

**312.150 Charges against licensee -- Grounds -- Disciplinary proceedings -- Opportunity for hearing required -- Penalty for sexual contact with patient.**

- (1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:
  - (a) That fraud, misrepresentation, concealment of material facts, or deceit was used in obtaining or retaining the license;
  - (b) That the licensee no longer possesses a good moral character;
  - (c) That the licensee has been convicted of a felony or violation of any law involving moral turpitude;
  - (d) That the licensee solicits or advises patients utilizing false, deceptive, or misleading statements or information;
  - (e) That the licensee is impaired by drugs or alcohol to the extent that it may affect the health, welfare, or safety of patients;
  - (f) That the licensee is in any way guilty of any deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic;
  - (g) That the licensee has:
    1. Violated:
      - a. Any of the provisions of this chapter, or any of the administrative regulations of the board; or
      - b. KRS 304.39-215; or
    2. Engaged in conduct that is subject to the penalties under KRS 304.99-060(4) or (5);
  - (h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175;
  - (i) That the licensee failed to provide a complete copy of the patient's medical records or an itemized statement to the patient upon request, pursuant to KRS 422.317, within ten (10) business days; or
  - (j) That the chiropractor failed to provide notice of a change in address or change in the name and address of the facility where the chiropractor practices as required by KRS 312.145(4).
- (2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare, or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:
  - (a) Gross ignorance of, or incompetence in, the practice of chiropractic;
  - (b) Performing unnecessary services;
  - (c) Charging a patient an unconscionable fee or charging for services not rendered;
  - (d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a

course of treatment;

- (e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal Medicaid and Medicare laws;
  - (f) Advertising that the licensee shall accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service or treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given;
  - (g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge; or
  - (h) Conviction of a misdemeanor offense under KRS Chapter 510 involving a patient while the patient was under the care of the chiropractor, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or the chiropractor having been found by the board to have had sexual contact as defined in KRS 510.010 with a patient while the patient was under the care of the chiropractor.
- (3) Upon receipt and due consideration of any charges, the board upon an affirmative vote shall determine whether the nature and quality of the charges are such that further investigation or initiation of disciplinary proceedings against the charged licensee is indicated. If disciplinary proceedings are not warranted, the charges shall be dismissed with or without prejudice. If the board determines that disciplinary proceedings are appropriate, the case may be resolved informally by agreed order or set for hearing to be conducted in accordance with KRS Chapter 13B.
  - (4) Except for revocation for nonrenewal, no license shall be revoked or suspended without an opportunity for a hearing. The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its informal investigation.
  - (5) If the board substantiates that sexual contact occurred between the chiropractor and a patient while the patient was under the care of or in a professional relationship with the chiropractor, the chiropractor's license may be revoked or suspended with mandatory treatment of the chiropractor as prescribed by the board. The board may

require the chiropractor to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

**Effective:** June 27, 2019

**History:** Amended 2019 Ky. Acts ch. 143, sec. 10, effective June 27, 2019. -- Amended 2006 Ky. Acts ch. 182, sec. 59, effective July 12, 2006. -- Amended 2003 Ky. Acts ch. 126, sec. 8, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 318, sec. 258, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 265, sec. 18, effective July 15, 1994; and ch. 470, sec. 19, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 252, sec. 8, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 426, sec. 10, effective July 15, 1988. -- Amended 1976 Ky. Acts ch. 359, sec. 15, effective June 19, 1976. -- Created 1962 Ky. Acts ch. 179, sec. 14(3) and (4), effective June 14, 1962.

**Legislative Research Commission Note** (7/15/94). This statute was amended by 1994 Ky. Acts chs. 265 and 470, which were companion bills and are substantively identical. These Acts have been codified together. For the few minor variations between the Acts, Acts ch. 470 prevails under KRS 446.250, as the Act which passed the General Assembly last.