

By the Committee on Health Regulation; and Senator Jones

588-02267-11

2011398c1

1                   A bill to be entitled  
2           An act relating to chiropractic medicine; amending s.  
3           460.4062, F.S.; revising the requirements for  
4           obtaining a chiropractic medicine faculty certificate;  
5           amending s. 460.408, F.S.; authorizing the Board of  
6           Chiropractic Medicine to approve continuing education  
7           courses sponsored by chiropractic colleges under  
8           certain circumstances; prohibiting the board from  
9           approving the use of certain courses in continuing  
10          chiropractic education; amending s. 460.413, F.S.;  
11          requiring that a chiropractic physician preserve the  
12          identity of funds or property of a patient in excess  
13          of a specified amount; limiting the amount that may be  
14          advanced to a chiropractic physician for certain costs  
15          and expenses; amending s. 460.4165, F.S.; providing  
16          that services rendered by a certified chiropractic  
17          physician's assistant under indirect supervision may  
18          occur only at the supervising chiropractic physician's  
19          address of record; deleting the length of time  
20          specified for the basic program of education and  
21          training for certified chiropractic physician's  
22          assistants; amending s. 460.4166, F.S.; authorizing a  
23          registered chiropractic assistant to operate  
24          therapeutic office equipment; requiring a registered  
25          chiropractic assistant to register with the board  
26          effective April 1, 2012, and pay a fee for  
27          registration; requiring a registered chiropractic  
28          assistant to submit an initial application by March  
29          31, 2012, or within 30 days after becoming employed,

588-02267-11

2011398c1

30           whichever is later; requiring an applicant to specify  
31           place of employment and supervising chiropractic  
32           physicians; requiring an application to be signed by a  
33           chiropractic physician who is an owner of the  
34           applicant's place of employment; providing an  
35           effective date of a registered chiropractic  
36           assistant's registration; authorizing who may  
37           supervise a registered chiropractic assistant;  
38           requiring a registered chiropractic assistant to  
39           notify to the board of his or her change of  
40           employment; requiring a chiropractic physician to sign  
41           the registered chiropractic assistant's notification  
42           of change in employment; requiring a registered  
43           chiropractic assistant's employer to notify the board  
44           when a registered chiropractic assistant is no longer  
45           employed by that employer; providing eligibility  
46           conditions for registering as a registered  
47           chiropractic assistant; requiring the biennial renewal  
48           of a registered chiropractic assistant's registration  
49           and payment of a renewal fee; requiring the board to  
50           adopt by rule forms for certain statutorily required  
51           applications and notifications; providing for the  
52           signature of certain forms and notices by specified  
53           owners and supervisors under certain conditions;  
54           amending s. 460.4167, F.S.; authorizing certain sole  
55           proprietorships, group practices, partnerships,  
56           corporations, limited liability companies, limited  
57           partnerships, professional associations, other  
58           entities, health care clinics licensed under part X of

588-02267-11

2011398c1

59 ch. 400, F.S., health maintenance organizations, or  
60 prepaid health clinics to employ a chiropractic  
61 physician or engage a chiropractic physician as an  
62 independent contractor to provide services authorized  
63 by ch. 460, F.S.; authorizing the spouse or adult  
64 children of a deceased chiropractic physician to hold,  
65 operate, pledge, sell, mortgage, assign, transfer,  
66 own, or control the deceased chiropractic physician's  
67 ownership interests under certain conditions;  
68 authorizing an employer that employs a chiropractic  
69 physician to exercise control over the patient records  
70 of the employed chiropractor, policies and decisions  
71 relating to pricing, credit, refunds, warranties, and  
72 advertising, and decisions relating to office  
73 personnel and hours of practice; deleting an obsolete  
74 provision; providing an effective date.

75  
76 Be It Enacted by the Legislature of the State of Florida:

77  
78 Section 1. Paragraph (e) of subsection (1) of section  
79 460.4062, Florida Statutes, is amended to read:

80 460.4062 Chiropractic medicine faculty certificate.—

81 (1) The department may issue a chiropractic medicine  
82 faculty certificate without examination to an individual who  
83 remits a nonrefundable application fee, not to exceed \$100 as  
84 determined by rule of the board, and who demonstrates to the  
85 board that he or she meets the following requirements:

86 (e)1. Performs research or has been offered and has  
87 accepted a full-time or part-time faculty appointment to teach

588-02267-11

2011398c1

88 in a program of chiropractic medicine at a publicly funded state  
89 university or college or at a college of chiropractic located in  
90 the state and accredited by the Council on Chiropractic  
91 Education; and

92 2. Provides a certification from the dean of the appointing  
93 college acknowledging the appointment.

94 Section 2. Subsection (1) of section 460.408, Florida  
95 Statutes, is amended to read:

96 460.408 Continuing chiropractic education.—

97 (1) The board shall require licensees to periodically  
98 demonstrate their professional competence as a condition of  
99 renewal of a license by completing up to 40 contact classroom  
100 hours of continuing education.

101 (a) Continuing education courses sponsored by chiropractic  
102 colleges whose graduates are eligible for examination under any  
103 provision of this chapter may ~~shall~~ be approved upon review by  
104 the board if all other requirements of board rules setting forth  
105 criteria for course approval are met.

106 (b) The board shall approve those courses that build upon  
107 the basic courses required for the practice of chiropractic  
108 medicine, and the board may also approve courses in adjunctive  
109 modalities. Courses that consist of instruction in the use,  
110 application, prescription, recommendation, or administration of  
111 a specific company's brand of products or services are not  
112 eligible for approval.

113 Section 3. Paragraph (y) of subsection (1) of section  
114 460.413, Florida Statutes, is amended to read:

115 460.413 Grounds for disciplinary action; action by board or  
116 department.—

588-02267-11

2011398c1

117 (1) The following acts constitute grounds for denial of a  
118 license or disciplinary action, as specified in s. 456.072(2):

119 (y) Failing to preserve identity of funds and property of a  
120 patient, the value of which is greater than \$501. As provided by  
121 rule of the board, money or other property entrusted to a  
122 chiropractic physician for a specific purpose, including  
123 advances for costs and expenses of examination or treatment  
124 which may not exceed the value of \$1,500, is to be held in trust  
125 and must be applied only to that purpose. Money and other  
126 property of patients coming into the hands of a chiropractic  
127 physician are not subject to counterclaim or setoff for  
128 chiropractic physician's fees, and a refusal to account for and  
129 deliver over such money and property upon demand shall be deemed  
130 a conversion. This is not to preclude the retention of money or  
131 other property upon which the chiropractic physician has a valid  
132 lien for services or to preclude the payment of agreed fees from  
133 the proceeds of transactions for examinations or treatments.  
134 Controversies as to the amount of the fees are not grounds for  
135 disciplinary proceedings unless the amount demanded is clearly  
136 excessive or extortionate, or the demand is fraudulent. All  
137 funds of patients paid to a chiropractic physician, other than  
138 advances for costs and expenses, shall be deposited in one or  
139 more identifiable bank accounts maintained in the state in which  
140 the chiropractic physician's office is situated, and no funds  
141 belonging to the chiropractic physician shall be deposited  
142 therein except as follows:

143 1. Funds reasonably sufficient to pay bank charges may be  
144 deposited therein.

145 2. Funds belonging in part to a patient and in part

588-02267-11

2011398c1

146 presently or potentially to the physician must be deposited  
147 therein, but the portion belonging to the physician may be  
148 withdrawn when due unless the right of the physician to receive  
149 it is disputed by the patient, in which event the disputed  
150 portion shall not be withdrawn until the dispute is finally  
151 resolved.

152

153 Every chiropractic physician shall maintain complete records of  
154 all funds, securities, and other properties of a patient coming  
155 into the possession of the physician and render appropriate  
156 accounts to the patient regarding them. In addition, every  
157 chiropractic physician shall promptly pay or deliver to the  
158 patient, as requested by the patient, the funds, securities, or  
159 other properties in the possession of the physician which the  
160 patient is entitled to receive.

161 Section 4. Subsections (2) and (5) of section 460.4165,  
162 Florida Statutes, are amended to read:

163 460.4165 Certified chiropractic physician's assistants.—

164 (2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S  
165 ASSISTANT.—Notwithstanding any other provision of law, a  
166 certified chiropractic physician's assistant may perform  
167 chiropractic services in the specialty area or areas for which  
168 the certified chiropractic physician's assistant is trained or  
169 experienced when such services are rendered under the  
170 supervision of a licensed chiropractic physician or group of  
171 chiropractic physicians certified by the board. Any certified  
172 chiropractic physician's assistant certified under this section  
173 to perform services may perform those services only:

174 (a) In the office of the chiropractic physician to whom the

588-02267-11

2011398c1

175 certified chiropractic physician's assistant has been assigned,  
176 in which office such physician maintains her or his primary  
177 practice;

178 (b) Under indirect supervision if the indirect supervision  
179 occurs at the supervising chiropractic physician's address of  
180 record ~~or place of practice~~ required by s. 456.035, other than  
181 at a clinic licensed under part X of chapter 400, of the  
182 chiropractic physician to whom she or he is assigned as defined  
183 by rule of the board;

184 (c) In a hospital in which the chiropractic physician to  
185 whom she or he is assigned is a member of the staff; or

186 (d) On calls outside of the office of the chiropractic  
187 physician to whom she or he is assigned, on the direct order of  
188 the chiropractic physician to whom she or he is assigned.

189 (5) PROGRAM APPROVAL.—The department shall issue  
190 certificates of approval for programs for the education and  
191 training of certified chiropractic physician's assistants which  
192 meet board standards. Any basic program curriculum certified by  
193 the board shall ~~cover a period of 24 months. The curriculum must~~  
194 consist of a curriculum of at least 200 didactic classroom hours  
195 ~~during those 24 months.~~

196 (a) In developing criteria for program approval, the board  
197 shall give consideration to, and encourage, the use ~~utilization~~  
198 of equivalency and proficiency testing and other mechanisms  
199 whereby full credit is given to trainees for past education and  
200 experience in health fields.

201 (b) The board shall create groups of specialty  
202 classifications of training for certified chiropractic  
203 physician's assistants. These classifications must ~~shall~~ reflect

588-02267-11

2011398c1

204 the training and experience of the certified chiropractic  
205 physician's assistant. The certified chiropractic physician's  
206 assistant may receive training in one or more such  
207 classifications, which shall be shown on the certificate issued.

208 (c) The board shall adopt and publish standards to ensure  
209 that such programs operate in a manner which does not endanger  
210 the health and welfare of the patients who receive services  
211 within the scope of the program. The board shall review the  
212 quality of the curricula, faculties, and facilities of such  
213 programs; issue certificates of approval; and take whatever  
214 other action is necessary to determine that the purposes of this  
215 section are being met.

216 Section 5. Subsections (2) and (3) of section 460.4166,  
217 Florida Statutes, are amended, and subsections (4), (5), and (6)  
218 are added to that section, to read:

219 460.4166 Registered chiropractic assistants.—

220 (2) DUTIES.—Under the direct supervision and responsibility  
221 of a licensed chiropractic physician or certified chiropractic  
222 physician's assistant, a registered chiropractic assistant may:

223 (a) Perform clinical procedures, which include:

224 1. Preparing patients for the chiropractic physician's  
225 care.

226 2. Taking vital signs.

227 3. Observing and reporting patients' signs or symptoms.

228 (b) Administer basic first aid.

229 (c) Assist with patient examinations or treatments other  
230 than manipulations or adjustments.

231 (d) Operate therapeutic office equipment.

232 (e) Collect routine laboratory specimens as directed by the



588-02267-11

2011398c1

233 chiropractic physician or certified chiropractic physician's  
234 assistant.

235 (f) Administer nutritional supplements as directed by the  
236 chiropractic physician or certified chiropractic physician's  
237 assistant.

238 (g) Perform office procedures required by the chiropractic  
239 physician or certified chiropractic physician's assistant under  
240 direct supervision of the chiropractic physician or certified  
241 chiropractic physician's assistant.

242 (3) REGISTRATION.—

243 (a) A registered chiropractic assistant shall register with  
244 assistants may be registered by the board for a biennial fee not  
245 to exceed \$25. Effective April 1, 2012, a person must register  
246 with the board as a registered chiropractic assistant if the  
247 person performs any duties described in subsection (2) unless  
248 the person is otherwise certified or licensed to perform those  
249 duties.

250 (b) A person employed as a registered chiropractic  
251 assistant shall submit to the board an initial application for  
252 registration by March 31, 2012, or within 30 days after becoming  
253 employed as a registered chiropractic assistant, whichever is  
254 later, specifying the applicant's place of employment and the  
255 names of all chiropractic physicians under whose supervision the  
256 applicant performs the duties described in subsection (2). The  
257 application for registration must be signed by a chiropractic  
258 physician who is an owner of the place of employment specified  
259 in the application. Upon the board's receipt of an application,  
260 the effective date of the registration shall be April 1, 2012,  
261 or shall apply retroactively to the applicant's date of

588-02267-11

2011398c1

262 employment as a registered chiropractic assistant, whichever is  
263 later, and the registered chiropractic assistant may be  
264 supervised by any licensed chiropractic physician or certified  
265 chiropractic physician's assistant who is employed by the  
266 registered chiropractic assistant's employer or listed on the  
267 registration application.

268 (c) A registered chiropractic assistant, within 30 days  
269 after a change of employment, must notify the board of the new  
270 place of employment and the names of all chiropractic physicians  
271 under whose supervision the registered chiropractic assistant  
272 performs duties described in subsection (2) at the new place of  
273 employment. The notification must be signed by a chiropractic  
274 physician who is an owner of the new place of employment. Upon  
275 the board's receipt of the notification, the registered  
276 chiropractic assistant may be supervised by any licensed  
277 chiropractic physician or certified chiropractic physician's  
278 assistant who is employed by the registered chiropractic  
279 assistant's new employer or listed on the notification.

280 (d) Within 30 days after a registered chiropractic  
281 assistant is no longer employed at his or her place of  
282 employment as registered with the board, the registered  
283 chiropractic assistant's employer as registered with the board  
284 shall notify the board that the registered chiropractic  
285 assistant is no longer employed by that employer.

286 (e) An employee who performs none of the duties described  
287 in subsection (2) is not eligible to register under this  
288 subsection.

289 (4) REGISTERED CHIROPRACTIC ASSISTANT REGISTRATION  
290 RENEWAL.—

588-02267-11

2011398c1

291 (a) A registered chiropractic assistant's registration must  
292 be renewed biennially. Each renewal must include:

293 1. A renewal fee as set by the board not to exceed \$25.

294 2. The registered chiropractic assistant's current place of  
295 employment and the names of all chiropractic physicians under  
296 whose supervision the applicant performs duties described in  
297 subsection (2). The application for registration renewal must be  
298 signed by a chiropractic physician who is an owner of the place  
299 of employment specified in the application.

300 (b) Upon registration renewal, the registered chiropractic  
301 assistant may be supervised by any licensed chiropractic  
302 physician or certified chiropractic physician's assistant who is  
303 employed by the registered chiropractic assistant's employer or  
304 listed on the registration renewal.

305 (5) APPLICATION AND NOTIFICATION FORMS.—The board shall  
306 prescribe, by rule, forms for the applications and notifications  
307 required under subsections (3) and (4).

308 (6) SIGNATURE REQUIREMENTS.—If a person employed as a  
309 registered chiropractic assistant is employed by an entity not  
310 owned in whole or in part by a licensed chiropractic physician  
311 under s. 460.4167, the documents requiring signatures under this  
312 section must be signed by a person having an ownership interest  
313 in the entity that employs the registered chiropractic assistant  
314 and a licensed chiropractic physician who supervises the  
315 registered chiropractic assistant.

316 Section 6. Section 460.4167, Florida Statutes, is amended  
317 to read:

318 460.4167 Proprietorship by persons other than licensed  
319 chiropractic physicians.—

588-02267-11

2011398c1

320 (1) ~~A No person other than a sole proprietorship, group~~  
 321 ~~practice, partnership, or corporation that is wholly owned by~~  
 322 ~~one or more chiropractic physicians licensed under this chapter~~  
 323 ~~or by a chiropractic physician licensed under this chapter and~~  
 324 ~~the spouse, parent, child, or sibling of that chiropractic~~  
 325 ~~physician may not~~ employ a chiropractic physician licensed under  
 326 this chapter or engage a chiropractic physician licensed under  
 327 this chapter as an independent contractor to provide services  
 328 authorized by this chapter to be offered by a chiropractic  
 329 physician licensed under this chapter unless the person is any  
 330 of the following, except for:

331 (a) A sole proprietorship, group practice, partnership,  
 332 corporation, limited liability company, limited partnership, any  
 333 person, professional association, or any other entity that is  
 334 wholly owned by:

335 1. One or more chiropractic physicians licensed under this  
 336 chapter;

337 2. A chiropractic physician licensed under this chapter and  
 338 the spouse or surviving spouse, parent, child, or sibling of the  
 339 chiropractic physician; or

340 3. A trust whose trustees are chiropractic physicians  
 341 licensed under this chapter and the spouse, parent, child, or  
 342 sibling of a chiropractic physician.

343 (b) ~~(a)~~ A sole proprietorship, group practice, partnership,  
 344 ~~or~~ corporation, limited liability company, limited partnership,  
 345 professional association, or any other entity that is wholly  
 346 owned by a physician or physicians licensed under this chapter,  
 347 chapter 458, chapter 459, or chapter 461.

348 (c) ~~(b)~~ An entity ~~Entities~~ that is wholly are owned,

588-02267-11

2011398c1

349 directly or indirectly, by an entity licensed or registered by  
350 the state under chapter 395.

351 (d) ~~(e)~~ A clinical facility that is ~~facilities~~ affiliated  
352 with a college of chiropractic accredited by the Council on  
353 Chiropractic Education at which training is provided for  
354 chiropractic students.

355 (e) ~~(d)~~ A public or private university or college.

356 (f) ~~(e)~~ An entity wholly owned and operated by an  
357 organization that is exempt from federal taxation under s.  
358 501(c)(3) or (4) of the Internal Revenue Code, a ~~any~~ community  
359 college or university clinic, and any entity owned or operated  
360 by the Federal Government or by state government, including any  
361 agency, county, municipality, or other political subdivision  
362 thereof.

363 (g) ~~(f)~~ An entity owned by a corporation the stock of which  
364 is publicly traded.

365 (h) ~~(g)~~ A clinic licensed under part X of chapter 400 which  
366 ~~that~~ provides chiropractic services by a chiropractic physician  
367 licensed under chapter 460 and other health care services by  
368 physicians licensed under chapter 458 or, chapter 459, ~~or~~  
369 ~~chapter 460~~, the medical director of which is licensed under  
370 chapter 458 or chapter 459.

371 (i) ~~(h)~~ A state-licensed insurer.

372 (j) A health maintenance organization or prepaid health  
373 clinic regulated under chapter 641.

374  
375 If a chiropractic physician described in subparagraph (a)2.  
376 dies, notwithstanding part X of chapter 400, the deceased  
377 chiropractic physician's surviving spouse or adult children may

588-02267-11

2011398c1

378 hold, operate, pledge, sell, mortgage, assign, transfer, own, or  
379 control the deceased chiropractic physician's ownership  
380 interests for so long as the surviving spouse or adult children  
381 remain the sole proprietor of the chiropractic practice.

382 (2) A ~~No~~ person other than a chiropractic physician  
383 licensed under this chapter may not ~~shall~~ direct, control, or  
384 interfere with a chiropractic physician's clinical judgment  
385 regarding the medical necessity of chiropractic treatment. For  
386 purposes of this subsection, a chiropractic physician's clinical  
387 judgment does not apply to chiropractic services contractually  
388 excluded, the application of alternative services that may be  
389 appropriate given the chiropractic physician's prescribed course  
390 of treatment, or determinations comparing contractual provisions  
391 and scope of coverage with a chiropractic physician's prescribed  
392 treatment on behalf of a covered person by an insurer, health  
393 maintenance organization, or prepaid limited health service  
394 organization.

395 (3) Any lease agreement, rental agreement, or other  
396 arrangement between a person other than a licensed chiropractic  
397 physician and a chiropractic physician whereby the person other  
398 than a licensed chiropractic physician provides the chiropractic  
399 physician with chiropractic equipment or chiropractic materials  
400 must ~~shall~~ contain a provision whereby the chiropractic  
401 physician expressly maintains complete care, custody, and  
402 control of the equipment or practice.

403 (4) The purpose of this section is to prevent a person  
404 other than the ~~a~~ licensed chiropractic physician from  
405 influencing or otherwise interfering with the exercise of the ~~a~~  
406 chiropractic physician's independent professional judgment. In

588-02267-11

2011398c1

407 addition to the acts specified in subsection (2) ~~(1)~~, a person  
408 or entity other than an employer or entity authorized in  
409 subsection (1) a licensed chiropractic physician and any entity  
410 ~~other than a sole proprietorship, group practice, partnership,~~  
411 ~~or corporation that is wholly owned by one or more chiropractic~~  
412 ~~physicians licensed under this chapter or by a chiropractic~~  
413 ~~physician licensed under this chapter and the spouse, parent,~~  
414 ~~child, or sibling of that physician,~~ may not employ or engage a  
415 chiropractic physician licensed under this chapter. A person or  
416 entity may not ~~or~~ enter into a contract or arrangement with a  
417 chiropractic physician pursuant to which such ~~unlicensed~~ person  
418 or such entity exercises control over the following:

419 (a) The selection of a course of treatment for a patient,  
420 the procedures or materials to be used as part of such course of  
421 treatment, and the manner in which such course of treatment is  
422 carried out by the licensee;

423 (b) The patient records of a chiropractor;

424 (c) Policies and decisions relating to pricing, credit,  
425 refunds, warranties, and advertising; or

426 (d) Decisions relating to office personnel and hours of  
427 practice. However, an employer authorized to employ a  
428 chiropractic physician under subsection (1) may exercise control  
429 over the patient records of the employed chiropractor; policies  
430 and decisions relating to pricing, credit, refunds, warranties,  
431 and advertising; and decisions relating to office personnel and  
432 hours of practice.

433 (5) Any person who violates this section commits a felony  
434 of the third degree, punishable as provided in s. 775.082 ~~s.~~  
435 ~~775.081~~, s. 775.083, or s. 775.084 ~~s. 775.035~~.

588-02267-11

2011398c1

436           (6) Any contract or arrangement entered into or undertaken  
437 in violation of this section is ~~shall be~~ void as contrary to  
438 public policy. ~~This section applies to contracts entered into or~~  
439 ~~renewed on or after July 1, 2008.~~

440           Section 7. This act shall take effect July 1, 2011.