

ALABAMA STATE BOARD OF CHIROPRACTIC EXAMINERS  
ADMINISTRATIVE CODECHAPTER 190-X-4  
DISCIPLINARY ACTIONS

## TABLE OF CONTENTS

|             |  |
|-------------|--|
| 190-X-4-.01 | Complaints   |
| 190-X-4-.02 | Complaint Investigation Procedure  |
| 190-X-4-.03 | Summons And Complaint (Repealed 7/17/00)                                       |
| 190-X-4-.04 | Pre-Hearing Discovery  |
| 190-X-4-.05 | Disciplinary Hearings  |
| 190-X-4-.06 | Discipline   |
| 190-X-4-.07 | Costs  |
| 190-X-4-.08 | Restoration Of A Refused, Revoked, Or<br>Cancelled License (Repealed 11/23/15) |
| 190-X-4-.09 | Conflict And Bias  |

190-X-4-.01      Complaints.

(1) Complaints alleging any violation of the laws of the State of Alabama or rules of this Board may be lodged by any person with the Executive Director by submitting a written complaint. A copy of a complaint form is available on the Board's website.

(2) In carrying out its investigations, the Board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documentary evidence and materials as set forth in Code of Ala. 1975, Section 34-24-140.

(3) At any time during the course of an investigation, the Board may, within its discretion, issue a Letter of Concern to the licensee or permit holder who is the subject of the investigation. A Letter of Concern shall consist of a private, confidential, written communication from the Board to the licensee or permit holder, the contents of which shall be specified by the Board. A Letter of Concern shall not be considered a disciplinary action and is not intended to communicate a finding on the part of the Board that a licensee to whom the Letter of Concern is directed will be charged with or has been found guilty of wrong doing. The purpose of the Letter of Concern is to provide notice to the licensee or permit holder under investigation that the Board has concluded that the alleged actions or conduct in question may not be in accord with provisions of Code of Ala. 1975, Section 34-24-120 et seq. The issuance of a Letter of Concern shall not preclude the Board from taking any other action authorized by law. A Letter of Concern shall be deemed a non-public record under the

provisions of Rule 190-X-1-.06. The board shall notify the person or persons whose complaint led to the Board's decision to send a Letter of Concern. The Board may make public statistical reports concerning the number and type of Letters of Concern issued by the Board.

**Author:** Board of Chiropractic Examiners

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-167.

**History:** Filed September 30, 1982. **Amended:** Filed June 12, 2000; effective July 17, 2000. **Amended:** Filed April 19, 2002; effective May 24, 2002. **Amended:** Filed June 18, 2009; effective July 23, 2009. **Amended:** Filed January 21, 2014; effective February 25, 2014.

#### 190-X-4-.02

#### Complaint Investigation Procedure.

(1) In the event a complaint is filed against a licensee or permit holder, or it is determined from other information that an investigation is necessary, the procedure for investigation shall be as follows:

(a) The complaint or other information will be investigated by a committee.

(b) If the committee determines after its investigation that probable cause exists, the procedure outlined in Code of Ala. 1975, Section 34-24-120 et seq. shall be followed. In the event the committee determines that probable cause does not exist, no further action will be taken and the complaint will be considered closed.

**Author:** Steve Dodd, Assistant Attorney General

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-167.

**History:** Filed September 30, 1982. **Emergency rule** filed June 21, 1989. **Amended:** Filed August 16, 1989; August 18, 1992. **Amended:** Filed September 11, 1996; effective October 16, 1996. **Amended:** Filed September 5, 2000; effective October 10, 2000. **Amended:** Filed April 19, 2002; effective May 24, 2002. **Amended:** Filed August 24, 2006; effective September 28, 2006.

#### 190-X-4-.03

#### Summons And Complaint (Repealed 7/17/00).

**Author:** Board of Chiropractic Examiners

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-167, 41-22-12(1).

**History:** Filed September 30, 1982. **Amended:** Filed January 19, 1988; January 29, 1990. **Repealed:** Filed June 12, 2000; effective July 17, 2000.

**190-X-4-.04      Pre-Hearing Discovery.**

(1) Any party to a contested case before the Board may seek discovery by the filing of a motion or request with the Board's Hearing Officer. It shall be within the discretion of the Board's Hearing Officer to allow any such discovery.

(2) The method(s) or type(s) of discovery allowed and/or any limitations or conditions of the same shall be within the discretion of the Board's Hearing Officer; however, interrogatories or request for admissions shall not be allowed.

(3) The Board's Hearing Officer shall also have the authority to perform those acts forth in Code of Ala. 1975, §41-22-12(e).

**Author:** Board of Chiropractic Examiners

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165.

**History:** Filed September 30, 1982. **Amended:** Filed June 12, 2000; effective July 17, 2000. **Repealed and New Rule:** Filed January 21, 2014; effective February 25, 2014.

**190-X-4-.05      Disciplinary Hearings.**

(1) Conduct of Hearing. Hearing Officer. The Board shall appoint a person to act as an impartial hearing officer at any disciplinary hearing. Such hearing officer shall preside at the hearing and shall rule on all questions of evidence and procedure notwithstanding any other provisions of these rules to the contrary.

(2) The procedure and format of the hearing shall be the same as that utilized in non-jury civil cases in the Circuit Courts of this State. Additionally, the Board is allowed the right to examine any witness called by either party.

(3) Order. The Board shall render a final Order within forty-five (45) days of the date of the hearing, which shall be in writing and made part of the record and include findings of fact and conclusions of law specifically stated. The licensee and/or permit holder shall be delivered a copy of the Order by Certified mail, return receipt requested, and a copy shall be mailed first class to the attorney of record.

(4) Evidence. Evidence shall be admitted in accordance with Code of Ala. 1975, §§41-22-13 and 34-24-173.

(5) Emergencies. The Board may in any emergency situation, when danger to the public health, safety, and welfare requires, suspend a license and/or permit without hearing or with an abbreviated

hearing in accordance with the Code of Ala. 1975, §§41-22-19(4) and 34-24-174(c).

(6) Other. The hearing shall otherwise be conducted in compliance with the provision of the Alabama Administrative Procedures Act.

**Author:** Steve Dodd, Assistant Attorney General

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-168, 41-22-13, 41-22-16(3).

**History:** Filed September 30, 1982. **Amended:** Filed January 19, 1988; January 29, 1990; August 18, 1992. **Amended:** Filed September 7, 1999; effective October 12, 1999. **Amended:** Filed June 18, 2009; effective July 23, 2009. **Amended:** Filed October 17, 2013; effective November 21, 2013. **Amended:** Filed July 24, 2019; effective September 7, 2019.

#### 190-X-4-.06 Discipline.

(1) Upon a finding that a licensee or permit holder has violated any enumerated provision of Code of Ala. 1975, §§34-24-123, 34-24-161(e), or 34-24-166, or any rule adopted pursuant thereto, the Board may invoke disciplinary action as outlined in §34-24-166(c). Failure to comply with any final order of the board, including, but not limited to, any order of censure or probation, is cause for suspension or revocation of the license or permit.

(2) Fines. Upon finding that a licensee or permit holder has violated any enumerated provision of law governing the practice of chiropractic or any rule adopted pursuant thereto, the Board may impose the following schedule of fines for each such violation. The Board shall not renew the annual certificate of registration of any licensee or permit holder against whom an administrative fine has been assessed by the Board until the fine is paid in full.

(a) The Board may impose a fine not to exceed \$2,000 for each violation of any of the following provisions of law governing the practice of chiropractic or any rule adopted pursuant thereto (Class A violation):

1. Section 34-24-166(b) (1);
2. Section 34-24-166(b) (2);
3. Section 34-24-166(b) (3);
4. Section 34-24-166(b) (4);
5. Section 34-24-166(b) (5);
6. Section 34-24-166(b) (6);

7. Section 34-24-166(b) (9);
8. Section 34-24-166(b) (10);
9. Section 34-24-166(b) (11);
10. Section 34-24-166(b) (12);
11. Section 34-24-166(b) (13); and
12. Section 34-24-166(b) (15);

(b) The Board may impose a fine not to exceed \$2,000.00 for each violation of any of the following provisions of law governing the practice of chiropractic or any rule adopted pursuant thereto (Class B violation):

1. Section 34-24-166(b) (7); and
2. Section 34-24-166(b) (8);

(c) The Board may impose a fine not to exceed \$1,000.00 for each violation of any of the following provisions of law governing the practice of chiropractic or any rule adopted pursuant thereto (Class C violations):

1. Section 34-24-166(b) (14);
2. Section 34-25-166(b) (16); and
3. Section 34-24-166(b) (17).

(3) Additional Discipline. Upon finding the license or permit holder has violated any enumerated provision of law governing the practice of chiropractic or any rule adopted pursuant thereto, the Board may impose the following additional penalties:

- (a) Revoke the license or permit.
- (b) Suspend the license or permit.
- (c) Enter a censure on the license or permit.
- (d) Place the license or permit on probation fixing a period and terms best adapted to protect the public health and safety and to rehabilitate the licensee.
- (e) Impose restrictions on the scope of practice of a licensee.
- (f) Impose peer review.
- (g) Impose professional education requirements.

(h) Issue a reprimand to the licensee or permit holder.

(i) Order and direct a licensee to submit to a physical, mental or lab examination as outlined in s 34-24-166.

(4) Stay of Execution of Order. The Board may, in its discretion, permanently or temporarily stay the execution of its order to revoke or suspend respondent's license or permit.

(5) Considerations. In determining whether disciplinary action should be invoked, or whether a fine should be imposed and in what amount, and whether execution of the order should be stayed, and upon what conditions, the Board shall consider all relevant factors, including, but not limited to, the following:

(a) the severity of the offense;

(b) the danger to the public;

(c) the number of repetitions of offenses;

(d) the length of time since the violation;

(e) the number of complaints filed against the licensee or permit holder;

(f) the length of time the licensee has practiced or permit holder has had permit;

(g) the actual damage, physical or otherwise, to the patient;

(h) the deterrent effect of the penalty imposed;

(i) the effect of the penalty upon the licensee's or permit holder's livelihood;

(j) any efforts of rehabilitation; and

(k) any other mitigating or aggravating circumstances.

**Author:** Board of Chiropractic Examiners

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165.

**History:** Filed September 30, 1982. **Emergency rule** filed June 21, 1989. **Amended:** Filed August 16, 1989. **Amended:** Filed May 18, 1993; effective June 22, 1993. **Amended:** Filed September 7, 1999; effective October 12, 1999. **Amended:** Filed May 23, 2001; effective June 27, 2001. **Amended:** Filed November 6, 2003; effective December 11, 2003. **Amended:** Filed August 24, 2006; effective September 28, 2006. **Amended:** Filed June 13, 2008; effective July 18, 2008. **Amended:** Filed June 18, 2009; effective July 23, 2009. **Amended:** Filed October 17, 2013; effective November 21, 2013. **Amended:** Filed April 14, 2017; effective May 29, 2017.

**190-X-4-.07      Costs.**

(1) Upon a finding that licensee or permit holder has violated any enumerated provision of Code of Ala 1975, §§34-24-120 et seq., or any rule adopted pursuant thereto, the Board may impose the following costs against any person whose license or permit is refused, revoked, or suspended, and/or against who any fine has been imposed.

(a) The Board may impose costs in the amount of up to \$8,000 in connection with any hearing held in connection with the refusal of a license pursuant to Code of Ala. 1975, §34-24-166(a).

(b) The Board may impose costs for the actual amount incurred not to exceed \$8,000 for each violation of any of the provisions of law governing the practice of chiropractic or any rule adopted pursuant thereto.

**Author:** Board of Chiropractic Examiners

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166, 34-24-170.

**History:** Filed September 30, 1982. **Amended:** Filed December 2, 1986. **Emergency rule** filed June 21, 1989. **Amended:** Filed August 16, 1989. **Amended:** Filed May 18, 1993; effective June 22, 1993.

**Amended:** Filed May 22, 1998; effective June 26, 1998. **Amended:** Filed September 29, 1998; effective November 3, 1998. **Amended:** Filed November 6, 2003; effective December 11, 2003. **Amended:** Filed August 24, 2006; effective September 28, 2006. **Amended:** Filed August 24, 2006; effective September 28, 2006. **Amended:** Filed October 15, 2018; effective November 29, 2018.

**190-X-4-.08      Restoration Of A Refused, Revoked, Or Cancelled License (Repealed 11/23/15).**

**Author:** Board of Chiropractic Examiners

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-172.

**History:** Filed September 30, 1982. **Amended:** Filed January 29, 1990. **Amended:** Filed December 14, 2000; effective January 18, 2001. **Amended:** Filed November 6, 2003; effective December 11, 2003. **Amended:** Filed June 18, 2009; effective July 23, 2009.

**Repealed:** Filed October 19, 2015; effective November 23, 2015.

**190-X-4-.09      Conflict And Bias.**

(1) No Board member shall participate in any disciplinary hearing before the Board or vote in such a hearing who has a disqualifying

conflict or bias against the licensee or permit holder who is the subject of the hearing.

(2) Any challenge to a Board member(s) participation based upon any alleged conflict or bias shall be filed within the time set for filing or Motions as established by the Hearing Office. Any such challenge must be accompanied by an affidavit(s) stating with specificity the basis for the alleged conflict or bias.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§34-24-144, 34-24-165, 41-22-18(1).

**History:** Filed September 30, 1982. **Amended:** Filed January 29, 1990. **Amended:** Filed June 18, 2009; effective July 23, 2009.

**Amended:** Filed January 21, 2014; effective February 25, 2014.