

ALABAMA STATE BOARD OF CHIROPRACTIC EXAMINERS
ADMINISTRATIVE CODECHAPTER 190-X-5
PROFESSIONAL CONDUCT

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190-X-5-.01 Oath.

Each applicant for a license to practice chiropractic in Alabama shall be required to sign and affirm the following oath on his/her application form:

"I solemnly swear (or affirm) and attest that the statements made herein are true to the best of my knowledge, and further that if granted a license by the Alabama State Board of Chiropractic Examiners, I agree to keep the Board fully advised as to my address; to give assistance in procuring evidence against, and in the prosecution of those who violate any of the provisions of the Alabama Chiropractic Practice Act or Board Rules. I agree to faithfully follow the laws and rules relating to the practice of chiropractic medicine, including the provisions of the Alabama Chiropractic Practice Act and Board rules. If I violate those laws or rules, I fully understand that I am subject to discipline, up to and including revocation of my license."

Author: Alabama State Board of Chiropractic Examiners

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-160, 34-24-165.

History: Filed September 30, 1982. **Amended:** Filed September 7, 1999; effective October 12, 1999. **Amended:** Filed June 13, 2003; effective July 18, 2003.

190-X-5-.02 Cooperation With The Board.

(1) Statement of Policy. Each licensed chiropractor or permit holder is requested and is expected to cooperate with the Board in all matters.

(2) Report of Violations. Any chiropractor or permit holder who has knowledge of violations of any provision of Code of Ala. 1975, §§34-24-120, et seq., or of these rules shall report such to the Board for investigation. When possible, the chiropractor or permit holder shall procure evidence that will aid in the prosecution of the violator. Failure to comply with the requirements of this rule will constitute unprofessional conduct as defined in Rule 190-X-5-.05, and Code of Ala. 1975, 34-24-166(b)(2)(3).

Author:

Statutory Authority: Code of Ala. 1975, §§34-24-123, 34-24-144, 34-24-165, 34-24-166.

History: Filed September 30, 1982. **Amended:** Filed January 29, 1990. **Amended:** Filed May 18, 1993; effective June 22, 1993.

Amended: Filed June 18, 2009; effective July 23, 2009. **Amended:** Filed October 17, 2013; effective November 21, 2013.

190-X-5-.03 Notification Of Change Of Address.

Each licensed chiropractor or permit holder shall file their mailing, office, and residential and email address with the Executive Director of the Board and notify the Board of any changes of address in writing within fifteen (15) days of such address changes.

(1) Written notice shall list old addresses and new addresses and effective date of change. Notice may be submitted via facsimile, email or regular mail.

Author:

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

History: Filed September 30, 1982. **Amended:** Filed September 18, 1997; effective October 23, 1997. **Amended:** Filed September 7, 1999; effective October 12, 1999. **Amended:** Filed June 18, 2009; effective July 23, 2009. **Amended:** Filed October 3, 2011; effective November 7, 2011.

190-X-5-.04 Advertising.

(1) A chiropractor or non licensed clinic owner shall not make or cause to be made a false communication about the chiropractor or the chiropractor's services. A communication is false if it contains a material misrepresentation of fact or law or omits a material fact rendering the statement when considered as a whole to be false.

(2) A communication is defined as information in any manner or medium designed or intended to attract public attention to the chiropractor or his/ her practice.

(3) The chiropractor or non-licensed clinic owner shall have ultimate responsibility for all communications which are approved by him or her or his or her agents or associates. All communications regardless of form, including but not limited to recorded and printed communications, shall be approved by the chiropractor. In the case of broadcast communications, the actual transmission shall be retained and in the case of printed communications, a copy of the publication in which the communication is displayed shall be retained. Copies of communications, including but not limited to the transmission and publication referenced above, shall be retained by the chiropractor for one hundred eighty (180) days following the final appearance or use of the communication. The chiropractor is responsible for making copies of the communications available to the Board within ten (10) days following a request by the board.

Author: Alabama State Board of Chiropractic Examiners

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(5) (15) (20).

History: Filed September 30, 1982. **Amended:** Filed September 12, 1983; February 16, 1984; August 25, 1988; January 29, 1990.

Amended: Filed September 18, 1997; effective October 23, 1997.

Amended: Filed September 5, 2000; effective October 10, 2000.

Amended: Filed May 23, 2001; effective June 27, 2001. **Amended:**

Filed December 13, 2001; effective January 17, 2002. **Amended:**

Filed September 3, 2002; effective October 8, 2002. **Amended:**

Filed November 6, 2003; effective December 11, 2003. **Amended:**

Filed April 15, 2004; effective May 20, 2004. **Amended:** Filed

October 24, 2007; effective November 28, 2007. **Repealed and New**

Rule: Filed March 12, 2008; effective April 16, 2008. **Amended:**

Filed October 17, 2013; effective November 21, 2013.

190-X-5-.05 Immoral Or Unprofessional Conduct Prohibited.

(1) The following conduct on the part of a licensee or permit holder is prohibited:

- (a) Immoral,
- (b) Unprofessional.

(2) Immoral or unprofessional conduct is defined as that conduct which violates those standards of professional behavior which through professional experience have become established, by consensus of the opinion of the Board members, as reasonably necessary for the protection of the public interest.

(3) Advertising which is false or fraudulent is considered unprofessional.

Author: G. Kuhlmann

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(2).

History: Filed September 30, 1982. **Amended:** Filed May 22, 1998; effective June 26, 1998. **Amended:** Filed January 15, 1999; effective February 19, 1999. **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.

190-X-5-.06 Solicitation.

(1) Statement of Policy. It is the policy of the Board that solicitation by chiropractors and/or permit holders in this state should be regulated so as to effectuate the duty of the State of Alabama to protect the health, safety and welfare of its residents, while not abridging any rights guaranteed to such licensees or to the public by the Constitutions of the United States and the State of Alabama, as construed by the United States Supreme Court and the Alabama Supreme Court. The Board has a substantial interest in protecting the public from fraud, undue influence intimidation, overreaching and other forms of vexatious conduct as well as protecting the tranquility and privacy of the home and of personal injury victims and their loved ones against intrusive, unsolicited contacts by licensees. The practices prohibited by this rule are hereby found and declared to constitute immoral or unprofessional conduct in violation of Code of Ala. 1975, §34-24-166(b)(2)(3), and Rule 190-X-5-.05 and/or fraud in obtaining money or other thing of value in violation of Code of Ala. 1975, §34-24-166(b)(1).

(2) Certain Practices Prohibited.

(a) Direct in -person uninvited solicitation except as authorized in paragraph (4) below, a licensee or permit holder, or a person or entity acting on their behalf, shall not by any direct, in-person, uninvited solicitation solicit an engagement to perform professional services. A licensee or permit holder, or a person or entity acting on their behalf,

who has engaged in direct, in-person, uninvited solicitation shall not accept employment resulting from that solicitation, except that a licensee may accept employment from a close friend, relative, former patient (if the solicitation is germane to the former treatment), or one who the licensee reasonably believes to be a patient.

(b) Written communication. All written communications sent by or on behalf of a licensee shall conform to the advertising guidelines of Rule 190-X-5-.04 and this rule.

(3) Definition. For the purpose of this rule, the term "direct, in-person, uninvited solicitation" shall be deemed and construed to mean any communication which directly or implicitly requests oral response from the recipient. Examples of such acts of uninvited solicitation include, but are not limited to, any uninvited in-person visits or conversations or telephone calls to a specific potential patient. However, such indirect forms of solicitation as giving speeches, conducting educational seminars, distributing professional literature by mail, except as prohibited above, or other forms of delivery that are not "in-person" and writing books and articles are not prohibited.

(4) Solicitation of Accident Victims.

(a) A chiropractor or a person or entity acting on their behalf, may only solicit a victim of an accident as follows:

1. By telephone seven days after the accident.
2. By written communication sent at least three days after the accident. Written communication shall include letter, postcard, pamphlet, email, text, twitter, facebook or any other form of social media or electronically generated communication.

(b) If a mail is utilized, the outside of each envelope in 10-point bold type at the bottom left hand corner of the front of the envelope, there will be printed in capital letters in a color clearly distinguishable from the color of the background page, this is an advertisement.

(c) On the first and last page of any mailing, in the same type size as the content of the mailing, shall be contained the following paragraph in a color different from the color of the text on the background page.

NOTICE: THIS IS A SOLICITATION. Your name and address and information relative to the accident in which you were involved were acquired from public documents. You are under no obligation to respond to this mailing. Recipients of this solicitation should understand the importance of employing a

health care provider and inquiry into the doctor's qualifications and experience is recommended.

(d) If electronic communication is utilized the language required in (b) above must appear in clearly distinguishable capital letters in the subject line and the language required in (c) above must appear in clearly distinguishable capital letters at the beginning and end of the communication.

(e) Senders shall take reasonable steps to avoid calling or sending written communications to minors.

(f) A sample copy of each written communication shall be retained by the sender for a period of one year.

(5) Permissible Communication. Any form of invited communication to a potential client is permissible provided such communication conforms to the advertising guidelines of Rule 190-X-5-.04.

(6) Any current licensed doctor of chiropractic wishing to contract for or perform research that requires solicitation must obtain prior approval of same from the Board.

Author: Board of Chiropractic Examiners

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(b) (1) (2).

History: Filed September 30, 1982. **Amended:** Filed January 29, 1990. **Amended:** Filed January 28, 2000; effective March 3, 2000.

Amended: Filed May 23, 2001; effective June 27, 2001. **Amended:** Filed March 19, 2003; effective April 23, 2003. **Amended:** Filed August 24, 2006; effective September 28, 2006. **Amended:** Filed January 20, 2012; effective February 24, 2012. **Amended:** Filed October 15, 2018; effective November 29, 2018.

190-X-5-.07

Trust Accounting Procedures For Pre-Payment Plans.

A chiropractor who offers any treatment plan which includes payment of fees for services, goods or appliances to be performed or supplied in the future i.e. prior to the furnishing or supplying of any services, goods or appliances shall comply with all of the following requirements.

(a) Maintain for each patient a signed statement which explains fully and completely the services, goods or appliances to be provided and the terms and conditions of payment. This statement shall include provisions for an accounting to the patient upon request as well as provisions for the return of all unearned fees in the event the patient chiropractic relationship is terminated.

(b) The treatment plan shall include an accurate description of the services, goods or appliances to be performed or

supplied as well as the period of time in which the referenced services, goods or appliances will be performed or supplied.

(c) Complete records of such account funds shall be maintained for five (5) years after the performance or supplying of the services goods or appliances or from the termination of treatment. In addition, records shall include a ledger of all funds received and payments made which must be patient specific.

Author: Alabama State Board of Chiropractic Examiners

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(2).

History: Filed September 30, 1982. **Amended:** Filed February 16, 1984. **Amended:** Filed June 4, 1997; effective July 9, 1997.

Amended: Filed January 23, 1998; effective February 27, 1998.

Amended: Filed August 24, 2006; effective September 28, 2006.

Repealed and New Rule: Filed March 12, 2008; effective April 16, 2008. **Amended:** Filed December 19, 2016; effective February 2, 2017.

190-X-5-.08 Exploitation Of Patients For Financial Gain.

(1) Statement of Policy. The over utilization of chiropractic services or practice by exercising influence on a patient in such a manner as to exploit the patient or a third party payor for the financial gain of a licensee or a third party is hereby found and declared to constitute unprofessional conduct in violation of Code of Ala. 1975, §34-24-166(3).

(2) Definition of Over utilization, Generally. Over utilization of chiropractic services or practice is defined as services or practices rendered, or goods or appliances sold by a chiropractic physician to a patient for financial gain of the chiropractic physician or a third party which are excessive in quality or quantity to the justified needs of the patient or are excessive in price.

(3) Over utilization, Specifically. Over utilization occurs when:

(a) The physician's written chiropractic records do not justify or substantiate the quantity or number of chiropractic services, or practices rendered, or goods or appliances sold by a chiropractic physician to a patient;

(b) A claim or claims for chiropractic services, practices, goods or appliances is submitted to that patient or third party payor which represents multiple charges for one specific chiropractic diagnostic service or treatment practice, good or appliance.

(c) A charge or claim for chiropractic services, practices, goods or appliances exceeds the usual and customary charges for such services, practices, goods or appliances to the extent that the charge or claim is unconscionable.

(d) A charge or claim is submitted to the patient or to a third party payor for services, practices, goods or appliances which were not rendered or supplied.

(e) A chiropractic doctor renders any chiropractic services, practices, goods or appliances for which a fee may be charged after such time as a patient has requested but has not been provided with a written itemized statement of any chiropractic services, practices, goods or appliances to be rendered during a particular office visit, and the corresponding fees that will be charges for such services.

(4) A chiropractor shall not engage in the following:

(a) Routinely waive co payments or deductibles for the purpose of financial gain; or

(b) Waive co payments or deductibles for the purpose of enticing or encouraging individuals to become patients.

Author: Board of Chiropractic Examiners

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(2).

History: Filed September 30, 1982. **Amended:** Filed January 29, 1990. **Amended:** Filed January 23, 2006; effective February 27, 2006. **Amended:** Filed August 24, 2006; effective September 28, 2006. **Amended:** Filed March 12, 2013; effective April 16, 2013.

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

190-X-5-.09

Chiropractic Records Required; Release Of Records.

(1) The Board finds and declares that the maintenance of an adequate record in the treatment of a patient is an essential component of the standard of care. Chiropractors and clinic permit holders should maintain legible well documented records reflecting the history, findings, diagnosis and course of treatment in the care of a patient. Patient records should be maintained by the treating chiropractor. Any licensee or clinic permit holder or permit holder who fails to keep for a minimum of five (5) years all written chiropractic records which justify the particular course of treatment of the patient engages in unprofessional conduct as defined in Rule 190-X-5-.05.

(2) The Board finds and declares that, while physical chiropractic records may rightfully be considered the property of the licensee or the chiropractic clinic facility where the licensee may be employed, the chiropractic patient is just as rightfully entitled

to the information contained in any chiropractic records related to his or her care for any legitimate purposes, which such legitimate purposes certainly includes the obtaining of second chiropractic or medical opinions.

(a) Upon request of a patient or authorized agent of a patient, licensees and clinic permit holders are required to, at a minimum, turn over to a patient or his or her authorized agent legible and accurate copies of any pertinent chiropractic records of the patient when requested to do so by the patient or his or her authorized agent for a legitimate purpose which is stated in writing and signed by the patient. The reasonable costs of reproducing copies of written or typed documents, or reports shall not be more than one dollar (\$1) for each page of the first 25 pages, not more than 50 cents (\$.50) for each page in excess of 25 pages, and search fee of five dollars (\$5). If the records are mailed to the person making the request, reasonable costs shall include the actual costs of mailing. A person may also charge the actual cost of reproducing X-rays and other special chiropractic records.

(b) The release of chiropractic records hereunder may not be made contingent upon payment of any other fee or charge owed by the patient. Failure to provide records to a patient upon request in accordance with this rule shall constitute immoral or unprofessional conduct as defined in Rule 190-X-5-.05.

(c) The fees provisions of this rule shall not apply to records subpoenaed by the State Board of Chiropractic Examiners.

(3) Request for records from another healthcare practitioner or the Board of Chiropractic Examiners must be released within 10 working/business days.

(4) Upon receipt of a properly signed and executed release from the patient, the licensee or clinic permit holder, at his discretion, may release the original or a copy of x-ray film and a copy of the patient records, etc. to the patient or their designee.

(5) If the Board receives a complaint against a licensee or clinic permit holder where the licensee or clinic will not release the records to a patient at the patient's request, a letter from the Board will be sent via Certified Mail to the licensee/permit holder to release the records to the patient within 10 days of receipt of the certified letter, and submit proof that the records have been mailed to the patient (via Certified Mail) to the Board within 10 days as well. The licensee/permit holder must either submit to the Board proof of the mailing of the records or respond to the Board as to why the records cannot/will not be mailed within 10 days of receipt of the certified letter from the Board.

(6) If the Board has not received proof that the records have been released to the patient, or has not received a response from the licensee/permit holder within 15 days of the date the request was mailed from the Board's office, the chiropractor will be subject to discipline for unprofessional conduct.

(7) **Transfer or Disposal of Records.** When a licensee retires, terminates employment or otherwise leaves a chiropractic practice, the licensee/permit holder is responsible for ensuring that active patients receive reasonable notification and are given the opportunity to arrange for the transfer of their patient records. Such notification shall be provided no later than 30 days after retirement, termination or any other reason for leaving. A licensee or the chiropractic clinic which employs the licensee should not withhold information from a departing chiropractor which is necessary for the notification of patients. A licensee/permit holder or their estate(s) transferring patient records in connection with the sale of a practice shall notify the active patients no more than 30 days preceding the sale that the records are being transferred and should provide the patient with information sufficient to secure the transfer of the patient record.

Author: Board of Chiropractic Examiners

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(2).

History: Filed September 30, 1982. **Amended:** Filed February 16, 1984. **Amended:** Filed May 18, 1993; effective June 22, 1993.

Amended: Filed September 28, 1998; effective November 2, 1998.

Amended: Filed January 28, 2000; effective March 3, 2000.

Amended: Filed August 24, 2006; effective September 28, 2006.

Amended: Filed August 13, 2007; effective September 17, 2007.

Amended: Filed January 29, 2010; effective March 5, 2010.

Amended: Filed October 18, 2012; effective November 22, 2012.

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

190-X-5-.10

Inability To Practice Chiropractic With Reasonable Skill And Safety To Patients.

(1) Statement of Policy. The Legislature has declared that a chiropractor or permit holder may be disciplined due to the inability to operate a clinic or practice chiropractic with reasonable skill and safety by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals or any other substance, or as a result of any mental or physical condition.

(2) Board Intervention. It is the duty and obligation of the Board to promote the early identification, intervention, treatment and rehabilitation of chiropractors licensed or permit holders to practice in this State who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances or as a result of any physical or

mental condition. The Board may enter into an agreement pertaining to the areas, functions, or responsibilities set forth in Code of Ala. 1975, Section 34-24-166(g).

(3) Requirement and Criteria for Examination. Every permit holder who accepts the privilege of operating a clinic and every licensee who accepts the privilege of practicing chiropractic in the State of Alabama by actually practicing or by the making and filing of an annual renewal upon a showing of probable cause that the chiropractor or permit holder is not capable of physically or mentally practicing chiropractic or operating a clinic with reasonable skill and safety to patients, shall be deemed to have given consent to submit to a mental, physical or laboratory examination, or any combination thereof, and to waive all objections to the admissibility of the testimony or examination reports of the examining physician on the ground that the reports constitute privileged doctor patient communications.

(4) If there is an issue of whether or not a permit holder or licensee is physically or mentally capable of operating a clinic practicing chiropractic with reasonable skill and safety to patients, upon a showing or probable cause to the Board that the permit holder licensee is not so capable, the Board may order and direct licensee to submit to a physical, mental, or laboratory examination, or any combination thereof, to be performed by a physician designated or approved by the Board. The expense of the examination shall be borne by the licensee who was examined.

Author: G. Kuhlmann

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(2).

History: Filed September 30, 1982. **Amended:** Filed May 22, 1998; effective June 26, 1998. **Amended:** Filed September 28, 1998; effective November 2, 1998. **Repealed and New Rule:** Filed November 6, 2003; effective December 11, 2003. **Amended:** Filed October 17, 2013; effective November 21, 2013.

190-X-5-.11 Delegation, Acceptance Of Responsibility.

(1) The Board finds and declares that any licensee who delegates professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience or licensure to perform them, engages in immoral, unprofessional or dishonorable conduct as defined in Rule 190-X-5-.05.

(2) The Board finds and declares that licensees who are employed by clinics or other facilities owned by non-licensees jointly and severally accept the professional responsibility and strict liability under the laws governing the practice of chiropractic and/or these rules and regulations for any violations which may be committed by the non-licensed owner(s), or committed by any

non-licensed agent or employee acting at the direction of a non-licensed owner(s), or committed by any non-licensed agent or employee at the direction of another non-licensed agent or employee of a clinic or other facility owned by a non-licensee.

Author:

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(2).

History: Filed September 30, 1982. **Amended:** Filed May 18, 1993; effective June 22, 1993.

190-X-5-.12 Aiding Unauthorized Practice Prohibited.

The Board finds and declares that any licensee who aids, assists, procures or advises any unlicensed person to practice chiropractic as defined in Code of Ala. 1975, §§34-24-120, et seq., engages in immoral, or unprofessional conduct as defined in Rule 190-X-5-.05.

Author:

Statutory Authority: Code of Ala. 1975, §§34-24-144, 34-24-165, 34-24-166(2).

History: Filed September 30, 1982. **Amended:** Filed October 19, 2015; effective November 23, 2015.

190-X-5-.13 Professional Signs.

(1) Any permit holder or chiropractor who is actively engaged in the operation of a clinic or the practice of chiropractic is required to place a sign or cause or require a sign to be placed in a conspicuous place at the entrance of the office or place of practice which must include the following information:

(a) The name of the practice. If the name of the practice is other than the name of the participating chiropractors, then the name of all chiropractors practicing at that location shall appear following or beneath the name selected.

(b) The word chiropractor, chiropractic, chiropractors, chiropractic physician or chiropractic physicians. These terms shall be displayed with similar prominence as the name of the practice.

(c) If any permit holder or licensed chiropractor is unable to comply with this rule because of circumstances such as being a member of a multi-discipline practice, not owning or controlling the building where the practice is located, etc., the chiropractor shall document and use their best efforts to have their name listed and in similar prominence the word chiropractor, chiropractic, chiropractors, chiropractic physician or chiropractic physicians at the entrance of the office place of practice.

Author: Board of Chiropractic Examiners

Statutory Authority: Code of Ala. 1975, §§34-24-1 - 34-24-6, 34-24-33, 34-24-144, 34-24-161, 34-24-166.

History: Filed September 30, 1982. **Amended:** Filed January 29, 1990. **Amended:** September 7, 1999; effective October 12, 1999.

Amended: Filed March 19, 2003; effective April 23, 2003.

Amended: Filed October 17, 2013; effective November 21, 2013.

190-X-5-.14 Accident Solicitation Letters (Repealed 2/24/12).

Author: J Ward

Statutory Authority: Code of Ala. 1975, §34-24-166(b)(1)(2)(16).

History: Filed May 21, 1991. **Repealed:** Filed September 11, 1996; effective October 16, 1996. **Amended:** Filed March 19, 2003; effective April 23, 2003. **Amended:** Filed September 19, 2005; effective October 24, 2005. **Repealed:** Filed January 20, 2012; effective February 24, 2012.

190-X-5-.15 Use Of Lasers.

Lasers approved by the Federal Drug Administration for therapeutic use may be utilized by a chiropractor as a treatment device provided the laser is used only within the allowable scope of practice of chiropractic in this state. The chiropractor is responsible for adhering to any laws applicable to the use of the above referenced lasers and knowing and following the appropriate protocol for their use.

Author: James Ward

Statutory Authority: Code of Ala. 1975, §§34-24-165(c), 34-24-166(2).

History: Filed June 19, 1991. **Amended:** Filed May 18, 1993; effective June 22, 1993. **Repealed:** Filed September 18, 1997; effective October 23, 1997. **New Rule:** Filed January 18, 2008; effective February 22, 2008.