

STORAGE NAME: h1561.hcr
DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE STANDARDS & REGULATORY REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1561
RELATING TO: Chiropractic/Regulation
SPONSOR(S): Representative Futch
STATUTE(S) AFFECTED: Amends ss. 460.403, 460.406, and 460.413, F.S.
COMPANION BILL(S): SB 1012(i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS & REGULATORY REFORM
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

The bill revises the definition of the “practice of chiropractic” to conform to the recently adopted chiropractic billing codes developed by the American Medical Association and adopted by the Health Care Administration and Medicare. The “practice of chiropractic” is revised to provide that only a person who is a licensed chiropractic physician may render chiropractic services, chiropractic adjustments, or chiropractic manipulations. It is further modified to provide, in effect, that such adjustments, manipulations, or treatments are limited to those rendered by chiropractic physicians using specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education (CCE).

Practicing techniques not taught in CCE accredited colleges may expose chiropractors to charges of practicing beyond the scope of their license. Further, the prohibition against rendering chiropractic services, adjustments, or manipulations by anyone other than a licensed chiropractor may subject any persons who perform these activities to criminal sanctions as established in s. 460.411(1)(a), F.S.

The bill eliminates the requirement for taking additional course work or successful passage of certification examinations for performance of phlebotomy, physiotherapy, or administration of non-prescription drugs. Separate certification is only required for the use of acupuncture.

In addition, the bill distinguishes between “direct and indirect supervision” for supervising certified chiropractic physician assistants and registered chiropractic assistants. It authorizes certified chiropractic physician assistants to perform chiropractic services under the “indirect supervision”, and registered chiropractic assistants may only perform certain services under the “direct supervision” of a licensed chiropractic physician.

Provisions relating to licensure by examination and grounds for discipline are changed relating to the elimination of separate certification requirements for the performance of phlebotomy, physiotherapy, and the administration of non-prescription drugs.

STORAGE NAME: h1561.hcr

DATE: April 16, 1997

PAGE 2

The bill will have minimal fiscal impact on the state and no fiscal impact on local government and the private sector in general.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chiropractors along with the various other medical professions are regulated by the Agency for Health Care Administration (agency) located within the Department of Business and Professional Regulation. However, effective 7/1/97, chiropractors, along with all of the medical professions will be transferred to, and regulated by, the Department of Health, Division of Medical Quality Assurance.

Chapter 460, F.S., provides for the regulation of the practice of chiropractic medicine by the Board of Chiropractic Medicine. The chapter provides definitions and defines the practice of chiropractic to mean a noncombative principle and practice consisting of the science of the adjustment, manipulation, and treatment of the human body. Chiropractic physicians are authorized to adjust, manipulate, or treat the human body by manual, mechanical, electrical, or natural methods. They may use physical means or physiotherapy, including light, heat, water, or exercise; by the use of acupuncture; or by the administration of foods, food concentrates, food extracts, and proprietary drugs (over-the-counter) and may apply first aid and hygiene.

Chiropractic physicians are expressly prohibited from prescribing or administering to any person any legend drug (prescription drug), and from performing any surgery, or practicing obstetrics. However, chiropractors were authorized in 1996 to prescribe and keep on hand medical oxygen for medical emergencies and certain topical anesthetics in aerosol form to assist in chiropractic treatment.

Section 460.406, F.S., provides specific requirements for licensure as a chiropractor. According to the Board of Chiropractic's current policy, any person desiring to be licensed in Florida must be a graduate of a chiropractic college which is accredited by or has standing with the Council on Chiropractic Education or its predecessor agency. The present statutory definition of chiropractic employs the term "science" in describing the practice, but does not use the term "art". The current definition does not state that the specific techniques used by chiropractors must be taught by chiropractic colleges accredited by the Council on Chiropractic Education. The definition does not state that a person must be a licensed chiropractor in order to perform chiropractic adjustments or manipulations or to render chiropractic services; however, s. 460.411(1)(a), F.S., makes it a third degree felony to practice chiropractic without an active license.

Presently, any chiropractor who was licensed after October 1, 1986, must be certified by the Board in order to perform acupuncture, phlebotomy, physiotherapy, and to administer proprietary drugs. The Board has prescribed by rule the approved training in these areas and administers an examination in each these four areas that must be passed in order to obtain certification. Any approved training course and certification examination may be taken after a chiropractor obtains a license to practice, or eligible applicants may take the certification examination at the same time they sit for the basic licensure examination.

Certified chiropractic physician's assistants are now certified by the Board to perform certain services in a chiropractor's office under supervision. The term "supervision" is currently defined in s. 460.403(8), F.S. There is no distinction made between direct and indirect supervision. A chiropractic physician practicing alone is limited to no more than two certified assistants (460.4165(5)(b), F.S.). Registered chiropractic assistants must practice under the supervision of a chiropractor, as presently defined in s. 460.403(8), F.S.

B. EFFECT OF PROPOSED CHANGES:

The bill revises the definition of the "practice of chiropractic" to conform to the recently adopted chiropractic billing codes developed by the American Medical Association and adopted by the Health Care Administration, Medicare, and effective January 1, 1997, by Florida Medicaid and Worker's Compensation. The "practice of chiropractic" is revised to provide that only a person who is a licensed chiropractic physician may render chiropractic services, chiropractic adjustments, or chiropractic manipulations. It is further modified to provide, in effect, that such adjustments, manipulations, or treatments are limited to those rendered by chiropractic physicians using specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education (CCE).

According to the Department of Health, specifying that the practice of chiropractic must be limited to specific chiropractic adjustments or manipulations techniques taught in chiropractic colleges, accredited by the CCE, may have the consequence of requiring licensed chiropractors to receive all further education in techniques from these colleges if they wish to employ new or modified techniques in their practices. Practicing techniques not taught in CCE accredited colleges may expose chiropractors to charges of practicing beyond the scope of their license. For instance, if a technique were taught at a continuing education seminar sponsored by a person, an unaccredited institution, or any other organization, and that technique was not also taught at a CCE accredited college, it may be questionable whether the technique would fall under the revised definition of the "practice of chiropractic".

Further, the prohibition against rendering chiropractic services, adjustments, or manipulations by anyone other than a licensed chiropractor may subject any persons who perform these activities to criminal sanctions as established in s. 460.411(1)(a), F.S.

The bill modifies the items which may be administered to patients by chiropractic physicians in their practice after they meet specified certification requirements to include only the use of acupuncture. The bill authorizes chiropractic physicians to use procedures involving the use of phlebotomy, physiotherapy, and the administration of items that may be obtained without a prescription (proprietary drugs) to adjust, manipulate, or treat the human body without taking any additional course work or successful passage of any certification examinations.

In addition, the bill distinguishes between "direct and indirect supervision" for purposes of supervising the duties and acts performed by certified chiropractic physician assistants and registered chiropractic assistants by a chiropractic physician. It authorizes a certified chiropractic physician assistant to perform chiropractic services

under the "indirect supervision" of a chiropractic physician or group of physicians certified by the board to supervise the assistant. Further, it authorizes an approved physician to indirectly supervise more than one certified chiropractic physician assistant. It defines "indirect supervision" to mean responsible supervision and control, with the licensed chiropractic physician assuming legal liability for the services rendered by a certified chiropractic physician assistant. It requires the easy availability or physical presence of the licensed chiropractic physician for consultation and direction in the event of an emergency.

A registered chiropractic assistant may only perform chiropractic services under the "direct supervision" of a licensed chiropractic physician. It defines "direct supervision" to mean responsible supervision and control by a licensed chiropractic physician who assumes legal liability for the services rendered by the registered chiropractic assistant. Except in an emergency, it requires the licensed physician must be physically present for consultation and direction of the actions of the registered chiropractic assistant.

The board is authorized to adopt administrative rules to define what constitutes responsible "indirect and direct supervision" as it applies to the two different type assistants.

Provisions relating to licensure by examination and grounds for discipline are changed to conform to the changes in the bill. These changes relate to the elimination of separate certification requirements for the performance of phlebotomy, physiotherapy, and the administration of non-prescription drugs.

The definition of the "practice of chiropractic" is also changed to designate its practice as an "art" as well as a science.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. The board is authorized the develop rules relating to "direct and indirect supervision" as it relates to certified chiropractic physician assistants and registered chiropractic assistants.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not Applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not Applicable.

(3) how is the new agency accountable to the people governed?

Not Applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

Yes. It is a minimal amount. The bill eliminates a \$100 application fee, a \$75 examination fee, and a \$100 initial licensure fee for certain certifications that are eliminated. The total revenue reduction is \$44,750, with a total cost reduction of \$40,762.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not Applicable.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not Applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not Applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not Applicable.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not Applicable.

- (2) Who makes the decisions?

Not Applicable.

- (3) Are private alternatives permitted?

Not Applicable.

- (4) Are families required to participate in a program?

Not Applicable.

(5) Are families penalized for not participating in a program?

Not Applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

Not Applicable.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not Applicable.

(2) service providers?

Not Applicable.

(3) government employees/agencies?

Not Applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 460.403, F.S., relating to definitions to add "direct and indirect supervision, registered chiropractic assistant, and to eliminate the requirement for certification for phlebotomy, physiotherapy or to administer proprietary drugs. The only requirement for certification is for acupuncture.

The "practice of chiropractic" is revised to provide that only a person who is a licensed chiropractic physician may render chiropractic services, chiropractic adjustments, or chiropractic manipulations. It is further modified to provide, in effect, that such adjustments, manipulations, or treatments are limited to those rendered by chiropractic physicians using specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education (CCE).

Section 2. Amends s. 460.406, F.S., relating to licensure by examination to delete the required certification examinations for phlebotomy, physiotherapy, or administration of proprietary drugs, and to make other clarifying changes.

Section 3. Amends s. 460.413, F.S., relating to discipline to delete phlebotomy, physiotherapy, or administering proprietary drugs, without being certified as grounds for disciplinary action.

Section 4. Provides an effective date of July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None. However, future chiropractic applicants will not be required to be certified (take a certification examination) to practice phlebotomy, physiotherapy, or to administer proprietary drugs.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

According to the Department of Health, the fiscal impact will be minimal. The estimated lost of revenue from certification changes will be approximately \$44,750. The reduction in total costs from not giving the certification examinations, etc., will be approximately \$40,762, or a net reduction in income of \$3,988.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

According to the Department of Health, specifying that the practice of chiropractic must be limited to specific chiropractic adjustments or manipulations techniques taught in chiropractic colleges, accredited by the CCE, may have the consequence of requiring licensed chiropractors to receive all further education in techniques from these colleges if they wish to employ new or modified techniques in their practices. Practicing techniques not taught in CCE accredited colleges may expose chiropractors to charges of practicing beyond the scope of their license. For instance, if a technique were taught at a continuing education seminar sponsored by a person, an unaccredited institution, or any other organization, and that technique was not also taught at a CCE accredited college, it may be questionable whether the technique would fall under the revised definition of the "practice of chiropractic".

Further, the prohibition against rendering chiropractic services, adjustments, or manipulations by anyone other than a licensed chiropractor may subject any persons who perform these activities to criminal sanctions as established in s. 460.411(1)(a), F.S.

STORAGE NAME: h1561.hcr

DATE: April 16, 1997

PAGE 10

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM:

Prepared by:

Legislative Research Director:

Robert W. Coggins

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