mind within three days and receive a refund." If the advertisement is published in print, the foregoing notice shall appear in capital letters clearly distinguishable from the rest of the text. If the advertisement is broadcast on radio or television, the foregoing notice shall be recited at the end of the advertisement.~~

~~(c) Repealed by Session Laws 1995, c. 188, s. 2.~~

~~(d) Any bill sent to a patient or any other person responsible for payment as a result of the patient responding to a chiropractic advertisement shall clearly contain the language of the first sentence of subsection (a) and have distinguished on its face the charge for the reduced rate services, including an itemization of free services, and the separate charge for any services, examinations or treatments other than the advertised free or reduced rate services, examinations, or treatments. The reduced rate charges shall be labeled "Free or Reduced Rate Charges" and any other charges shall be labeled "Non-advertised Services, Examinations, or Treatments".~~

...

~~§ 90-154.3. Acceptable care in the practice of chiropractic.~~

~~(a) It shall be unlawful for a doctor of chiropractic to examine, treat, or render any professional service to a patient that does not conform to the standards of acceptable care.~~

(b) For purposes of disciplinary action, the Board of Chiropractic Examiners may adopt rules that establish and define standards of acceptable care with respect to:

- (1) Examination and ~~diagnosis;~~diagnosis.
- (2) The use of chiropractic ~~adjustive procedures;~~treatment.
- (3) Physiological therapeutic ~~agents;~~agents.
- (4) Diagnostic ~~radiology;~~radiology.
- (5) The maintenance of patient ~~records;~~ and records.
- (6) Sanitation, safety, and the adequacy of clinical equipment.

~~(e) If the Board has not defined a standard of acceptable care by rule, then the standard of acceptable care shall be the usual and customary method as taught in the majority of recognized chiropractic colleges.~~

(d) Nothing in this section shall alter the lawful scope of practice of chiropractic as defined in G.S. 90-143 or the limitation of license as defined in G.S. 90-151.

~~"§ 90-154.4. Enticements prohibited.~~

~~(a) For purposes of this section, an enticement is anything of monetary value offered by a chiropractor to a prospective patient as an incentive to enter treatment. Except as permitted in subsection (b) of this section, it shall be an unlawful rebate, in violation of G.S. 90-154(b)(12), for a chiropractor to offer an enticement to a prospective patient if, at the time the offer is made, the chiropractor knows or has reason to believe that the prospective patient's treatment expenses will be paid in whole or part by an insurer or other third party payor.~~

~~(b) Unless prohibited by other State or federal law, the following marketing practices shall not be construed as violations of subsection (a) of this section:~~

- ~~(1) Free or reduced rates, services, examinations, or treatments advertised and delivered in conformity with G.S. 90-154.1.~~
- ~~(2) Cash or point-of-service discounts not more than 30 percentage points lower than the charges customarily billed to third party payors.~~
- ~~(3) Prepaid wellness plans covering only services that can be performed entirely by the offering chiropractor or the chiropractor's staff within the confines of the chiropractor's office.~~
- ~~(4) Merchandise with a value of not more than ten dollars (\$10.00) given to a prospective patient for promotional purposes.~~

"§ 90-155. Annual fee for renewal of license.

~~(a) Any person practicing chiropractic in this State, in order to~~Licenseses must renew a license, shall, on or before the first Tuesday after the first Monday in January in their license each year after a license is issued as herein provided, on or before December 31 of each year following the year in which a license is first issued and shall pay to the secretary of the North Carolina State Board of Chiropractic Examiners a renewal license fee as prescribed and set by the said Board which fee shall not be more than three hundred dollars (\$300.00), and shall furnish the Board evidence of having attended two days of educational sessions or programs approved by the Board during the preceding 12 months, provided the Board may waive this educational requirement due to sickness or other hardship of the applicant.

~~Any license or certificate granted by the Board under this Article shall automatically be canceled if the holder of the license or certificate fails to secure a renewal within 30 days from the time herein provided; but any license thus canceled may, upon evidence of good moral character and proper proficiency, be restored upon the payment of the renewal fee and an additional twenty-five dollars (\$25.00) reinstatement fee.~~

~~If any licensee of the Board retires from active practice, the licensee may renew his or her license annually by paying the license fee and shall not be required to furnish the Board proof of continuing education; however, if at a later time the licensee desires to resume active practice, the licensee shall first appear before the Board and the Board shall determine the licensee's competency to practice.~~

(b) A licensee who is not actively engaged in the practice of chiropractic in this State and who does not wish to renew his or her license may direct the Board to place the licensee on inactive status.

(c) A licensee who fails to renew his or her license as required by this section shall pay an additional fee of twenty-five dollars (\$25.00) to the Board. The license of any licensee who fails to renew by January 30 of each year shall automatically be placed on inactive status.

(d) A licensee with an inactive license shall not practice chiropractic in this State. The Board shall retain jurisdiction over an inactive license, including licenses placed on inactive status by retirement of the licensee, a request by the licensee for inactivation, the surrendering of a license, or by operation of an order entered by the Board.

(e) Upon payment of all accumulated fees and penalties, the license of the licensee may be reinstated, subject to the Board requiring the licensee to appear before the Board for an interview to prove the licensee's competency in a manner as may be reasonably determined by the Board and to comply with other licensing requirements.

"§ 90-156. Pay of Board and authorized expenditures.

Notwithstanding G.S. 93B-5(a), the members of the North Carolina State Board of Chiropractic Examiners shall receive as compensation for their services a sum not to exceed two hundred dollars (\$200.00) for each day during which they are engaged in the official business of the Board and their actual expenses, including transportation and lodging, when meeting for the purpose of holding examinations, and performing any other duties placed upon them by this Article, to be paid by the treasurer of the Board out of the moneys received by him as license fees, or from renewal fees. The Board shall also expend out of such fund so much as may be necessary for preparing licenses, securing seal, providing for programs for licensed doctors of chiropractic in North Carolina, and all other necessary expenses in connection with the duties of the Board.

...."

SECTION 1.(b) Article 8 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-157.4. Civil penalty; disciplinary costs.

(a) The Board may assess a civil penalty not to exceed five hundred dollars (\$500.00) for the violation of any section of this Article or any rule adopted by the Board. If a licensee is found responsible for multiple violations in the same disciplinary actions, the maximum cumulative fine assessed shall not exceed one thousand dollars (\$1,000). The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) The Board shall consider the following factors before imposing or assessing a civil penalty under this section:

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful and malicious.
- (4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

(d) If a licensee is found to have violated any provisions of this Article or any rule adopted by the Board, the Board may charge the costs of a disciplinary proceeding, including reasonable attorneys' fees, to that licensee.

(e) If the Board imposes a civil penalty under this section, the party against whom the civil penalty has been assessed may file a petition for judicial review under Article 4 of Chapter 150B of the General Statutes."

SECTION 2. This act becomes effective October 1, 2021.

In the General Assembly read three times and ratified this the 23rd day of August, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Howard Penny, Jr.
Presiding Officer of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2021