



## Ohio Revised Code

### Section 4734.39 Ability to practice impaired.

Effective: August 22, 2007

Legislation: Senate Bill 33 - 127th General Assembly

---

(A) For purposes of the state chiropractic board's enforcement of division (C)(16) or (17) of section 4734.31 of the Revised Code, an individual who applies for or receives a license to practice chiropractic or certificate to practice acupuncture under this chapter accepts the privilege of practicing chiropractic and, if applicable, acupuncture in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board in its enforcement of those divisions, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(B) If the board has reason to believe that a chiropractor or applicant suffers an impairment described in division (C)(16) or (17) of section 4734.31 of the Revised Code, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this section shall be undertaken by a provider who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. A default and final order may be entered without the taking of testimony or presentation of evidence.

If the board determines that an individual's ability to practice is impaired, the board shall suspend the individual's license to practice chiropractic and, if applicable, certificate to practice acupuncture or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, restored, or renewed certification to practice, to submit to care, counseling, or treatment.

(C) Before being eligible to apply for reinstatement of a license or certificate suspended under division (C)(16) of section 4734.31 of the Revised Code or the chemical dependency provisions of



division (C)(17) of section 4731.34 of the Revised Code, the impaired individual shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care in the practice of chiropractic and, if applicable, acupuncture under this chapter. If rules have been adopted under section 4734.40 of the Revised Code, the demonstration shall include, but shall not be limited to, the following:

- (1) Certification from a treatment provider approved under section 4734.40 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (2) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a license and, if applicable, certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired individual resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.