

The Board of Chiropractic Examiners has established this “Newsflash” page as a means to keep the public and the profession apprised of current circumstances that may impact licensed Arizona doctors of chiropractic, consumers of chiropractic care and the general public. Please use this page to read up on current news regarding the practice of chiropractic in Arizona, regulatory issues or concerns, directions on how to find the resources to differentiate rumor from fact, and the Board’s response to false or misleading information that may be disseminated.

The following language comprises the Final Rulemaking amendments for R4-7-101 and R4-7-902. The language includes changes that were made in response to public comment following the two public comment periods, and integrate suggestions made by the staff of the Governor’s Regulatory Review Council.

ARTICLE 1. BOARD OF CHIROPRACTIC EXAMINERS-DEFINITIONS; MEETINGS

R4-7-101. Definitions

In addition to the definitions in A.R.S. § 32-900, unless otherwise specified, the following terms have the following meanings:

1. “Adequate patient records” means legible chiropractic records containing, at the minimum, sufficient information to identify the patient and physician, support the diagnosis, identify the specific elements of the chiropractic service performed, indicate special circumstances or instruction provided to the patient, if any, identify a treatment plan, and provide sufficient information for another practitioner to assume continuity of patient care.
- ~~1-2.~~ “Business day” means Monday through Friday, 8:00 a.m. to 5:00 p.m. except for state recognized holidays.
- ~~2-3.~~ “C.A.” means a chiropractic assistant under A.R.S. § 32-900.
- ~~3-4.~~ “Certification” means approval to practice chiropractic specialties under A.R.S. § 32-922.02.
- ~~4-5.~~ “Chiropractor” means doctor of chiropractic or chiropractic physician ~~or the abbreviation “D.C.”~~ pursuant to A.R.S. § 32-925(A) and A.R.S. § 32-926(A) and (B) and may be designated by the abbreviation “D.C.”.
6. “Controlled substance” means a drug or substance identified, defined, or listed in Title 36, Chapter 27, Article 2.
7. “Device” has the same meaning as prescribed in A.R.S. § 32-1901.
- ~~5-8.~~ “Diagnosis” means the physical, clinical, and laboratory examination of the a patient and the use of x-ray for diagnostic purposes, as taught in accredited chiropractic colleges. ~~determination of the nature of a condition or illness under A.R.S. § 32-925(A) and (B).~~
9. “Dispense” means to deliver to an ultimate user under A.R.S. § 32-925(A) and (B).
- ~~6-10.~~ “Extern” means a student of a Board-approved chiropractic college who participates in the preceptorship training program.
- ~~7-11.~~ “License” means a document issued by the Board to practice chiropractic.
12. “Non-prescription drug” or “over-the-counter drug” has the same meaning as prescribed in A.R.S. § 32-1901. ~~Drug has the same meaning as prescribed in A.R.S. § 32-1901, but does not include those substances referenced in subsection (13).~~
13. “Nutrition” includes, but is not limited to, vitamins, minerals, water, enzymes, botanicals, homeopathic preparations, phytonutrients, glandular extracts, and natural hormones.
- ~~8-14.~~ “Preceptor” means a supervising chiropractor approved by the Board to supervise a student in a Board-approved preceptorship training program.

- 9- 15. "Preceptorship training program" means a Board-approved program by which a student may practice chiropractic under the supervision of a preceptor.
16. "Prescribe" means to order or recommend a treatment or device.
17. "Prescription drug" has the same meaning as prescribed in A.R.S. § 32-1901.
- ~~10-~~ 18. "Supervision" means a licensed chiropractor is present in the office, sees a patient, ~~and~~ assigns the work to be done regarding the patient, The chiropractor and is available to check the work of the supervised individual as it progresses and ~~approves~~ the completed work.

ARTICLE 9. UNPROFESSIONAL CONDUCT

R4-7-902. Unprofessional or Dishonorable Conduct Activities

Unprofessional or dishonorable conduct, as used in A.R.S. § 32-924(B) ~~(A)~~(5), means:

- ~~1.~~ Referring a patient to a diagnostic or treatment facility or prescribing goods and services to be purchased from a facility in which the chiropractic physician has any pecuniary interest, without first disclosing in writing to the patient and any third-party payor, the chiropractic physician's interest. Failing to disclose, in writing, to a patient or a third-party payor that the licensee has a financial interest in a diagnostic or treatment facility, test, good, or service when referring a patient for a prescribed diagnostic test, treatment, good, or service and that the diagnostic test, treatment, good or service is available on a competitive basis from another provider. This subsection does not apply to a referral by one licensee to another within a group of licensees who practice together. This subsection applies regardless of whether the referred service is provided at the licensee's place of practice or at another location.
2. Knowingly making a false or misleading statement to the Board, its investigators or representatives, a patient, or a third-party payor.
3. Knowingly making a false or misleading statement, providing false or misleading information, or omitting material information in any oral or written communication, including attachments, to the Board, Board staff, or a Board representative or on any form required by the Board.
4. Knowingly filing with the Board an application or other document that contains false or misleading information.
- ~~3.~~ 5. Failing to create and maintain an adequate patient record that includes the patient's health history, clinical impression, examination findings, diagnostic results, x-ray films if taken, x-ray reports, treatment plan, and notes for each patient visit, and a billing record. The notes for each patient visit shall include the patient's name, the date of service, the chiropractic physician's findings, all services rendered, and the name or initials of the chiropractic physician who provided services to the patient.
- ~~4.~~ 6. Failing to maintain a patient's record, including x-rays and the information required by subsection (5) for a patient, for at least five-six years after the last treatment date, or for a minor, six years after the minor's 18th birthday, or failing to provide written notice to the Board about how to access the patient records of a chiropractic practice that is closed by providing, at a minimum, the physical address, telephone number and full name of a person who can be contacted regarding where the records are maintained, for at least five-six years after each patient's last treatment date or 18th birthday. The patient records of minors shall be maintained for five-six years beyond the minor's 18th birthday.
- 5- 7. Failing to:
 - a. Release a copy of all requested of a patient's record patient records under subsection (5), including the original or diagnostic quality radiographic copy x-rays, or both to another licensed physician, the patient, or the authorized agent of the patient, within 10 business days of receiving a written the receipt of a written request to do so, or . This subsection does not require the release of a patient's billing record to another licensed physician.
 - b. Release a copy of any specified portion or all of a patient's billing record to the patient or the authorized agent of the patient, within 10 business days of the receipt of a written request to do so.
 - c. In the case of a patient or a patient's authorized agent who has verbally requested the patient record:
 - i. Provide the patient record, or

- ii. Inform the patient or patient's authorized agent that the record must be provided if a written request is made under subsection (7) (a) or (b).
 - d. ~~failing to return~~ Return original x-rays to a licensed physician within 10 business days of a written request to do so.
 - e. Provide free of charge, copies of patient records to another licensed physician, the patient, or the authorized agent of the patient in violation of A.R.S. Title 12, Chapter 13, Article 7.1.
- 6.8 Representing that the licensee is certified by this Board in a specialty area in which the licensee is not certified, or has academic or professional credentials that the licensee does not have.
9. Failing to provide to a patient upon request documentation of being certified by the Board in a specialty area or the licensee's academic certification, degree, or professional credentials.
- 7.10. Practicing under, or billing for services under any name other than the name by which the chiropractic physician is licensed by the Board, including corporate, business, or other licensed health care providers' names, without first notifying the Board in writing.
- 8.11. Suggesting, or having sexual contact, as defined in A.R.S. § 13-1401, in the course of patient treatment or within three months of the last chiropractic examination, treatment, or consultation with an individual with whom a consensual sexual relationship did not exist prior to a chiropractic/patient relationship being established in the course of patient treatment (other than with an individual with whom a current consensual personal relationship exists before a chiropractor/patient relationship was established).
12. Intentionally viewing a completely or partially disrobed patient in the course of an examination or treatment if the viewing is not related to the patient's complaint, diagnoses, or treatment under current practice standards.
- 9.13. ~~Charging a fee for services not rendered.~~ Improper billing. Improper billing means:
- a. Knowingly charging a fee for services not rendered;
 - b. Knowingly charging a fee for services not documented in the patient record as being provided;
 - c. Charging a fee by fraud or misrepresentation, or willfully and intentionally filing a fraudulent claim with a third-party payor;
 - d. Misrepresenting the service provided for the purpose of obtaining payment; and
 - e. Charging a fee for a service provided by an unlicensed person who is not a chiropractic assistant under A.R.S. § 32-900 or for services provided by an unsupervised chiropractic assistant; and
 - f. Repeatedly billing for services not rendered or not documented as rendered or repeatedly engaging in acts prohibited under subsections (c) through(e).
- 10.14. Failing to timely comply with a board subpoena pursuant to A.R.S. § 32-929 that ~~allow properly authorized~~ authorizes Board personnel to have, on demand by subpoena, access to any document, report, or record maintained by the chiropractic physician relating to the chiropractic physician's practice or professional activities.
- 44.15. Failing to notify the Board of hiring a chiropractic assistant or to register a chiropractic assistant under A.C.C. R4-7-1102 or failing to supervise properly a chiropractic assistant, under A.R.S. § 32-900 that is supervised or employed by the chiropractic physician.
16. Allowing or directing a person who is not a chiropractic assistant and who is not licensed to practice a health care profession to provide patient services, other than clerical duties.
17. Intentionally misrepresenting the effectiveness of a treatment, diagnostic test, or device.
18. Administering, prescribing, or dispensing prescription-only medicine, or prescription-only drugs, or a prescription-only device as defined in A.R.S. § 32-1901 and pursuant to A.R.S. § 32-925(B). This subsection does not apply to those substances identified under A.A.C. R4-7-101(13).
19. Performing surgery or practicing obstetrics in violation of A.R.S. § 32-925(B).
20. Performing or providing colonic irrigation.
21. Penetration of the rectum by a rectal probe or device for the administration of ultrasound, diathermy, or other modalities.
22. Use of ionizing radiation in violation of A.R.S. § 32-2811.
23. Promoting or using diagnostic testing or treatment for research or experimental purposes:

- a. Without obtaining informed consent from the patient, in writing, before the diagnostic test or treatment. Informed consent includes disclosure to the patient of the research protocols, contracts the licensee has with researchers, if applicable, and information on the institutional review committee used to establish patient protection.
- b. Without conforming to generally accepted research or experimental criteria, including following protocols, maintaining detailed records, periodic analysis of results, and periodic review by a peer review committee; or
- c. For the financial benefit of the licensee.
- 24. Having professional connection with, lending one's name to, or billing on behalf of an illegal practitioner of chiropractic or an illegal practitioner of any healing art.
- 25. Holding oneself out to be a current or past Board member, Board staff member or a Board chiropractic consultant if this is not true.
- 26. Claiming professional superiority in the practice of chiropractic under A.R.S. § 32-925.
- 27. Engaging in disruptive or abusive behavior in a clinical setting.
- 28. Providing substandard care due to an intentional or negligent act or failure to act regardless of whether actual injury to the patient is established.
- 29. Intentionally disposing of confidential patient information or records without first redacting all personal identifying patient information or by any means other than shredding or incinerating the information or record.
- 30. Intentionally disclosing a privileged communication or document, or confidential patient information except as otherwise required or allowed by law.
- 31. Having been diagnosed by a physician whom the Board determines is qualified to render the diagnosis as habitually using or having habitually used alcohol, narcotics, or stimulants to the extent of incapacitating the licensee for the performance of professional duties.
- 32. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. Conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
- 33. Having an action taken against a professional license in another jurisdiction, any limitation or restriction of the license, probation, suspension, revocation, surrender of the license as a disciplinary measure or denial of a license application or license renewal for a reason related to unprofessional conduct.
- 34. Directly or indirectly dividing a professional fee for patient referrals among health care providers or health care institutions or between providers and institutions or entering into a contractual arrangement to that effect. This subsection does not prohibit the members of any regularly and properly organized business entity recognized by law from dividing fees received for professional services among themselves as they determine necessary.
- ~~12.~~35. Failing to report in writing to the Board any information based upon personal knowledge that a chiropractic physician may be grossly incompetent, guilty of unprofessional or dishonorable conduct, or mentally or physically unable to provide chiropractic services safely. Any person who reports or provides information to the Board in good faith is not subjected to civil damages as a result of ~~that action~~ reporting or providing the information. If the informant requests that the informant's name not be disclosed, the Board shall not disclose the informant's name unless ~~it~~ disclosure is essential to the disciplinary proceedings conducted under this Section A.R.S. § 32-924 or required under A.R.S. § 41-1010.
- ~~13.~~36. Violating any federal or state law statute, rule, or regulation applicable to the practice of chiropractic.
- 37. Any act or omission identified in A.R.S. § 32-924 (A)