

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Banking and Insurance Committee

BILL: CS/SB 2858

INTRODUCER: Banking and Insurance Committee, Health Regulation Committee, and Senator Lynn

SUBJECT: Chiropractic Medicine

DATE: April 23, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HR	Fav/CS
2.	Johnson	Deffenbaugh	BI	Fav/CS
3.			CJ	
4.				
5.				
6.				

I. Summary:

The committee substitute revises requirements for chiropractic physician licensure to allow a student, in his or her final year of an accredited chiropractic school or college, to apply for licensure, take all of the required examinations for licensure, submit a set of fingerprints and pay all fees for licensure. A chiropractic student who takes and successfully passes the licensure examinations and who otherwise meets all requirements for licensure as a chiropractic physician during the student's final year must have graduated before being certified for licensure by the Board of Chiropractic Medicine.

The bill revises requirements for the issuance of a chiropractic medicine faculty certificate, to authorize the certificate to be issued to an individual who has accepted a full-time faculty appointment at a college of chiropractic in Florida that has been accredited by the Council of Chiropractic Education.

The bill restricts the indirect supervision of a certified chiropractic physician's assistant to the address of record or place of practice of the supervising chiropractic physician as required by s. 456.035, F.S., other than at a clinic licensed under part X of ch. 400, F.S. Any certified chiropractic physician's assistant who is certified by the Board of Chiropractic Medicine to perform services at a licensed clinic may only perform those services under the direct supervision of the chiropractic physician to whom the assistant is assigned.

The bill prohibits any person other than a sole proprietorship, group practice, partnership, or corporation that is wholly owned by one or more chiropractic physicians, or chiropractic physicians and their relatives, from employing a chiropractic physician or engaging a

chiropractic physician as an independent contractor to provide chiropractic services, with certain exceptions.

The bill limits chiropractic continuing education, which may be approved by the Board of Chiropractic Medicine to continuing education that is provided in the form of *contact classroom hours*, which requires face-to-face classroom interaction.

This bill amends sections 460.406, 460.4062, 460.408, and 460.4165, Florida Statutes. This bill creates s. 460.4167, Florida Statutes.

II. Present Situation:

Chapter 460, Florida Statutes, provides for the regulation of chiropractic medicine by the Florida Board of Chiropractic Medicine in the Department of Health. The chapter specifies requirements for licensure by examination for individuals to practice chiropractic medicine as chiropractic physicians and certified chiropractic physician's assistants. To sit for the chiropractic physician licensure examination, the applicant must have graduated from an accredited college of chiropractic medicine. In addition to other licensure requirements, applicants for chiropractic physician licensure, must have obtained, within 10 years immediately preceding application, a score approved by the Florida Board of Chiropractic Medicine on parts I, II, and clinical competency on the certification examination of the National Board of Chiropractic Examiners.

Certified chiropractic physician's assistants may perform chiropractic services under indirect supervision of the chiropractic physician to whom the assistant is assigned as defined by rule of the Board of Chiropractic Medicine. The Department of Health must issue a certificate to any person certified by the Board of Chiropractic Medicine who has met the following requirements:

- Is at least 18 years of age,
- Is a graduate of an approved program or its equivalent and is fully certified by reason of experience and education, as defined by Board of Chiropractic Medicine rule, to perform chiropractic services under the responsible supervision of a licensed chiropractic physician and when the board is satisfied that the public will be adequately protected by the arrangement proposed in the application, and
- Has completed the application form and remitted an application fee set by the Board of Chiropractic Medicine.

An application for certification made by a chiropractic physician's assistant must include a certificate of completion of a physician's assistant training program, a sworn statement of any prior felony conviction in any jurisdiction, and a sworn statement of any previous revocation or denial of licensure or certification in any state or jurisdiction.

The Department of Health must issue a chiropractic medicine faculty certificate without examination to an individual who remits a nonrefundable application fee, not to exceed \$100 as determined by rule of the Board of Chiropractic Medicine, so long as the applicant meets certain requirements:

- Graduation from a school or college accredited by the Council on Chiropractic Education;
- Holds a current license to practice chiropractic in another jurisdiction in the United States;
- Is at least 21 years of age and of good moral character;
- Has not committed any act or offense in any jurisdiction that would constitute the basis for discipline under chapters 456 or 460, F.S.;
- Has been offered and has accepted a full-time faculty appointment to teach in a program of chiropractic medicine at a publicly funded state university or college; and
- Provides certification from the dean of the appointing college acknowledging the acceptance of a full-time faculty appointment to teach in a program of chiropractic medicine at a state university.

III. Effect of Proposed Changes:

Section 1. Amends s. 460.406, F.S., revising requirements for chiropractic physician licensure to delete a requirement that applicants must have successfully completed specified parts of the National Board of Chiropractic Examiners certification examination within 10 years immediately preceding application to the Department of Health. The bill corrects the references to the examination to state that applicants must pass part III of the certification examination, which is the portion that tests clinical competency. The Florida Board of Chiropractic Medicine is authorized to require an applicant who has graduated from an institution accredited by the Council on Chiropractic Education more than 10 years before the date of application to take the National Board of Chiropractic Examiners Special Purposes Examination for Chiropractic (SPEX), or its equivalent, as determined by the Florida Board of Chiropractic Medicine. The Florida Board of Chiropractic Medicine must establish by rule a passing score for applicants who must sit for the SPEX examination.

The section is amended to allow a student in his or her final year of an accredited chiropractic school or college to apply for licensure, take all of the required examinations for licensure, submit a set of fingerprints and pay all fees for licensure. A chiropractic student who takes and successfully passes the licensure examinations and who otherwise meets all requirements for licensure as a chiropractic physician during the student's final year must have graduated before being certified for licensure by the Board of Chiropractic Medicine.

Section 2. Amends s. 460.4062, F.S., revising requirements for the issuance of a chiropractic medicine faculty certificate to authorize a certificate to be issued to an individual who has accepted a full-time faculty appointment at a college of chiropractic in Florida that has been accredited by the Council of Chiropractic Education. The section expands the institutions where a person who holds a chiropractic medicine faculty certificate may practice as a faculty member to any Florida Board of Chiropractic Medicine-approved university or college and its affiliated clinics.

The section also fixes a glitch in current law to allow the renewal of a chiropractic medicine faculty certificate as an exception to the requirement that the certificate automatically expire upon termination of the holder's relationship with the university or college or after a period of 2 years, whichever occurs first.

Section 3. Amends s. 460.4165, F.S., revising requirements for certified chiropractic physician's assistants to restrict the indirect supervision of a certified chiropractic physician's assistant to the address of record or place of practice required by s. 456.035, F.S., other than at a clinic licensed under part X of ch. 400, F.S., of the supervising chiropractic physician to whom the assistant is assigned as defined by rule of the Board of Chiropractic Medicine. The section requires the application of a person seeking to be licensed as a certified chiropractic physician's assistant to include a work arrangement proposal, and as part of the application process, the Board of Chiropractic Medicine must interview the proposed supervising chiropractic physician and the applicant regarding the work arrangement proposal to determine whether the proposal provides for responsible supervision, as a condition of certification and approval of any subsequent changes in the supervising physician.

The section requires any certified chiropractic physician's assistant who is certified by the Board of Chiropractic Medicine to perform services at a licensed clinic¹ to perform those services only under the direct supervision of the chiropractic physician to whom the assistant is assigned.

Section 4. Creates s. 460.4167, F.S., to provide, effective July 1, 2008, that no person other than a sole proprietorship, group practice, partnership, or corporation that is wholly owned by one or more Florida-licensed chiropractic physicians or by a chiropractic physician and the spouse, parent, child, or sibling of that chiropractic physician may employ a Florida-licensed chiropractic physician or engage a Florida-licensed chiropractic physician as an independent contractor to provide services authorized by law to be offered by a Florida-licensed chiropractic physician except for:

- A sole proprietorship, group practice, partnership, or corporation that is wholly owned by a Florida-licensed allopathic, osteopathic, or podiatric physician or physicians;
- Entities that are owned, directly or indirectly, by a Florida-licensed hospital, ambulatory surgical center, or mobile surgical center;
- Clinical facilities affiliated with an accredited college of chiropractic at which training is provided for chiropractic students;
- A public or private university or college;
- An entity that is exempt from federal taxation as a not-for profit entity, any community college or university clinic, and any entity owned or operated by the federal, state, or local government;
- An entity owned by a corporation whose stock is publicly traded;
- A clinic licensed under part X of chapter 400, F.S., that provides health care services by Florida-licensed allopathic, osteopathic, or chiropractic physicians, the medical director of which is a Florida-licensed allopathic or osteopathic physician; or
- A state-licensed insurer.

No person other than a chiropractic physician may direct, control, or interfere with a chiropractic physician's clinical judgment regarding medical necessity of chiropractic treatment with specified exceptions.

¹ See section 400.9905(4)(g), F.S., which governs the licensure of clinics that provide health care services by chiropractic physicians who are licensed under chapter 460, F.S.

Any lease agreement, rental agreement, or other arrangement between a person other than a Florida-licensed chiropractic physician and a chiropractic physician whereby the person other than a Florida-licensed chiropractic physician provides the chiropractic physician with chiropractic equipment or chiropractic materials shall contain a provision whereby the chiropractic physician expressly maintains complete care, custody, and control of the equipment or practice.

The purpose of this section is to prevent a person other than a Florida-licensed chiropractic physician from influencing or otherwise interfering with the exercise of a chiropractic physician's independent professional judgment. In addition to the acts specified in this section, a person other than a Florida-licensed chiropractic physician and any entity other than a sole proprietorship, group practice, partnership, or corporation that is wholly owned by a one or more Florida-licensed chiropractic physicians and the spouse, parent, child, or sibling of that physician, may not employ a Florida-licensed chiropractic physician or enter into a contract or arrangement with a chiropractic physician pursuant to which such unlicensed person or such entity exercises control over the following:

- The selection of a course of treatment for a patient, the procedures or materials to be used as part of such course of treatment, and the manner in which such course of treatment is carried out by the licensee;
- The patient records of a chiropractor;
- Policies and decisions relating to pricing, credit, refunds, warranties, and advertising; or
- Decisions relating to office personnel and hours of practice.

The section provides that any person who violates this section commits a third degree felony, which is punishable by imprisonment of up to 5 years and the imposition of a fine of up to \$5,000.

The section also provides that any contract or arrangement entered into or undertaken in violation of this section shall be void as contrary to public policy. This section applies to contracts entered into or renewed on or after July 1, 2008.

Section 5. Amends s. 460.408, F.S., revising chiropractic continuing education requirements to restrict the Florida Board of Chiropractic Medicine to approving continuing education that is provided in the format of "contact classroom" hours. In effect, the Florida Board of Chiropractic Medicine would only be authorized to approve chiropractic continuing education that is provided face-to-face in a classroom setting.

Section 6. Except as expressly provided in the bill, the bill takes effect date on July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Current chiropractic clinic owners who do not meet the requirements of the bill by July 1, 2008, would no longer be able to own their businesses.

C. Government Sector Impact:

The Department of Health reports that the bill does not have a fiscal impact on the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
