



Board of Chiropractic Examiners

State of Arizona

September 2004

Legal Updates and Newsletter

Mission Statement: *The mission of the Board of Chiropractic Examiners is to protect the health, welfare and safety of the public.*

Board of Chiropractic Examiners

Craig Seitz, D.C.
Chairperson

P. Dianne Haydon, D.C.
Vice Chairperson

Lee Miller
Public member

Carolyn R. Matthews
Public Member

S. Steven Baker, D.C.
Professional Member

Board Meetings

Oct. 21, 04 Dec. 16, 04 Feb. 10, 05 Apr. 21, 05
Nov. 18, 04 Jan. 13, 05 Mar. 10, 05 May 12, 05

Examinations

Jurisprudence – 1st Friday of the month, 10:00 am

Our Newsletter goes online

We are now publishing our newsletter online at our website, www.azchiroboard.com. This helps us reduce cost and increases readership. If you do not have web access, you can request a copy of the newsletter and one will be sent to you.

Getting in touch with the Board:

Phone: (602) 864-5088

Fax: (602) 864-5099

Website: www.azchiroboard.com

E-mail: Refer to the web site for a list of e-mail addresses.

Did you move or get a new telephone number?

Please remember that A.R.S. 32-923 (A) requires that every licensed person shall, within **30 days**, notify the Board **in writing** of any change in residence or office address and telephone number. The Board has determined that your physical address is required. You can still use a P.O. Box for mailing purposes, but must also provide a physical address. Failure to update your information will result in a \$50.00 civil penalty. Please mail, fax or e-mail your address change to us. Our website is www.azchiroboard.com and has an e-mail link to our office.

Renewal Errors

In 2004, staff noted particular renewal errors that did cause a renewal to be sent back to the licensee as incomplete, or resulted in the opening of a complaint later in the year.

1. CE's not taken prior to the submission of the renewal application.
2. Incomplete or no answer to questions.
3. CE response missing:
 - a. date completed;
 - b. the topic or topics covered;
 - c. the qualifying instructor or sponsor.
4. Sending in unnecessary documentation of CE's.
5. Failing to sign the renewal.

failure to comply with the laws regarding creating and maintaining patient records and billing for services that are not documented in the record. **Remember** that creating and maintaining appropriate patient records is a responsibility you owe to the patient and you owe to yourself, **and it is the law.**

Disciplinary Actions

Disciplinary Actions can now be reviewed on our web site at www.azchiroboard.com by searching by licensee. Licensees that have had a disciplinary action imposed by the Board between Oct. 1, 2003 and Sept. 7, 2004 are:

Barbara Adams, D.C.; 2004-029
Sidney Apps, D.C.; 2004-098
Paul Bates, D.C.; 2002-103
Daniel Boswein, D.C.; 2003-114
Marie Cipollo, D.C.; 2003-125
Frederick Gerretzen, D.C.; 2004-038
David Gibb, D.C.; 2004-011
Michael Handelman, D.C.; 2004-031
J. Houfek, D.C.; 2004-017
Robert Jursek, D.C.; 2004-050
Steven Kuhn, D.C.; 2004-019
Leonard Lense, D.C.; 2003-120
Robert Nielson, D.C.; 2003-068
Roy Ottinger, D.C.; 2004-006 & 2004-006a
Kenneth Rich, D.C.; 04F-020-CEA
Melinda Rosenblum, D.C.; 2003-102
Leonard Rudnick, D.C.; 2003-107
Herbert Schillerstrom, D.C.; 2003-082
Clinton Scott, D.C.; 2003-099
Marvin Smith, D.C.; 2001-038 & 2001-065
James Spradling, D.C.; 2004-022
Scott Stamp, D.C.; 2004-032
Bradely Storks, D.C.; 2004-033
Goudarz Vassigh, D.C.; 2004-024
Steven Vigdor, D.C.; 2004-001

What Actions of the doctor may violate the law?

ARS § 32-924 (A) defines the grounds for disciplinary action against a licensee, regardless of where they occur:

1. Employment of fraud or deception in securing a license.
2. Practicing chiropractic under a false or assumed name.
3. Impersonating another practitioner.
4. Habitual use of alcohol, narcotics or stimulants to the extent of incapacitating the licensee for the performance of professional duties.
5. Unprofessional or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit the profession.
6. Conviction of a misdemeanor involving moral turpitude or of a felony.
7. Gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.

8. Representing that a manifestly incurable condition can be permanently cured, or that a curable condition can be cured within a stated time, if this is not true.
9. Offering, undertaking or agreeing to cure or treat a condition by a secret means, method, device or instrumentality.
10. Refusing to divulge to the board on demand the means, method, device or instrumentality used in the treatment of a condition.
11. Giving or receiving or aiding or abetting the giving or receiving of rebates, either directly or indirectly.
12. Acting or assuming to act as a member of the board if this is not true.
13. Advertising in a false, deceptive or misleading manner.
14. Refusal, revocation or suspension of a license by any other state or country, unless it can be shown that the action was not taken for reasons that relate to the ability to safely and skillfully practice chiropractic or to any act of unprofessional conduct.
15. Any conduct or practice contrary to recognized standards in chiropractic or any conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public or any conduct, practice or condition that impairs the ability of the licensee to safely and skillfully practice chiropractic.
16. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter or any board order.
17. Failing to sign the physician's name, wherever required, in any capacity as "chiropractic doctor", "chiropractic physician" or "doctor of chiropractic" or failing to use and affix the initials "D.C." after the physician's name.
18. Failing to place or cause to be placed the word or words "chiropractic", "chiropractor", "chiropractic doctor" or "chiropractic physician" in any sign or advertising media.
19. Using physiotherapy without passing an examination in that subject and without being certified in that specialty by the board.
20. Using acupuncture without passing an examination in that subject and without being certified in that specialty by the board.
21. Engaging in sexual intercourse or oral sexual contact with a patient in the course of treatment.
22. Billing or otherwise charging a patient or third party payor for services, appliances, tests, equipment, an x-ray examination or other procedures not actually provided.
23. Intentionally misrepresenting to or omitting a material fact from the patient or third party payor concerning charges, services, appliances, tests, equipment, an x-ray examination or other procedures offered or provided.
24. Advertising chiropractic services, appliances, tests, equipment, x-ray examinations or other procedures for a specified price without also specifying the services, procedures or items included in the advertised price.

25. Advertising chiropractic services, appliances, tests, equipment, x-ray examinations or other procedures as free without also disclosing what services or items are included in the advertised service or item.
26. Billing or charging a patient or third party payor a higher price than the advertised price in effect at the time the services, appliances, tests, equipment, x-ray examinations or other procedures were provided.
27. Advertising a specialty or procedure that requires a separate examination or certificate of specialty, unless the licensee has satisfied the applicable requirements of this chapter.
28. Solicitation by the licensee or by the licensee's compensated agent of any person who is not previously known by the licensee or the licensee's agent, and who at the time of the solicitation is vulnerable to undue influence, including any person known to have experienced any of the following within the last fifteen days:
 - (a) Involvement in a motor vehicle accident.
 - (b) Involvement in a work-related accident.
 - (c) Injury by, or as the result of actions of, another person.

For purposes of this selection, "solicitation" includes contact in person, by telephone, telegraph or telefacsimile or by other communication directed to a specific recipient and includes any written form of communication directed to a specific recipient.

Pursuant to the Board rules, the Board on its own initiative shall investigate and may hold hearings on alleged violations of this section.

What may constitute unprofessional/dishonorable conduct?

R4-7-902 identifies the following as unprofessional or dishonorable conduct, as used in A.R.S. § 32-924(A)(5):

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 disclosing in writing to the patient and any third party payor, the chiropractic physician's interest.
2. Knowingly making a false or misleading statement to the Board, its investigators or representatives, a patient, or a third party payor.
3. Failing to create and maintain a patient record that includes the patient's health history, examination findings, diagnostic results, x-ray films if taken, x-ray reports, treatment plan, and notes for each patient visit. 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. Failing to maintain a patient's record, including x-rays, for at least five years after the last treatment date, or failing to

provide written notice to the Board, about how to access the patient records of a chiropractic practice that is closed, for at least five years after each patient's last treatment date. The patient records of minors shall be maintained for five years beyond the minor's 18th birthday.

5. Failing to release a copy of a patient's record, 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 request to do so, or failing to return original x-rays to a licensed physician within 10 business days of a written request to do so.

6. 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.

7. Practicing under, or billing for services under any name other than the name by which the chiropractic physician is licensed, including corporate, business, or other licensed health care providers' names, without first notifying the Board in writing.

8. Suggesting, or having sexual contact, as defined in A.R.S. § 13-1401, with an individual 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).

9. Charging a fee for services not rendered.

10. Failing to allow properly authorized 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.

11. Failing to supervise properly a chiropractic assistant employed by the chiropractic physician.

12. 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. If the informant requests that the informant's name not be disclosed, the Board shall not disclose the informant's name unless it is essential to the disciplinary proceedings conducted under this Section.

13. Violating any federal or state law or rule or regulation applicable to the practice of chiropractic.

R4-7-901 defines advertising of a deceptive and misleading nature as:

1. Advertising painless procedures.
2. Advertising complete health services.
3. Advertising that uses the words "specialist", "specializing" or "expert".

The laws can be found at www.azchiroboard.com

**BOARD of CHIROPRACTIC EXAMINERS
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