

970308



Minnesota Board of Chiropractic Examiners

COST OF PREPARING THIS REPORT

According to the Laws of 1994, Chapter 559, Section 1 (adding a new statutory section, *Minnesota Statute 3.197*), costs incurred in the preparation of this report must be reported. The Minnesota Board of Chiropractic Examiners (MBCE) estimates the cost of preparing this report to be \$348.

GENERAL STATEMENT OF BOARD ACTIVITIES

The Minnesota Board of Chiropractic Examiners (MBCE) exists to protect the public's interest through the regulation of chiropractic. Regulation is accomplished through licensure of chiropractors and investigations of complaints against them.

The MBCE administers a licensure examination twice yearly. Prior to being allowed to take the licensure examination, applicants must fulfill requirements put forth in statute and rule. All portions of the examination must be passed by a minimum score of 75% in order for an applicant to be licensed.

The MBCE monitors licensed chiropractors' practice ability by the requirement of continuing professional education for license renewal. Doctors of chiropractic must obtain this education from sponsors approved by the MBCE.

The MBCE investigates consumer complaints. The MBCE currently has three complaint panels comprised of the executive director and two board members each. These panels share the responsibility of reviewing, and when warranted, investigating all written complaints received. If a panel determines that action against a license should be taken, the panel makes that recommendation to the full board.

The MBCE promulgates rules. *Minnesota Statutes 148.08* empowers the MBCE with the authority to "promulgate rules necessary to administer sections 148.01 to 148.105 to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms . . ." The MBCE follows rulemaking procedures as established by the Office of the Attorney General and the Office of Administrative Hearings.

The MBCE registers licensed chiropractors who have formed a professional corporation, perform independent examinations, and/or perform acupuncture.

The MBCE conducts a graduate preceptorship program. This program allows an intern to practice chiropractic under the direct supervision of a licensed chiropractic physician for one twelve-month period. The program was designed to allow graduates of chiropractic colleges to continue practicing while waiting to take and receive results from the licensing examination.

A seven-member Peer Review Committee appointed by the executive director exists to review cases for determination of whether or not the chiropractor properly utilized services, the chiropractor rendered or ordered appropriate treatment, and the cost of the treatment was unconscionable.

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TIME SPENT BY BOARD MEMBERS ON BOARD ACTIVITIES

Activity/Meeting	Fiscal Year	Number of Occurrences	FY95 Hours	FY96 Hours
Board Meetings	95	6	150.50	
	96	8		151.50
Rules Committee	95	8	27.50	
	96	9		31.25
Complaint Panels	95	39	279.50	
	96	33		244.50
Executive Committee	95	10	49.00	
	96	9		25.00
Test Development Committee	95	4	16.00	
	96	7		34.00
License Exam Administration	95	2	72.00	
	96	2		78.00
Out-of-State Conferences	95	2	31.00	
	96	4		70.00
All Meetings		143	625.50	634.25

TIME SPENT BY PEER REVIEW COMMITTEE (PRC) MEMBERS ON PRC ACTIVITIES

Activity/Meeting	Fiscal Year	Number of Occurrences	Total Hours
Peer Review Committee	95	10	176.00
	96	9	179.00

RECEIPTS AND DISBURSEMENTS OF BOARD FUNDS

Fiscal Year	Receipts	Expenditures	Variance
95	473,278	496,588	(23,310)
96	483,985	479,999	3,986

BOARD MEMBERS

*COLVAF, D.C., JOHN 4256 Boulder Ridge Point Eagan, MN 55122	Occupation: Doctor of Chiropractic Appointed: March 14, 1994
*IBURA, D.C., AKIBA M. 4801 Minnetonka Boulevard St. Louis Park, MN 55416	Occupation: Doctor of Chiropractic Appointed: January 13, 1992 Reappointed: January, 1996
JOHNSON, D.C., KERRY L. 14465 South Robert Trail Rosemount, MN 55068	Occupation: Doctor of Chiropractic Appointed: January 13, 1992
*KASSEKERT, ROSEMARY 952 West Idaho Avenue St. Paul, MN 55117	Occupation: Attorney Appointed: February 24, 1993
*McCOLLAR, D.C., MAURICE 3607 White Bear Avenue White Bear Lake, MN 55110	Occupation: Doctor of Chiropractic Appointed: March 15, 1993
*OTTO, D.C., LEROY F. 127 S High Street Lake City MN 55041	Occupation: Doctor of Chiropractic Appointed: January 1995
PARKS, D.C., HOBART R. 211 West Bridge Street Owatonna, MN 55060	Occupation: Doctor of Chiropractic Appointed: June 28, 1991
*PENNEBAKER, D.C., GARY 8140 Flying Cloud Drive #201 Eden Prairie MN 55344	Occupation: Doctor of Chiropractic Appointed: January 1996
*SEABERG, JOANNE 2117 Vienna Lane Eagan MN 55122	Occupation: Consultant Appointed: January 1995
ZINSCHLAG, SANDY JO 3 Eldorado Drive Dellwood, MN 55110	Occupation: Registered Nurse Appointed: June 28, 1991

* = current board member

PEER REVIEW COMMITTEE MEMBERS

*BUFFIE, D.C., PERRY 7949 B Highway 55 - Box 207 Rockford MN 55373	Occupation: Doctor of Chiropractic Appointed: March 1996
CLARKE, D.C., SUSAN 846 Laurel Avenue St. Paul, MN 55104	Occupation: Doctor of Chiropractic Appointed: March 1, 1994
*DALE, CANDACE L. 5120 IDS Center 80 S 8th Street Minneapolis MN 55402	Occupation: Attorney Appointed: December 1996
*DAVIS, D.C., RANDALL 4415 Excelsior Boulevard St Louis Park MN 55416	Occupation: Doctor of Chiropractic Appointed: October 1994 Reappointed: November 1994
*HENDERSON, D.C., ROSS 9255 15th Street North Lake Elmo, MN 55042	Occupation: Doctor of Chiropractic Appointed: June 1, 1994 Reappointed: May 1996
MOE, D.C., WARREN L. 1013 April Place Burnsville, MN 55337	Occupation: Doctor of Chiropractic Appointed: May 12, 1992 Reappointed: December 1 1992 Reappointed: December 14, 1993
*OLSON, D.C., DAVID CLIFFORD 3570 Lexington Ave n #208 Shoreview MN 55126	Occupation: Doctor of Chiropractic Appointed: April 1996
ROBBINS, D.C., LORI 6814 Hemlock Lane Maple Grove, MN 55369	Occupation: Doctor of Chiropractic Appointed: April 13, 1993 Reappointed: July 1, 1994
RUTHERFORD, D.C., MARY E. 555 Fort Road (W 7th) St. Paul, MN 55102	Occupation: Doctor of Chiropractic Appointed: October 13, 1992 Reappointed: October 1, 1993
*SHEPHERD, D.C., ROBERT 1932 Hennepin Ave S Minneapolis MN 55403	Occupation: Doctor of Chiropractic Appointed: December 1995
*SIEBERER, MARJEAN 3600 W 80th St Suite 400 Bloomington MN 55431	Occupation: Claims Reviewer Appointed: August 1994 Reappointed: August 1995
SUESS, DIANE 4074 West 134th Street Savage, MN 55378	Occupation: Insurance Claims Reviewer Appointed: September 8, 1992 Reappointed: August 1, 1993
WULFF, DAVID 1380 Energy Lane, Suite 200 St. Paul, MN 55108	Occupation: Attorney Appointed: January 11, 1994

* = current Peer Review Committee member

BOARD EMPLOYEES

CAMPBELL, LORI A.	Administrative Secretary Executive 1	041690 to 080394 080494 to present
KING, MICHELLE T.	Health Program Representative	070290 to present
LANOUX, DEBRA J.	Clerk Typist 2 Clerk Typist 2 Clerk Typist 3	080889 to 061593 120193 to 080394 080494 to present
SPICER, LARRY A.	Executive Director	010693 to present
WATSON, PATRICIA	Clerk Typist 1	080194 to present

RULES SUMMARY

Advertising - In order to prevent doctors of chiropractors from misleading the public by "playing down" their credentials in advertisements, a rule was proposed requiring all advertisements to contain the word "chiropractor" or "chiropractic".

Examination deadline and retaking examination - Current rules would be amended to more clearly identify the examination deadline and procedures for retaking the examination in the event of a failing score.

Fees - The name of an existing fee was amended from "independent medical examination annual renewal fee" to "independent examination annual renewal fee".

Reports to Board - Attendance reports from continuing education sponsors must be submitted to the board within 21 days, as opposed to a previously required 14 days.

Inactive Retired License - Conditions under which an inactive retired license would not be granted were added to the already existing language. Previously the conditions were listed by reference to another rule, all of which did not pertain to the inactive retired license status.

Voluntarily Retired License - New language establishing in rule an already recognized license status was developed. Doctors of chiropractic have always been allowed to voluntarily retire their licenses without the status established in rule. A difficulty arose when one of those doctors of chiropractic wanted to reinstate their license. No provisions were available. The board found itself "reinventing the wheel" each time a request for reinstatement is made. The lack of requirements set in rule allows for inconsistency in decision-making.

Preceptorship Training Program - An existing program allowing graduates of chiropractic colleges to practice under a licensed chiropractor was extended from 9 to 12 months.

State Register, Monday 31 January 1994, page 1773, (proposed)

State Register, Monday 3 October 1994, page 734, (adopted)

Professional Designations - Doctors of chiropractic would be required to identify themselves as doctors of chiropractic, chiropractors, D.C.s, or by any other title or letters that leads the public to believe that the person who uses the title or letters is engaged in the practice of chiropractic.

State Register, Monday 11 July 1994, page 109, (proposed)

State Register, Monday 24 April 1995, page 2137, (adopted)

Definitions - Definitions of "diagnosis", "intern", "license", "practice of chiropractic", and "private practice" were moved in order that the definitions apply to all chiropractic licensure rules, rather than just the section dealing with the graduate preceptorship program. A definition for the term "good standing" was added in order to assure that a license is not taken out of good standing unless disciplinary action is taken against that license.

Board Certification Advertising - Doctors of chiropractic advertising that they are "board certified" must identify within the body of the advertisement the certifying body. The board has run into many problems where members of the public think the chiropractor has been certified in a particular area by the Minnesota Board of Chiropractic Examiners (MBCE), when the MBCE was not the certifying body.

Continuing Education Program Approval - The MBCE requires that continuing education sponsors have programs preapproved. This rule allows the MBCE 45 days to review the programs prior to its presentation. This requirement had previously been in rule and inadvertently repealed.

State Register, Monday 10 April 1995, page 2066, (proposed)

State Register, Monday 27 November 1995, page 1245 (adopted)

Professional Standards for Advertising - The existing language seemed to prohibit the utilization of "trade" or "proprietary" names. Use of such trade names should not be prohibited, assuming that other components requiring specific identification of the licensee are met. Additionally there was some rhetoric in the rule that appeared to be more a statement of philosophical position rather than legal requirements.

Individual Annual License Renewal - A change was made to existing language requiring license renewals be "postmarked by" a certain date, rather than "submitted by" a certain date.

License Termination Process - When the original rule was put into place, the word "terminate" was used inappropriately. A change from "terminate" to "expire" was made in this rule for purposes of accurately describing a license status.

Continuing Education - **1.** A change to the title of a continuing education requirement was made from "sexual abuse recognition" to "professional boundaries and reporting parameters for abuse" to more accurately reflect the content of the education. Additionally, how often this requirement is met (every four years) was adjusted for one cycle (five years) in order to align it with the regular biennial continuing education cycle. **2.** A rule allowing full-time faculty of a chiropractic college to receive continuing education credit toward renewal for the time acquiring, assimilating and disseminating information in the educational setting.

Programs Developed - A change to existing language allowing providers of continuing education seminars to obtain credit for the development of the program. The change provided for a limit to how many continuing education hours can be obtained by this means.

License Reinstatement - A housekeeping change was made from "Executive Secretary" to "Executive Director" in order for the rule to be consistent with the enabling statute.

Waiver or Deferment of Continuing Education Requirements - Requiring that all requests made to waive or defer continuing education renewal requirements be done prior to the expiration of a license. Additionally, the length of a potential deferment period was extended.

Recordkeeping - This rule was originally established as a foundation and premise for standards by which good quality records could be measured. However, the MBCE found that third party payers were using it to find simple recourse to refuse payment. Therefore, the MBCE made changes that will allow the rule to be used to determine that a provider is in substantial compliance, yet preventing third party payers from using the rule frivolously to deny payments.

State Register, 29 January 1996, page 2052, (proposed)

State Register, 12 August 1996, page 196, (adopted)

NUMBER OF PERSONS HAVING A LICENSE AS OF JUNE 30, 1996

Licenses:	Active	1615
	Inactive	206
	Inactive Retired	<u>1</u>
	TOTAL LICENSES:	1822
Registrations:	Acupuncture	342
	Corporation	246
	Independent Examiner	0*
	Preceptor	34

LOCATIONS AND DATES OF LICENSE EXAMINATION ADMINISTRATIONS

All MBCE licensing examinations were administered at Northwestern College of Chiropractic in Bloomington, MN. License examinations were administered on the following dates:

January 13 and 14, 1995
 June 9 and 10, 1995
 January 12 and 13, 1996
 June 7 and 8, 1996

*This number bears some explanation since it may be misleading. As a result of a suit filed by a group of Independent Examiners (IE's) against the MBCE, a district court judge issued a temporary injunction, barring the renewal of registrations for this particular group of licensees. Just prior to the drafting of this document, the appeals court overturned the injunction effectively allowing for the renewal of these registrations. It is therefore anticipated that this category should reflect approximately 130 registrations when the process is complete.

LICENSE EXAMINATION STATISTICS

JANUARY 13 AND 14, 1995

Gender - Pass/Fail	Age: 18-25	26-34	35-59	60+	State of Residence
Female - Pass	6	7	1	0	MN-11, CANADA-1, ND-1, AZ-1
Female - Fail	2	6	0	0	MN-6, IA-1, IN-1
Male - Pass	13	13	4	0	MN-21, MI-1, ND-4, CA-2, NORWAY-1, CANADA-1
Male - Fail	6	7	6	0	MN-13, TX-1, WI-1, AR-1, CA-2, KS-1

JUNE 9 AND 10, 1995

Gender - Pass/Fail	Age: 18-25	26-34	35-59	60+	State of Residence
Female - Pass	6	11	4	0	MN-19, IN-1, WI-1
Female - Fail	3	3	1	0	MN-4, ND-1, IA-1, AK-1
Male - Pass	6	17	7	0	MN-27, IN-1, KS-1, WI-1, TX-1, CANADA-1
Male - Fail	0	9	2	0	MN-8, ND-1, WI-1, MT-1

JANUARY 12 AND 13, 1996

Gender - Pass/Fail	Age: 18-25	26-34	35-59	60+	State of Residence
Female - Pass	5	7	3	0	MN-12, AK-1, IA-1, WI-1
Female - Fail	4	2	2	0	MN-7, TX-1
Male - Pass	13	15	1	0	MN-23, MT-1, WI-1, ND-2, CA-1, SD-1
Male - Fail	7	10	4	0	MN-16, N3-1, FL-2, CA-1, TN-1

JUNE 7 AND 8, 1996

Gender - Pass/Fail	Age: 18-25	26-34	35-59	60+	State of Residence
Female - Pass	10	13	8	0	MN-28, VA-1, ME-1, TX-1
Female - Fail	0	3	1	0	MN-2, IA-1, CA-1
Male - Pass	31	26	5	0	MN-51, MO-1, IA-2, ND-1, WI-3, NE-1, CA-1, FL-1, SWITZERLAND-1
Male - Fail	3	10	4	0	MN-11, WI-1, TN-1, WA-1, IL-1, IA-1, FL-1

No persons were licensed by any means other than successful completion of the licensing examination. No persons were denied licensure following the successful completion of the licensing examination.

DISCIPLINARY ACTIONS TAKEN

There were fourteen (14) disciplinary actions taken in fiscal year 95. Those actions were:

- 6 - probation for unlicensed practice
- 2 - probation for poor recordkeeping
- 1 - reprimand for aiding unlicensed practice
- 1 - probation for aiding unlicensed practice
- 1 - probation for sexual misconduct
- 2 - stipulation for sexual misconduct in another state
- 1 - revocation for fraudulent billing

There were eight (8) disciplinary actions taken in fiscal year 96. Those actions were:

- 1 - probation for sexual misconduct
- 1 - probation of alcohol abuse/intemperance
- 1 - probation for drug abuse/criminal convictions
- 1 - suspension for quality of care and over-utilization
- 1 - revocation for tax delinquency
- 1 - reprimand for unlicensed practice
- 1 - probation after reinstatement from suspension for billing practices
- 1 - suspension for drug abuse/violation of probation

On August 1, 1993, new legislation went into effect which made public corrective action agreements entered into by a regulatory board and a licensee. Corrective actions are NOT considered disciplinary actions.

There were seven (7) corrective actions taken in fiscal year 95. Those actions were:

- 2 - unprofessional conduct
- 1 - competency/negligence regarding x-ray procedures
- 1 - recordkeeping and failure to supply records
- 1 - scope of practice
- 1 - competency
- 1 - billing irregularities

There were ten (10) corrective actions taken in fiscal year 96. Those actions were:

- 2 - fraudulent billing practices
- 1 - advertising which was false or misleading
- 1 - advertising free services
- 1 - competency/negligence
- 1 - quality of care and excessive x-rays
- 2 - unprofessional conduct of a sexual nature
- 1 - poor recordkeeping and records mishandled

COMPLAINTS

The number of complaints received in fiscal year 95 was 147. The number of complaints received in fiscal year 96 was 158. Most complaints contain more than one allegation or allegations which overlap.

Category	Sub-category	FY95	FY96
Action taken in another state		3	1
Acupuncture	not registered	0	3
	technique	1	0
Advertising	false, misleading or claims cure	5	7
	free services	8	15
	dual fee schedule	0	1
	no "DC" or no name	6	9
	phone solicitation or from MVA report	2	1
	not chiropractic or not a chiropractor	7	16
	scare tactics	1	1
	better than others	1	1
	other	2	1
Application/examination	history of criminal convictions or DWI	3	7
	action taken in another state	1	0
Billing	dispute	17	18
	fraudulent	15	15
	excessive fees	5	7
	threatening	4	5
	high pressure tactics	3	2
	fee splitting	1	0
Breach of patient confidentiality		0	1
Corporation not registered		1	0
Drug/alcohol	alcohol abuse/dependence	1	1
	drug abuse/dependence	0	1
	violation of drug/alcohol probation	0	2
Independent examinations	IE competency	5	0
	IE report false or inaccurate	5	4
	IE unprofessional	5	2
	IE denial of benefits	3	1
Malpractice reports		1	2
Mental health		0	2
Non-compliance with the MBCE		4	2
Quality of care	competency/negligence	25	14
	unsafe x-ray technique	3	4
	excessive use of x-ray	1	0
	non-standard treatment	0	6
	unsanitary	0	1
Records	false or altered	9	8
	poor recordkeeping	17	19
	mishandled; lost	0	4
	failure to release	8	5
Scope of practice		5	4
Unlicensed	DC aiding unlicensed practice	3	1
	denied tax clearance or unrenewed	2	4
	new graduate not yet licensed	2	0
	chiropractic treatment by physical therapist	0	2
	chiropractic treatment by naturopath or other non-DC	3	1
	after surrender or revocation	0	3
Unprofessional	scare tactics, high pressure	4	1
	over-utilization	15	6
	sexual misconduct	8	9
	unethical or other	10	9