



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules (After completing all of Sections 1 through 3, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name Chiropractic Examiners, Board of		
b. Agency/Board Address 2001 Capitol Ave, Room 104	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Emily Cronbaugh		f. Agency Liaison Telephone Number 307-777-6529
g. Agency Liaison Email Address emily.cronbaugh@wyo.gov		h. Adoption Date January 19, 2018
i. Program Chiropractic Examiners, Board of		

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Enrolled Act Numbers and Years Enacted: HEA 0053 (2017)

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.
(Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
1	General Provisions	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
2	Licensure Requirements and Application Procedures	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
4	Renewal of Licenses	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
5	Fees	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
7	Process and Procedure for Application, Licensure, and Disciplinary Matters	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
9	Acupuncture	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
10	Preceptorship Training Programs	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
11	Chiropractic Practice	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **November 11, 2017**

- approved as to form by the **Registrar of Rules**; and
- provided to the **Legislative Service Office** and **Attorney General**:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

c. If applicable, describe the **emergency** which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

5. Final Filing of Rules

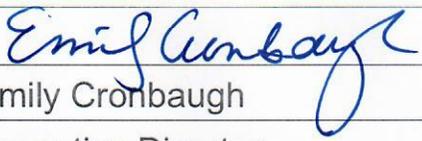
a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**: **January 29, 2018**

b. Date on which final rules were approved as to form by the **Secretary of State** and sent to the **Legislative Service Office**: **January 29, 2018**

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Emily Cronbaugh
Signatory Title	Executive Director
Date of Signature	January 29, 2018

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

AMENDED STATEMENT OF PRINCIPAL REASONS

FOR FORMAL ADOPTION OF REGULAR RULES

The Wyoming Board of Chiropractic Examiners (Board) regularly considers opportunities to clarify language in Rule, both at the request of the public and on their own volition. The Board endeavors to stay aware of national regulatory concerns for the chiropractic profession and attempts to stay proactive in clarifying regulation to better protect the public consumer. Additionally, as a response to consumer concerns regarding records management and billing practices both nationally and in state, the is proposing newly created Chapter 11. Language in Chapter 11 will also address telehealth usage as allowed by HEA0053 (2017). Specifically, the Board proposes the following amendments related to each chapter:

Chapter 1: General Provisions

- Updated language in existing definitions, and deleted unnecessary or obsolete definitions.
- In Section 3, spelled out “Wyoming Statute” as required by the Rules on Rules from the Secretary of State’s office.
- In Section 3, added definitions for CCEI, IC, telehealth, and telehealth technologies. Telehealth and telehealth technologies are referenced in new Chapter 11.
- In Section 6, adopted the updated Uniform Rules for Contested Case Practice and Procedure from the Office of Administrative Hearings.
- In Section 6, changed the incorporated documents to be available at the board website to ensure that the public can access the documents.
- In Section 6, adopted A&I’s Uniform Procedures, Fees, Costs, and Charges for Inspection by incorporation to clarify procedure for public records requests.
- In Section 6, removed Advisory Opinion 08-03 from the Office of the Inspector General, as it was removed in revised Chapter 11.
- In Section 7, removed prior public records language to refer to the newly adopted A&I Rules instead

Chapter 2: Licensure Requirements and Application Procedures

- Changes were made to correct grammatical errors and to better clarify existing language.
- In Section 4, added eligibility requirements for applicants to take the Jurisprudence Examination. Also, added the minimum required score to pass the exam.
- In Section 5, added a requirement under initial licensure to address competency measurement for a type of applicant previously omitted by Rule. This type of applicant may not have a current license in another jurisdiction nor are they a new graduate.
- In Sections 5, 6, and 7, returned the requirement to collect two letters of professional recommendation for all applications because this was unintentionally omitted in last rule revision.
- After consideration of public comment, the Board removed the proposed requirement for two (2) professional references in Section 5(b)(iii), Section 6(b)(iii) and Section 7(b)(iii).

Chapter 4: Renewal of Licenses

- Changes were made to correct grammatical errors and to better clarify existing language.
- In Section 2 and 3, clarified that licenses “lapse” and not “expire” for consistency with the practice act and added appropriate dates to comply with statutory language.
- In Section 3, added that continuing education must be related to the scope of practice.
- In Section 3, added a continuing education waiver for recent graduates who were newly

licensed.

- Removed late renewal section as it does not clearly comply with statutory language.
- In Section 4, clarified restoration language to better comply with statutory language.
- In Section 5, clarified relicensure section.
- After consideration of public comment, the Board changed Section 5(b)(ii)(A) from “expired” to “lapsed” in accordance with prior changes made to reflect statutory language.

Chapter 5: Fees

- Changes were made to correct grammatical errors and to better clarify existing language.
- In Section 2, clarified the General Information section to permit more methods of payment.
- In Section 2, added public records fee information pursuant to the Department of Administration and Information Rules incorporated in Chapter 1.
- In Section 3, removed the late renewal fee as this section was removed in Chapter 4.
- In Section 3, clarified restoration dates to match changes in Chapter 4.
- In Section 3, after consideration of public comment, the Board changed “Preceptor” to “Supervising Licensee” to in accordance with proposed changes to Chapter 10.

Chapter 7: Process and Procedure for Application, Licensure, and Disciplinary Matters

- Changes were made to correct grammatical errors and to better clarify existing language.
- In Section 2, removed language prohibiting “entering into financial transactions with clients” as this could be construed to prohibit accepting fees for services.
- In Section 2, removed language regarding conviction of fraud in Medicare or Medicaid as fraud was already listed in Section 2(h).
- In Section 3, consolidated and clarified the Notice of Intent section and the Applicant’s Request for Hearing section.
- In Section 4, consolidated and clarified the Complaint Review and Investigation process.
- In Section 5, clarified language in summary suspension.
- In Section 12, clarified language in burden and standard of proof section.
- In Section 13, clarified board action to provide for all possible actions the board can take to resolve a matter.

Chapter 9: Acupuncture

- Changes were made to correct grammatical errors and to better clarify existing language.
- In Section 3, removed reference to “standards of the center for communicable diseases” as no standards are adopted by incorporation. Requiring “clean needle techniques” encompasses such expectations.

Chapter 10: Preceptorship Training Programs

- Changes were made to correct grammatical errors and to better clarify existing language.
- In Section 2, changed “preceptor” to “supervising licensee” to clarify requirement. The term preceptor is more commonly used to denote the intern and not the supervisor, which created confusion for Wyoming licensees.
- In Section 2, clarified ineligibility language.
- In Section 4, spelled out “Wyoming Statute” as required by the Rules on Rules from the Secretary of State’s office.
- In Section 5, removed the investigative and hearing language because this is already addressed in Chapter 7.

Chapter 11: Chiropractic Practice

- In Section 1, added the statement of purpose.
- In Section 2, added requirements for telehealth practice as allowed by HEA0053 (2017) to ensure a similar standard of care as would be provided at in-person visits.
- In Section 3, added a requirement to ensure licensees with satellite offices maintain the same standard of care as the initial office. This is a proactive response to some regulatory concerns noted nationally.
- In Section 4, added basic requirements to be included in patient records to address recent complaint concerns. This language was provided by the Federation of Chiropractic Licensing Boards and is recommended language to be used by all state chiropractic licensing boards.
- In Section 4, added records retention requirements for patient records to address frequently received questions.
- In Section 5, added advertising requirements to ensure advertising is not deceptive to the public. This is also a proactive response to some regulatory concerns noted nationally.
- In Section 6, removed reference to OIG Opinion 08-03 because the reference is not necessary and cannot be relied upon.
- In Section 6, added requirements for licensees that accept prepaid care plans to ensure that patients' payments are maintained appropriately. This language was provided by the Federation of Chiropractic Licensing Boards and is recommended language to be used by all state chiropractic licensing boards.
- After consideration of public comment, the Board clarified pre-paid plan criteria in Chapter 11 to ensure licensees can maintain a means for refund for the patients.

COMMENT SUMMARY AND CHANGES BASED UPON PUBLIC COMMENT

The Wyoming Board of Chiropractic Examiners proposed changes to Chapters 1, 2, 4, 5, 7, 9, 10, and 11. The Board held a public comment period from November 21, 2017 through January 8, 2018, and received comments from five (5) individual members of the public and (2) suggestions from Board staff. Most comments the Board has received are in regards to new changes in Chapter 11.

Comment #1: Dr. Marley Smith, DC emailed: Wyoming State Board of Chiropractic Examiners:

This letter is in regards to the proposed addition to our rules and regulations, with specific attention on “pre-payment” care plans. I would first like to know what triggered this proposed change. If there were specific complaints to the board then I feel they should be taken up with the individual doctor as we have successful and ethically done pre-paid care plans for years and patients appreciate the service.

There does need to be measures taken to make sure that patients do not get taken advantage of, such as making sure they get refunded should they discontinue care and that there are clear and honest written expectations and agreements. However, using an escrow account does nothing to reduce administrative tasks and in all reality creates more work for the clinic. Why would we give someone a discount for creating more work? This technically is not a “pre-pay” structure because the doctor would really be getting paid visit by visit or be getting post-payments monthly, quarterly, etc. I understand the intent but coming from someone that does pre-pays it is unrealistic.

For practices that do pre-paid plans correctly, it is 100% integrity driven and patient focused. If the patient makes the decision to pre-pay for care, we extend a discount because; #1 they are making a commitment to their health and #2 it decreases administrative costs and fees. This allows us to focus on patient care and helping them get their health back instead of worrying about things like taking payment all the time. The reason we do pre-payments is actually at the request of patients. If this goes into effect you are going to see many creative ways that doctors side-step the rule, and it will create a whole new set of issues, not to mention a massive amount of confusion and violations. I don't think any of us want this.

I suggest we keep our rules and regulations centered around protecting the patient, not attacking a doctor's business model. With the way healthcare is going, there has to be different options for patients. Running a cash practice (non-participating with any insurance), it makes sense for patients to pay up front or make a monthly payment to protect their time and experience in the clinic. Patients APPRECIATE this service as we hear them tell us every day how convenient this makes things for them. I see your intent, but this is not the correct structure if we want to make sure we protect the patient and keep the profession happy. If a patient does not like how an office does things they do have the freedom to choose a different doctor and facility.

Also, how are we going to provide appropriate services over the phone? That is not our model, if it is a patient we already have a relationship with, I understand. But to take a new patient and give them advice via technology (telehealth practice) does not fit the chiropractic model, and is outside our scope. We don't prescribe (nor should we), and our care/services, and recommendations are largely based off of examination with the patient (we actually touch people). Why are we trying to mimic the medical profession on this? It all seems like an

opportunity for the doctor to make more and to bill more to insurance providers and in my opinion has no place in our profession.

Our rules and regulation are extremely vague in many regards. Such as what can we do? What about our CA's, are we allowed to enter an orifice (TMJ work/ internal coccyx) etc. This seems like it should be much more of a priority than how a business takes payment or how an insurance practice can bill more for services. You will find that these changes will mostly impact the patient, not the doctor. My patients will be happy to contact the board about these changes and express their concerns as well.

I am concerned about the timing of these changes as it is the holiday season, people are pre-occupied, they only have a limited time to make comments, and the changes are sent via email. This means that they may fly under the radar and get approved with multiple doctors not getting the opportunity to see them or even know that a change has occurred. I hope that these changes are also being mailed to every chiropractor in the state and that they are receiving phone calls informing them of the changes (this is possible as there are not many chiropractors in the state), as they are not minor changes and will have a huge impact on many practices.

To see that these are the issues our board is going after is extremely disappointing to me as a doctor as they will be for many others as well. Patients have the freedom of choice when it comes to choosing a provider, and the provider should have freedom to choose their business model so long as it is safe and ethical and does not violate any contract they decide to participate in.

I suggest a professional meeting on this topic, as it would only be fair to get input from practices that actually do pre-paid care plans so that any rules and regulations around it will be reasonable and ethical for both parties.

Response: The Board thanks Dr. Smith for his comments. The Board writes rules to ensure a standard of public protection. The Board cannot address any matters with licensees without first having requirements in Rule. While the majority of practitioners excel at successful and ethical practice, the Board exists to protect the public consumer from those that may operate below an acceptable standard of care. To do so, the Board must first clearly outline what an acceptable standard of care is. You mention "for practices that do pre-paid plans correctly..." and as stated above, the Board exists to protect the public consumer from those that do not operate "correctly."

Should a licensee abruptly leave practice, pass away, or lose their license, they must be able to return unpaid funds that were prepaid. The Board has no way to ensure the public remains protected through negative consequences of prepaid plans without creating requirements for it.

Regarding providing chiropractic services via telehealth, this may not apply to physically adjusting patients, but would encompass a need for practitioners providing evaluations or consulting services to obtain a Wyoming license before they render a diagnosis for a Wyoming patient. The Board created rules regarding telehealth practice due to legislation passed in 2017.

If you feel other areas of the Rules are vague, unclear, or need further interpretation, please communicate that to the Board office so the Board may consider your concerns. Or if you have questions regarding what procedures are within a chiropractor's scope of practice,

please also communicate that to the Board office so the Board may consider your concerns. Comment is not only welcomed, but encouraged. The Board addresses matters based on national trends and concerns and issues brought before the Board. Not every need or issue can be anticipated, which is why comment is welcomed.

Regarding providing notice of Rules changes, changes to Rules are always posted in the Casper Star Tribune, the Board's website, and all licensees are notified via mailed postcards as well as email notices, which exceeds the state's requirements for public notice, as the Board does endeavor to notify all licensees of the opportunity to comment. Before Rules are presented for public comment, they are discussed at board meetings which are open to the public.

Please be aware that based on comments received, the Board has clarified criteria regarding pre-paid plans and application requirements.

Comment #2: Dr. Devin Simpson, DC emailed: One thing I see as a problem is under Chapter 2 section 7 iii. I feel it is good to have a Doctor submit letters of recommendation but if I was just coming in for a day to treat patients, it is a lot of work to get two letters of recommendation for a short time.

I have looked at Ch. 11 but I reread it this morning. Here are my thoughts:

The specifications outlined seem very good to me. I think there is a problem with any prepaid plan that patients aren't sure they are getting their money worth and they aren't sure how the fees are getting applied to the money they put in. Think the wordage added in Ch. 11 states it very clearly to give the patient perfect clarity to as where their money is going and how much will be available and their ability to withdraw the money at any time.

As a side note, I don't personally or professionally think I would ever participate in a prepaid care plan.

An additional concern:

Ch. 11 Section 2 (a)(i)(A) Place the welfare of patients first

To state that the patients welfare is first is a legal concern for litigation. My welfare as a Doctor is just as important also other things/people are important, at any given moment the patient may not be first and then at other times they are first. I would like to see this removed as it is covered in the next point (B) Maintain acceptable and appropriate standard of care. This covers point (A) without directly stating it, because if we are maintaining appropriate standard of care then we are taking care of our patients.

Response: The Board thanks Dr. Simpson for his comments. The Board concurs with your comments about reference letters and amended the Rule accordingly. Regarding the second comment about welfare of patients, the Board is created to protect the public consumer and not the Chiropractor, and the Rules are written to enforce this legislative mandate.

Comment #3: Dr. Mandy Jairell, DC emailed:

I have a question about the rule changes in section 2- What is the purpose of 2 professional recommendations? Who is going to read these? Are they truthfully needed, as the reference letter will come from someone the applicant knows and will write good things about the person applying. So in the long term are we making more work for someone to do that is not really needed, on both the applicants side and on the Boards side?

I have another concern about section 9- For dry needling a 24 CE class is one weekend. I personally feel that this is not enough time to understand the risks, techniques, and physiology of how dry needling works.

This is like the PT world only needing a "weekend" course to be competent in grade 5 joint mobilization, it just is not enough.

Can this please be revisited?

Response: *The Board thanks Dr. Jairell for her comments. The Board concurs with the comments about reference letters and amended the Rule accordingly. The Board does not have proposed changes to the requirement for how many hours meet criteria to perform dry needling. The requirement was initially chosen after researching requirements for surrounding states. The Board will not look to change this requirement at this time, but will add this to a future agenda for additional research.*

Comment #4: Dr. Tim Hotz, DC emailed:

Hi Emily, I was wondering if I can get clarification on a couple of proposed changes?

CHAPTER 11 CHIROPRACTIC PRACTICE

Section 6. Prepaid Care Plans.

(a) ...

(i) Escrow account...

(G) The licensee shall cause a reconciliation of the escrow account to be made no less than quarterly, with a copy provided to the patient, and shall retain a copy of the reconciliations and all supporting documents for no less than seven (7) years.

CAN this be a statement that shows how much they originally paid and when disbursements for service rendered were taken out. We currently can put this on a statement that shows all of this plus when there account reaches a zero balance. Or does it have to be a bank statement of the escrow account. If it is the bank account it would also be showing everyone elses deposits. Can we get clarification on this?

CHAPTER 11 CHIROPRACTIC PRACTICE

Section 6. Prepaid Care Plans.

(a) ...

(iii) Early termination. The patient has the right to terminate the prepaid care plan at any time without financial penalty. The licensee may terminate the prepaid plan at any time, for good and sufficient cause, except the licensee must ensure that patient abandonment does not occur.

(A) In event of early termination of a prepaid plan by the patient, the maximum fee charged cannot exceed the licensee's usual and customary fee for services rendered.

(B) In event of early termination of a prepaid plan by the licensee, any cost reduction for the package of services must be prorated when determining the amount of repayment.

(C) In event of early termination of a prepaid plan, the fee for the unused portion must be returned with no penalty.

CAN WE GET CLARIFICATION ON (A) AND (C)? According to (A) we can charge usual and customary for services already rendered. (C) is kind of confusing as the unused remaining funds may be less because of the discount going away. Currently in our office they are only charged reasonable and customary for care used. They are not charged for future or unused care. The remaining balance of unused funds after that is returned in full. But it would be less if the discount goes away. Can you clarify this?

Response: *The Board thanks Dr. Hotz for his comments. The escrow account reconciliation does not have to be a bank statement. It can be an internal tracking system handled within your office. The Board is looking to clarify the Rules to address your concerns regarding termination of the prepaid care plan. The Rules do state there will be no financial penalty to the patient for terminating the care plan. The early termination section has been revised.*

Comment #5: Dr. Zoe Loyd, DC emailed:

I would like my voice to be heard via this letter to you. Please submit it for me. I am against the escrow account regulations as the paperwork alone would be overwhelming. The written statement provision is cumbersome and should be omitted from the new laws.

I am not sure if the paper filing system is being addressed although it would be nice if it was to keep paper files for 7 years and not 7 years from last visit. The file will be in my office 25 years now and only one visit. When you have over 6000 files it's a lot of room wasted.

Response: *The Board thanks Dr. Loyd for her comments. Regarding the escrow account, the Board writes rules to ensure a standard of public protection. Should a licensee abruptly leave practice, pass away, or lose their license, they must be able to return unpaid funds that were pre-paid. The Board has no way to ensure the public remains protected through negative consequences of pre-paid plans without creating requirements for it.*

Regarding the records retention requirement, the Board wishes to clarify the expectation would be to keep each specific patient's record for seven years based on their last visit. The Board is unclear where the 25 years comes in?

Comment #6: Board Staff suggests the following changes for consideration:

1. Chapter 5, Section 3(d) "Preceptor" should be "Supervising Licensee"
2. Chapter 4, Section 5(b)(ii)(A) "expired" should be "lapsed"

Response: *The Board agreed and amended the rule accordingly.*

CHAPTER 1

GENERAL PROVISIONS

Section 1. Authority. The Board is authorized under the Act and the WAPA to promulgate rules and regulations related to the licensure and discipline of chiropractors and regulation of the practice of chiropractic in Wyoming.

Section 2. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to establish administrative procedures.

Section 3. Definitions.

- (a) "Act" means Wyoming Statute 33-10-101 through -117.
- (b) "ACA" means the American Chiropractic Association.
- (c) "ARC" means Application Review Committee.
- (d) "Board" means the Wyoming State Board of Chiropractic Examiners.
- (e) "Board Rules" means the administrative rules and regulations promulgated by the Board.
- (f) "CCE" means Council on Chiropractic Education.
- (g) "CCEI" means the Councils on Chiropractic Education International.
- (h) "CE" means continuing education hours.
- (i) "IC" means Investigative Committee.
- (j) "Dry Needling" is a physical intervention that uses a filiform needle to stimulate trigger points, diagnose and treat neuromuscular pain and functional movement deficits; is based on Western medical concepts; requires an examination and diagnosis, and treats specific anatomic entities selected according to physical signs. Dry needling does not include the stimulation of auricular or distal points or meridians.
- (k) "IAMA" means International Academy of Medical Acupuncture.
- (l) "ICA" means the International Chiropractors Association.
- (m) "Intern" means a student studying chiropractic concurrently participates in an undergraduate or postgraduate preceptorship program offered by an accredited chiropractic college or university that has completed Parts I and II of the NBCE examination.

- (n) “IMS” means intramuscular stimulation.
- (o) “Licensee” means a chiropractor licensed in Wyoming.
- (p) “NBCE” means the National Board of Chiropractic Examiners.
- (q) “NCAAOM” means National Certification Commission for Acupuncture and Oriental Medicine.
- (r) “PACE” means Providers of Approved Continuing Education.
- (s) “SPEC” means Special Purposes Examination for Chiropractic.
- (t) “Telehealth” means the delivery of healthcare services using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening healthcare provider.
- (u) “Telehealth Technologies” means technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a patient in another location with or without an intervening healthcare provider.
- (v) “WAPA” means the Wyoming Administrative Procedure Act, W.S. 16-3-101 through -115.

Section 4. Board Office. The Board Office shall be located at 2001 Capitol Avenue, Cheyenne, Wyoming.

Section 5. Board Meetings. The Board shall meet in accordance with the Board’s resolution.

Section 6. Incorporation by Reference.

- (a) For any rule, regulation or code incorporated by reference in these Board Rules:
 - (i) The Board has determined that incorporation of the full text in these Board Rules would be cumbersome or inefficient given the length or nature of the rules;
 - (ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section;
 - (iii) The incorporated rule is maintained at the Board Office and is available for public inspection and copying at cost at the same location.
- (b) Each rule, regulation or code incorporated by reference in these Board Rules is further identified as follows:

(i) Chapter 2 - Uniform Rules for Contested Case Practice and Procedure, adopted by the Office of Administrative Hearings and effective on July 20, 2017, found at: <http://chiropractic.wyo.gov/rules-and-regulations>;

(ii) Code of Ethics, adopted by ACA and effective in 2007, found at: <http://chiropractic.wyo.gov/rules-and-regulations>;

(iii) Referenced in Chapter 7, Section 2 is Code of Ethics, adopted by ICA and effective in 1991, found at: <http://chiropractic.wyo.gov/rules-and-regulations>;

(iv) Chapter 2 - Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records, adopted by the Department of Administration and Information and effective on September 6, 2016, found at <http://chiropractic.wyo.gov/rules-and-regulations>; and

Section 7. Public Records Inspection. Public records inspections shall be conducted pursuant to the Department of Administration and Information's rules concerning public records.

Section 8. Change of Name, Address, or Telephone Number. Each applicant and licensee shall notify the Board in writing of any change to his or her legal name, home address, business address, e-mail address, or telephone number within thirty (30) days of the change.

Section 9. Requests for Rosters. Any person requesting a roster of licensees shall submit a completed request form and payment of a fee.

Section 10. Duplicate Pocket Card and Wall Certificate. Any person requesting a duplicate pocket card and wall certificate shall submit a completed request form and payment of a fee.

Section 11. License Verification. Any person requesting verification of their license shall submit a completed request form and payment of a fee.

CHAPTER 2

LICENSURE REQUIREMENTS AND APPLICATION PROCEDURES

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to establish the requirements and procedures for licensure.

Section 2. Application Status.

(a) For those applicants seeking licensure, all requirements shall be met during the timeframe identified immediately prior to submitting a completed application.

(b) Applications shall be deemed "complete" when all necessary documentation has been received by the Board Office.

(c) Applications shall expire one (1) year after submission. If an application expires, an applicant shall submit a new application, including payment of fee.

Section 3. Application Review Committee.

(a) Every application shall be reviewed by the ARC.

(b) An applicant for licensure shall have committed no acts that are grounds for disciplinary action, or if the act was committed, the ARC has found after investigation that sufficient restitution has been made and the applicant no longer presents a threat to the public safety.

(c) If the ARC is unable to ascertain from documents submitted by the applicant that the applicant is eligible for licensure, the ARC may require the applicant to provide additional documentation, information, or meet informally with the ARC.

Section 4. Jurisprudence Examination.

(a) The ARC shall recommend eligibility to sit for the jurisprudence examination.

(b) To successfully pass the jurisprudence examination, the applicant shall score at least 80%.

Section 5. Initial Licensure.

(a) Eligibility. An applicant may seek initial licensure if the applicant is not licensed to practice in another jurisdiction or that jurisdiction's licensure requirements are not as stringent as Wyoming.

(b) Application Requirements. Applicant shall:

- (i) Submit a completed application and payment of fees;
- (ii) Submit evidence of clinical competency by:

(A) Completion of education at a CCE or CCEI accredited college or university. All applicants that matriculated in a chiropractic college or university prior to October 1, 1975, shall present evidence of having graduated from a chiropractic college or university that meets equivalent standards comparable to CCE.

(B) Successful completion of NBCE examination as follows:

(I) Applicants who graduated prior to 1996 shall successfully pass Parts I, II, III, and Part IV or SPEC Exam.

(II) Applicants who graduated in or after 1996 shall successfully pass Parts I, II, III and IV.

(III) Those applicants who perform physiotherapy services shall successfully pass physiotherapy exam.

(C) Applicants who do not hold an active license in another jurisdiction or who have graduated from an accredited chiropractic college within the preceding twenty-four (24) months and have never been licensed shall demonstrate competency by successfully passing Part IV or SPEC examination within six (6) months prior to submitting a completed application.

- (iii) Successful completion of the jurisprudence examination; and
- (iv) Submit license verification directly from every jurisdiction, if necessary.

Section 6. Licensure by Endorsement.

(a) Eligibility. An applicant may seek licensure by endorsement if the applicant is actively licensed in good standing to practice in another jurisdiction with licensure requirements as stringent as Wyoming.

(b) Application Requirements. Applicant shall:

- (i) Submit a completed application and payment of fees;
- (ii) Meet requirements identified in Section 4(b)(ii);
- (iii) Successful completion of the jurisprudence examination; and
- (iv) Submit license verification directly from every jurisdiction.

Section 7. Temporary Licensure.

(a) Eligibility. An applicant may seek temporary licensure if the applicant is actively licensed in good standing to practice in another jurisdiction with licensure requirements as stringent as Wyoming.

(b) Application Requirements. Applicant shall:

- (i) Submit a completed application and payment of fees;
- (ii) Meet requirements identified in Section 4(b)(ii); and
- (iii) Submit license verification directly from their jurisdiction.

(c) Limitations and Conditions. A temporary license is valid for only ten (10) consecutive days and shall not be renewed. The Board shall not grant more than two (2) temporary licenses to an applicant during any calendar year.

CHAPTER 4

RENEWAL OF LICENSES

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to establish the requirements and procedures for annual license renewal.

Section 2. Annual Renewal of Licenses.

(a) **Licensure Lapse.** Licenses shall lapse August 31 of each year. Licensees that fail to timely renew shall forfeit the right to practice. Failure to receive the renewal application from the Board does not excuse a licensee from the requirements for renewal under the Act or these rules.

(b) **Renewal Procedure.** The licensee seeking renewal shall:

(i) Submit a completed renewal application and payment of fee; and

(ii) Submit evidence of completion of twelve (12) CE that complies with

Section 3.

Section 3. Continuing Education Requirements.

(a) **Renewal Period.** CE shall be obtained September 1 to August 31 of the year of expiration.

(b) **Sponsorship.** The Board shall accept CE directly related to the scope of practice defined in the Act sponsored by:

(i) ICA;

(ii) ACA;

(iii) Any CCE accredited chiropractic college or university;

(iv) Any state chiropractic association; or

(v) PACE.

(c) **CE Content.**

(i) Acceptable subjects shall include, but are not limited to: ethics, technique, physiotherapy, acupuncture, clinical nutrition, diagnostic imaging and interpretation of imaging, record keeping and coding classes, and other subjects as defined as the practice of chiropractic and accepted by the Board.

(ii) Unacceptable subjects shall include, but are not limited to, practice building and business management courses.

(d) Method. A minimum of eight (8) CE shall be earned at in-person conferences or hands-on training. A maximum of four (4) CE may be earned online.

(e) Waiver. The Board may grant a waiver for CE requirements to licensees who have petitioned and demonstrated just cause based on extenuating circumstances. Additionally, licensees who have graduated in the preceding twelve (12) months do not need to complete CE for their first renewal.

Section 4. Restoration.

(a) Unlicensed Practice. Failure to timely renew may subject the licensee to disciplinary action for unlicensed practice.

(b) Eligibility. An applicant may seek restoration if the applicant's license lapsed within twelve (12) months.

(c) Application Requirements. Applicant shall:

(i) Submit a completed restoration application and payment of fee; and

(ii) Submit evidence of completion of twelve (12) CE that complies with Section 3.

Section 5. Relicensure.

(a) Eligibility. An applicant shall seek relicensure if the applicant has been licensed in Wyoming and did not restore his or her license within twelve (12) months after his or her license lapsed.

(b) Application Requirements. Applicant shall:

(i) Submit a completed relicensure application and payment of fee;

(ii) Demonstrate competency by:

(A) Submitting verification showing completion of twelve (12) CE that complies with Section 3 for every year the license has been lapsed, not to exceed three (3) years; or

(B) Submitting verification showing successful completion of the SPEC examination administered by NBCE within the last twelve (12) months, if not actively practicing within the last three (3) years; and

- (iii) Successfully pass the jurisprudence examination.

Section 6. Reinstatement of Licensure.

(a) Eligibility. An applicant may seek reinstatement of his or her license if that license has been revoked, surrendered, suspended, conditioned, or restricted.

(b) Application Reinstatement Requirements. The applicant shall:

- (i) Submit a completed reinstatement application and payment of fee;
- (ii) Submit evidence of complying with the requirements of a previous Board order;
- (iii) Submit evidence of applicant's ability to safely and competently practice; and
- (iv) Submit evidence demonstrating just cause for reinstatement.

CHAPTER 5

FEES

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to determine and collect reasonable fees.

Section 2. General Information.

(a) Fees shall be payable in the exact amount and shall be paid in advance of the services rendered.

(b) All fees collected by the Board are non-refundable.

(c) Fees related to public records requests shall be assessed pursuant to the Department of Administration and Information's rules concerning public records.

Section 3. Fees. Services for which the Board charges a fee shall include, but is not limited to, the following fee schedule.

(a)	Initial License Application Fee	\$500
(b)	License by Endorsement Application Fee	\$500
(c)	Temporary License Application Fee	\$150
(d)	Intern/Supervising Licensee Application Fee	\$100
(e)	Annual License Renewal Fee	\$200
(f)	Restoration Application Fee (September 1-August 31)	\$400
(g)	Relicensure Application Fee	\$400
(h)	Reinstatement Application Fee	\$550
(i)	Roster Fee	\$100
(j)	Duplicate Document Fee	\$25
(k)	License Verification	\$25

CHAPTER 7

PROCESS AND PROCEDURE FOR APPLICATION, LICENSURE, AND DISCIPLINARY MATTERS

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to:

- (a) Conduct investigations, hearing and proceedings concerning:
 - (i) Actions relating to an application for a license, including granting or denying; or
 - (ii) Alleged violations of the Act or other Board Rules.
- (b) Determine and administer appropriate disciplinary action against an applicant or licensee.
- (c) For purposes of this chapter, "licensee" means a chiropractor issued a license by the Board or an intern issued a permit to practice chiropractic in Wyoming.

Section 2. Grounds for Disciplinary Action. The Board may take disciplinary action or refuse to issue or renew a license for one (1) or more of the following acts or conduct:

- (a) Failure to conform with the Code of Ethics of the ACA or the ICA as incorporated by reference in Chapter 1;
- (b) Inability to function with reasonable skill and safety for the following reasons, including but not limited to:
 - (i) Substance abuse/dependency or clinically diagnosed substance use disorder; or
 - (ii) Physical or mental disability, including cognitive impairment or other impairment from consumption of drugs or alcohol;
- (c) Immoral, unprofessional, or dishonorable conduct;
- (d) Violation of professional boundaries, including, but not limited to:
 - (i) Harassment, intimidation or abuse, sexual or otherwise, of a client or patient;
 - (ii) Engaging in sexual intercourse or other sexual contact with a client or patient; or

- (iii) Exercising undue influence to exploit a patient, student or supervisee for financial or other personal advantage to the practitioner or a third party;
- (e) Practicing outside the areas of professional competence as established by education, training, and experience;
- (f) Practicing below the applicable standard of care;
- (g) Malpractice or negligence in the practice of chiropractic;
- (h) Fraud or deceit, including, but not limited to: prescription fraud, falsification of a medical record, omission of required information or submission of false information;
- (i) Disciplinary action taken by another state against a licensee;
- (j) Conviction of any crime or offense that reflects the inability of the practitioner to practice chiropractic with due regard for the health and safety of clients or patients;
- (k) Failure to comply with reasonable requests from the Board including, but not limited to, failing to:
 - (i) Answer the administrative complaint;
 - (ii) Respond to request for explanation for failure to disclose required information; or
 - (iii) Cooperate in the investigation;
- (l) Failure to comply with a term, condition or obligation of a Board order;
- (m) Failure to appropriately supervise; or
- (n) Practicing without a valid license.

Section 3. Application Review and Investigation Process.

- (a) Application Review and Investigation. In application matters:
 - (i) Every applicant bears the burden of satisfying license requirements; and
 - (ii) Every application for a license issued by the Board shall be subject to investigation to determine whether the requirements set forth in the Act and Board Rules are satisfied.
- (b) ARC Action. Following investigation, the ARC may recommend:

- (i) A license be issued, renewed, restored, relicensed, or reinstated;
 - (ii) A license be issued, renewed, restored, relicensed, or reinstated subject to conditions, restrictions, or other disciplinary action;
 - (iii) Approval of a settlement agreement, which may include the issuance, renewal, restoration, relicense, or reinstatement of a license with the imposition of a reprimand, conditions, restrictions, suspension, other discipline or a combination there of; or
 - (iv) Denial of the application.
- (c) Notice of Intent. The ARC shall notify the applicant of its intent to recommend approval of the license subject to conditions, restrictions, or other disciplinary action or denial of the application. Such notification shall contain:
- (i) A brief description of the facts or conduct that warrant the issuance or denial of a license subject to conditions, restrictions, or other disciplinary action;
 - (ii) A statement of the nature of the actions that warrant the issuance or denial of a license subject to conditions, restrictions, or other disciplinary action and a citation to the applicable statutory provisions in the Act or the Board Rules; and
 - (iii) Notice of the right to a hearing if a written request is received by the Board Office within thirty (30) days of the date of mailing the Notice of Intent.
- (d) Applicant's Request for Hearing. If the ARC recommends denial of an application, the applicant may request a contested case hearing in writing within thirty (30) days of the mailing of the notification.

Section 4. Complaint Review and Investigation Process.

- (a) Complaint Review and Investigation. Every complaint submitted to the Board or initiated on behalf of the Board shall be investigated by an IC.
- (b) Voluntary Surrender. A licensee may petition the Board in writing to voluntarily surrender his or her license. The Board shall consider the petition at its earliest convenience. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation.
- (c) IC Action. Following investigation, the IC may recommend:
- (i) Dismissal of the complaint;
 - (ii) Issuance of a notice of warning;
 - (iii) Approval of a settlement agreement, which may include a reprimand,

conditions, restrictions, non-renewal, suspension, voluntary surrender, other discipline or a combination thereof;

(iv) Disciplinary action, which may include a reprimand, conditions, restrictions, non-renewal, suspension, revocation, other discipline or a combination thereof; or

(v) Summary suspension.

Section 5. Summary Suspension.

(a) Recommendation. If the IC recommends summary suspension, the Board shall conduct an expedited proceeding to determine whether the licensee's continued practice presents a clear and imminent danger to public health, safety or welfare.

(b) Notice of Intent to Recommend Summary Suspension.

(i) The IC shall notify the licensee of its intent to recommend summary suspension.

(ii) The Notice of Intent shall contain:

(A) Copy of the complaint;

(B) Notice that a summary suspension proceeding shall be set for expedited proceeding at the earliest opportunity a quorum of Board members may be assembled.

(c) Notice of Expedited Proceeding. Upon confirmation of the date and time of the expedited proceeding, the IC shall notify the licensee of the date and time of the proceeding.

Section 6. Formal Proceedings for Disciplinary Action.

(a) Notice of Intent to Recommend Disciplinary Action.

(i) The IC shall notify the licensee of its intent to recommend disciplinary action.

(ii) The Notice of Intent shall:

(A) Include a brief description of the facts or conduct which warrant the intended action; and

(B) Provide the licensee an opportunity to show compliance or respond to allegations for disciplinary action within fifteen (15) days of the date of the mailing.

(b) Informal Conference. The licensee may request an informal conference to provide any additional information or to resolve an administrative complaint without a hearing.

Section 7. Petition. The IC shall initiate formal proceedings for disciplinary action by serving a Petition and Notice of Hearing to the licensee by certified mail, by regular mail, by electronic mail to the e-mail address indicated to be the preferred method of communication or by personal service at least thirty (30) days prior to the date set for hearing.

Section 8. Notice of Hearing.

(a) Hearing. Upon receipt of a written request for hearing from an applicant or commencement of formal proceedings for disciplinary action against a licensee, the Board shall conduct a hearing. The Board shall serve a Notice of Hearing on the applicant or licensee.

(b) Notice of Hearing. The Notice of Hearing shall contain:

(i) The name and last known address of the applicant or licensee;

(ii) A brief statement of the matters asserted relating to:

(A) The recommendation to deny the application, the facts upon which the recommendation to deny is based, the statutory provisions and/or the Board Rules the applicant is alleged to have violated; or

(B) The nature of the Petition, the facts upon which the Petition is based, the statutory provisions and/or the Board Rules the licensee is alleged to have violated;

(iii) The time, place, and nature of the hearing;

(iv) The legal authority and jurisdiction; and

(v) A statement indicating:

(A) The applicant's failure to appear at the hearing or pursue proceedings may result in a dismissal; or

(B) The licensee's failure to answer the allegations contained in the Petition twenty (20) days of the date of mailing and failure to appear at a noticed hearing may result in a default judgment.

Section 9. Lawful Service. There shall be a presumption of lawful service for a Notice of Intent, Petition, Notice of Hearing, or any other communication required by these Board Rules sent to the last known address of the applicant or licensee by certified mail, by regular mail, by electronic mail to the e-mail address indicated to be the preferred method of communication, or by personal service.

Section 10. Dismissal and Default.

(a) Dismissal. The Board may enter an order of dismissal based on the allegations contained in the recommendation to deny in any case where the applicant or the applicant's representative has not appeared at a noticed hearing.

(b) Default. The Board may enter an order of default judgment based on the allegations contained in the Petition in any case where the licensee or the licensee's representative has not answered the allegations contained in the Petition and has not appeared at a noticed hearing.

Section 11. Contested Case Hearing. The hearing officer shall preside over the contested case hearing which shall be conducted pursuant to the WAPA and the Office of Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter 1.

Section 12. Burden and Standard of Proof.

(a) Application/Licensure Matters. The applicant shall bear the burden to prove by a preponderance of evidence that they meet the qualifications for licensure. The burden shall shift to the ARC or IC to prove by clear and convincing evidence that the board should deny the applicant a license. The applicant bears the burden to persuade the Board that the ARC or IC's grounds for denial are insufficient.

(b) Discipline Matters. The IC shall bear the burden to prove by clear and convincing evidence that a licensee violated the Act or the Board's Rules.

Section 13. Board Decision and Order.

(a) Board Action. The Board may resolve an application matter, complaint or Petition by:

(i) Approving the recommendations of the ARC or IC;

(ii) Dismissing a complaint;

(iii) Issuing a notice of warning; or

(iv) Conducting a contested case hearing. Following the hearing and deliberation of all evidence admitted at a contested case hearing, the Board may:

(A) Issue, renew, restore, relicense, or reinstate a license;

(B) Issue, renew, restore, relicense, or reinstate a license with conditions, restrictions, or other disciplinary action;

(C) Deny a license, renewal, restoration, relicensure, or reinstatement;

(D) Dismiss the Petition due to lack of clear and convincing evidence;

(E) Issue a notice of warning; or

(F) Impose a reprimand, conditions, restrictions, suspension, revocation, other discipline or a combination thereof.

(b) Board Order. The Board shall issue a written decision which shall be sent to the applicant, licensee, or their representative.

Section 14. Judicial Review.

(a) Appeals from decisions of the Board are governed by the WAPA and Wyoming Rules of Appellate Procedure.

(b) Costs of transcripts and any reasonable costs assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.

CHAPTER 9

ACUPUNCTURE

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to regulate acupuncture and competency requirements to provide such services.

Section 2. Requirements for Acupuncture. Licensees who choose to provide acupuncture services as part of their practice shall demonstrate competency and training to perform clinical acupuncture. These requirements include:

- (a) Demonstrate a minimum of 100 hours of education in acupuncture;
- (b) Certification from the IAMA, the NCCAOM, or the equivalent as determined by the Board; or
- (c) Certification from the NBCE Acupuncture examination.

Section 3. Requirements for IMS/Dry Needling.

- (a) To demonstrate competency to perform dry needling, a licensee shall complete a minimum of twenty-four (24) hours of face-to-face IMS/dry needling course study (online study is not considered appropriate training).
- (b) A licensee performing IMS/dry needling in his or her practice shall have written informed consent for each patient where this technique is used. The patient shall sign and receive a copy of the informed consent form. The consent form shall, at a minimum, clearly state the risks and benefits of IMS/dry needling.
- (c) IMS/dry needling shall not be delegated and shall be directly performed by a qualified, licensed chiropractor.
- (d) IMS/dry needling shall be performed in a manner consistent with generally accepted standards of practice, including clean needle techniques.

CHAPTER 10

PRECEPTORSHIP TRAINING PROGRAMS

Section 1. Statement of Purpose. The Board Rules are adopted to implement the Board's authority to regulate and approve preceptorship training programs in the State.

Section 2. Supervising Licensee and Intern Eligibility.

(a) **Supervising Licensee Eligibility.** The Board shall approve participation for a supervising licensee who:

(i) Concurrently participates as a supervising licensee at the chiropractic college or university in which the intern is enrolled throughout the time period of the preceptorship program and provides verifiable proof of participation; and

(ii) Is continuously licensed in the State for at least five years before the date the program is to begin and, if the program is to include practice of chiropractic specialties, is certified in those specialties for at least three years before the date upon which the program is to begin.

(b) **Intern Eligibility.** The Board shall approve participation by an intern who:

(i) Provides verifiable proof of concurrent participation and enrollment in an undergraduate or postgraduate preceptorship program offered by an accredited chiropractic college or university;

(ii) Provides evidence of passing Parts I and II of the examination by the NBCE; and

(iii) Successfully completes and provides documentation of the coursework and certification required for practice of chiropractic specialties, if specialties are to be included in the training program.

(c) **Ineligibility.** The Board shall not approve participation for an intern or supervising licensee who:

(i) Has been the subject of disciplinary sanction or convicted of a felony or misdemeanor involving moral turpitude;

(ii) Is currently under investigation for a licensing violation, or a felony, or misdemeanor involving moral turpitude;

(iii) Fails to demonstrate good character and reputation;

(iv) Fails to demonstrate the physical and mental ability to practice chiropractic skillfully and safely;

(v) Has practiced chiropractic without a license; or

(vi) Has already participated in a preceptorship program.

Section 3. Intern Application.

(a) Eligibility. An applicant may seek a permit to practice limitedly as an intern if the applicant meets the qualifications in Section 2(b).

(b) Application Requirements. Applicant shall submit:

(i) A completed application and payment of fees; and

(ii) A waiver of confidentiality executed by the intern and supervising licensee.

(c) Supervising Licensee Application. Supervising licensee shall submit the supervising licensee application and fees.

Section 4. Practice Limitations.

(a) Under the supervision of the supervising licensee and commensurate with the intern's education, training, and experience, an intern may engage in the practice of chiropractic, as defined in Wyoming Statute 33-10-101, except that an intern shall not perform any procedure defined as a chiropractic specialty requiring certification unless the intern and the supervising licensee have met the eligibility requirements in Section 2 of this chapter for that specialty.

(b) "Direct supervision" means that a supervising licensee provides guidance for the services to be provided with initial direction and periodic inspection of the service performance and is present on the premises while the services are being provided.

(c) At all times when patients may be present, the intern shall wear a badge showing the intern's name and the title "Intern" in capital letters equal in size to the name.

(d) Before an intern conducts an examination or renders care to a patient, the supervising licensee shall secure from the patient a written consent to the examination or care. The written consent shall specify that the patient understands that an intern is not a licensed doctor, and that the supervising licensee retains responsibility for quality of care. The supervising licensee shall maintain the signed consent as a part of the patient's file.

Section 5. Regulation and Termination of the Preceptorship Program.

(a) The Board, on its own initiative or upon receipt of a complaint, may investigate conduct of an intern or supervising licensee occurring within the program for compliance with this Chapter.

(b) If the Board receives written verification from a chiropractic college or university that the intern or supervising licensee is no longer concurrently participating in the associated chiropractic college program, the Board shall terminate approval of the intern's permit.

(c) An intern may participate in a preceptorship program until the intern's date of graduation from a chiropractic college or university.

CHAPTER 11

CHIROPRACTIC PRACTICE

Section 1. Statement of Purpose. The Board Rules are adopted to implement the Board's authority to clarify practice standards.

Section 2. Practice of Chiropractic.

(a) Telehealth Practice. Practice occurs where the patient resides or receives services, regardless of means.

(i) It is the expectation of the Board that licensees maintain the highest degree of professionalism and should:

- (A) Place the welfare of patients first;
- (B) Maintain acceptable and appropriate standards of practice;
- (C) Adhere to recognized ethical codes;
- (D) Properly supervise non-provider clinicians; and
- (E) Protect patient confidentiality.

(ii) A licensee should not render healthcare advice and/or care using telehealth technologies without:

- (A) Fully verifying and authenticating the location and identity of the requesting patient;
- (B) Disclosing and validating the provider's identity and applicable credential(s); and

(C) Obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telehealth technologies. An appropriate licensee-patient relationship has not been established when the identity and credentials, including license status, of the provider may be unknown to the patient.

(iii) Informed Consent. Evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained. Appropriate informed consent should, at a minimum, include the following terms:

- (A) Identification of the patient, the provider and the provider's credentials;

(B) Types of transmissions permitted using telehealth technologies (e.g. appointment scheduling, patient education, etc.);

(C) The patient agrees that the licensee determines whether or not the condition being diagnosed and/or treated is appropriate for a telehealth encounter; and

(D) Details on security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures, and adherence to all applicable Health Insurance Portability and Accountability Act standards.

(b) Licensees shall be responsible for the standard of care performed in his or her office, regardless of whether it is performed by him or her personally or by staff working under his or her supervision.

Section 3. Satellite Offices. Licensees using satellite offices shall ensure all offices maintain the appropriate standard of care.

Section 4. Patient Records.

(a) Basic Requirements.

(i) Each patient record shall, at a minimum, include legible documentation of the following:

(A) The patient's identifying information and identity of the treating licensee and all health care providers;

(B) The reason for the clinical encounter, including any subjective complaints and pertinent history;

(C) The current objective findings and results of diagnostic studies;

(D) The diagnosis and assessment of the patient's condition;

(E) A management and care plan, including the recommendations, intended goals, prognosis, modifications to the plan, and the procedures provided;

(F) Evidence that the patient was informed of any material risk relative to a proposed treatment/procedure and consented to receive this treatment/procedure.

(G) Radiographs shall include the patient's first name, last name, date of birth, date of study, and location of study. It is preferable to embed this information in the radiograph.

(b) Records Retention.

(i) Licensees shall not withhold records or diagnostic studies if a patient owes an outstanding balance.

(ii) Patient records and diagnostic studies shall be:

(A) Maintained for a minimum of seven (7) years from the date of the last patient clinical encounter;

(B) Maintained in a physically secure and confidential manner; and

(C) Accessible to the patient and treating doctor within a reasonable period.

(c) Violation of any provision above shall be considered “unprofessional conduct” within the meaning of Chapter 7 and shall constitute grounds for disciplinary action by the Board.

Section 5. Advertising. Licensees shall not advertise in any manner that is deceptive to the public. Advertisements include, but are not limited to, the use of social media.

Section 6. Prepaid Care Plans.

(a) Any arrangement or agreement between a licensee and a patient for a course of future treatment for which funds in an amount of five hundred dollars (\$500.00) or more during any twelve (12) month period are collected in advance of these services shall be considered a prepaid care plan within the meaning of this section. Services under a prepaid care plan may cost less than if the services were purchased individually. The reduction in cost must bear a reasonable relationship to the expense avoided by the provider due to reduced accounting and debt collection activities. The prepaid care plan may provide for either an annual or monthly fee out of pocket. A licensee who offers such a plan is subject to the following requirements:

(i) Escrow account. A designated escrow account insured by the Federal Deposit Insurance Corporation, state bank, or credit union shall be established for deposit of all funds received in connection with the prepaid care plan. Such funds may not be commingled with a licensee’s personal or business account.

(A) All instruments, including checks and deposit slips, must bear the phrase “Escrow Account.”

(B) The licensee shall maintain a clear accounting of all funds received, including date and from whom the funds were received.

(C) The licensee shall maintain a clear accounting of all disbursements

including the dates and to whom the disbursements were made, and to which patient the disbursements are to be applied or accounted for.

(D) No more than one escrow account is required regardless of the number of prepaid plans maintained by the licensee.

(E) Funds may only be transferred out of the escrow account for the following reasons:

(I) After services, goods, or appliances have been provided to the patient, and only in the usual and customary amounts specifically related to the services, goods, or appliances provided;

(II) To reimburse the patient any amounts owed following a notice by either the patient or the licensee to terminate the prepaid plan. Any amounts must be transferred according to the written agreement; or

(F) The licensee shall cause a reconciliation of the escrow account to be made no less than quarterly, with a copy provided to the patient, and shall retain a copy of the reconciliations and all supporting documents for no less than seven (7) years.

(ii) Written plan. All prepaid care plans require a written plan, signed by both the licensee and the patient, with a copy maintained in the patient's record and a copy provided to the patient, and must include at least the following:

(A) A list of all services, goods, and appliances which are covered by the plan.

(B) A list of all fees related to the services described in the plan.

(C) A statement that an accounting can be requested by the patient at any time. This accounting must:

(I) Be provided to the patient within five (5) working days of a written or verbal request; and

(II) Itemize all fees used to calculate any reimbursement.

(D) An explanation of the reimbursement policies and formula that are used in returning unused funds to the patient in the event of early termination by either the chiropractor or the patient. The patient has the right to terminate the prepaid care plan at any time without financial penalty.

(E) An explanation of any policy modifying the plan in the event of an injury, such as an auto injury or work-related injury or in the event of extended absence or new illness. These explanations must be separately initialed by the patient.

(F) A provision that the patient will be notified in writing when the patient's account reaches a zero balance.

(G) A statement that indicates the licensee makes no claim or representation that a particular treatment, procedure, or service, or any combination of treatments, procedures, or services, is guaranteed to result in a particular clinical outcome.

(H) A statement that the patient has the right to cancel the prepaid care plan without penalty within three (3) business days of entering into the plan by submitting a written and signed cancellation notice, and upon the licensee's receipt of the cancellation notice, the licensee shall have seven (7) working days to fully refund any unused funds to the patient. This right of cancellation may not be waived or otherwise surrendered.

(iii) Early termination. The patient has the right to terminate the prepaid care plan at any time without financial penalty. The licensee may terminate the prepaid plan at any time, for good and sufficient cause, except the licensee must ensure that patient abandonment does not occur. In the event care is terminated, the patient's remaining funds shall be reimbursed to the patient in full.

(iv) Prepaid care plans must be compliant with all applicable state and federal laws.

(v) When providing care as a part of a prepaid plan a licensee shall provide competent, necessary care in a timely and professional manner. All care recommended and rendered must be clinically justified and appropriately documented.

(vi) A prepaid care plan is not health insurance and does not meet the Affordable Care Act "individual mandate" requirements for health insurance coverage.

(vii) The regulations in this section do not release a licensee from any contractual obligations that the licensee has with an insurer or other entity. A licensee who has contracted with an insurance carrier shall adhere to the terms of their provider contract in regard to the collection of copayments, co-insurances, and applied deductibles. A licensee may not bill a reimbursement entity or a patient for any amount exceeding what is earned and distributed to the licensee.

(b) Failure to abide with the requirements of this section shall be considered "unprofessional conduct" within the meaning of Chapter 7 and shall constitute grounds for disciplinary action by the Board.

CHAPTER 1

GENERAL PROVISIONS

Section 1. Authority. The Board is authorized under the Act and the WAPA to promulgate rules and regulations related to the licensure and discipline of chiropractors and regulation of the practice of chiropractic in Wyoming.

Section 2. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to establish administrative procedures.

Section 3. Definitions.

- (a) "Act" means Wyoming Statute 33-10-101 through -117~~et seq.~~
- (b) "ACA" means the American Chiropractic Association.
- (c) "ARC" means Application Review Committee.
- (d) "Board" means the Wyoming State Board of Chiropractic Examiners.
- (e) "Board Rules" means the administrative rules and regulations promulgated by the Board.
- (f) "CCE" means Council on Chiropractic Education.
- (g) "CCEI" means the Councils on Chiropractic Education International.
- ~~(h)(g)~~ "CE" means continuing education hours.
- ~~(i)(h)~~ "ΔIC" means Disciplinary Investigative Committee.
- (j) "Dry Needling" is a physical intervention that uses a filiform needle to stimulate trigger points, diagnose and treat neuromuscular pain and functional movement deficits; is based on Western medical concepts; requires an examination and diagnosis, and treats specific anatomic entities selected according to physical signs. Dry needling does not include the stimulation of auricular or distal points or meridians.
- (k) "IAMA" means International Academy of Medical Acupuncture.
- (l) "ICA" means the International Chiropractors Association.
- (m) "Intern" means a student studying chiropractic concurrently participates in an undergraduate or postgraduate preceptorship program offered by an accredited chiropractic college or university that has completed Parts I and II of the NBCE examination.

(n) “IMS” means intramuscular stimulation.

(o) “Licensee” means a chiropractor licensed in Wyoming.

(p) “NBCE” means the National Board of Chiropractic Examiners.

(q) “NCAAOM” means National Certification Commission for Acupuncture and Oriental Medicine.

~~(p)(r)~~ “PACE” means Providers of Approved Continuing Education.

~~(q) “Preceptor” means chiropractor licensed in Wyoming.~~

~~(r) “NBCE” means the National Board of Chiropractic Examiners.~~

~~(s) “NCCAOM” means National Certification Commission for Acupuncture and Oriental Medicine.~~

(s)(t) “SPEC” means Special Purposes Examination for Chiropractic.

(t) “Telehealth” means the delivery of healthcare services using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening healthcare provider.

(u) “Telehealth Technologies” means technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a patient in another location with or without an intervening healthcare provider.

(v)(w) “WAPA” means the Wyoming Administrative Procedure Act, W.S. 16-3-101 through -115.

Section 4. Board Office. The Board Office shall be located at 2001 Capitol Avenue, Cheyenne, Wyoming.

Section 5. Board Meetings. The Board shall meet in accordance with the Board’s resolution.

Section 6. Incorporation by Reference.

(a) For any rule, regulation or code incorporated by reference in these Board Rules:

(i) The Board has determined that incorporation of the full text in these Board Rules would be cumbersome or inefficient given the length or nature of the rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this

section;

(iii) The incorporated rule is maintained at the Board Office and is available for public inspection and copying at cost at the same location.

(b) Each rule, regulation or code incorporated by reference in these Board Rules is further identified as follows:

(i) ~~Referenced in Chapter 7, Section 11 is~~ Chapter 2 - Uniform Rules for Contested Case Practice and Procedure, adopted by the Office of Administrative Hearings and effective on ~~October 17, 2014~~ July 20, 2017, found at: <http://sos.wy.state.wy.us/Rules/RULES/9644.pdf> <http://chiropractic.wyo.gov/rules-and-regulations>;

(ii) ~~Referenced in Chapter 7, Section 2 is~~ Code of Ethics, adopted by ACA and effective in 2007, found at: http://www.acatoday.org/content_ess.cfm?CID=719 <http://chiropractic.wyo.gov/rules-and-regulations>; and

(iii) ~~Referenced in Chapter 7, Section 2 is~~ Code of Ethics, adopted by ICA and effective in 1991, found at: <http://www.chiropractic.org/ethics> <http://chiropractic.wyo.gov/rules-and-regulations>;

(iv) Chapter 2 - Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records, adopted by the Department of Administration and Information and effective on September 6, 2016, found at <http://chiropractic.wyo.gov/rules-and-regulations>; and

Section 7. Public Records Inspection. Public records inspections shall be conducted pursuant to the Department of Administration and Information's rules concerning public records.

~~_____ (a) _____ If a member of public requests an electronic or hard copy of public records, then that individual shall pay a fee. Such fee shall include cost of administrative time and producing a copy of the public record.~~

~~_____ (b) _____ Public records inspection shall take place under the following conditions:~~

~~_____ (i) _____ An appointment shall be made to review the records between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding state holidays, at the Board Office,~~

~~_____ (ii) _____ Records inspection shall take place in the presence of Board staff, and~~

~~_____ (iii) _____ A member of the public may request copies upon payment of a fee.~~

Section 8. Change of Name, Address, or Telephone Number. Each applicant and licensee shall notify the Board in writing of any change to his or her~~their~~ legal name, home address, business address, e-mail address, or telephone number within thirty (30) days of the

change.

Section 9. Requests for Rosters. Any person requesting a roster of licensees shall submit a completed request form and payment of a fee.

Section 10. Duplicate Pocket Card and Wall Certificate. Any person requesting a duplicate pocket card and wall certificate shall submit a completed request form and payment of a fee.

Section 11. License Verification. Any person requesting verification of their license shall submit a completed request form and payment of a fee.

CHAPTER 2

LICENSURE REQUIREMENTS AND APPLICATION PROCEDURES

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to establish the requirements and procedures for licensure.

Section 2. Application Status.

(a) For those applicants seeking licensure, all requirements shall be met during the timeframe identified immediately prior to submitting a completed application.

(b) Applications shall be deemed "complete" when all necessary documentation has been received by the Board eOffice.

(c) Applications shall expire one (1) year after submission. If an application expires, an applicant shall submit a new application, including payment of fee.

Section 3. Application Review Committee.

(a) Every application shall be reviewed by the ARC.

(b) An applicant for licensure shall have committed no acts ~~which~~that are grounds for disciplinary action, or if the act was committed, the ARC has found after investigation that sufficient restitution has been made and the applicant no longer presents a threat to the public safety.

(c) If the ARC is unable to ascertain from documents submitted by the applicant that the applicant is eligible for licensure, the ARC may require the applicant to provide additional documentation, information, or meet informally with the ARC.

Section 4. Jurisprudence Examination.

(a) The ARC shall recommend eligibility to sit for the jurisprudence examination.

(b) To successfully pass the jurisprudence examination, the applicant shall score at least 80%.

Section 54. Initial Licensure.

(a) Eligibility. An applicant may seek initial licensure if the applicant is not licensed to practice in another jurisdiction or that jurisdiction's licensure requirements are not as stringent as Wyoming.

(b) Application Requirements. Applicant shall:

- (i) Submit a completed application and payment of fees;
- (ii) Submit evidence of clinical competency by:

(A) Completion of education at a CCE or CCEI accredited college or university. All applicants that matriculated in a chiropractic college or university prior to October 1, 1975, shall present evidence of having graduated from a chiropractic college or university ~~which~~that meets equivalent standards comparable to CCE.

(B) Successful completion of NBCE examination as follows:

(I) Applicants who graduated prior to 1996 shall successfully pass Parts I, II, III, and Part IV or SPEC Exam.

(II) Applicants who graduated in or after 1996 shall successfully pass Parts I, II, III and IV.

(III) Those applicants who perform physiotherapy services shall successfully pass physiotherapy exam.

(C) Applicants who do not hold an active license in another jurisdiction or who have graduated from an accredited chiropractic college within the preceding twenty-four (24) months and have never been licensed shall demonstrate competency by successfully passing Part IV or SPEC examination within six (6) months prior to submitting a completed application.

- (iii) Successful completion of the jurisprudence examination; and
- (iv) Submit license verification directly from every jurisdiction, if necessary.

Section 65. Licensure by Endorsement.

(a) Eligibility. An applicant may seek licensure by endorsement if the applicant is actively licensed in good standing to practice in another jurisdiction with licensure requirements as stringent as Wyoming.

(b) Application Requirements. Applicant shall:

- (i) Submit a completed application and payment of fees;
- (ii) Meet requirements identified in Section 4(b)(ii);
- (iii) Successful completion of the jurisprudence examination; and
- (iv) Submit license verification directly from every jurisdiction.

Section 76. Temporary Licensure.

(a) Eligibility. An applicant may seek temporary licensure if the applicant is actively licensed in good standing to practice in another jurisdiction with licensure requirements as stringent as Wyoming.

(b) Application Requirements. Applicant shall:

- (i) Submit a completed application and payment of fees;
- (ii) Meet requirements identified in Section 4(b)(ii); and
- (iii) Submit license verification directly from their jurisdiction.

(c) Limitations and Conditions. A temporary license is valid for only ten (10) consecutive days and shall not be renewed. The Board shall not grant more than two (2) temporary licenses to an applicant during any calendar year.

CHAPTER 4

RENEWAL OF LICENSES

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to establish the requirements and procedures for annual license renewal.

Section 2. Annual Renewal of Licenses.

(a) ~~Lapse~~~~Expiration~~. Licenses shall ~~lapse~~~~expire~~ August 31 of each year. Licensees that fail to timely renew shall forfeit the right to practice. Failure to receive the renewal application from the Board does not excuse a licensee from the requirements for renewal under the Act or these rules.

(b) Renewal Procedure. The licensee seeking renewal shall:

- (i) Submit a completed renewal application and payment of fee; and
- (ii) Submit evidence of completion of twelve (12) CE that complies with

Section 3.

Section 3. Continuing Education Requirements.

(a) Renewal Period. CE shall be obtained ~~September~~~~August~~ 1 to ~~August~~~~July~~ 31 of the year of expiration.

(b) Sponsorship. The Board shall accept CE directly related to the scope of practice defined in the Act sponsored by:

- (i) ICA;
- (ii) ACA;
- (iii) Any CCE accredited chiropractic college or university;
- (iv) Any state chiropractic association; or
- (v) PACE.

(c) CE Content.

(i) Acceptable subjects shall include, but are not limited to: ethics, technique, physiotherapy, acupuncture, clinical nutrition, diagnostic imaging and interpretation of imaging, record keeping and coding classes, and other subjects as defined as the practice of chiropractic and accepted~~approved~~ by the Board.

(ii) Unacceptable subjects shall include, but are not limited to, practice building and business management courses.

(d) Method. A minimum of eight (8) CE shall be earned at in-person conferences or hands-on training. A maximum of four (4) CE may be earned online.

(e) Waiver. The Board may grant a waiver for CE requirements to licensees who have petitioned and demonstrated just cause based on extenuating circumstances. Additionally, licensees who have graduated in the preceding twelve (12) months do not need to complete CE for their first renewal.

~~Section 4. Late Renewal.~~

~~(a) Unlicensed Practice. Failure to timely renew may subject the licensee to disciplinary action for unlicensed practice.~~

~~(b) Administrative Grace Period.~~

~~(i) The administrative grace period shall be from August 2 to August 31.~~

~~(ii) Licensees that failed to timely renew may apply for late renewal during the administrative grace period. However, licensees shall not practice until the Board approves their request for late renewal.~~

~~(iii) Licensees applying for late renewal during the administrative grace period shall comply with the requirements identified in Section 2(b) and shall be assessed a late fee.~~

~~(iv) On September 1, any expired license not renewed shall lapse. If a license lapses, the applicant shall apply for restoration or relicensure.~~

Section 54. Restoration.

(a) Unlicensed Practice. Failure to timely renew may subject the licensee to disciplinary action for unlicensed practice.

(b)(a) Eligibility. An applicant may seek restoration if the applicant's license lapsed/expired within twelve (12) months.

(c)(b) Application Requirements. Applicant shall:

- (i) Submit a completed restoration application and payment of fee; and
- (ii) Submit evidence of completion of twelve (12) CE that complies with Section 3.

Section 65. Relicensure.

(a) Eligibility. An applicant ~~may~~shall seek relicensure if the applicant has been licensed in Wyoming and did not restore his or her license within twelve (12) months after his or her license lapsed~~either failed to timely renew or is seeking to return to active clinical practice.~~

(b) Application Requirements. Applicant shall:

(i) Submit a completed relicensure application and payment of fee;

(ii) Demonstrate competency by:

(A) Submitting verification showing completion of twelve (12) CE that complies with Section 3 for every year the license has been lapsed~~expired~~, not to exceed three~~five~~ (3~~5~~) years; or

(B) Submitting verification showing successful completion of the SPEC examination administered by NBCE within the last twelve (12) months, if not actively practicing within the last three~~five~~ (3~~5~~) years; and

(iii) Successfully pass the jurisprudence examination.

Section 76. Reinstatement of Licensure.

(a) Eligibility. An applicant may seek reinstatement of ~~the~~his or her license if that license has been revoked, surrendered, suspended, conditioned, or restricted.

(b) Application Reinstatement Requirements. The applicant shall:

(i) Submit a completed reinstatement application and payment of fee;

(ii) Submit evidence of complying with the requirements of a previous Board order;

(iii) Submit evidence of applicant's ability to safely and competently practice; and

(iv) Submit evidence demonstrating just cause for reinstatement.

CHAPTER 5

FEES

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to determine and collect reasonable fees.

Section 2. General Information.

(a) Fees shall be payable in the exact amount, ~~by money order or cashier's check, for all services and shall be paid in advance of the services rendered. Application and renewal fees may also be paid by personal check.~~

(b) All fees collected by the Board are non-refundable.

(c) Fees related to public records requests shall be assessed pursuant to the Department of Administration and Information's rules concerning public records.

Section 3. Fees. Services for which the Board charges a fee shall include, but is not be limited to, the following fee schedule.

(a) Initial License Application Fee	\$500
(b) License by Endorsement Application Fee	\$500
(c) Temporary License Application Fee	\$150
(d) Intern/ Preceptor <u>Supervising Licensee</u> Application Fee	\$100
(e) Annual License Renewal Fee	\$200
(f) Renewed Late Fee (August 2-August 31)	\$100
(g) (f) Restoration Application Fee (September 1- July <u>August</u> 31)	\$400
(h) (g) Relicensure Application Fee	\$400
(j) (h) Reinstatement Application Fee	\$550
(k) (i) Roster Fee	\$100
(l) (j) Duplicate Document Fee	\$25
(m) (k) License Verification	\$25

CHAPTER 7

PROCESS AND PROCEDURE FOR APPLICATION, LICENSURE, AND DISCIPLINARY MATTERS

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to:

- (a) Conduct investigations, hearing and proceedings concerning:
 - (i) Actions relating to an application for a license, including granting or denying; or
 - (ii) Alleged violations of the Act or other Board Rules.
- (b) Determine and administer appropriate disciplinary action against an applicant or licensee.
- (c) For purposes of this chapter, "licensee" means a chiropractor issued a license by the Board or an intern issued a permit to practice chiropractic in Wyoming.

Section 2. Grounds for Disciplinary Action. The Board may take disciplinary action or refuse to issue or renew a license for one (1) or more of the following acts or conduct:

- (a) Failure to conform with the Code of Ethics of the ACA or the ICA as incorporated by reference in Chapter 1;
- (b) Inability to function with reasonable skill and safety for the following reasons, including but not limited to:
 - (i) Substance abuse/dependency or clinically diagnosed substance use disorder; or
 - (ii) Physical or mental disability, including cognitive impairment or other impairment from consumption of drugs or alcohol;
- (c) Immoral, unprofessional, or dishonorable conduct;
- (d) Violation of professional boundaries, including, but not limited to:
 - (i) Harassment, intimidation or abuse, sexual or otherwise, of a client or patient;
 - (ii) Engaging in sexual intercourse or other sexual contact with a client or patient; or

~~(iii) Entering into financial transactions with clients; or~~

~~(iv)~~(iii) Exercising undue influence to exploit a patient, student or supervisee for financial or other personal advantage to the practitioner or a third party;

(e) Practicing outside the areas of professional competence as established by education, training, and experience;

(f) Practicing below the applicable standard of care;

(g) Malpractice or negligence in the practice of chiropractic;

(h) Fraud or deceit, including, but not limited to: prescription fraud, falsification of a medical record, omission of required information or submission of false information;

~~(i)~~(j) Disciplinary action taken by another state against a licensee;

~~(k) Conviction of fraud in filing Medicare or Medicaid claims or in filing claims to any third party payor;~~

~~(l)~~(l) Conviction of any crime or offense that reflects the inability of the practitioner to practice chiropractic with due regard for the health and safety of clients or patients;

~~(m)~~(k) Failure to comply with reasonable requests from the Board including, but not limited to, failing to:

(i) Answer the administrative complaint;

(ii) Respond to request for explanation for failure to disclose required information; or

(iii) Cooperate in the investigation;

~~(n)~~(l) Failure to comply with a term, condition or obligation of a Board order;

~~(o)~~(m) Failure to appropriately supervise; or

~~(p)~~(n) Practicing without a valid license.

Section 3. Application Review and Investigation Process.

(a) Application Review and Investigation. In application matters:

(i) Every applicant bears the burden of satisfying license requirements; and

(ii) Every application for a license issued by the Board shall be subject to

investigation to determine whether the requirements set forth in the Act and Board Rules are satisfied.

(b) ~~Application Review Committee~~ Action. Following investigation, the ARC may recommend:

(i) ~~Recommend a~~ A license be issued, renewed, restored, relicensed, or reinstated;

(ii) ~~Recommend a~~ A license be issued, renewed, restored, relicensed, or reinstated subject to conditions, restrictions, or other disciplinary action;

(iii) ~~Recommend a~~ Approval of a settlement agreement, which may include the issuance, renewal, restoration, relicense, or reinstatement of a license with the imposition of a reprimand, conditions, restrictions, suspension, other discipline or a combination there of; or

(iv) ~~Recommend a~~ Denial of the application.

(c) ~~Notice of Intent to Recommend Approval Subject to Conditions, Restrictions, Other Disciplinary Action or Denial of License.~~ The ARC shall notify the applicant of its intent to recommend approval of the license subject to conditions, restrictions, or other disciplinary action or denial of the application. Such notification shall contain:

~~(i) The ARC shall notify the applicant of its intent to recommend:~~

~~(A) Approval of the license subject to conditions, restrictions, or other disciplinary action; or~~

~~(B) Denial of the application.~~

~~(ii) The Notice of Intent shall contain:~~

~~(i) (A)~~ A brief description of the facts or conduct ~~which~~that warrant the issuance or denial of a license subject to conditions, restrictions, or other disciplinary action;

~~(ii) (B)~~ A statement of the nature of the actions ~~which~~that warrant the issuance or denial of a license subject to conditions, restrictions, or other disciplinary action and a citation to the applicable statutory provisions in the Act or the Board Rules; and

~~(iii) (C)~~ Notice of the right to a hearing if a written request is received by the Board ~~o~~Office within thirty (30) days of the date of mailing the Notice of Intent.

(d) Applicant's Request for Hearing. If the ARC recommends denial of an application, the applicant may request a contested case hearing in writing within thirty (30) days of the mailing of the notification.

- ~~_____ (i) The applicant may request a hearing if the ARC recommends:~~
 - ~~_____ (A) Recommends aApproval of the license subject to conditions, restrictions, or other disciplinary action; or~~
 - ~~_____ (B) Recommends dDenial of the application.~~
- ~~_____ (ii) The applicant shall submit a written request for hearing to the Board oOffice within thirty (30) days of the date of the Notice of Intent.~~
- ~~_____ (iii) Failure of the applicant to pursue proceedings related to the application after requesting a hearing may result in dismissal.~~

Section 4. Complaint Review and Investigation Process.

(a) Complaint Review and Investigation. Every complaint submitted to the Board or initiated on behalf of the Board shall be investigated by an IC.

~~_____ (i) Complaints shall be submitted to the Board upon the form provided by the Board and contain the name, address, and signature of the person making the complaint. The Board may initiate complaints.~~

~~_____ (ii) Complaints shall be investigated by the DC or the Board staff.~~

~~_____ (iii) DC may meet informally with the licensee.~~

(b) Voluntary Surrender. A licensee may petition the Board in writing to voluntarily surrender ~~their~~ his or her license. The Board shall consider the petition~~hold an expedited hearing~~ at its earliest convenience. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation.

(c) Disciplinary I~~Disciplinary I~~Committee Action. Following investigation, the I~~I~~DC may recommend:

- (i) ~~Recommend d~~Dismissal of the complaint;
- (ii) ~~Recommend i~~Issuance of a notice of warning;
- (iii) ~~Recommend a~~Approval of a settlement agreement, which may include a reprimand, conditions, restrictions, non-renewal, suspension, voluntary surrender, other discipline or a combination thereof;
- (iv) ~~Recommend d~~Disciplinary action, which may include a reprimand, conditions, restrictions, non-renewal, suspension, revocation, other discipline or a combination thereof; or

- (v) ~~Recommend s~~ Summary suspension.

Section 5. Summary Suspension.

(a) Recommendation. If the ~~D~~I~~C~~ recommends summary suspension, the Board shall conduct an expedited ~~hearing~~proceeding to determine whether the licensee's continued practice presents a clear and imminent danger to public health, safety or welfare.

(b) Notice of Intent to Recommend Summary Suspension.

(i) The ~~D~~I~~C~~ shall notify the licensee of its intent to recommend summary suspension.

(ii) The Notice of Intent shall contain:

(A) Copy of the complaint;

(B) Notice that a summary suspension ~~hearing~~proceeding shall be set for expedited ~~hearing~~proceeding at the earliest opportunity a quorum of Board members may be assembled; ~~and~~

~~_____ (C) Statement that failure to answer to the complaint or appear at the hearing may result in default.~~

~~(d)~~(c) Notice of Expedited ~~Hearing~~Proceeding. Upon confirmation of the date and time of the expedited ~~hearing~~proceeding, the ~~D~~I~~C~~ shall notify the licensee of the date and time of the ~~hearing~~proceeding.

Section 6. Formal Proceedings for Disciplinary Action.

(a) Notice of Intent to Recommend Disciplinary Action.

(i) The ~~D~~I~~C~~ shall notify the licensee of its intent to recommend disciplinary action.

(ii) The Notice of Intent shall:

(A) Include a brief description of the facts or conduct which warrant the intended action; and

(B) Provide the licensee an opportunity to show compliance or respond to allegations for disciplinary action within fifteen (15) days of the date of the mailing.

(b) Informal Conference. The licensee may request an informal conference to provide any additional information or to resolve an administrative complaint without a hearing.

Section 7. Petition. The D̄IC shall initiate formal proceedings for disciplinary action by serving a Petition and Notice of Hearing to the licensee by certified mail, by regular mail, by electronic mail to the e-mail address indicated to be the preferred method of communication or by personal service at least thirty (30) days prior to the date set for hearing.

Section 8. Notice of Hearing.

(a) Hearing. Upon receipt of a written request for hearing from an applicant or commencement of formal proceedings for disciplinary action against a licensee, the Board shall conduct a hearing. The Board shall serve a Notice of Hearing on the applicant or licensee.

(b) Notice of Hearing. The Notice of Hearing shall contain:

(i) The name and last known address of the applicant or licensee;

(ii) A brief statement of the matters asserted relating to:

(A) The recommendation to deny the application, the facts upon which the recommendation to deny is based, the statutory provisions and/or the Board Rules the applicant is alleged to have violated; or

(B) The nature of the Petition, the facts upon which the Petition is based, the statutory provisions and/or the Board Rules the licensee is alleged to have violated;

(iii) The time, place, and nature of the hearing;

(iv) The legal authority and jurisdiction; and

(v) A statement indicating:

(A) The applicant's failure to appear at the hearing or pursue proceedings may result in a dismissal; or

(B) The licensee's failure to answer the allegations contained in the Petition twenty (20) days of the date of mailing and failure to appear at a noticed hearing may result in a default judgment.

Section 9. Lawful Service. There shall be a presumption of lawful service for a Notice of Intent, Petition, Notice of Hearing, or any other communication required by these Board Rules sent to the last known address of the applicant or licensee by certified mail, by regular mail, by electronic mail to the e-mail address indicated to be the preferred method of communication, or by personal service.

Section 10. Dismissal and Default.

(a) Dismissal. The Board may enter an order of dismissal based on the allegations

contained in the recommendation to deny in any case where the applicant or the applicant's representative has not appeared at a noticed hearing.

(b) Default. The Board may enter an order of default judgment based on the allegations contained in the Petition in any case where the licensee or the licensee's representative has not answered the allegations contained in the Petition and has not appeared at a noticed hearing.

Section 11. Contested Case Hearing. The hearing officer shall preside over the contested case hearing which shall be conducted pursuant to the WAPA and the Office of Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter 1.

Section 12. Burden and Standard of Proof.

~~(a) Summary Suspension. The DC shall bear the burden to prove by a preponderance of evidence that the licensee presents a clear and immediate danger to the public health, safety, and welfare if allowed to continue to practice.~~

~~(b)(a) Application/Licensure Matters. The applicant shall bear the burden to prove by a preponderance of evidence that they meet the qualifications for licensure. The burden shall shift to the ARC or DC to prove by clear and convincing evidence that the applicantboard should deny the applicant be denied a license. The applicant bears the burden shall shift to the applicant to persuade the Board that the ARC or DC's grounds for denial are insufficient.~~

~~(e)(b) Discipline Matters. The DC shall bear the burden to prove by clear and convincing evidence that a licensee violated the Act or the Board's Rules.~~

Section 13. Board Decision and Order.

(a) Board Action. The Board may resolve an application matter, complaint or Petition by:

(i) Approving the recommendations of the ARC or DC; ~~or~~

(ii) Dismissing a complaint;

(iii) Issuing a notice of warning; or

~~(ii)(iv) Conducting a contested case hearing. Following the hearing and deliberation of all evidence admitted at a contested case hearing, the Board may:~~

(A) Issue, renew, restore, relicense, or reinstate a license;

(B) Issue, renew, restore, relicense, or reinstate a license with conditions, restrictions, or other disciplinary action;

(C) Deny a license, renewal, ~~reinstatement, reissuance, return to practice, restoration, or~~ relicensure, or reinstatement;

(D) Dismiss the Petition due to lack of clear and convincing evidence;

(E) Issue a notice of warning; or

(F) Impose a reprimand, conditions, restrictions, suspension, revocation, other discipline or a combination thereof.

(b) Board Order. The Board shall issue a written decision which shall be sent to the applicant, licensee, or their representative.

Section 14. Judicial Review.

(a) Appeals from decisions of the Board are governed by the WAPA and Wyoming Rules of Appellate Procedure.

(b) Costs of transcripts and any reasonable costs assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.

CHAPTER 9

ACUPUNCTURE

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to regulate acupuncture and competency requirements to provide such services.

Section 2. ~~Competency Requirements for Acupuncture.~~ Licensees who choose to provide acupuncture services as part of their practice shall demonstrate competency and training to perform clinical acupuncture. These requirements include:

- (a) Demonstrate a minimum of 100 hours of education in acupuncture;
- (b) Certification from the IAMA, the NCCAOM, or the equivalent as determined by the Board; or
- (c) Certification from the NBCE Acupuncture examination.

Section 3. ~~Competency Requirements for IMS/Dry Needling.~~ ~~To demonstrate competency to perform dry needling, a licensee shall meet the following requirements:~~

(a) To demonstrate competency to perform dry needling, a licensee shall complete a ~~A~~ minimum of twenty-four (24) hours of face-to-face IMS/dry needling course study (online study is not considered appropriate training).

(b) A licensee performing IMS/dry needling in his/ or her practice shall have written informed consent for each patient where this technique is used. The patient shall sign and receive a copy of the informed consent form. The consent form shall, at a minimum, clearly state the risks and benefits of IMS/dry needling.

(c) IMS/dry needling shall not be delegated and shall be directly performed by a qualified, licensed chiropractor.

(d) IMS/dry needling shall be performed in a manner consistent with generally accepted standards of practice, including clean needle techniques, ~~and standards of the center for communicable diseases.~~

CHAPTER 10

PRECEPTORSHIP TRAINING PROGRAMS

Section 1. Statement of Purpose. The Board Rules are adopted to implement the Board's authority to regulate and approve preceptorship training programs in the State.

Section 2. ~~Preceptor~~Supervising Licensee and Intern Eligibility.

(a) ~~Preceptor~~Supervising Licensee Eligibility. The Board shall approve participation for a ~~preceptor~~supervising licensee who:

(i) Concurrently participates as a ~~preceptor~~supervising licensee at the chiropractic college or university in which the intern is enrolled throughout the time period of the preceptorship program and provides verifiable proof of participation; and

(ii) Is continuously licensed in the State for at least five years before the date the program is to begin and, if the program is to include practice of chiropractic specialties, is certified in those specialties for at least three years before the date upon which the program is to begin.

(b) Intern Eligibility. The Board shall approve participation by an intern who:

(i) Provides verifiable proof of concurrent participation and enrollment in an undergraduate or postgraduate preceptorship program offered by an accredited chiropractic college or university;

(ii) Provides evidence of passing a certificate of attainment on Parts I and II of the examination by the NBCE; and

(iii) Successfully completes and provides documentation of the coursework and certification required for practice of chiropractic specialties, if specialties are to be included in the training program.

(c) Ineligibility. The Board shall not approve participation for an intern or ~~preceptor~~supervising licensee who:

(i) Has been the subject of disciplinary sanction or convicted of a felony or misdemeanor involving moral turpitude;

(ii) Is currently under investigation for a licensing violation, or a felony, or misdemeanor involving moral turpitude;

(iii) Fails to demonstrate good character and reputation;

(iv) Fails to demonstrate the physical and mental ability to practice chiropractic skillfully and safely; or

(v) Has practiced chiropractic without a license; ~~or or through participation in an approved preceptor program.~~

(vi) Has already participated in a preceptorship program.

Section 3. Intern Application.

(a) Eligibility. An applicant may seek a permit to practice limitedly as an intern if the applicant meets the qualifications in Section 2(b).

(b) Application Requirements. Applicant shall submit:

(i) A completed application and payment of fees; and

(ii) A waiver of confidentiality executed by the intern and ~~preceptor~~supervising licensee.

(c) ~~Preceptor~~Supervising Licensee Application. ~~Preceptor~~Supervising licensee shall submit the ~~preceptor~~supervising licensee application and fees.

Section 4. Practice Limitations.

(a) Under the supervision of the ~~preceptor~~supervising licensee and commensurate with the intern's education, training, and experience, an intern may engage in the practice of ~~chiropractic health care~~, as defined in Wyoming Statute 33-10-101, except that an intern shall not perform any procedure defined as a chiropractic specialty requiring certification unless the intern and the ~~preceptor~~supervising licensee have met the eligibility requirements in Section ~~42~~ of this chapter for that specialty.

(b) "Direct supervision" means that a ~~preceptor~~supervising licensee provides guidance for the services to be provided with initial direction and periodic inspection of the service performance and is present on the premises while the services are being provided.

(c) At all times when patients may be present, the intern shall wear a badge showing the intern's name and the title "Intern" in capital letters equal in size to the name.

(d) Before an intern conducts an examination or renders care to a patient, the ~~preceptor~~supervising licensee shall secure from the patient a written consent to the examination or care. The written consent shall specify that the patient understands that an intern is not a licensed doctor, and that the ~~preceptor~~supervising licensee retains responsibility for quality of care. The ~~preceptor~~supervising licensee shall maintain the signed consent as a part of the patient's file.

Section 5. Regulation and Termination of the Preceptorship Program.

(a) The Board, on its own initiative or upon receipt of a complaint, may investigate conduct of an intern or preceptor-supervising licensee occurring within the program for compliance with this Chapter.

~~———— (b) ——— If after investigation, the Board determines that the conduct of the intern or preceptor-supervising licensee imperatively requires emergency action, the Board shall suspend approval of the program pending proceedings for termination or other action. The Board shall promptly notify the intern, the preceptor-supervising licensee, and the college or university of the suspension, the reasons for the suspension, and the conditions under which the suspension may be lifted, if any.~~

~~———— (c) ——— If after a hearing, the Board determines that the conduct of the preceptor-supervising licensee or the intern constitutes a violation of this Chapter or W.S. 33-10-110, the Board shall terminate the program and may sanction the preceptor-supervising licensee or deny licensure to the intern if the intern has applied for a license.~~

~~(b)(d)~~ If the Board receives written verification from a chiropractic college or university that the intern or preceptor-supervising licensee is no longer concurrently participating in the associated chiropractic college program, the Board shall terminate approval of the intern's permit-training program.

~~(c)(e)~~ An intern may participate in a preceptorship program until the intern's date of graduation from a chiropractic college or university.

CHAPTER 11

CHIROPRACTIC PRACTICE

Section 1. Statement of Purpose. The Board Rules are adopted to implement the Board's authority to clarify practice standards.

Section 2. Practice of Chiropractic.

(a) Telehealth Practice. Practice occurs where the patient resides or receives services, regardless of means.

(i) It is the expectation of the Board that licensees maintain the highest degree of professionalism and should:

- (A) Place the welfare of patients first;
- (B) Maintain acceptable and appropriate standards of practice;
- (C) Adhere to recognized ethical codes;
- (D) Properly supervise non-provider clinicians; and
- (E) Protect patient confidentiality.

(ii) A licensee should not render healthcare advice and/or care using telehealth technologies without:

(A) Fully verifying and authenticating the location and identity of the requesting patient;

(B) Disclosing and validating the provider's identity and applicable credential(s); and

(C) Obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telehealth technologies. An appropriate licensee-patient relationship has not been established when the identity and credentials, including license status, of the provider may be unknown to the patient.

(iii) Informed Consent. Evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained. Appropriate informed consent should, at a minimum, include the following terms:

(A) Identification of the patient, the provider and the provider's credentials;

_____ (B) Types of transmissions permitted using telehealth technologies (e.g. appointment scheduling, patient education, etc.);

_____ (C) The patient agrees that the licensee determines whether or not the condition being diagnosed and/or treated is appropriate for a telehealth encounter; and

_____ (D) Details on security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures, and adherence to all applicable Health Insurance Portability and Accountability Act standards.

(b) Licensees shall be responsible for the standard of care performed in his or her office, regardless of whether it is performed by him or her personally or by staff working under his or her supervision.

Section 3. Satellite Offices. Licensees using satellite offices shall ensure all offices maintain the appropriate standard of care.

Section 4. Patient Records.

(a) Basic Requirements.

(i) Each patient record shall, at a minimum, include legible documentation of the following:

_____ (A) The patient's identifying information and identity of the treating licensee and all health care providers;

_____ (B) The reason for the clinical encounter, including any subjective complaints and pertinent history;

_____ (C) The current objective findings and results of diagnostic studies;

_____ (D) The diagnosis and assessment of the patient's condition;

_____ (E) A management and care plan, including the recommendations, intended goals, prognosis, modifications to the plan, and the procedures provided;

_____ (F) Evidence that the patient was informed of any material risk relative to a proposed treatment/procedure and consented to receive this treatment/procedure.

_____ (G) Radiographs shall include the patient's first name, last name, date of birth, date of study, and location of study. It is preferable to embed this information in the radiograph.

(b) Records Retention.

(i) Licensees shall not withhold records or diagnostic studies if a patient owes an outstanding balance.

(ii) Patient records and diagnostic studies shall be:

(A) Maintained for a minimum of seven (7) years from the date of the last patient clinical encounter;

(B) Maintained in a physically secure and confidential manner; and

(C) Accessible to the patient and treating doctor within a reasonable period.

(c) Violation of any provision above shall be considered “unprofessional conduct” within the meaning of Chapter 7 and shall constitute grounds for disciplinary action by the Board.

Section 5. Advertising. Licensees shall not advertise in any manner that is deceptive to the public. Advertisements include, but are not limited to, the use of social media.

Section 6. Prepaid Care Plans.

(a) Any arrangement or agreement between a licensee and a patient for a course of future treatment for which funds in an amount of five hundred dollars (\$500.00) or more during any twelve (12) month period are collected in advance of these services shall be considered a prepaid care plan within the meaning of this section. Services under a prepaid care plan may cost less than if the services were purchased individually. The reduction in cost must bear a reasonable relationship to the expense avoided by the provider due to reduced accounting and debt collection activities. The prepaid care plan may provide for either an annual or monthly fee out of pocket. A licensee who offers such a plan is subject to the following requirements:

(i) Escrow account. A designated escrow account insured by the Federal Deposit Insurance Corporation, state bank, or credit union shall be established for deposit of all funds received in connection with the prepaid care plan. Such funds may not be commingled with a licensee’s personal or business account.

(A) All instruments, including checks and deposit slips, must bear the phrase “Escrow Account.”

(B) The licensee shall maintain a clear accounting of all funds received, including date and from whom the funds were received.

(C) The licensee shall maintain a clear accounting of all disbursements

including the dates and to whom the disbursements were made, and to which patient the disbursements are to be applied or accounted for.

(D) No more than one escrow account is required regardless of the number of prepaid plans maintained by the licensee.

(E) Funds may only be transferred out of the escrow account for the following reasons:

(I) After services, goods, or appliances have been provided to the patient, and only in the usual and customary amounts specifically related to the services, goods, or appliances provided;

(II) To reimburse the patient any amounts owed following a notice by either the patient or the licensee to terminate the prepaid plan. Any amounts must be transferred according to the written agreement; or

(F) The licensee shall cause a reconciliation of the escrow account to be made no less than quarterly, with a copy provided to the patient, and shall retain a copy of the reconciliations and all supporting documents for no less than seven (7) years.

(ii) Written plan. All prepaid care plans require a written plan, signed by both the licensee and the patient, with a copy maintained in the patient's record and a copy provided to the patient, and must include at least the following:

(A) A list of all services, goods, and appliances which are covered by the plan.

(B) A list of all fees related to the services described in the plan.

(C) A statement that an accounting can be requested by the patient at any time. This accounting must:

(I) Be provided to the patient within five (5) working days of a written or verbal request; and

(II) Itemize all fees used to calculate any reimbursement.

(D) An explanation of the reimbursement policies and formula that are used in returning unused funds to the patient in the event of early termination by either the chiropractor or the patient. The patient has the right to terminate the prepaid care plan at any time without financial penalty.

(E) An explanation of any policy modifying the plan in the event of an injury, such as an auto injury or work-related injury or in the event of extended absence or new illness. These explanations must be separately initialed by the patient.

_____ (F) A provision that the patient will be notified in writing when the patient's account reaches a zero balance.

_____ (G) A statement that indicates the licensee makes no claim or representation that a particular treatment, procedure, or service, or any combination of treatments, procedures, or services, is guaranteed to result in a particular clinical outcome.

_____ (H) A statement that the patient has the right to cancel the prepaid care plan without penalty within three (3) business days of entering into the plan by submitting a written and signed cancellation notice, and upon the licensee's receipt of the cancellation notice, the licensee shall have seven (7) working days to fully refund any unused funds to the patient. This right of cancellation may not be waived or otherwise surrendered.

_____ (iii) Early termination. The patient has the right to terminate the prepaid care plan at any time without financial penalty. The licensee may terminate the prepaid plan at any time, for good and sufficient cause, except the licensee must ensure that patient abandonment does not occur. In the event care is terminated, the patient's remaining funds shall be reimbursed to the patient in full.

_____ (iv) Prepaid care plans must be compliant with all applicable state and federal laws.

_____ (v) When providing care as a part of a prepaid plan a licensee shall provide competent, necessary care in a timely and professional manner. All care recommended and rendered must be clinically justified and appropriately documented.

_____ (vi) A prepaid care plan is not health insurance and does not meet the Affordable Care Act "individual mandate" requirements for health insurance coverage.

_____ (vii) The regulations in this section do not release a licensee from any contractual obligations that the licensee has with an insurer or other entity. A licensee who has contracted with an insurance carrier shall adhere to the terms of their provider contract in regard to the collection of copayments, co-insurances, and applied deductibles. A licensee may not bill a reimbursement entity or a patient for any amount exceeding what is earned and distributed to the licensee.

_____ (b) Failure to abide with the requirements of this section shall be considered "unprofessional conduct" within the meaning of Chapter 7 and shall constitute grounds for disciplinary action by the Board.