



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
ACTING DIRECTOR

**MICHIGAN BOARD OF CHIROPRACTIC
RULES COMMITTEE WORK GROUP
MEETING**

**MINUTES
OCTOBER 6, 2023**

The Michigan Board of Chiropractic, Rules Committee Work Group, met on October 6, 2023. The meeting was held via Zoom.

CALL TO ORDER

Joel Kirsch, D.C., Committee Chairperson, called the meeting to order at 2:30 p.m.

ATTENDANCE

Members Present: Joel Kirsch, D.C.
Cecil Forbes, D.C.
Patricia Odette, D.C.

Members Absent: None

Staff Present: Kimmy Catlin, Board Support, Board and Committees Section
Weston MacIntosh, JD, Departmental Specialist,
Board and Committees Section

Public Present: Lisa Love-Smith, Michigan Association of Chiropractors (MAC)
Martin Brown, Macomb County Chiropractic Association
Kristine Dowdell, MAC
Tim Gaughan, MAC
Kris Fetterman, Fetterman Events

RULES DISCUSSION - (A copy of the proposed revised rules is attached.)

MacIntosh explained the promulgation process and timeline.

MacIntosh presented the non-substantive changes.

R 338.12016 Telehealth.

MacIntosh stated this rule was statutorily required and already added to most of the other health professions.

The committee agreed to the addition of this rule.

R 338.12036 Relicensure requirements.

MacIntosh advised that clarifying language was added to subrule (1)(c). He reminded the committee that there was a difference in requirements depending on if a license has been lapsed for less than or more than three years. (Please see below for committee recommendations on this rule).

R 338.12041 Acceptable continuing education.

Odette recommended removing the 15-hour live-in person requirement in subrule (1)(b).

Discussion was held.

The committee agreed to remove the requirement.

Brown stated the removal of this requirement will be beneficial to the profession.

The committee returned to review of R 338.12036, based on the proposed removal of R 338.12041(1)(b).

R 338.12036 Relicensure requirements.

The committee reviewed the content and determined that the 15-hour live-in person requirement could be removed from subrules (1)(c)(ii) and (2)(d)(C).

The committee returned to review of R 338.12041.

R 338.12041 Acceptable continuing education.

Kirsch inquired the requirements of 2 hours of continuing education in physical measures and 2 hours of continuing education in performing and ordering tests could be removed.

Discussion was held.

The committee agreed to revisit the removal of these subrules, but to leave the requirements there for now.

Subrule (2)(a): Brown asked that other organizations be allowed to qualify for automatic approval.

The committee agreed to leave the rule as written, without the addition of any other pre-approved entities.

Subrule (3) MacIntosh stated that revisions to this subrule clarify that the implicit bias training will also count toward satisfaction of continuing education requirements.

Love-Smith inquired whether the department would be willing to issue a written statement now to the MAC, before promulgation of the above proposed revision, saying that the 2-hour implicit bias training currently counts towards continuing education requirements.

MacIntosh recommended reaching out to Office of Policy and Legislative Affairs (OPLA) to ask whether that office would be willing to issue the requested statement to the association.

PART 5. STANDARDS OF PRACTICE

MacIntosh stated that no changes were made to this section.

The committee agreed to take the draft with the proposed changes to the next regularly scheduled board meeting.

ADJOURNMENT

The meeting adjourned at 3:48 p.m.

Prepared by:
Kimmy Catlin, Board Support
Bureau of Professional Licensing

October 6, 2023

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CHIROPRACTIC - GENERAL RULES

Filed with the secretary of state on

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16148, 16401, 16412, 16423, and 16431 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16401, 333.16412, 333.16423, and 333.16431, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.12021, R 338.12031, R 338.12032, R 338.12034, R 338.12035, R 338.12036, R 338.12037, R 338.12041, and R 338.12042 of the Michigan Administrative Code are amended, and R 338.12016 is added, as follows:

PART 1. GENERAL PROVISIONS

R 338.12001 Definitions.

Rule 1. (1) As used in these rules:

(a) "Adjustment apparatus" means a tool or device used to apply a mechanical force to correct or reduce subluxations, misalignments, and joint dysfunctions.

(b) "Analytical instruments" means instruments used in the detection and diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals to restore and maintain health.

(c) "Board" means the Michigan board of chiropractic created in section 16421 of the code, MCL 333.16421.

(d) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(e) "Department" means the department of licensing and regulatory affairs.

(f) "Nationally recognized standards" means that which is taught in a chiropractic educational program or postgraduate educational program accredited by the Council on Chiropractic Education (CCE).

(g) "Physical measures" means procedures or techniques used to correct or reduce subluxations, misalignments, and joint dysfunctions.

(h) "Rehabilitative exercise program" means the coordination of a patient's exercise program; the performance, ordering and use of tests; the performance of measurements; instruction and consultation; supervision of personnel; and the use of exercise and rehabilitative procedures, with or without assistive devices, for the purpose of correcting or preventing subluxations, misalignments, and joint dysfunctions.

(i) "Test" means a procedure that is ordered or performed for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals to restore and maintain health.

(2) A term defined in the code has the same meaning when used in these rules.

R 338.12016 Telehealth.

Rule 16. (1) A licensee shall obtain consent from the patient for treatment before providing a telehealth service under section 16284 of the code, MCL 333.16284.

(2) A licensee shall keep proof of consent for telehealth treatment in the patient's up-to-date medical record and satisfy section 16213 of the code, MCL 333.16213.

(3) A licensee providing any telehealth service shall do both of the following:

(a) Act within the scope of the licensee's practice.

(b) Exercise the same standard of care applicable to a traditional, in-person health care service.

PART 2. EDUCATION

R 338.12021 Educational program standards; adoption by reference.

Rule 21. (1) The process and requirements for the CCE's accreditation of chiropractic educational programs as set forth in the publication titled "CCE Accreditation Standards: Principles, Processes & Requirements for Accreditation" July 2021, which are available from the council's website at <http://www.cce-usa.org> at no cost, are approved and adopted by reference. Copies are available for inspection and distribution at a cost of 10 cents per page from the Board of Chiropractic, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P. O. Box 30670, Lansing, Michigan 48909.

(2) ~~Any~~ A chiropractic educational program accredited by the CCE is considered approved.

PART 3. LICENSURE

R 338.12031 Training standards for identifying victims of human trafficking; requirements.

Rule 31. (1) Under section 16148 of the code, MCL 333.16148, an individual seeking licensure or who is licensed shall ~~complete~~ **have completed** training in identifying victims of human trafficking that satisfies the following standards:

- (a) Training content must cover all the following:
 - (i) Understanding the types and venues of human trafficking in the United States.
 - (ii) Identifying victims of human trafficking in healthcare settings.
 - (iii) Identifying the warning signs of human trafficking in healthcare settings for adults and minors.
 - (iv) Identifying resources for reporting the suspected victims of human trafficking.
 - (b) Acceptable providers or methods of training include any of the following:
 - (i) Training offered by a nationally-recognized or state-recognized health-related organization.
 - (ii) Training offered by, or in conjunction with, a state or federal agency.
 - (iii) Training obtained in an educational program that has been approved for initial licensure or registration, or by a college or university.
 - (iv) Reading an article related to the identification of victims of human trafficking that satisfies the requirements of subdivision (a) of this subrule and is published in a peer-reviewed journal, healthcare journal, or professional or scientific journal.
 - (c) Acceptable modalities of training may include any of the following:
 - (i) Teleconference or online seminar.
 - (ii) Online presentation.
 - (iii) Live presentation.
 - (iv) Printed or electronic media.
- (2) The department may select and audit an individual and request documentation of proof of completion of training. If audited by the department, the individual shall provide an acceptable proof of completion of training, including either of the following:
- (a) Proof of completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.
 - (b) A self-certification statement by the individual. The certification statement must include the individual's name and either of the following:
 - (i) For training completed under subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.
 - (ii) For training completed under subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer-reviewed journal, healthcare journal, or professional or scientific journal, and the date, volume, and issue of publication, as applicable.
- ~~(3) Under section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply for license renewals beginning with the 2016 renewal cycle and for initial licenses issued after March 17, 2021.~~

R 338.12032 Educational limited license; requirements.

Rule 32. An applicant for a nonrenewable educational limited license under section 16412 of the code, MCL 333.16412, shall satisfy the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

- (a) Provide the required fee and a completed application on a form provided by the department.

(b) Provide proof, as directed by the department, verifying the completion of 2 years of education in a college of arts and sciences.

(c) Provide proof, as directed by the department, verifying the completion of 1 of the following requirements:

(i) Two years of attendance in a program or institution of chiropractic that satisfies the educational requirements under R 338.12021.

(ii) Four semesters of attendance in a program or institution of chiropractic that satisfies the educational requirements under R 338.12021.

(iii) Six quarter terms of attendance in a program or institution of chiropractic that satisfies the educational requirements under R 338.12021.

(d) Provide proof, as directed by the department, verifying that a licensed chiropractor shall supervise the applicant.

R 338.12033 Examination; adoption and approval; passing score.

Rule 33. The national board examination in chiropractic conducted and scored by the National Board of Chiropractic Examiners (NBCE) is approved and adopted. The passing score recommended by the NBCE for the national board examination parts I, II, III, and IV is approved and adopted.

R 338.12034 Licensure by examination; requirements.

Rule 34. An applicant for a chiropractic license by examination shall satisfy the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

(a) Provide the required fee and a completed application on a form provided by the department.

(b) Provide proof, as directed by the department, verifying graduation from a program or institution of chiropractic that satisfies the educational requirements under R 338.12021.

(c) Provide proof, as directed by the department, verifying passing scores on parts I, II, III, and IV of the national board examination conducted and scored by the NBCE, under R 338.12033.

R 338.12035 Licensure by endorsement; requirements.

Rule 35. (1) An applicant for a chiropractic license by endorsement shall satisfy the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

(a) Provide the required fee and a completed application on a form provided by the department.

(b) Provide proof, as directed by the department, verifying a current and full chiropractic license in another state or in a province of Canada.

(c) If the applicant is licensed as a chiropractor in a province of Canada, provide proof, as directed by the department, verifying that the applicant completed the educational requirements in Canada or in the United States for licensure as a chiropractor in Canada or the United States.

(d) Provide proof, as directed by the department, verifying passing scores on either of the following examinations for a chiropractic license in another state or in a province of Canada to obtain licensure as a chiropractor in another state or in a province of Canada:

(i) Parts I, II, III, and IV of the national board examination conducted and scored by the NBCE, under R 338.12033.

(ii) Component A – Chiropractic Knowledge, Component B – Clinical Decision Making, and Component C – Clinical Skills Demonstration of the Canadian Chiropractic Examining Board’s (CCEB) examinations.

(2) An applicant ~~that~~ **who** provides proof, as directed by the department, verifying a current and full chiropractic license in good standing in another state or in a province of Canada for not less than the last 5 years before the date of filing the application for a chiropractic license by endorsement is presumed to satisfy the requirements of subrule (1)(c) and (d) of this rule.

(3) An applicant ~~that~~ **who** is or has been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.12036 Relicensure requirements.

Rule 36. (1) An applicant whose chiropractic license has lapsed may be relicensed within 3 years after the expiration date of the license under section 16201(3) of the code, MCL 333.16201, if the applicant satisfies the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

(a) Provides the required fee and a completed application on a form provided by the department.

(b) Establishes good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

(c) Provides proof, as directed by the department, verifying the completion of, in the 3-year period immediately preceding the application for relicensure, 45 hours of continuing education in programs approved under R 338.12041, that include ~~both the following requirements:~~ **the required continuing education hours listed in R 338.12041(1)(c) to (g).**

~~(i) The required continuing education hours listed in R 338.12041(1)(d) to (h).~~

~~(ii) Not more than 15 continuing education hours in distance learning programs.~~

(2) An applicant whose chiropractic license has lapsed may be relicensed more than 3 years after the expiration date of the license under section 16201(4) of the code, MCL 333.16201, if the applicant satisfies the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

(a) Provides the required fee and a completed application on a form provided by the department.

(b) Establishes good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

(c) Provides fingerprints as required under section 16174(3) of the code, MCL 333.16174.

(d) Provides proof, as directed by the department, verifying either of the following:

(i) The completion of, in the 3-year period immediately preceding the application for relicensure, 45 hours of continuing education in programs approved under R 338.12041 that include ~~all~~ **both** the following requirements:

(A) Twenty-four live and in-person continuing education hours on chiropractic adjusting techniques.

(B) The required continuing education hours listed in R 338.12041(1)(~~d~~) (c) to (~~h~~) **(g)**.

~~(C) Not more than 15 continuing education hours in distance learning programs.~~

(ii) The applicant holds or has held a valid and unrestricted license in another state or a province of Canada in the 3-year period immediately preceding the application for relicensure.

(3) An applicant ~~that~~ **who** is or has been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.12037 License renewal; continuing education.

Rule 37. (1) An applicant for renewal shall satisfy the requirements of the code and the rules promulgated under the code.

(2) An applicant for renewal shall complete 30 hours of continuing education in the 2-year period immediately preceding the renewal application that satisfy R 338.12041.

(3) Submission of an application for renewal constitutes the applicant's certification of compliance with the requirements of this rule. The licensee shall ~~keep~~ **maintain** documentation of satisfying the requirements of this rule for 4 years after the date of applying for license renewal. Failure to satisfy this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(4) ~~The department shall receive~~ **An applicant must submit** a request for a waiver of continuing education requirements **to the department** for the board's consideration not less than 30 days before the last regularly scheduled board meeting before the expiration date of the license.

PART 4. CONTINUING EDUCATION

R 338.12041 Acceptable continuing education.

Rule 41. (1) The 30 hours of continuing education required under R 338.12037 must satisfy all the following requirements:

(a) No more than 12 credit hours of continuing education may be earned during one 24-hour period.

~~(b) Not less than 15 hours of continuing education must be completed by attending a live, in-person program.~~

~~(c)~~ **(b)** Credit for a continuing education program or activity that is identical to or substantially identical to a program or activity for which the licensee has already earned credit during the license cycle must not be granted.

~~(d)~~ **(c)** Under section 16431(2) of the code, MCL 333.16431, at least 1 hour of continuing education must be in pain and symptom management. Continuing education in pain and symptom management includes, but is not limited to, courses in any of the following:

- (i) Chiropractic manipulative treatment.
- (ii) Manual therapies.
- (iii) Therapeutic exercises for pain management.
- (iv) Behavior management.
- (v) Psychology of pain.
- (vi) Pharmacology.
- (vii) Behavior modification.
- (viii) Stress management.
- (ix) Clinical applications.
- (x) Drug interventions as they related to the practice of chiropractic.

~~(e)~~ **(d)** At least 1 hour of continuing education must be in sexual boundaries.

~~(f)~~ **(e)** At least 1 hour of continuing education must be in ethics.

~~(g)~~ **(f)** Not less than 2 hours of continuing education must be in physical measures.

~~(h)~~ **(g)** Not less than 2 hours of continuing education must be in performing and ordering tests.

(2) In addition to those programs approved under R 338.12042, the following are considered acceptable continuing education:

(a) Attendance at or participation in a continuing education program or activity related to the practice of chiropractic, or any non-clinical subject relevant to the practice of chiropractic education, administration, management, or science, which includes, but is not limited to, live in-person programs, interactive or monitored teleconferences, audio-conferences, web-based programs, online programs, and review of journal articles or other self-study programs approved or offered by the Michigan Association of Chiropractors (MAC) according to the following:

(i) If audited, the licensee shall provide a copy of a letter or certificate of completion showing the licensee's name, number of continuing education hours earned, the provider's name or the name of the organization that approved the program or other activity, and the date the program or activity was completed.

(ii) The number of continuing education hours for a specific program or activity is the number of hours approved by the approving organization for the specific program or activity.

(iii) A maximum of 30 hours of continuing education may be earned for this category in each renewal period.

(b) Successful completion of a course or courses related to the practice of chiropractic, offered by a chiropractic school approved under R 338.12021, according to the following:

(i) If audited, the licensee shall provide a copy of a letter or certificate of completion showing the licensee's name, the number of continuing education hours earned, the school's name, and the date the course or courses was completed.

(ii) The number of continuing education hours for a specific course or courses is the number of hours approved by the school for the specific course or courses.

(iii) A maximum of 30 hours of continuing education may be earned for courses completed in this category in each renewal period.

(c) Initial presentation by the licensee of a continuing education program related to the practice of chiropractic to a state, regional, national, or international organization. To receive credit, the presentation must not be a part of the licensee's regular job description and must be approved or offered for continuing education credit by the American Chiropractic Association (ACA), the International Chiropractors Association (ICA), or an approved program under this rule or R 338.12042. Continuing education under this subdivision is subject to the following:

(i) If audited, the licensee shall provide a copy of the presentation notice, advertisement, or letter from the approved program under this rule or R 338.12042, showing the date of the presentation and the licensee's name listed as a presenter.

(ii) Two hours of continuing education credit are granted for each 50 to 60 minutes of presentation. No other credit is granted for preparation of a presentation.

(iii) A maximum of 10 hours of continuing education may be earned in this category in each renewal period.

~~(3) Continuing education programs approved before the effective date of this amended rule are considered approved.~~ **Completion of implicit bias training under R 338.7004 during the 2 years immediately preceding the application for renewal may be used toward satisfaction of the requirements of R 338.12037(2) and subrule (1) of this rule.**

(4) Continuing education programs approved before the effective date of this amended rule are considered approved.

R 338.12042 Approval of continuing education programs.

Rule 42. (1) A continuing education program provider that is not pre-approved under R 338.12041(2) shall petition the board for approval of a continuing education program.

(2) The continuing education program provider shall complete an application provided by the department, file the application and supporting documentation with the department for review not less than 120 days before the program date, and satisfy the requirements of subrule (3) of this rule.

(3) The application and supporting documentation must include all the following information:

(a) A description of the sponsoring organization.

(b) Name, title, and address of the program director.

(c) An outline of the course.

(d) A resumé for all speakers or presenters, or both.

(e) A description of the delivery method.

(f) The dates and location or locations that the course will be delivered.

(g) A description of how attendance is monitored, sample documents, and identification of the individual monitoring attendance.

(h) A sample certificate or other document that will be issued after completion and a description of how the participant will be notified.

(i) If appropriate, a request for recognition in a specific topic area required by R 338.12041(1)(~~d~~) (c) to (~~h~~) (g).

(4) Continuing education programs approved before the effective date of this amended rule are considered approved.

PART 5. STANDARDS OF PRACTICE

R 338.12051 Performance of invasive procedure; requirements.

Rule 51. Under sections 16401(2)(d) and 16423 of the code, MCL 333.16401(2)(d) and MCL 333.16423, a chiropractor may perform an invasive procedure if both of the following requirements are satisfied:

(a) The invasive procedure is limited to an examination of the ears, nose, and throat.

(b) The purpose of the examination is to detect and diagnose human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health.

R 338.12052 Tests; performance or ordering; requirements.

Rule 52. Under section 16423 of the code, MCL 333.16423, the performance, ordering, or use of tests must satisfy all the following requirements:

(a) The performance and ordering of tests must be for the practice of chiropractic as defined in section 16401(1)(e) of the code, MCL 333.16401.

(b) The performance, ordering, or use of tests must be for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals to restore and maintain health. The performance and ordering of tests may be included as, but not limited to, a part of a rehabilitative exercise program.

(c) The performance and ordering of tests must be substantially equivalent to nationally recognized standards.

R 338.12053 Analytical instruments; criteria for approval.

Rule 53. Under section 16423 of the code, MCL 333.16423, analytical instruments must satisfy all the following requirements:

(a) The instruments must be used for the practice of chiropractic as defined in section 16401(1)(e) of the code, MCL 333.16401.

(b) The instruments must be used for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals to restore and

maintain health. The use of the instrument may be included as, but not limited to, a part of a rehabilitative exercise program.

(c) The use of the instrument must be substantially equivalent to nationally recognized standards.

R 338.12054 Adjustment apparatus; criteria for approval.

Rule 54. Under section 16423 of the code, MCL 333.16423, an adjustment apparatus must satisfy all the following requirements:

(a) The apparatus must be used for the practice of chiropractic as defined in section 16401(1)(e) of the code, MCL 333.16401.

(b) The apparatus must be used for the purpose of correcting or reducing subluxations, misalignments, and joint dysfunctions. The use of the apparatus may be included as, but is not limited to, a part of a rehabilitative exercise program.

(c) The use of the apparatus must be substantially equivalent to nationally recognized standards.