

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 415

Short Title: Update Chiropractic Laws. (Public)

Sponsors: Representatives Setzer, Lambeth, Everitt, and Moffitt (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Insurance, if favorable, Rules, Calendar, and Operations of
the House

March 29, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE VARIOUS LAWS OF THE PRACTICE AND LICENSURE OF
3 CHIROPRACTIC.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Article 8 of Chapter 90 of the General Statutes reads as rewritten:

6 "Article 8.

7 "Chiropractic.

8 ...

9 **"§ 90-142. ~~Rules and regulations.~~Powers; duties.**

10 The North Carolina State Board of Chiropractic Examiners ~~may adopt suitable~~ shall have the
11 following powers and duties:

12 (1) Administer and enforce the provisions of this Article.

13 (2) Adopt, amend, or repeal rules and regulations for the performance of their
14 duties as may be necessary to carry out and the enforcement of enforce the
15 provisions of this Article.

16 (3) Issue position statements and other interpretative guidelines.

17 (4) Require an applicant or licensee to submit to the Board evidence of the
18 applicant's or licensee's continuing competence to practice chiropractic.

19 (5) Establish substantial equivalency under G.S. 90-143(b) and G.S. 90-143.1.

20 (6) Set the passing scores for approved examinations under G.S. 90-143(b).

21 (7) Establish certain reasonable fees as authorized by this Article for applications
22 for examination, licensure, provisional licensure, renewal of licensure, and
23 other services provided by the Board. When the Board uses a testing service
24 for the preparation, administration, or grading of examination, the Board may
25 charge the applicant the actual cost of the examination services and a prorated
26 portion of the examination fee for administration and processing of the
27 examination. Examination fees are not refundable.

28 (8) Establish certification standards for diagnostic imaging technicians.

29 (9) Establish certification standards for chiropractic clinical assistants.

30 (10) Employ and fix the compensation of personnel and legal counsel that the
31 Board deems necessary to carry out the provisions of this Article.

32 (11) Establish by rule a schedule and access civil penalties pursuant to G.S. 90-158.

33 (12) Take disciplinary action pursuant to G.S. 90-154.2, 90-154.3, and 90-154.4.



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1 (13) Seek injunctive relief through a court of competent jurisdiction for violations
2 of this Article.

3 ...
4 **"§ 90-144. Meetings of Board of Examiners.**

5 The North Carolina Board of Chiropractic Examiners shall meet at least once a year at such
6 time and place as ~~said the Board shall determine at which meetings applicants for license shall~~
7 ~~be examined and advertise.~~ Applicants for licensure under this Article shall comply with
8 G.S. 90-143(b).

9 ...
10 **"§ 90-148. Records of Board.**

11 (a) The secretary of the Board of Chiropractic Examiners shall keep a record of the
12 proceedings of the Board, giving the name of each applicant for license, and the name of each
13 applicant licensed and the date of such license. The Board may order that any records concerning
14 the practice of chiropractic and relevant to a complaint received by the Board or an inquiry or
15 investigation conducted by or on behalf of the Board shall be produced by the custodian of the
16 records to the Board or for inspection and copy by representatives of or counsel to the Board. A
17 chiropractor licensed by the Board or an establishment employing a chiropractor licensed by the
18 Board shall maintain records for a minimum of seven years from the date the chiropractor
19 terminates services to the patient and the patient services record is closed. A chiropractor licensed
20 by the Board or a chiropractic assistant certified by the Board shall cooperate fully and in a timely
21 manner with the Board and its designated representatives in an inquiry or investigation of the
22 records conducted by or on behalf of the Board.

23 (b) Except as otherwise provided, all records, papers, and documents containing
24 information collected and compiled by or on behalf of the Board shall be public records, provided
25 that any information that identifies a patient who has not consented to the public disclosure of
26 services rendered to him or her shall be deleted or redacted, as appropriate. Records, papers, and
27 other documents containing information collected or compiled by or on behalf of the Board as a
28 result of an investigation, inquiry, or interview conducted in connection with certification,
29 licensure, or a disciplinary matter shall not be considered public records as defined in G.S. 132-1.
30 Any notice or statement of charges, notice of hearing, or decision rendered in connection with a
31 hearing shall be a public record provided that information identifying a patient who has not
32 consented to the public disclosure of his or her services by a person licensed or certified under
33 this Article shall be redacted from the public record.

34 (c) The names and office addresses of members of the Board shall be a public record as
35 defined in G.S. 132-1. The Board members' home addresses and email addresses shall not be a
36 public record, unless a Board member consents to the disclosure in writing.

37 (d) The names and office addresses of all licensees of the Board shall be a public record
38 as defined in G.S. 132-1. Home addresses and email addresses of licensees of the Board shall not
39 be a public record, unless a licensee member consents to the disclosure in writing.

40 ...
41 **"§ 90-154. Grounds for professional discipline.**

42 (a) The Board of Chiropractic Examiners may impose any of the following sanctions,
43 singly or in combination, when it finds that a practitioner or applicant is guilty of any offense
44 described in subsection (b):

45 ...
46 (7) A civil penalty as allowed by this section.

47 (b) Any one of the following is grounds for disciplinary action by the Board under
48 subsection (a):

49 (1) ~~Advertising services in a false or misleading manner.~~

50 (2) Conviction of a felony or of a crime involving moral turpitude.

- 1 (3) ~~Addiction—Physical, mental, emotional infirmity, including addiction to or~~
2 severe dependency upon alcohol or any other drug that impairs the ability to
3 practice safely.
- 4 (4) ~~Unethical conduct as defined in G.S. 90-154.2.~~
- 5 (5) Negligence, incompetence, or malpractice in the practice of chiropractic.
- 6 (6) Repealed by Session Laws 1995, c. 188, s. 1.
- 7 (7) ~~Not rendering acceptable care in the practice of the profession as defined in~~
8 G.S. 90-154.3.
- 9 (8) Lewd or immoral conduct toward a patient.
- 10 (9) Committing or attempting to commit fraud, deception, or misrepresentation.
- 11 (10) ~~Offering to waive a patient's obligation to pay any deductible or copayment~~
12 required by the patient's insurer.
- 13 (11) ~~Failing to honor promptly a patient's request for a copy of any claim form~~
14 submitted to the patient's insurer.
- 15 (12) ~~Rebating or offering to rebate to a patient any portion of the funds received~~
16 from the patient's insurer, unless the sum rebated constitutes the refund of an
17 overpayment to which the patient is lawfully entitled.
- 18 (13) ~~Advertising any free or reduced rate service without prominently stating in the~~
19 advertisement the usual fee for that service.
- 20 (14) ~~Charging an insurer or other third-party payor a fee greater than a patient~~
21 would be charged for the same service if the patient were paying directly.
- 22 (15) ~~Charging an insurer or other third-party payor a fee greater than the advertised~~
23 fee for the same service.
- 24 (16) ~~Violating the provisions of G.S. 90-154.1.~~
- 25 (17) ~~Physical, mental, or emotional infirmity of such severity as to impair the~~
26 ability to practice safely.
- 27 (18) ~~Violating the provisions of G.S. 90-151 regarding the extent and limitation of~~
28 license.
- 29 (19) Concealing information from the Board or failing to respond truthfully and
30 completely to an inquiry from the Board concerning any matter affecting
31 licensure.
- 32 (20) Failing to comply with a decision of the Board that is final.
- 33 (21) ~~Committing an act on or after October 1, 2007, which demonstrates a lack of~~
34 good moral character which would have been a basis for denying a license
35 under G.S. 90-143(b)(1), had it been committed before application for a
36 license.
- 37 (22) Engaging in any act or practice violative of any of the provisions of this Article
38 or of any of the rules and regulations adopted by the Board, or aiding, abetting,
39 or assisting any other person in the violation of any of the provisions of this
40 Article.

41 (c) If a licensee is found guilty in a contested case arising under subsection (b) of this
42 section, the Board may assess the licensee the reasonable cost of the hearing held to make such
43 a determination if the Board finds that the licensee's defense at the hearing was dilatory or not
44 asserted in good faith.

45 "~~§ 90-154.1. Collection of certain fees prohibited.~~

46 (a) ~~Any patient or any other person responsible for payment has the right to refuse to pay,~~
47 ~~cancel payment, or be reimbursed for payment for any service, examination, or treatment other~~
48 ~~than the advertised reduced rate service, examination or treatment which is performed as a result~~
49 ~~of and within 72 hours of responding to any advertisement for a free or reduced rate service, free~~
50 ~~or reduced rate examination, or free or reduced rate treatment. Any further treatment shall be~~
51 ~~agreed upon in writing and signed by both parties.~~

1 (b) Any chiropractic advertisement that offers a free or reduced rate service, examination
2 or treatment shall contain the following notice to prospective patients: "If you decide to purchase
3 additional treatment, you have the legal right to change your mind within three days and receive
4 a refund." If the advertisement is published in print, the foregoing notice shall appear in capital
5 letters clearly distinguishable from the rest of the text. If the advertisement is broadcast on radio
6 or television, the foregoing notice shall be recited at the end of the advertisement.

7 (c) ~~Repealed by Session Laws 1995, c. 188, s. 2.~~

8 (d) Any bill sent to a patient or any other person responsible for payment as a result of
9 the patient responding to a chiropractic advertisement shall clearly contain the language of the
10 first sentence of subsection (a) and have distinguished on its face the charge for the reduced rate
11 services, including an itemization of free services, and the separate charge for any services,
12 examinations or treatments other than the advertised free or reduced rate services, examinations,
13 or treatments. The reduced rate charges shall be labeled "Free or Reduced Rate Charges" and any
14 other charges shall be labeled "Non-advertised Services, Examinations, or Treatments".

15 ...

16 **"§ 90-154.3. Acceptable care in the practice of chiropractic.**

17 (a) It shall be unlawful for a doctor of chiropractic to examine, treat, or render any
18 professional service to a patient that does not conform to the standards of acceptable care.

19 (b) For purposes of disciplinary action, the Board of Chiropractic Examiners may adopt
20 rules that establish and define standards of acceptable care ~~with respect to:~~care.

21 (1) ~~Examination and diagnosis;~~

22 (2) ~~The use of chiropractic adjustive procedures;~~

23 (3) ~~Physiological therapeutic agents;~~

24 (4) ~~Diagnostic radiology;~~

25 (5) ~~The maintenance of patient records; and~~

26 (6) ~~Sanitation, safety, and the adequacy of clinical equipment.~~

27 (c) ~~If the Board has not defined a standard of acceptable care by rule, then the standard~~
28 ~~of acceptable care shall be the usual and customary method as taught in the majority of~~
29 ~~recognized chiropractic colleges.~~

30 (d) Nothing in this section shall alter the lawful scope of practice of chiropractic as
31 defined in G.S. 90-143 or the limitation of license as defined in G.S. 90-151.

32 **"§ 90-154.4. Enticements prohibited.**

33 (a) ~~For purposes of this section, an enticement is anything of monetary value offered by~~
34 ~~a chiropractor to a prospective patient as an incentive to enter treatment. Except as permitted in~~
35 ~~subsection (b) of this section, it shall be an unlawful rebate, in violation of G.S. 90-154(b)(12),~~
36 ~~for a chiropractor to offer an enticement to a prospective patient if, at the time the offer is made,~~
37 ~~the chiropractor knows or has reason to believe that the prospective patient's treatment expenses~~
38 ~~will be paid in whole or part by an insurer or other third party payor.~~

39 (b) ~~Unless prohibited by other State or federal law, the following marketing practices~~
40 ~~shall not be construed as violations of subsection (a) of this section:~~

41 (1) ~~Free or reduced rates, services, examinations, or treatments advertised and~~
42 ~~delivered in conformity with G.S. 90-154.1.~~

43 (2) ~~Cash or point of service discounts not more than 30 percentage points lower~~
44 ~~than the charges customarily billed to third party payors.~~

45 (3) ~~Prepaid wellness plans covering only services that can be performed entirely~~
46 ~~by the offering chiropractor or the chiropractor's staff within the confines of~~
47 ~~the chiropractor's office.~~

48 (4) ~~Merchandise with a value of not more than ten dollars (\$10.00) given to a~~
49 ~~prospective patient for promotional purposes.~~

50 **"§ 90-155. Annual fee for renewal of license.**

1 ~~(a) Any person practicing chiropractic in this State, in order to~~ Licenses must renew a
2 ~~license, shall, on or before the first Tuesday after the first Monday in January in their license~~
3 ~~each year after a license is issued as herein provided, on or before December 31 of each year~~
4 ~~following the year in which a license is first issued, and shall pay to the secretary of the Board of~~
5 ~~Chiropractic Examiners a renewal license fee as prescribed and set by the said Board which fee~~
6 ~~shall not be more than three hundred dollars (\$300.00), and shall furnish the Board evidence of~~
7 ~~having attended two days of educational sessions or programs approved by the Board during the~~
8 ~~preceding 12 months, provided the Board may waive this educational requirement due to sickness~~
9 ~~or other hardship of the applicant.~~

10 ~~Any license or certificate granted by the Board under this Article shall automatically be~~
11 ~~canceled if the holder of the license or certificate fails to secure a renewal within 30 days from~~
12 ~~the time herein provided; but any license thus canceled may, upon evidence of good moral~~
13 ~~character and proper proficiency, be restored upon the payment of the renewal fee and an~~
14 ~~additional twenty-five dollars (\$25.00) reinstatement fee.~~

15 ~~If any licensee of the Board retires from active practice, the licensee may renew his or her~~
16 ~~license annually by paying the license fee and shall not be required to furnish the Board proof of~~
17 ~~continuing education; however, if at a later time the licensee desires to resume active practice,~~
18 ~~the licensee shall first appear before the Board and the Board shall determine the licensee's~~
19 ~~competency to practice.~~

20 ~~(b) A licensee who is not actively engaged in the practice of chiropractic in this State and~~
21 ~~who does not wish to renew his or her license may direct the Board to place the licensee on~~
22 ~~inactive status.~~

23 ~~(c) A licensee who fails to renew his or her license as required by this section shall pay~~
24 ~~an additional fee of twenty-five dollars (\$25.00) to the Board. The license of any licensee who~~
25 ~~fails to renew by January 30 of each year shall automatically be placed on inactive status.~~

26 ~~(d) A licensee with an inactive license shall not practice chiropractic in this State. The~~
27 ~~Board shall retain jurisdiction over an inactive license, including licenses placed on inactive~~
28 ~~status by retirement of the licensee, a request by the licensee for inactivation, the surrendering of~~
29 ~~a license, or by operation of an order entered by the Board.~~

30 ~~(e) Upon payment of all accumulated fees and penalties, the license of the licensee may~~
31 ~~be reinstated, subject to the Board requiring the licensee to appear before the Board for an~~
32 ~~interview to prove the licensee's competency in a manner as may be reasonably determined by~~
33 ~~the Board and to comply with other licensing requirements.~~

34 ~~...."~~

35 **SECTION 1.(b)** Article 8 of Chapter 90 of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 90-157.4. Civil penalty; disciplinary costs.**

38 ~~(a) The Board may assess a civil penalty not to exceed five hundred dollars (\$500.00) per~~
39 ~~violation of this Article or any rule adopted by the Board. The clear proceeds of any civil penalty~~
40 ~~assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in~~
41 ~~accordance with G.S. 115C-457.2.~~

42 ~~(b) The Board shall consider the following factors before imposing or assessing a civil~~
43 ~~penalty under this section:~~

44 ~~(1) The nature, gravity, and persistence of the particular violation.~~

45 ~~(2) The appropriateness of the imposition of a civil penalty when considered alone~~
46 ~~or in combination with other punishment.~~

47 ~~(3) Whether the violation was willful and malicious.~~

48 ~~(4) Any other factors that would tend to mitigate or aggravate the violations found~~
49 ~~to exist.~~

50 ~~(c) The Board shall establish a schedule of civil penalties for violations of this Article~~
51 ~~and rules adopted by the Board.~~

- 1 (d) The Board may charge costs in a disciplinary proceeding, including reasonable
2 attorneys' fees, to the licensee against whom the proceedings were brought.
3 (e) If the Board imposes a civil penalty under this section, the party against whom the
4 civil penalty has been assessed may file a petition for judicial review under Article 4 of Chapter
5 150B of the General Statutes."

6 **SECTION 2.** This act becomes effective October 1, 2021.