



GUIDELINES

**FOR THE DEVELOPMENT
OF A**

CHIROPRACTIC DISCIPLINARY CODE



Adopted April 1999

Federation of Chiropractic Licensing Boards

GUIDELINES FOR THE DEVELOPMENT OF A CHIROPRACTIC DISCIPLINARY CODE

April 1999

Designed and written by the members of the
Task Force to Develop a Model Disciplinary Code
for the
Federation of Chiropractic Licensing Boards

LAWRENCE M. GERSTEIN, D.C., Chairman
Secretary, Missouri State Board of Chiropractic Licensing Examiners
Vice President, Federation of Chiropractic Licensing Boards

STEPHEN JAY KELMAN, D.C.
Past Board Member, Indiana Board of Chiropractic Examiners

SALVADORE R. GIANGROSSO, D.C., J.D., D.A.B.C.O.
President, Louisiana Board of Chiropractic Examiners

VINCENT E. GRECO, D.C.
Secretary-Treasurer, New Hampshire Board of Chiropractic Examiners
Past District III Director, Federation of Chiropractic Licensing Boards

RONALD W. BERG, D.C.
Member, New Mexico Board of Chiropractic Examiners

JOHN T. TIERNEY, D.C.
Secretary-Treasurer, North Carolina Board of Chiropractic Examiners
Past District V Director, Federation of Chiropractic Licensing Boards



INTRODUCTION

HISTORY

Under the leadership of Dr. D. Brent Owens, then president of the Federation of Chiropractic Licensing Boards, the concept of a Chiropractic Model Disciplinary Code was conceived. The National Mutual Insurance Company was approached and agreed to provide \$40,000 in funding for this project, through the Foundation for Chiropractic Education and Research.

The concept was outlined in greater detail, and research of other similar models in health care was conducted. FCLB president Dr. Carroll Winkler appointed Dr. Lawrence Gerstein to chair this project, now titled the Task Force to Develop a Model Disciplinary Code.

The committee then collected the laws and rules relating to discipline from every U.S. board. The members of the Task Force developed possible ranges for actions, as well as the structure of the document.

At its first session in Raleigh / Durham, North Carolina, the task force developed and outlined the primary document. Working drafts were sent back and forth by mail. Federation members were advised about the progress of the document at the annual meetings of the FCLB. The committee met again in New Orleans to further develop the document.

More editorial refinements were made. The FCLB board of directors received the newest draft and the Task Force presented a detailed overview to the membership at the 1995 annual educational conference in Portland, Oregon.

The committee continued its work over the summer, finalizing a draft which was circulated among committee members and the FCLB Board of Directors.

The document was mailed to the membership in February of 1996 for comments. Feedback from the extended chiropractic community was also welcomed. After a final meeting in Biloxi, Louisiana, the task force presented the document to the FCLB Board of Directors, which in turn recommended its adoption at the 1999 Annual Congress of the Federation in Philadelphia, Pennsylvania. The membership adopted it without dissent.

PURPOSE OF THE PROJECT

The mission of regulatory boards is to protect the health, safety, and welfare of the public.

In order to assist such boards to better serve this mission, the Federation of Chiropractic Licensing Boards formed a Task Force to Develop a Model Disciplinary Code to formulate and recommend guidelines for the development and implementation of disciplinary rules and procedures at the regulatory board level. *Guidelines for the Development of a Chiropractic Disciplinary Code* is the product of this effort.

It is our hope that the Model Disciplinary Code herein presented will provide chiropractic licensing boards with an effective approach to designing their own controlling statutes and regulations. The development of these national / international standards is intended to ensure that appropriate dialogue and discussion occur at the level of each chiropractic licensing board, and that areas of importance are not overlooked. Over time, it is hoped that greater consistency in chiropractic disciplinary codes will evolve.

OVERVIEW OF THE DOCUMENT

There are five basic categories of misconduct presented in this Model Disciplinary Code:

- ! advertising violations
- ! commercial misconduct
- ! negligence or incompetence
- ! professional misconduct
- ! substance abuse

Within each class of violation there is a **recommended range of disciplinary action** as well as **recommendations for sanctions** for repeated violations. While recommended ranges of disciplinary action are intended to provide consistency by a licensing board, responsibility and authority remains with the individual board to determine any disciplinary action, and to respond to mitigating or aggravating circumstances in individual cases. Modifiers are suggested for situations where remedial measures may be appropriate.

Because each regulatory authority is unique in its laws and procedures, the committee has chosen a conceptual approach in setting forth guidelines. Instead of writing statutory rules to be adopted or rejected by each regulatory board, the committee has identified basic categories of misconduct and specified violations within these categories by degree of severity and infringement upon the health, safety, and welfare of the public.

Basic tenets relative to protection of public welfare are as follows:

- Advertising violations pose a lesser threat to the public welfare and may enjoy limited First Amendment free speech protection;
- The threat posed by commercial misconduct (fraud, deception, or misrepresentation) is more severe and enjoys no constitutional protection;
- Negligence or incompetence in the practice of chiropractic poses a direct threat to the public welfare and indicates a disregard for the safety and well-being of patients under the doctor's care; and,
- Professional misconduct poses the greatest threat and should be treated with the firmest sanctions possible.

A regulatory agency, such as a chiropractic board, acts under the statutory authority of the state or province. Board disciplinary action places an important property - a license - at risk.

Fairness and the right to due process are essential elements
in processing a complaint against a licensee.

Consistency in the application of rules and sanctions is an obligation and a goal of a board. Violation of a statute, board rule, or regulation should result in the same consistency and fairness for each licensee. Consideration of mitigating or aggravating factors is a valid function of the board, if done impartially. For example, inexperience of the licensee, or misunderstanding of the rule, may call for a lesser penalty. On the other hand, repeated violations, conscious avoidance, or intentional disregard may justify more severe sanctions. For this purpose, a range of sanctions for each violation is presented to allow the board some discretion in applying sanctions.

Publishing and consistently applying disciplinary guidelines gives licensees fair notice of the potential consequences of transgression. It also protects the board from charges of arbitrary and capricious behavior in the application of discipline.

A licensee brought before a board has a right to respond to specific charges. The licensee may have the right to an informal hearing before formal charges are pursued. The licensee has a right to a fair hearing. Procedures which protect the licensee's rights, while allowing the board to conscientiously enforce its rules, are essential to an effective disciplinary environment.

A board may wish to add or delete violations from those listed in the text. The value of this document depends on the use made of it. We have created a framework, with some suggestions, for the individual boards to fill in. The specific rules a board chooses to adopt are important. However, those rules are subject to modification and change with time. Modifications to the text should stay generally within the framework presented.

Procedural rules in many cases are governed by an Administrative Procedure Act. Boards should work closely with legal counsel in adapting the procedural rules presented here to conform to laws of their state or province. It is likewise recommended that counsel be procured to assure that rules are being properly applied.

Ultimately, rules and regulations which embrace principles reflective of the board's mission will stand on a solid foundation.

Disciplinary sanctions which are consistent and predictable, and procedures which assure fairness and due process while protecting the health, safety, and welfare of the public, will best reflect the mission of the board and serve the chiropractic profession.

This document is designed to be continually evolving in response to the changing regulatory environment. It is intended that modifications and additions be submitted through the Federation's board of directors for periodic review and incorporation into future editions. We look forward to your response.

Respectfully submitted,

*The Task Force for the
Development of a Chiropractic Disciplinary Code*

for the
Federation of Chiropractic Licensing Boards

ABOUT NOTES AND COMMENTS

Comments and notes are added to assist boards in adapting the Guidelines to their state/provincial rules and regulations. They are not intended to serve as part of the text of any rule.

Comments raise issues and principles a board should consider relative to a rule. Notes are meant to direct a board's attention to the features or the intent of a rule. Notes are also used to alert the boards to possible problem areas.

**Adopted by the membership: April 1999
Federation of Chiropractic Licensing Boards**

Guidelines for the Development of a Chiropractic Disciplinary Code

TABLE OF CONTENTS

Task Force Members	opening page
---------------------------------	--------------

Introduction

History	I
Purpose of the Project	ii
Table of Contents	v

Section I

Acts or Omissions which May Subject a Licensee to Disciplinary Action

A. Advertising / Violation of Advertising Rules	1
B. Commercial Misconduct	3
C. Negligence or Incompetence	5
D. Professional Misconduct	8
E. Substance Abuse	11

Section II

Disciplinary Procedures

A. Filing Complaints and Reporting Violations	12
B. Processing Complaints and Reports	14
C. Informal Inquiry Procedures	15
D. Informal Hearing Procedures	17
E. Formal Hearing Procedures	19
F. Summary Action	22
G. CIN-BAD / Public Records	22

Section III

Disciplinary Actions and Sanctions

A. Definition and Range of Sanctions	26
B. Schedule of Sanctions for Specific Violations	27
C. Special Conditions / Stipulations	33

Reference Documents	appendix
----------------------------------	----------

SECTION I

ACTS OR OMISSIONS WHICH MAY SUBJECT A LICENSEE TO DISCIPLINARY ACTION

Boards of chiropractic examiners are empowered by law to enact, interpret, and apply rules and regulations governing the conduct of individuals licensed under a state/provincial Chiropractic Practice Act. The mission of the board is to protect the public health, safety and welfare. Rules and regulations adopted by the board are designed to fulfill this mission.

A. ADVERTISING

COMMENT: Advertising is a form of commercial free speech. As such, it enjoys limited First Amendment protection, and may not be prohibited by the board. Regulation of commercial free speech must employ the least restrictive means that will accomplish a valid regulatory purpose.

This section does not forbid advertising but prohibits advertising which is false, deceptive, or misleading. Repeated offenses under this section could be considered deliberate, and deserving of disciplinary action as professional misconduct.

Disclosure provisions, rather than prohibition, may be used in cases where advertising practices may be misleading or may lend themselves to other abuses.

A board wishing to address these issues is advised to follow the principle of applying reasonable disclosure and restriction rather than imposing outright prohibition.

ADVERTISING - GROUNDS FOR DISCIPLINARY ACTION

1. FALSE ADVERTISING

False, deceptive, or misleading advertising is prohibited.

Statements in advertising which claim that physical or mental illness, ailments or symptoms can be alleviated by chiropractic care must be supported by reference to clinical or scientific literature recognized as authoritative by the board. The board may require a licensee making such assertions to provide references supporting the claims made.

2. FREE SERVICES

Advertisements offering free or discounted service must include the licensee's usual charge for this service.

- a. In the case where the service offered is usually provided without charge, the advertisement must state that there is usually no charge for this service.
- b. Diagnostic services offered without charge, such as exams or X-rays, must be necessary and sufficient to reach a diagnosis. X-rays must be diagnostically appropriate.

Patients receiving free services must sign a disclosure statement which clearly describes the free service, and informs the patient of services for which there is a charge. When the advertisement offers free services for a period of time, the patient must sign a disclosure statement which clearly states when the free service ends. Such disclosure statements are part of the patient's medical record, and must be included in any submission of claims to the party responsible for bill payment.

3. TESTIMONIALS

Testimonials may only be used if the basis for the statements is documented and signed by the patient, and made part of the patient's permanent records. Patients should be informed if testimonials are to be used publicly, and told specifically how they will be used.

4. IMPROPER PATIENT SOLICITATION

Patients should not be improperly solicited. Proper patient protection would include an appropriate waiting period after accidents as determined by statute, rules or regulations. Clear disclosure of this waiting period should be included in any advertising or solicitation.

5. PROFESSIONAL CREDENTIALS

Only those licensees holding terminal certification in post-graduate training and certification programs recognized by the board may present themselves to the public as possessing special knowledge, skills, or training. Any advertisement which states that a licensee has special training, skills, or certification in a specialty not recognized by the board is engaged in deceptive and misleading advertising practices.

The use of the term "certified", or the use of letters indicating a degree or certification on stationery, letterhead, business cards, or other such publication is considered advertising for the purpose of this section.

(Note: Boards should adopt objective criteria for recognition of specialty certification.)

False, misleading, or incomplete information about professional credentials which could lead patients or other professionals to believe a licensee has credentials other than those actually held is strictly prohibited.

6. REPEATED VIOLATIONS

Repeated violations may be considered to be professional misconduct.

B. COMMERCIAL MISCONDUCT

COMMENT: A licensee is required to conduct business affairs related to the practice of chiropractic honestly. The board must determine whether commercial misconduct is related to chiropractic practice, or is outside of the interest of the board.

Either of two questions may serve to determine whether commercial conduct is within the scope of the board's duties:

- 1) Does the conduct relate to the delivery of chiropractic services?**
- 2) If the conduct is not directly related to the practice of chiropractic, does it demonstrate a pattern of conduct which may be assumed to extend to matters related to the practice of chiropractic?**

The assistance of counsel in making such a determination is highly recommended. Repeated offenses may be considered and treated as acts of professional misconduct.

COMMERCIAL MISCONDUCT - GROUNDS FOR DISCIPLINARY ACTION

1. BUSINESS FRAUD

A licensee shall not engage in fraud, misrepresentation, or deception in business affairs relative to the practice of chiropractic.

2. FRAUDULENT CLAIMS

A licensee shall not engage in abusive billing practices which may include:

- a. Filing claims for services not rendered;
- b. Filing claims which misrepresent the service performed;
- c. Filing multiple claims for a single service; or,
- d. Failing to disclose pertinent information on a claim form (such as reimbursement from other carriers), or presenting false information on a claim (such as falsely stating that an injury is the result of an accident or work-related incident).

3. NONCOMPLIANCE WITH GOVERNMENT PROGRAMS

A licensee shall not violate the rules or regulations of federal or state programs. Such acts may result in disciplinary action by the board, as well as other action by the state or federal government.

4. UNLAWFUL REFERRAL

Receiving payment for referral of a patient to or from another facility, health care provider, or business / professional entity is prohibited. Referral of a patient to a facility in which the licensee has a financial interest is prohibited, unless the patient is informed of the relationship.

5. UNLAWFUL INDUCEMENT

Offering payment to a patient as an inducement to enter or continue care is prohibited.

6. IMPROPER AID

Aiding another in any of the practices enumerated in this section is a violation of this section.

7. LACK OF DISCLOSURE

A licensee who advertises free services must include an appropriate disclosure statement (see page 2, Advertising - Item 2, Free Services) with the first submission of a claim to a third party payer.

8. REPEATED VIOLATIONS

Repeated violations may be considered to be professional misconduct.

C. NEGLIGENCE OR INCOMPETENCE

COMMENT: A licensee is required to attend dutifully to those patients under the licensee's care and to maintain competence in the practice of chiropractic. The practice of chiropractic is defined by law, custom, and reference to authoritative chiropractic and scientific literature, as reasonably interpreted by the board.

It is the responsibility of the licensee to maintain current knowledge of statutes, rules, regulations, and board decisions regarding the practice of chiropractic. Licensees who have questions regarding the scope or standards of practice should address such questions to the board for resolution.

Any complaint or dispute which raises the issue of diligence or competence in the practice of chiropractic must be presented to the board for review. The board is obligated to investigate such complaints and to take appropriate steps to protect the public health, safety, and welfare.

A licensee who fails to maintain a minimum level of competence poses a direct threat to the public. Disciplinary action is appropriate as a deterrent and as a motivation to maintain competence. In many cases remedial measures, as well as disciplinary action, should be considered. Additional continuing education hours in a specific subject and/or monitoring by a competent practitioner may prevent recurrence of a problem. National examinations such as the NBCE SPEC exam may be used to help the board reevaluate a doctor's competence.

The impaired practitioner presents a special problem and programs which encourage voluntary intervention are highly recommended. When possible, the board should cooperate with voluntary programs, keeping the public welfare as its first concern.

NEGLIGENCE OR INCOMPETENCE - GROUNDS FOR DISCIPLINARY ACTION

1. SCOPE OF PRACTICE

A licensee shall not engage in conduct outside the scope of chiropractic practice. It is the responsibility of the licensee to maintain current knowledge of statutes, rules, regulations and board decisions regarding the practice of chiropractic.

(Note: Disregard or repeated violation of this section may be considered professional misconduct.)

2. PROFESSIONAL COMPETENCE

A licensee must maintain a foundation of knowledge and skills which assure competence in the practice of chiropractic.

It is the responsibility of certain organizations to report evidence of negligence or incompetence to the board. Such reporting responsibilities lie with the following:

- a. Malpractice insurance carriers and the licensee should file with the board a report of any final judgment, settlement, or compromise of a malpractice claim against the licensee. A licensee may not enter into a compromise or settlement which prohibits disclosure to the board. Reports must be filed with the board by the carrier or the licensee within thirty days of the decision, settlement or compromise.

(Note: Some laws may not allow requirement of disclosure. Moreover, a licensee may enter a settlement which prohibits disclosure for the purpose of evading this rule. The Federation supports full disclosure to the regulatory boards.)

- b. Peer review organizations should file a report with the board if their activities uncover evidence of negligence or incompetence in the practice of chiropractic. Bona fide peer review organizations filing such reports in good faith shall be immune from civil liability.

(Note: Legislation may be required to offer this immunity.)

3. PATIENT RECORDS

A licensee is required to maintain proper patient records on all patients, including family and staff members, and to keep these records confidential. Proper patient records must be clear and legible, and include:

- a. A description of the patient's chief complaint;

- b. A history which includes any significant events related to the chief complaint or general health history;
- c. A record of diagnostic and therapeutic procedures including: an examination and results of that exam; a diagnosis; a plan of care, including all therapeutic modalities utilized; frequency of treatment; any changes in the plan of care, as well as the reason for changes; and a record of the patient's response to treatment.

4. X-RAYS

A licensee is required to maintain competence in the production and interpretation of X-rays. Competence should be based on the following considerations:

- a. X-rays must be of diagnostic quality;
- b. Appropriate shielding and collimation should be utilized;
- c. Patient exposure to radiation must be based on clinical necessity as documented by the patient's record;
- d. Interpretation of X-rays must be in writing, part of the patient's record, and demonstrative of competence in reading films; and
- e. Equipment must meet board and manufacturer's specifications for safety and use, and must be properly maintained.

5. PATIENT CARE

A licensee must maintain competence in the application of chiropractic therapeutics and in the management of patient care. Competence should be based on the following considerations:

- a. Therapeutic modalities must be properly applied;
- b. The modality must be appropriate for the treatment of the patient as documented by the patient record; and
- c. Case management must be supported by the patient record.

6. STAFF SUPPORT

The licensee must properly train and supervise staff engaged in patient care. Failure to do so shall be considered negligence on the part of the licensee.

7. REPEATED VIOLATIONS

Repeated violations may be considered to be professional misconduct.

D. PROFESSIONAL MISCONDUCT

COMMENT: Professional misconduct is misconduct related to the practice of chiropractic, or criminal misconduct which reflects on the capacity of the licensee to safely engage in the practice of chiropractic.

Willful or intentional misconduct, which poses a potential threat to the safety of the public, deserves the immediate attention of the board and the strongest possible sanctions.

PROFESSIONAL MISCONDUCT - GROUNDS FOR DISCIPLINARY ACTION

1. CRIMINAL MISCONDUCT

A licensee must report a criminal conviction or a compromise, settlement, or plea bargain of criminal charges to the board within 30 days of determination of the case. The board will review the conduct involved in the criminal proceedings to determine if the conduct poses a threat to the public, and take appropriate disciplinary action.

(Note: Review of the conduct should involve the board's attorney. A criminal conviction may be unrelated to the practice of chiropractic, and of no concern to the board, e.g. conviction for violation of environmental protection laws in a business activity unrelated to chiropractic. Conviction of a felony may be unrelated to chiropractic practice, while conviction of a misdemeanor may be directly related to practice and pose a threat to the public welfare.

The board should consider this matter with the advice of counsel and decide on the standards it will apply in reviewing criminal conduct. In some cases, the state/province may have enacted laws requiring action, even when criminal conviction is unrelated to the practice of chiropractic. For example, although failure to make child support payments is unrelated to the practice of chiropractic and poses no threat to the public, some U.S. states have passed laws requiring boards to withhold licensure / relicensure from doctors convicted of failure to pay child support.)

2. SEXUAL MISCONDUCT

COMMENT: Sexual misconduct exploits the doctor/patient relationship, is a violation of the public's trust, and may cause immeasurable harm to the patient.

Boards may wish to consider measures such as continuing education requirements in sexual boundaries issues in order to educate the licensee regarding sexual misconduct and the damage to the patient that may result.

When sexual misconduct occurs, prompt and decisive board action is appropriate.

- a. A licensee is prohibited from using fraud, deception, misrepresentation, or force for the purpose of engaging in sexual conduct with a patient in the clinical setting.**
- b. Patient consent should not be viewed as a legal defense. The burden of proof falls upon the doctor to show there has not been a breach of the doctor-patient relationship.**

(Note 1: Many health professions and licensing boards are promulgating stringent standards governing sexual misconduct between doctor and patient, requiring termination of the doctor/patient relationship prior to engaging in sexual contact and a "cooling off" period of varying lengths. Boards should review this issue carefully with legal counsel prior to promulgating rules and regulations regarding sexual misconduct.)

(Note 2: Sexual misconduct may include behavior, gestures, or expressions that are seductive, sexually suggestive or sexually demeaning to a patient. Each board should carefully consider the conduct which it would define as sexual misconduct.)

3. MISCONDUCT RELATED TO LICENSURE

A licensee will be subject to disciplinary action for professional misconduct involving any of the following activities related to licensure:

- a. Aiding another in the unlicensed practice of chiropractic;
- b. Fraud or deceit in obtaining a license to practice chiropractic;
- c. Aiding another in fraudulently obtaining a professional license;
- d. Making false or misleading statements, or withholding relevant information,

regarding the qualifications of any individual in order to attempt to obtain a license or engage in the practice of chiropractic;

- e. Failure to report past, present, or pending disciplinary action by another licensing board, or current status of final administrative disposition of a matter. A licensee is required to report any compromise or settlement of disciplinary action, whether voluntary or involuntary, which results in encumbrance of licensure; or,
- f. Cheating on a licensing exam, or attempting to subvert or compromise a licensing exam. For the purposes of this section, examinations given by any private, state, provincial, national or international examining organization recognized by the board shall be considered "licensing exams".

(Note: reference to national or international exams applies only if the state/province uses these exams in the licensing process.)

4. SCOPE OF PRACTICE

Engaging in activities outside of the scope of chiropractic practice in the delivery of health care is prohibited.

(Note: If the scope of practice is unclear relative to the activity, or if other factors indicate that the behavior was the result of negligence by the licensee rather than deliberate misconduct, the board may classify the conduct as negligence. Consideration needs to be given to the risk involved in the activity, and the danger posed to the public.)

5. FALSE REPRESENTATION

A licensee may not represent to the public the possession of special skill, training, knowledge or qualification unless the board recognizes the training or certification on which the representation is based.

6. ENDANGERMENT

A licensee shall refrain from any intentional or reckless conduct in the practice of chiropractic which poses a danger to the public.

E. SUBSTANCE ABUSE

COMMENT: The impaired doctor may pose a threat to public health, safety, and welfare. Even in situations where no complaint has been made to the board, it is incumbent on the board to investigate when evidence of chemical dependency or substance abuse has come to its attention. The capacity of the board to intervene without a complaint is enhanced by inclusion of a rule or regulation establishing that authority. Board actions must comply with federal laws and regulations, including the Americans with Disabilities Act.

SUBSTANCE ABUSE - GROUNDS FOR DISCIPLINARY ACTION

1. IMPAIRMENT OF ABILITIES

The inability of a licensee to treat patients competently or safely due to use of any mind or mood-altering substance is a basis for board action. Evidence of the use of such substances is a valid basis for investigation and action by the board.

SECTION II

DISCIPLINARY PROCEDURES

The state/provincial board of chiropractic examiners is empowered by statute to enforce its Chiropractic Practice Act. It is also empowered to enforce the rules and regulations of the board, and to exercise full discretion and authority with respect to disciplinary actions.

Disciplinary procedures should provide for the due process rights of the licensee while allowing the board to vigorously pursue complaints. The board should adhere to clearly defined standards when employing disciplinary procedures.

In most jurisdictions, an Administrative Procedure Act governs the procedures of administrative agencies, such as the board. APA / state / province or other law may govern the procedures presented below, especially regarding time requirements. A board should work closely with an attorney familiar with administrative law in adopting these procedures.

A. FILING COMPLAINTS AND REPORTING VIOLATIONS

COMMENT: Any person or legal entity may file a complaint or report a violation to the board. Such complaints or reports should be in writing, and should state facts which indicate possible misconduct by the licensee. The board may act on its own initiative if evidence of misconduct comes to the attention of the board.

1. MANDATORY REPORTING

The following persons, agencies, associations, or other organizations and entities are required by law or rule to report possible violations to the board in a timely manner:

- a. Professional peer review organizations;
- b. State / provincial courts and quasi-judicial bodies;
- c. State / provincial agencies and regulatory bodies;
- d. Law enforcement agencies; and,
- e. Health care institutions.

2. VOLUNTARY REPORTING

The following persons, agencies, associations or other organizations and entities are generally not required to report possible violations to the board in a timely manner, but should be strongly encouraged to do so:

- a. Insurance and claims review entities;
- b. Licensees licensed in that jurisdiction;
- c. Professional trade associations;
- d. Federal courts;
- e. Federal agencies and regulatory bodies;
- f. Federal law enforcement agencies; and,
- g. Malpractice insurance carriers.

(Note: Some states/provinces require or have considered requiring licensees to report misconduct of other licensees. Before adopting such a requirement, the board should consider the potential for abuse, as well as the practicality of uniform and consistent enforcement of such a requirement.)

Malpractice insurance carriers may not be required to report to the board; however, the licensee can be required to report any claim of malpractice. Statute may govern which courts, agencies, etc. must report to the board.)

B. PROCESSING COMPLAINTS AND REPORTS

COMMENT: This section represents a MODEL PROCESS. Since legal processes may vary greatly among jurisdictions, boards should consult with counsel well versed in the administrative law pertaining to their particular authority and procedures.

1. INITIAL COMPLAINT

- a. Complaints or reports of misconduct must be processed in a timely manner.
- b. The initial complaint or report may not be a matter of public record at this stage of the disciplinary process.
- c. A party who files a complaint or report of misconduct in good faith may be immune from civil liability.
- d. The board and its designees bear no liability for civil damages, and are immune from prosecution for any action undertaken in the performance of functions related to official board activity when those actions are in good faith, without malice, and in the reasonable belief that the action is warranted.

2. INSUFFICIENT / ANONYMOUS INFORMATION

- a. If the information in the complaint or report is insufficient to identify conduct which falls under the authority of the board, the board may request further information from the complainant.
- b. If the information in the complaint or report is insufficient to specifically identify the violation which may have occurred, but is sufficient to indicate a likelihood that a violation may have occurred, the board may obtain further information by written correspondence with the complainant and/or the licensee, or may conduct an informal inquiry.
- c. The identity of all parties to a complaint shall be disclosed to all parties unless contrary to law. The authority by which boards may act on anonymous complaints is governed by individual law or regulation. Such anonymous complaints may be a basis for investigation, as allowed by law or regulation. If the complaint states allegations which indicate an imminent threat to public health, safety, or welfare, the board may take appropriate steps for the protection of the public.

(Note: The right of confrontation may vary widely from jurisdiction to jurisdiction. Certain types of cases may warrant protection of the victim or the reporting source. Boards should make whatever use of anonymous information they feel is appropriate (or not) or allowed (or not allowed) by law or regulation.)

3. NO ACTION

If the information contained in the complaint or report states matters that are not under the authority of the board, or which would not constitute a violation if proven, the board may take no action. Notice should be given to the complainant and the licensee that the complaint or report has been reviewed with the determination that no action is warranted by the board.

4. ACTION

If the information contained in the complaint or report states matters which, if proven true, would constitute a violation, the board may initiate an informal inquiry.

5. PRIVACY OF INFORMATION

Details of the complaint or report, and the decision of the board to proceed to an informal inquiry, are not a matter of public record at this stage of the disciplinary process, unless otherwise specified by law or regulation.

(Note: At this point, an allegation has been made, but the licensee has had limited opportunity to respond, and has not been given sufficient notice to meet due process requirements. In such cases the board should give consideration to the rights of, and possible repercussions to, the licensee. Action taken in this situation should be conducted with the close guidance of legal counsel.)

C. INFORMAL INQUIRY PROCEDURES

1. INITIAL NOTICE

Following receipt of a complaint or report, and determination that the complaint presents allegations which fall under the authority of the board and which would constitute a violation if proven true, the board may initiate an informal inquiry to determine the substantial validity of the allegations.

Initial notice shall be given to the licensee and should include:

- a. Notice that a complaint or report of misconduct has been received;
- b. The identity of the complainant or source of the report;
- c. A simple statement of the allegations which form the basis of the complaint;

- d. A request for a written response from the licensee, addressing the allegations and/or putting forward any evidence or information which has bearing on the complaint or report; and,
- e. A statement that the allegations, if proven, may have serious consequences bearing on licensure, and advising the licensee of the right to legal counsel.

2. ACTION WITHOUT NOTICE

The board may initiate an informal inquiry or investigation without notice in those cases where there is justifiable reason to believe that notice would result in loss or destruction of evidence or otherwise jeopardize the case.

(Note: Inquiry or investigation without notice should be conducted under the guidance and close supervision of legal counsel.)

3. CONDUCT OF INFORMAL INQUIRY

The informal inquiry should be conducted by a disciplinary committee composed of persons designated by the board or defined by law or regulation. The full board should be screened from any knowledge of the nature of the complaint or the identities of the parties during the informal inquiry. Board members involved in the informal inquiry, or who have any involvement with the case before formal charges are brought, should be recused from participation in the final adjudication of the matter.

(Note: The body which makes the final determination or adjudication of a matter should not include individuals who participated in the investigation and recommendation to bring formal charges. It must be assumed that such persons are prejudiced by that decision. The recommendation of the disciplinary committee to the board, discussed below, should not disclose the identity of any party to the matter.)

4. DETERMINATIONS FROM INFORMAL INQUIRY

The disciplinary committee may conduct any inquiry necessary and permissible under the board's authority to determine facts relevant to the matter.

The informal inquiry may result in the following determinations:

- a. ***No further action is warranted.*** The information gained fails to raise the likelihood that a violation has occurred.
- b. ***Informal hearing.*** The information gained indicates a likelihood that a violation has occurred.

(Note: The standard for proceeding from an informal inquiry to the informal

hearing, the prelude to formal investigation, is the "likelihood" that a violation has occurred. Likelihood is established if the evidence uncovered indicates that there is a substantive basis to believe that the factual allegations may be proven and that the allegations, if proven, would constitute a violation.)

D. INFORMAL HEARING PROCEDURES

COMMENT: An informal hearing is designed to give a licensee an opportunity to address the charges pending in an informal setting before the licensee's peers. Courts have upheld the rights of a licensee to such a process.

1. NOTICE OF INFORMAL HEARING

Before proceeding to a formal investigation or formal hearing the disciplinary committee of the board will conduct an informal hearing. The licensee and other parties will be given reasonable notice of the hearing. Any party to the complaint may be asked to appear at the informal hearing.

A licensee may waive the right to an informal hearing.

2. CONDUCT OF INFORMAL HEARING

a. The informal hearing will be conducted in closed session, unless otherwise required by law. Unless proper waivers precede the session, statements made at the informal hearing may not be introduced at later hearings; however, evidence obtained through independent sources may be introduced at later proceedings.

b. Any party may be represented at an informal hearing by legal counsel. All questioning of witnesses and parties should be by the disciplinary committee. The parties have no right of direct or cross examination. With proper waivers in place, questions may be given to the board to be presented at the discretion of the committee.

3. SETTLEMENT

Settlement or compromise of the matter may be discussed at the informal hearing.

4. COMMITTEE RECOMMENDATIONS

Following the informal hearing, the disciplinary committee will make a recommendation to the full board, which may accept or reject the recommended action. Members of the disciplinary committee shall not participate in the vote. In its presentation the committee shall inform the board of the nature of the complaint, the results of the informal inquiry, including the committee's conclusions, and the reason for the proposed action. The board shall not be informed of the identity of any party to the complaint until a final decision has been reached, or in accordance with statute or regulation.

The informal hearing may result in the following determinations:

- a. **No further action is warranted.** The committee has determined that further action on the complaint or report is without merit or inappropriate.
- b. **Further action is warranted.** On the basis of information obtained in the course of the informal inquiry, the committee has determined that there is a probability that a violation has occurred and that settlement of the matter is not possible or is inappropriate.

(Note: The standard for progressing from informal to formal proceedings is a determination by the committee of the probability that a violation has occurred and that settlement or compromise has not been reached.)

- c. **Settlement is recommended.** The committee has reached a settlement of the matter with the licensee, pending board approval. The details of the settlement shall be in writing and signed by the designee of the board and the licensee. Informal disposition that results in a plea bargain, settlement, or compromise should remain part of the public record.
- d. **Consent decree is recommended.** Pending board approval, the committee has reached a tentative resolution of the matter which involves voluntary submission to disciplinary and remedial action by the board. The details of the consent decree shall be in writing and signed by the designee of the board and the licensee. A consent decree is a matter of public record.

E. FORMAL HEARING PROCEDURES

COMMENT: The formal investigation and formal hearing are discussed in this section. If a board has the authority to conduct a proper investigation without bringing formal charges, it may consider these two processes separately. Investigations should be conducted by trained investigators when possible, and should be supervised by legal counsel. Certain proceedings require subpoena authority and appointment of a hearing officer or administrative law judge to rule on motions and other matters.

Statute may or may not dictate a separation of the formal investigation and formal hearings. In all cases the process defined by law should be strictly followed.

If a formal investigation occurs without formal charges, matters of investigation may be public record although no formal charges were filed. Generally, investigations themselves should not be public record, but the fact that a complaint has been filed (without details) may be public information upon request.

When formal investigation and formal hearings are not combined, a formal investigation generally would become public record only when formal charges and a finding of guilt accompany it.

Whether a board combines formal investigation and formal hearing, or has two separate steps, the same standard is applicable. In order for a formal investigation to continue to formal hearing, the investigation must indicate a probability that a violation has occurred.

Note that the standard for proceeding from informal to formal proceedings is the determination by the disciplinary committee of a probability that a violation has occurred and that settlement of the matter is not possible or is inappropriate. That standard continues to apply throughout formal investigation proceedings. The formal hearing and charges should be dismissed if the investigation fails to meet that standard.

1. APPROVAL OF FORMAL PROCEEDINGS BY THE BOARD

At the conclusion of the informal process, the disciplinary committee may recommend formal proceedings to the full board. A formal hearing must be based on a finding that there is the probability that a violation of the statutes, rules, regulations, or ethical standards governing the practice of chiropractic has occurred based on investigatory findings.

2. APPOINTMENT OF THE INVESTIGATIVE OFFICER

A member of the disciplinary committee may be appointed to serve as investigative officer, to serve as the board's official representative during formal proceedings.

3. APPOINTMENT OF THE HEARING OFFICER

Following the decision to proceed to formal disposition of the matter, the board will appoint a hearing officer. The hearing officer shall ensure a fair and impartial hearing and preserve the rights of all parties. The hearing officer will rule on all motions, rules, orders, or other proceedings raised in the conduct of the investigation and hearing. Such rulings shall be final.

4. INITIATION OF FORMAL PROCEEDINGS

The board will initiate formal proceedings by issuing notice to the licensee by certified mail, return receipt requested. The notice shall be delivered to the address which the licensee has registered with the board. If the notice cannot be delivered at the registered address, the board will make a reasonable effort to locate the licensee. The board may proceed with the formal investigation and formal hearing by showing the hearing officer that attempts to deliver notice and to locate the licensee have failed.

5. NOTICE REQUIREMENTS

Notice to the licensee shall detail specific acts or omissions the licensee is alleged to have committed, and an affirmative assertion that the acts or omissions alleged are in violation of the rules, regulations, and/or laws governing the practice of chiropractic. The notice shall cite the specific rules, regulations, and laws which form the basis of the complaint. The content of the notice shall define the scope of the formal proceedings.

If the board is unable to state the case in detail at the time notice is served, the initial notice may be limited to a statement of the issues involved. Notice containing a statement of the issues, as described above, shall be furnished in a timely manner, and shall show that a detailed statement could not have been provided without further discovery. Motions to amend notice may be granted or denied at the discretion of the hearing officer.

6. ELEMENTS OF THE NOTICE

The notice shall include the following:

- a. A statement of the date, time, and place of the formal hearing, or a statement that it has not yet been set;
- b. A statement of the legal authority which is the basis of the proceedings;
- c. A citation of the specific rules, regulations, statutes, or ethical standards involved;
- d. A short statement of the factual matters asserted which shall be the subject of the proceedings;
- e. A statement of the legal rights of the licensee, including the right to legal representation;
- f. The identity and mailing address of the hearing officer; and,
- g. The identity and mailing address of the attorney prosecuting the case.

7. TIME FACTORS AND EXTENSIONS

Notice of formal hearing shall be given to all parties at least 30 days prior to the date set for hearing. Extensions of time may be granted by the hearing officer on showing that preparation for the hearing can not be accomplished in 30 days with due diligence. Parties to the proceedings are the licensee, any other party named as defendant in the complaint, and the complainant or complainants.

(Note: Statute or regulation may set different time limits.)

8. FORMAL DECISION

At the conclusion of the formal hearing, the hearing officer shall issue a written decision and recommendation. The board may follow that recommendation or, for good cause, alter or reject the decision of the hearing officer in issuing a final judgment. If the board issues a final judgment which deviates from the recommendation of the hearing officer, it shall provide a written explanation of the reason for doing so.

9. RIGHT OF APPEAL

The licensee may appeal a final board decision to a court of proper jurisdiction as provided by law.

F. SUMMARY ACTION

COMMENT: Summary action provides for board intervention of an emergency nature. It should only be utilized when there is an imminent threat to the public health, safety, and welfare, and the public could not be protected through less peremptory action.

Summary action should employ the least burdensome means that would protect the public. It should never be invoked without the advice and supervision of legal counsel.

1. IMMINENT THREAT

The board may take summary action on receipt of a complaint or report, or on information which has come to the attention of the board, indicating a licensee may be engaged in conduct which poses an imminent threat to the public health, safety, or welfare; such information should likewise indicate that delay in action would result in irreparable harm. A hearing will be held as governed by law.

For good cause the board may invoke either of the following summary actions:

- a. ***Cease and desist order.*** An order by the board directing a licensee to immediately refrain from a specific action.
- b. ***Suspension.*** Immediate suspension of a license to practice chiropractic.

G. CIN-BAD / PUBLIC RECORDS

COMMENT: CIN-BAD, the Chiropractic Information Network / Board Action Databank, is the Federation of Chiropractic Licensing Boards' collective databank. Its Official Actions Database includes both public board actions as reported by the chiropractic regulatory boards and exclusions from reimbursement from federal programs, commonly referred to as Medicare sanctions. Also eligible for inclusion in the OAD are felony convictions.

To be included in CIN-BAD's OAD, an issue involving an individual must have been through an appropriate judicatory process and be a matter of public record. Complaints, even if public record, may not be reported until they have been appropriately reviewed and resolved by the board.

Licensing boards retain control of the records and board actions involving their licensees. Information reported to CIN-BAD functions as a "flag" to alert persons querying the system about possible board actions. Disclaimers and reminders on CIN-BAD strongly urge contact with the individual licensing board to obtain the complete records and circumstances surrounding the action. The disclosure of this information by licensing boards is regulated by a Public Records Act or Freedom of Information Act.

(Note: All public actions should be reported to CIN-BAD. A board that waits for the exhaustion of all legal appeals may delay inclusion of a "final" decision in CIN-BAD for several years.)

If appeal is taken regarding a board decision, notice of the appeal shall be included in the notice to CIN-BAD.

1. REPORTING TO CIN-BAD

In all final orders, boards should include the fact that all public actions of the board which have been appropriately adjudicated are reported to CIN-BAD's Official Actions database. Reports should be filed no later than 30 days of action being taken, with preference given to immediate reporting.

Only the basic identifying information is included in the CIN-BAD record, along with a general code to specify the details of the board action, which may include general class of violation and type of sanction, restoration of license, etc.

When the status of a sanction changes (for example, completion of probation, restoration of active license, etc.), this should be reported under the same time frame as the original action. Appeals should also be reported.

CIN-BAD is also designed to accommodate reports of felony convictions and exclusions from reimbursement under federal programs (Medicare/Medicaid sanctions).

2. QUERYING CIN-BAD

Boards should include as part of their regular procedures querying CIN-BAD for any applicant for licensure who may have been licensed previously in chiropractic or another profession. This should be done before permission to sit for the next phase of licensure examination or other steps is granted.

Boards should also review CIN-BAD reports monthly to learn whether action may have been taken recently by another jurisdiction against one of their current licensees.

CIN-BAD queries are also available to chiropractic colleges, insurance providers, credentials verification organizations, managed care providers, law enforcement agencies, and the general public.

3. RESPONDING TO INFORMATION ON CIN-BAD

If information is discovered to apply to a currently licensed or applicant doctor, the board must contact the licensing jurisdiction or other agency taking action for complete details of the report prior to determining what action (if any) will be taken by that board. Due to the "red flag" nature of the system, it is inappropriate to take any official action based solely on a CIN-BAD report.

4. GENERAL PUBLIC INFORMATION

Although details of any complaint in the investigative stages should be kept private, the fact that a complaint has been filed against a doctor may be able to be released to the public if appropriate under law.

The filing of formal charges is public record.

SECTION III

DISCIPLINARY ACTIONS AND SANCTIONS

Disciplinary actions taken by a board should be appropriate for the seriousness of the violation, consistently applied to all licensees, and designed to protect the public welfare. Remedial measures which correct deficiencies and provide an opportunity for the rehabilitation of the licensee may be included when appropriate.

The disciplinary actions which follow are ranked from least to most severe. The least severe actions should be applied to violations which pose the least threat to the public. The most severe actions should be applied to violations which pose the greatest threat to the public. This document generally considers advertising to pose the least threat, and recommends the lightest sanctions. Professional misconduct poses the greatest threat and should be treated with the firmest sanctions possible.

Sanctions for each violation are presented as a range within the total range of disciplinary actions to allow the board some discretion. However, the board should have a policy concerning application of sanctions within a range. It is appropriate to increase the severity of sanctions for repeated violations of the same rule or regulation by a licensee. A board may consider reclassification of a lesser violation (e.g. advertising) to a more serious violation (e.g. professional misconduct) for repeated violations, or for flagrant disregard of board rules.

Not all sanctions listed here may be available to every board. In some cases boards cannot fine licensees; in other cases there is no provision for actions such as a letter of concern. If revision of the law to allow application of the sanctions presented here is not practical, the board should write its own schedule of sanctions. If a board does not agree with the schedule of sanctions presented here, it should feel free to write its own. In doing so, it should always adhere to the principle of applying sanctions in accordance with the seriousness of violations, and relative to the board's mission to protect the health, safety, and welfare of the public.

A. DEFINITION AND RANGE OF SANCTIONS

The following list of sanctions ranges from least severe to most severe, and includes:

1. **Letter of Concern.** Correspondence from the board citing a possible violation and requesting corrective measures and a reply from the licensee;

(Note: The board should determine whether this is public record.)

2. **Reprimand.** Official notice that a licensee has violated a board rule or regulation (A reprimand may be considered when there are repeated violations.);

(Note: The board should determine whether this is public record.)

3. **Monetary Penalty, with fines ranging from minor to severe;**

- a. **Minor.** Up to 25% of the maximum monetary penalty the board may fine a licensee;

- b. **Moderate.** 25% to 50% of the maximum monetary penalty the board may fine a licensee; or,

- c. **Severe.** 50% to 100% of the maximum monetary penalty the board may fine a licensee.

4. **Encumbrance of License, including those listed below; or,**

- a. **Probation without restriction.** Probation is a conditional deferment of suspension or revocation of a license. Probation may be revoked by showing that the licensee has violated the conditions of probation, or by showing that the licensee has continued to engage in the activity which led to probation. The licensee may continue practice without restriction for the period of probation;

- b. **Probation with restriction.** Probation as defined above, with the addition of restrictions which must be adhered to as a condition of continued practice; or,

- c. **Suspension.** Revocation of a license to practice chiropractic for a set period of time.

5. **Revocation.** Cancellation of a license to practice chiropractic.

B. SCHEDULE OF SANCTIONS FOR SPECIFIC VIOLATIONS

GENERAL COMMENT: The schedule of sanctions below represents suggestions. A board may choose to accept the schedule as presented or write its own. If a board elects to create its own schedule or modify the one presented, it is imperative to act according to the basic principle that severity of sanction should correspond to seriousness of offense relative to the board's mission. Thus, sanctions for advertising violations should generally not be more severe than sanctions for professional misconduct.

Special conditions / stipulations may be added to the following sanctions if appropriate. Refer to Section C for consideration of these conditions / stipulations.

(Note: Refer to the sections and subsections in parentheses for definitions of the violations.)

1. ADVERTISING

ADVERTISING

The recommended general range of disciplinary action for advertising violation is *letter of concern to suspension.*

The Board may impose a monetary penalty in addition to the sanctions listed below for violation of any advertising rule, as allowed by law.

A. Advertising that is false, deceptive, or misleading (I.A.1)

Range of Action: Letter of concern to suspension

B. Using unsubstantiated statements in advertising (I.A.1)

Range of Action: Reprimand to suspension

C. Advertising of free or discounted services or goods which fail to do the following (I.A.2.a,b):

- 1) State normal charges of services or goods;
- 2) Provide proper diagnostic services sufficient to establish a diagnosis;
- 3) Provide diagnostically complete radiographic studies.

Range of Action: Reprimand to suspension

D. Failure to have patient sign disclosure statement when receiving free services (I.A.2).

Range of Action: Minor fine to suspension

E. Improper use of testimonials (I.A.3).

Range of Action: Letter of concern to monetary penalty.

F. Improper patient solicitation (I.A.4).

Range of Action: Letter of concern to suspension

G. Improperly holding oneself out as a specialist (I.A.5).

Range of Action: Letter of concern to monetary penalty

2. COMMERCIAL MISCONDUCT ---

COMMERCIAL MISCONDUCT

The recommended general range of disciplinary action for commercial misconduct is *reprimand to revocation.*

Refer to Section C, for Special Conditions / Stipulations if appropriate.

The Board may impose a monetary penalty in addition to the sanctions listed below for violations of any commercial misconduct as allowed by law.
Range of Action: Minor fine to severe fine

A. Fraud, deceit or misrepresentation in business practices (I.B.1).

Range of Action: Minor fine to suspension

B. Abusive billing practices (I.B.2.a,b,c,d).

Range of Action: Minor fine to revocation

C. Violation of state / provincial or federal rules (I.B.3).

Range of Action: Moderate fine to revocation

D. Receiving or offering payment improperly (I.B.4 & 5).

Range of Action: Probation without restrictions to revocation

E. Aiding another in commercial misconduct (I.B.6).

Range of Action: Reprimand to suspension

F. Failure to provide disclosure statement to third party payers when offering free services (I.B.7).

Range of Action: Reprimand to suspension

3. NEGLIGENCE OR INCOMPETENCE

NEGLIGENCE OR INCOMPETENCE

**The recommended general range of disciplinary action
for negligence / incompetence is
*minor fine to revocation.***

**The Board may impose a monetary penalty
in addition to the sanctions listed below
for violation of the rules governing professional competence as allowed by law.
*Range of Action: Minor fine to severe fine***

A. Practice outside of the scope of practice (I.C.1).

Range of Action: Severe fine to revocation

B. Incompetence in the practice of chiropractic (I.C.2).

Range of Action: Probation without restrictions to revocation

C. Failure to report to the board any final judgement award or settlement against the licensee relating to practice competency (I.C.2, a,b)

Range of Action: Probation with restrictions to suspension

D. Failure to produce or maintain proper patient records (I.C.3).

Range of Action: Moderate fine to revocation

E. Violating patient confidentiality (I.C.3).

Range of Action: Moderate fine to suspension

F. Incompetence in the production or interpretation of X-rays (I.C.4).

Range of Action: Probation to revocation

G. Incompetence in the application of therapy (I.C.5).

Range of Action: Moderate fine to revocation

H. Failure to train and supervise staff (I.C.6).

Range of Action: Moderate fine to suspension

I. Delegating application of therapy to unqualified or untrained person (I.C.6).

Range of Action: Moderate fine to revocation

4. PROFESSIONAL MISCONDUCT

PROFESSIONAL MISCONDUCT

The recommended general range of disciplinary action for professional misconduct is *probation with restrictions to revocation.*

Refer to Section C of the Special Conditions / Stipulations if appropriate.

The Board may impose a monetary penalty in addition to the sanctions listed below for violations of the rules governing professional misconduct as allowed by law.
Range of Action: Minor fine to severe fine.

A. Criminal conviction (I.D.1).

Range of Action: Probation with restrictions to revocation

B. Sexual misconduct (I.D.2).

Range of Action: Probation with restrictions to revocation

C. Aiding in the unlicensed practice of chiropractic (I.D.3.a).

Range of Action: Probation with restrictions to revocation

E. Fraud or deceit in obtaining a license (I.D.3.b).

Range of Action: Suspension to revocation

F. Aiding another in fraudulently obtaining a license (I.D.3.c).

Range of Action: Probation with restrictions to revocation

G. Making false, misleading statements or withholding information regarding qualifications of a person to practice chiropractic (I.D.3.d).

Range of Action: Probation with restrictions to revocation

H. Failure to report disciplinary action by another regulatory board (I.D.3.e).

Range of Action: Severe fine to revocation

I. Failure to report voluntary or involuntary surrender of a license (I.D.3.e).

Range of Action: Severe fine to revocation

J. Cheating on a licensing exam (I.D.3.f).

Range of Action: Suspension to revocation

K. Engaging in activities outside of the scope of practice (I.D.4).

Range of Action: Probation with restrictions to revocation

L. Misrepresentation regarding qualifications or skills (I.D.5).

Range of Action: Severe fine to revocation

M. Engaging in deliberate or reckless conduct (I.D.6).

Range of Action: Severe fine to revocation

N. Repeated violations involving lesser offenses.

Range of Action: Probation with restrictions to revocation

5. SUBSTANCE ABUSE ---

SUBSTANCE ABUSE

**The recommended range of disciplinary action
for substance abuse is
*probation with restrictions to revocation.***

Refer to Section C of the Special Conditions / Stipulations if appropriate.

A. Interference with the ability to treat patients due to the use of mind or mood altering substances (I.E.1).

Range of Action: Probation with restrictions to revocation

C. SPECIAL CONDITIONS / STIPULATIONS

GENERAL COMMENT: One or more of the following Special Conditions / Stipulations may be added to disciplinary actions for the further protection of the public and the rehabilitation of the licensee.

Special conditions and stipulations may be added if they are appropriate to the nature of the violation and serve a purpose consistent with the board's mission.

The disciplined doctor may be required to pay the costs of any special conditions. If so, this should be specified clearly in the order.

Some measures such as community service may exceed the board's authority. A board should work closely with legal counsel in formulating its special conditions and stipulations.

1. **ALCOHOL / DRUG ABSTINENCE.** The licensee shall not consume alcoholic beverages or drugs except for lawfully prescribed medication for a bona fide illness or condition.
2. **DRUG AND / OR ALCOHOL REHABILITATION.** Licensee shall submit to an alcohol/drug rehabilitation program approved by the board. Attendance and participation in the program must be certified by the director of the program. At the termination of the program, that director shall also document the licensee's completion of the program and specify arrangements for follow-up rehabilitation counseling.
3. **HEALTH EVALUATION AND TREATMENT.** The licensee shall submit to a health evaluation and any necessary treatment until such time as the licensee is determined to be competent to practice.
4. **PSYCHIATRIC / PSYCHOLOGICAL EVALUATION AND TREATMENT.** The licensee shall submit to psychiatric/psychological evaluation and treatment until such time as the licensee is determined to be competent to practice.
5. **BIOLOGICAL FLUID TESTING.** At the board's direction the licensee shall immediately submit to appropriate biological fluid testing at the licensee's cost.
6. **THIRD PARTY PRESENCE.** The licensee shall be required to have a staff member present while engaged in patient care.

7. **BOUNDARY / BARRIER TRAINING.** The licensee shall successfully complete a course of study in boundary / barrier training that has been approved by the board.
8. **COMMUNITY SERVICE / PROFESSIONAL SERVICES.** With the board's approval the licensee shall prepare and execute a community service program in which the licensee will provide chiropractic services on a regular basis to an approved agency.
9. **COMMUNITY SERVICE VOLUNTEER.** The licensee shall be required to perform volunteer work at a public service agency approved by the board.
10. **CONTINUING EDUCATION / CLINICAL TRAINING PROGRAM.** During each year of disciplinary action (i.e. suspension, probation, etc.) the licensee shall successfully complete additional continuing education / clinical training.
11. **SPEC EXAMINATION / COMPETENCY EXAM.** The licensee shall be required to complete and pass the SPEC Exam or other exams given by the National Board of Chiropractic Examiners or other examining organizations recognized by the board, or to pass an exam administered by the board.
12. **MONITORED PRACTICE.** The licensee shall be assigned a chiropractor who will monitor the licensee's practice. The monitor shall physically inspect the practice at least once every two weeks. The monitor shall submit monthly written reports to the board.
13. **LIMITED PRACTICE.** The licensee shall be required limit practice activities as defined by the board.
14. **ETHICS COURSE.** The licensee shall successfully complete a course in professional ethics as approved by the board.
15. **BOARD REQUESTED APPEARANCE.** If the board considers a state of emergency to exist the board can demand an immediate appearance allowing for travel. Otherwise the board may demand appearance with reasonable notice.
16. **COSTS.** The costs of a disciplinary proceeding may be charged to the licensee at the discretion of the board as allowed by law.
17. **EXAMINATION: ORAL / WRITTEN / CLINICAL.** Licensee shall take and pass an oral, written, and/or clinical examination to be administered by the board or its designee.
18. **SURRENDER OF RECORDS / DOCUMENTS.** The licensee shall surrender to the board any and all records and documents that the board deems necessary to the respondent's case. These items are to be in the board's possession no later than 15 days after receipt of notice.