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LEGISLATIVE ACTION

Senate

House

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Floor: 1e/WD/2R

03/08/2012 06:45 PM

Senator Jones moved the following:

1 **Senate Amendment to Amendment (371972) (with title**
2 **amendment)**

3
4 Between lines 2987 and 2988
5 insert:

6 Section 93. Paragraph (e) of subsection (1) of section
7 460.4062, Florida Statutes, is amended to read:

8 460.4062 Chiropractic medicine faculty certificate.—

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



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14 (e)1. Performs research or has been offered and has
15 accepted a full-time or part-time faculty appointment to teach
16 in a program of chiropractic medicine at a publicly funded state
17 university or college or at a college of chiropractic located in
18 the state and accredited by the Council on Chiropractic
19 Education; and

20 2. Provides a certification from the dean of the appointing
21 college acknowledging the appointment.

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

24 460.408 Continuing chiropractic education.—

25 (1) The board shall require licensees to periodically
26 demonstrate their professional competence as a condition of
27 renewal of a license by completing up to 40 contact classroom
28 hours of continuing education.

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

34 (b) The board shall approve those courses that build upon
35 the basic courses required for the practice of chiropractic
36 medicine, and the board may also approve courses in adjunctive
37 modalities. Courses that consist of instruction in the use,
38 application, prescription, recommendation, or administration of
39 a specific company's brand of products or services are not
40 eligible for approval.

41 Section 95. Paragraph (e) of subsection (1) of section
42 460.406, Florida Statutes, is amended to read:



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43 460.406 Licensure by examination.—

44 (1) Any person desiring to be licensed as a chiropractic
45 physician must apply to the department to take the licensure
46 examination. There shall be an application fee set by the board
47 not to exceed \$100 which shall be nonrefundable. There shall
48 also be an examination fee not to exceed \$500 plus the actual
49 per applicant cost to the department for purchase of portions of
50 the examination from the National Board of Chiropractic
51 Examiners or a similar national organization, which may be
52 refundable if the applicant is found ineligible to take the
53 examination. The department shall examine each applicant who the
54 board certifies has:

55 (e) Successfully completed the National Board of
56 Chiropractic Examiners certification examination in parts I, II,
57 ~~and III,~~ and IV, and the physiotherapy examination of the
58 National Board of Chiropractic Examiners, with a score approved
59 by the board.

60
61 The board may require an applicant who graduated from an
62 institution accredited by the Council on Chiropractic Education
63 more than 10 years before the date of application to the board
64 to take the National Board of Chiropractic Examiners Special
65 Purposes Examination for Chiropractic, or its equivalent, as
66 determined by the board. The board shall establish by rule a
67 passing score.

68 Section 96. Paragraph (y) of subsection (1) of section
69 460.413, Florida Statutes, is amended to read:

70 460.413 Grounds for disciplinary action; action by board or
71 department.—



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

74 (y) Failing to preserve identity of funds and property of a
75 patient, the value of which is greater than \$501. As provided by
76 rule of the board, money or other property entrusted to a
77 chiropractic physician for a specific purpose, including
78 advances for costs and expenses of examination or treatment
79 which may not exceed the value of \$1,500, is to be held in trust
80 and must be applied only to that purpose. Money and other
81 property of patients coming into the hands of a chiropractic
82 physician are not subject to counterclaim or setoff for
83 chiropractic physician's fees, and a refusal to account for and
84 deliver over such money and property upon demand shall be deemed
85 a conversion. This is not to preclude the retention of money or
86 other property upon which the chiropractic physician has a valid
87 lien for services or to preclude the payment of agreed fees from
88 the proceeds of transactions for examinations or treatments.
89 Controversies as to the amount of the fees are not grounds for
90 disciplinary proceedings unless the amount demanded is clearly
91 excessive or extortionate, or the demand is fraudulent. All
92 funds of patients paid to a chiropractic physician, other than
93 advances for costs and expenses, shall be deposited into ~~in~~ one
94 or more identifiable bank accounts maintained in the state in
95 which the chiropractic physician's office is situated, and ~~no~~
96 funds belonging to the chiropractic physician may not ~~shall~~ be
97 deposited therein except as follows:

98 1. Funds reasonably sufficient to pay bank charges may be
99 deposited therein.

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



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101 presently or potentially to the physician must be deposited
102 therein, but the portion belonging to the physician may be
103 withdrawn when due unless the right of the physician to receive
104 it is disputed by the patient, in which event the disputed
105 portion may ~~shall~~ not be withdrawn until the dispute is finally
106 resolved.

107
108 Every chiropractic physician shall maintain complete records of
109 all funds, securities, and other properties of a patient coming
110 into the possession of the physician and render appropriate
111 accounts to the patient regarding them. In addition, every
112 chiropractic physician shall promptly pay or deliver to the
113 patient, as requested by the patient, the funds, securities, or
114 other properties in the possession of the physician which the
115 patient is entitled to receive.

116 Section 97. Subsections (2) and (5) of section 460.4165,
117 Florida Statutes, are amended to read:

118 460.4165 Certified chiropractic physician's assistants.—

119 (2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S
120 ASSISTANT.—Notwithstanding any other provision of law, a
121 certified chiropractic physician's assistant may perform
122 chiropractic services in the specialty area or areas for which
123 the certified chiropractic physician's assistant is trained or
124 experienced when such services are rendered under the
125 supervision of a licensed chiropractic physician or group of
126 chiropractic physicians certified by the board. Any certified
127 chiropractic physician's assistant certified under this section
128 to perform services may perform those services only:

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



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130 certified chiropractic physician's assistant has been assigned,
131 in which office such physician maintains her or his primary
132 practice;

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

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

141 (d) On calls outside ~~of~~ the office of the chiropractic
142 physician to whom she or he is assigned, on the direct order of
143 the chiropractic physician to whom she or he is assigned.

144 (5) PROGRAM APPROVAL.—The department shall issue
145 certificates of approval for programs for the education and
146 training of certified chiropractic physician's assistants which
147 meet board standards. Any basic program curriculum certified by
148 the board ~~shall cover a period of 24 months. The curriculum~~ must
149 consist of a curriculum of at least 200 didactic classroom hours
150 ~~during those 24 months.~~

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

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



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159 the training and experience of the certified chiropractic
160 physician's assistant. The certified chiropractic physician's
161 assistant may receive training in one or more such
162 classifications, which shall be shown on the certificate issued.

163 (c) The board shall adopt and publish standards to ensure
164 that such programs operate in a manner that ~~which~~ does not
165 endanger the health and welfare of the patients who receive
166 services within the scope of the program. The board shall review
167 the quality of the curricula, faculties, and facilities of such
168 programs; issue certificates of approval; and take whatever
169 other action is necessary to determine that the purposes of this
170 section are being met.

171 Section 98. Section 460.4167, Florida Statutes, is amended
172 to read:

173 460.4167 Proprietorship by persons other than licensed
174 chiropractic physicians.—

175 (1) A ~~No~~ ~~person other than a sole proprietorship, group~~
176 ~~practice, partnership, or corporation that is wholly owned by~~
177 ~~one or more chiropractic physicians licensed under this chapter~~
178 ~~or by a chiropractic physician licensed under this chapter and~~
179 ~~the spouse, parent, child, or sibling of that chiropractic~~
180 ~~physician~~ may not employ a chiropractic physician licensed under
181 this chapter or engage a chiropractic physician licensed under
182 this chapter as an independent contractor to provide services
183 that chiropractic physicians are authorized to offer by this
184 ~~chapter to be offered by a chiropractic physician licensed under~~
185 this chapter, unless the person is any of the following, except
186 for:

187 (a) A sole proprietorship, group practice, partnership,



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188 corporation, limited liability company, limited partnership,
189 professional association, or any other entity that is wholly
190 owned by:

191 1. One or more chiropractic physicians licensed under this
192 chapter;

193 2. A chiropractic physician licensed under this chapter and
194 the spouse or surviving spouse, parent, child, or sibling of the
195 chiropractic physician; or

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

199
200 If the chiropractic physician described in subparagraph (a)2.
201 dies, notwithstanding part X of chapter 400, the surviving
202 spouse or adult children may hold, operate, pledge, sell,
203 mortgage, assign, transfer, own, or control the chiropractic
204 physician's ownership interests for so long as the surviving
205 spouse or adult children remain the sole proprietors of the
206 chiropractic practice.

207 (b) ~~(a)~~ A sole proprietorship, group practice, partnership,
208 ~~or~~ corporation, limited liability company, limited partnership,
209 professional association, or any other entity that is wholly
210 owned by a physician or physicians licensed under this chapter,
211 chapter 458, chapter 459, or chapter 461.

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

215 (d) ~~(c)~~ A clinical facility that is facilities affiliated
216 with a college of chiropractic accredited by the Council on



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217 Chiropractic Education at which training is provided for
218 chiropractic students.

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

220 (f)~~(e)~~ An entity wholly owned and operated by an
221 organization that is exempt from federal taxation under s.
222 501(c)(3) or (4) of the Internal Revenue Code, a ~~any~~ community
223 college or university clinic, or an ~~and any~~ entity owned or
224 operated by the Federal Government or by state government,
225 including any agency, county, municipality, or other political
226 subdivision thereof.

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

229 (h)~~(g)~~ A clinic licensed under part X of chapter 400 which
230 ~~that~~ provides chiropractic services by a chiropractic physician
231 licensed under this chapter and other health care services by
232 physicians licensed under chapter 458 or~~7~~ chapter 459, ~~or~~
233 ~~chapter 460~~, the medical director of which is licensed under
234 chapter 458 or chapter 459.

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

236 (j) A health maintenance organization or prepaid health
237 clinic regulated under chapter 641.

238 (2) A ~~No~~ person other than a chiropractic physician
239 licensed under this chapter may not ~~shall~~ direct, control, or
240 interfere with a chiropractic physician's clinical judgment
241 regarding the medical necessity of chiropractic treatment. For
242 purposes of this subsection, a chiropractic physician's clinical
243 judgment does not apply to chiropractic services that are
244 contractually excluded, the application of alternative services
245 that may be appropriate given the chiropractic physician's



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246 prescribed course of treatment, or determinations that compare
247 ~~comparing~~ contractual provisions and scope of coverage with a
248 chiropractic physician's prescribed treatment on behalf of a
249 covered person by an insurer, health maintenance organization,
250 or prepaid limited health service organization.

251 (3) Any lease agreement, rental agreement, or other
252 arrangement between a person other than a licensed chiropractic
253 physician and a chiropractic physician whereby the person other
254 than a licensed chiropractic physician provides the chiropractic
255 physician with chiropractic equipment or chiropractic materials
256 must ~~shall~~ contain a provision whereby the chiropractic
257 physician expressly maintains complete care, custody, and
258 control of the equipment or practice.

259 (4) The purpose of this section is to prevent a person
260 other than the ~~a~~ licensed chiropractic physician from
261 influencing or otherwise interfering with the exercise of the ~~a~~
262 chiropractic physician's independent professional judgment. In
263 addition to the acts specified in subsection (2) ~~(1)~~, a person
264 or entity other than an employer or entity authorized in
265 subsection (1) ~~a licensed chiropractic physician and any entity~~
266 ~~other than a sole proprietorship, group practice, partnership,~~
267 ~~or corporation that is wholly owned by one or more chiropractic~~
268 ~~physicians licensed under this chapter or by a chiropractic~~
269 ~~physician licensed under this chapter and the spouse, parent,~~
270 ~~child, or sibling of that physician,~~ may not employ or engage a
271 chiropractic physician licensed under this chapter. A person or
272 entity may not ~~or~~ enter into a contract or arrangement with a
273 chiropractic physician pursuant to which such ~~unlicensed~~ person
274 or ~~such~~ entity exercises control over the following:



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275 (a) The selection of a course of treatment for a patient,
276 the procedures or materials to be used as part of the ~~such~~
277 course of treatment, and the manner in which the ~~such~~ course of
278 treatment is carried out by the chiropractic physician licensee;

279 (b) The patient records of the chiropractic physician ~~a~~
280 ~~chiropractor~~;

281 (c) The policies and decisions relating to pricing, credit,
282 refunds, warranties, and advertising; or

283 (d) The decisions relating to office personnel and hours of
284 practice.

285
286 However, a person or entity that is authorized to employ a
287 chiropractic physician under subsection (1) may exercise control
288 over the patient records of the employed chiropractic physician;
289 the policies and decisions relating to pricing, credit, refunds,
290 warranties, and advertising; and the decisions relating to
291 office personnel and hours of practice.

292 (5) Any person who violates this section commits a felony
293 of the third degree, punishable as provided in s. 775.082 ~~s.~~
294 ~~775.081~~, s. 775.083, or s. 775.084 ~~s. 775.035~~.

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

299
300 ===== T I T L E A M E N D M E N T =====

301 And the title is amended as follows:

302 Delete line 4153

303 and insert:



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304 established its responsibilities; amending s.
305 460.4062, F.S.; revising the requirements for
306 obtaining a chiropractic medicine faculty certificate;
307 amending s. 460.408, F.S.; authorizing the Board of
308 Chiropractic Medicine to approve continuing education
309 courses sponsored by chiropractic colleges under
310 certain circumstances; prohibiting the board from
311 approving certain courses in continuing chiropractic
312 education; amending s. 460.406, F.S.; revising
313 requirements for a person who desires to be licensed
314 as a chiropractic physician; amending s. 460.413,
315 F.S.; requiring that a chiropractic physician preserve
316 the identity of funds or property of a patient in
317 excess of a specified amount; limiting the amount that
318 may be advanced to a chiropractic physician for
319 certain costs and expenses; amending s. 460.4165,
320 F.S.; providing that services rendered by a certified
321 chiropractic physician's assistant under indirect
322 supervision may occur only at the supervising
323 chiropractic physician's address of record; deleting
324 the length of time specified for the basic program of
325 education and training for certified chiropractic
326 physician's assistants; amending s. 460.4167, F.S.;
327 authorizing certain sole proprietorships, group
328 practices, partnerships, corporations, limited
329 liability companies, limited partnerships,
330 professional associations, other entities, health care
331 clinics licensed under part X of ch. 400, F.S., health
332 maintenance organizations, or prepaid health clinics



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333 to employ a chiropractic physician or engage a
334 chiropractic physician as an independent contractor to
335 provide services authorized by ch. 460, F.S.;
336 authorizing the spouse or adult children of a deceased
337 chiropractic physician to hold, operate, pledge, sell,
338 mortgage, assign, transfer, own, or control the
339 deceased chiropractic physician's ownership interests
340 under certain conditions; authorizing an employer that
341 employs a chiropractic physician to exercise control
342 over the patient records of the employed chiropractic
343 physician, the policies and decisions relating to
344 pricing, credit, refunds, warranties, and advertising,
345 and the decisions relating to office personnel and
346 hours of practice; deleting an obsolete provision;
347 amending s. 462.19,