

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 188
HOUSE BILL 829

AN ACT TO AMEND THE VARIOUS GROUNDS FOR DISCIPLINE OF
PRACTITIONERS OF CHIROPRACTIC BY THE STATE BOARD OF
CHIROPRACTIC EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-154(b) reads as rewritten:

"(b) ~~The~~ Any one of the following ~~are~~ is grounds for disciplinary action by the Board under subsection (a):

- (1) Advertising services in a false or misleading ~~manner;~~ manner.
- (2) Conviction of a felony or of a crime involving moral ~~turpitude;~~ turpitude.
- (3) Addiction to or severe dependency upon alcohol or any other ~~drugs~~ which endangers the public by impairing a chiropractor's ability to practice safely; drug that impairs the ability to practice safely.
- (4) Unethical conduct ~~in the practice of the profession~~ as defined in G.S. 90-154.2.
- (5) ~~Negligence or incompetence in the practice of chiropractic;~~ Negligence, incompetence, or malpractice in the practice of chiropractic.
- (6) ~~Committing an act or acts constituting malpractice in the practice of chiropractic;~~
- (7) Not rendering acceptable care in the practice of the profession as defined in G.S. 90-154.3.
- (8) ~~Engaging in a course of lewd~~ Lewd or immoral conduct ~~in connection with the delivery of chiropractic services to a patient;~~ toward a patient.
- (9) ~~Committing a fraudulent act or acts or engaging in fraudulent conduct in connection with the delivery of or charging for chiropractic services;~~ Committing or attempting to commit fraud, deception, or misrepresentation.
- (10) ~~Offering to accept or accepting payment for services rendered by assignment from any third party payor after offering to accept or accepting whatever the third party payor covers as payment in full, if the effect of the offering or acceptance is to eliminate or give the impression of eliminating the need of payment by an insured of any required deductions applicable in the insured's policy;~~ Offering to

- waive a patient's obligation to pay any deductible or copayment required by the patient's insurer.
- (11) Submitting to any third payor a claim for a service or treatment without also providing upon request a copy of the claim to the insured; Failing to honor promptly a patient's request for a copy of any claim form submitted to the patient's insurer.
 - (12) Reducing or offering to reduce, rebating or offering to rebate, discounting or offering to discount to an insured any payment, by the insured's third party payor to the licensee, for services or treatments rendered under the insured's policy; Rebating or offering to rebate to a patient any portion of the funds received from the patient's insurer, unless the sum rebated constitutes the refund of an overpayment to which the patient is lawfully entitled.
 - (13) Advertising any reduced or discounted fees for services or treatments or advertising any free services or treatments without prominently stating in the advertisement the licensee's usual fee for the service or treatment which is the subject of the discount, rebate, or free offering; Advertising any free or reduced rate service without prominently stating in the advertisement the usual fee for that service.
 - (14) Submitting to any third party payor a claim for a service or treatment at a greater or an inflated fee or charge than the usual fee the licensee charges for that service or treatment when the service or treatment is rendered without third party reimbursement; Charging an insurer or other third-party payor a fee greater than a patient would be charged for the same service if the patient were paying directly.
 - (15) Advertising a fee or charge for a service or treatment which is different from the fee or charge the licensee submits to third party payors for that service or treatment; Charging an insurer or other third-party payor a fee greater than the advertised fee for the same service.
 - (16) Violating the provisions of G.S. 90-154.1.
 - (17) Physical, mental, or emotional infirmity of such severity as to impair the ability to practice safely.
 - (18) Violating the provisions of G.S. 90-151 regarding the extent and limitation of license.
 - (19) Concealing information from the Board or failing to respond truthfully and completely to an inquiry from the Board concerning any matter affecting licensure.
 - (20) Failing to comply with a decision of the Board that is final."

Sec. 2. G.S. 90-154.1 reads as rewritten:

"§ 90-154.1. Collection of certain fees prohibited.

(a) Any patient or any other person responsible for payment has the right to refuse to pay, cancel payment, or be reimbursed for payment for any service, examination, or treatment other than the advertised reduced rate service, examination or treatment which is performed as a result of and within 72 hours of responding to any

advertisement for a free or reduced rate service, free or reduced rate examination, or free or reduced rate treatment. Any further treatment shall be agreed upon in writing and signed by both parties.

~~(b) In any written advertisement for a free or reduced rate service, free or reduced rate examination, or free or reduced rate treatment by a chiropractor, the language of subsection (a) shall appear in capital letters clearly distinguishable from the rest of the text and any further treatment shall be agreed upon in writing and signed by both parties.~~

Any chiropractic advertisement that offers a free or reduced rate service, examination or treatment shall contain the following notice to prospective patients: 'If you decide to purchase additional treatment, you have the legal right to change your mind within three days and receive a refund.' If the advertisement is published in print, the foregoing notice shall appear in capital letters clearly distinguishable from the rest of the text. If the advertisement is broadcast on radio or television, the foregoing notice shall be recited at the end of the advertisement.

~~(c) In any broadcast advertisement for a free or reduced rate service, free or reduced rate examination, or free or reduced rate treatment by a chiropractor, the following shall be read at the end of the advertisement: "By law, any person who responds to this advertisement for a free or reduced rate service, examination or treatment and is billed for any service, examination, or treatment other than the advertised reduced rate service during the responding visit may refuse to pay, cancel payment, or be reimbursed for any payment made for the billed service, examination, or treatment.~~

(d) Any bill sent to a patient or any other person responsible for payment as a result of the patient responding to a chiropractic advertisement shall clearly contain the language of the first sentence of subsection (a) and have distinguished such on its face the charge for the reduced rate services, including an itemization of free services, and the separate charge for any services, examinations or treatments other than the advertised free or reduced rate services, examinations, or treatments. The reduced rate charges shall be labeled 'Free or Reduced Rate Charges' and any other charges shall be labeled 'Non-advertised Services, Examinations, or Treatments'."

Sec. 3. G.S. 90-154.3 reads as rewritten:

"§ 90-154.3. Acceptable practice-care in the practice of chiropractic.

~~Acceptable care in the practice of chiropractic shall include:~~

~~(1) The usual and customary methods as taught in recognized chiropractic colleges for:~~

(a) It shall be unlawful for a doctor of chiropractic to examine, treat, or render any professional service to a patient that does not conform to the standards of acceptable care.

(b) For purposes of disciplinary action, the Board of Chiropractic Examiners may adopt rules that establish and define standards of acceptable care with respect to:

a.(1) Examination and diagnosis;

b.(2) The use of chiropractic adjustive procedures;

c.(3) Physiological therapeutic agents;

- ~~d.~~(4) Diagnostic radiology; and
- e.~~(5)~~ The maintenance of patient records—records; and sufficient to substantiate the patient's progress in the reestablishment and promotion of health in a hygienic manner.
- (2) ~~The maintenance of the office, premeises and equipment in a clean, sanitary, safe, and adequate condition.~~
- (6) Sanitation, safety, and the adequacy of clinical equipment.

~~Any and all care rendered which is not in accordance with the foregoing is unacceptable care.~~

(c) If the Board has not defined a standard of acceptable care by rule, then the standard of acceptable care shall be the usual and customary method as taught in the majority of recognized chiropractic colleges.

(d) Nothing in this section shall be deemed to alter the lawful scope of practice of chiropractic as defined in G.S. 90-143. 90-143 or the limitation of license as defined in G.S. 90-151."

Sec. 4. This act becomes effective October 1, 1995.

In the General Assembly read three times and ratified this the 6th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives