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Sequence Number: 10-21-15
Notice ID(s): 2396
File Date: 10-27-15

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

| | |
|---------------------------------|--|
| Agency/Board/Commission: | Department of Health |
| Division: | Board of Chiropractic Examiners |
| Contact Person: | Mark Cole |
| Address: | 665 Mainstream Drive, Nashville, Tennessee 37243 |
| Phone: | (615) 741-1611 |
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

| | |
|---------------------|--|
| ADA Contact: | ADA Coordinator |
| Address: | 710 James Robertson Parkway, Andrew Johnson Building, 5 th Floor, Nashville, Tennessee 37243 |
| Phone: | (615) 741-6350 |
| Email: | Tina.M.Harris2@tn.gov |

Hearing Location(s) (for additional locations, copy and paste table)

| | |
|----------------|--|
| Address 1: | Metro Center |
| Address 2: | 665 Mainstream Drive – Iris Conference Room |
| City: | Nashville, Tennessee |
| Zip: | 37228 |
| Hearing Date : | 12/18/15 |
| Hearing Time: | 9:00 A.M. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT |

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

| Chapter Number | Chapter Title |
|----------------|--|
| 0260-02 | General Rules Governing Chiropractic Examiners |
| Rule Number | Rule Title |
| 0260-02-.01 | Definitions |
| 0260-02-.02 | Scope of Practice |

| | |
|-------------|--|
| 0260-02-.12 | Continuing Education |
| 0260-02-.13 | Professional Ethics |
| 0260-02-.21 | Chiropractor Preceptor Program |
| 0260-02-.24 | Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies |

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

Rule 0260-02

General Rules Governing Chiropractic Examiners

Rule 0260-02-.01 Definitions is amended by deleting paragraphs (6), (7), (18), (22), and (24) in their entirety and renumbering the remaining paragraphs, and the rule is further amended by adding new paragraphs (6), (17), (20), (22), and (24) and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

- (6) Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, joint mobility or alignment.
- (17) Manipulation - A passive therapeutic intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, mobility or alignment.
- (20) Physical Therapeutics – Physical agents, rehabilitative and/or therapeutic procedures utilized in the restoration and maintenance of health.
- (22) Subluxation – When one or the other of two adjacent articular surfaces has lost its articular or neurological function, position, or alignment and is classified less than a dislocation.
- (24) Therapeutic Care – An approved, adjustive, manipulative, nutritional, therapeutic or rehabilitative treatment administered by or ordered by a chiropractic physician for the restoration and maintenance of health.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-103, 63-4-105, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-112, 63-4-114, 63-4-122, and 63-4-123.

Rule 0260-02-.02 Scope of Practice is amended by deleting paragraph (2) and subparagraphs (3)(b), (3)(c), and (3)(d) in their entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) The scope of practice of chiropractic physician shall be as set forth in T.C.A. § 63-4-101.
 - (a) As a portal of entry provider, a chiropractic physician has authority to make a differential diagnosis that may include the use of patient history, examination techniques, lab analysis and analytical instruments for the purpose of determining vital signs and screening of health status, orthopedic and neurological testing, range of motion and muscles testing and diagnostic evaluation and/or imaging of the human body that may be revealed in a state of pathology, as a basis for making clinical judgments as to the patient's condition, degree or nature of treatment needed and management and rehabilitation of the human body which is in the opinion of the provider, appropriate for the restoration and maintenance of health.
 - (b) A chiropractic physician has the authority to perform an adjustment, manipulation or treatment which may include physical therapeutic interventions to the human frame and/or soft tissues for the restoration and/or supportive care and/or maintenance of health.
 - (c) The chiropractic physician's responsibility for patient care, case management, and the protection of the patient includes the authority to make a proper referral to a particular health specialist for consultation or collaborative care, and also for treatments, therapeutic procedures, recommendations, recording and reporting to third-party payers, preparing narratives, giving of depositions and in-court testimony as an expert witness and determination of impairment ratings.
 - (d) The scope of practice of a chiropractic physician includes such supportive care as nutritional evaluation, recommendation and supplementation, patient management in their mental and

physical environment, and due regard for patients concerning diet, hygiene, sanitation and rehabilitation.

- (e) The scope of practice of a chiropractic physician includes the ordering, from a licensed or certified laboratory, analysis of blood, urine, or other bodily fluids, secretions or excretions, for the diagnosis and management of the patient.
 - (f) The Board of Chiropractic Examiners does not recognize any one document, guideline, textbook, clinical trial or study as the exclusive endorsement for setting standards of practice.
- (3)
- (b) Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, mechanical and/or electromechanical devices.
 - (c) Manipulation moves the spinal segments beyond their normal range of motion for the restoration of neurological integrity, and/or correction of articular dysfunction, but without exceeding the limits of anatomical integrity.
 - (d) A differential diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation/adjustment procedure.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-114, 63-4-120, 63-4-121, 63-4-122, 63-6-1002.

Rule 0260-02-.02 Scope of Practice is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Acupuncture – A licensed chiropractic physician who practices acupuncture as a chiropractic specialty must complete two hundred and fifty (250) hours of an acupuncture course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners (NBCE) Acupuncture Exam. Prior to engaging in the practice of acupuncture, a chiropractic physician must:
- (a) request that an official transcript be sent directly to the Board's Administrative Office from an accredited acupuncture program demonstrating successful completion of at least 250 hours training and education.
 - (b) request that official proof be sent directly to the Board's Administrative Office from the NBCE demonstrating successful completion of the acupuncture exam. Upon receipt, the Board office shall provide a letter to proceed with the practice of acupuncture.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-114, 63-4-120, 63-4-121, 63-4-122, 63-6-1002.

Rule 0260-02-.12 Continuing Education is amended by deleting subparagraphs (1)(a) and (1)(c) in their entirety and substituting instead the following language and is further amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraphs, so that as amended, the new subparagraphs (1)(a) and (1)(c) shall read:

- (a) Acupuncture — Licensees who practice acupuncture shall have six (6) classroom hours each year of the required twenty-four (24) hours in the area of acupuncture. Such licensees must have first met the requirements of Rule 0260-02-.02(4). No credit for continuing education shall be awarded beyond the six (6) hours each year.
- (c) No prior approval is required for continuing education courses conducted or approved by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or CPR training provided by the American Heart Association or the American Red Cross.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-108, 63-4-101, 63-4-106 and 63-4-112.

Rule 0260-02-.12 Continuing Education is amended by deleting newly-numbered subparagraph (3)(a) in its entirety and substituting instead the following language, and is further amended by deleting newly-numbered

subparagraph (3)(c) and re-lettering the remaining subparagraphs, so that as amended the new subparagraph (3)(a) shall read:

- (a) The licensee must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the proofs described in subparagraph (a).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-108, 63-4-101, 63-4-106 and 63-4-112.

Rule 0260-02-.12 Continuing Education is amended by deleting newly numbered paragraph (4) and subparagraphs (4)(b) and (7)(f) and substituting the following language, so that as amended, the new paragraph (4) and subparagraphs (4)(b) and (7)(f) shall read:

(4) Distance Learning

- (a) A maximum of six (6) credit hours may be granted for distance learning courses during each calendar year. If the licensee practices acupuncture, three (3) of these six (6) hours may pertain to such acupuncture practice.
- (7) (f) Failure to obtain the required continuing education during the calendar year, shall result in the following actions: (1) The licensee must pay a civil penalty in the amount of six hundred dollars (\$600.00) with payment rendered within 30 days of notification from the Board. (2) The licensee must make up the hours in which he/she is deficient, in addition to the continuing education hours necessary to be obtained annually. The deficient hours must be made up in the subsequent year. Failure to fulfill these requirements may result in additional disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-108, 63-4-101, 63-4-106 and 63-4-112.

Rule 0260-02-.13 Professional Ethics is amended by deleting paragraph (4) and substituting instead the following language, and is further amended by adding subparagraph (8)(g) so that as amended, the new paragraph (4) and paragraph (9) shall read:

- (4) Advertising or promoting, waiving, abrogating, or rebating the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligations for payment, unless the insurer is notified in writing of the fact of such waiver. Advertising or promoting the same must include the notice to the insurer and the record must include proof of the actual notice. If the patient is unable, due to circumstances, to pay for their services and no advertising or promotion is given to the patient, the provider may excuse any portion of fees to insure that the patient may receive the necessary procedure.
- (9) Unlicensed assistants – Licensees shall not allow staff personnel to perform procedures in the clinic for which they are not licensed for services, in which a license is required. This includes those services that require a chiropractic therapy assistant or a chiropractic x-ray technologist. Violators will be subject to a civil penalty of up to one thousand dollars (\$1000.00) per month for each employee found to be practicing without a license. Failure to fulfill these requirements may result in additional disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-401, 63-4-106, and 63-4-114.

Rule 0260-02-.21 Chiropractor Preceptor Program is amended by deleting the rule, but not its title, in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

(1) Applications for Preceptor Program

An application will be considered by the board or its designee, based upon:

- (a) If the preceptor named in the application is in good standing with the board.
 - (b) If the application for the chiropractic preceptor program includes an intern/extern who is serving his/her internship with a chiropractic college accredited by the Council on Chiropractic Education (CCE), registered with the Commission on Accreditation of the U.S. Department of Education.
- (2) Conditions for Practicing Under an Externship Certificate

- (a) An extern must have approval from the chiropractor supervisor of the findings/diagnosis and case management plan of all patients assigned for examination and care before commencing treatment. With the approval, an extern will be allowed to perform all diagnostic tests and therapeutic interventions as provided in T.C.A. § 63-4-101.
 - (b) The preceptor program will be discontinued upon graduation of the intern/extern. However, if the graduate has completed the application for licensure in this state, and upon filing an application for temporary license, if approved, may continue practicing on the temporary license.
 - (c) In the event of a vacation or a prolonged illness the chiropractic supervisor must make arrangements for continued supervision by a licensed chiropractic physician and submit a letter from the new chiropractic supervisor, addressed to the previous supervisor, stating that he/she will take the responsibility as previously outlined for the supervision and forward a copy of said letter to the Board's administrative office.
 - (d) Collection of fees for services and filing claims to third-party-payers must be in the name of the chiropractic supervisor (attending physician).
- (3) Supervision – For purposes of this rule, supervision is defined as the direct oversight of the extern by a Tennessee licensed chiropractic physician. The chiropractic supervisor must be available for approval of examination findings/diagnosis and management plan, including subsequent changes that may alter the treating program. The chiropractic supervisor must conduct and evaluate case studies with the extern on each visit of the interactive reassessment throughout the treating program of each patient. The supervisor shall be on the facility premises while the extern is conducting patient care.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-107, 63-4-108, 63-4-120, and 63-4-121.

Rule 0260-02-.24 Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies is amended by deleting the rule title in its entirety and substituting instead the following language, so that as amended, the new rule title shall read:

Rule 0260-02-.24 Chiropractic Professional Corporations (CPC) and Chiropractic Professional Limited Liability Companies (CPLLC).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-4-101, 63-4-103, 63-4-106, 63-4-107, 63-4-114, and 63-4-119.

Rule 0260-02-.24 Chiropractic Professional Corporations (CPC) and Chiropractic Professional Limited Liability Companies (CPLLC) is amended by deleting subparagraphs (1)(b) and (2)(b) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1)(b) and (2)(b) shall read:

- (1) (b) Ownership of Stock - With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:
 - 1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or
 - 2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:
 - (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic services in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
 - (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or

- (iii) A combination of professionals authorized by subparts (i) and (ii) as long as those professionals are licensed in TN.
- (2) (b) Membership - With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:
1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or
 2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:
 - (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic services in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
 - (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or
 - (iii) A combination of professionals authorized by subparts (i) and (ii), as long as those professionals are licensed to practice their professions in Tennessee.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-4-101, 63-4-103, 63-4-106, 63-4-107, 63-4-114, and 63-4-119.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 10-27-15

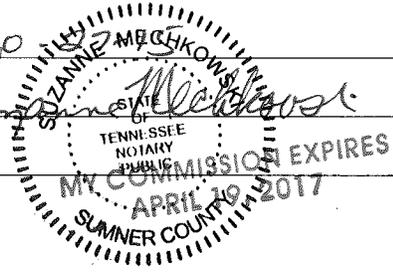
Signature: Mark Cole

Name of Officer: Mark Cole
Assistant General Counsel
Title of Officer: Department of Health

Subscribed and sworn to before me on: _____

Notary Public Signature: [Signature]

My commission expires on: _____



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Filed with the Department of State on: 10-27-15

[Signature]

Tre Hargett
Secretary of State

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