TO: The Honorable the Members of the Board of Regents

FROM: Douglas E. Lentivech

SUBJECT: Proposed Amendment to Sections 52.14 and 73.1 of the Regulations of the Commissioner of Education Relating to the Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor

DATE: January 30, 2020

AUTHORIZATION(S):

SUMMARY

Issue for Discussion (Consent Agenda)

Should the Board of Regents amend Section 52.14 of the Regulations of the Commissioner of Education relating to the requirements for chiropractic education programs and amend Section 73.1 of the Regulations of the Commissioner of Education relating to the education requirements for licensure as a chiropractor?

Reason(s) for Consideration

Review of policy.

Proposed Handling

The proposed amendment will be presented to the Full Board for adoption as a permanent rule at the February 2020 meeting of the Board of Regents. A copy of the proposed rule is included as Attachment A. Supporting materials are available upon request from the Secretary to the Board of Regents.

Procedural History

At the October 2018 Regents meeting, an update on the practice of chiropractic was presented to the Professional Practice Committee for discussion. Subsequently, the proposed amendment was presented to the Professional Practice Committee for discussion at the October 2019 Regents meeting. A Notice of Proposed Rule Making

was published in the State Register on October 23, 2019 for a 60-day public comment period. Joint public comments were received from two commenters. An Assessment of Public Comment is attached (see, Attachment C). However, no change in the proposed rule is recommended at this time.

Background Information

Education Law §6554 authorizes the Department to establish educational requirements for the profession of chiropractic. The Council on Chiropractic Education (CCE) is the only agency approved by the United States Department of Education to accredit Doctor of Chiropractic Programs (DCP). Effective January 2014, the (CCE) changed its requirements for student admissions to a DCP. These changes included raising the number of hours of undergraduate study to at least 90 hours (3 years) with a G.P.A. of not less than 3.0 on a 4.0 scale. Currently, New York State requires 60 hours (2 years) of undergraduate study. The 90 hours adopted by the CCE include a minimum of 24 semester hours in life and physical science courses, at least half of which are required to have a laboratory component. The CCE's preprofessional preparation requirements also includes a well–rounded general education program in the humanities and social sciences deemed relevant by the CCE for successful completion of the DCP curriculum. The CCE's revised requirements also provide some flexibility in the prerequisite coursework, which enables DCPs to admit students, who may have an applicable foundation for a Doctor of Chiropractic degree, but may be lacking in New York State's prescribed science courses. With the exception of New York State, all other states follow the CCE preprofessional education requirements.

Sections 52.14 and 73.1(a) of the Regulations of the Commissioner of Education, which date back to 1963, state that the preprofessional education requirements for a person seeking chiropractic licensure in New York must specifically include courses in "general chemistry, organic chemistry, biology or zoology and physics". There are concerns that these nationally unique preprofessional education requirements may be creating a barrier to licensure for otherwise well qualified chiropractic licensure candidates, who received their education outside of this State, because they may be unable to meet these requirements. In recent years, New York State has seen a decrease in the number of chiropractic licensure applications, which may be due to, at least, in part, candidates applying for licensure in states with education requirements that better match their preprofessional studies. Thus, there is concern that continuing to mandate these unique preprofessional requirements may further contribute to this decline in licensure applications, which could decrease New Yorkers' access to chiropractic services.

Additionally, pursuant to Education Law §65513(3) and section 73.4 of the Regulations of the Commissioner of Education, Doctors of Chiropractic licensed in New York State may order for diagnostic purposes those clinical laboratory services which are contained within the required coursework of all registered doctoral programs in chiropractic in this State and the study of which the licensee has successfully completed in a course of study satisfactory to the Department. Attachment B is a list of the clinical laboratory tests that Doctors of Chiropractic are permitted to order, these tests include blood tests; urine tests; microbiology tests; and stool analysis.

The proposed amendments to sections 52.14 and 73.1(a) of the Commissioner's regulations are designed to address the above-referenced situation by conforming them to the national preprofessional education standards by requiring the completion of not less than 60 semester hours of preprofessional postsecondary education, with a minimum of 24 semester hours in life and physical science, which may include, but not be limited to, courses in general biology, human anatomy, physiology, general chemistry, biochemistry, physics, biomechanics and kinesiology, and, of these 24 semester hours, half shall include a laboratory component. However, it is important to note that it is not anticipated that the proposed amendment to the preprofessional education requirements would result in any changes to the list of the clinical laboratory tests that Doctors of Chiropractic are permitted to order (see, Attachment B).

Background Information

Not applicable.

Related Regents Items

October 2018: Update on the Profession of Chiropractic
(http://www.regents.nysed.gov/common/regents/files/1018ppcd2.pdf)

October 2019: Proposed Amendment to Sections 52.14 and 73.1 of the Regulations of the Commissioner of Education Relating to the Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor
(https://www.regents.nysed.gov/common/regents/files/1019ppcd1.pdf)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That Section 52.14 and subdivision (a) of Section 73.1 of the Regulations of the Commissioner of Education be amended, as submitted, effective February 26, 2020.

Timetable for Implementation

If adopted at the February 2020 Regents meeting, the proposed amendment will become effective on February 26, 2020.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6551, and 6554 of the Education Law

1. Section 52.14 of the Regulations of the Commissioner of Education is amended, as follows:

Section 52.14. Chiropractic.

Admission requirements to a college of chiropractic shall include the following preprofessional education: 60 semester hours of college study, [including courses in general chemistry, organic chemistry, biology or zoology and physics.] with a minimum of 24 semester hours in life and physical science, which may include, but not be limited to, courses in general biology, human anatomy, physiology, general chemistry, biochemistry, physics, biomechanics and kinesiology, and, of these 24 semester hours, at least half of such hours shall include a laboratory component.

2. Subdivision (a) of section 73.1 of the Regulations of the Commissioner of Education is amended, as follows:

(a) To meet the professional education requirement, the applicant shall present evidence of the completion of not less than 60 semester hours of preprofessional postsecondary education, [including courses in general chemistry, organic chemistry, biology or zoology, and physics,] with a minimum of 24 semester hours in life and physical science, which may include, but not be limited to, courses in general biology, human anatomy, physiology, general chemistry, biochemistry, physics, biomechanics and kinesiology, and, of these 24 semester hours, at least half of such hours shall include a laboratory component, and a program of chiropractic education consisting of either:

(1) . . .

(2) . . .

Attachment B

Clinical Laboratory Tests Approved for Chiropractic

The following tests may be ordered by Doctors of Chiropractic licensed in New York State to be performed by clinical laboratories certified by the New York Health Department:

Blood Tests

A

- Acetylcholine receptor antibody
- Acid phosphatase
- Acid phosphatase, prostatic (RIA)
- ACTH (RIA)
- Activated partial thromboplastin test (aPTT)
- Adrenocortical function profile (17-OH corticosteroid, 17-ketosteroid)
- Alanine transferase: ALT (SGPT)
- Alcohol
- Aldolase (ALD)
- Aldosterone
- Alkaline phosphatase
- Alkaline phosphatase, isoenzymes
- Albumin
- Allergen testing:
    - PRIST (paper-radioimmunosorbent)-total IgE antibodies
    - RAST (radioallergosorbent) - allergen-specific IgE antibodies
- d-Amino levulinic acid
- Ammonia
- Amylase
- Angiotensin-1 converting enzyme
- Antidiuretic hormone: ADH (vasopressin)
- Alpha 1-antitrypsin
- Arthritis profile: ANA, ASO, CRP, RA latex, uric acid
- Aspartate transaminase: AST (SGOT), AST/ALT ratio
- Australian antigen (HBsAG)
- Autoantibodies:
    - anti-DNA
    - anti-ENA
    - anti-glomerular basement membrane
    - anti-IF
    - anti-Mit
    - anti-Myocardial

- anti-nuclear
- anti-parietal cell
- anti-reticulin
- anti-SM
- anti-striational

B

- Bile acids
- Bilirubin: total, direct and indirect
- Bleeding time tests
- Blood groups: ABO, Rh, MN
- Bone marrow aspiration (interpretation)

C

- Calcitonin (RIA)
- Calcium: total, ionized
- Carbon dioxide: total (SMAC)
- Carboxyhemoglobin
- Carcinoembryonic antigen (CEA)
- Cardiac risk profile (cholesterol, TG, HDL, LDL, VLDL, LDL/HDL ratio, cholesterol/HDL ratio)
- B-Carotene
- CBC with and w/o differential
- Cephalin flocculation test
- Ceruloplasmin
- Chloride
- Cholesterol: total esters
- Cholinesterase, plasma
- Coagulation factors: qualitative
- Cold agglutinins
- Complement: total; C3 C4 quantitative
- Coomb's: direct, indirect
- Copper
- Cortisol (RIA) Cortisol: pre and post suppression
- Coumadin (Warfarin)
- C-peptide C-reactive protein (CRP)
- Creatine
- Creatine phosphokinase (CPK): total, isoenzymes
- Creatinine
- Cryoglobulin
- Culture, blood

D

- Dehydroepiandrosterone (DHEA)
- Dehydroepiandrosterone-sulfate (DHEA-sulfate)
- Drug screen, qualitative

E

- EBV-antibody
- Erythropoietin
- Estrogen, total and fractionation (RIA)

F

- Fatty acids
- Ferritin, serum
- Alpha fetoprotein, maternal
- Alpha fetoprotein, tumor marker
- Fibrin degradation products
- Fibrinogen
- Folate, RBC (RIA), serum (RIA)
- Follicle stimulating hormone (FSH)

G

- Gastrin
- Globulin count
- Glucagon (RIA)
- Glucose 6-phosphate dehydrogenase (G6PD), RBC
- Glucose, fasting (SMAC)
- Glucose tolerance: 1/2 hr, 1 hr, 1-1/2 hr, 2 hr, 3 hr, 4 hr, 5 hr, 6 hr
- Glucose tolerance PP (2hr)
- Glucose tolerance after cortisone
- Glutamate dehydrogenase
- Gamma glutamy1-transpeptidase (GGTP)
- Glycosylated hemoglobin (Hgb A1c)
- Glycoprotein, electrophoresis
- Growth hormone (GH): fasting

H

- Haptoglobin
- HDL-cholesterol, HDL/LDL ratio
- Hematocrit
- Hemoglobin
- Hemoglobin electrophoresis, qualitative
- Hepatitis A antibody (anti-HAV)
- Hepatitis A antibody: total IgM
- Hepatitis B antigens: HBsAG, HBeAG
- Hepatitis B antigen with confirmation
- Hepatitis B antibodies: anti-HBc, anti-HBs, anti-Hbe
- Hepatitis C antibody
- Heterophil agglutination (Paul Bunnell, Monospot)
- Histamine
- HLA-B27
- Homocystiene
- HTLV-III (HIV) antibody
- Human chorionic gonadotropin (HCG): pregnancy test
- 5' Hydroxytryptamine (serotonin)

I

- Immunoelectrophoresis
- Indices (RBC): MCV, MCH, MCHC
- Insulin
- Insulin antibodies
- Iodine: PBI
- Iron
- Iron binding capacity (TIBC)

K

- 17-Ketosteroids, total

L

- Lactate dehydrogenase, total and isoenzymes
- Lactic acid
- Lactose tolerance, 2 hr
- Latex fixation, RA factor
- Lead
- LE cell preparation
- Leucine aminopeptidase
- Leukocyte alkaline phosphatase
- Lipase
- Lipids: total, fractionation
- Lipoprotein electrophoresis and phenotype
- Lutenizing hormone (LH)
- Lyme's Profile/Serology
- Lymphocytes: T and B cells quantitative, T4/T8 ratio

M

- Alpha 2 - macroglobulin
- Magnesium
- Mercury
- Methemoglobin
- Mucopolysaccharide inclusion bodies (PMN)
- Myoblobin

N

- 5' - nucleotidase

O

- Osmolality, serum
- Osmotic fragility test (RBC)

P

- Parathyroid hormone (PTH)
- PTH-N terminal
- Pepsinogen

- pH (arterial)
- Phosphorus
- Platelet count
- Potassium
- Progesterone
- Prolactin
- Protein: total, A/G ratio, electrophoresis
- Prothrombin time
- Pyruvate kinase (RBC)

R

- RBC count
- RBC inclusion bodies
- RBC morphology
- RBC survival (51Cr)
- Renin activity (RIA)
- Reticulocyte count

S

- Scleroderma antibody
- Sedimentation rate (RBC): Wintrobe
- Serum methylamalonic acid
- Sickle cell preparation
- Sickle cell screen
- Siderocyte stain (RBC)
- Sodium
- Streptozyme titer (ASO titer)

T

- T3 (RIA)
- Reverse - T3
- T3 - uptake
- T4 (RIA)
- T7 (free thyroxine index)
- Testosterone
- Thrombin clot time (TCT)
- Thyrobinding globulin (TBG)
- Thyroglobulin antibody (anti-thyroid)
- Thyroid microsomal antibody (anti-microsoma)
-

Thyroid stimulating hormone (TSH)

- Alpha tocopherol (serum)
- Transferrin
- Triglycerides, fasting

U

- Urea nitrogen (BUN)
- Uric acid

V

- Vasoactive intestinal peptide (VIP)
- Vasopressin (ADH)
- VDRL
- Vitamin A
- Vitamin B1
- Vitamin B6
- Vitamin B12 binding capacity
- Vitamin C
- Vitamin D: (25-OH cholcalciferol, 1, 25-di-OH cholcalciferol)

W

- WBC count with differential

Z

- Zinc

Urine Tests

A

- Amino acid screen
- d-Amino levulinic acid
- Amylase
- Amylase/creatinine clearance ratio

B

- Bile

C

- Calcium
- Caliculi examination
- Catecholamines, 24 hr: total, fractional
- Chloride, 24 hr
- Copper
- Coproporphyrin, quantitative
- 17-OH corticoids
- Creatine
- Creatinine
- Creatinine clearance
- Culture, colony count and sensitivity
- Cystine, 24 hr

D

- Drug screen, qualitative

E

- Estrogens, total

G

- Glucose tolerance: fasting, 1/2 hr, 1 hr, 2 hr, 3 hr

H

- HCG (pregnancy test)
- Hemoglobin
- Hemosiderin
- Hydroxyproline

I

- 5' OH-indole acetic acid (5'HIAA)
- Insulin clearance

K

- 17-Ketogenic steroid
- 17-Ketosteroids, alpha and beta ratio
- Ketones, qualitative

L

- Leukocyte esterase
- Lysozyme

M

- Metanephrines, 24 hr: total
- Microscopic examination: RBC, WBC, epithelial cells, casts, bacteria, occult blood
- Myoglobin
- Mucopolysaccharides

N

- Nitrite

O

- Osmolality
- Oxalates

P

- pH
- Phenol
- Phosphates
- PKU screen
- Porphyrins
- Protein: albumin, BJ, electrophoresis, immunoelectrophoresis

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S

- Specific gravity

T

- Testosterone

- Toxic ions: arsenic, lead, mercury

U

- Urea
- Urea clearance
- Uric acid
- Urine protein, 24 hr: qualitative
- Urobilinogen

V

- Vanillylmandelic acid (VMA)
- Vitamin excretion: B1, B2, niacinVolume, 24 hr

X

- d-Xylose excretion

Microbiology Tests

A

- Acid fast culture
- Acid fast stain
- Adenovirus group titer

B

- Blood parasite examination: microfilaria, hemoflagellates and plasmodium (smear)

C

- Candida: precipitin and culture
- Chlamydia culture
- Chlamydial group titer
- Coliform tests
- Coxsackie virus
- Cytomegalovirus (CMV), IgM
- Cytomegalovirus (CMU), titer

E

- Echinococcus antibody
- ELISA test for HIV antibodies
- Enterameba histolytica antibody
- Enterovirus antibody

F

- Flourescent treponemal antibody (FTA/ABS)
- Fungi examination: wet mount and culture

G

- Gonococcal culture (w/gram stain)

H

- Herpes culture
- Herpes simplex titer (I and II)
- Herpes Varicella Zoster antibody (U-Z antibody)

L

- Legionaires disease antibody
- Lyme disease serology

M

- Mumps antibody titer
- Mycoplasma antibody
- Mycoplasma: culture (respiratory)

R

- Rubella antibody: Ig6, IgM
- Rubeola antibody titer

S

- Staphylococcal culture: blood agar, mannitol salt, coagulase
- Streptococcal culture-blood-hemolytic activity
- Streptococcal culture: screen (Group A, Group B)
- anti-Streptolysin O titer (ASO titer)

T

- TB skin tests: PPD (Mantoux)
- Toxoplasmosis antibody
- Toxoplasmosis IgM-specific antibody

W

- Well-Felix tests: Rickettsia

Stool Analysis

- Amebiasis
- Fecal fat
- Fiber content
- Giardiasis
- Microscopic: ova and parasites
- Occult blood
- pH
- Porphyrins: total, fractional
- Scotch tape examination for pin worms
- Starch, qualitative
- Trypsin
- Undigested material

Attachment C

8 NYCRR §§52.14 and 73.1

ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Proposed Rule Making in the State Register on October 23, 2019, the State Education Department received the following comment.

1. COMMENT:

Two commenters submitted joint public comment asserting, inter alia, that the proposed rule would liberalize the licensing requirement mandating certain life sciences courses, such as general chemistry, organic chemistry, biology or zoology, and physics, instead of expanding the number of life sciences credit required from 12-16 to 24 while opening the door to any courses in life and physical science. The commenters further state that the proposed rule keeps the total number of required preprofessional credit hours at 60. The commenters maintain that the effect of the proposed rule would be to expand the eligible course options for future chiropractors and would qualify potential recent chiropractic program graduates, who might not otherwise qualify for licensure now, because they have not taken the mandatory courses.

The commenters note that the Department's stated reason to amend the regulation is to address a decrease in the number of chiropractic licensure applications by conforming the State's standards to the national CCE preprofessional education requirements. According to the commenters, these national standards do not mandate

for specific classes as New York does, thus the logic goes that through conforming, the State can increase the numbers of aspiring practitioners eligible for a chiropractic license. The commenters support the proposed change and state that they understand that it will help a segment of recent chiropractic graduates, who, for whatever reason, had not taken the pre-licensure mandate of the prescribed life science courses prior to graduating from an accredited college and passing their national boards.

However, the commenters maintain that they feel that there are more significant reasons for a decline in the number of New York chiropractor licensure applications, such as a poor practice environment, including legislative challenges, restrictive insurance policies and insufficient coverage, combined with high living expenses; and barriers to students having meaningful externships/preceptorships because they are limited to New York students.

The commenters feel that this propose regulation may increase the number of students enrolling in New York chiropractic colleges and increasing the number of students may be a good thing for the business of the colleges. But, the commenters contend, that these students might not remain in New York to practice after graduation. The commenters state that they are pleased that the Department is looking at the decrease in licensed chiropractors in New York and hope that the Department will examine and support other efforts to expand the number of licensed chiropractors in this State.

The commenters assert that they also support separate efforts to increase the credit hour requirement for licensure, including legislative efforts to modernize the scope of practice, which they state would increase the statutory educational requirement to three years or 90 credit hours. The commenters maintain that this increase in credit

hours must be a part of any conversation to update chiropractic educational standards, or to truly conform with national CCE standards.

The commenters also state that stakeholder input is extremely important in refining a product that works for everyone.

DEPARTMENT RESPONSE:

While the Department appreciates the supportive comments as it works to both protect the public and provide greater access to chiropractic services to New Yorkers, it disagrees with the commenters' position that the proposed rule opens " . . . the door to any courses in life and physical science." The proposed rule conforms New York's preprofessional education standards to the national preprofessional education standards by requiring the completion of not less than 60 semester hours of preprofessional postsecondary education, with a minimum of 24 semester hours in life and physical science, which may include, but not be limited to, courses in general biology, human anatomy, physiology, general chemistry, biochemistry, physics, biomechanics and kinesiology, and, of these 24 semester hours, half must include a laboratory component.

The intent of the proposed rule is not to merely help a segment of recent chiropractic college graduates, who have not taken the currently required preprofessional education courses. The intent of the proposed rule is to address the decrease in both chiropractor licensure applications and registered chiropractors in this State. The current preprofessional education courses requirements put New York's two chiropractic colleges at a competitive disadvantage in recruiting students, when

compared to all the other chiropractic programs in the United States. One of New York's chiropractic colleges has provided the Department with data showing an overall declined in its number of graduates in the last five years. Similarly, the Department's data shows an overall decline in the total number of both chiropractor licensure applications and registered chiropractors. These declines appear to be attributable, at least, in part, to the specificity of the current preprofessional education courses requirements.

With respect to the commenters' contentions that there are more significant reasons for a decline in the number of New York chiropractor licensure applications, these issues are beyond the scope of this proposed rule. Thus, no response is required regarding them.

With respect to the commenters' support of increasing the credit hour requirement for licensure, such a change would require a statutory amendment.

Based on the foregoing, no changes to the proposed rule are necessary.