

Rulemaking Hearing Rules

Board of Chiropractic Examiners

Chapter 0260-02
General Rules Governing Chiropractic Examiners

Chapter 0260-03
General Rules Governing Chiropractic X-Ray Technologists

Chapter 0260-05
General Rules Governing Chiropractic Therapy Assistants

Amendments

Rule 0260-02-.03, Necessity of Licensure, is amended by inserting the following language as new paragraph (3) and renumbering the remaining paragraphs accordingly:

- (3) Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the titles "chiropractor," "chiropractic physician" and "doctor of chiropractic," to use the acronym "D.C.," and to practice chiropractic, as defined in T.C.A. §§ 63-4-101. Any person licensed by the Board to whom this rule applies must use one of the titles authorized by this rule in every "advertisement" [as that term is defined in rule 0260-02-.20 (2) (a)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the licensee to disciplinary action pursuant to T.C.A. § 63-4-114 (4), (13), and (16).

Authority: T.C.A. §§ 63-1-145, 63-4-101, 63-4-106, 63-4-114, and 63-4-122.

Rule 0260-02-.07, Application Review, Approval, Denial, Interviews, is amended by deleting paragraph (10) in its entirety and substituting instead the following language, so that as amended, the new paragraph (10) shall read:

- (10) Interviews
 - (a) Applicants, who by virtue of any criteria for licensure in the areas of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates derogatory information or a potential risk to the public health, safety and welfare, may be required to present themselves to the Board for an interview before final licensure may be granted. The interviews, which may be required, are considered part of the licensure process.
 - (b) Applicants who have completed all requirements and procedures for licensure and who are not impacted by subparagraph (a) shall present themselves to a Board member for an interview which shall include a discussion regarding the applicant's knowledge and understanding of pertinent statutes, regulations and ethics codes. The applicant shall schedule the interview to occur within sixty (60) days of his/her receipt of the Board's written approval to commence.

Authority: T.C.A. §§ 63-4-106, 63-4-107, and 63-4-108.

Rule 0260-02-.15, Disciplinary Actions, Civil Penalties, Screening Panels, Subpoenas, and Assessment of Costs, is amended by deleting subparagraph (1) (f) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) shall read:

- (1) (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
1. During any period of probation, suspension; or
 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
 4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-4-106, 63-4-114, and 63-4-115.

Rule 0260-03-.14, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (f) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) shall read:

- (1) (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined certificate holder in any of the following circumstances:
1. During any period of probation, suspension; or
 2. During any period of revocation after which the certificate holder may petition for an order of compliance to reinstate the revoked certificate; or
 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked certificate; or
 4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-4-106, 63-4-114, 63-4-115, and 63-4-119.

Rule 0260-05-.14, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (f) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) shall read:

- (1) (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined certificate holder in any of the following circumstances:
1. During any period of probation, suspension; or
 2. During any period of revocation after which the certificate holder may petition for an order of compliance to reinstate the revoked certificate; or
 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked certificate; or
 4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-4-106, 63-4-114, 63-4-115, and 63-4-123.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 29th day of October, 2008, and will become effective on the 12th day of January, 2009. (FS 10-18-08; DBID3563-3565)

Economic Impact Statement

The amendment regarding applicant interviews sets forth into regulations what is the present practice of the Board, and therefore has no new or additional economic impact on small businesses. The amendments regarding conditions placed upon disciplined licensees have no economic impact on small businesses.

- (1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Amendment regarding use of titles:

Chiropractic physicians who advertise and chiropractic or, to a lesser extent, medical practices that advertise and also employ chiropractic physicians.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

As of December 31, 2006, Tennessee had 947 licensed chiropractic physicians and 18,776 medical doctors who were eligible for licensure renewal.

- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The proposed amendment which has economic impact on small businesses has no increased or new reporting, recordkeeping and other administrative costs that are required for compliance.

- (4) Statement of the probable effect on impacted small businesses and consumers:

Amendment regarding use of titles:

Chiropractic physicians who advertise and chiropractic or medical practices that advertise may have to revise advertisements which have been previously developed and/or currently running. Consumers will benefit from accurate advertisements that are not misleading.

- (5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

Amendment regarding use of titles:

The Board does not believe there are less burdensome alternatives because the intent of T.C.A. § 63-1-145 (Public Chapter 467 of the Public Acts of 2005) requires the promulgation of this rule.

- (6) Comparison of the proposed rule with any federal or state counterparts:

Federal - The Board is not aware of any federal counterparts. Chiropractic physicians are not licensed by the federal government

State - Amendment regarding use of titles:

The proposed rule amendment regarding use of titles will be promulgated at all of the health related licensing boards.

- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

It is not possible to exempt the impacted small businesses from all or any part of the requirements contained in the proposed rule because the small businesses which are impacted the most are the Board's licensees. If the Board's licensees were exempted, the rule would have no effect. T.C.A. § 63-1-145 requires the health-related licensing boards to promulgate rules to "regulate the nature, manner, content, and extent of advertising and the use of titles by practitioners of such healing arts who are under the jurisdiction of such boards, including advertising pertaining to board certification and specialty."