

CHAPTER 442
CHIROPRACTIC

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Cross References

Sunset evaluations modified, see §§26H-4 and 26H-5.

Health care professionals, see chapter 451D.

" **§442-1 Chiropractic defined.** Chiropractic is defined to be the science of palpating and adjusting the articulations of the human spinal column by hand; provided that the practice of chiropractic as contemplated and set forth in this chapter may include the use of necessary patient evaluation and management procedures of the human spinal column, hot or cold packs, whirlpool, therapeutic and rehabilitative exercise, traction, electrical and electromechanical stimulation, therapeutic ultrasound, myofascial release, diathermy, infrared, and chiropractic spinal manipulative treatment and extraspinal evaluations for the diagnosis and treatment of neuromusculoskeletal conditions related to the human spinal column, subject to the restrictions contained in this chapter; and provided further that the practice of chiropractic as contemplated and set forth in this chapter shall not include the practice of lomilomi or massage. For the purposes of this section, spinal refers to the five spinal regions: cervical region (includes atlanto-occipital joint); thoracic region (includes costovertebral and costotransverse joint); lumbar region; sacral region; and pelvic (sacroiliac joint) region. [L 1925, c 99, §8; RL 1935, §967; RL 1945, §2078; RL 1955, §60-1; HRS §442-1; am L 1997, c 78, §1]

" **§442-2 License to practice.** (a) It shall be unlawful for any person to practice chiropractic without a license. Any person applying for a license to practice chiropractic shall submit an application to the board of chiropractic examiners accompanied by the application fee, and all documents and affidavits that may be prescribed by law. The application shall be submitted in accordance with the rules of the board, shall be on a form prescribed by the board, and shall be signed by the applicant. In addition thereto, each applicant shall furnish to the board:

- (1) Satisfactory proof that the applicant has met the educational requirements prescribed in the rules of the board; provided that these educational requirements shall not apply to applicants having entered an approved chiropractic college on or before October 31, 1955; and
- (2) Satisfactory proof that the applicant graduated from a chiropractic college accredited by, or recognized as a candidate for accreditation by, any chiropractic

college accrediting agency recognized by the United States Department of Education; provided that the requirements shall not apply to applicants who matriculated in any chiropractic college prior to October 15, 1984.

(b) Except in the cases otherwise prescribed in this section each applicant shall be a graduate of a chiropractic school or college accredited as provided by this section.

(c) Each applicant who successfully passes the examination shall pay a license fee. [L 1925, c 99, §5; am L 1927, c 254, §1; RL 1935, §960; am L 1939, c 186, §1; RL 1945, §2071; am L 1949, c 57, §1; am L 1955, c 229, §1(a); RL 1955, §60-2; am L 1957, c 316, §3; HRS §442-2; am L 1983, c 55, §1; am L 1984, c 7, §18 and c 240, §2; am L 1992, c 202, §54; am L 1994, c 124, §3; am L 1997, c 40, §8; am L 2000, c 10, §1]

" **§442-3 Board of examiners.** There shall be a board to be known as the "state board of chiropractic examiners", that shall consist of five members. Three members of the board shall be licensees under this chapter and two shall be public members. As used in this chapter, "board" means the state board of chiropractic examiners.

No person connected with any chiropractic school or college is eligible to appointment as a member of the board. Each member licensed under this chapter shall have practiced chiropractic for at least five years immediately prior to the date of appointment. [L 1925, c 99, §1; RL 1935, §961; RL 1945, §2072; am L 1949, c 57, §2; RL 1955, §60-3; am L Sp 1959 2d, c 1, §§5, 15; am L 1963, c 114, §3; HRS §442-3; am L 1978, c 208, §3; am L 1982, c 204, §8; am L 1984, c 240, §3 and c 243, §1; am L 1992, c 202, §55; am L 1993, c 322, §4]

Cross References

Departmental organization and administration, see §26-9.

" **§442-4 REPEALED.** L 1992, c 202, §194.

" **§442-5 Board's powers.** In addition to any other powers and duties authorized by law, the board may adopt a seal, which shall be affixed to all official acts of the board; adopt from time to time such rules as the board may deem proper and necessary for the performance of its work; examine applicants and issue licenses and order the limitation, restriction, revocation, suspension, or placement under probation of licenses to practice chiropractic; summon witnesses and take testimony as to matters pertaining to its duties; adopt by rule continuing

educational requirements for reregistration of licenses designed to promote the continuing professional competence of licensees and protection of the public. Each member may administer oaths and take affidavits, and do any and all things necessary or incidental to the exercise of the powers and duties herein granted or imposed. [L 1925, c 99, §4; RL 1935, §964; RL 1945, §2075; RL 1955, §60-6; am L Sp 1959 2d, c 1, §19; HRS §442-5; am L 1969, c 48, §2; am L 1984, c 243, §2; am L 1992, c 202, §56]

Cross References

Rulemaking, see chapter 91.

" **§442-6 Examinations.** (a) An applicant for licensure who has met the requirements of chapters 436B and 442, the requirements prescribed in the rules of the board, and one of the following requirements shall be licensed:

- (1) Successful completion of the National Board of Chiropractic Examiners parts I, II, III, IV, and physiotherapy;
- (2) Successful completion of [the] National Board of Chiropractic Examiners parts I, II, III, physiotherapy, and Special Purposes Examination and evidence of licensure in good standing under the laws of another state or states after December 31, 1988; or
- (3) Successful completion of [the] National Board of Chiropractic Examiners parts I, II, physiotherapy, and Special Purposes Examination and evidence of licensure in good standing under the laws of another state or states prior to January 1, 1989.

(b) The board may require the National Board of Chiropractic Examiners Special Purposes Examination in circumstances where the board needs to assess a person's fitness to practice chiropractic, including but not limited to:

- (1) State-to-state reciprocity or endorsement;
- (2) Disciplinary action; or
- (3) Licensure lapse, suspension, or revocation.

(c) No person licensed to practice chiropractic in this State shall use physiotherapy modalities without receiving approval by the board to do so.

The board shall adopt rules for granting approval for the use of physiotherapy modalities by persons holding valid, current licenses under this chapter on June 4, 1984. The board shall require any licensed chiropractor seeking approval to use physiotherapy modalities and all new applicants for chiropractic licensure to take and pass the National Board of Chiropractic Examiners physiotherapy examination. [L 1925, c 99, §6; RL 1935,

§965; RL 1945, §2076; am L 1955, c 229, §1(b); RL 1955, §60-7; HRS §442-6; am L 1971, c 130, §1; am L 1983, c 242, §1; am L 1984, c 7, §19 and c 243, §3; am L 1985, c 68, §13; am L 1986, c 100, §§1, 2; am L 1987, c 68, §1; am L 1988, c 357, §2 and c 367, §1; am L 1992, c 150, §1; am L 2000, c 10, §2]

Cross References

Disposal of examination records, see §94-5.

" **§442-7 Application, scheduling, administration, scoring, and place of examination.** The application requirements and candidate qualifications to take the National Board of Chiropractic Examiners examinations specified in section 442-6, and the scheduling, administration, reexamination, scoring, and place of the examinations required for licensure shall be in accordance with the policies and requirements of the National Board of Chiropractic Examiners, unless otherwise determined and modified by the board. The qualifications for licensure in this State shall be as established in this chapter and chapter 436B and in rules adopted by the board. [L 1955, c 229, pt of §1(d); RL 1955, §60-7.5; HRS §442-7; am L 1992, c 150, §2; am L 2000, c 10, §3]

" **§442-8 License form, authority under.** One form of license shall be issued which shall be designated "License to Practice Chiropractic" and which shall authorize the holder thereof to practice chiropractic as defined in section 442-1 and also to use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, but shall not authorize the administration of drugs or medicine now or hereafter included in materia medica, or the performance of any surgical operation or the practice of osteopathy, dentistry, or optometry; provided that a holder of a license which has been limited, restricted, or placed under probation may practice chiropractic only within the limitation, restriction, or terms of probation. [L 1925, c 99, §7; RL 1935, §966; RL 1945, §2077; RL 1955, §60-8; am L Sp 1959 2d, c 1, §19; HRS §442-8; am L 1969, c 48, §3; am L 1984, c 243, §4]

" **§442-9 License refusal, revocations, suspension, fine, limitation, restriction, probation, reissuance.** (a) In addition to any other actions authorized by law, the board shall refuse to issue or may order any license issued under this chapter to be revoked, suspended, limited, restricted, or placed under probation at any time in a proceeding before the board or

fine a licensee for any cause authorized by law, including but not limited to the following:

- (1) Procuring or aiding or abetting in procuring a criminal abortion;
- (2) Employing what is popularly known as a "capper" or "steerer";
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying patient confidentiality;
- (5) Making any untruthful statement in advertising one's practice or business under this chapter;
- (6) False, fraudulent, or deceptive advertising;
- (7) Advertising directly or indirectly, or in substance upon any card, sign, newspaper advertisement, or other written or printed sign of advertisement that the holder of a license or the licensee's employer or employee will treat, cure, or attempt to treat or cure any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, lost manhood, sexual weakness, or sexual disorder or any disease of the sexual organs;
- (8) Being habitually intemperate;
- (9) Habitually using any habit-forming drug, such as opium, or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;
- (10) The advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed;
- (11) Procuring a license through fraudulent misrepresentation or deceit;
- (12) Professional misconduct or gross carelessness or manifest incapability in the practice of chiropractic;
- (13) Violating section 453-2; and
- (14) Knowingly recording, registering, or filing, or offering for recordation, registration, or filing, with the department of commerce and consumer affairs any written statement which has been falsely made, completed, or altered, or in which a false entry has been made, or which contains a false statement or false information.

(b) At any time following the suspension, fine, limitation, restriction, or placement under probation of a license, the board may restore the license with all of its original rights and privileges. Any person to whom these rights have been restored shall pay a restoration fee upon the reissuance of the license.

(c) Any person making application for reinstatement or restoration of a license or the original rights and privileges to practice under a license which has been suspended, restricted, limited, or placed under probation may be required, as part of the relief granted, to complete an approved course of continuing education or to complete such study or training as the board may require.

(d) Any person who violates this chapter or the rules adopted pursuant thereto shall be fined not more than \$1,000. [L 1925, c 99, §10; RL 1935, §968; RL 1945, §2079; am L 1949, c 151, §1; am L 1955, c 229, §1(c); RL 1955, §60-9; am L Sp 1959 2d, c 1, §19; HRS §442-9; am L 1969, c 48, §4; am L 1974, c 205, §2(10); am L 1984, c 7, §20 and c 243, §5; gen ch 1985; am L 1986, c 212, §1; am L 1992, c 150, §3 and c 202, §57]

" **§442-10 Proceedings for revocation, suspension, limitation, restriction, or placement under probation of license.** (a) In any proceeding for the revocation, suspension, limitation, restriction, or placement under probation of a license under this chapter for any act or condition listed in section 442-9, the person whose license is the subject of the proceeding shall be given notice and opportunity for hearing in conformity with chapter 91.

In any such proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in such proceeding. The person whose license is the subject of the proceeding shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in such proceeding, and shall be entitled to examine any such witness and any other witness in such proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in such proceeding.

(b) If any person called before the board as a witness in such proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to the witness by the board, a member thereof, or the person whose license is the subject of the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and such person shall be cited to appear before the circuit judge to show cause why the person should not be punished for contempt of court under section 710-1077.

(c) Any person who wilfully and knowingly makes under oath any false statement in connection with any such proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury. [L 1949, c 151, §2; RL 1955, §60-10; am L 1965, c 96, §43; HRS §442-10; am L 1969, c 48, §5; am L 1984, c 95, §7 and c 243, §6]

" **§442-11 Biennial renewal; fees; failure to renew.** Every person holding a license to practice chiropractic in the State shall submit a renewal application with the board of chiropractic examiners on or before December 31 of each odd-numbered year and shall pay a renewal fee. If the board has established continuing education requirements for renewal, the license shall not be renewed unless proof of compliance with the requirements is submitted. A renewal notice shall be mailed to the last known address of all licensed chiropractors on or before November 30 of each odd-numbered year.

The failure, neglect, or refusal of any person holding a license to practice chiropractic to renew the license or to pay the renewal fee on or before December 31 of each odd-numbered year shall constitute a forfeiture of the license. A license that has been forfeited may be restored by the board upon compliance with the licensing renewal requirements provided by law and upon written application and payment of all applicable renewal fees, penalty fees, and compliance resolution fund fees within two years after the date of forfeiture. The license of any person who fails to apply for restoration of a forfeited license within two years from the date of forfeiture shall be automatically terminated. Once a license has been terminated pursuant to this section, the person may apply for a new license pursuant to and subject to all applicable laws and rules in effect at the time of application. [L 1955, c 229, pt of §1(d); RL 1955, §60-10.1; am L 1957, c 316, §4; HRS §442-11; am L 1975, c 118, §7; am L 1984, c 7, §21 and c 243, §7; am L 1992, c 150, §4; am L 2010, c 11, §1]

" **§442-12 Display of license certificate.** Every holder of a license shall display the holder's license certificate in a conspicuous place in the holder's principal place of business or place of employment. [L 1955, c 229, pt of §1(d); RL 1955, §60-10.2; HRS §442-12; gen ch 1985; am L 1992, c 150, §5]

" **§442-13 REPEALED.** L 1992, c 202, §195.

" **§442-14 Change of residence.** Every holder of a license who leaves to reside outside the State, shall immediately notify the board of chiropractic examiners of the change in writing and the change shall be noted in the board records. Failure to do so constitutes a violation and results in a forfeiture of the license, and it shall not be restored except upon the written application therefor and a payment to the board of a penalty fee. [L 1955, c 229, pt of §1(d); RL 1955, §60-10.4; HRS §442-14; am L 1984, c 7, §22; am L 1992, c 150, §6]

" **§442-15 REPEALED.** L 1992, c 150, §8.

" **§442-16 Board records.** The board shall keep for public inspection a record of all licenses issued containing: the name, license number, effective and expiration dates of the license, and status of the license of the person to whom the license to practice chiropractic is issued. [L 1925, c 99, §11; RL 1935, §969; RL 1945, §2080; RL 1955, §60-11; am L Sp 1959 2d, c 1, §19; HRS §442-16; am L 1969, c 48, §6; am L 1992, c 150, §7]

" **§442-17 Licensees, duties.** Chiropractic licensees shall observe and be subject to all state and municipal regulations relating to all matters pertaining to public health and may execute disability and health certificates so long as the same are confined to physical conditions and ailments which they are by law authorized to treat, which certificates shall be accepted by all officials, authorities, and boards operating within the State who are officially concerned with the matters or subject covered by the certificates. [L 1925, c 99, §12; RL 1935, §970; am L 1939, c 186, §2; RL 1945, §2081; RL 1955, §60-12; HRS §442-17; am L 1982, c 112, §3]

" **§442-18 Disposition of fees; establishment of fees by rule.** (a) All moneys received by the board under this chapter shall be paid to the director of commerce and consumer affairs and shall be deposited to the credit of the compliance resolution fund established pursuant to section 26-9(o).

(b) All fees required by this chapter or in rules adopted by the board shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. The examination fee may be paid directly to the testing agency by the director or the examinee. [L 1925, c 99, §13; RL 1935, §971; RL 1945, §2082; RL 1955, §60-13; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §442-18; am L 1984, c 7, §23; am L 1986, c 100, §3; am L 1997, c 232, §5]

" **§442-19 Violations, penalty.** Any person who practices or attempts to practice chiropractic, or any person who buys, sells, or fraudulently obtains a license to practice chiropractic, whether recorded or not, or who uses the title "chiropractor" or "D.C.", or any word or title to induce, or tending to induce belief that the person is engaged in the practice of chiropractic, without first complying with this chapter; or any licensee under this chapter who uses the word "doctor" or the prefix "Dr." without the word "chiropractor" or "D.C." immediately following the licensee's name, or uses the letters "M.D." or the words "doctor of medicine", or the term "surgeon", or the term "physician", or the word "osteopath", or the letters "D.O.", or any other letters, prefixes, or suffixes, the use of which would indicate that the licensee is practicing a profession for which the licensee holds no license from the State, or any person who violates any of the provisions of this chapter, shall be fined not more than \$1,000, or imprisoned not more than ninety days, or both. [L 1925, c 99, §14; RL 1935, §972; RL 1945, §2083; am L 1947, c 94, §1; RL 1955, §60-14; HRS §442-19; gen ch 1985; am L 1986, c 212, §2]

" **§442-20 REPEALED.** L 1992, c 202, §196.