

Ohio State Chiropractic Board



Laws and Rules

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OHIO REVISED CODE CHAPTER 4734

4734.01	Practice of Chiropractic Defined	7
4734.02	Organization of State Chiropractic Board	7
4734.03	Compensation and Expenses of Members	7
4734.04	Meetings - Records.....	7
4734.05	Officers of Board.....	7
4734.06	Committees, Groups.....	8
4734.07	Immunity	8
4734.08	Membership in Federation of Chiropractic Licensing Boards	8
4734.09	Contracts	8
4734.10	Administrative Rules	8
4734.14	Prohibited Acts.....	8
4734.141	Certificate Required to Practice Acupuncture.....	9
4734.142	Prohibited Acts by Acupuncture Licensee	9
4734.15	Practice of Chiropractic - Permissible Titles	10
4734.16	Establishing Code of Ethics	10
4734.161	Enabling Person to Retain Handicapped Parking Privileges	10
4734.17	Offering Services through Authorized Business Entity	11
4734.19	Current Copy of Statutes and Rules	11
4734.20	License Application.....	11
4734.201	Physiotherapy Defined.....	12
4734.202	License Applicant to Comply with RC Chapter 4776	12
4734.21	Evaluation and Approval of Schools and Colleges	12
4734.211	Approved Courses of Study in Acupuncture.....	13
4734.22	Administering Examination on Jurisprudence.....	13
4734.23	Reciprocity with Other States	13
4734.24	Certificate Holders on 11-3-75.....	13
4734.25	License Renewal	13
4734.26	Inactive License Classification.....	14
4734.27	Special Limited License to Practice Chiropractic.....	14
4734.28	Acupuncture and Moxibustion Defined	15
4734.281	Practice of Acupuncture by Chiropractors	15
4734.282	Application for Certificate to Practice Acupuncture.....	15
4734.283	Issuance of Acupuncture Certificate	15
4734.284	Renewal of Acupuncture Certificate	15
4734.285	Advertisement of Certification to Practice Acupuncture.....	16
4734.286	Cessation of Acupuncture Certificate – Inactive Certificate.....	16
4734.31	Disciplinary Actions by Board	16
4734.311	Effect of Child Support Default on License	19
4734.32	Reports of Disciplinary Actions by Health Care Facility.....	19
4734.34	Applying for Restoration of License	21
4734.35	Prosecutor's Report of Convictions.....	21
4734.36	Automatic Suspension Upon Guilty Plea or Conviction	21
4734.37	Summary Suspension of License	21
4734.38	Suspension for Mental Illness or Incompetency	22
4734.39	Ability to Practice Impaired	22
4734.40	Establishing Standards for Approving Treatment Providers for Impaired Chiropractors	23
4734.41	Establishing Chemical Dependency and Mental Illness Monitoring Program.....	23
4734.42	Development and Implementation of Quality Intervention Program	24
4734.45	Investigations - Confidential Information.....	24
4734.46	Hearing and Investigation Procedures.....	25
4734.47	Enforcement Officer.....	25
4734.48	Service of Process - Procedure for Discovery	25
4734.49	Injunctions.....	26
4734.50	Notice or Warnings for Minor Violations	26
4734.53	Fines	26

4734.54	Depositing Receipts.....	26
4734.55	Duplicate License; List of Licensees; Certification of Licensure	26
4734.56	Fees in Excess of Statutory Amounts	27
4734.57	Compliance with Law Regarding Sanctions for Human Trafficking.....	27
4734.99	Penalty.....	27

OHIO ADMINISTRATIVE CODE

Chapter 4734-1 General Provisions

4734-1-01	Rulemaking and Review of Existing Rules.....	27
4734-1-02	Public Notice of Meetings.....	27
4734-1-09	Organizational Memberships.....	27
4734-1-15	Scope of Practice	28

Chapter 4734-3 Records

4734-3-01	Personal Information Systems Definitions.....	28
4734-3-02	Procedures for Accessing Confidential Personal Information	29
4734-3-03	Valid Reasons for Accessing Confidential Personal Information	29
4734-3-04	Confidentiality Laws	30
4734-3-05	Restricting and Logging Access to Confidential Personal Information in Computerized Personal Information Systems	30

Chapter 4734-4 Hearings

4734-4-02	Representatives; Appearances; Communications; Applicability	31
4734-4-03	Continuances	32
4734-4-04	Out-of-State Attorneys.....	32
4734-4-05	Authority and Duties of Hearing Officers	32
4734-4-06	Broadcasting and Photographing Administrative Hearings	33
4734-4-07	Depositions in Lieu of Testimony at Hearing and Transcripts of Prior Testimony for Submission at Hearing.....	33
4734-4-08	Witnesses; Subpoenaes; Witness Fees.....	34
4734-4-09	Evidence; Judicial Notice of Board Records; Stipulations; Certified Copy of Conviction Deemed Conclusive.....	35
4734-4-10	Limited Discovery Procedures.....	36
4734-4-11	Motions.....	36
4734-4-12	Pre-Hearing Conferences; Status Conferences	37
4734-4-13	Post Hearing Procedures; Reports And Recommendations; Newly Discovered Evidence; Addressing the Board	37
4734-4-14	Requesting Adjudication Hearing; Timing of Hearing; Notification of Hearing; Requirements for Filing; Calculation of Time; Transcripts.....	38

Chapter 4734-5 Chiropractic Program Standards and Requirements

4734-5-01	Board Approved Doctor of Chiropractic Degree Programs	39
4734-5-02	Board Relationship with the Council On Chiropractic Education.....	39
4734-5-03	Site Visitation Procedures	39
4734-5-04	Initial Approval Of Chiropractic Educational Institutions Or Programs	40
4734-5-06	Revocation Of Approval Of A Doctor of Chiropractic Degree Program.....	40

Chapter 4734-6 Licensing

4734-6-01	Application for Licensure	41
4734-6-02	Licensure by Endorsement.....	41
4734-6-04	Preceptorships	43
4734-6-05	License For Voluntary Public Service.....	44
4734-6-06	Jurisprudence Examination	45
4734-6-07	Addresses of Licensees	45
4734-6-08	Pre-Chiropractic Educational Requirements	45
4734-6-09	Character and Fitness Standards.....	45

Chapter 4734-7 Renewal and Restoration

4734-7-01	Renewal Requirements	46
4734-7-02	Standards and Requirements for Continuing Education	48

4737-7-03 Continuing Education Credit for Providing Health Care to Indigent and Uninsured Persons as a Volunteer ..	49
4734-7-04 Restoration of Inactive Chiropractic License	50
4734-7-05 Reinstatement of Forfeited Chiropractic License	51

Chapter 4734-8 Chiropractic Physicians

4734-8-01 Dismissing a patient from a chiropractic practice	51
4734-8-02 Unlicensed Supportive Personnel	52
4734-8-03 Quality Intervention Program.....	52
4734-8-04 Documentation and Record Keeping	55
4734-8-05 Examination and Prescription Protocols.....	55
4734-8-06 Board Consideration of Sanctions.....	55
4734-8-07 Notice of Leaving, Selling or Retiring from Practice	56
4734-8-08 Universal Precautions	57
4734-8-09 Concussion Management.....	57

Chapter 4734-9 Discipline

4734-9-01 Fine Schedules.....	58
4734-9-02 Advertising and Solicitation	58
4734-9-03 Signage and Display of License	60
4734-9-04 Ownership of Chiropractic Practices	61
4734-9-05 Confidentiality	61
4734-9-06 Sexual Misconduct	61
4734-9-07 Billing Practices	62
4734-9-08 Professional Ethics	63
4734-9-09 Fee Splitting Prohibited	64
4734-9-10 Conduct Following Action Against a License	64
4734-9-11 Prepayment Plans	65

Chapter 4734-10 Acupuncture

4734-10-01 Maintaining a Certificate to Practice Acupuncture.....	65
4734-10-02 Acupuncture Course of Study Approval	65
4734-10-03 Application for Acupuncture Certificate	66
4734-10-06 Inactive Acupuncture Certificate; Restoration of Acupuncture Certificate.....	66

Chapter 4734-11 Military Personnel

4734-11-01 Military Considerations.....	67
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Reference Statutes	70-78
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Chapter 4734: CHIROPRACTORS

4734.01 Practice of Chiropractic Defined.

As used in this chapter, the "practice of chiropractic" means utilization of the relationship between the musculo-skeletal structures of the body, the spinal column, and the nervous system in the restoration and maintenance of health, in connection with which patient care is conducted with due regard for first aid, hygienic, nutritional, and rehabilitative procedures and the specific vertebral adjustment and manipulation of the articulations and adjacent tissues of the body.

Effective Date: 4-10-2001

4734.02 Organization of State Chiropractic Board.

The chiropractic examining board is hereby renamed the state chiropractic board. Any reference in the Revised Code to the chiropractic examining board means the state chiropractic board.

The board shall assume and exercise all of the duties conferred on it by this chapter concerning the practice of chiropractic, chiropractors, and the regulation thereof.

Members of the board shall be appointed by the governor with the advice and consent of the senate. The board shall be composed of four chiropractors and a fifth member representing the public. The public member shall not be connected in any manner, other than as a chiropractic patient, with any chiropractor or chiropractic practice or any entity that routinely engages in business with members of the chiropractic profession. Each professional member, at the time of appointment, shall be engaged in full-time practice in this state and shall have been licensed by the board for at least five years.

Terms of office shall be for four years, with each term ending on the same day of the same month as did the term it succeeds. Each member shall hold office from the date of appointment until the end of the term for which appointed. No individual shall serve for more than two full terms. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

Effective Date: 4-10-2001

4734.03 Compensation and Expenses of Members.

Each member of the state chiropractic board shall be paid at the appropriate rate for those days on which

the member's services or duties are required. Each member of the board shall be paid at the rate established pursuant to division (J) of section 124.15 of the Revised Code and shall not receive step advancements. In addition, each board member shall receive the member's necessary expenses.

Effective Date: 4-10-2001

4734.04 Meetings – Records.

(A) The state chiropractic board shall hold its annual meeting in this state in September of each year and shall hold other meetings at the times and places that a majority of the board directs. A special meeting shall be held at the call of the board's president or at the request of two or more board members, in which case the meeting shall be called by the board's executive director. A majority of the board constitutes a quorum for the transaction of business. Except when action is taken on behalf of the board by the board's president under division (A) of section 4734.05 of the Revised Code, the board may not take any action without the concurrence of three members. The board shall make rules as necessary to govern its internal management.

(B) The board shall keep a record of its meetings and other official actions, including a register of all applicants for licensure to practice chiropractic. The register shall show whether an applicant for licensure was rejected or was granted a license. The board's records and register shall be prima-facie evidence of all matters recorded in them. The board shall adopt a common seal, which may be used to authenticate its official documents.

Effective Date: 4-10-2001

4734.05 Officers of Board.

(A) The state chiropractic board shall organize by electing from its members a president. The president shall hold office for two years and until the president's successor is elected and takes office. Elections for board president shall be held at every other annual meeting of the board held in this state in September. The president, subject to the board's approval, may designate another member of the board to serve as vice-president to fulfill the president's duties in the event that the president is absent or incapacitated. The vice-president may perform any action that the president is authorized to perform. The president may make decisions on behalf of the board as follows:

(1) A decision regarding board activities may be made by the president if the president considers the decision to be minor and determines that making the decision will facilitate the responsiveness and effectiveness of the board;

(2) A decision involving a situation that requires immediate board attention may be made by the president if the circumstances surrounding the situation make holding a board meeting impractical.

At the earliest time possible, the president shall report the decision to the members of the board and the board shall meet to ratify or nullify the decision.

(B) The board shall appoint an executive director who shall serve as the board's secretary and shall perform all other duties prescribed by the board or this chapter. While serving as executive director, the individual appointed shall reside in this state and may not serve as a member of the board.

The executive director shall be in the unclassified service of this state. The board shall fix the executive director's compensation and reimburse the executive director for necessary expenses incurred in the performance of official duties. Prior to entering into the official duties of office, the executive director shall take and subscribe an oath of office and shall give to the treasurer of state a bond in the penal sum of fifty thousand dollars with sufficient sureties to be approved by the governor for the faithful discharge of the duties.

The executive director is the board's appointing authority, as defined in section 124.01 of the Revised Code. With the board's approval, the executive director may appoint any employees necessary to carry out the board's functions, including investigative personnel and other employees to perform professional, clerical, and special work, and may establish standards for the conduct of and the authority to be granted to the board's employees.
Effective Date: 4-10-2001

4734.06 Committees, Groups.

The state chiropractic board may appoint committees or other groups to assist it in fulfilling its duties. A committee or group may consist of board members, other individuals with appropriate backgrounds, or both board members and other individuals with appropriate backgrounds. Any committee or group appointed shall act under the direction of the board and shall perform its functions within the limits established by the board. Members of a committee or group may be reimbursed by the board for any expenses incurred in the performance of their duties.
Effective Date: 4-10-2001

4734.07 Immunity.

In the absence of fraud or bad faith, the state chiropractic board, a current or former board member, an agent of the board, a representative of the board, or an employee of the board shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter. If any of those persons asks to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, and the request is made in writing at a reasonable time before trial and the person

requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for the person's defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay any part of a claim or judgment that is for punitive or exemplary damages.
Effective Date: 4-10-2001

4734.08 Membership in Federation of Chiropractic Licensing Boards.

The state chiropractic board shall become a member of the federation of chiropractic licensing boards. The board may participate in any of the federation's activities, including reporting board actions taken toward an applicant or license holder to any data bank established by the federation.
Effective Date: 4-10-2001

4734.09 Contracts.

The board may enter into contracts with any person or government entity to carry out the intent of this chapter and the rules adopted under it, any other applicable state statutes or rules, and any applicable federal statutes or regulations.
Effective Date: 4-10-2001

4734.10 Administrative Rules.

In addition to rules that are required by this chapter to be adopted, the state chiropractic board may adopt any other rules necessary to govern the practice of chiropractic and acupuncture under this chapter and to administer and enforce this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.
Effective Date: 8-22-2007

4734.14 Prohibited Acts.

- (A)
- (1) Except as provided in division (B) of this section, no person shall engage in the practice of chiropractic without a current, valid license issued by the state chiropractic board under this chapter.
 - (2) Except as provided in division (C) of this section, no person shall advertise or claim to be a chiropractor, doctor of chiropractic, or chiropractic physician, or use the initials "D.C." in connection with the person's name, unless the person holds a current, valid license from the board.
 - (3) Subject to section 4734.17 of the Revised Code, no person shall open or conduct an office or other place for the practice of chiropractic without a license from the board.
 - (4) Subject to section 4734.17 of the Revised Code, no person shall conduct an office in the name of some person who has a license to practice chiropractic.
 - (5) No person shall practice chiropractic in violation of the person's license revocation, forfeiture, or suspension or in violation of any restriction,

limitation, or condition placed on the person's license.

(6) No person shall employ fraud or deception in applying for or securing a license to practice chiropractic or in renewing a license to practice chiropractic.

(7) No person shall make, issue, or publish, or cause to be made, issued, or published, for the purpose of sale, barter, or gift, a license, certificate, diploma, degree, or other writing or document falsely representing the holder or receiver thereof to be licensed under this chapter or to be a graduate of a chiropractic school, college, or other educational institution of chiropractic, or sell or dispose of, or offer to sell or dispose of such license, certificate, diploma, degree, or other writing or document containing such false representation or use the person's name, or permit it to be used, as a subscriber to such false and fictitious license, certificate, diploma, degree, or other writing or document or engage in the practice of chiropractic under and by virtue of such fraudulent license, certificate, diploma, degree, or other writing or document.

(B)

(1) Subject to division (B)(2) of this section, division (A)(1) of this section does not apply to a person who holds a current, unrestricted license to practice chiropractic in another state when the person, pursuant to a written agreement with an athletic team located in the state in which the person holds the license, provides chiropractic services to any of the following while the team is traveling to or from or participating in a sporting event in this state:

(a) A member of the athletic team;

(b) A member of the athletic team's coaching, communications, equipment, or sports medicine staff;

(c) A member of a band or cheerleading squad accompanying the athletic team;

(d) The athletic team's mascot.

(2) In providing chiropractic services pursuant to division (B)(1) of this section, the person shall not provide chiropractic services at a health care facility.

(C) A person who has retired from the practice of chiropractic in good standing and does not maintain a current, valid license from the board may continue to claim to be a chiropractor, doctor of chiropractic, or chiropractic physician, or use the initials "D.C." in connection with the person's name, if the person does not engage in the practice of chiropractic or otherwise violate this chapter or the rules adopted under it.

A person whose license has been classified as inactive pursuant to section 4734.26 of the Revised Code may continue to claim to be a chiropractor, doctor of chiropractic, or chiropractic physician, or use the initials "D.C." in connection with the person's name, if the person does not engage in the practice of chiropractic or otherwise violate this chapter or the rules adopted under it.

(D) In any proceeding for a violation of this section brought against a person who is not licensed under this chapter but is a graduate of a chiropractic college approved under section 4734.21 of the Revised Code, it shall be an affirmative defense that the person is permitted to use the term "doctor" or the initials "D.C." in connection with the person's name, but only to the extent that the person does not indicate or act in a manner implying that the person is licensed under this chapter or otherwise violate this chapter or the rules adopted under it.

(E) A document that is signed by the president or executive director of the board and that has affixed the official seal of the board to the effect that it appears from the records of the board that a license to practice chiropractic in this state has not been issued to a particular person, or that a license, if issued, has been revoked or suspended, shall be received as prima-facie evidence of the record of the board in any court or before any officer of the state.

Effective Date: 3-27-2013

4734.141 Certificate Required to Practice Acupuncture.

Except for individuals described in section 4762.02 of the Revised Code, no person who holds a license to practice chiropractic issued by the state chiropractic board shall engage in the practice of acupuncture unless the person holds a valid certificate to practice acupuncture issued by the board under section 4734.283 of the Revised Code.

Effective Date: 8-22-2007

4734.142 Prohibited Acts by Acupuncture Licensee.

No person who holds a certificate to practice acupuncture issued by the state chiropractic board under section 4734.283 of the Revised Code shall do any of the following:

(A) Perform an acupuncture service that is beyond the scope of the person's education, training, and experience;

(B) Advertise or otherwise represent to the public that the person is engaged in the practice of oriental medicine;

(C) Permit an employee or assistant, other than an individual described in section 4762.02 of the Revised Code, to do either of the following:

(1) Insert, stimulate, or remove acupuncture needles;

(2) Apply moxibustion.

Effective Date: 8-22-2007

4734.15 Scope of Practice of Chiropractic - Permissible Titles.

(A) The license provided for in this chapter shall entitle the holder thereof to practice chiropractic in this state. All of the following apply to the practice of chiropractic in this state:

(1) A chiropractor is authorized to examine, diagnose, and assume responsibility for the care of patients, any or all of which is included in the practice of chiropractic.

(2)

(a) Subject to division (A)(2)(b) of this section, a chiropractor may administer, sell, distribute, recommend, or provide advice regarding any of the following to restore or maintain the health of the chiropractor's patients: vitamins, minerals, phytonutrients, antioxidants, enzymes, glandular extracts, botanical substances, herbal therapies, homeopathic remedies, drugs that are available without a prescription, or durable and nondurable medical goods and devices other than home medical equipment, as defined in section 4752.01 of the Revised Code.

(b) A chiropractor may engage in the activities described in division (A)(2)(a) of this section only if the product is prepackaged for use by consumers and labeled in accordance with state and federal law.

(c) A chiropractor shall not delegate any of the activities described in division (A)(2)(a) of this section to an individual who is not licensed or otherwise specifically authorized by the Revised Code to engage in the activity.

(d) The authority of a chiropractor to engage in the activities described in division (A)(2)(a) of this section does not affect the authority of any other health care professional, including a dietitian licensed under Chapter 4759. of the Revised Code, to engage in any of the same activities.

(3) The practice of chiropractic does not permit a chiropractor to do any of the following:

(a) Treat infectious, contagious, or venereal disease;
(b) Perform surgery;

(c) Prescribe drugs, as defined in section 4729.01 of the Revised Code;

(d) Administer any drug not described in division (A)(2) (a) of this section, including a dangerous drug, as defined in section 4729.01 of the Revised Code.

(4) Except as provided in division (B) of this section, the practice of chiropractic does not permit a chiropractor to perform acupuncture.

(5) A chiropractor may use roentgen rays only for diagnostic purposes.

(6) The practice of chiropractic does not include the performance of abortions.

(B) A chiropractor who holds a valid certificate to practice acupuncture issued under section 4734.283 of the Revised Code is authorized to perform acupuncture.

(C) An individual holding a valid, current license to practice chiropractic is entitled to use the title "doctor," "doctor of chiropractic," "chiropractic physician," or "chiropractor" and is a "physician" for the purposes of Chapter 4123. of the Revised Code.

Effective Date: 4-6-2017

4734.16 Establishing Code of Ethics.

The state chiropractic board may establish a code of ethics that applies to chiropractors and their practice of chiropractic and acupuncture under this chapter. The board may establish the code of ethics by creating its own code of ethics or by adopting a code of ethics created by a state or federal organization that represents the interests of chiropractors. If a code of ethics is established, the board shall maintain current copies of the code of ethics for distribution on request.

Effective Date: 8-22-2007

4734.161 Enabling Person to Retain Handicapped Parking Privileges.

No chiropractor shall do either of the following:

(A) Furnish a person with a prescription in order to enable the person to be issued a removable windshield placard, temporary removable windshield placard, or license plates under section 4503.44 of the Revised Code, knowing that the person does not meet any of the criteria contained in division (A)(1) of that section;

(B) Furnish a person with a prescription described in division (A) of this section and knowingly misstate on the prescription the length of time the chiropractor expects the person to have the disability that limits or impairs the person's ability to walk in order to enable the person to retain a placard issued under section 4503.44 of the Revised Code for a period of time longer than that which would be estimated by a similar practitioner under the same or similar circumstances.

Effective Date: 4-10-2001

4734.17 Offering Services Through Authorized Business Entity.

(A) An individual whom the state chiropractic board licenses to engage in the practice of chiropractic or certifies to practice acupuncture may render the professional services of a chiropractor or chiropractor certified to practice acupuncture within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude a chiropractor from rendering professional services as a chiropractor or chiropractor certified to practice acupuncture through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state chiropractic board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry, under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under this chapter;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of any code of ethics established or adopted under section 4734.16 of the Revised Code that prohibits an individual from engaging in the practice of chiropractic or acupuncture in combination with an individual who is licensed, certificated, or otherwise authorized for the practice of optometry, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed under this chapter to engage in the practice of chiropractic.

Date Effective: 7-10-2014

4734.19 Current Copy of Statutes and Rules.

A chiropractor shall retain at the chiropractor's primary practice location a current copy of the statutes and rules governing the practice of chiropractic and acupuncture under this chapter.

Effective Date: 8-22-2007

4734.20 License Application.

(A) Except for persons seeking to practice chiropractic under a special limited license issued pursuant to section 4734.27 of the Revised Code, each person seeking to practice chiropractic in this state shall apply in writing to the state chiropractic board for a license to practice chiropractic. The application shall be made under oath, on a form prescribed by the board, and shall be accompanied by a fee of two hundred fifty dollars.

(B) Except as provided in sections 4734.23 and 4734.24 of the Revised Code, to receive a chiropractic license, an applicant must meet the following conditions:

(1) The applicant must be at least twenty-one years of age, be of good moral character, and possess a high school education or its equivalent.

(2) The applicant must have successfully completed, prior to matriculation at a school or college of chiropractic, at least two years of college credit in the arts and sciences at a college or university accredited by a state or regional accrediting organization recognized by the board, except that the board may

adopt rules in accordance with Chapter 119. of the Revised Code that require completion of additional years of college credit or receipt of a college degree in an area specified in the rules.

(3) The applicant must be a graduate of and hold the degree of doctor of chiropractic from a school or college of chiropractic approved by the board under section 4734.21 of the Revised Code.

(4) The applicant must have received one of the following from the national board of chiropractic examiners, as appropriate according to the date of the applicant's graduation from a school or college of chiropractic:

(a) If the applicant graduated on or after January 1, 1970, but before January 1, 1989, a "diplomat certificate" or "certificate of attainment" evidencing passage of parts I and II and the physiotherapy section of the national board's examinations;

(b) If the applicant graduated on or after January 1, 1989, but before January 1, 2002, a "certificate of attainment" evidencing passage of parts I, II, and III and the physiotherapy section of the national board's examinations;

(c) If the applicant graduated on or after January 1, 2002, a "certificate of attainment" evidencing passage of parts I, II, III, and IV and the physiotherapy section of the national board's examinations.

(5) The applicant must have passed the board's jurisprudence examination conducted under section 4734.22 of the Revised Code.

(C) The board shall issue a license to practice chiropractic to each applicant who files a complete application, pays all applicable fees, and meets the conditions specified in division (B) of this section. The burden of proof is on the applicant, to prove by clear and convincing evidence to the board, that the applicant meets the conditions for receipt of the license.

The board may conduct any investigation it considers appropriate to verify an applicant's credentials, moral character, and fitness to receive a license. In conducting an investigation, the board may request information from the records maintained by the federal bureau of investigation, the bureau of criminal identification and investigation, and any other repositories of criminal records held in this or another state. The board may charge the applicant a fee for conducting the investigation. The amount of the fee shall not exceed the expenses the board incurs in conducting the investigation and may include any fees that must be paid to obtain information in the criminal record.

Effective Date: 6-06-2001

4734.201 Physiotherapy Defined.

As used in division (B) of section 4734.20 of the Revised Code, "physiotherapy" is a reference to a particular section of the examination offered by the national board of chiropractic examiners and does not mean "physiotherapy" as that term is used in relation to the practice of physical therapy pursuant to sections 4755.40 to 4755.56 of the Revised Code.
Effective Date: 4-10-2001

4734.202 License Applicant to Comply with RC Chapter 4776.

(A) As used in this section, "license" and "applicant for an initial license" have the same meanings as in section 4776.01 of the Revised Code, except that "license" as used in both of those terms refers to the types of authorizations otherwise issued or conferred under this chapter.

(B) In addition to any other eligibility requirement set forth in this chapter, each applicant for an initial license shall comply with sections 4776.01 to 4776.04 of the Revised Code. The state chiropractic board shall not grant a license to an applicant for an initial license unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code and the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to section 4734.20, 4734.23, or 4734.27 of the Revised Code.

Effective Date: 3-24-2008

4734.21 Evaluation and Approval of Schools and Colleges.

The state chiropractic board shall evaluate schools and colleges of chiropractic and approve those institutions that it determines are capable of adequately training individuals for the practice of chiropractic in this state, except that in appropriate cases, the board may accept the approval of an institution that has been made pursuant to an evaluation conducted by the council on chiropractic education or another entity acceptable to the board.

When determining if a school or college of chiropractic should receive the Board's approval or continue to be approved, the board may make on-site inspections, reviews, and inquiries as it considers necessary. The board may charge a school or college of chiropractic a fee to cover the reasonable costs incurred by the board in conducting any inspection, review, or inquiry related to the approval of the school or college.

The board shall maintain a list of schools and colleges of chiropractic approved under this section. On request, the board shall provide a copy of the list to the person making the request.

Effective Date: 4-10-2001

4734.211 Approved Courses of Study in Acupuncture.

(A) In consultation with the state medical board, the state chiropractic board shall approve courses of study in acupuncture that prepare a chiropractor licensed under this chapter to receive a certificate to practice acupuncture issued under section 4732.283 of the Revised Code.

(B) To be approved, a course of study must require the successful completion of at least three hundred hours of instruction. Of the three hundred hours of instruction, at least two hundred hours must consist of direct clinical instruction that covers all of the following:

- (1) Application of acupuncture techniques;
- (2) An introduction to traditional Chinese acupuncture;
- (3) Acupuncture points;
- (4) Applications of acupuncture in modern western medicine;
- (5) Guidelines on safety in acupuncture;
- (6) Treatment techniques.

(C) In determining whether to approve a course of study, the state chiropractic board shall take into consideration the qualifications of the entity that administers the course of study. The board may approve a course of study that is administered by any of the following:

- (1) A school or college of chiropractic that has been approved by a national entity acceptable to the board;
- (2) An institution with an acupuncture program that is accredited by the accreditation commission for acupuncture and oriental medicine;
- (3) A school or college of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;
- (4) A hospital;
- (5) An institution that holds a certificate of authorization from the board of regents;
- (6) An institution that holds program authorization from the state board of career colleges and schools under section 3332.05 of the Revised Code.

Effective Date: 8-22-2007

4734.22 Administering Examination on Jurisprudence.

The state chiropractic board or its representative shall administer an examination on jurisprudence, as it relates to the practice of chiropractic, for individuals who apply to be licensed under this chapter. The examination shall cover the provisions of the statutes and rules governing the practice of chiropractic in this state and other legal topics considered appropriate by the board. The examination shall be offered at times and places selected by the board and shall be administered in the manner specified by the board. The board shall determine the score that constitutes evidence of passing the examination.

Effective Date: 4-10-2001

4734.23 Reciprocity with Other States.

(A) A person licensed by another state or country in the practice of chiropractic may apply under this section for a license to practice chiropractic in this state in lieu of applying under section 4734.20 of the Revised Code. The fee for applying under this section shall be five hundred dollars.

(B) The state chiropractic board may, for good cause, waive all or part of the educational and testing requirements specified under section 4734.20 of the Revised Code and issue a license to an applicant under this section, if the applicant presents satisfactory proof of being licensed to practice chiropractic in another state or country where the requirements for receipt of the license, on the date the license was issued, are considered by the board to be substantially equivalent to those of this chapter. The applicant must meet the same age and moral character requirements that must be met under section 4734.20 of the Revised Code. If the board does not waive all of the educational and testing requirements, the board may require that the applicant complete and receive a score specified by the board on one or more tests administered by the board or by the national board of chiropractic examiners or another testing entity.

Effective Date: 4-10-2001

4734.24 Certificate Holders on 11-3-75.

Any person who was actively engaged in the practice of chiropractic in this state on November 3, 1975, who, on that date, held a valid, current certificate issued by the state medical board under the former provisions of Chapter 4731. of the Revised Code authorizing the person to practice chiropractic, is deemed to possess the requisite educational and professional qualifications to practice chiropractic in this state.

Effective Date: 4-10-2001

4734.25 License Renewal.

A license to practice chiropractic from the state chiropractic board expires biennially in accordance with the schedule established in rules adopted under

this section and may be renewed. The renewal process shall be conducted in accordance with the standard renewal procedures of Chapter 4745. of the Revised Code, except that the board's executive director shall notify each license holder of the license renewal requirements of this section not later than sixty days prior to the license's expiration date. When an application for renewal is submitted, the applicant shall provide the information necessary to process the application and pay a renewal fee in an amount the board specifies in rules adopted under this section.

Before a renewal of license is issued by the board, the licensee shall furnish the board with satisfactory evidence that the licensee has completed during the current licensing period not less than the number of hours of continuing education that the board requires in rules adopted under this section. For an activity to be applied toward the continuing education requirement, the activity must meet the board's approval as a continuing education activity, as specified in rules adopted under this section. Any exception from the continuing education requirement must be approved by the board.

Failure of a licensee to comply with this section shall operate as an automatic forfeiture of the right of the licensee to practice chiropractic in this state. A forfeited license may be reinstated by the board upon payment of all fees due and a penalty fee in an amount the board specifies in rules adopted under this section for reinstatement, in addition to satisfying the board of having complied with the continuing education requirements of this section. If an individual's license has been forfeited for two or more years, the board may also require as a condition of reinstatement that the individual complete training or testing as specified by the board.

The board shall adopt any rules it considers necessary to implement this section, including standards for approval of continuing education in the practice of chiropractic. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Effective Date: 10-16-2009

4734.26 Inactive License Classification.

(A) An individual licensed under this chapter who intends not to practice in this state for an extended period may send to the state chiropractic board written notice to that effect on or before the license renewal date. If the individual's license is in good standing and the individual is not under disciplinary review pursuant to section 4734.31 of the Revised Code, the board shall classify the license as inactive, during the period that the license is classified as inactive, the individual may not engage in the practice of chiropractic in this state or make any representation to the public indicating that the

person is actively licensed under this chapter. An individual whose license is classified as inactive is not required to pay the license renewal fee for the license.

(B) The holder of an inactive license may apply to the board to have the license restored. The board shall consider the length of inactivity and, in accordance with the standards for issuance of a license established under section 4734.20 of the Revised Code, the moral character and the activities of the applicant during the inactive license period. The board may impose terms and conditions on restoration of the license by doing any of the following:

(1) Requiring the applicant to obtain training, which may include requiring the applicant to pass an examination upon completion of the training;

(2) Requiring the applicant to pass an oral or written examination, or both, to determine fitness to resume practice;

(3) Restricting or limiting the extent, scope, or type of practice of the applicant.

Effective Date: 4-10-2001

4734.27 Special Limited License to Practice Chiropractic.

(A) To the extent it is in the public interest, the state chiropractic board may issue, without examination, a special limited license to practice chiropractic as follows:

(1) To a person who is seeking to participate in an internship, residency, preceptorship, or clinical fellowship in this state in preparation for the practice of chiropractic;

(2) To a person who plans to provide chiropractic services in connection with a special activity, program, or event conducted in this state, if the person holds a current, valid, and unrestricted license to practice chiropractic in another state or country;

(3) To a person who previously held an unrestricted license to practice chiropractic in this state who plans to offer gratuitous chiropractic services as a voluntary public service;

(4) To any other person for any other reason specified as good cause by the board in rules adopted under this section.

(B) An applicant for a special limited license shall submit to the board a complete application on a form prescribed by the board, pay an application fee of seventy-five dollars, and furnish proof satisfactory to the board of being at least twenty-one years of age, of good moral character, and of either holding the

degree of doctor of chiropractic or being enrolled in a program leading to the degree. The institution from which the applicant received the degree or in which the applicant is enrolled must be a school or college that is approved by the board under section 4734.21 of the Revised Code.

(C) The provisions of this chapter that apply to applicants for and holders of licenses to practice chiropractic shall apply to applicants for and holders of special limited licenses to the extent the board considers appropriate, including the board's authority to conduct any investigation it considers appropriate to verify an applicant's credentials, moral character, and fitness to receive a license and the board's authority to take actions under section 4734.31 of the Revised Code.

(D) The board shall adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.
Effective Date: 4-10-2001

4734.28 Acupuncture and Moxibustion Defined.

As used in sections 4734.28 to 4734.286 of the Revised Code:

(A) "Acupuncture" means a form of health care performed by the insertion and removal of specialized needles, with or without the application of moxibustion or electrical stimulation, to specific areas of the human body.

(B) "Moxibustion" means the use of an herbal heat source on one or more acupuncture points.
Effective Date: 8-22-2007

4734.281 Practice of Acupuncture by Chiropractors.

Except in cases where a chiropractor holds a certificate issued under section 4762.04 of the Revised Code or is an individual described in division (B) of section 4762.02 of the Revised Code, a chiropractor licensed under this chapter shall not engage in the practice of acupuncture unless the chiropractor holds a valid certificate to practice acupuncture issued by the state chiropractic board under this chapter.
Effective Date: 8-22-2007

4734.282 Application for Certificate to Practice Acupuncture.

(A) A chiropractor licensed under this chapter seeking a certificate to practice acupuncture shall file with the state chiropractic board a written application on a form prescribed and supplied by the board. The application shall include all of the following:

(1) Evidence satisfactory to the board that the applicant's license is current and valid and that the applicant is in good standing with the board;

(2) Evidence satisfactory to the board that the applicant has completed a course of study in acupuncture approved by the board in accordance with section 4734.211 of the Revised Code.

(3) Evidence satisfactory to the board that the applicant has passed the acupuncture examination administered by the national board of chiropractic examiners or a person that administers the examinations on the national board's behalf.

(B) The board shall review all applications received under this section. The board shall determine whether an applicant meets the requirements to receive a certificate to practice acupuncture not later than sixty days after receiving a complete application. The affirmative vote of not fewer than three members of the board is required to determine that an applicant meets the requirements for a certificate.

(C) At the time of making application for a certificate to practice acupuncture, the applicant shall pay the board a fee in an amount determined by the board pursuant to rules adopted under section 4734.10 of the Revised Code, no part of which shall be returned.
Effective Date: 8-22-2007

4734.283 Issuance of Acupuncture Certificate.

If the state chiropractic board determines under section 4734.282 of the Revised Code that an applicant meets the requirements for a certificate to practice acupuncture, the executive director of the board shall issue to the applicant a certificate to practice acupuncture. The certificate shall expire annually. It may be renewed in accordance with section 4734.284 of the Revised Code.
Effective Date: 8-22-2007

4734.284 Renewal of Acupuncture Certificate.

A chiropractor seeking to renew a certificate to practice acupuncture shall follow the standard renewal procedures of Chapter 4745. of the Revised Code and do all of the following:

(A) Furnish the state chiropractic board with satisfactory evidence that the chiropractor completed, during the twenty-four months immediately preceding renewal, at least twelve hours of acupuncture continuing education provided by an entity that administers a course of study approved under section 4734.211 of the Revised Code;

(B) Certify to the board that the chiropractor remains in good standing with the board and has not engaged in any conduct for which the board may take action

under division (C) of section 4734.31 of the Revised Code;

(C) Pay a renewal fee in an amount determined by the board pursuant to rules adopted under section 4734.10 of the Revised Code.

Effective Date: 8-22-2007

4734.285 Advertisement of Certification to Practice Acupuncture.

A chiropractor who holds a certificate to practice acupuncture issued under this chapter may represent or advertise the chiropractor to be a "chiropractor certified by the state chiropractic board to practice acupuncture." Unless the chiropractor holds a license issued under section 4762.04 of the Revised Code, the chiropractor shall not represent or advertise the chiropractor as holding any of the titles listed in section 4762.08 of the Revised Code. This section does not prohibit a chiropractor from using any of the titles listed in division (C) of section 4734.15 of the Revised Code.

Effective Date: 08-22-2007

4734.286 Cessation of Acupuncture Practice - Inactive Certificate.

(A) A chiropractor who holds a certificate to practice acupuncture issued under this chapter who intends not to practice acupuncture in this state for an extended period of time may send to the state chiropractic board written notice to that effect on or before the certificate renewal date. If the chiropractor's certificate is in good standing and the chiropractor is not under disciplinary review pursuant to section 4734.31 of the Revised Code, the board shall classify the certificate as inactive and the chiropractor may not engage in the practice of acupuncture in this state or make any representation to the public indicating that the chiropractor is actively certified to practice acupuncture under this chapter. A chiropractor whose certificate to practice acupuncture is classified as inactive is not required to pay the certificate renewal fee for the certificate.

(B) The holder of an inactive certificate to practice acupuncture may apply to the board to have the certificate restored. The board shall consider the length of inactivity and, in accordance with the conditions for issuance of a license to practice chiropractic established under section 4734.20 of the Revised Code and the requirements for issuance of a certificate to practice acupuncture established under section 4734.282 of the Revised Code, the moral character and the activities of the applicant during the inactive period. The board may impose terms and conditions on restoration of the certificate by doing any of the following:

(1) Requiring the applicant to obtain training, which may include requiring the applicant to pass an examination on completion of the training;

(2) Requiring the applicant to pass an oral or written examination, or both, to determine fitness to resume practice;

(3) Restricting or limiting the extent, scope, or type of practice of the applicant.

Effective Date: 8-22-2007

4734.31 Disciplinary Actions by Board.

(A) The state chiropractic board may take any of the actions specified in division (B) of this section against an individual who has applied for or holds a license to practice chiropractic in this state if any of the reasons specified in division (C) of this section for taking action against an individual are applicable. Except as provided in division (D) of this section, actions taken against an individual shall be taken in accordance with Chapter 119. of the Revised Code. The board may specify that any action it takes is a permanent action. The board's authority to take action against an individual is not removed or limited by the individual's failure to renew a license.

(B) In its imposition of sanctions against an individual, the board may do any of the following:

(1) Refuse to issue, renew, restore, or reinstate a license to practice chiropractic or a certificate to practice acupuncture;

(2) Reprimand or censure a license holder;

(3) Place limits, restrictions, or probationary conditions on a license holder's practice;

(4) Impose a civil fine of not more than five thousand dollars according to a schedule of fines specified in rules that the board shall adopt in accordance with Chapter 119. of the Revised Code.

(5) Suspend a license to practice chiropractic or a certificate to practice acupuncture for a limited or indefinite period;

(6) Revoke a license to practice chiropractic or a certificate to practice acupuncture.

(C) The board may take the actions specified in division (B) of this section for any of the following reasons:

(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony in any jurisdiction, in which case a certified copy of the court record shall be conclusive evidence of the conviction;

(2) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(3) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu

of conviction for, a misdemeanor involving moral turpitude, as determined by the board, in which case a certified copy of the court record shall be conclusive evidence of the matter;

(4) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(5) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice, in which case a certified copy of the court record shall be conclusive evidence of the matter;

(6) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(7) A violation or attempted violation of this chapter or the rules adopted under it governing the practice of chiropractic and the practice of acupuncture by a chiropractor licensed under this chapter;

(8) Failure to cooperate in an investigation conducted by the board, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if the board or a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(9) Engaging in an ongoing professional relationship with a person or entity that violates any provision of this chapter or the rules adopted under it, unless the chiropractor makes a good faith effort to have the person or entity comply with the provisions;

(10) Retaliating against a chiropractor for the chiropractor's reporting to the board or any other agency with jurisdiction any violation of the law or for cooperating with the board of another agency in the investigation of any violation of the law;

(11) Aiding, abetting, assisting, counseling, or conspiring with any person in that person's violation of any provision of this chapter or the rules adopted under it, including the practice of chiropractic without a license, the practice of acupuncture without a certificate, or aiding, abetting, assisting, counseling, or conspiring with any person in that person's unlicensed practice of any other health care profession that has licensing requirements;

(12) With respect to a report or record that is made, filed, or signed in connection with the practice of chiropractic or acupuncture, knowingly making or filing a report or record that is false, intentionally or negligently failing to file a report or record required by federal, state, or local law or willfully impeding or obstructing the required filing, or inducing another person to engage in any such acts;

(13) Making a false, fraudulent, or deceitful statement to the board or any agent of the board during any investigation or other official proceeding conducted by the board under this chapter or in any filing that must be submitted to the board;

(14) Attempting to secure a license to practice chiropractic or certificate to practice acupuncture or to corrupt the outcome of an official board proceeding through bribery or any other improper means;

(15) Willfully obstructing or hindering the board or any agent of the board in the discharge of the board's duties;

(16) Habitually using drugs or intoxicants to the extent that the person is rendered unfit for the practice of chiropractic or acupuncture;

(17) Inability to practice chiropractic or acupuncture according to acceptable and prevailing standards of care by reason of chemical dependency, mental illness, or physical illness, including conditions in which physical deterioration has adversely affected the person's cognitive, motor, or perceptive skills and conditions in which a chiropractor's continued practice may pose a danger to the chiropractor or the public;

(18) Any act constituting gross immorality relative to the person's practice of chiropractic or acupuncture, including acts involving sexual abuse, sexual misconduct, or sexual exploitation;

(19) Exploiting a patient for personal or financial gain;

(20) Failing to maintain proper, accurate, and legible records in the English language documenting each patient's care, including, as appropriate, records of the following: dates of treatment, services rendered, examinations, tests, x-ray reports, referrals, and the diagnosis or clinical impression and clinical treatment plan provided to the patient;

(21) Except as otherwise required by the board or by law, disclosing patient information gained during the chiropractor's professional relationship with a patient without obtaining the patient's authorization for the disclosure;

(22) Commission of willful or gross malpractice, or willful or gross neglect, in the practice of chiropractic or acupuncture;

(23) Failing to perform or negligently performing an act recognized by the board as a general duty or the exercise of due care in the practice of chiropractic or acupuncture, regardless of whether injury results to a patient from the failure to perform or negligent performance of the act;

(24) Engaging in any conduct or practice that impairs or may impair the ability to practice chiropractic or acupuncture safely and skillfully;

(25) Practicing, or claiming to be capable of practicing, beyond the scope of the practice of chiropractic or acupuncture as established under this chapter and the rules adopted under this chapter;

(26) Accepting and performing professional responsibilities as a chiropractor or chiropractor with a certificate to practice acupuncture when not qualified to perform those responsibilities, if the person knew or had reason to know that the person was not qualified to perform them;

(27) Delegating any of the professional responsibilities of a chiropractor or chiropractor with a certificate to practice acupuncture to an employee or other individual when the delegating chiropractor knows or had reason to know that the employee or other individual is not qualified by training, experience, or professional licensure to perform the responsibilities;

(28) Delegating any of the professional responsibilities of a chiropractor or chiropractor with a certificate to practice acupuncture to an employee or other individual in a negligent manner or failing to provide proper supervision of the employee or other individual to whom the responsibilities are delegated;

(29) Failing to refer a patient to another health care practitioner for consultation or treatment when the chiropractor knows or has reason to know that the referral is in the best interest of the patient;

(30) Obtaining or attempting to obtain any fee or other advantage by fraud or misrepresentation;

(31) Making misleading, deceptive, false, or fraudulent representations in the practice of chiropractic or acupuncture;

(32) Being guilty of false, fraudulent, deceptive, or misleading advertising or other solicitations for patients or knowingly having professional connection with any person that advertises or solicits for patients in such a manner;

(33) Violation of a provision of any code of ethics established or adopted by the board under section 4734.16 of the Revised Code;

(34) Failing to meet the examination requirements for receipt of a license specified under section 4734.20 of the Revised Code;

(35) Actions taken for any reason, other than nonpayment of fees, by the chiropractic or acupuncture licensing authority of another state or country;

(36) Failing to maintain clean and sanitary conditions at the clinic, office, or other place in which chiropractic services or acupuncture services are provided;

(37) Except as provided in division (G) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that chiropractor;

(b) Advertising that the chiropractor will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay.

(38) Failure to supervise an oriental medicine practitioner performing acupuncture or an acupuncturist in accordance with the provisions of section 4762.11 of the Revised Code that are applicable to a supervising chiropractor.

(D) The adjudication requirements of Chapter 119. of the Revised Code apply to the board when taking actions against an individual under this section, except as follows:

(1) An applicant is not entitled to an adjudication for failing to meet the conditions specified under section 4734.20 of the Revised Code for receipt of a license that involve the board's examination on jurisprudence or the examinations of the national board of chiropractic examiners.

(2) A person is not entitled to an adjudication if the person fails to make a timely request for a hearing, in accordance with Chapter 119. of the Revised Code.

(3) In lieu of an adjudication, the board may accept the surrender of a license to practice chiropractic or

certificate to practice acupuncture from a chiropractor.

(4) In lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(E) This section does not require the board to hire, contract with, or retain the services of an expert witness when the board takes action against a chiropractor concerning compliance with acceptable and prevailing standards of care in the practice of chiropractic or acupuncture. As part of an action taken concerning compliance with acceptable and prevailing standards of care, the board may rely on the knowledge of its members for purposes of making a determination of compliance, notwithstanding any expert testimony presented by the chiropractor that contradicts the knowledge and opinions of the members of the board.

(F) The sealing of conviction records by a court shall have no effect on a prior board order entered under this section or on the board's jurisdiction to take action under this section if, based on a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(G) Actions shall not be taken pursuant to division (C)(37) of this section against any chiropractor who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows a practice of that nature. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter, to the extent allowed by this chapter and the rules of the board.

Effective Date: 8-22-2007

4734.311 Effect of Child Support Default on License.

On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state chiropractic board shall

comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license to practice chiropractic or certificate to practice acupuncture issued pursuant to this chapter.
Effective Date: 8-22-2007

4734.32 Reports of disciplinary actions by health care facility.

(A)

(1) Except as provided in division (A)(2) of this section, if formal disciplinary action is taken against a chiropractor by any health care facility, including a clinic, hospital, or similar facility, the chief administrator or executive officer of the facility shall file a report with the state chiropractic board not later than sixty days after the disciplinary action is imposed. The report shall include the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility. The filing of a report with the board, an investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against a chiropractor. In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(2) Disciplinary action taken against a chiropractor by a chiropractic clinic need not be reported to the board in either of the following circumstances:

(a) The clinic takes the disciplinary action for reasons that do not involve clinical or patient care issues.

(b) The clinic employs fewer than five chiropractors and the disciplinary action taken does not rise above the level of a written reprimand.

(B) A chiropractor or professional association or society of chiropractors that believes a violation of any provision of this chapter or rule of the board has occurred shall report to the board the information upon which the belief is based. This division does not require any treatment provider approved by the board under section 4734.40 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to a chiropractor participating in treatment or aftercare for substance abuse as long as the chiropractor maintains participation in accordance with the requirements of section 4734.40 of the Revised Code and the treatment provider or employee, agent, or representative of the provider has no reason to

believe that the chiropractor has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of chiropractors to provide peer assistance to chiropractors with substance abuse problems with respect to a chiropractor who has been referred for examination to a treatment program approved by the board under section 4734.40 of the Revised Code if the chiropractor cooperates with the referral for examination and with any determination that the chiropractor should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the chiropractor has ceased to participate in the treatment program in accordance with section 4734.40 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.

(C) Any professional association or society composed primarily of chiropractors that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken. The filing of a report with the board, a decision not to file a report with the board, an investigation by the board, or any disciplinary action taken by the board, shall not preclude a professional organization from taking disciplinary action against a chiropractor.

(D) Any insurer providing professional liability insurance to any person holding a valid license as a chiropractor or any other entity that seeks to indemnify the professional liability of a chiropractor shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding ten thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of ten thousand dollars in favor of the claimant, and each involving tortious conduct by the chiropractor.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a chiropractor or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a chiropractor, or in any subsequent trial or appeal of a board action or order. The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a chiropractor or reviewing the chiropractor's privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the chiropractor. The chiropractor shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that reports to the board or refers an impaired chiropractor to a treatment provider approved by the board under section 4734.40 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, a professional association or society of chiropractors that sponsors a committee or program to provide peer assistance to a chiropractor with substance abuse problems, a representative or agent of such a committee or program, and a member of the state chiropractic board shall not be held liable in damages to any person by reason of actions taken to refer a chiropractor to a treatment provider approved under

section 4734.40 of the Revised Code for examination or treatment.

Effective Date: 4-10-2001

4734.34 Applying for Restoration of License.

An individual subject to an action taken under section 4734.31 of the Revised Code, other than permanent revocation of a license to practice chiropractic or certificate to practice acupuncture, may apply to the state chiropractic board to have the individual's license or certificate restored to good standing. The board shall consider the moral character and the activities of the applicant since the board's action was taken, in accordance with the standards for issuance of a license, as established under section 4734.20 of the Revised Code, or the standards for issuance of a certificate to practice acupuncture, as established under section 4734.282 of the Revised Code. The board may impose terms and conditions on restoration of the license or certificate by doing any of the following:

(A) Requiring the applicant to obtain training, which may include requiring the applicant to pass an examination upon completion of the training;

(B) Requiring the applicant to pass an oral or written examination, or both, to determine fitness to resume practice;

(C) Restricting or limiting the extent, scope, or type of practice of the applicant.

Effective Date: 8-22-2007

4734.35 Prosecutor's Report of Convictions.

(A) As used in this section, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B) The prosecutor in any case against any chiropractor holding a valid license issued under this chapter shall promptly notify the state chiropractic board of any of the following:

(1) A plea of guilty to, or a finding of guilt by a jury or court of, a felony, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a felony charge;

(2) A plea of guilty to, or a finding of guilt by a jury or court of, a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice;

(3) A plea of guilty to, or a finding of guilt by a jury or court of, a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural

grounds of a charge of a misdemeanor involving moral turpitude.

(C) The report shall include the name and address of the chiropractor, the nature of the offense for which the action was taken, and the certified court documents recording the action. The board may prescribe and provide forms for prosecutors to make reports under this section. The form may be the same as the form required to be provided under section 2929.24 of the Revised Code.

Effective Date: 4-10-2001

4734.36 Automatic Suspension Upon Guilty Plea or Conviction.

A chiropractor who in this state pleads guilty to or is convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who in another jurisdiction pleads guilty to or is convicted of any substantially equivalent criminal offense, is automatically suspended from practice in this state and the license issued under this chapter to practice chiropractic is automatically suspended as of the date of the guilty plea or conviction. If applicable, the chiropractor's certificate issued under this chapter to practice acupuncture is automatically suspended at the same time. Continued practice after suspension under this section shall be considered practicing chiropractic without a license and, if applicable, acupuncture without a certificate. On receiving notice or otherwise becoming aware of the conviction, the state chiropractic board shall notify the individual of the suspension under this section by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license and, if applicable, certificate to practice acupuncture is suspended under this section fails to make a timely request for an adjudication, the board shall enter a final order revoking the individual's license and, if applicable, certificate to practice acupuncture.

Effective Date: 08-22-2007

4734.37 Summary Suspension of License.

If the state chiropractic board determines that there is clear and convincing evidence that a person who has been granted a license to practice chiropractic and, if applicable, certificate to practice acupuncture under this chapter has committed an act that subjects the person's license and, if applicable, certificate to board action under section 4734.31 of the Revised Code and that the person's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the license and, if applicable, certificate without a prior hearing. A telephone conference call may be utilized for reviewing the matter and taking the vote. The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order is not subject

to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the person subject to the suspension requests an adjudication by the board, the date set for the adjudication shall be within twenty days, but not earlier than seven days, after the request, unless otherwise agreed to by both the board and the person subject to the suspension. Any summary suspension imposed under this section shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to section 4734.31 and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its adjudication. A failure to issue the order within sixty days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.
Effective Date: 8-22-2007

4734.38 Suspension for Mental Illness or Incompetency.

If any person who has been granted a license to practice chiropractic and, if applicable, certificate to practice acupuncture under this chapter is adjudged by a probate court to be mentally ill or mentally incompetent, the person's license and, if applicable, certificate shall be automatically suspended until the person has filed with the state chiropractic board a certified copy of an adjudication by a probate court of being restored to competency or has submitted to the board proof, satisfactory to the board, of having been discharged as being restored to competency in the manner and form provided in section 5122.38 of the Revised Code. The judge of the court shall forthwith notify the board of an adjudication of mental illness or mental incompetence.
Effective Date: 8-22-2007

4734.39 Ability to Practice Impaired.

(A) For purposes of the state chiropractic board's enforcement of division (C)(16) or (17) of section 4734.31 of the Revised Code, an individual who applies for or receives a license to practice chiropractic or certificate to practice acupuncture under this chapter accepts the privilege of practicing chiropractic and, if applicable, acupuncture in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board in its enforcement of those divisions, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(B) If the board has reason to believe that a chiropractor or applicant suffers an impairment described in division (C)(16) or (17) of section 4734.31 of the Revised Code, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual

compelled to be examined. Any mental or physical examination required under this section shall be undertaken by a provider who is qualified to conduct the examination and who is chosen by the board. Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. A default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that an individual's ability to practice is impaired, the board shall suspend the individual's license to practice chiropractic and, if applicable, certificate to practice acupuncture or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, restored, or renewed certification to practice, to submit to care, counseling, or treatment.

(C) Before being eligible to apply for reinstatement of a license or certificate suspended under division (C)(16) of section 4734.31 of the Revised Code or the chemical dependency provisions of division (C)(17) of section 4731.34 of the Revised Code, the impaired individual shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care in the practice of chiropractic and, if applicable, acupuncture under this chapter. If rules have been adopted under section 4734.40 of the Revised Code, the demonstration shall include, but shall not be limited to, the following:

(1) Certification from a treatment provider approved under section 4734.40 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(2) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination. The board may reinstate a license and, if applicable, certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement. When the impaired individual resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports

made under penalty of perjury stating whether the individual has maintained sobriety.

Effective Date: 8-22-2007

4734.40 Establishing Standards for Approving Treatment Providers for Impaired Chiropractors.

(A) The state chiropractic board may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for approving treatment providers for impaired chiropractors. If rules are adopted, the rules shall include standards for both inpatient and outpatient treatment. The rules shall provide that to be approved, a treatment provider must be capable of making an initial examination to determine the type of treatment an impaired chiropractor requires and must be capable of adhering to guidelines the board considers appropriate for assessment and referral of impaired chiropractors. The board shall review treatment providers on a regular basis and designate those providers that meet the standards for approval. The board may deny or withdraw its approval if it finds that the treatment provider being reviewed does not meet or no longer meets the standards for approval.

(B) A chiropractor who enters into treatment by an approved treatment provider shall be deemed to have waived any confidentiality requirements that would otherwise prevent the treatment provider from making reports required under this section.

Effective Date: 4-10-2001

4734.41 Establishing Chemical Dependency and Mental Illness Monitoring Program.

(A) As used in this section:

(1) "Chemical dependency" means either of the following:

(a) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(b) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(2) "Mental illness" means a recognized psychiatric or psychological condition, disorder, or syndrome that has been diagnosed by a psychiatrist, psychologist, licensed professional clinical counselor, or independent social worker as a condition, disorder, or syndrome that may pose a danger to the person

diagnosed or others or may prevent the person from practicing the person's profession according to acceptable and prevailing standards of care.

(B) The state chiropractic board shall establish a chemical dependency and mental illness monitoring program. The program shall be made available to any individual under the board's jurisdiction who has a chemical dependency or mental illness and meets the board's eligibility requirements for admission to and continued participation in the program. The board shall develop the program and may designate a coordinator to administer it or enter into a contract for the program to be administered by another entity through a coordinator. The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedure for operating the program.

(C) Except as provided in division (D) of this section, all records of an individual's participation in the monitoring program, including medical records, chemical dependency records, and mental health records, shall be confidential, are not public records for the purposes of section 149.43 of the Revised Code, and are not subject to discovery by subpoena or admissible as evidence in any judicial proceeding. The program coordinator shall maintain all records as directed by the board.

(D) The monitoring program's coordinator may disclose records or information regarding an individual's progress and status of participation in the program to the disciplinary section of the board and to any person or government entity that the program participant authorizes in writing to be given the records or information.

In disclosing records or information under this division, the coordinator shall not include any record or information that is protected under section 5119.27 of the Revised Code or any federal statute or regulation that provides for the confidentiality of mental health or substance abuse records.

(E) In the absence of fraud or bad faith, the monitoring program's coordinator, the board and the board's employees and representatives are not liable for damages in any civil action as a result of disclosing records or information in accordance with division (D) of this section. In the absence of fraud or bad faith, any person reporting to the program an individual's chemical dependency or mental illness, or the progress or lack of progress of that individual with regard to treatment, is not liable for damages in any civil action as a result of the report.

(F) The board may abstain from taking formal disciplinary action under section 4734.31 of the Revised Code against an individual because of the individual's chemical dependency or mental illness, if the individual meets the eligibility requirements for

admission into the monitoring program and all of the following occur:

(1) The individual enters into a monitoring agreement with the coordinator of the program;

(2) The individual complies with the terms and conditions for continued participation in the program, as specified in the monitoring agreement;

(3) The individual successfully completes the terms and conditions of the monitoring agreement, including the condition that the individual attain the ability to practice in accordance with acceptable and prevailing standards of care applicable to the practice of chiropractic.

Effective Date: 7-10-2014

4734.42 Development and Implementation of Quality Intervention Program.

Pursuant to the state chiropractic board's investigative authority established under this chapter, the board shall develop and implement a quality intervention program designed to improve the practice and communication skills of individuals authorized to practice chiropractic under this chapter. In developing and implementing the quality intervention program, the board shall do all of the following:

(A) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(B) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(C) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual education program;

(D) Determine what constitutes successful completion of an individual education program and require further monitoring of the individual who completed the program or other action the board determines to be appropriate;

(E) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for implementing the quality intervention program.

Effective Date: 4-10-2001

4734.45 Investigations - Confidential Information.

(A) The state chiropractic board shall investigate evidence that appears to show that a person has violated any provision of this chapter or the rules adopted under it. Any person may report to the board in writing or by other means any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports to the board, cooperates in an investigation, or testifies before the board in an adjudication shall not be liable for civil damages as a result of reporting, cooperating, or providing testimony.

(B) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action, except that for good cause, the board or its executive director may disclose or authorize disclosure of information gathered pursuant to an investigation.

The board and its employees may share appropriate information in the board's possession with any federal, state, or local law enforcement, prosecutorial, or regulatory agency or its officers or agents engaging in an investigation. The board and its employees may cooperate in any other manner with the agency or its officers or agents engaging in an investigation.

An agency that receives confidential information shall comply with the same requirements regarding confidentiality as those with which the board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency that applies when the agency is dealing with other information in its possession. The information may be admitted into evidence in a criminal trial in accordance with the Rules of Evidence, or in an administrative hearing conducted by an agency, but the court or agency shall require that appropriate measures be taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients, complainants, or others whose confidentiality was protected by the state chiropractic board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court or agency include sealing its records or redacting specific information from its records.

(C) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.2512305.252 of the Revised Code.

Effective Date: 1-1-2004

4734.46 Hearing and Investigation Procedures.

All of the following apply to the investigations, inquiries, and hearings that the state chiropractic board is empowered to hold or undertake:

(A) An investigation, inquiry, or hearing may be held or undertaken by or before any member of the board.

(B) The board may appoint an examiner who is an attorney to conduct an investigation, inquiry, or hearing. The findings or order of the hearing examiner or a member who holds or undertakes an investigation, inquiry, or hearing shall be deemed to be the findings or order of the board when approved and confirmed by it.

(C) The board shall adopt standards of conduct for the attorneys and other persons who practice before the board at its hearings.

(D) Following an inquiry, the board may, in cases it considers appropriate, issue a "letter of admonition" or a "letter of caution." Issuance of a letter under this division is not an action taken in addition to or in lieu of taking action under section 4734.31 of the Revised Code and is not subject to an adjudication under Chapter 119. of the Revised Code. The letter shall not be used by an employer, insurer, or any other person or government entity as the basis of an adverse action against the recipient.

Effective Date: 4-10-2001

4734.47 Enforcement Officer.

(A) The executive director of the state chiropractic board shall function as the chief enforcement officer of the board and shall enforce the laws relating to the practice of chiropractic and acupuncture under this chapter. If the executive director has knowledge or notice of a violation of those laws, the executive director shall investigate the matter or cause the matter to be investigated. On probable cause appearing, the executive director shall prosecute the offender or cause the offender to be prosecuted. If the matter involves a violation by an individual licensed under this chapter, the executive director shall bring the matter before the board. If the matter involves a violation for which a penalty may be imposed under section 4734.99 of the Revised Code, the executive director or a person authorized by the board to represent the executive director may file a complaint with the prosecuting attorney of the proper county. Except as provided in division (B) of this section, the prosecuting attorney shall take charge of and conduct the prosecution.

(B) For purposes of enforcing this chapter, the board may petition a court of record to appoint an attorney to assist the prosecuting attorney in the prosecution of offenders or to take charge of and conduct the prosecutions as a special prosecutor. The court shall grant the petition if it is in the public interest. A

special prosecutor appointed by the court shall be compensated by the board in an amount approved by the board. If the court believes that public knowledge of the appointment of a special prosecutor could allow one or more persons to interfere with the prosecution or any investigation related to the prosecution, the court may seal all documents pertaining to the appointment. Sealed documents shall remain sealed until there is court action on the prosecution or until the court orders the documents to be opened.

Effective Date: 8-22-2007

4734.48 Service of Process - Procedure for Discovery.

(A) For purposes of enforcing this chapter, the state chiropractic board or any of its members, the board's executive director, and any person authorized by the board to serve as the executive director's representative may do any of the following:

(1) Serve and execute any process issued by any court regarding the practice of chiropractic and serve and execute any papers or process issued by the board or any officer or member of the board;

(2) Administer oaths, propound interrogatories, order the taking of depositions, compel by subpoena that witnesses appear and testify, and compel by subpoena duces tecum the production of books, accounts, papers, records, documents, or other tangible objects. If a person fails to cooperate in an interrogatory or deposition or fails to comply with a subpoena or subpoena duces tecum, the board may apply to the court of common pleas of Franklin county for an order compelling the person to cooperate in the interrogatory or deposition or to comply with the subpoena or subpoena duces tecum or, for failure to do so, be held in contempt of court. The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures to be followed in taking the actions authorized under division (A)(2) of this section, including procedures regarding payment for and service of subpoenas.

(3) File with a judge or clerk of a court of record, or with a magistrate, an affidavit charging a person with committing a violation of any provision of this chapter or the rules adopted under it. For purposes of this division, the person filing the affidavit is a peace officer who is authorized to file an affidavit under section 2935.09 of the Revised Code.

(B) Any process, paper, or other document served under this chapter by the board, a board member, the executive director, or an authorized representative of the executive director may be served by personal service, residence service, or certified mail. Service may be made at the intended recipient's usual place of business. If attempts at service by personal service, residence service, or

certified mail are unsuccessful, service may be made as follows:

(1) By ordinary mail. If the process, paper, or other document that is mailed is not returned by the United States postal service, service on the intended recipient is deemed to have occurred on the tenth day after the mailing.

(2) By publication of a notice in any newspaper of general circulation in the county in which the intended recipient's last known residential or business address is located.

Effective Date: 4-10-2001

4734.49 Injunctions.

(A) The attorney general, the prosecuting attorney of the county in which a violation of this chapter is committed or is threatened to be committed or in which the offender resides, the state chiropractic board, or any other person having knowledge of a person committing or threatening to commit a violation of this chapter may, in accordance with the provisions of the Revised Code governing injunctions, maintain an action in the name of this state to enjoin the person from committing the violation by applying for an injunction in any court of competent jurisdiction. Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court. If the court grants a final or permanent injunction that is a final appealable order, the court may award to the person or entity that maintained the action an amount not exceeding five thousand dollars to cover reasonable attorney's fees, investigative costs, and other costs related to the investigation or prosecution of the case. Injunction proceedings brought under this section shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

(B)

(1) The practice of chiropractic by any person not at that time holding a valid and current license issued under this chapter is hereby declared to be inimical to the public welfare and to constitute a public nuisance.

(2) Except for the practice of acupuncture by persons described in section 4762.02 of the Revised Code and persons who hold certificates issued under section 4762.04 of the Revised Code, the practice of acupuncture by any person not at that time holding a valid and current certificate to practice acupuncture issued under this chapter is hereby declared to be inimical to the public welfare and to constitute a public nuisance.

Effective Date: 8-22-2007

4734.50 Notice or Warnings for Minor Violations.

This chapter does not require the state chiropractic board to act on minor violations of this chapter or the rules adopted under it, if the violations are committed by individuals licensed to practice chiropractic or certified to practice acupuncture under this chapter and the board determines that the public interest is adequately served by issuing a notice or warning to the alleged offender.

Effective Date: 8-22-2007

4734.53 Fines.

All fines collected for violation of section 4734.14 or 4734.161 of the Revised Code shall be distributed as follows: one half to the state chiropractic board for deposit in accordance with section 4734.54 of the Revised Code and one half to the treasury of the county or municipal corporation in which the offense was committed.

Effective Date: 4-10-2001

4734.54 Depositing Receipts.

All moneys received by the state chiropractic board shall be paid into the state treasury and credited to the occupational licensing and regulatory fund. Moneys credited to the fund that are the result of fines collected under section 4734.53, fines collected under section 4734.31, and amounts awarded under section 4734.49 of the Revised Code shall be used solely for purposes related to the board's enforcement of this chapter. Moneys credited to the fund that are the result of any fee charged under section 4734.21 of the Revised Code shall be used solely for purposes related to implementing that section.

Effective Date: 4-10-2001

4734.55 Providing Information - Duplicate License.

The state chiropractic board shall provide a duplicate license to practice chiropractic or certificate to practice acupuncture to a license or certificate holder on payment of a fee of forty-five dollars. Upon written request and the payment of a fee of ninety-five dollars, the board shall provide to any person a list of persons holding licenses to practice chiropractic or certificates to practice acupuncture, as indicated in its register maintained pursuant to section 4734.04 of the Revised Code. Upon written request from the holder of a license or certificate issued under this chapter for the board's certification of information pertaining to the license or certificate, and the payment of a fee of twenty dollars, the board shall issue its certification of the information to the person identified by the licensee or certificate holder in the request.

Effective Date: 8-22-2007

4734.56 Fees in Excess of Statutory Amounts.

The state chiropractic board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in this chapter, provided that such fees do not exceed the amounts specified by more than fifty per cent.

Effective Date: 4-10-2001

4734.57 Compliance with Law Regarding Sanctions for Human Trafficking.

The state chiropractic board shall comply with section 4776.20 of the Revised Code.

Effective Date: 3-22-2013

4734.99 Penalty.

(A) Whoever violates section 4734.14 or 4734.141 of the Revised Code is guilty of a felony of the fifth degree on a first offense, unless the offender previously has been convicted of or has pleaded guilty to a violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.40, 2913.47, 2913.48, 2913.51, 2921.13, 4715.09, 4723.03, 4725.02, 4725.41, 4729.27, 4729.28, 4729.36, 4729.51, 4729.61, 4730.02, 4731.41, 4731.43, 4731.46, 4731.47, 4731.60, 4732.21, 4741.18, 4741.19, 4755.48, 4757.02, 4759.02, 4761.10, or 4773.02 of the Revised Code or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to a violation of any of those sections, in which case the offender is guilty of a felony of the fourth degree. For each subsequent offense, the offender is guilty of a felony of the fourth degree.

(B) Whoever violates section 4734.161 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (A), (B), (C), or (D) of section 4734.32 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

Effective Date: 8-22-07

OHIO ADMINISTRATIVE CODE

Chapter 4734-1 General Provisions

4734-1-01 Rulemaking and Review of Existing Rules.

(A) The board shall comply with the provisions of Section 119.03 of the Revised Code for the adoption, amendment or rescission of any rule.

(B) The board shall comply with the provisions of Section 106.03 of the Revised Code for the review of existing rules.

(C) In accordance with Section 119.0311 of the Revised Code, the board shall publish a guide to public participation in rule-making and review of existing rules. The guide shall be published in the register of Ohio and on the board's website, and a copy provided to any person upon request.

Effective 10-1-2017

Review Date: 10-1-2022

4734-1-02 Public Notice of Meetings.

(A) The board shall comply with the public meeting requirements outlined in Section 121.22 of the Revised Code.

(B) Notification of regular, special and emergency meetings of the board shall be posted on the board's website and shall specify the date, time, and place of the meeting. Notification of special meetings shall also include the purpose of the meeting and shall not be held unless at least twenty-four hours advance notice has been given to all media outlets that have requested such notification.

(C) The board may hold an emergency meeting when a situation requires immediate official action. The board shall immediately notify all media outlets that have specifically requested such notice of the time, place and purpose for the meeting.

(D) Any person may determine the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings by writing or calling the board at its business office or by visiting the board's website. Any person may request advance notification of all meetings at which any specific type of public business is to be discussed. Notification shall be made via electronic or regular mail.

Effective 10-1-2017

Review Date: 10-1-2022

4734-1-09 Organizational Memberships.

(A) Memberships. The board shall hold membership in the "Federation of Chiropractic Licensing Boards," (hereinafter the "FCLB") in accordance with section 4734.08 of the Revised Code. The board may participate in the governance of the "National Board of Chiropractic Examiners," (hereinafter "NBCE"). The board may join or participate in other groups, associations, or organizations which are consistent with its mission.

(B) Participation. The board may participate in activities and programs of the "FCLB," "NBCE" and other groups, associations, or organizations. The board's participation may include its members, selected staff members and other board representatives. The board's participation in affiliated

organizations shall be subject to budgetary and logistical constraints.

(C) Delegates. The board members shall designate one member to serve as a delegate and one member to serve as an alternate delegate for purposes of voting on behalf of the board at meetings of the "FCLB" and/or the "NBCE." Said designation shall be made by a majority decision of the board. Board members shall disclose any conflicts of interest prior to voting.

(D) Voting. Board members that vote as a delegate to the "FCLB" and/or the "NBCE" shall vote accordingly: Issues that are slated to be voted upon at said meeting shall be placed on the board's agenda prior to the respective meeting for a majority decision. The board decision shall be deemed unalterable by a voting delegate, but would remain modifiable to the attending majority.

Effective 10-1-2017

Review Date: 10-1-2022

4734-1-15 Scope of Practice.

(A) In the conduct of the practice of chiropractic no chiropractic physician shall perform any service that is beyond the scope of his or her education, training, and experience.

(B) The practice of chiropractic will include and permit the use of such diagnostic and treatment procedures as are taught by board approved chiropractic colleges except as prohibited by law and/or the rules of this board.

Effective: 9-22-2015

Review Date: 9-22-2020

Chapter 4734-3 Records

4734-3-01 Personal Information Systems Definitions.

For the purposes of administrative rules promulgated in accordance with section 1347.15 of the Revised Code, the following definitions apply:

(A) "Access" as a noun means an instance of copying, viewing, or otherwise perceiving whereas "access" as a verb means to copy, view, or otherwise perceive.

(B) "Acquisition of a new computer system" means the purchase of a "computer system," as defined in this rule, that is not a computer system currently in place nor one for which the acquisition process has been initiated as of the effective date of the board rule addressing requirements in section 1347.15 of the Revised Code.

(C) "Computer system" means a "system," as defined by section 1347.01 of the Revised Code, that stores, maintains, or retrieves personal information using electronic data processing equipment.

(D) "Confidential personal information" (CPI) has the meaning as defined by division (A)(1) of section 1347.15 of the Revised Code and identified by rules promulgated by the board in accordance with division (B)(3) of section 1347.15 of the Revised Code that reference the federal or state statutes or administrative rules or case law that make personal information maintained by the board mandatorily confidential.

(E) "Board" means the Ohio state chiropractic board.

(F) "Employee of the board" means each employee of the board regardless of whether he/she holds an elected or appointed office or position within the board. "Employee of the board" is limited to the Ohio state chiropractic board.

(G) "Incidental contact" means contact with the information that is secondary or tangential to the primary purpose of the activity that resulted in the contact.

(H) "Individual" means a natural person or the natural person's authorized representative, legal counsel, legal custodian, or legal guardian.

(I) "Information owner" means the individual appointed in accordance with division (A) of section 1347.05 of the Revised Code to be directly responsible for a system. The board's information owner shall be the executive director.

(J) "Person" means a natural person.

(K) "Personal information" has the same meaning as defined in division (E) of section 1347.01 of the Revised Code.

(L) "Personal information system" means a "system" that "maintains" "personal information" as those terms are defined in section 1347.01 of the Revised Code. "System" includes manual and computer systems.

(M) "Research" means a methodical investigation into a subject.

(N) "Routine" means commonplace, regular, habitual, or ordinary.

(O) "Routine information that is maintained for the purpose of internal office administration, the use of which would not adversely affect a person" as that phrase is used in division (F) of section 1347.01 of the Revised Code means personal information relating to employees, potential employees or former employees and maintained by the board for internal administrative and human resource purposes.

(P) "System" has the same meaning as defined by division (F) of section 1347.01 of the Revised Code.

(Q) "Upgrade" means a substantial redesign of an existing computer system for the purpose of providing a substantial amount of new application functionality, or application modifications that would involve substantial administrative or fiscal resources to implement, but would not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal requirements.

Effective: 4-16-2015
Review Date: 4-16-2020

4734-3-02 Procedures for Accessing Confidential Personal Information.

For personal information systems, whether manual or computer systems that contain confidential personal information, the board shall do the following:

(A) Criteria for accessing confidential personal information. Personal information systems of the board are managed on a "need-to-know" basis whereby the executive director determines the level of access required for an employee of the board to fulfill his/her job duties. The determination of access to confidential personal information shall be approved by the information owner prior to providing the employee with access to confidential personal information within a personal information system. The board shall establish procedures for determining a revision to an employee's access to confidential personal information upon a change to that employee's job duties including, but not limited to, transfer or termination. Whenever an employee's job duties no longer require access to confidential personal information in a personal information system, the employee's access to confidential personal information shall be removed.

(B) Individual's request for a list of confidential personal information. Upon the signed written request of any individual for a list of confidential personal information about the individual maintained by the board, the board shall do all of the following:

(1) Verify the identity of the individual by a method that provides safeguards commensurate with the risk associated with the confidential personal information;

(2) Provide to the individual the list of confidential personal information that does not relate to an investigation about the individual or is otherwise not excluded from the scope of Chapter 1347. of the Revised Code; and

(3) If all information relates to an investigation about that individual, inform the individual that the board has no confidential personal information about the individual that is responsive to the individual's request.

(C) Notice of invalid access.

(1) Upon discovery or notification that confidential personal information of a person has been accessed by an employee for an invalid reason, the board shall notify the person whose information was invalidly accessed as soon as practical and to the extent known at the time. However, the board shall delay notification for a period of time necessary to ensure that the notification would not delay or impede an investigation or jeopardize homeland or national security. Additionally, the board may delay the notification consistent with any measures necessary to determine the scope of the invalid access, including which individuals' confidential personal information invalidly was accessed, and to restore the reasonable integrity of the system.

"Investigation" as used in this paragraph means the investigation of the circumstances and involvement of an employee surrounding the invalid access of the confidential personal information. Once the board determines that notification would not delay or impede an investigation, the board shall disclose the access to confidential personal information made for an invalid reason to the person.

(2) Notification provided by the board shall inform the person of the type of confidential personal information accessed and the date(s) of the invalid access.

(3) Notification may be made by any method reasonably designed to accurately inform the person of the invalid access, including written, electronic, or telephone notice.

(D) Appointment of a data privacy point of contact. The executive director shall designate an employee of the board to serve as the data privacy point of contact. The data privacy point of contact shall work with the chief privacy officer within the office of information technology to assist the board with both the implementation of privacy protections for the confidential personal information that the board maintains and compliance with section 1347.15 of the Revised Code and the rules adopted pursuant to the authority provided by that chapter.

(E) Completion of a privacy impact assessment. The board's data privacy point of contact shall timely complete the privacy impact assessment form developed by the office of information technology.

Effective: 4-16-2015
Review Date: 4-16-2020

4734-3-03 Valid Reasons for Accessing Confidential Personal Information.

Pursuant to the requirements of division (B)(2) of section 1347.15 of the Revised Code, this rule contains a list of valid reasons, directly related to the board's exercise of its powers or duties, for which only employees of the board may access confidential personal information (CPI) regardless of whether the

personal information system is a manual system or computer system:

(A) Performing the following functions constitute valid reasons for authorized employees of the board to access confidential personal information:

- (1) Responding to a public records request;
- (2) Responding to a request from an individual for the list of CPI the board maintains on that individual;
- (3) Administering a constitutional provision or duty;
- (4) Administering a statutory provision or duty;
- (5) Administering an administrative rule provision or duty;
- (6) Complying with any state or federal program requirements;
- (7) Auditing purposes;
- (8) Licensure, renewal, reinstatement or restoration processes;
- (9) Law enforcement or investigation purposes which may include reviewing CPI of individuals who are not the subject of an investigation, but who otherwise may be witnesses with information related to or pertaining to the investigation.
- (10) Administrative hearings;
- (11) Litigation, complying with an order of the court, or subpoena;
- (12) Human resource matters (e.g. hiring, promotion, demotion, discharge, salary/compensation issues, leave requests/issues, time card approvals/issues);
- (13) Complying with an executive order or policy;
- (14) Complying with an agency policy or a state administrative policy issued by the department of administrative services, the office of budget and management or other similar state agency;
- (15) Complying with a collective bargaining agreement provision; or
- (16) Supervising the work of another employee.

Effective: 4-16-2015
Review Date: 4-16-2020

4734-3-04 Confidentiality Laws.

The following federal statutes or regulations or state statutes and administrative rules, and case law make personal information maintained by the board confidential and identify the confidential personal

information within the scope of rules promulgated by the board in accordance with section 1347.15 of the Revised Code:

(A) Social security numbers: 5 U.S.C. 552 a., "State ex rel Beacon Journal v. Akron (1994), 70 Ohio St. 3d 605," unless the individual was advised that the number would be disclosed.

(B) Bureau of criminal identification and investigation criminal records check results: section 4776.04 of the Revised Code.

(C) Medical records: section 149.43 of the Revised Code and Health Insurance Portability and Accountability Act, Title II 45 CFR 160, 42 USC 1320.

(D) Law enforcement investigatory records: section 149.43 of the Revised Code and section 4734.45 of the Revised Code.

(E) College transcripts: Family Education Rights and Privacy Act, 34 CFR Part 99.

(F) Records excluded by the Ohio Public Records Act: section 149.43 of the Revised Code.

Effective: 4-6-2015
Review Date: 4-16-2020

4734-3-05 Restricting and Logging Access to Confidential Personal Information in Computerized Personal Information Systems.

For personal information systems that are computer systems and contain confidential personal information, the board shall do the following:

(A) Access restrictions. Access to confidential personal information that is kept electronically shall require a password or other authentication measure.

(B) Acquisition of a new computer system. When the board acquires a new computer system that stores, manages or contains confidential personal information, the board shall include a mechanism for recording specific access by employees of the board to confidential personal information in the system.

(C) Upgrading existing computer systems. When the board modifies an existing computer system that stores, manages or contains confidential personal information, the board shall make a determination whether the modification constitutes an upgrade. Any upgrades to a computer system shall include a mechanism for recording specific access by employees of the board to confidential personal information in the system.

(D) Logging requirements regarding confidential personal information in existing computer systems.

(1) The board shall require employees who access confidential personal information within computer systems to maintain a log that records that access.

(2) Access to confidential information is not required to be entered into the log under the following circumstances:

(a) The employee of the board is accessing confidential personal information for official board purposes, including research, and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(b) The employee of the board is accessing confidential personal information for routine office procedures and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(c) The employee of the board comes into incidental contact with confidential personal information and the access of the information is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(d) The employee of the board accesses confidential personal information about an individual based upon a request made under either of the following circumstances:

(i) The individual requests confidential personal information about himself/herself.

(ii) The individual makes a request that the board takes some action on that individual's behalf and accessing the confidential personal information is required in order to consider or process that request.

(3) For purposes of this rule, the board may choose the form or forms of logging, whether in electronic or paper formats.

(E) Log management. The board shall issue a policy that specifies the following:

(1) Who shall maintain the log;

(2) What information shall be captured in the log;

(3) How the log is to be stored; and

(4) How long information kept in the log is to be retained.

Nothing in this rule limits the board from requiring logging in any circumstance that it deems necessary.

Effective: 10-18-2010

Review Date: 1-12-2020

Chapter 4734-4 Hearings

4734-4-02 Representatives; Appearances; Communications; Applicability.

(A) As used in Chapter 4734-4 of the Administrative Code, respondent shall be defined as the person who is requesting or has requested a hearing as provided in Chapter 119. of the Revised Code.

(B) Any provision of the rules in this chapter which references a hearing officer shall apply to the board in those instances in which the administrative hearing is conducted before the board, or to an attorney hearing examiner hired by the board or presiding board member, unless such rule by its nature is clearly inapplicable.

(C) All filings in any cases before the board shall be directed to the attention of the executive director and filed at the board office.

(D) A respondent may represent him or herself or may be represented by an attorney admitted to the practice of law in Ohio. If the respondent does represent him or herself, he or she shall be deemed the representative of record for purposes of Chapter 4734-4 of the Administrative Code.

(E) A respondent is not required to personally appear at any hearing provided he or she has not been subpoenaed and has authorized his or her representative to represent him or her in all facets of a hearing before the board.

(F) A respondent or his or her representative may present his or her position, arguments, or contentions in writing, rather than personally appearing at any hearing, provided the respondent has not been subpoenaed.

(G) The representative of record for the respondent shall file a notice of appearance of counsel in writing with the board and shall serve such notice upon the representative of record from the office of the attorney general.

(H) The representative of record from the office of the attorney general shall, within fourteen days of the hearing inform the respondent or if applicable, the respondent's representative of record, in writing, that the attorney general's representative will serve as counsel of record for the case.

(I) Any representative of record who has entered an appearance before the board remains the representative of record unless and until a written withdrawal is filed with the board.

(J) Except as otherwise provided under Chapter 119. of the Revised Code, communications from the board or its hearing officer shall be sent to the representative of record.

(K) The members of the board shall base their decisions on any matter subject to hearing only on the evidence of record. No information acquired by a member of the board in any way other than by review of the evidence of record shall be considered by such member in that member's decision on a matter subject to hearing. The receipt of information about a matter subject to hearing outside the evidence of record shall not disqualify the member from participating in the decision on that matter, unless the member excuses himself or herself from participation in the decision on the ground that he or she cannot restrict his or her decision on the matter only to the evidence of record.

(L) Except as otherwise provided under this chapter or by statute, no hearing officer or member of the board shall initiate or consider ex parte communications concerning a pending or impending adjudicatory proceeding. Nothing contained herein, however, shall preclude the hearing officer or presiding board member from nonsubstantive ex parte communications on procedural matters and matters affecting the efficient conduct of adjudicatory hearings.

(M) The hearing officer and members of the board shall disclose on the record the source and substance of any ex parte or attempted ex parte communications. That disclosure shall be made at the earliest possible opportunity, but at least prior to deliberation on a pending or impending adjudicatory proceeding.

(N) Except as otherwise provided under this chapter or by statute, a rule promulgated under this chapter shall apply only to those administrative proceedings for which a notice of opportunity for hearing was mailed to respondent, or his representative, on or after the effective date of the particular rule.

(O) If any provision of the rules in this chapter is held invalid or if the application of any provision of the rules in this chapter to any person or circumstance is held invalid, the invalidity does not affect any other provision of the rules in this chapter, or the application of any other provision of the rules in this chapter, that can be given effect without the invalid provision or application, and, to this end, the provisions of the rules in this chapter are hereby declared severable.

Effective: 8-12-2002
Review Date: 6-30-2022

4734-4-03 Continuances.

(A) The board may initially continue a hearing upon its own motion for a period of not less than thirty days, in order to more efficiently and effectively conduct its business, unless the circumstances establish that a continuance would not serve the interest of justice. The hearing officer or presiding board member may continue a hearing upon the motion of a representative of record. Hearings shall

not be continued upon motion unless a showing of reasonable cause and proper diligence is presented. Before granting any continuance, consideration shall be given to harm to the public which may result from delay in proceedings.

(B) No continuance of an adjudicatory hearing under section 4734.37 of the Revised Code shall be granted without the written agreement of the respondent or his representative and the board.

(C) If a continuance is granted, the hearing officer or presiding board member shall immediately establish a new hearing date, unless circumstances prohibit.

(D) Hearings may be continued due to the unavailability of a subpoenaed witness, at the discretion of the hearing officer or presiding board member. The hearing officer or presiding board member may hold the record open to accept a deposition in lieu of live testimony of a subpoenaed witness. The procedures set forth in this chapter shall apply to any deposition taken pursuant to this rule.

(E) No adjudication hearing shall be continued for more than ninety days for the purpose of exchanging witness or document lists to the extent provided by this chapter unless the presiding board member or hearing officer finds in writing that such exchange was diligently pursued but was not completed due to the unusual circumstances of the case.

Effective: 8-12-2002
Review Date: 6-30-2022

4734-4-04 Out-of-State Attorneys.

(A) Only those out-of-state attorneys who have been granted authority by a court of competent jurisdiction may represent respondents in administrative hearings before the board.

Effective: 8-12-2002
Review Date: 6-30-2022

4734-4-05 Authority and Duties of Hearing Officers.

(A) Adjudication hearings may be conducted before a hearing officer pursuant to Chapters 4734. and 119. of the Revised Code. The board shall set the qualifications for hearing officers and shall appoint its hearing officers to serve during each fiscal year. The board or the executive director shall determine which hearing officer is assigned a particular case.

(B) All hearings shall be open to the public, but the hearing officer or presiding board member conducting a hearing may close the hearing to the extent necessary to protect compelling interests and rights or to comply with statutory requirements. In the event the hearing officer or presiding board member determines to close the hearing, the hearing officer or presiding board member shall state these reasons on the record prior to closing the hearing.

(C) The hearing officer or presiding board member shall conduct hearings in such a manner as to prevent unnecessary delay, maintain order, and ensure the development of a clear and adequate record.

(D) The authority of the hearing officer or presiding board member shall include, but not be limited to:

(1) Administer oaths and affirmations;

(2) Order issuance of subpoenas and subpoenas duces tecum to require the attendance of witnesses at hearings and depositions in lieu of live testimony at hearing and to require the production of evidence for hearings and depositions;

(3) Examine witnesses and direct witnesses to testify;

(4) Ruling on the admissibility of evidence;

(5) Ruling on procedural motions, whether such motions are oral or written;

(6) Hold prehearing and status conferences and mediate settlement discussions;

(7) Requesting briefs before, during or following the hearing, as well as suggested findings, orders, and conclusions of law within such time limits as the hearing officer may determine;

(8) Preparing entries, findings, orders, or reports and recommendations;

(9) Requesting preparation of entries, findings, or orders;

(10) Ruling on requests to broadcast, record, televise or photograph the hearing;

(11) Determining the order in which any hearing shall proceed.

(12) Taking such other actions as may be necessary to accomplish the purposes of paragraph (C) of this rule and to carry out Chapters 119. and 4734. of the Revised Code.

(E) The authority of the hearing officer or presiding board member shall not include:

(1) Granting motions for dismissal of charges;

(2) Modifying, compromising, or settling charges or allegations.

(F) The hearing officer or presiding board member shall have such other powers, duties, and authority as are granted by statutes or rules.

(G) All rulings on evidence and motions and on any other procedural matters shall be subject to review by the board upon presentation of the proposed findings of facts and conclusions of law of the hearing officer or presiding board member. When such rulings warrant, the matter may be remanded to the hearing officer or presiding board member.

Effective: 8-12-2002

Review Date: 6-30-2022

4734-4-06 Broadcasting and Photographing Administrative Hearings.

If the hearing officer or presiding board member determines that broadcasting, televising, recording or taking of photographs in the hearing room would not distract participants or impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair administrative hearing, the broadcasting, televising, recording or taking of photographs during hearing proceedings open to the public may be permitted under the following conditions and upon request:

(A) Requests for permission for the broadcasting, televising, recording or taking of photographs in the hearing room shall be made in writing to the hearing officer or presiding board member prior to the commencement of the hearing, and shall be made a part of the record of the proceedings;

(B) Permission is expressly granted prior to commencement of the hearing in writing by the hearing officer or presiding board member and is made a part of the record of the proceedings;

(C) If the permission is granted, the hearing officer or presiding board member shall specify the place or places in the hearing room where operators and equipment are to be positioned;

(D) The filming, videotaping, recording or taking of photographs of witnesses who object thereto shall not be permitted.

Effective: 8-12-2002

Review Date: 6-30-2022

4734-4-07 Depositions in Lieu of Testimony at Hearing and Transcripts of Prior Testimony for Submission at Hearing.

(A) Upon written motion of any representative of record or the hearing officer's or presiding board member's own motion, and upon service of that motion to all other representatives, the hearing officer or presiding board member may order that the testimony of a witness be taken by deposition in lieu of live testimony under such conditions and terms as the hearing officer or presiding board member shall set, and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place if it appears probable that:

(1) The witness will be unavailable to attend or will be prevented from attending a hearing; and

(2) The testimony of the witness is material; and

(3) The testimony of the witness is necessary in order to prevent a failure of justice.

In the case of an expert witness, a showing of the unavailability of the expert shall not be necessary for the hearing officer's or presiding board member's consideration of the motion of a representative to take a deposition in lieu of live testimony.

(B) The representatives shall agree to the time and place for taking the deposition in lieu of live testimony. Depositions shall be conducted in the same county in which the hearing is conducted unless otherwise agreed to by the representatives. If the representatives are unable to agree, the hearing officer or presiding board member shall set the time or fix the place of deposition. At a deposition taken pursuant to this rule, representatives shall have the right, as at hearing, to fully examine witnesses. The hearing officer or presiding board member has the discretion to be present at the deposition in lieu of testimony at hearing.

(C) Unless requested due to the sudden unavailability of a witness, a deposition taken under this rule shall be filed with the board not later than one day prior to hearing, and shall be offered into evidence at hearing by the representative requesting the deposition, in lieu of the witness' live testimony at hearing. The cost of preparing a transcript of any testimony taken by deposition in lieu of live testimony shall be borne by the board. In the event of appeal, such costs shall be made a part of the cost of the hearing record. The expense of any video deposition shall be borne by the requestor. Any motion for a post-hearing deposition arising from the sudden unavailability of a witness shall be ruled upon by the hearing officer or presiding board member.

(D) Any deposition or transcript of prior testimony of a witness may be used for the purpose of refreshing the recollection, contradicting the testimony or impeaching the credibility of that witness. If only a part of a deposition of prior testimony is offered into evidence by a representative, the opposing representative may offer any other part. Nothing in this paragraph shall be construed to permit the taking of depositions for purposes other than those set forth in paragraph (A) of this rule.

(E) A transcript of testimony and exhibits from a prior proceeding may be introduced for any purpose if that prior proceeding forms the basis for the allegations in the current case. Upon offering part of a transcript or exhibit from a prior proceeding, the offering representative may be required by the opposing representative to present any other part of the

offered item which should in fairness be considered contemporaneously with it.

(F) The content of investigative depositions taken by the board as part of its investigatory process may be introduced into evidence at hearing upon the motion for counsel for the state, if the respondent was given notice and an opportunity to attend the deposition. If the respondent was not given an opportunity to attend the deposition, the hearing officer may admit the deposition if the interests of justice require that it be so introduced.

Effective: 8-12-2002

Review Date: 6-30-2022

4734-4-08 Witnesses; Subpoenaes; Witness Fees.

(A) Witnesses.

(1) Testimony under oath: All witnesses at any administrative hearing or during any deposition in lieu of live testimony, shall testify under oath or affirmation.

(2) Legal counsel for witness: A witness may be accompanied and advised by legal counsel. Participation by counsel for a witness other than the respondent is limited to protection of that witness' rights, and the witness' legal counsel may neither examine nor cross-examine any witnesses.

(3) Refusal by witness to testify: Should a witness refuse to be sworn, refuse to answer a question ruled proper at a hearing or disobey a subpoena, the board may institute contempt proceedings pursuant to section 119.09 of the Revised Code.

(4) Hearing officer/board member incompetent as witness: The presiding hearing officer, because of his duties, shall not be a competent witness nor subject to deposition in any adjudication proceeding. Unless the testimony of a board member or a hearing officer is material to the factual allegations set forth in the notice of opportunity for hearing, board members and hearing officers shall not be competent witnesses nor subject to deposition in lieu of live testimony in any adjudication proceeding. Evidence from other persons relating to the mental processes of the presiding hearing officer or board members shall not be admissible.

(5) Recusal by hearing officer/board member: If the hearing officer/board member intends to serve as a witness, he/she shall recuse him or herself from presiding over, deliberating on, or ruling on the matter.

(6) Separation of witnesses: Any representative of record or the hearing officer or presiding board member may move for a separation of witnesses. Expert witnesses shall not be separated. In granting a separation order, the hearing officer or presiding

board member shall permit the executive director of the board and any case investigator designated by the counsel for the state, to remain present at the hearing. Notwithstanding the respondent's intent to testify, he or she may also remain present. A board member may attend a hearing as a member of the audience. Each representative of record at a hearing shall inform the hearing officer or presiding board member of the identity of each potential witness for his case present in the hearing room. Failure to so identify potential witnesses may be grounds for their later disqualification as witnesses.

(7) Propriety of board action: No witnesses shall be permitted to testify as to the nature, extent, or propriety of disciplinary action to be taken by the board. A witness may, at the discretion of the hearing officer or presiding board member, testify as to an ultimate issue of fact.

(B) Subpoenaes.

(1) Procedure for issuance: Upon written request of either party in a precipe filed with the board, the board shall issue subpoenas for purposes of hearing to compel the attendance and testimony of witnesses and production of books, records and papers at the hearing. Each subpoena shall indicate on whose behalf the witness is required to testify. The precipe shall indicate the method of service of the subpoena, i.e. (personal, residence, certified mail, etc.) and who is to effect service (i.e. deputy sheriff, return to counsel for service, process server).

(2) Process servers: Any representative of record may move the hearing officer or presiding board member for the appointment of a special process server. The motion shall state the name of the proposed process server, the process server's occupation, business address, that the process server is at least 18 years of age and not employed by or a business associate of the respondent. The hearing officer or presiding board member may then appoint such applicant as a special process server for the board, authorized to serve subpoenas for that particular case. The board's executive director may appoint special process servers to serve any process or papers issued by the board on an ongoing basis. The executive director shall enter such appointment and the particulars on the journal of the board. The respondent is responsible for payment of any special process servers working on his or her behalf.

(3) Details of subpoena: For purposes of a hearing conducted under Chapter 119. of the Revised Code, subpoena requests shall specify the name and address of the individual to be served and the date, time and location at which they are to appear at the administrative hearing. If the subpoena includes a duces tecum request, the specific documents or tangible things to be produced at the administrative hearing shall be listed in the request.

(4) Time to file request for subpoena: Except upon leave of the board or its hearing officer or presiding board member, subpoena requests are to be filed with the board as provided in this chapter, at least twenty-one days in advance of the requested date of compliance, in order to allow sufficient time for preparation and service of the subpoenas.

(5) Excessive subpoenas: In the event that the number of subpoenas requested appears to be unreasonable, the board or its hearing officer or presiding board member may require a showing of necessity therefore, and, in the absence of such showing, may limit the number of subpoenas. Absent such a limitation, subpoenas shall be issued within five business days of request. Failure to issue subpoenas within this time may constitute sufficient grounds for the granting of a continuance.

(6) After the hearing has commenced, the board or its hearing officer or presiding board member may order the issuance of subpoenas for purposes of hearing to compel the attendance and testimony of witnesses and production of books, records and papers. Copies of such subpoenas shall be issued to the representatives as identified by the parties.

(7) Quashing subpoenas: Upon motion and for good cause, the board or its hearing officer or presiding board member may order any subpoena be quashed. Motions to quash shall be made in the manner provided in this chapter, except that motions to quash shall be filed at least five days prior to the date of compliance. The non-moving party may file a response no later than four days after service of the motion to quash or at least one day prior to the date of compliance, whichever is earlier. Unless a motion to quash has been granted, a witness shall attend the hearing to which he or she was subpoenaed. The board shall make a reasonable attempt to contact any witness whose subpoena has been quashed.

(8) Witnesses may not be subpoenaed to prehearing conferences.

(C) Mileage reimbursement and witness fees.

(1) Mileage and witness fees shall be paid in the same manner as that allowed pursuant to section 119.094 of the Revised Code.

(2) The respondent may not subpoena him or herself.

(3) Mileage and witness fees shall not be paid to anyone who fails to register at the hearing for which he or she was subpoenaed.

Effective: 8-12-2002
Review Date: 6-30-2022

4734-4-09 Evidence; Judicial Notice of Board Records; Stipulations; Certified Copy of Conviction Deemed Conclusive.

(A) The Ohio rules of evidence may be taken into consideration by the hearing officer or presiding board member in determining the admissibility of evidence, but shall not be controlling. The hearing officer or presiding board member may permit the use of electronic or photographic means for the presentation of evidence.

(B) The hearing officer or presiding board member shall admit evidence of any prior action entered by the state chiropractic board against the respondent, including formal disciplinary action or warning letters. The board may take administrative (judicial) notice of its own records and reports, upon timely notice to the respondent.

(C) Representatives of record may, by stipulation, agree on any or all facts involved in proceedings before the hearing officer or presiding board member. The hearing officer or presiding board member may thereafter require development of any fact deemed necessary for just adjudication.

(D) A certified copy of a plea of guilty to, or a judicial finding of guilt of any crime in a court of competent jurisdiction is conclusive proof of the commission of all of the elements of that crime.

Effective: 8-12-2002
Review Date: 6-30-2022

4734-4-10 Limited Discovery Procedures.

(A) Any representative of record may serve upon the opposing representative of record a written request for a list of both the witnesses and the documents intended to be introduced at hearing. Within twelve days of service of that request, the opposing representative shall provide a response to the requesting representative. All final lists requested under this rule shall be exchanged no later than fourteen days prior to the commencement of the administrative hearing, unless leave from the hearing officer or presiding board member has been obtained.

(B) Failure without good cause to comply with paragraph (A) of this rule may result in exclusion from the hearing of such testimony or documents, upon motion of the representative to whom disclosure is refused.

(C) The hearing officer or presiding board member shall, upon written motion of any representative of a party, issue an order setting forth a schedule by which the parties shall simultaneously exchange hearing exhibits, identify lay and expert witnesses and exchange written reports from expert witnesses. Any written report by an expert required to be exchanged under the hearing officer's or presiding board member's order shall set forth the opinions to which the expert will testify and the bases for such opinions. The failure of a party to produce a written report from an expert under the hearing officer's or

presiding board member's order may result in the exclusion of that expert's testimony at hearing. The failure of a party to produce an exhibit under the terms of the hearing officer's or presiding board member's order may result in the exclusion of that exhibit from evidence. The failure of a party to identify a lay or expert witness under the terms of the hearing officer's or presiding board member's order may result in the exclusion of that witness' testimony at hearing.

(D) The hearing officer or presiding board member may order any additional pre-hearing discovery that, in the hearing officer's or presiding board member's judgment, will assist the board in developing a full and fair record.

Effective: 8-12-2002
Review Date: 6-30-2022

4734-4-11 Motions.

(A) Except as otherwise provided in this chapter or Chapter 119. of the Revised Code, all motions, unless made upon the record at the hearing, shall be made in writing. A written motion shall state with particularity the relief or order sought, shall be accompanied by a memorandum setting forth the grounds therefore, and shall be filed in compliance with this chapter. A proposed entry may accompany any motion. All motions except for motions for continuance and those motions filed subsequent to the close of the hearing shall be filed with the board no later than fourteen days before the date of hearing, unless express exception is granted by the hearing officer, presiding board member, or by this chapter. All motions and briefs shall contain the name, address, telephone number, and if available the facsimile number and electronic mail address of the person submitting the motion or brief and shall be appropriately captioned to indicate the name of the respondent and the board's case number.

(B) All motions, together with supporting documentation, if any, shall be served as follows:

(1) Any motion to be served on a representative of record may be served personally, by fax, by electronic mail, by United States mail, or other delivery service. Service shall be made upon the representative as identified in this chapter. Service is complete on the date of transmittal, date of mailing, or on personal service of the document.

(2) A motion shall be considered by the hearing officer or presiding board member only if a certificate of service appears on it. Any signed statement is an acceptable certificate of service so long as it contains all of the following information:

(a) Date of service;

(b) Method by which service was made;

(c) Address where service was made;

(d) Name of the person or authority who was served;
and

(e) The signature of the representative of record.
All motions and briefs shall contain the name, address, and telephone number of the person submitting the motion or brief and shall be appropriately captioned to indicate the name of the respondent.

(C) Within ten days after service of a written prehearing motion, or such other time as is fixed by the hearing officer or presiding board member, a response to that motion may be filed. A movant may reply to a response only with the permission of the hearing officer or presiding board member.

(D) Before ruling upon a written motion, the hearing officer or presiding board member shall consider all memoranda and supporting documents filed. The hearing officer or presiding board member may enter a written ruling and shall issue copies to the representatives of record. In the alternative, the hearing officer or presiding board member may issue a ruling on the motion on the record at the hearing. The ruling on all oral motions made at hearing shall be included in the record, except where the hearing officer or presiding board member elects to take the motion under advisement and the hearing officer or presiding board member may issue a written ruling at a later time. The hearing officer or presiding board member shall include in each written ruling on a motion a statement of the reasons therefore.

(E) Upon motion by any representative of record, the hearing officer or presiding board member may consolidate two or more hearings into a single hearing. If different hearing officers or presiding board members are assigned to the hearings, the board president shall rule on the motion and determine which hearing officer or presiding board member will preside.

(F) Petitions to intervene shall not be permitted. However, with leave of the hearing officer or presiding board member, an interested party may file a brief on a case within ten days of an administrative hearing for the hearing officer's, presiding board member's and board's consideration.

(G) Except as otherwise provided in this chapter or Chapter 119. of the Revised Code, rulings on all substantive motions filed subsequent to the issuance of the report and recommendation shall be rendered by the board, and rulings on all procedural motions may be rendered by the president acting on its behalf.

Effective: 8-12-2002
Review Date: 6-30-2022

4734-4-12 Pre-Hearing Conferences; Status Conferences.

(A) The hearing officer or presiding board member shall, upon request of either party, schedule a prehearing conference, or may do so on the hearing officer's or presiding board member's own initiative. Further, the hearing officer or presiding board member may direct participation by the representatives of record in such a prehearing conference.

(B) Prehearing conferences may be held for the following purposes:

(1) Identification of issues;

(2) Obtaining stipulations and admissions;

(3) Agreements limiting the number of witnesses;

(4) Discussion of documents, exhibits, and witness lists;

(5) Estimating the time necessary for hearing;

(6) Discussion of any other matters tending to expedite the proceedings.

(C) All representatives of record shall attend the prehearing conference fully prepared to discuss the items enumerated in paragraph (B) of this rule.

(D) Procedural orders may be issued by the hearing officer or presiding board member based upon information obtained at a prehearing conference.

(E) With or without written motion from the representative of any party, the hearing officer or presiding board member may convene a status conference with representatives of the parties to address any matter related to preparation for hearing or the conduct of a hearing. The hearing officer or presiding board member may issue such orders related to preparation for hearing and the conduct of the hearing which in the judgment of the hearing officer or presiding board member facilitates the just and efficient disposition of the subject of the hearing.

(F) Pre-hearing conferences and status conferences may be held via whatever medium is permitted by the hearing officer or presiding board member, i.e. in-person, via telephone, via videoconference, or otherwise.

Effective: 8-12-2002
Review Date: 6-30-2022

4734-4-13 Post Hearing Procedures; Reports and Recommendations; Newly Discovered Evidence; Addressing the Board.

(A) Deadline for report: Within forty-five days following the close of an adjudication hearing conducted pursuant to Chapter 119. of the Revised

Code, the hearing officer shall file with the board a written report setting forth the hearing examiner's findings of fact, conclusions of law and a recommendation of the action to be taken by the board, in the form of a proposed order. Any requests by the hearing officer to extend the time to file the report must be submitted to the board office and approved by the board president. The hearing shall not be considered closed until such time as the record is complete, as determined by the hearing officer.

(B) Issuing the report to parties: A copy of such written report shall be transmitted to the representatives of record by the executive director of the board. The copy issued to the respondent's representative of record shall be accompanied by notice of the date the report and recommendation is to be considered by the board.

(C) Objections to report: The respondent's representative of record may, within ten days of his or her receipt of the hearing officer's report and recommendation, file written objections to the report and recommendation. Only those objections filed in a timely manner shall be considered by the board before approving, modifying, or disapproving the hearing officer's recommendation.

(D) Extensions of time for objections: Upon written request, the board may grant extensions of the time within which to file objections. In the event that the board is not in session, the board president may grant such extensions.

(E) Board consideration of report: The board shall consider the hearing officer's report and recommendation and any objections thereto at its next regularly scheduled meeting, after the time for filing objections has passed. At that time, the board may order additional testimony to be taken or permit the introduction of further documentary evidence, or it may act upon the report and recommendation. For purposes of taking such additional testimony or documentary evidence, the board may remand the case back to the hearing officer.

(F) Newly discovered evidence: Any motion to reopen the hearing record for purposes of introducing newly discovered material evidence which, with reasonable diligence could not have been discovered and produced at the hearing shall be made in the manner provided in this chapter. Such motion to reopen shall be filed not later than ten days prior to the scheduled consideration by the board of the hearing officer's report and recommendation and any objections thereto. If such motion is filed prior to the issuance of the hearing officer's report and recommendation, the hearing officer shall rule on the motion. If such motion is filed subsequent to the issuance of the hearing officer's report and recommendation, the board shall rule upon the motion.

(G) Addressing the board: Without leave of the board, the respondent or any representative of record shall not be permitted to address the board at the time of consideration of the hearing officer's report and recommendation. Any request for such leave shall be filed by motion no less than five days prior to the date the report and recommendation is to be considered by the board and shall be served upon the other representative of record. If a request to address the board is granted, the opposing representative may also address the board.

Effective: 8-12-2002

Review Date: 6-30-2022

4734-4-14 Requesting Adjudication Hearing; Timing of Hearing; Notification of Hearing; Requirements for Filing; Calculation of Time; Transcripts.

(A) Requesting adjudication hearing: In order to request a hearing under Chapter 119. of the Revised Code, a respondent or his or her representative must, in accordance with paragraph (C) of this rule, file in writing a statement requesting such adjudication hearing. Such request must be received in the board office within thirty days of the date of mailing of the board's notice of opportunity for hearing. The date of mailing shall be the date appearing on the certified mail receipt.

(B) Timing of adjudication hearing: A respondent or his or her representative properly filing a request for an adjudication hearing shall be entitled to such adjudication hearing within fifteen days but not sooner than seven days after such request has been filed unless both representatives agree otherwise or a continuance is granted pursuant to section 119.09 of the Revised Code and this chapter. Written notice specifying the date, time and place set for hearing shall be mailed by certified mail or served in accordance with section 4734.48 of the Revised Code, to the respondent's representatives as identified pursuant to this chapter.

(C) Requirements for filing: A document is filed when it is received and date stamped in the offices of the state chiropractic board during normal business hours. The burden of ensuring that the document(s) is properly filed is borne by the party filing the document(s).

(D) Calculation of time: The date of occurrence of the event causing time to run is not counted in the computation of any time limit under this chapter. The last day of the period is included in the computation of the time limit. If the last day of a period is not a regular business day, the time period runs through the end of the next regularly scheduled business day. The board or its hearing officer or presiding board member may extend the time for filing or responding to motions and briefs. Requests for extension of time shall be made in writing and filed as provided in this rule prior to the expiration of any applicable time

limit. Requests for extension of time shall be served as provided in this chapter.

(E) Hearing transcripts: Duplicate transcripts of the stenographic record taken of hearings may be obtained directly from the court reporter at the requestor's expense before or after receipt of the original transcript by the board. Upon request made to the board, a copy of the original hearing transcripts may be reviewed at the board office. Copies may be prepared at the requestor's expense. Original transcripts shall not be removed from the board office.

Effective: 8-12-2002
Review Date: 6-30-2022

Chapter 4734-5 Chiropractic Program Standards and Requirements

4734-5-01 Board Approved Doctor of Chiropractic Degree Programs.

(A) It shall be the objective of doctor of chiropractic degree programs approved by the state chiropractic board to prepare the graduate doctor of chiropractic as a primary health care provider, as a portal of entry into the health delivery system, trained to examine, diagnose, and assume responsibility for the care of patients of all ages and genders and to care for the human body in both health and disease. The graduate doctor of chiropractic shall be qualified to consult with, refer to, and/or receive referrals from, other health care providers.

(B) The curriculum of doctor of chiropractic degree programs shall include, but not be limited to, the following subject matter: Foundations: principles, practices, philosophy and history of chiropractic. Basic Sciences: anatomy; physiology; biochemistry; microbiology and pathology. Clinical Sciences: physical, clinical and laboratory diagnosis; diagnostic imaging; spinal analysis; orthopedics; biomechanics; neurology; spinal adjustment/manipulation; extremities manipulation; rehabilitation and therapeutic modalities/procedures (active and passive care); toxicology/pharmacology; patient management; nutrition; organ systems; special populations; first aid and emergency procedures; wellness and public health; and clinical decision-making. Professional Practice: ethics and integrity; jurisprudence; business and practice management and professional communications.

(C) The board adopts the "CCE Accreditation Standards; Principles, Processes & Requirements for Accreditation, January 2018" (hereinafter "Standards") issued by the council on chiropractic education (hereinafter "CCE" or "council").

(D) In considering whether to approve a doctor of chiropractic degree program, or to continue approval of a doctor of chiropractic degree program, the board

shall utilize the "Standards" of the council in making its decision.

(E) Doctor of chiropractic degree programs with board approval prior to the effective date of this rule shall continue to have approval for its doctor of chiropractic graduates to be eligible for licensure in Ohio. This approval continues until it is removed in accordance with this chapter. Board approval of programs and institutions runs concurrently with council accreditation.

Effective: 1-1-2019
Review Date: 1-1-2024

4734-5-02 Board Relationship with the Council on Chiropractic Education.

(A) The board shall maintain a cooperative relationship with the council on chiropractic education (hereinafter "CCE" or "council"). The board may accept the "CCE" designation of "accredited doctor of chiropractic program/institution" of a doctor of chiropractic degree program and grant board approval of those institutions or programs for graduates of a doctor of chiropractic degree program to be eligible for Ohio licensure. If the "CCE" removes accreditation from an institution or program, the board may ratify this decision by removing its approval, permitting the institution or program the due process procedures contained within Chapter 119. of the Revised Code. However, the board need only prove that the "CCE" has withdrawn its accreditation for the board to revoke its approval of the program or institution.

(B) The board shall, in good faith, participate to the extent possible in the activities and programs of the "CCE", to the extent that the interests of the board and of the "CCE" are consistent.

Effective: 5-25-2014
Review Date: 5-25-2019.

4734-5-03 Site Visitation Procedures.

(A) Purpose. For the purpose of obtaining factual information, the board may appoint a site visitation team to make an on-site visit to a doctor of chiropractic degree program and to provide the board with a written report of its findings. The site visit may occur when a program applies for board approval or at any time the board believes it is in the best interests of Ohioans to determine facts concerning the operation of a board approved institution or program.

(B) Composition. The site visitation team shall be appointed by the board and may consist of not more than seven members, including a chairperson appointed by the board. The team shall conduct an on-site visit of the program for the purpose of evaluation. The team shall consist of members with particular backgrounds and expertise to provide a comprehensive assessment of the program.

(C) Logistics. The entire projected cost of the team visit shall be paid by the program directly to the team members. Such expenses shall include, but not be limited to, meals, lodging, travel and per diem expenses of eight hours per day in addition to time for travel. Expenses shall also include the time required for preparing the report and presenting the report to the board. The program shall be notified at least forty-five days in advance of the visit. Receipts of expenses incurred by the site visitation team shall be submitted to the board for documentation and approval prior to submission to the program for reimbursement. Failure to pay monies due is grounds for denying or removing board approval.

(D) Report. At the completion of the on-site visit the team shall prepare a report and present it to the board. The site visitation team chairperson shall be responsible for preparing the report of findings of the team. The team report shall include, but not be limited to, a detailed analysis of the program's eligibility factors contained in its application for approval and self-study documentation as well as other relevant information.

Copies of the report shall be filed with the board and the chief administrative officer of the program. All clerical, administrative, printing and related expenses of the team shall be paid by the program. The board shall review the report and shall notify the program of its decision within one hundred twenty days of the filing of the report. This time period may be extended for good cause at the board's discretion.
Effective: 5-25-2014
Review Date: 5-25-2019

4734-5-04 Initial Approval of Doctor of Chiropractic Degree Programs.

(A) Application. For a doctor of chiropractic degree program to seek initial approval by the board for its doctor of chiropractic graduates to obtain Ohio licensure, it must first apply to the board. The chief administrative officer of the program shall send a letter of intent to the board and shall include a copy of all self-study documentation required by the council on chiropractic education (hereinafter "CCE" or "Council") in its "CCE Accreditation Standards; Principles, Processes & Requirements for Accreditation, January 2018" (hereinafter "Standards"). This rule does not require an applicant to also apply to the "CCE" for accreditation, but if the applicant has done so, it should provide the same information to the board as it provided to the "CCE".

(B) Review. The board may review the application or appoint a committee to review the application materials. If the applicant has applied to the "CCE" for accreditation, the board may hold the application as pending, until the "CCE" has fully reviewed and ruled on the application. If the applicant has not applied to the "CCE", the board or committee will then review the application and materials and follow

the procedures outlined in the "CCE" Standards. The board may then order a site visit of the applicant, pursuant to rule 4734-5-03 of the Administrative Code.

(C) Ruling. Once the board has considered the information submitted by the applicant and/or its review committee and/or site visitation team, it may propose to either approve or deny the application of the program. When it is the intention of the board to deny approval of a program that has requested board-approval, the applicant shall be entitled to a hearing on the question of such proposed denial.

Effective: 1-1-2019
Review Date: 1-1-2024

4734-5-06 Revocation of Approval of a Doctor of Chiropractic Degree Program.

(A) The board may investigate allegations that a board-approved doctor of chiropractic degree program is not complying with the following:

(1) The "CCE Accreditation Standards; Principles, Processes & Requirements for Accreditation, January 2018" (hereinafter "Standards") promulgated by the council on chiropractic education (hereinafter "CCE" or "Council");

(2) If a "CCE" accredited program, maintaining that accreditation;

(3) If not a "CCE" accredited program, complying with the "Standards" as interpreted by the board;

(4) Chapter 4734. of the Revised Code and/or agency 4734 of the Administrative Code;

(5) All statutes and rules governing the operation of such a program in its state of domicile;

(B) During an investigation of a program pursuant to this rule, the program shall provide information and documentation requested by the board to complete its investigation. The board may order a site visit as described in rule 4734-5-03 of the Administrative Code.

(C) Once the board has considered the information obtained during its investigation as submitted by the program and/or the board's committee and/or site visitation team, it may propose to either continue to approve or revoke approval of the program. When it is the intention of the board to revoke the status of a board-approved program pursuant to this rule, the board shall issue a notice of intent to revoke approval and opportunity for hearing to the program. The program shall be entitled to a hearing on the question of such proposed revocation.

Effective: 1-1-2019
Review Date: 1-1-2024

Chapter 4734-6 Licensing

4734-6-01 Application for Licensure.

(A) Notwithstanding endorsement applicants as outlined in rule 4734-6-02 of the Administrative Code, each applicant for licensure to practice chiropractic in the state of Ohio shall submit on board prescribed forms satisfactory evidence of his or her qualifications as prescribed by section 4734.20 of the Revised Code. A complete application, including a non-refundable application fee in the amount of two hundred fifty dollars made payable to the treasurer, state of Ohio, and all required credentials, facts, and materials as the board requires must be filed with the board. Incomplete applications will not be considered and will be returned to the applicant with the notation that the application is incomplete. Applications and fees are valid for one year from the initial application date.

(B) It is the responsibility of each applicant to furnish the necessary credentials, facts and materials as the board requires or as required by law. Submission of credentials does not guarantee acceptance for examination.

(C) Each applicant shall submit to the board a detailed history of his or her chiropractic education to include locations, institutions and dates attended. Transcripts shall be sent directly from the institution or program.

(D) Each applicant who graduated from a doctor of chiropractic degree program on or after June 30, 2010 shall submit a transcript reflecting that he or she possesses a bachelor, masters, or doctorate degree from an institution accredited by a national accrediting agency recognized by the secretary of the United States department of education. Foreign educated applicants shall submit proof of the equivalent education. Transcripts shall be sent directly from each educational institution.

(E) Each applicant shall be responsible for submission of a national board of chiropractic examiners transcript as outlined in section 4734.20 of the Revised Code. The transcript shall be sent directly to the board office by the national board of chiropractic examiners.

(F) Each applicant shall be responsible for the submission of verification of licensure and good standing from all states in which a chiropractic license was ever issued. The verification shall be issued by the licensing authority and shall be valid for one hundred eighty days after receipt.

(G) Each applicant shall submit to a fingerprint criminal background check from the records maintained by the federal bureau of investigation and the bureau of criminal identification and investigation

in accordance with sections 4734.20 and 4734.202 of the Revised Code. Applicants shall be responsible for submitting properly executed fingerprints and the appropriate fees to the bureau of criminal investigation and identification. The criminal background check shall be completed no earlier than one hundred eighty days preceding application for licensure and the results shall expire one hundred eighty days after receipt.

(H) Each applicant shall submit with his or her application a passport type photograph taken within the preceding one hundred eighty days. The photo is to be signed by the applicant on the back of the photograph. All photographs shall be no smaller than two inches by two inches and no larger than three inches by five inches.

(I) Each applicant has an ongoing obligation to update and supplement all information provided to the board in writing within ten days of any change.

(J) Each applicant will be notified by the board as to his or her eligibility for the jurisprudence examination not later than ten days after board review.

(K) In the event an applicant fails to achieve a minimum score of seventy-five percent on the jurisprudence examination, the applicant shall be eligible to retake the examination without additional charge providing it is within one year of original date of application.

(L) The board may refuse or deny an applicant for licensure if the applicant does not meet the licensure requirements as outlined in section 4734.20 of the Revised Code or has committed any act which indicates the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action as outlined in section 4734.31 of the Revised Code. The burden of proof is on the applicant to prove by clear and convincing evidence to the board that he or she meets the conditions for licensure.

(M) Any applicant that the board proposes to refuse or deny licensure shall be entitled to a hearing on the question of such proposed refusal or denial. Notice and hearing requirements incident to such proposed refusal or denial shall be in compliance with the provisions of Chapter 119. of the Revised Code and Chapter 4734-4 of the Administrative Code.

Effective: 5-25-2014

Review Date: 5-25-2019

4734-6-02 Licensure by Endorsement.

(A) Each applicant for licensure to practice chiropractic in the state of Ohio by endorsement of a chiropractic license held in any other jurisdiction shall submit on board prescribed forms satisfactory evidence of his or her qualifications as prescribed by

sections 4734.20 and 4734.23 of the Revised Code. Each applicant shall submit proof that he or she has held a valid unrestricted license in good standing as a chiropractic physician for five consecutive years immediately prior to the date of application.

(B) A complete application, including a non-refundable application fee in the amount of five hundred dollars made payable to the treasurer, state of Ohio, and all required credentials, facts and materials as the board requires must be filed with the board. Incomplete applications will not be considered and will be returned to the applicant with the notation that the application is incomplete. Applications and fees are valid one year from the initial application date.

(C) It is the responsibility of each applicant to furnish the necessary credentials, facts and materials as the board requires or as required by law. Submission of credentials does not guarantee acceptance for examination.

(D) Each applicant shall submit to the board a detailed educational history of his or her chiropractic education to include locations, institutions and dates attended. Transcripts shall be sent directly from the institution or program.

(E) Each applicant who graduated from a doctor of chiropractic degree program on or after June 30, 2010 shall submit a transcript reflecting that he or she possesses a bachelor, masters, or doctorate degree from an institution accredited by a national accrediting agency recognized by the United States department of education. Foreign educated applicants shall submit proof of the equivalent education. Transcripts shall be sent directly from each educational institution.

(F) Each applicant who has taken any examinations offered by the national board of chiropractic examiners shall be responsible for submission of a transcript. The transcript shall be sent directly to the board office by the national board of chiropractic examiners.

(G) Each applicant shall be responsible for the submission of verification of licensure and good standing from all states in which a chiropractic license was ever issued. The verification shall be issued by the licensing authority and shall be valid for one hundred eighty days after receipt.

(H) Each applicant shall submit to a fingerprint criminal background check from the records maintained by the federal bureau of investigation and the bureau of criminal identification and investigation in accordance with sections 4734.20 and 4734.202 of the Revised Code. Applicants shall be responsible for submitting properly executed fingerprints and the appropriate fees to the bureau of criminal

investigation and identification. The criminal background check shall be completed no earlier than one hundred eighty days preceding application for licensure and the results shall expire one hundred eighty days after receipt.

(I) Each applicant shall submit with his or her application a passport type photograph taken within the preceding one hundred eighty days. The photo is to be signed by the applicant on the back of the photograph. All photographs shall be no smaller than two inches by two inches and no larger than three inches by five inches.

(J) An applicant may be required to appear before the board or its designee for an interview.

(K) Each applicant has an ongoing obligation to update and supplement all information provided to the board in writing within ten days of any change.

(L) Each applicant will be notified by the board as to his or her eligibility for the jurisprudence examination not later than ten days after board review.

(M) In the event an applicant fails to achieve a minimum score of seventy-five percent on the jurisprudence examination, the applicant shall be eligible to retake the examination without additional charge providing it is within one year of original date of application.

(N) A permit for a temporary license to practice chiropractic in Ohio may not be obtained for the purpose of establishing a practice in Ohio through licensure by endorsement.

(O) The board may refuse or deny an applicant for licensure if the applicant does not meet the licensure requirements as outlined in sections 4734.20 and 4734.23 of the Revised Code or has committed any act which indicates the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action as outlined in section 4734.31 of the Revised Code. The burden of proof is on the applicant to prove by clear and convincing evidence to the board that he or she meets the conditions for licensure.

(P) Any applicant that the board proposes to refuse or deny licensure shall be entitled to a hearing on the question of such proposed refusal or denial. Notice and hearing requirements incident to such proposed refusal or denial shall be in compliance with the provisions of Chapter 119. of the Revised Code and Chapter 4734-4 of the Administrative Code.

Effective: 5-25-2014
Review Date: 5-25-2019

4734-6-04 Preceptorships.

(A) In accordance with section 4734.27 of the Revised Code, the board may approve the limited practice of chiropractic in this state by a student intern of a board approved doctor of chiropractic degree program or institution that offers a preceptorship program.

(B) Definitions.

(1) Preceptorship program is a clinical program in which chiropractic interns participate under direct supervision of an Ohio licensed chiropractic physician. Only board approved doctor of chiropractic degree programs may conduct preceptorship programs in this state.

(2) Preceptor is an Ohio licensed chiropractic physician approved by the intern's doctor of chiropractic degree program and the board to provide direct supervision of the limited practice of chiropractic in this state by a student intern.

(3) Intern is an individual enrolled in a doctor of chiropractic degree program who has completed all requirements for the doctor of chiropractic degree except for the final clinical phase of the program and is approved by the board to practice chiropractic in Ohio in accordance with section 4734.27 of the Revised Code.

(4) Direct supervision of an intern means initial and ongoing direction, procedural guidance, observation, and evaluation by the approved preceptor who shall remain on the premises and shall supervise and monitor the intern's performance.

(C) Preceptor approval.

(1) The board may approve a chiropractic physician to be a preceptor if the chiropractic physician certifies to the board, on forms prescribed by the board, that he or she meets all of the following conditions:

(a) The licensee has been continuously licensed and actively practicing in Ohio for five years preceding the date of application;

(b) The licensee has no pending disciplinary action;

(c) Within the seven years preceding the date of application there has been no disciplinary action in any jurisdiction against the licensee;

(d) The licensee is approved by the intern's doctor of chiropractic degree program;

(e) The licensee shows proof of current valid malpractice insurance during the time period of the preceptorship program.

(2) The board may refuse to approve, or withdraw its approval of the preceptor at any time.

(D) Intern approval.

(1) Each intern shall apply for a special limited license and shall submit on board prescribed forms satisfactory evidence of his or her qualifications as prescribed by section 4734.27 of the Revised Code and this rule. A complete application, including a non-refundable application fee in the amount of seventy-five dollars made payable to the treasurer, state of Ohio, and all required credentials, facts and materials as the board requires must be filed with the board. Incomplete applications will not be considered and will be returned to the applicant with the notation that the application is incomplete.

(2) An application for a special limited license shall include the following:

(a) An attestation from the academic dean that the applicant is in good academic standing with the doctor of chiropractic degree program and has completed all requirements for the doctor of chiropractic degree except for the clinical phase of the program;

(b) A passport type photograph taken within the preceding six months. The photo shall be signed by the applicant on the back of the photograph. All photographs shall be no smaller than two inches by two inches and no larger than three inches by five inches.

(3) Applicants have an ongoing obligation to update and supplement all information provided to the board in writing within ten days of any change.

(4) The board may refuse or deny an applicant for a limited license to participate in a preceptorship program in this state if the applicant does not meet the licensure requirements as outlined in section 4734.27 of the Revised Code or this rule, or if the applicant has committed any act which indicates that the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action as outlined in section 4734.31 of the Revised Code. The burden of proof is on the applicant to prove by clear and convincing evidence to the board that he or she meets the conditions for licensure.

(5) Any applicant that the board proposes to refuse or deny limited licensure shall be entitled to a hearing on the question of such proposed refusal or denial. Notice and hearing requirements incident to such proposed refusal or denial shall be in compliance with the provisions of Chapter 119. of the Revised Code and Chapter 4734-4 of the Administrative Code.

(6) The board may take disciplinary action against any intern upon proof, satisfactory to the board, that the intern has engaged in practice in this state outside the scope of the preceptorship program for which he or she has been approved, or upon other proof, satisfactory to the board, that the intern has engaged in conduct that is grounds for action under Chapter 4734. of the Revised Code.

(7) Any violation of Chapter 4734. of the Revised Code or agency 4734 of the Administrative Code by the intern constitutes grounds for the board to:

(a) Prohibit the intern from taking the examination for licensure; and

(b) Take appropriate disciplinary action against the supervising preceptor.

(E) Preceptorship standards and procedures.

(1) The preceptor shall exercise direct on-premises supervision of the intern at all times during which the intern is engaged in any facet of patient care in the preceptorship program.

(2) The preceptor shall identify the intern to the patients of the preceptorship practice in such a way that no patient will be misled as to the status of the intern.

(3) The intern shall display a name badge identifying the intern's status as an intern at all times when the intern is providing direct care to a patient.

(4) The preceptor must monitor and track the intern's activity and regularly evaluate the intern's performance.

(5) Interns may assist preceptors in the performance of those duties that are lawful and ethical under Chapter 4734. of the Revised Code and agency 4734 of the Administrative Code including but not limited to physical examinations, patient consultation, radiologic procedures, x-ray interpretation, specific chiropractic adjustment procedures and physical therapeutics.

(6) Interns are required to document all patient encounters in a logbook. Entries shall be made for all patient encounters, including observation. These entries should accurately reflect patient identification, involvement, and services rendered.

(a) Copies of logbook entries may be requested by the board at any time.

(b) Failure to provide logbook copies upon request by the board or falsification of logbooks may result in punitive measures.

(7) The preceptor shall maintain copies of all logbook records for one year following conclusion of the preceptorship program.

(8) The board may conduct random inspections of a preceptor site, including inspection of all pertinent documents to determine whether the program maintains the minimum standards required by the board.

(F) Preceptorship prohibitions. In addition to the prohibitions set forth in chapter 4734. of the Revised Code and agency 4734 of the Administrative Code, an intern shall not:

(1) Diagnose the condition of a patient;

(2) Establish a plan of treatment or prognosis for a patient;

(3) Perform any service, except at the direction and supervision of an approved preceptor;

(4) Bill independently of the supervising preceptor for any service rendered; or

(5) Sign insurance forms or any other forms which require a licensed chiropractic physician's signature.

(G) Preceptorship termination. A preceptorship shall terminate upon the occurrence of the earliest applicable of the following:

(1) An intern participating in a preceptorship program completes the preceptorship;

(2) An intern is formally charged with a criminal offense, the circumstances of which substantially relate to the practice of chiropractic.

(3) An intern is found to have violated the statutes or administrative rules pertaining to the practice of chiropractic.

(4) An intern is formally named in a civil or malpractice action.

(H) Any change in preceptor must be pre-approved by the board in writing.

Effective: 1-26-2016

Review Date: 5-25-2019

4734-6-05 License for Voluntary Public Service.

(A) An individual who previously held an unrestricted license to practice chiropractic in the state of Ohio who plans to offer gratuitous chiropractic services as a voluntary public service may apply for a special limited license to practice chiropractic.

(B) Each applicant for a license for voluntary public service shall submit a completed application, which

can be obtained by contacting the board office, and a nonrefundable application fee in the amount of seventy-five dollars. The application shall include a description of the gratuitous chiropractic services to be performed and documentation verifying that current valid malpractice insurance is in place. The applicant must attest that his or her practice is to be exclusively and totally devoted to providing gratuitous chiropractic care.

(C) The granting of a license for voluntary public service constitutes authority to practice chiropractic in Ohio only within the scope of services as described in the application as approved.

(D) All licenses for voluntary public service issued by the board shall bear the legend "limited to gratuitous chiropractic services."

(E) Any applicant that the board proposes to refuse or deny a special limited license shall be entitled to a hearing on the question of such proposed refusal or denial.

(F) If the board proposes to discipline a holder of a special limited license the licensee shall be entitled to a hearing on the question of such proposed discipline.

Effective: 1-1-2019
Review Date: 1-1-2024

4734-6-06 Jurisprudence Examination.

(A) The board shall require all applicants for licensure to successfully complete a jurisprudence examination administered by the board with a minimum score of seventy-five per cent.

Effective 10-1-2017
Review Date: 10-1-2022

4734-6-07 Addresses of Licensees.

(A) Licensees shall maintain current contact information with the board. Current contact information is defined as a valid email address, residence address and telephone number, and address and telephone number for all locations where activities related to the practice of chiropractic and/or acupuncture are conducted. No licensee may provide a post office box as a mailing address without disclosing the actual physical address of the residence or location where he or she conducts activities related to the practice of chiropractic and/or acupuncture.

(B) Licensees shall provide and maintain current contact information via the eLicense Ohio portal.

(C) Changes to contact information shall be made within thirty days of the change.

(D) A licensee's failure to receive notification of renewal due to failing to advise the board of a change of contact information shall not constitute an error on the part of the board, nor shall it exonerate the licensee from making such renewal.

Effective: 1-1-2019
Review Date: 1-1-2024

4734-6-08 Pre-Chiropractic Educational Requirements.

(A) Applicants who enrolled in a doctor of chiropractic degree program prior to January 1, 2002 shall have earned a minimum of sixty semester hours of appropriate pre-professional education at an institution accredited by a national accrediting agency recognized by the secretary of the United States department of education.

(B) Applicants who enrolled in a doctor of chiropractic degree program on or after January 1, 2002 and graduated on or before June 29, 2010 shall have earned a minimum of ninety semester hours of appropriate pre-professional education at an institution accredited by a national accrediting agency recognized by the secretary of the United States department of education.

(C) Applicants who graduate from a doctor of chiropractic degree program on or after June 30, 2010 shall possess a bachelor, masters, or doctorate degree other than a doctor of chiropractic degree, from an institution accredited by a national accrediting agency recognized by the secretary of the United States department of education.

(D) Foreign educated applicants must meet the appropriate equivalent of the above.

Effective: 5-25-2014
Review Date: 5-25-2019

4734-6-09 Character and Fitness Standards.

(A) The applicant for licensure has the burden to prove by clear and convincing evidence that the he or she possesses the requisite character, fitness, and moral qualifications for licensure for the practice of chiropractic. An applicant's failure to provide requested information, or otherwise cooperate in licensure proceedings before the board, may be grounds for refusal of the application.

(B) The board shall determine an applicant's character, fitness, and moral qualifications in accordance with:

(1) The provisions of Chapter 4734. of the Revised Code;

(2) The provisions of agency-level 4734 of the Administrative Code;

(3) Any code of ethics established or adopted by the board in accordance with section 4734.16 of the Revised Code.

(C) An applicant may be approved for licensure if the applicant's record of conduct justifies the trust of

patients, other healthcare colleagues and the public with respect to the professional duties owed to them and demonstrates that the applicant satisfies the essential eligibility requirements for the practice of chiropractic as defined by the board. A record manifesting a significant deficiency in the honesty, trustworthiness, diligence, or reliability of an applicant may constitute a basis for refusal of the applicant. Factors to be considered carefully by the board concerning an applicant's good moral character and fitness to practice shall include, but are not limited to:

- (1) Commission or conviction of a crime;
- (2) Evidence of an existing and untreated chemical (drug or alcohol) dependency;
- (3) Commission of an act constituting the unlicensed practice of chiropractic or other health care discipline requiring licensure;
- (4) Violation of the rules of the applicant's chiropractic educational institution or any other academic misconduct;
- (5) Evidence of a mental, emotional or psychological disorder that in any way affects or, if untreated, could affect the applicant's ability to practice chiropractic in a competent and professional manner;
- (6) A pattern of disregard of the laws of this state, another state, or the United States;
- (7) Failure to provide complete and accurate information concerning the applicant's past;
- (8) False statements, including omissions;
- (9) Acts involving dishonesty, fraud, deceit, or misrepresentation;
- (10) Abuse of the health care system;
- (11) Neglect of financial responsibilities;
- (12) Neglect of professional obligations;
- (13) Violation of an order of a court or licensing authority;
- (14) Denial of licensure in another jurisdiction on character and fitness grounds;
- (15) Disciplinary action by a chiropractic disciplinary agency or other professional disciplinary agency of any jurisdiction; and
- (16) Any other grounds specified in section 4734.31 of the Revised Code.

(D) The board shall determine whether the present character, fitness, and moral qualifications of an applicant qualify the applicant for licensure for the practice of chiropractic. In making this determination, the following factors shall be considered in assigning weight and significance to the applicant's prior conduct:

- (1) Age of the applicant at the time of the conduct;
- (2) Recency of the conduct;
- (3) Reliability of the information concerning the conduct;
- (4) Seriousness of the conduct;
- (5) Factors underlying the conduct;
- (6) Cumulative effect of the conduct;
- (7) Evidence of rehabilitation;
- (8) Positive social contributions of the applicant since the conduct;
- (9) Candor of the applicant in the licensure process;
- (10) Materiality of any omissions or misrepresentations;
- (11) Public confidence in the chiropractic profession if the applicant is licensed.

(E) In determining an applicant's character, fitness, and moral qualifications for the practice of chiropractic, the board shall not consider factors which do not directly bear a reasonable relationship to the practice of chiropractic, including but not limited to the following impermissible factors:

- (1) Age, gender, race, color, national origin, or religion of the applicant; or
- (2) Disability of the applicant, provided that the applicant, though disabled, is able to satisfy the essential eligibility requirements for the practice of chiropractic.

Effective: 8-12-2002
Review Date: 6-30-2022

Chapter 4734-7 License Renewal and Restoration

4734-7-01 Renewal Requirements.

(A) General renewal requirements.

- (1) All continuing education (CE) earned for renewal shall meet the requirements outlined in rule 4734-7-02 of the Administrative Code.

(2) Individuals licensed during the current CE reporting period shall be exempt from earning CE credit during the earning period of their initial licensure.

(3) At least sixty days prior to the expiration of a license or certificate, the board shall notify every licensee to whom a license or certificate was issued or reinstated during the current biennial period. Failure to receive the board's notification of renewal shall not exonerate the licensee from the board's renewal requirements.

(4) Renewal shall be made in the manner prescribed by the board and each licensee shall complete the applicable renewal application(s) and supply all information necessary to process the renewal.

(5) The board may select applications for audit to verify that all CE requirements have been met. Licensees whose applications are selected for audit shall submit documentation of compliance with the required CE hours within thirty days from the date of the board's notification.

(6) If the board proposes to refuse to renew a license or to discipline a licensee for failure to meet the renewal requirements and/or for failure to comply with the CE requirements, the licensee shall be entitled to a hearing on the question of such proposed denial. Notice and hearing requirements incident to such proposed denial shall be in compliance with the provisions of Chapter 119. of the Revised Code and Chapter 4734-4 of the Administrative Code.

(B) Chiropractic license renewal.

(1) Each chiropractic physician who receives a license to practice chiropractic shall thereafter apply for renewal of the license on a biennial basis and pay a non-refundable five hundred dollar renewal fee made payable to the treasurer, state of Ohio on or before the renewal deadline of March 31 of each even numbered year.

(2) Except for those licensees simultaneously renewing an acupuncture certificate in accordance with paragraph (C) of this rule, each licensee who is only renewing a chiropractic license shall attest on the application for renewal to having earned the following CE hours:

(a) Thirty-four hours of chiropractic CE as defined in paragraph (B)(3) of rule 4734-7-02 of the Administrative Code;

(b) Two hours of board mandated CE as defined in paragraph (B)(5) of rule 4734-7-02 of the Administrative Code.

(3) Any current licensee may place his or her chiropractic license on inactive status on or before the license renewal deadline if the license is in good standing and the licensee is not under disciplinary review pursuant to section 4734.31 of the Revised Code. The effective date of the inactive status shall be the date reflected in the board's official record. The license may be restored in accordance with the provisions of section 4734.26 of the Revised Code and rule 4734-7-04 of the Administrative Code.

(4) Failure to renew a chiropractic license on or before March 31 of each even numbered year results in forfeiture of the licensee's right to practice chiropractic as outlined in section 4734.25 of the Revised Code. The license may be reinstated in accordance with the provisions outlined in section 4734.25 of the Revised Code and rule 4734-7-05 of the Administrative Code.

(C) Acupuncture certificate renewal.

(1) Each chiropractic physician who receives a certificate to practice acupuncture shall thereafter apply for renewal of the certificate on a biennial basis and pay a non-refundable one hundred dollar renewal fee made payable to the treasurer, state of Ohio on or before the renewal deadline of March 31 of each even numbered year.

(2) No acupuncture certificate shall be renewed unless the individual's chiropractic license is likewise renewed.

(3) Each licensee shall attest on the application for renewal to having earned the following CE hours:

(a) Twenty-two hours of chiropractic CE as defined in paragraph (B)(3) of rule 4734-7-02 of the Administrative Code;

(b) Twelve hours of acupuncture CE as defined in paragraph (B)(4) of rule 4734-7-02 of the Administrative Code;

(c) Two hours of board mandated CE as defined in paragraph (B)(5) of rule 4734-7-02 of the Administrative Code.

(4) Any current licensee may place his or her acupuncture certificate on inactive status if the certificate is in good standing and not under disciplinary review. The effective date of the inactive status shall be the date reflected in the board's official record. The certificate may be restored in accordance with the provisions of section 4734.286 of the Revised Code and rule 4734-10-06 of the Administrative Code.

(5) Failure to renew an acupuncture certificate results in the certificate being placed on inactive status. The certificate may be restored in accordance

with the provisions of section 4734.286 of the Revised Code and rule 4734-10-06 of the Administrative Code.

(D) Licensee responsibilities.

(1) Each licensee shall ensure that each CE program earned for renewal meets the requirements outlined in rule 4734-7-02 of the Administrative Code;

(2) Each licensee shall earn CE in the two year period beginning April 1 of each even numbered year;

(3) Licensees shall not claim CE credit for a program more than once per renewal biennium;

(4) Licensees shall not carry forward or retroactively apply CE to any other CE earning period;

(5) Licensees shall earn interactive online CE programs one at a time and shall not open or complete multiple programs simultaneously;

(6) Each licensee shall maintain verification of earned CE for no less than three full years from completion of the CE activity;

(7) No licensee shall destroy, alter, or otherwise make unavailable documentation of CE and shall produce such documentation upon request. Failure to maintain CE records rebuts the presumption that the required CE hours were met.

(E) CE exceptions.

(1) Proctors of the national board of chiropractic examiners part four practical examination may claim the hours, as applicable, toward their chiropractic CE requirement. The licensee is not exempt from earning two hours of board mandated CE.

(2) Instructors of programs offered for CE credit that meet the requirements of rule 4734-7-02 of the Administrative Code may claim the hours, as applicable, toward their chiropractic CE, acupuncture CE and/or board mandated CE requirement. CE credit shall not be claimed for teaching the same program more than once.

(3) Licensees who earn college credit in three hundred level courses or above in a health care related topic through a college or university accredited by an accrediting agency recognized by the United States department of education may claim the hours, as applicable, toward their chiropractic or acupuncture CE requirement. The licensee is not exempt from earning two hours of board mandated CE.

(4) Licensees who teach three hundred level courses or above in a health care related topic at a college or university accredited by an accrediting agency

recognized by the United States department of education may claim the hours, as applicable, toward their chiropractic or acupuncture CE requirement. The licensee is not exempt from earning two hours of board mandated CE.

(5) Licensees who author research papers published in recognized chiropractic or medical journals may claim, as applicable, chiropractic CE and/or acupuncture CE toward their renewal requirement. The licensee is not exempt from earning two hours of board mandated CE.

(6) A waiver, extension, reduction, or modification of CE hours may be granted to a licensee due to illness, disability, or other good cause shown. A request for a waiver, extension, reduction, or modification of CE hours shall be made to the board in writing no less than thirty days prior to the expiration of the license.

Effective: 4-1-2016

Review Date: 4-1-2021

4734-7-02 Standards and Requirements for Continuing Education.

(A) It is the responsibility of each licensee to ensure that programs earned for continuing education (CE) credit meet the requirements of this rule.

(B) Definitions

(1) CE, other than online CE, is defined as programs at which attendees interact with the instructor and the instructor can speak directly with the participants. A program may be conducted via teleconference so long as the instructor can speak directly with and interact with attendees.

(2) Online CE is defined as interactive online learning in which the user registers, logs in, and is tracked and timed in a database where all aspects of attendance is monitored.

(3) Chiropractic CE is defined as programs comprised of one or more of the following subjects: acupuncture; chiropractic philosophy and history; clinical diagnosis and examination procedures; diagnostic imaging; clinical documentation; electrodiagnostics; emergency procedures; laboratory procedures; manipulation and adjusting procedures; neurology; nutrition; orthopedics; physiological therapeutics; principles and practice of chiropractic; professional boundaries; public health, hygiene, sanitation; rehabilitative procedures/exercise; and other subjects related to the practice of chiropractic as deemed appropriate by the board.

(4) Acupuncture CE is defined as programs comprised of topics to enhance acupuncture education and competency.

(5) Board mandated CE is defined as programs on the topics of: ethics and professionalism; human trafficking awareness; and/or laws and rules of the board.

(6) CE hour is defined as a minimum of fifty minutes of CE activity and shall not include time for meals or breaks.

(C) General requirements for all CE programs.

(1) The program shall have significant intellectual or practical content and the primary objective of the program shall be to improve the licensee's professional competence;

(2) Programs shall consist of topics of clinical benefit to consumers;

(3) Instructors shall be qualified by education or experience to provide instruction in the relevant subject matter;

(4) The program shall be presented in a setting suited to the educational activity of the program;

(5) The program shall be based upon scientific evidence generally accepted by the profession.

(D) Requirements for online CE.

(1) The program shall have a mechanism to ensure that users view each page of the program;

(2) The program shall ensure the user has earned all of the time required for the program;

(3) The program shall have a mechanism in place for the user to be able to contact the provider regarding questions about the CE activity;

(4) The program shall include a mechanism to evaluate the user's knowledge of the subject matter contained in the CE activity;

(5) The program shall provide a printed verification or allow the user to print verification only upon completion of the CE activity;

(6) The program shall ensure that users have earned all of the time required within the program before completing the program;

(7) The program shall ensure that course time cannot be earned away from the program and shall ensure automatic logout if the keyboard becomes unattended;

(8) Programs shall be earned one at a time. The program shall not grant CE credit for multiple windows or programs completed simultaneously.

(E) Prohibited CE.

(1) Topics related to: billing and coding in relation to upcoding or enhanced billing and/or coding techniques; risk management; malpractice defense; practice management; programs wherein promotion of a product or service is the principle purpose of the program; strategies to increase reimbursement; motivational programs; legal courses; professional organizational business meetings; speeches; and practice building;

(2) Authoring articles;

(3) Programs conducted via CD; DVD; audio programs; reading books, articles, or journals; home study courses; correspondence courses; and other mechanisms of self-instruction not defined in this rule.

(F) Licensees who take the board's online laws and rules CE program and pass an assessment shall be granted one hour of board mandated CE credit.

(G) Instructors for CE programs conducted in Ohio shall not be required to apply for a temporary license when demonstrating techniques or procedures on a program participant, provided that the instructor:

(1) Possesses a current, valid and unrestricted chiropractic license in another state or country;

(2) Possesses valid liability coverage at the time of demonstration;

(3) Fully explains the technique or procedure to the participant;

(4) Discloses any potential risks, and;

(5) Obtains written informed consent from the program participant prior to the demonstration.

Effective: 4-1-2016
Review Date: 4-1-2021

4734-7-03 Continuing Education Credit for Providing Health Care to Indigent and Uninsured Persons as a Volunteer.

(A) Licensees may satisfy up to 12 hours of CE credit by providing health care services as a volunteer to an indigent and uninsured person(s) in accordance with section 4745.04 of the Revised Code.

(B) Providing health care to indigent and uninsured persons as a volunteer means providing diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral

organization, or any other person or government entity.

(C) Licensees must satisfy the requirements of section 2305.234 of the Revised Code to qualify for the immunity from liability granted under that section. Continuing education credit received in accordance with section 4745.04 of the Revised Code for providing health care services is not compensation or any other form of remuneration for purposes of section 2305.234 of the Revised Code and does not make the licensee ineligible for the immunity from liability granted under that section.

(D) As defined in section 2305.234 of the Revised Code, an indigent and uninsured shall meet both of the following requirements:

(1) Relative to being indigent, the person's income is not greater than two hundred per cent of the federal poverty line, as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, except in any case in which paragraph (D)(2)(c) of this rule includes a person whose income is greater than two hundred per cent of the federal poverty line, and;

(2) Relative to being uninsured, one of the following applies:

(a) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(b) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(c) Until June 30, 2019, the person is eligible for the Medicaid program or is a Medicaid recipient.

(d) Except as provided in paragraph (D)(2)(c) of this rule, the person is not eligible for or a recipient, enrollee, or beneficiary of any governmental health care program.

(E) Documentation of CE credit for providing health care to indigent and uninsured persons as a volunteer shall be in writing in the form of a certificate or a written statement on letterhead from an administrative official at the organization where services were rendered, specifying at a minimum the date(s) the activity occurred, the time devoted toward the activity, and an attestation that the

individuals for which services were provided meet the requirements of paragraph (D)(1) and (D)(2) of this rule. One credit hour equals sixty minutes spent providing health care services as a volunteer.

(F) CE hours earned providing health care services as a volunteer to an indigent and uninsured person(s) shall not be claimed as board mandated CE credit.

Effective 1-1-2019

Review Date: 1-1-2024

4734-7-04 Restoration of Inactive Chiropractic License.

(A) A chiropractic physician holding an inactive license may apply to have the license restored in the manner prescribed by the board and shall complete the application and supply all information necessary to process the application for restoration.

(1) If an application for restoration is received before the first day of the second year of the CE period, the applicant shall submit a non-refundable payment of five hundred dollars made payable to the treasurer, state of Ohio and submit evidence of thirty-six hours of CE earned in accordance with the provisions of rule 4734-7-01 of the Administrative Code within the twenty-four months immediately preceding the date of the application for restoration.

(2) If an application for restoration is received on or after the first day of the second year of the CE period, the applicant shall submit a non-refundable payment of two hundred fifty dollars made payable to the treasurer, state of Ohio and submit evidence of eighteen hours of CE earned in accordance with the provisions of rule 4734-7-01 of the Administrative Code within the twenty-four months immediately preceding the date of the application for restoration. The eighteen CE hours submitted shall include two hours of board mandated CE.

(B) The board shall consider the length of inactivity and the moral character and activities of the applicant during the inactive license period and may impose any of the terms and conditions for restoration outlined in division (B) of section 4734.26 of the Revised Code. Said terms and conditions may include requiring the applicant to take and pass the "Special Purposes Examination for Chiropractic" offered by the national board of chiropractic examiners.

(C) The board may refuse or deny an applicant for restoration of his or her inactive license if the applicant does not meet the requirements as outlined in this chapter or section 4734.26 of the Revised Code or has committed any act which indicates that the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action as outlined in section 4734.31 of the Revised Code. The burden of proof is on the applicant to prove by clear and

convincing evidence to the board that he or she meets the conditions for license restoration.

(D) Any applicant that the board proposes to refuse or deny licensure restoration shall be entitled to a hearing on the question of the proposed refusal or denial.

Effective 10-1-2017

Review Date: 10-1-2022

4734-7-05 Reinstatement of Forfeited Chiropractic License.

(A) A chiropractic physician holding a forfeited license may apply to have the license reinstated in the manner prescribed by the board and shall complete the application and supply all information necessary to process the application for reinstatement.

(1) If an application for reinstatement is received before the first day of the second year of the CE period, the applicant shall submit a non-refundable payment of five hundred dollars and a one hundred fifty dollar penalty fee made payable to the treasurer, state of Ohio and submit evidence of thirty-six hours of CE earned in accordance with the provisions of rule 4734-7-01 of the Administrative Code within the twenty-four months immediately preceding the date of the application for reinstatement.

(2) If an application for reinstatement is received on or after the first day of the second year of the CE period, the applicant shall submit a non-refundable payment of two hundred fifty dollars and a one hundred fifty dollar penalty fee made payable to the treasurer, state of Ohio and submit evidence of eighteen hours of CE earned in accordance with the provisions of rule 4734-7-01 of the Administrative Code within the twenty-four months immediately preceding the date of the application for reinstatement. The eighteen CE hours submitted shall include two hours of board mandated CE.

(B) If an individual's license has been forfeited for two years or more, the board may require as a condition for reinstatement that the applicant complete training or testing which may include passage of the "Special Purposes Examination for Chiropractic" offered by the national board of chiropractic examiners.

(C) The board may refuse or deny an applicant for reinstatement of his or her forfeited license if the applicant does not meet the requirements as outlined in this chapter or section 4734.25 of the Revised Code or has committed any act which indicates that the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action as outlined in section 4734.31 of the Revised Code. The burden of proof is on the applicant to prove by clear and convincing evidence to the board that he or she meets the conditions for license reinstatement.

(D) Any applicant that the board proposes to refuse or deny licensure reinstatement shall be entitled to a hearing on the question of such proposed refusal or denial.

Effective 10-1-2017

Review Date: 10-1-2022

Chapter 4734-8 Chiropractic Physicians

4734-8-01 Dismissing a Patient from a Chiropractic Practice.

(A) A doctor-patient relationship is any relationship between a chiropractic physician and a patient wherein the chiropractic physician provides professional services to the patient. Except as provided in paragraph (B) of this rule, a chiropractic physician shall comply with the following requirements in order to dismiss the doctor-patient relationship:

(1) Send notice to the patient that includes all of the following:

(a) A statement that the doctor-patient relationship is terminated;

(b) A statement that the chiropractic physician will provide emergency treatment for up to thirty days from the date the letter was mailed to allow the patient an opportunity to secure care from another chiropractic physician;

(c) An offer to transfer records to a new chiropractic physician upon receipt of a signed authorization.

(2) The notice shall be sent in one of the following ways:

(a) A letter sent via certified mail, return receipt requested, to the last address for the patient on record, with a copy of the letter, the certified mail receipt, and the mail delivery receipt maintained in the patient record;

(b) An electronic message sent via a HIPPA compliant electronic medical record system or HIPPA compliant electronic health record system that provides a means of electronic communication to the patient and is capable of sending the patient a notification that a message is in the patient's portal and confirming the message was viewed by the patient.

(c) If a notice sent via an electronic message as authorized in paragraph (A)(2)(b) of this rule is not viewed within ten days of having been sent, a letter sent in accordance with paragraph (A)(2)(a) of this rule.

(B) The requirements of paragraph (A) of this rule do not apply to the following:

(1) The chiropractic physician rendered professional services to the person on an episodic basis or in an emergency setting and the chiropractic physician should not reasonably expect that related services will be rendered to the patient in the future;

(2) The chiropractic physician formally transferred the patient's care to another chiropractic physician who is not in the same practice group;

(3) The patient terminated the relationship, either verbally or in writing, or has transferred care to another chiropractic physician and the physician maintains documentation in the patient record of the patient's action terminating the relationship.

Effective: 5-25-2014

Review Date: 5-25-2019

4734-8-02 Unlicensed Supportive Personnel.

(A) A chiropractic physician is responsible for the care of his or her patients. Such responsibility includes ensuring that all unlicensed supportive personnel are competent and properly qualified by education, training, and/or experience to perform their assigned duties.

(B) A chiropractic physician may delegate certain professional responsibilities to unlicensed supportive personnel who are qualified by education, training, and/or experience to perform such duties.

(C) Unlicensed supportive personnel means an individual or individuals who are on the job trained by a chiropractic physician and who participate in chiropractic patient care delivery. Unlicensed supportive personnel do not hold professional licensure and work under the direction of a chiropractic physician utilizing their education, training, and/or experience to perform designated tasks and duties related to the practice of chiropractic. This does not include any activity that would require performance, clinical interpretation and/or treatment by a licensed professional.

(D) A licensed chiropractic physician must properly supervise all unlicensed supportive personnel to whom responsibilities are delegated. Properly supervise within the meaning of this rule is defined as on-site initial and ongoing direction, procedural guidance, observation, and evaluation by a licensed chiropractic physician.

(E) Professional responsibilities shall only be delegated by the order of a licensed chiropractic physician. Professional responsibilities within the meaning of this rule include:

(1) Taking measurements for height, weight, blood pressure, respiration, pulse, and temperature;

(2) Recording observable signs and symptoms;

(3) Collecting bodily fluids for diagnostic purposes;

(4) Applying hot and/or cold packs;

(5) Applying mechanical traction;

(6) Applying electrical stimulation;

(7) Applying vasopneumatic devices;

(8) Applying diathermy;

(9) Applying therapeutic ultrasound;

(10) Instruction and supervision of therapeutic exercises;

(11) Instruction and supervision of therapeutic procedures and activities;

(12) Instruction and supervision of neuromuscular reeducation;

(13) Low level laser therapy up to and including class IV lasers;

(14) Assist patients to safely perform activities related to the development of strength and endurance;

(15) Other services or procedures as deemed appropriate by the board.

(F) A chiropractic physician shall not delegate duties to unlicensed supportive personnel in a negligent manner.

Effective: 1-1-2019

Review Date: 1-1-2024

4734-8-03 Quality Intervention Program.

(A) Description. The "Quality Intervention Program" (hereinafter "QIP") is a voluntary program designed to address practice and communication complaints which do not appear to warrant intervention by formal disciplinary action, but may indicate that the licensee involved has developed poor practice patterns or has failed to keep up with current standards of chiropractic and/or acupuncture practice. The primary candidates for referral are those licensees who appear to demonstrate a practice deficiency and who do not demonstrate any physical, mental, or chemical impairment problems which would render educational intervention ineffective or dangerous to the public. As long as there is no identifiable impairment issue, an educational intervention may be all that is needed to bring the licensee up to current standards of practice. The key component of this program is the "Quality Intervention Panel," a panel of experts whose responsibility and purpose are to assess each licensee referred to the program and make recommendations to a designated board member

and the executive director based upon their peer assessment.

(B) Program referral. Only a designated board member and the executive director of the board jointly have the authority to refer a licensee to the QIP.

(C) Panel. A panel of experts will be selected and contracted with upon advice and approval of the board. The panel shall be comprised of a minimum of three experts, at least two of whom shall be Ohio licensed chiropractic physicians. The experts shall be chosen based on their experience, diversity, and communication skills. Panel members must have a practice history of a minimum of fifteen years, with no disciplinary or malpractice record. QIP panel members shall sign a panel member agreement that outlines their duties and obligations to the panel and the board.

(D) Identifying a communication or practice deficiency. A board designate and the executive director shall review the evidence obtained from the board's initial investigation to determine whether a licensee should be referred to the QIP panel for possible participation in the QIP. Criteria to be used when making the determination may include, but are not limited to, the following:

- (1) Whether the public will be adequately protected if the licensee enters the QIP;
- (2) Whether the licensee's conduct resulted in harm or other problematic outcome for the patient;
- (3) The likelihood that the deficiency at issue is a deficiency that can be corrected through education and/or remediation;
- (4) The extent of the licensee's cooperation with the board during its investigation;
- (5) Whether the licensee's deficiency represents an intentional or willful commission or omission by the licensee;
- (6) The frequency of the occurrence of the identified deficiency.

(E) Assessment. It is the panel's responsibility to assess a licensee in order to affirm a practice deficiency, define the deficiency, determine if the defined deficiency can be corrected through a course of reeducation, and identify specific education and/or remediation to correct the identified deficiency. When the QIP panel is initially presented a referral, the panel members shall be provided with all relevant documents included in the investigative file of the licensee under review. Each panel member shall review the documents. If upon review, the panel believes that the documents demonstrate a practice

deficiency on the part of the licensee, it may request that the licensee be called in for a meeting. At this meeting, the panel members may conduct a simulated case review and discuss with the licensee the minimal standards concerns that the documents revealed. By engaging in peer-based discussions, the panel is seeking to determine whether or not the licensee demonstrates a deficiency, to further identify that deficiency, and to determine whether educational intervention would be beneficial. In certain cases, the panel may refer the licensee to an educational institution for further in-depth evaluation.

(F) The QIP panel may determine the following after the assessment:

- (1) The licensee has no practice deficiency;
- (2) The licensee has an identified practice deficiency that can be corrected through educational intervention. The panel shall recommend a specific education program(s) to correct the deficiency;
- (3) The board should conduct further investigation into the matter;
- (4) The problem identified is too severe to be corrected through educational intervention.

(G) Eligibility. A licensee may participate in the QIP if all of the following apply:

- (1) The public will be adequately protected if the licensee enters into the QIP;
- (2) The licensee has not been the subject of formal disciplinary action by any regulatory board or entity in Ohio or any other jurisdiction, unless it is determined that the disciplinary action was for a violation which should not preclude participation in the QIP;
- (3) The licensee is not concurrently under investigation by the board for a violation of Chapter 4734. of the Revised Code or the rules of the board which does not constitute a communication or practice deficiency;
- (4) It is determined that the nature of the licensee's identified deficiency is such that it may be corrected through education and/or remediation;
- (5) The licensee holds a current valid chiropractic license and is eligible to renew said license;
- (6) The licensee does not have any identified impairment that would significantly affect learning abilities or the ability of the licensee to incorporate learned knowledge and skills into the licensee's practice;

(7) The licensee agrees in writing to be considered for participation in the QIP.

(H) Participation agreement. When the QIP panel determines that a licensee has an identified practice deficiency, the licensee shall be invited to participate in the QIP. Prior to acceptance into the QIP, the licensee shall execute a participation agreement with the board for the QIP which includes, but is not limited to, provisions which:

(1) Set forth the identified deficiency;

(2) Identify the specific education and/or remediation the licensee must complete, including identification of educational provider(s) that will provide the prescribed educational intervention;

(3) Specify the time frame during which the licensee must agree to abide by the recommendations set forth by the educational provider(s) that will provide the prescribed educational intervention;

(4) Require the licensee to pay all expenses incurred as a result of the required education and/or remediation;

(5) Require the licensee to cooperate with any QIP related entity, including, but not limited to, the educational provider(s) prescribed by the panel;

(6) Require the licensee to direct any educational provider(s) to send written progress reports regarding the licensee's progress in education and/or remediation to the QIP at specified intervals;

(7) Require the licensee to sign any and all waivers necessary to secure all reports required by the QIP;

(8) Specify that the prescribed education and/or remediation intervention may not be used to satisfy any continuing education requirements for license renewal;

(9) Specify the terms and conditions the participant must meet to successfully complete the education and/or remediation;

(10) Specify that the board may monitor the licensee's practice for a specific time period to ensure the licensee has corrected their practice deficiency;

(11) Specify that the board may consider termination from the QIP as an aggravating factor if the board proceeds with disciplinary action;

(12) Set forth the grounds for termination from the QIP.

(I) Educational intervention/remediation. The board shall approve individual programs and/or select providers of education and assessment services for

QIP utilization. Panel members may review the content of and recommend programs for board approval.

(J) A licensee determined by the board to be eligible for the QIP who refuses to enter into the participation agreement as set forth in this rule within the time frame specified by the QIP may be subject to disciplinary action for the identified deficiency in accordance with section 4734.31 of the Revised Code.

(K) Termination. A licensee determined by the panel to have a deficiency that may be corrected through participation in the QIP may be terminated from the QIP for any of the following reasons:

(1) Failure to comply with any term of the participation agreement entered into by the licensee;

(2) Receipt of evidence from the educational provider indicating that the licensee has failed to progress through or to successfully complete the education and/or remediation in the manner and during the time frame prescribed by the panel;

(3) Committing or showing to have another deficiency that falls within the parameters of the QIP during an existing intervention;

(4) Failure to complete the education and/or remediation; or

(5) Failure to maintain eligibility for the QIP.

(L) If a licensee is terminated from the QIP, the board may continue with disciplinary proceedings in accordance with Chapter 4734.31 of the Revised Code. The board may consider a licensee's termination from the QIP when determining discipline to be imposed.

(M) Completion of the QIP. A licensee who participates in the QIP shall comply with all the terms and conditions set forth in the agreement and shall provide or direct to be provided to the QIP a written report or transcript from the educational provider(s) verifying that the participant has successfully completed the educational intervention.

(N) Upon completion of all participation requirements, the QIP panel shall review all information relevant to the licensee's education and/or remediation to make a recommendation to the board designate as to whether the licensee's practice as a chiropractic physician meets the accepted standards for the profession.

(O) When the board or its designee determines that the licensee's identified deficiency has been sufficiently corrected so as to conform to the accepted standards for the profession, the licensee

shall be notified in writing that the education and/or remediation has been successfully completed and participation in the QIP is concluded.

(P) Legal representation. The QIP is meant to be a peer to peer interaction. The licensee may have an attorney present for any meeting with the QIP.

(Q) Confidentiality. The case review and assessment conducted by the QIP is part of the investigatory process pursuant to section 4734.45 of the Revised Code and is confidential and not subject to discovery in any civil proceeding. Accordingly, records of discussions held by the panel and/or board members or staff are confidential investigatory material and not subject to public disclosure. Regular reports to the board shall be made detailing the general activities of the QIP. The identity of the licensee under review and the patients whose records were reviewed shall not be provided to the board or disclosed to the public.

Effective: 1-1-2019

Review Date: 1-1-2024

4734-8-04 Documentation and Record Keeping.

(A) Chiropractic physicians shall maintain proper, accurate, and legible records in the English language documenting each patient's care. If non-standard codes or abbreviations are used, a key for interpreting this information shall be included in the file.

(B) Each patient's health care record shall include documentation of all services performed in the chiropractic physician's office.

(C) All diagnostic studies performed or ordered by a chiropractic physician shall be documented in the patient's health care record. A report shall accompany each diagnostic procedure performed or ordered by the chiropractic physician.

(D) Records, including x-ray films shall be maintained on site for current patients and may be stored off-site for former patients. Records shall be maintained in a safe, confidential, and secure location. Patient records shall be destroyed in a confidential manner, such as shredding or burning, and retained as follows:

(1) Five years from the last date of clinical encounter when a patient either terminates care or is dismissed from care by the chiropractic physician;

(2) Records pertaining to minors shall be maintained for two years beyond the minor's eighteenth birthday, or five years from the last date of clinical encounter, whichever is longer;

(3) Records containing information pertinent to contemplated or ongoing legal proceedings which the

chiropractic physician has knowledge or notice of shall be kept for two years beyond the conclusion of the legal proceedings, or five years from the last date of clinical encounter, whichever is longer;

(E) Chiropractic physicians shall release patient records pursuant to sections 3701.74 to 3701.742 of the Revised Code.

Effective: 5-25-2014

Review Date: 5-25-2019

4734-8-05 Examination and Prescription Protocols.

(A) A chiropractic physician shall conduct an appropriate evaluation of a patient prior to initiating treatment. Such evaluation shall include at a minimum the following elements:

(1) History;

(2) Examination;

(3) Diagnosis(es);

(B) The history, examination, findings, and diagnosis(es) shall be documented in the patient's paper or electronic file or in another readily accessible medium. Further evaluation and management shall be conducted as needed, based on each patient's condition in accordance with prevailing standards of care.

(C) Once a chiropractic physician prescribes care for the management of any condition, the chiropractic physician shall record the treatment plan, which shall include documentation of the frequency, duration, and procedures recommended for management of the diagnosed condition(s).

Effective: 1-1-2019

Review Date: 1-1-2024

4734-8-06 Board Consideration of Sanctions.

(A) Each disciplinary case involves unique facts and circumstances. In striving for fair disciplinary standards, consideration will be given to the specific professional misconduct and to the existence of aggravating or mitigating factors. In determining the appropriate sanction, the board shall consider all relevant factors; which may include precedent established by the board and the following:

(1) Aggravating factors. The following shall not control the board's discretion, but may be considered in favor of recommending a more severe sanction:

(a) Disciplinary action(s) or admonishments taken by any regulatory agency, including those in Ohio;

(b) Failure to implement remedial measures to correct conduct resulting from any discipline or

admonishment from any regulatory agency, including those in Ohio;

(c) Dishonest or selfish motive;

(d) A pattern of misconduct and the cumulative effect of the conduct;

(e) Multiple offenses;

(f) Lack of cooperation in the disciplinary process;

(g) Solicitation or submission of false evidence, false statements, or other obstructive or deceptive conduct during the disciplinary process;

(h) Refusal to acknowledge wrongful nature of conduct;

(i) Vulnerability of and resulting harm to any victims of the misconduct;

(j) Negative public perception of the chiropractic profession;

(k) Economic harm to any individual or entity and the severity of such harm;

(l) Failure to make restitution or other appropriate amends.

(2) Mitigating factors. The following shall not control the board's discretion, but may be considered in favor of recommending a less severe sanction:

(a) Absence of a prior disciplinary record or admonishments, by any regulatory agency, including those in Ohio;

(b) Absence of a dishonest or selfish motive;

(c) Timely good faith effort to make restitution or to rectify consequences of misconduct;

(d) Self-reporting of any violation(s) and full disclosure to the board and/or cooperative attitude toward proceedings;

(e) Character, reputation and positive social contributions of the chiropractic physician;

(f) Imposition of other penalties, sanctions or liability;

(g) Evidence of rehabilitation;

(h) Chemical dependency and/or mental illness, where there has been:

(i) A diagnosis of a chemical dependency or mental illness by a qualified health care professional or alcohol/substance abuse counselor;

(ii) A determination that the chemical dependency and/or mental illness contributed to cause the misconduct;

(iii) A certification of successful completion of an approved treatment program or course of treatment; and

(iv) A prognosis from a qualified health care professional or alcohol/substance abuse counselor that the chiropractic physician will be able to return to safe, competent, and ethical professional practice under specified conditions, restrictions or limitations.

(3) Compliance programs. Operation or participation in a bona fide compliance program may be considered by the board as a mitigating factor. Bona fide compliance programs shall contain the following elements;

(a) Auditing and monitoring the practice for deficiencies and violations;

(b) Written compliance standards and procedures for the practice;

(c) A designated compliance officer to monitor compliance and practice standards;

(d) Employee training and education;

(e) Appropriate response to detected violations, including self reporting and correction action plans;

(f) Developing open lines of communication;

(g) Enforcing disciplinary standards through guidelines;

(B) Alternative sanctions. In accordance with its statutory authority, the board may issue letters of admonition, letters of caution, warnings or similar notices to chiropractic physicians in appropriate cases. The board may use the factors listed in this rule in making its determination to issue an alternative sanction in lieu of initiating formal charges through the Revised Code Chapter 119 process.

Effective: 1-1-2019

Review Date: 1-1-2024

4734-8-07 Notice of Leaving, Selling or Retiring from Practice.

(A) Except as provided for in paragraph (D) of this rule, a chiropractic physician who is an independent contractor or who has an ownership interest in a chiropractic practice shall provide notice when leaving, selling, or retiring from the chiropractic office where the chiropractic physician has provided chiropractic services. Notification shall be sent to all patients who received services from the chiropractic physician within the two years immediately

preceding the chiropractic physician's last date for seeing patients and shall be sent no later than thirty days prior to the last date the chiropractic physician will see patients.

(1) The notice shall include all of the following:

(a) A statement that the chiropractic physician will no longer be practicing chiropractic at the practice;

(b) The date on which the chiropractic physician will cease to provide services;

(c) Contact information that enables the patient to obtain the patient's records.

(2) The notice shall be sent in one of the following ways:

(a) A letter sent via regular mail to the last address on record for the patient with the date of the mailing of the letter documented;

(b) An electronic message sent via a HIPPA compliant electronic medical record system or HIPPA compliant electronic health record system that provides a means of electronic communication to the patient and is capable of sending the patient a notification that a message is in the patient's portal.

(B) A chiropractic physician who because of acute illness or unforeseen emergency is unable to provide notice thirty days prior to the last date of seeing patients shall provide the notice required by paragraph (A) of this rule no later than thirty days after it is determined that the physician will not be returning to practice.

(C) Chiropractic physicians employed by non-Ohio licensed chiropractic physicians shall comply with the notice required by paragraph (A) of this rule.

(D) If a chiropractic physician is the employee of another Ohio licensed chiropractic physician, the patient records belong to the employer and the employee chiropractic physician is not required to comply with this rule. It is the licensed Ohio chiropractic physician employer's responsibility to maintain continuity of care, or to comply with this rule if patient care will be terminated upon a chiropractic physician employee's leaving employment or retiring.

(E) In the event a chiropractic physician dies and there is no other chiropractic physician in the practice, the deceased chiropractic physician's executor, guardian, administrator, conservator, next of kin, or other legal representative shall endeavor to comply with the notice required by paragraph (A) of this rule. The chiropractic physician, executor, guardian, administrator, conservator, next of kin,

other legal representative, or probate court shall notify the board of the location of the patient files.

Effective: 5-25-2014

Review Date: 5-25-2019

4734-8-08 Universal Precautions.

(A) Licensees who perform or participate in invasive procedures shall be familiar with, observe and adhere to the acceptable and prevailing standards for universal blood and body fluid precautions to minimize the risk of being exposed to or exposing others to the hepatitis B virus (HBV), the hepatitis C virus (HCV), and the human immunodeficiency virus (HIV).

(B) When performing or participating in invasive procedures licensees shall include at least the following:

(C) A licensee who performs any procedure that requires the use of needles shall utilize aseptic techniques and only sterile, disposable needles.

(1) Appropriate use of hand washing;

(2) Effective disinfection and sterilization of equipment;

(3) Safe handling and disposal of needles and other sharp instruments;

(4) Appropriate barrier techniques including wearing and disposal of gloves and other protective garments and devices.

(C) A licensee who performs any procedure that requires the use of needles shall utilize aseptic techniques and only sterile, disposable needles.

(D) Infectious waste such as laboratory, pathological, blood and sharps waste shall be disposed of according to requirements established by federal, local, and state environmental regulatory agencies.

Effective: 1-1-2019

Review Date: 1-1-2024

4734-8-09 Concussion Management.

(A) General population.

(1) Each licensee who assesses, diagnoses and/or treats concussed patients shall do so in accordance with nationally accepted standards and guidelines.

(2) Each licensee who assesses, diagnoses and/or treats concussed patients shall maintain a level of continuing education that keeps pace with the evolving topic of concussion management.

(3) Licensees may do all of the following in regard to concussion management:

(a) Assess;

- (b) Diagnose;
- (c) Treat;
- (d) Grant clearance to return to activities of daily living;
- (e) Consult with, refer to, or collaborate with other licensed healthcare providers.

(B) Youth sports participants.

(1) As used in section 3707.51 of the Revised Code, "youth sports organization" means a public or nonpublic entity that organizes an athletic activity in which the athletes are not more than nineteen years of age and are required to pay a fee to participate in the athletic activity or whose cost to participate is sponsored by a business or nonprofit organization.

(2) As used in this section, "physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(3) Diagnosis and treatment.

(a) Each licensee who treats youth sports participants shall diagnose and treat concussions in accordance with the "Consensus Statement on Concussion in Sport – the 5th International Conference on Concussion in Sport held in Berlin, October 2016" and adopted on March 6, 2017. (available from the website of the state chiropractic board at: <http://www.chiroid.ohio.gov>) or with nationally accepted standards and guidelines consistent with that statement.

(b) Each licensee who assesses, diagnoses and/or treats concussed patients shall maintain a level of continuing education that keeps pace with the evolving topic of concussion management.

(4) Assessment and clearance.

Subject to the exemptions provided in paragraph (B)(5) of this rule, licensees shall only make an assessment and/or grant clearance to a youth sports participant to return to play:

- (a) In consultation with a physician;
- (b) Pursuant to the referral of a physician;
- (c) In collaboration with a physician;
- (d) Under the supervision of a physician.

(5) A licensee with one or more of the following current credentials is exempt from the provisions of paragraph (B)(4) of this rule and may assess and/or

grant a clearance to return to play to a youth sports participant:

(a) Diplomate in chiropractic neurology recognized by the American chiropractic neurology board or the international board of chiropractic neurology;

(b) Diplomate in chiropractic sports medicine recognized by the American chiropractic board of sports physicians;

(c) Certified chiropractic sports physician recognized by the American chiropractic board of sports physicians and listed on the American chiropractic board of sports physicians national concussion registry.

Effective: 1-1-2019
Review Date: 11-19-2020

Chapter 4734-9 Discipline

4734-9-01 Fine Schedules.

The board shall consider the factors in rule 4734-8-06 of the Administrative Code when imposing a civil fine in accordance with the following schedule of fines:

(A) For a first offense, a minimum fine of five hundred dollars and a maximum fine of three thousand dollars.

(B) For a second offense, a minimum fine of one thousand five hundred dollars and a maximum fine of five thousand dollars.

(C) For a third or subsequent offense, a minimum fine of three thousand dollars and a maximum fine of five thousand dollars.

Effective: 1-1-2019
Review Date: 1-1-2024

4734-9-02 Advertising and Solicitation.

(A) This rule applies to all forms of chiropractic and acupuncture advertising and solicitation. All advertisements and solicitations shall comply with the provisions of this rule.

(B) Advertising and solicitation means any communication disseminated by any means with the intent, either directly or indirectly, of offering or selling professional services, or offering to perform professional services, or inducing individuals to enter into any obligation relating to professional services or care or goods related thereto. Advertising includes business cards.

(C) No chiropractic physician shall disseminate or cause to be disseminated any advertisement or solicitation that is in any way false, fraudulent, deceptive, or misleading.

(D) Excluding a free consultation, any advertisement or solicitation which offers free or discounted goods or services shall include a disclaimer. The disclaimer shall clearly state specifically what goods or services are discounted or free and what goods or services are not included with the free or discounted services offered. If the advertisement is visual, the disclaimer shall be contained therein. If the advertisement is aural, the disclaimer shall be read. A copy of the disclaimer shall be provided to each patient who responds to an offer prior to the rendering of care and a copy shall be maintained in the patient's file. Additional goods or services that are subject to a charge that are rendered on the same date as free or discounted goods or services are offered shall not be rendered until such charges are disclosed in writing and acknowledged by signature of the patient. A copy of such signed disclosure shall be provided to the patient prior to rendering care and a copy shall be maintained in the patient's file.

(E) All advertisements and solicitations shall include therein the first and last name of a designated chiropractic physician who holds a valid Ohio chiropractic license, who has reviewed and approved the content of the advertisement or solicitation.

(F) All advertisements and solicitations shall clearly reveal that the advertisement and/or solicitation is being made on behalf of a chiropractic physician(s).

(G) All advertisements and solicitations shall contain therein one of these exact terms: chiropractic, chiropractor, doctor of chiropractic or chiropractic physician and in at least ten point font or its equivalent if the advertisement or solicitation is visual.

(H) No chiropractic physician who holds a certificate to practice acupuncture issued under Chapter 4734. of the Revised Code may advertise or represent to the public that he or she is engaged in the practice of oriental medicine or utilize any of the titles in section 4762.08 of the Revised Code.

(I) Any trade or fictitious names utilized in connection with the practice of chiropractic and/or acupuncture shall be duly registered with the Ohio secretary of state.

(J) No chiropractic physician shall advertise that he or she will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay, unless the waiver is made:

(1) In compliance with the health benefit plan that expressly allows a practice of that nature. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan

purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request, or;

(2) For professional services rendered to any other person licensed pursuant to this chapter, to the extent allowed by this chapter and the rules of the board.

(K) All advertisements and solicitations that claim specific physical illnesses, ailments, conditions, or symptoms are alleviated by chiropractic care must be supported by clinical or scientific literature generally recognized by the chiropractic profession.

(L) Chiropractic physicians who solicit via any telecommunication method or device shall maintain a record of the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use. Failure to maintain the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use constitutes a violation of this rule.

(M) Chiropractic physicians who solicit via any written medium, including but not limited to via the US mail, facsimile, or electronic mail, shall maintain a copy of the written solicitation and a record of the name, address, electronic mail address, or other location where the solicitation was sent, for six months from the last date of use. Failure to maintain a copy of the written solicitation and a record of the name, address, electronic mail address, or other location where the solicitation was sent for six months from the date of last use constitutes a violation of this rule. When the name and information are acquired from public documents, the written solicitation shall clearly state in at least ten point font or its equivalent "This is an advertisement. Your name and information were acquired from public documents. You are under no obligation to respond to this communication."

(N) Chiropractic physicians who solicit via in-person shall maintain a record of the names of the individuals contacted, including their address and telephone number, and copies of any documents or materials provided to the individual for a period of six months. Failure to maintain a record of the names of the individuals contacted, including their address and telephone number and copies of any documents or materials provided to the individual for a period of six months constitutes a violation of this rule.

(O) Each of the following constitutes an act of abusive solicitation and is in violation of this rule:

(1) Use of threats, intimidation, or profane or obscene language;

(2) Contacting an individual repeatedly or continuously, or after being advised that there is no interest in receiving chiropractic and/or acupuncture services;

(3) Contacting an individual when that person has previously stated that he or she does not wish to receive an outbound telephone call or in person solicitation made by or on behalf of the seller whose goods or services are being offered. Every chiropractic physician who solicits via telephone is to maintain a "do not call" list;

(4) Contacting an individual at any time other than between eight a.m. and nine p.m. local time;

(5) Requiring an immediate response from an individual to any offer made during the solicitation or making a one time only offer and/or not permitting the individual to consider the offer and reply at a later time;

(6) Failure to disclose within the first sixty seconds of the solicitation, the solicitor's identity and the identity and practice name of the chiropractic physician on whose behalf the solicitation is being made; the purpose of the solicitation; and a statement of the goods or services being offered;

(7) Failure to provide the practice telephone number of the chiropractic physician on whose behalf the solicitation is being made;

(8) Misrepresenting an affiliation with, or endorsement by, any government or third-party organization;

(9) Communicating with an individual in a way that invades privacy of the individual, or interferes with an existing doctor/patient relationship;

(10) Leaving a recorded message for the prospect that does not comply with this rule;

(11) Failing to advise the prospect how his or her name and information were acquired and that the prospect is under no obligation to respond to the offer made during the solicitation;

(12) Contacting a minor child under eighteen years of age;

(13) Offering cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee or as an inducement to enter into or to continue care or offering a promotional item that violates paragraph (I) of rule 4734-9-07 of the Administrative Code.

(14) Blocking or otherwise concealing or disguising the true identification of the origin of the solicitation.

(P) Chiropractic physicians are responsible for the solicitations made by others on his or her behalf.

(Q) A licensee may utilize testimonials if the patient giving the testimonial has given written consent as to the exact wording and proposed use of the testimonial. A copy of such consent and testimonial shall be retained by the chiropractic physician who holds a valid Ohio license for one year from the last date of publication. Testimonials shall be true and shall not be false, fraudulent, deceptive or misleading.

Effective: 8-14-2014

Review Date: 8-14-2019

4734-9-03 Signage and Display of License and Certificate.

(A) Chiropractic physicians may not utilize signs which include any false, fraudulent, deceptive or misleading information.

(B) One of the following terms must be included on all signs utilized in connection with the practice of chiropractic or otherwise prominently displayed unless the chiropractic physician practices under a trade or fictitious name and complies with paragraph (C) of this rule:

(1) Chiropractic,

(2) Chiropractor,

(3) Doctor of chiropractic,

(4) Chiropractic physician,

(5) Or the initials "D.C." with the use of the chiropractic physician's name.

(C) If a chiropractic physician practices under a trade or fictitious (DBA) name, he or she shall display his or her first and last name with one of the exact terms: chiropractic, chiropractor, doctor of chiropractic, chiropractic physician, or the initials "D.C." at the public entrance of each practice location. Any trade or fictitious name utilized shall be registered with the Ohio secretary of state.

(D) Every licensee practicing in the state of Ohio shall publicly and prominently display his or her license to practice chiropractic in the state of Ohio or a copy thereof in all facilities in which the licensee practices and/or provides health related services.

(E) If a chiropractic physician holds an active certificate to practice acupuncture issued under Chapter 4734. of the Revised Code, the licensee shall publicly and prominently display his or her certificate to practice acupuncture or a copy thereof in all facilities in which the licensee practices and/or provides acupuncture services.

(F) No chiropractic physician who holds a certificate to practice acupuncture issued under Chapter 4734. of the Revised Code shall utilize any title, initials or abbreviations contained in section 4762.08 of the Revised Code on any sign.

Effective: 10-6-2013

Review Date: 9-24-2023

4734-9-04 Ownership of Chiropractic Practices.

(A) A chiropractic physician may practice chiropractic as an agent, employee, associate, owner, contractor, officer, shareholder, director, member or manager of a sole proprietorship, partnership, limited partnership, limited liability company, corporation, professional corporation, not for profit corporation, unincorporated association, or any other form of business legal in the state of Ohio. Without regard to what form of business in which a chiropractic practice is organized, all chiropractic practices shall have an Ohio licensed chiropractic physician who is responsible for any facet of the practice that deals with patient care, patient billing or advertising. Any unlicensed person with an ownership interest in a chiropractic practice may have access to financial data about the practice. However, the unlicensed owner shall keep any patient information confidential in accordance with and as required by law.

(B) Trusts: Any trust that owns or operates a chiropractic practice(s) must be operated by a trustee who is an Ohio licensed chiropractic physician.

Effective: 5-2-2003

Review Date: 9-24-2023

4734-9-05 Confidentiality.

(A) Except when a release has been properly executed by a patient, every chiropractic physician shall maintain the confidentiality of patient information, except when otherwise required by law.

(B) Every chiropractic physician shall ensure that there is a system in place to protect the confidentiality of patient records and information, including instructing staff members and vendors on their legal obligations to safeguard confidential information.

(C) Every chiropractic physician shall comply with other applicable state and federal laws concerning the confidentiality of patient information.

Effective: 1-10-2003

Review Date: 9-24-2023

4734-9-06 Sexual Misconduct.

(A) A patient is any person who is the recipient of a professional service rendered by a chiropractic physician. A doctor-patient relationship is any relationship between a chiropractic physician and a patient wherein the chiropractic physician provides professional services to the patient. An individual is

considered a patient until thirty days have elapsed from the date the doctor-patient relationship was formally terminated in accordance with rule 4734-8-07 of the Administrative Code. An individual remains a patient until the doctor-patient relationship is terminated regardless if the individual is not actively receiving professional services from a chiropractic physician. Sexual contact between a chiropractic physician and a former patient after termination of the doctor-patient relationship may still constitute sexual misconduct if the contact is the result of the exploitation of trust, knowledge, or influence of emotions derived from the doctor-patient relationship.

(B) The doctor-patient relationship requires the chiropractic physician to exercise the utmost care that he or she will do nothing to exploit the trust and dependency of the patient. A chiropractic physician shall make every effort to avoid other types of relationships that impair his or her professional judgment or risk the possibility of exploiting the confidence placed in them by a patient.

(C) Sexual misconduct is any verbal or physical action or behavior, or expression of thoughts or feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual or conduct that exploits the doctor-patient relationship in a sexual manner, regardless of consent of the patient.

(D) Sexual misconduct includes, but is not limited to:

(1) Failure to provide privacy for disrobing and/or failure to provide proper gowns;

(2) Failure to explain the necessity of performing any procedure that involves exposure or contact with the pelvic area, genitals, rectum, male prostate, or female breast. In the event the patient is a minor, the explanation shall be given to the parent or legal guardian. The chiropractic physician must ensure that the patient comprehends the necessity for such examination;

(3) Failure to have a third party present while performing any examination that involves exposure or contact with the pelvic area, genitals, rectum, male prostate or female breast without the patient's signed consent;

(4) Subjecting a patient to exposure or contact with the pelvic area, genitals, rectum, male prostate or female breast in the presence of a third party without the patient's consent;

(5) Examining or touching a patient's genitals without the use of gloves;

(6) Conduct that may reasonably be interpreted as intended for the sexual arousal or gratification of the chiropractic physician, patient, or both;

(7) Inappropriate sexual comments about or to a patient about the patient's body, underclothing, or sexual orientation;

(8) Requesting a date or romantic relationship with a patient;

(9) Initiating or participating in a conversation with a patient regarding the chiropractic physician's own sexuality, including sexual problems, preferences, or fantasies;

(10) Initiating conversation with, or requesting details of, a patient's sexuality, including history, sexual problems, sexual fantasies or sexual preferences that are unnecessary and/or not related to the patient's legitimate needs;

(11) Making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, or making comments about potential sexual performance;

(12) Participation in acts of sexual nature that is recorded on film, in print, or in an electronic medium;

(13) Kissing or fondling of a sexual nature;

(14) Touching any body part that has sexual connotation for the licensee or the patient for any purpose other than for the patient's legitimate health care need;

(15) Encouraging a patient to masturbate in the presence of the chiropractic physician or masturbation by the chiropractic physician in the presence of a patient;

(16) Sexual acts involving vaginal or anal intercourse, oral to genital, oral to anal, and/or oral to breast contact;

(17) Sexually demeaning conduct or conduct which demonstrates a lack of respect for the patient's privacy;

(18) Offering to provide or providing chiropractic or acupuncture services in exchange for any prohibited conduct outlined in this rule.

(E) The initiation of, consent to, or participation in sexual misconduct with a chiropractic physician by a patient does not change the nature of the conduct or negate the prohibitions contained in this rule.

(F) Sexually intimate acts and relationships that exist between life partners or in a marriage do not preclude the chiropractic physician from providing the partner or spouse with professional services.

Effective: 11-15-2007
Review Date: 9-24-2023

4734-9-07 Billing practices.

(A) Chiropractic physicians who function as owners, operators, members, partners, shareholders, officers, directors, and/or managers of a chiropractic clinic shall be responsible for the policies, procedures and billings generated by the clinic.

(B) Chiropractic physicians who function only as clinical staff without any management or financial responsibilities are required to familiarize themselves with the clinic's billing practices to ensure that the services rendered are accurately reflected in the billings generated.

(C) Chiropractic physicians have a right to review and correct all billings submitted under their name and/or identifying number(s). Signature stamps and/or automatically generated signatures shall be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by that individual.

(D) Chiropractic physicians shall accurately report the services rendered to a patient on all billing documents.

(E) Chiropractic physicians shall release copies of billing records upon a written request from a patient or a patient's authorized representative within thirty days of said request.

(F) Chiropractic physicians shall not knowingly:

(1) Increase charges when a patient utilizes a third-party payment program;

(2) Report incorrect dates or types of service on any billing documents;

(3) Report charges for services not rendered;

(4) Bill for services rendered which are not documented in a patient's file.

(G) No chiropractic physician shall waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that chiropractor, unless the waiver is made:

(1) In compliance with the health benefit plan that expressly allows a practice of that nature. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan

purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request, or;

(2) For professional services rendered to any other person licensed pursuant to this chapter, to the extent allowed by this chapter and the rules of the board.

(H) No chiropractic physician shall offer cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee or an inducement to enter into or to continue care.

(I) Promotional items shall not be more than seventy-five dollars in retail value per year per patient. Professional services, product samples, literature, or refreshments served at events such as health fairs, open houses, educational lectures or health care orientations are not considered promotional items. Promotional items shall not be claimed directly or indirectly or otherwise shifted to any third party for reimbursement.

(J) Nothing in this rule shall prevent a chiropractic physician from providing a reasonable time of service discount.

Effective: 5-25-2014

Review Date: 5-25-2019

4734-9-08 Professional Ethics.

(A) A doctor-patient relationship is any relationship between a chiropractic physician and a patient wherein the chiropractic physician provides professional services to the patient. The doctor-patient relationship requires the chiropractic physician to exercise the utmost care that he or she will do nothing to exploit the trust and dependency of the patient. A chiropractic physician shall make every effort to avoid other types of relationships that impair his or her professional judgement or risk the possibility of exploiting the confidence placed in him or her by a patient. Clinical judgment and practices should be objective and exercised solely for the patient's benefit.

(B) Chiropractic physicians who are employees of unlicensed individuals, or who work in a multidisciplinary healthcare setting, must exercise independent professional judgment and act in the patient's best interest at all times.

(C) Every chiropractic physician shall:

(1) maintain proper standards of safety, sanitation and cleanliness in their place of practice, to include properly utilizing and maintaining all equipment used in practice;

(2) remain free of conflicts of interest and shall maintain the integrity of the chiropractic profession while fulfilling his or her duties and responsibilities as a chiropractic physician. If a conflict of interest does

develop, the chiropractic physician shall promptly disclose such conflict of interest to the affected parties. Chiropractic physicians shall avoid any conflicts of interest with a patient which might impair professional judgment;

(3) maintain professional boundaries when interacting with patients via the internet, electronic messaging, text messaging, or any other type of social networking;

(4) maintain confidentiality and protection of privacy, security, and integrity of patient information;

(5) cooperate with other health care providers who concurrently treat, or who subsequently treat their patients;

(6) present their professional credentials in an accurate and dignified manner;

(7) promote or endorse themselves in a manner that is true and not in a false, fraudulent, deceptive, or misleading manner;

(8) consult with other health care professionals when such consultation would benefit the patient, or when the patient requests such consultation;

(9) protect the public by bringing to the attention of the board any action of another chiropractic physician that appears to violate Chapter 4734. of the Revised Code and agency 4734 of the Administrative Code;

(10) not offer financial incentives such as cash, gift cards, gift certificates or cash equivalents to patients or potential patients;

(11) not receive a fee, rebate, rental payment, or any other form of remuneration for the referral of a patient to a clinic, laboratory or other health service entity;

(12) not misrepresent their professional credentials, or present credentials in a misleading manner. Misleading credentials and/or misrepresentation of credentials includes advertising educational degrees not recognized by a national accrediting agency recognized by the secretary of the United States department of education or the equivalent for education earned outside the United States; and/or advertising specialty certifications or diplomates not issued by a duly recognized organization;

(13) not guarantee a cure to any patient;

(14) not take physical, emotional, or financial advantage of any patient;

(15) not discriminate on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age,

marital status, political belief, veteran status, or mental or physical challenge;

(16) not communicate with an individual in a way that invades privacy of the individual, or interferes with an existing doctor-patient relationship;

(17) not make claims of professional superiority over his or her fellow practitioners or other health care practitioners in an inaccurate or unidentified manner which cannot be properly substantiated;

(18) not identify themselves as practicing in a certain specialty or as a specialist, unless they possess the recognized credentials issued by the proper authority.

Effective: 1-1-2019

Review Date: 1-1-2024

4734-9-09 Fee Splitting Prohibited.

(A) A chiropractic physician shall not divide fees, charges, income, or collections or have any arrangement to share fees, charges, income, or collections with any other person, except those which reflect services performed or result from lawful ownership of a business organization, as described in RC section 4734.17.

The following situations are exceptions to the above rule:

(1) A chiropractic physician may have an agreement with his clinic, firm, partner, or associate to provide for the payment of money, over a reasonable period of time after his or her death, to the estate or to one or more specified persons;

(2) A chiropractic physician or chiropractic organization may include non-chiropractic physician employees in a retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

(B) A chiropractic physician may not predicate the payment of financial consideration to any individual or entity who solicits potential patients on behalf of the licensee's practice, that is based wholly on the number of patient referrals obtained, unless that individual is a doctor of chiropractic employed by the chiropractic physician.

Effective: 1-10-2003

Review Date: 9-24-2023

4734-9-10 Conduct Following Action Against a License.

(A) A chiropractic physician who has had his or her chiropractic license and/or acupuncture certificate disciplined shall provide a copy of the board's action to all employers and entities that contract with the chiropractic physician to provide chiropractic and/or acupuncture services via a method that provides written confirmation of delivery within fifteen days of

the action. The delivery evidence shall be maintained for two years.

(B) Immediately upon the effective date of an active suspension or revocation, and for the time period specified, a chiropractic physician shall not:

(1) Display his or her license to practice chiropractic and/or certificate to practice acupuncture or copies of any current proof of renewal of the license or certificate;

(2) Occupy, share or use office space in which another licensee practices chiropractic and/or acupuncture;

(3) Practice of chiropractic and/or acupuncture in any form either as a principal or employee or agent of another and shall not furnish chiropractic and/or acupuncture services. The affected chiropractic physician may respond to inquiries from patients, third party payors and/or health care practitioners regarding his or her prior services provided to a patient and may provide reports regarding his or her previous services provided to a patient;

(4) Hold him or herself forth as a chiropractic physician and/or the holder of an acupuncture certificate or someone who may legally practice chiropractic and/or acupuncture;

(5) Advertise or claim to be a chiropractor, doctor of chiropractic, or chiropractic physician, or use the initials "D.C" in connection with the person's name. The licensee shall notify in writing publishers of any professional advertising (including online listings) in which the chiropractic physician's name appears to remove any such listing;

(C) If a chiropractic physician's office will be closed during an active suspension or revocation, the chiropractic physician shall, within fifteen days of the action, notify in writing all patients who have been under the chiropractic physician's care within the preceding six months of his or her inability to provide chiropractic and/or acupuncture services. Notification shall include advising patients in writing as to the location of their files and what arrangements have been made to permit them to access their files, as well as a method for them to seek chiropractic care elsewhere.

(D) Chiropractic physicians actively suspended or revoked for thirty days or greater shall deliver to the board the original chiropractic license and/or acupuncture certificate within fifteen days of the effective date of the action.

(E) If an individual's license has been actively suspended or revoked for two or more years, the board may require as a condition of reinstatement

that the individual complete training or testing as specified by the board.

(F) Within thirty days of the effective date of the discipline, the chiropractic physician shall file with the board a detailed sworn affidavit specifying how he or she has or will comply with this rule.

(G) Licensees shall not be prohibited from collecting accounts receivable for services rendered previously or from collecting reasonable and customary rental and equipment leases during the period of any active suspension and/or revocation.

Effective: 1-1-2019

Review Date: 1-1-2024

4734-9-11 Prepayment Plans.

A chiropractic physician who offers prepayment for chiropractic and/or acupuncture services shall:

(A) Require the patient to sign and date a written prepayment plan that incorporates all policies, conditions and descriptions of the plan. The plan shall include at least the following:

(1) The duration of the plan;

(2) The proposed treatment plan, the diagnosis and condition being treated;

(3) A list of all services, goods, and appliances covered by the plan and the fees related to such services, goods and appliances;

(4) A list of all separate or distinct fees for services, goods or appliances not covered by the prepayment plan;

(5) An explanation of any policy modifying the plan in the event of a new diagnosis, new condition, or new injury, such as an auto or worker's compensation injury;

(6) An explanation of how any unused portion of funds are calculated or prorated should the patient complete care early or discontinue care. The explanation of the refund policy shall be clearly indicated in the plan and written in plain language;

(7) A statement of an accounting of all funds used at the time of a request from a patient shall be provided to the patient within fourteen days of a written request.

(B) The patient shall receive a refund within fourteen business days for any unused funds upon request. The refund shall be calculated based on the method defined in the written prepayment policy in accordance with paragraph (A)(6) of this rule.

(C) Upon execution of the agreement, the patient shall be provided a copy of the signed prepayment plan.

(D) A copy of the dated prepayment plan signed by both the patient and an employee witness shall be maintained in the patient's file in accordance with the retention schedule outlined in Chapter 4734-8-04 of the Administrative Code.

(E) No prepayment plan shall exceed twelve months in duration.

Effective: 1-1-2019

Review Date: 1-1-2024

Chapter 4734-10 Acupuncture Practice

4734-10-01 Maintaining a Certificate to Practice Acupuncture.

(A) Each chiropractic physician issued a certificate to practice acupuncture by the board shall maintain a current license to practice chiropractic in the state of Ohio.

(B) If at any time a chiropractic physician's license to practice chiropractic in Ohio is suspended, revoked, placed inactive, or forfeited, the certificate to practice acupuncture issued by the state chiropractic board shall likewise be suspended, revoked, placed inactive, or forfeited without further administrative action.

(C) At no time shall a chiropractic physician hold an active certificate to practice acupuncture without simultaneously holding a valid, current license to practice chiropractic in the state of Ohio.

Effective: 11-15-2007

Review Date: 6-30-2022

4734-10-02 Acupuncture Course of Study Approval.

(A) It shall be the objective of each board-approved acupuncture educational provider to prepare each chiropractic physician to demonstrate professional competence to become an acupuncture provider.

(B) Each educational provider that seeks board approval of an acupuncture course of study shall file a request for approval with the board. The request shall include:

(1) Evidence that the program meets the requirements outlined in section 4734.211 of the Revised Code;

(2) An outline for the entire course of study;

(3) Accreditation held by the educational provider, to include programs that are accredited;

(4) Evidence that the course of study will prepare students to become a competent acupuncture provider;

(5) A vitae of each instructor, to include the instructors' faculty status with the educational provider seeking approval;

(6) Evidence that the course of study is accepted by the national board of chiropractic examiners to allow students to sit for the acupuncture examination;

(7) Other information as deemed appropriate by the board.

(C) The board may review the request and supporting documentation and/or appoint a committee to review the materials.

(D) Board-approved acupuncture educational providers may accept transfer hours towards the required three hundred hours of acupuncture education for those chiropractic physicians who have previously earned acupuncture education. The educational provider shall ensure that any accepted transferred hours are appropriate and acceptable to utilize towards the three hundred hour course requirement as outlined in section 4734.211 of the Revised Code. The board-approved acupuncture educational provider shall reflect all transferred coursework on the chiropractic physician's final transcript.

(E) The educational institution shall ensure appropriate attendance and monitoring procedures for the course of study.

(F) The board may withdraw approval of an acupuncture course of study at any time if such program is not in compliance with the provisions of this rule. If, in the opinion of the board, there is evidence that an entity having status of board-approved acupuncture educational provider is not in compliance with this rule, the board shall issue a warning letter to the program stating that board-approved status may be withdrawn and the reasons for the action. Such letter shall be sent at least thirty days prior to such contemplated action by the board. Reinstatement of board-approved status may be granted by the board if the educational provider furnishes proof of compliance with this rule.

Effective 10-1-2017

Review Date: 10-1-2022

4734-10-03 Application for Acupuncture Certificate.

(A) Each applicant for a certificate to practice acupuncture shall apply in the manner prescribed by the board and submit a one hundred dollar non-refundable application fee. The application and fee shall be valid for one year from the initial application date. The applicant shall submit satisfactory evidence

of his or her qualifications to receive a certificate to practice acupuncture in the state of Ohio as prescribed by section 4734.282 of the Revised Code. All required credentials must be sent directly from the issuing entity.

(B) The board may refuse or deny an applicant for a certificate to practice acupuncture in this state if the applicant does not meet the licensure requirements as outlined in section 4734.282 of the Revised Code or has committed any act which indicates that the applicant does not possess the character and fitness to practice acupuncture, including any act that would be grounds for disciplinary action as outlined in section 4734.31 of the Revised Code. The burden of proof is on the applicant to prove by clear and convincing evidence to the board that he or she meets the conditions for receipt of a certificate to practice acupuncture.

(C) Any applicant that the board proposes to refuse or deny a certificate to practice acupuncture shall be entitled to a hearing on the question of such proposed refusal or denial.

Effective: 1-1-2019

Review Date: 1-1-2024

4734-10-06 Inactive Acupuncture Certificate; Restoration of Acupuncture Certificate.

(A) A chiropractic physician holding an inactive acupuncture certificate may apply to have the certificate restored in the manner prescribed by the board and shall complete the application and supply all information necessary to process the application for restoration. An acupuncture certificate shall not be restored unless the licensee's chiropractic license is current.

(1) If an application for restoration is received before the first day of the second year of the CE period, the applicant shall submit a non-refundable payment of one hundred dollars made payable to the treasurer, state of Ohio and submit evidence of twelve hours of acupuncture CE earned in accordance with the provisions of rule 4734-7-01 of the Administrative Code within the twenty-four months immediately preceding the date of the application for restoration.

(2) If an application for restoration is received on or after the first day of the second year of the CE period, the applicant shall submit a non-refundable payment of fifty dollars made payable to the treasurer, state of Ohio and submit evidence of six hours of acupuncture CE earned in accordance with the provisions of rule 4734-7-01 of the Administrative Code within the twenty-four months immediately preceding the date of the application for restoration.

(B) The board shall consider the length of inactivity and the moral character and activities of the applicant during the inactive certificate period and

may impose any of the terms and conditions for restoration outlined in division (B) of section 4734.286 of the Revised Code.

(C) The board may refuse or deny an applicant for restoration of his or her inactive certificate if the applicant does not meet the requirements as outlined in this chapter or section 4734.286 of the Revised Code or has committed any act which indicates that the applicant does not possess the character and fitness to practice acupuncture, including any act that would be grounds for disciplinary action as outlined in section 4734.31 of the Revised Code. The burden of proof is on the applicant to prove by clear and convincing evidence to the board that he or she meets the conditions for license restoration.

(D) Any applicant that the board proposes to refuse or deny certificate restoration shall be entitled to a hearing on the question of such proposed refusal or denial. Notice and hearing requirements incident to such proposed refusal or denial shall be in compliance with the provisions of Chapter 119. of the Revised Code and Chapter 4734-4 of the Administrative Code.

Effective: 4-1-2016

Review Date: 4-1-2021

Chapter 4734-11 Military Considerations

4734-11-01 Military Considerations.

(A) A veteran means any person who has completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who has been discharged under honorable conditions from the armed forces or who has been transferred to the reserve with evidence of satisfactory service.

(B) Military means the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard or the national guard of any other state.

(C) Temporary chiropractic licensure.

(1) An individual whose spouse is on active military duty in this state may apply for a temporary license to practice chiropractic in accordance with division (C) of section 4743.04 and division (A)(4) of section 4734.27 of the Revised Code. The applicant shall submit:

(a) A complete application on a form prescribed by the board and furnish evidence of his or her qualifications as prescribed by section 4734.20 of the Revised Code.

(b) An application fee in the amount of seventy-five dollars made payable to the treasurer, state of Ohio.

(c) Evidence the applicant's spouse is on active military duty in this state.

(d) A transcript from the institution or program from which the applicant earned a doctor of chiropractic degree. The transcript shall be sent directly to the board office from the institution or program.

(e) If the applicant graduated from a doctor of chiropractic degree program on or after June 30, 2010, a transcript reflecting the applicant possesses a bachelor, masters, or doctorate degree, other than a doctor of chiropractic degree, from an institution accredited by a national accrediting agency recognized by the secretary of the United States department of education. Foreign educated applicants shall submit proof of the equivalent education. Transcripts shall be sent directly to the board office from the educational institution.

(f) A national board of chiropractic examiners transcript as outlined in division (B) of section 4734.20 of the Revised Code. The transcript shall be sent directly to the board office from the national board of chiropractic examiners.

(g) Verification of licensure and good standing from all states in which a chiropractic license was ever issued. The verification shall be issued by the licensing authority.

(h) A fingerprint criminal background check from the records maintained by the federal bureau of investigation and the bureau of criminal identification and investigation in accordance with sections 4734.20 and 4734.202 of the Revised Code. The applicant is responsible for submitting properly executed fingerprints and the appropriate fees to the bureau of criminal investigation and identification. The criminal background check shall be completed no earlier than one hundred eighty days preceding application for licensure and the results shall expire one hundred eighty days after receipt.

(i) A passport type photograph taken within the preceding one hundred eighty days. The photo shall be signed by the applicant on the back of the photograph. All photographs shall be no smaller than two inches by two inches and no larger than three by five inches.

(2) Upon receipt of all required documents, the applicant shall be notified as soon as possible, but no later than three business days, of his or her eligibility status for the board's jurisprudence examination. In order to expedite temporary licensure, and at the board's discretion, an applicant may be approved to take the jurisprudence examination and be issued a temporary license pending receipt of a credential(s), provided a complete application and fee have been received.

(3) An applicant for temporary chiropractic licensure may also apply for a temporary acupuncture certificate if the applicant possesses the qualifications as prescribed by section 4734.282 of the Revised Code. The applicant shall submit an application and credentials for the certificate in accordance with rule 4734-10-03 of the Administrative Code. The application fee for a temporary acupuncture certificate shall be waived.

(4) Temporary licenses, and certificates if applicable, granted under the provisions of this rule shall be valid for up to twelve months and may be extended for good cause shown. A request for an extension of the twelve month time period shall be made in writing by the temporary licensee and submitted to the board office no later than twenty days prior to the expiration of the license. In no event shall a temporary license, and certificate if applicable, be valid for longer than twenty four months.

(5) A holder of a temporary license, and certificate if applicable, granted under the provisions of this rule shall abide by Chapter 4734. of the Revised Code and agency 4734 of the Administrative Code.

(6) Any applicant the board proposes to refuse or deny a temporary license, and certificate if applicable, shall be entitled to a hearing on the question of such proposed refusal or denial. Notice and hearing requirements incident to such proposed refusal or denial shall be in compliance with the provisions of Chapter 119. of the Revised Code and Chapter 4734-4 of the Administrative Code.

(7) If the board proposes to discipline a holder of a temporary license, and certificate if applicable, for any violation of Chapter 4734. of the Revised Code or agency 4734. of the Administrative Code, the licensee shall be entitled to a hearing on the question of such proposed discipline. Notice and hearing requirements incident to such proposed denial shall be in compliance with the provisions of Chapter 119. of the Revised Code and Chapter 4734-4 of the Administrative Code.

(D) Extension of chiropractic and acupuncture continuing education reporting period

(1) In accordance with section 5903.12 of the Revised Code, the board may extend the current continuing education reporting period for a licensee if the licensee served on active duty inside or outside the United States for a period in excess of thirty-one days in the armed forces of the United States, the Ohio national guard, the Ohio military reserve, the Ohio naval militia, the national guard of any other state, or a reserve component of the armed forces of the United States.

(2) The board shall extend the current continuing education reporting period by an amount of time

equal to the total number of months the licensee spent on active duty during the current reporting period if the licensee submits a request for an extension and proper documentation certifying the active duty service and the length of that active duty service. Any portion of a month served on active duty shall be considered one full month.

(E) Determining fulfillment of chiropractic and acupuncture continuing education

(1) In accordance with section 5903.121 of the Revised Code, the board shall consider relevant education, training, or service completed by a licensee as a member of the armed forces of the United States or reserve components thereof, the Ohio national guard, the Ohio military reserve, the Ohio naval militia, or the national guard of any other state in determining whether a licensee has fulfilled the continuing education required to renew the license or certificate.

(2) In order for the board to consider relevant education, training, or service completed by a licensee, the licensee shall submit a request for consideration and evidence or documentation of the education, training, or service to the board at least thirty days prior to the expiration of the license or certificate.

(F) Application for chiropractic licensure.

(1) A veteran, or the spouse of a veteran, who applies for a chiropractic license and presents satisfactory evidence of the service member's discharge under honorable conditions in any component of the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard or the national guard of any other state shall be notified of his or her eligibility status for the board's jurisprudence exam no later than three business days following receipt of the credentials outlined in rule 4734-6-01 or rule 4734-6-02 of the Administrative Code. In order to expedite licensure, and at the board's discretion, an applicant may be approved to take the jurisprudence exam and be issued a license to practice chiropractic pending receipt of a credential(s) provided a complete application and fee have been received.

(2) The board may consider an applicant to have met the pre-chiropractic educational requirements if the applicant provides evidence of completing a military program of training and has been awarded a military primary specialty at a level that is substantially equivalent to or exceeds the pre-chiropractic educational requirements for licensure as outlined in rule 4734-6-08 of the Administrative Code.

(G) Application for acupuncture certificate.

(1) An applicant currently serving in the military may request a waiver of the acupuncture certificate application fee provided he or she has presented satisfactory evidence of current military service in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard or the national guard of any other state.

(2) The board shall not issue an acupuncture certificate unless the individual possesses a license to practice chiropractic issued by the board.

(H) Reinstatement of forfeited chiropractic license.

(1) In accordance with section 5903.10 of the Revised Code, the holder of a forfeited chiropractic license shall be reinstated without a penalty fee and without re-examination if not otherwise disqualified because of mental or physical disability if either of the following applies:

(a) The license was not renewed because of the holder's service in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio National Guard or the national guard of any state.

(b) The license was not renewed because the license holder's spouse served in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio National Guard or the national guard of any state and their service resulted in the holder's absence from this state.

(2) Reinstatement without a penalty fee or re-examination shall not be granted unless the licensee or licensee's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or National Guard duty within six months after the discharge or release.

(3) Applicants for reinstatement shall abide by the applicable continuing education requirements as outlined in rule 4734-7-05 of the Administrative Code.

Effective: 7-28-2014

Review Date: 7-28-2019

Statutes for Reference:

119.06 Adjudication order of agency valid and effective - hearings - periodic registration of licenses.

No adjudication order of an agency shall be valid unless the agency is specifically authorized by law to make such order.

No adjudication order shall be valid unless an opportunity for a hearing is afforded in accordance with sections 119.01 to 119.13 of the Revised Code. Such opportunity for a hearing shall be given before making the adjudication order except in those situations where this section provides otherwise.

The following adjudication orders shall be effective without a hearing:

(A) Orders revoking a license in cases where an agency is required by statute to revoke a license pursuant to the judgment of a court;

(B) Orders suspending a license where a statute specifically permits the suspension of a license without a hearing;

(C) Orders or decisions of an authority within an agency if the rules of the agency or the statutes pertaining to such agency specifically give a right of appeal to a higher authority within such agency, to another agency, or to the board of tax appeals, and also give the appellant a right to a hearing on such appeal.

When a statute permits the suspension of a license without a prior hearing, any agency issuing an order pursuant to such statute shall afford the person to whom the order is issued a hearing upon request.

Whenever an agency claims that a person is required by statute to obtain a license, it shall afford a hearing upon the request of a person who claims that the law does not impose such a requirement.

Every agency shall afford a hearing upon the request of any person who has been refused admission to an examination where such examination is a prerequisite to the issuance of a license unless a hearing was held prior to such refusal.

Unless a hearing was held prior to the refusal to issue the license, every agency shall afford a hearing upon the request of a person whose application for a license has been rejected and to whom the agency has refused to issue a license, whether it is a renewal or a new license, except that the following are not required to afford a hearing to a person to whom a new license has been refused because the person failed a licensing examination: the state medical board, state chiropractic board, architects board, Ohio landscape architects board, and any section of

the Ohio occupational therapy, physical therapy, and athletic trainers board.

When periodic registration of licenses is required by law, the agency shall afford a hearing upon the request of any licensee whose registration has been denied, unless a hearing was held prior to such denial.

When periodic registration of licenses or renewal of licenses is required by law, a licensee who has filed an application for registration or renewal within the time and in the manner provided by statute or rule of the agency shall not be required to discontinue a licensed business or profession merely because of the failure of the agency to act on the licensee's application. Action of an agency rejecting any such application shall not be effective prior to fifteen days after notice of the rejection is mailed to the licensee. Effective 12-19-2013

119.07 Notice of hearing - contents - notice of order of suspension of license - publication of notice - effect of failure to give notice.

Except when a statute prescribes a notice and the persons to whom it shall be given, in all cases in which section 119.06 of the Revised Code requires an agency to afford an opportunity for a hearing prior to the issuance of an order, the agency shall give notice to the party informing the party of the party's right to a hearing. Notice shall be given by registered mail, return receipt requested, and shall include the charges or other reasons for the proposed action, the law or rule directly involved, and a statement informing the party that the party is entitled to a hearing if the party requests it within thirty days of the time of mailing the notice. The notice shall also inform the party that at the hearing the party may appear in person, by the party's attorney, or by such other representative as is permitted to practice before the agency, or may present the party's position, arguments, or contentions in writing and that at the hearing the party may present evidence and examine witnesses appearing for and against the party. A copy of the notice shall be mailed to attorneys or other representatives of record representing the party. This paragraph does not apply to situations in which such section provides for a hearing only when it is requested by the party.

When a statute specifically permits the suspension of a license without a prior hearing, notice of the agency's order shall be sent to the party by registered mail, return receipt requested, not later than the business day next succeeding such order. The notice shall state the reasons for the agency's action, cite the law or rule directly involved, and state that the party will be afforded a hearing if the party requests it within thirty days of the time of mailing the notice. A copy of the notice shall be mailed to

attorneys or other representatives of record representing the party.

Whenever a party requests a hearing in accordance with this section and section 119.06 of the Revised Code, the agency shall immediately set the date, time, and place for the hearing and forthwith notify the party thereof. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the party has requested a hearing, unless otherwise agreed to by both the agency and the party.

When any notice sent by registered mail, as required by sections 119.01 to 119.13 of the Revised Code, is returned because the party fails to claim the notice, the agency shall send the notice by ordinary mail to the party at the party's last known address and shall obtain a certificate of mailing. Service by ordinary mail is complete when the certificate of mailing is obtained unless the notice is returned showing failure of delivery.

If any notice sent by registered or ordinary mail is returned for failure of delivery, the agency either shall make personal delivery of the notice by an employee or agent of the agency or shall cause a summary of the substantive provisions of the notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last known address of the party is located. When notice is given by publication, a proof of publication affidavit, with the first publication of the notice set forth in the affidavit, shall be mailed by ordinary mail to the party at the party's last known address and the notice shall be deemed received as of the date of the last publication. An employee or agent of the agency may make personal delivery of the notice upon a party at any time.

Refusal of delivery by personal service or by mail is not failure of delivery and service is deemed to be complete. Failure of delivery occurs only when a mailed notice is returned by the postal authorities marked undeliverable, address or addressee unknown, or forwarding address unknown or expired. A party's last known address is the mailing address of the party appearing in the records of the agency.

The failure of an agency to give the notices for any hearing required by sections 119.01 to 119.13 of the Revised Code in the manner provided in this section shall invalidate any order entered pursuant to the hearing.

Effective Date: 9-29-2007

119.09 Adjudication hearing.

As used in this section "stenographic record" means a record provided by stenographic means or by the use of audio electronic recording devices, as the agency determines.

For the purpose of conducting any adjudication hearing required by sections 119.01 to 119.13 of the Revised Code, the agency may require the attendance of such witnesses and the production of such books, records, and papers as it desires, and it may take the depositions of witnesses residing within or without the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the agency may, and upon the request of any party receiving notice of the hearing as required by section 119.07 of the Revised Code shall, issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The sheriff shall be paid the same fees for services as are allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the fund in the state treasury for the use of the agency in the same manner as other expenses of the agency are paid.

An agency may postpone or continue any adjudication hearing upon the application of any party or upon its own motion.

In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the agency shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.

At any adjudication hearing required by sections 119.01 to 119.13 of the Revised Code, the record of which may be the basis of an appeal to court, a stenographic record of the testimony and other evidence submitted shall be taken at the expense of the agency. Such record shall include all of the testimony and other evidence, and rulings on the admissibility thereof presented at the hearing. This paragraph does not require a stenographic record at every adjudication hearing. In any situation where an adjudication hearing is required by sections 119.01 to 119.13 of the Revised Code, if an adjudication order is made without a stenographic record of the hearing, the agency shall, on request of the party, afford a hearing or rehearing for the purpose of making such a record which may be the basis of an appeal to court. The rules of an agency may specify the situations in which a stenographic record will be

made only on request of the party; otherwise such a record shall be made at every adjudication hearing from which an appeal to court might be taken.

The agency shall pass upon the admissibility of evidence, but a party may at the time make objection to the rulings of the agency thereon, and if the agency refuses to admit evidence, the party offering the same shall make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

In any adjudication hearing required by sections 119.01 to 119.13 of the Revised Code, the agency may call any party to testify under oath as upon cross-examination.

The agency, or any one delegated by it to conduct an adjudication hearing, may administer oaths or affirmations.

In any adjudication hearing required by sections 119.01 to 119.13 of the Revised Code, the agency may appoint a referee or examiner to conduct the hearing. The referee or examiner shall have the same powers and authority in conducting the hearing as is granted to the agency. Such referee or examiner shall have been admitted to the practice of law in the state and be possessed of such additional qualifications as the agency requires. The referee or examiner shall submit to the agency a written report setting forth the referee's or examiner's findings of fact and conclusions of law and a recommendation of the action to be taken by the agency. A copy of such written report and recommendation of the referee or examiner shall within five days of the date of filing thereof, be served upon the party or the party's attorney or other representative of record, by certified mail. The party may, within ten days of receipt of such copy of such written report and recommendation, file with the agency written objections to the report and recommendation, which objections shall be considered by the agency before approving, modifying, or disapproving the recommendation. The agency may grant extensions of time to the party within which to file such objections. No recommendation of the referee or examiner shall be approved, modified, or disapproved by the agency until after ten days after service of such report and recommendation as provided in this section. The agency may order additional testimony to be taken or permit the introduction of further documentary evidence. The recommendation of the referee or examiner may be approved, modified, or disapproved by the agency, and the order of the agency based on such report, recommendation, transcript of testimony and evidence, or objections of the parties, and additional testimony and evidence shall have the same effect as if such hearing had been conducted by the agency. No such recommendation shall be final until

confirmed and approved by the agency as indicated by the order entered on its record of proceedings, and if the agency modifies or disapproves the recommendations of the referee or examiner it shall include in the record of its proceedings the reasons for such modification or disapproval.

After such order is entered on its journal, the agency shall serve by certified mail, return receipt requested, upon the party affected thereby, a certified copy of the order and a statement of the time and method by which an appeal may be perfected. A copy of such order shall be mailed to the attorneys or other representatives of record representing the party.

Effective Date: 7-01-2009

119.12 Appeal by party adversely affected - notice - record - hearing - judgment.

(A)(1) Except as provided in division (A)(2) or (3) of this section, any party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, or denying the issuance or renewal of a license or registration of a licensee, or revoking or suspending a license, or allowing the payment of a forfeiture under section 4301.252 of the Revised Code may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident.

(2) An appeal from an order described in division (A)(1) of this section issued by any of the following agencies shall be made to the court of common pleas of Franklin county:

- (a) The liquor control commission;
- [b] the Ohio casino control commission,
- (b) The state medical board;
- (c) The state chiropractic board;
- (d) The board of nursing;
- (e) The bureau of workers' compensation regarding participation in the health partnership program created in sections 4121.44 and 4121.441 of the Revised Code.

(3) If any party appealing from an order described in division (A)(1) of this section is not a resident of and has no place of business in this state, the party may appeal to the court of common pleas of Franklin county.

(B) Any party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the court of common pleas of Franklin county, except that appeals from orders of the fire marshal issued under Chapter 3737. of the Revised Code may be to the court of common pleas of the county in which the building of the aggrieved person is located and except that appeals under division (B) of section 124.34 of the Revised Code from a decision

of the state personnel board of review or a municipal or civil service township civil service commission shall be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by the department of rehabilitation and correction, to the court of common pleas of Franklin county.

(C) This section does not apply to appeals from the department of taxation.

(D) Any party desiring to appeal shall file a notice of appeal with the agency setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal shall also be filed by the appellant with the court. In filing a notice of appeal with the agency or court, the notice that is filed may be either the original notice or a copy of the original notice. Unless otherwise provided by law relating to a particular agency, notices of appeal shall be filed within fifteen days after the mailing of the notice of the agency's order as provided in this section. For purposes of this paragraph, an order includes a determination appealed pursuant to division (C) of section 119.092 of the Revised Code. The amendments made to this paragraph by Sub. H.B. 215 of the 128th general assembly are procedural, and this paragraph as amended by those amendments shall be applied retrospectively to all appeals pursuant to this paragraph filed before September 13, 2010, but not earlier than May 7, 2009, which was the date the supreme court of Ohio released its opinion and judgment in *Medcorp, Inc. v. Ohio Dep't. of Job and Family Servs.* (2009), 121 Ohio St.3d 622.

(E) The filing of a notice of appeal shall not automatically operate as a suspension of the order of an agency. If it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal, the court may grant a suspension and fix its terms. If an appeal is taken from the judgment of the court and the court has previously granted a suspension of the agency's order as provided in this section, the suspension of the agency's order shall not be vacated and shall be given full force and effect until the matter is finally adjudicated. No renewal of a license or permit shall be denied by reason of the suspended order during the period of the appeal from the decision of the court of common pleas. In the case of an appeal from the Ohio casino control commission, the state medical board, or the state chiropractic board state chiropractic board, the court may grant a suspension and fix its terms if it appears to the court that an

unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal and the health, safety, and welfare of the public will not be threatened by suspension of the order. This provision shall not be construed to limit the factors the court may consider in determining whether to suspend an order of any other agency pending determination of an appeal.

(F) The final order of adjudication may apply to any renewal of a license or permit which has been granted during the period of the appeal.

(G) Notwithstanding any other provision of this section, any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code that suspends, revokes, or cancels a permit issued under Chapter 4303. of the Revised Code or that allows the payment of a forfeiture under section 4301.252 of the Revised Code shall terminate not more than six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas and shall not be extended. The court of common pleas, or the court of appeals on appeal, shall render a judgment in that matter within six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas. A court of appeals shall not issue an order suspending the effect of an order of the liquor control commission that extends beyond six months after the date on which the record of the liquor control commission is filed with a court of common pleas.

[H] Notwithstanding any other provision of this section, any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the Ohio casino control commission issued under Chapter 3772. of the Revised Code that limits, conditions, restricts, suspends, revokes, denies, not renews, fines, or otherwise penalizes an applicant, licensee, or person excluded or ejected from a casino facility in accordance with section 3772.031 of the Revised Code shall terminate not more than six months after the date of the filing of the record of the Ohio casino control commission with the clerk of the court of common pleas and shall not be extended. The court of common pleas, or the court of appeals on appeal, shall render a judgment in that matter within six months after the date of the filing of the record of the Ohio casino control commission with the clerk of the court of common pleas. A court of appeals shall not issue an order suspending the effect of an order of the Ohio casino control commission that extends beyond six months after the date on which the record of the Ohio casino control commission is filed with the clerk of a court of common pleas.

(H) Notwithstanding any other provision of this section, any order issued by a court of common pleas

suspending the effect of an order of the state medical board or state chiropractic board that limits, revokes, suspends, places on probation, or refuses to register or reinstate a certificate issued by the board or reprimands the holder of the certificate shall terminate not more than fifteen months after the date of the filing of a notice of appeal in the court of common pleas, or upon the rendering of a final decision or order in the appeal by the court of common pleas, whichever occurs first.

(I) Within thirty days after receipt of a notice of appeal from an order in any case in which a hearing is required by sections 119.01 to 119.13 of the Revised Code, the agency shall prepare and certify to the court a complete record of the proceedings in the case. Failure of the agency to comply within the time allowed, upon motion, shall cause the court to enter a finding in favor of the party adversely affected. Additional time, however, may be granted by the court, not to exceed thirty days, when it is shown that the agency has made substantial effort to comply. The record shall be prepared and transcribed, and the expense of it shall be taxed as a part of the costs on the appeal. The appellant shall provide security for costs satisfactory to the court of common pleas. Upon demand by any interested party, the agency shall furnish at the cost of the party requesting it a copy of the stenographic report of testimony offered and evidence submitted at any hearing and a copy of the complete record.

(J) Notwithstanding any other provision of this section, any party desiring to appeal an order or decision of the state personnel board of review shall, at the time of filing a notice of appeal with the board, provide a security deposit in an amount and manner prescribed in rules that the board shall adopt in accordance with this chapter. In addition, the board is not required to prepare or transcribe the record of any of its proceedings unless the appellant has provided the deposit described above. The failure of the board to prepare or transcribe a record for an appellant who has not provided a security deposit shall not cause a court to enter a finding adverse to the board.

(K) Unless otherwise provided by law, in the hearing of the appeal, the court is confined to the record as certified to it by the agency. Unless otherwise provided by law, the court may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency.

(L) The court shall conduct a hearing on the appeal and shall give preference to all proceedings under sections 119.01 to 119.13 of the Revised Code, over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. An appeal from an order of the state medical board issued

pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code, the state chiropractic board issued pursuant to section 4734.37 of the Revised Code, the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code, or the Ohio casino control commission issued pursuant to Chapter 3772. of the Revised Code shall be set down for hearing at the earliest possible time and takes precedence over all other actions. The hearing in the court of common pleas shall proceed as in the trial of a civil action, and the court shall determine the rights of the parties in accordance with the laws applicable to a civil action. At the hearing, counsel may be heard on oral argument, briefs may be submitted, and evidence may be introduced if the court has granted a request for the presentation of additional evidence.

(M) The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and any additional evidence the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of this finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The court shall award compensation for fees in accordance with section 2335.39 of the Revised Code to a prevailing party, other than an agency, in an appeal filed pursuant to this section.

(N) The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. These appeals may be taken either by the party or the agency, shall proceed as in the case of appeals in civil actions, and shall be pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. An appeal by the agency shall be taken on questions of law relating to the constitutionality, construction, or interpretation of statutes and rules of the agency, and, in the appeal, the court may also review and determine the correctness of the judgment of the court of common pleas that the order of the agency is not supported by any reliable, probative, and substantial evidence in the entire record.

The court shall certify its judgment to the agency or take any other action necessary to give its judgment effect.

Effective: 9-29-2015

119.14 Waiver of penalties for first-time paperwork offenses.

(A) For any small business that engages in a paperwork violation, the state agency or regulatory authority that regulates the field of operation in which the business operates shall waive any and all administrative fines or civil penalties on that small

business for the violation, if the paperwork violation is a first-time offense.

(B) When an agency or regulatory authority waives an administrative fine or civil penalty under this section, the state agency or regulatory authority shall require the small business to correct the violation within a reasonable period of time.

(C) Notwithstanding this section, a state agency or regulatory authority may impose administrative fines or civil penalties on a small business for a paperwork violation that is a first-time offense for any of the following reasons:

(1) The violation has the potential to cause serious harm to the public interest as determined by a state agency or regulatory authority director;

(2) The violation involves a small business knowingly or willfully engaging in conduct that may result in a felony conviction;

(3) Failure to impose an administrative fine or civil penalty for the violation would impede or interfere with the detection of criminal activity;

(4) The violation is of a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

(5) The violation presents a direct danger to the public health or safety, results in a financial loss to an employee as defined in section 4111.03 of the Revised Code, or presents the risk of severe environmental harm, as determined by the head of the agency or regulatory authority;

(6) The violation is a failure to comply with a federal requirement for a program that has been delegated from the federal government to a state agency or regulatory authority and where the federal requirement includes a requirement to impose a fine.

(D)(1) Nothing in this section shall prohibit a state agency or regulatory authority from waiving administrative fines or civil penalties incurred by a small business for a paperwork violation that is not a first-time offense.

(2) Any administrative fine or civil penalty that is waived under this section, may be reinstated and imposed in addition to any additional fines or penalties associated with a subsequent violation for noncompliance with the same paperwork requirement.

(E) This section shall not apply to any violation by a small business of a statutory or regulatory requirement mandating the collection of information by a state agency or regulatory body if that small

business previously violated any such requirement mandating the collection of information.

(F) Nothing in this section shall be construed to diminish the responsibility for any citizen or business to apply for and obtain a permit, license, or authorizing document that is required to engage in a regulated activity, or otherwise comply with state or federal law.

(G) As used in this section:

(1) "Small business" has the same meaning as defined by the Code of Federal Regulations, Title 13, Chapter 1, Part 121.

(2) "Paperwork violation" means the violation of any statutory or regulatory requirement in the Revised Code mandating the collection of information by a state agency or regulatory body.

(3) "First-time offense" means the first instance of a violation of the particular statutory or regulatory requirement mandating the collection of information by a state agency or regulatory body.
Effective Date: 9-16-2008

3701.74 Patient or patient's representative to submit request to examine or obtain copy of medical record.

(A) As used in this section and section 3701.741 of the Revised Code:

(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(4) "Health care practitioner" means all of the following:

(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(c) An optometrist licensed under Chapter 4725. of the Revised Code;

(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;

(e) A pharmacist licensed under Chapter 4729. of the Revised Code;

(f) A physician;

(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;

(i) A psychologist licensed under Chapter 4732. of the Revised Code;

(j) A chiropractor;

(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;

(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(o) A licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;

(p) A dietitian licensed under Chapter 4759. of the Revised Code;

(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.

(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility, as defined in section 5165.01 of the Revised Code; a skilled nursing facility, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.

(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.

(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.

(10) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.

(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division.

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.

(B) A patient, a patient's personal representative, or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider.

Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician, psychologist, licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, marriage and family therapist, or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician, psychologist, licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, marriage and family therapist, or chiropractor designated by the patient. The health care provider shall take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record.

(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347., 5119., or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Effective: 9-15-2014

3701.741 Fees for providing copies of medical records.

(A) Each health care provider and medical records company shall provide copies of medical records in accordance with this section.

(B) Except as provided in divisions (C) and (E) of this section, a health care provider or medical records company that receives a request for a copy of a patient's medical record shall charge not more than the amounts set forth in this section.

(1) If the request is made by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following:

(a) Except as provided in division (B)(1)(b) of this section, with respect to data recorded on paper or electronically, the following amounts adjusted in accordance with section 3701.742 of the Revised Code:

(i) Two dollars and seventy-four cents per page for the first ten pages;

(ii) Fifty-seven cents per page for pages eleven through fifty;

(iii) Twenty-three cents per page for pages fifty-one and higher;

(b) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page;

(c) The actual cost of any related postage incurred by the health care provider or medical records company.

(2) If the request is made other than by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following:

(a) An initial fee of sixteen dollars and eighty-four cents adjusted in accordance with section 3701.742 of the Revised Code, which shall compensate for the records search;

(b) Except as provided in division (B)(2)(c) of this section, with respect to data recorded on paper or electronically, the following amounts adjusted in accordance with section 3701.742 of the Revised Code:

(i) One dollar and eleven cents per page for the first ten pages;

(ii) Fifty-seven cents per page for pages eleven through fifty;

(iii) Twenty-three cents per page for pages fifty-one and higher.

(c) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page;

(d) The actual cost of any related postage incurred by the health care provider or medical records company.

(C)

(1) On request, a health care provider or medical records company shall provide one copy of the patient's medical record and one copy of any records regarding treatment performed subsequent to the original request, not including copies of records already provided, without charge to the following:

(a) The bureau of workers' compensation, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(b) The industrial commission, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(c) The department of medicaid or a county department of job and family services, in accordance with Chapters 5160., 5161., 5162., 5163., 5164., 5165., 5166., and 5167. of the Revised Code and the rules adopted under those chapters;

(d) The attorney general, in accordance with sections 2743.51 to 2743.72 of the Revised Code and any rules that may be adopted under those sections;

(e) A patient, patient's personal representative, or authorized person if the medical record is necessary to support a claim under Title II or Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, and the request is accompanied by documentation that a claim has been filed.

(2) Nothing in division (C)(1) of this section requires a health care provider or medical records company to provide a copy without charge to any person or entity not listed in division (C)(1) of this section.

(D) Division (C) of this section shall not be construed to supersede any rule of the bureau of workers' compensation, the industrial commission, or the department of medicaid.

(E) A health care provider or medical records company may enter into a contract with either of the following for the copying of medical records at a fee other than as provided in division (B) of this section:

(1) A patient, a patient's personal representative, or an authorized person;

(2) An insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code.

(F) This section does not apply to medical records the copying of which is covered by section 173.20 of the Revised Code or by 42 C.F.R. 483.10. Effective Date: 9-29-2013

3701.742 Consumer price index adjustment to fees for providing medical records.

The amounts specified in division (B) of section 3701.741 of the Revised Code shall be adjusted annually in accordance with this section. These amounts plus any amounts previously computed by annual adjustments made under this section shall be increased or decreased by the average percentage of increase or decrease in the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics, for the immediately preceding calendar year over the calendar year immediately preceding that year, as reported by the bureau. The director of health shall make this determination and adjust the amounts accordingly. The director shall make a list of the adjusted amounts available to the public on the internet web site maintained by the department of health. Effective Date: 9-29-2013

NOTES:
