



# State of Arizona Board of Chiropractic Examiners

Fall 2009

## 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

**P. Dianne Haydon, D.C.**  
Chairperson

**Susan Wenberg, D.C.**  
Vice Chairperson

**Francisco Heredia**  
Public Member

**James J. Badge, D.C.**  
Professional Member

### Upcoming Board Meetings

October 15, 2009  
November 19, 2009  
December 17, 2009

Board meetings begin at 8:00am. Meeting dates and times are subject to change.

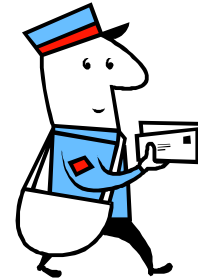
### Examinations

Jurisprudence examinations are given at 10:00 am on the 1<sup>st</sup> Friday of each month. The deadline for each examination is one month prior to the examination date.

### Need to Contact the Board?

Phone: (602) 864-5088  
Fax: (602) 864-5099  
Website: [www.azchiroboard.us](http://www.azchiroboard.us)

Please refer to the website for a list of staff e-mail addresses.



### A Message from the Chairperson

Dear Colleague,

I know that we all have concerns about the economy, National Healthcare Reform and the implementation of electronic medical records in addition to maintaining our business and providing services to the patients entrusted to our care. As a practicing chiropractor, I am struggling with the same issues. Because of fund sweeps and our inability to pass fee increase legislation, several of you have expressed concerns about the profession losing its' ability to self regulate. This letter is to inform you that the Arizona Board of Chiropractic Examiners will continue to operate and maintain our mission of protecting the health, safety and welfare of the public.

The AZBOCE recently recovered \$148,000 of the \$167,000 previously swept from our funds. We have taken steps to cut costs by reducing; travel expenses, limiting the use of consultants and cutting our contract with the Attorney General's office. The AZOBE will continue to function, but limited resources may impact the Board's ability to provide services above those mandated by law. We are scheduled to review our budget and discuss further reductions at our September meeting.

The Board's mandated priorities are; enforcement of laws, monitoring of probation/suspension, processing license applications and responding to public records requests. Because of their direct effect on public safety, enforcement of laws and monitoring probation and suspension status will remain the top priority. Licenses will continue to be processed within the time limits established by law, however, the profession may

experience delays compared to the prompt responses staff are currently able to provide. Public records requests will be processed but may also be delayed. This may include verification of licenses in good standing and credentialing.

Some services not required by law may be delayed or affected due to lack of sufficient resources. We may no longer be able to have a staff person available to answer the phone at all times. The data services that produce the lists and labels which many licensees and the associations use for recruitment may be delayed or eliminated.

Furthermore, lack of resources may prevent the Board from implementing volunteer committees that would allow licensed professionals to participate in Board functions, such as recommendations for approving courses for CEs. Staff would like to implement on-line licensing and online access to more documents, and to accept credit card payments. We would also like to be able to notify doctors of chiropractic telephonically of incomplete applications when there is no time for a mailed notice. Unfortunately, these items take resources we currently do not possess. Soon, the chiropractic profession will have to decide if it is willing to commit to providing the fees necessary to accomplish these functions.

The AZBOCE hopes to maintain its current level of staffing so that we can continue to offer the best possible service to the public and the profession. Reduced and delayed services reflect poorly on the profession and its commitment to self regulation. Effective self-regulation demonstrates that the profession holds itself to the high standards expected of all healthcare professionals. To accomplish this, we must be willing to provide the resources necessary to assure the public of chiropractic's commitment to standards of excellence.

The AZBOCE is committed to continuing to provide the best services possible on your behalf and the behalf of the public we serve.

Sincerely,  
Dianne Haydon, DC  
Chairperson AZBOCE



**Our Website has Moved!**



Update your bookmarks. The Board's website is now located at [www.azchiroboard.us](http://www.azchiroboard.us).



## Legal Updates

On July 13, 2009, Governor Brewer signed House Bill 2306. The bill amended ARS 41-1080, which required all applicants to provide documentation of their legal presence in the United States before being granted an initial license or renewing an existing license. The Chiropractic Board is hopeful that this amendment to the law will allow the Board to renew the licenses of those who have provided documentation of permanent citizenship without requiring additional documentation. At the writing of this newsletter, we are awaiting an opinion from the Office of the Attorney General as to the actual impact of the amendment. Please make certain that you refer to the renewal instructions to determine if you need to provide proof of legal presence in the United States in order to renew your license.

If you have any questions, please contact the Board office.

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## There is More to Compliance Than The Chiropractic Act!

By Pamela Paschal, Deputy Director

With the privilege of practicing Chiropractic in the State of Arizona, comes the responsibility of reviewing, understanding and maintaining compliance with the "Chiropractic Act" which includes:

### LAWS

Arizona Revised Statutes  
A.R.S. § 32-900 through 933

### RULES

Arizona Administrative Code  
A.A.C. R4-7-101 through 1301

and

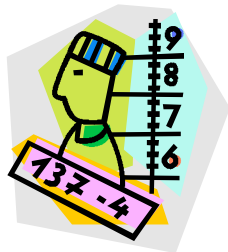
**SUBSTANTIVE POLICY STATEMENTS**  
Adopted and published by the Board

As you might expect, the laws and rules governing your practice do not end with the Chiropractic Act. All health care professionals are also responsible for compliance with other laws adopted by the State of Arizona. In this case, the saying “including but not limited too” certainly applies and some of the issues addressed throughout these statutes are:

- Reporting requirements – such as in the event of an arrest, filing of charges or conviction, abuse or physical injury
- Medical records – maintenance and confidentiality
- Medical Malpractice – immunity and reporting
- Radiological Technologies
- Child Support Obligations
- Administrative Law Procedures

Access to these laws is probably easier than you think. They are available on the Board’s website, or may be purchased along with the Chiropractic Act by sending a check for \$10.00 to 5060 N. 19 Ave. #416, Phoenix, AZ 85015.

One final reminder, Board staff is prohibited from interpreting or providing advice on the Chiropractic Act or any other laws and rules. As you are reviewing such materials, you may wish to consult with an attorney for legal advice.



### **Crime Does Not Pay: And Neither does Failing to Report It**

Five years ago, the Board published an article entitled, “Updates You Need to Know About,” in the annual newsletter. In that article, Allen Imig, then Deputy Director, explained that the legislature had added a new statute. The new law, A.R.S. § 32-3208, required health professionals, charged with a felony or a misdemeanor involving conduct that may affect patient safety, to report the charge to their Board in writing, within 10 working days.

One year later, the Board published another article about A.R.S. § 32-3208. This article reminded licensees about the new law and notified them of their duty to report all

felony and misdemeanor charges, including DUI, within 10 business days.

Unfortunately, after five years and two articles, licensees still fail to report that they have been charged with a felony or misdemeanor. At least eight licensees have received non-disciplinary advisory letters for failing to disclose charges within ten days. In addition, violations of this statute have contributed to the disciplinary actions taken against at least six licensees.

Do not become a statistic! If you are charged with a misdemeanor or felony, report it to the Board, in writing, within 10 working days. If you are charged with a misdemeanor, do not assume that it does not involve conduct that may affect patient safety. Let the Board decide. Otherwise, you may end up with an advisory letter or sanction on your record.

### **Massage Therapist or Chiropractic Assistant?**

Board staff is often asked if massage therapists must be trained and registered as chiropractic assistants. To answer this question, staff suggests that the licensee ask themselves two questions.

1. Is the massage therapist licensed by the Arizona State Board of Massage Therapy?
2. If so, are they working within the scope of practice of a licensed massage therapist?

If the answer to each question is “yes,” then the massage therapist does not need to be registered as a chiropractic assistant.

However, if the massage therapist is not licensed or if they are performing tasks that are outside of their scope of practice and within that of a chiropractic assistant, they should be trained and registered as a C.A.

This answer usually brings up a second question. Does the training the massage therapist received in massage school qualify them to be registered with the Board? Some massage therapy schools have been approved by the Board to provide chiropractic assistant training concurrent with their massage therapy curriculum. However, not all schools have been approved. Please contact staff to determine whether the school they attended qualifies.



## Use of Unlicensed Chiropractors

By Patrice Pritzl, Executive Director

The Board has reviewed complaints over the past year in which a licensed doctor of chiropractic aided and abetted a person who is not licensed to practice chiropractic in the State of Arizona in the illegal practice of chiropractic. Such practice places the health, welfare, and safety of the public at great risk, and therefore, the doctors in these matters did have their licenses disciplined.

The Board would like to take this opportunity to remind you of the laws so that you may avoid placing your patients at risk through similar practices.

A person who holds a chiropractic license in this or any other jurisdiction cannot perform the clinical duties of a chiropractic assistant.

A person who has had a license to practice chiropractic or any other health care profession suspended, revoked, or denied for any reason other than failing to meet education or licensing examination requirements in this or any other jurisdiction shall not perform the clinical duties of a chiropractic assistant.

A person who has graduated from chiropractic college, and who is waiting to take the examination for licensure, but who is not licensed at the current time, can perform the duties of a chiropractic assistant if they follow all laws pertaining to chiropractic assistants, to include notice of hire and registration with the Board. While an assistant can assist the doctor in performing examinations, the unlicensed chiropractor or assistant cannot perform an independent examination or consultation, or perform any duties not allowed under A.A.C. R4-7-1103.

If you have a question as to whether an unlicensed person can perform clinical duties, Board staff will be happy to guide you to the applicable laws.

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## Disciplinary Actions

Licenses that have had a disciplinary action imposed by the Board from July 30, 2008 to August 5, 2009 include:

Gregg N. Battersby, D.C. #07F-085-CEA  
Jesus G. Bernal, D.C. #2007-008  
Mark S. Burdell, D.C. #2006-137  
Matthew D. Coen, D.C. #2007-087  
Ted E. Coffman, D.C. #2008-001 & 2008-072

L.A. Decker, D.C. #2009-042  
John D. Eldridge, D.C. #2008-087  
Howard D. Fern, D.C. #2007-060  
Andre C. Fournier, D.C. #2008-107, 122 & 2009-002  
Frederico Gitirana, D.C. #2007-077  
Jacob D. Hanson, D.C. #2009-008  
Linda M. Haynes-Mazion, D.C. #2009-035  
Kenneth D. Krieger, D.C. #2009-004  
Ryan K. Larson, D.C. #2008-051  
John T. Le, D.C. #2007-113  
David H. Maguire, D.C. #SE200700640  
Gregory C. Manos, D.C. #2009-092  
Scott C. Morrison, D.C. #2008-103  
Robert D. Nielson, D.C. #2009-075 & 2007-044  
Roy Ottinger, D.C. #08F-102-CEA  
L. Jon Porman, D.C. #2008-092  
Matthew J. Reilly, D.C. #2008-097  
Curtis E. Reiss, D.C. #2008-008  
Carl R. Row, D.C. #2008-063  
Brian A. Self, D.C. #2007-106  
David W. Shiflet, D.C. #2008-050  
Thomas A. Stark, D.C. #2008-104 & 114  
Nicholas A. Tivoli, D.C. #2007-056  
David W. Yancey, D.C. #2009-107

You may review disciplinary actions on our web site, [www.azchiroboard.us](http://www.azchiroboard.us). To view an action, choose the "Find a Chiropractor" link, then type in the first name, last name or license number of the licensee in the criteria box on the search page. Next, choose the correct licensee from the resulting list. A summary of the action should appear. You may also review the entire Order by choosing the "View Order" link above the summary.