

By the Committees on Budget Subcommittee on Health and Human Services Appropriations; and Health Regulation; and Senator Jones

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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,

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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; authorizing the board
52 to require and accept electronically submitted
53 applications, notifications, signatures, or
54 attestations in lieu of paper applications and actual
55 signatures; providing for the signature of certain
56 forms and notices by specified owners and supervisors
57 under certain conditions; amending s. 460.4167, F.S.;
58 authorizing certain sole proprietorships, group

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59 practices, partnerships, corporations, limited
60 liability companies, limited partnerships,
61 professional associations, other entities, health care
62 clinics licensed under part X of ch. 400, F.S., health
63 maintenance organizations, or prepaid health clinics
64 to employ a chiropractic physician or engage a
65 chiropractic physician as an independent contractor to
66 provide services authorized by ch. 460, F.S.;

67 authorizing the spouse or adult children of a deceased
68 chiropractic physician to hold, operate, pledge, sell,
69 mortgage, assign, transfer, own, or control the
70 deceased chiropractic physician's ownership interests
71 under certain conditions; authorizing an employer that
72 employs a chiropractic physician to exercise control
73 over the patient records of the employed chiropractor,
74 policies and decisions relating to pricing, credit,
75 refunds, warranties, and advertising, and decisions
76 relating to office personnel and hours of practice;
77 deleting an obsolete provision; providing an effective
78 date.

79

80 Be It Enacted by the Legislature of the State of Florida:

81

82 Section 1. Paragraph (e) of subsection (1) of section
83 460.4062, Florida Statutes, is amended to read:

84 460.4062 Chiropractic medicine faculty certificate.—

85 (1) The department may issue a chiropractic medicine
86 faculty certificate without examination to an individual who
87 remits a nonrefundable application fee, not to exceed \$100 as

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88 determined by rule of the board, and who demonstrates to the
89 board that he or she meets the following requirements:

90 (e)1. Performs research or has been offered and has
91 accepted a full-time or part-time faculty appointment to teach
92 in a program of chiropractic medicine at a publicly funded state
93 university or college or at a college of chiropractic located in
94 the state and accredited by the Council on Chiropractic
95 Education; and

96 2. Provides a certification from the dean of the appointing
97 college acknowledging the appointment.

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

100 460.408 Continuing chiropractic education.—

101 (1) The board shall require licensees to periodically
102 demonstrate their professional competence as a condition of
103 renewal of a license by completing up to 40 contact classroom
104 hours of continuing education.

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

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

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117 Section 3. Paragraph (y) of subsection (1) of section
118 460.413, Florida Statutes, is amended to read:

119 460.413 Grounds for disciplinary action; action by board or
120 department.—

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

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

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146 therein except as follows:

147 1. Funds reasonably sufficient to pay bank charges may be
148 deposited therein.

149 2. Funds belonging in part to a patient and in part
150 presently or potentially to the physician must be deposited
151 therein, but the portion belonging to the physician may be
152 withdrawn when due unless the right of the physician to receive
153 it is disputed by the patient, in which event the disputed
154 portion shall not be withdrawn until the dispute is finally
155 resolved.

156

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

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

167 460.4165 Certified chiropractic physician's assistants.—

168 (2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S
169 ASSISTANT.—Notwithstanding any other provision of law, a
170 certified chiropractic physician's assistant may perform
171 chiropractic services in the specialty area or areas for which
172 the certified chiropractic physician's assistant is trained or
173 experienced when such services are rendered under the
174 supervision of a licensed chiropractic physician or group of

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175 chiropractic physicians certified by the board. Any certified
176 chiropractic physician's assistant certified under this section
177 to perform services may perform those services only:

178 (a) In the office of the chiropractic physician to whom the
179 certified chiropractic physician's assistant has been assigned,
180 in which office such physician maintains her or his primary
181 practice;

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

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

190 (d) On calls outside of the office of the chiropractic
191 physician to whom she or he is assigned, on the direct order of
192 the chiropractic physician to whom she or he is assigned.

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

200 (a) In developing criteria for program approval, the board
201 shall give consideration to, and encourage, the use ~~utilization~~
202 of equivalency and proficiency testing and other mechanisms
203 whereby full credit is given to trainees for past education and

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204 experience in health fields.

205 (b) The board shall create groups of specialty
206 classifications of training for certified chiropractic
207 physician's assistants. These classifications must ~~shall~~ reflect
208 the training and experience of the certified chiropractic
209 physician's assistant. The certified chiropractic physician's
210 assistant may receive training in one or more such
211 classifications, which shall be shown on the certificate issued.

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

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

223 460.4166 Registered chiropractic assistants.—

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

227 (a) Perform clinical procedures, which include:

228 1. Preparing patients for the chiropractic physician's
229 care.

230 2. Taking vital signs.

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

232 (b) Administer basic first aid.

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233 (c) Assist with patient examinations or treatments other
234 than manipulations or adjustments.

235 (d) Operate therapeutic office equipment.

236 (e) Collect routine laboratory specimens as directed by the
237 chiropractic physician or certified chiropractic physician's
238 assistant.

239 (f) Administer nutritional supplements as directed by the
240 chiropractic physician or certified chiropractic physician's
241 assistant.

242 (g) Perform office procedures required by the chiropractic
243 physician or certified chiropractic physician's assistant under
244 direct supervision of the chiropractic physician or certified
245 chiropractic physician's assistant.

246 (3) REGISTRATION.—

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

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

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262 physician who is an owner of the place of employment specified
263 in the application. Upon the board's receipt of an application,
264 the effective date of the registration shall be April 1, 2012,
265 or shall apply retroactively to the applicant's date of
266 employment as a registered chiropractic assistant, whichever is
267 later, and the registered chiropractic assistant may be
268 supervised by any licensed chiropractic physician or certified
269 chiropractic physician's assistant who is employed by the
270 registered chiropractic assistant's employer or listed on the
271 registration application.

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

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

290 (e) An employee who performs none of the duties described

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291 in subsection (2) is not eligible to register under this
292 subsection.

293 (4) REGISTERED CHIROPRACTIC ASSISTANT REGISTRATION
294 RENEWAL.—

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

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

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

304 (b) Upon registration renewal, the registered chiropractic
305 assistant may be supervised by any licensed chiropractic
306 physician or certified chiropractic physician's assistant who is
307 employed by the registered chiropractic assistant's employer or
308 listed on the registration renewal.

309 (5) APPLICATION AND NOTIFICATION FORMS.—The board shall
310 prescribe, by rule, forms for the applications and notifications
311 required under subsections (3) and (4). The board may require
312 and accept electronically submitted applications, notifications,
313 signatures, or attestations in lieu of paper applications and
314 actual signatures.

315 (6) SIGNATURE REQUIREMENTS.—If a person employed as a
316 registered chiropractic assistant is employed by an entity not
317 owned in whole or in part by a licensed chiropractic physician
318 under s. 460.4167, the documents requiring signatures under this
319 section must be signed by a person having an ownership interest

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320 in the entity that employs the registered chiropractic assistant
321 and a licensed chiropractic physician who supervises the
322 registered chiropractic assistant.

323 Section 6. Section 460.4167, Florida Statutes, is amended
324 to read:

325 460.4167 Proprietorship by persons other than licensed
326 chiropractic physicians.—

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

338 (a) A sole proprietorship, group practice, partnership,
339 corporation, limited liability company, limited partnership, any
340 person, professional association, or any other entity that is
341 wholly owned by:

342 1. One or more chiropractic physicians licensed under this
343 chapter;

344 2. A chiropractic physician licensed under this chapter and
345 the spouse or surviving spouse, parent, child, or sibling of the
346 chiropractic physician; or

347 3. A trust whose trustees are chiropractic physicians
348 licensed under this chapter and the spouse, parent, child, or

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349 sibling of a chiropractic physician.

350 (b)(a) A sole proprietorship, group practice, partnership,
351 or corporation, limited liability company, limited partnership,
352 professional association, or any other entity that is wholly
353 owned by a physician or physicians licensed under this chapter,
354 chapter 458, chapter 459, or chapter 461.

355 (c)(b) An entity ~~Entities~~ that is wholly ~~are~~ owned,
356 directly or indirectly, by an entity licensed or registered by
357 the state under chapter 395.

358 (d)(e) A clinical facility that is ~~facilities~~ affiliated
359 with a college of chiropractic accredited by the Council on
360 Chiropractic Education at which training is provided for
361 chiropractic students.

362 (e)(d) A public or private university or college.

363 (f)(e) An entity wholly owned and operated by an
364 organization that is exempt from federal taxation under s.
365 501(c)(3) or (4) of the Internal Revenue Code, a ~~any~~ community
366 college or university clinic, and any entity owned or operated
367 by the Federal Government or by state government, including any
368 agency, county, municipality, or other political subdivision
369 thereof.

370 (g)(f) An entity owned by a corporation the stock of which
371 is publicly traded.

372 (h)(g) A clinic licensed under part X of chapter 400 which
373 ~~that~~ provides chiropractic services by a chiropractic physician
374 licensed under chapter 460 and other health care services by
375 physicians licensed under chapter 458 ~~or~~ chapter 459, ~~or~~
376 ~~chapter 460,~~ the medical director of which is licensed under
377 chapter 458 or chapter 459.

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

379 (j) A health maintenance organization or prepaid health
380 clinic regulated under chapter 641.

381

382 If a chiropractic physician described in subparagraph (a)2.
383 dies, notwithstanding part X of chapter 400, the deceased
384 chiropractic physician's surviving spouse or adult children may
385 hold, operate, pledge, sell, mortgage, assign, transfer, own, or
386 control the deceased chiropractic physician's ownership
387 interests for so long as the surviving spouse or adult children
388 remain the sole proprietor of the chiropractic practice.

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

402 (3) Any lease agreement, rental agreement, or other
403 arrangement between a person other than a licensed chiropractic
404 physician and a chiropractic physician whereby the person other
405 than a licensed chiropractic physician provides the chiropractic
406 physician with chiropractic equipment or chiropractic materials

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407 must ~~shall~~ contain a provision whereby the chiropractic
408 physician expressly maintains complete care, custody, and
409 control of the equipment or practice.

410 (4) The purpose of this section is to prevent a person
411 other than the ~~a~~ licensed chiropractic physician from
412 influencing or otherwise interfering with the exercise of the ~~a~~
413 chiropractic physician's independent professional judgment. In
414 addition to the acts specified in subsection (2) ~~(1)~~, a person
415 or entity other than an employer or entity authorized in
416 subsection (1) ~~a licensed chiropractic physician and any entity~~
417 ~~other than a sole proprietorship, group practice, partnership,~~
418 ~~or corporation that is wholly owned by one or more chiropractic~~
419 ~~physicians licensed under this chapter or by a chiropractic~~
420 ~~physician licensed under this chapter and the spouse, parent,~~
421 ~~child, or sibling of that physician,~~ may not employ or engage a
422 chiropractic physician licensed under this chapter. A person or
423 entity may not ~~or~~ enter into a contract or arrangement with a
424 chiropractic physician pursuant to which such ~~unlicensed~~ person
425 or such entity exercises control over the following:

426 (a) The selection of a course of treatment for a patient,
427 the procedures or materials to be used as part of such course of
428 treatment, and the manner in which such course of treatment is
429 carried out by the licensee;

430 (b) The patient records of a chiropractor;

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

433 (d) Decisions relating to office personnel and hours of
434 practice. However, an employer authorized to employ a
435 chiropractic physician under subsection (1) may exercise control

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436 over the patient records of the employed chiropractor; policies
437 and decisions relating to pricing, credit, refunds, warranties,
438 and advertising; and decisions relating to office personnel and
439 hours of practice.

440 (5) Any person who violates this section commits a felony
441 of the third degree, punishable as provided in s. 775.082 ~~s.~~
442 ~~775.081~~, s. 775.083, or s. 775.084 ~~s. 775.035~~.

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

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