

HB 413

2012

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 certain courses in continuing chiropractic
10 education; amending s. 460.406, F.S.; revising
11 requirements for a person who desires to be licensed
12 as a chiropractic physician; amending s. 460.413,
13 F.S.; requiring that a chiropractic physician preserve
14 the identity of funds or property of a patient in
15 excess of a specified amount; limiting the amount that
16 may be advanced to a chiropractic physician for
17 certain costs and expenses; amending s. 460.4165,
18 F.S.; providing that services rendered by a certified
19 chiropractic physician's assistant under indirect
20 supervision may occur only at the supervising
21 chiropractic physician's address of record; deleting
22 the length of time specified for the basic program of
23 education and training for certified chiropractic
24 physician's assistants; amending s. 460.4166, F.S.;
25 authorizing a registered chiropractic assistant to
26 operate therapeutic office equipment; requiring that a
27 registered chiropractic assistant register with the
28 board effective by a specified date and pay a fee for

HB 413

2012

29 registration under certain circumstances; requiring
30 that a registered chiropractic assistant submit an
31 initial application by a specified date, or within 30
32 days after becoming employed, whichever occurs later;
33 requiring that an applicant specify the place of
34 employment and the names of the supervising
35 chiropractic physicians; requiring that the
36 application be signed by a chiropractic physician who
37 is an owner of the applicant's place of employment;
38 providing an effective date of a registered
39 chiropractic assistant's registration; authorizing
40 certain chiropractic physicians or chiropractic
41 physician's assistants to supervise a registered
42 chiropractic assistant; requiring that a registered
43 chiropractic assistant notify the board of his or her
44 change of employment within a specified time;
45 requiring that a specified chiropractic physician sign
46 the registered chiropractic assistant's notification
47 of change of employment; requiring that the registered
48 chiropractic assistant's employer notify the board
49 when the assistant is no longer employed by that
50 employer; providing eligibility conditions for
51 registering as a registered chiropractic assistant;
52 requiring the biennial renewal of a registered
53 chiropractic assistant's registration and payment of a
54 renewal fee; requiring that the board adopt by rule
55 the forms for certain statutorily required
56 applications and notifications; authorizing the board

HB 413

2012

57 | to accept or require electronically submitted
58 | applications, notifications, signatures, or
59 | attestations in lieu of paper applications and actual
60 | signatures; requiring the signature of certain forms
61 | and notices by specified owners and supervisors under
62 | certain conditions; authorizing the board to provide
63 | for electronic alternatives to signatures if an
64 | application is submitted electronically; amending s.
65 | 460.4167, F.S.; authorizing certain sole
66 | proprietorships, group practices, partnerships,
67 | corporations, limited liability companies, limited
68 | partnerships, professional associations, other
69 | entities, health care clinics licensed under part X of
70 | ch. 400, F.S., health maintenance organizations, or
71 | prepaid health clinics to employ a chiropractic
72 | physician or engage a chiropractic physician as an
73 | independent contractor to provide services authorized
74 | by ch. 460, F.S.; authorizing the spouse or adult
75 | children of a deceased chiropractic physician to hold,
76 | operate, pledge, sell, mortgage, assign, transfer,
77 | own, or control the deceased chiropractic physician's
78 | ownership interests under certain conditions;
79 | authorizing an employer that employs a chiropractic
80 | physician to exercise control over the patient records
81 | of the employed chiropractic physician, the policies
82 | and decisions relating to pricing, credit, refunds,
83 | warranties, and advertising, and the decisions
84 | relating to office personnel and hours of practice;

HB 413

2012

85 deleting an obsolete provision; providing an effective
 86 date.

87

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

89

90 Section 1. Paragraph (e) of subsection (1) of section
 91 460.4062, Florida Statutes, is amended to read:

92 460.4062 Chiropractic medicine faculty certificate.—

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

98 (e)1. Performs research or has been offered and has
 99 accepted a full-time or part-time faculty appointment to teach
 100 in a program of chiropractic medicine at a publicly funded state
 101 university or college or at a college of chiropractic located in
 102 the state and accredited by the Council on Chiropractic
 103 Education; and

104 2. Provides a certification from the dean of the
 105 appointing college acknowledging the appointment.

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

108 460.408 Continuing chiropractic education.—

109 (1) The board shall require licensees to periodically
 110 demonstrate their professional competence as a condition of
 111 renewal of a license by completing up to 40 contact classroom
 112 hours of continuing education.

HB 413

2012

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

118 (b) The board shall approve those courses that build upon
119 the basic courses required for the practice of chiropractic
120 medicine, and the board may also approve courses in adjunctive
121 modalities. Courses that consist of instruction in the use,
122 application, prescription, recommendation, or administration of
123 a specific company's brand of products or services are not
124 eligible for approval.

125 Section 3. Paragraph (e) of subsection (1) of section
126 460.406, Florida Statutes, is amended to read:

127 460.406 Licensure by examination.—

128 (1) Any person desiring to be licensed as a chiropractic
129 physician must apply to the department to take the licensure
130 examination. There shall be an application fee set by the board
131 not to exceed \$100 which shall be nonrefundable. There shall
132 also be an examination fee not to exceed \$500 plus the actual
133 per applicant cost to the department for purchase of portions of
134 the examination from the National Board of Chiropractic
135 Examiners or a similar national organization, which may be
136 refundable if the applicant is found ineligible to take the
137 examination. The department shall examine each applicant who the
138 board certifies has:

139 (e) Successfully completed the National Board of
140 Chiropractic Examiners certification examination in parts I, II,

HB 413

2012

141 ~~and~~ III, and IV with a score approved by the board.

142

143 The board may require an applicant who graduated from an
 144 institution accredited by the Council on Chiropractic Education
 145 more than 10 years before the date of application to the board
 146 to take the National Board of Chiropractic Examiners Special
 147 Purposes Examination for Chiropractic, or its equivalent, as
 148 determined by the board. The board shall establish by rule a
 149 passing score.

150 Section 4. Paragraph (y) of subsection (1) of section
 151 460.413, Florida Statutes, is amended to read:

152 460.413 Grounds for disciplinary action; action by board
 153 or department.—

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

156 (y) Failing to preserve identity of funds and property of
 157 a patient, the value of which is greater than \$501. As provided
 158 by rule of the board, money or other property entrusted to a
 159 chiropractic physician for a specific purpose, including
 160 advances for costs and expenses of examination or treatment
 161 which may not exceed the value of \$1,500, is to be held in trust
 162 and must be applied only to that purpose. Money and other
 163 property of patients coming into the hands of a chiropractic
 164 physician are not subject to counterclaim or setoff for
 165 chiropractic physician's fees, and a refusal to account for and
 166 deliver over such money and property upon demand shall be deemed
 167 a conversion. This is not to preclude the retention of money or
 168 other property upon which the chiropractic physician has a valid

HB 413

2012

169 | lien for services or to preclude the payment of agreed fees from
170 | the proceeds of transactions for examinations or treatments.
171 | Controversies as to the amount of the fees are not grounds for
172 | disciplinary proceedings unless the amount demanded is clearly
173 | excessive or extortionate, or the demand is fraudulent. All
174 | funds of patients paid to a chiropractic physician, other than
175 | advances for costs and expenses, shall be deposited into ~~in~~ one
176 | or more identifiable bank accounts maintained in the state in
177 | which the chiropractic physician's office is situated, and ~~no~~
178 | funds belonging to the chiropractic physician may not ~~shall~~ be
179 | deposited therein except as follows:

180 | 1. Funds reasonably sufficient to pay bank charges may be
181 | deposited therein.

182 | 2. Funds belonging in part to a patient and in part
183 | presently or potentially to the physician must be deposited
184 | therein, but the portion belonging to the physician may be
185 | withdrawn when due unless the right of the physician to receive
186 | it is disputed by the patient, in which event the disputed
187 | portion may ~~shall~~ not be withdrawn until the dispute is finally
188 | resolved.

189 |
190 | Every chiropractic physician shall maintain complete records of
191 | all funds, securities, and other properties of a patient coming
192 | into the possession of the physician and render appropriate
193 | accounts to the patient regarding them. In addition, every
194 | chiropractic physician shall promptly pay or deliver to the
195 | patient, as requested by the patient, the funds, securities, or
196 | other properties in the possession of the physician which the

HB 413

2012

197 patient is entitled to receive.

198 Section 5. Subsections (2) and (5) of section 460.4165,
 199 Florida Statutes, are amended to read:

200 460.4165 Certified chiropractic physician's assistants.—

201 (2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S
 202 ASSISTANT.—Notwithstanding any other provision of law, a
 203 certified chiropractic physician's assistant may perform
 204 chiropractic services in the specialty area or areas for which
 205 the certified chiropractic physician's assistant is trained or
 206 experienced when such services are rendered under the
 207 supervision of a licensed chiropractic physician or group of
 208 chiropractic physicians certified by the board. Any certified
 209 chiropractic physician's assistant certified under this section
 210 to perform services may perform those services only:

211 (a) In the office of the chiropractic physician to whom
 212 the certified chiropractic physician's assistant has been
 213 assigned, in which office such physician maintains her or his
 214 primary practice;

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

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

223 (d) On calls outside ~~of~~ the office of the chiropractic
 224 physician to whom she or he is assigned, on the direct order of

HB 413

2012

225 the chiropractic physician to whom she or he is assigned.

226 (5) PROGRAM APPROVAL.—The department shall issue
 227 certificates of approval for programs for the education and
 228 training of certified chiropractic physician's assistants which
 229 meet board standards. Any basic program curriculum certified by
 230 the board ~~shall cover a period of 24 months. The curriculum~~ must
 231 consist of a curriculum of at least 200 didactic classroom hours
 232 ~~during those 24 months.~~

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

238 (b) The board shall create groups of specialty
 239 classifications of training for certified chiropractic
 240 physician's assistants. These classifications must ~~shall~~ reflect
 241 the training and experience of the certified chiropractic
 242 physician's assistant. The certified chiropractic physician's
 243 assistant may receive training in one or more such
 244 classifications, which shall be shown on the certificate issued.

245 (c) The board shall adopt and publish standards to ensure
 246 that such programs operate in a manner that ~~which~~ does not
 247 endanger the health and welfare of the patients who receive
 248 services within the scope of the program. The board shall review
 249 the quality of the curricula, faculties, and facilities of such
 250 programs; issue certificates of approval; and take whatever
 251 other action is necessary to determine that the purposes of this
 252 section are being met.

HB 413

2012

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

256 460.4166 Registered chiropractic assistants.—

257 (2) DUTIES.—Under the direct supervision and
 258 responsibility of a licensed chiropractic physician or certified
 259 chiropractic physician's assistant, a registered chiropractic
 260 assistant may:

261 (a) Perform clinical procedures, which include:

262 1. Preparing patients for the chiropractic physician's
 263 care.

264 2. Taking vital signs.

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

266 (b) Administer basic first aid.

267 (c) Assist with patient examinations or treatments other
 268 than manipulations or adjustments.

269 (d) Operate therapeutic office equipment.

270 (e) Collect routine laboratory specimens as directed by
 271 the chiropractic physician or certified chiropractic physician's
 272 assistant.

273 (f) Administer nutritional supplements as directed by the
 274 chiropractic physician or certified chiropractic physician's
 275 assistant.

276 (g) Perform office procedures required by the chiropractic
 277 physician or certified chiropractic physician's assistant under
 278 direct supervision of the chiropractic physician or certified
 279 chiropractic physician's assistant.

280 (3) REGISTRATION.—

HB 413

2012

281 (a) A registered chiropractic assistant shall register
282 with assistants may be registered by the board for a biennial
283 fee not to exceed \$25. Effective April 1, 2013, a person must
284 register with the board as a registered chiropractic assistant
285 if the person performs any duties described in subsection (2),
286 unless the person is otherwise certified or licensed to perform
287 those duties.

288 (b) A person employed as a registered chiropractic
289 assistant shall submit to the board an initial application for
290 registration by March 31, 2013, or within 30 days after becoming
291 employed as a registered chiropractic assistant, whichever
292 occurs later, specifying the applicant's place of employment and
293 the names of all chiropractic physicians under whose supervision
294 the applicant performs the duties described in subsection (2).
295 The application for registration must be signed by a
296 chiropractic physician who is an owner of the place of
297 employment specified in the application. Upon the board's
298 receipt of the application, the effective date of the
299 registration is April 1, 2013, or applies retroactively to the
300 applicant's date of employment as a registered chiropractic
301 assistant, whichever occurs later, and the registered
302 chiropractic assistant may be supervised by any licensed
303 chiropractic physician or certified chiropractic physician's
304 assistant who is employed by the registered chiropractic
305 assistant's employer or who is listed on the registration
306 application.

307 (c) A registered chiropractic assistant, within 30 days
308 after a change of employment, shall notify the board of the new

HB 413

2012

309 place of employment and the names of all chiropractic physicians
310 under whose supervision the registered chiropractic assistant
311 performs duties described in subsection (2) at the new place of
312 employment. The notification must be signed by a chiropractic
313 physician who is an owner of the new place of employment. Upon
314 the board's receipt of the notification, the registered
315 chiropractic assistant may be supervised by any licensed
316 chiropractic physician or certified chiropractic physician's
317 assistant who is employed by the registered chiropractic
318 assistant's new employer or who is listed on the notification.

319 (d) Within 30 days after a registered chiropractic
320 assistant is no longer employed at his or her place of
321 employment as registered with the board, the registered
322 chiropractic assistant's employer as registered with the board
323 shall notify the board that the registered chiropractic
324 assistant is no longer employed by that employer.

325 (e) An employee who performs none of the duties described
326 in subsection (2) is not eligible to register under this
327 subsection.

328 (4) REGISTERED CHIROPRACTIC ASSISTANT REGISTRATION
329 RENEWAL.—

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

- 332 1. A renewal fee as set by the board, not to exceed \$25.
333 2. The registered chiropractic assistant's current place
334 of employment and the names of all chiropractic physicians under
335 whose supervision the applicant performs duties described in
336 subsection (2). The application for registration renewal must be

HB 413

2012

337 signed by a chiropractic physician who is an owner of the place
338 of employment specified in the application.

339 (b) Upon registration renewal, the registered chiropractic
340 assistant may be supervised by any licensed chiropractic
341 physician or certified chiropractic physician's assistant who is
342 employed by the registered chiropractic assistant's employer or
343 who is listed on the registration renewal.

344 (5) APPLICATION AND NOTIFICATION FORMS.—The board shall
345 prescribe by rule the forms for the registration application,
346 notification, and registration renewal that are required under
347 subsections (3) and (4). The board may accept or may require
348 electronically submitted registration applications,
349 notifications, registration renewals, attestations, or
350 signatures in lieu of paper applications, notifications,
351 renewals, or attestations or actual signatures.

352 (6) SIGNATURE REQUIREMENTS.—If a registered chiropractic
353 assistant is employed by an entity that is not owned in whole or
354 in part by a licensed chiropractic physician under s. 460.4167,
355 the documents requiring signatures under this section must be
356 signed by a person having an ownership interest in the entity
357 that employs the assistant and by the licensed chiropractic
358 physician who supervises the assistant. In lieu of written
359 signatures, the board may provide for electronic alternatives to
360 signatures if an application is submitted electronically, in
361 which instance all other requirements in this section apply.

362 Section 7. Section 460.4167, Florida Statutes, is amended
363 to read:

364 460.4167 Proprietorship by persons other than licensed

HB 413

2012

365 chiropractic physicians.—

366 (1) ~~A No person other than a sole proprietorship, group~~
 367 ~~practice, partnership, or corporation that is wholly owned by~~
 368 ~~one or more chiropractic physicians licensed under this chapter~~
 369 ~~or by a chiropractic physician licensed under this chapter and~~
 370 ~~the spouse, parent, child, or sibling of that chiropractic~~
 371 ~~physician may not~~ employ a chiropractic physician licensed under
 372 this chapter or engage a chiropractic physician licensed under
 373 this chapter as an independent contractor to provide services
 374 that chiropractic physicians are authorized to offer by this
 375 ~~chapter to be offered by a chiropractic physician licensed under~~
 376 ~~this chapter, unless the person is any of the following, except~~
 377 ~~for:~~

378 (a) A sole proprietorship, group practice, partnership,
 379 corporation, limited liability company, limited partnership,
 380 professional association, or any other entity that is wholly
 381 owned by:

382 1. One or more chiropractic physicians licensed under this
 383 chapter;

384 2. A chiropractic physician licensed under this chapter
 385 and the spouse or surviving spouse, parent, child, or sibling of
 386 the chiropractic physician; or

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

390
 391 If the chiropractic physician described in subparagraph (a)2.
 392 dies, notwithstanding part X of chapter 400, the surviving

393 spouse or adult children may hold, operate, pledge, sell,
 394 mortgage, assign, transfer, own, or control the chiropractic
 395 physician's ownership interests for so long as the surviving
 396 spouse or adult children remain the sole proprietors of the
 397 chiropractic practice.

398 (b)-(a) A sole proprietorship, group practice, partnership,
 399 ~~or~~ corporation, limited liability company, limited partnership,
 400 professional association, or any other entity that is wholly
 401 owned by a physician or physicians licensed under this chapter,
 402 chapter 458, chapter 459, or chapter 461.

403 (c)-(b) An entity ~~Entities~~ that is wholly ~~are~~ owned,
 404 directly or indirectly, by an entity licensed or registered by
 405 the state under chapter 395.

406 (d)-(e) A clinical facility that is ~~facilities~~ affiliated
 407 with a college of chiropractic accredited by the Council on
 408 Chiropractic Education at which training is provided for
 409 chiropractic students.

410 (e)-(d) A public or private university or college.

411 (f)-(e) An entity wholly owned and operated by an
 412 organization that is exempt from federal taxation under s.
 413 501(c)(3) or (4) of the Internal Revenue Code, a ~~any~~ community
 414 college or university clinic, or an ~~and any~~ entity owned or
 415 operated by the Federal Government or by state government,
 416 including any agency, county, municipality, or other political
 417 subdivision thereof.

418 (g)-(f) An entity owned by a corporation the stock of which
 419 is publicly traded.

420 (h)-(g) A clinic licensed under part X of chapter 400 which

HB 413

2012

421 ~~that~~ provides chiropractic services by a chiropractic physician
 422 licensed under this chapter and other health care services by
 423 physicians licensed under chapter 458 or, chapter 459, ~~or~~
 424 ~~chapter 460~~, the medical director of which is licensed under
 425 chapter 458 or chapter 459.

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

427 (j) A health maintenance organization or prepaid health
 428 clinic regulated under chapter 641.

429 (2) A ~~No~~ person other than a chiropractic physician
 430 licensed under this chapter may not ~~shall~~ direct, control, or
 431 interfere with a chiropractic physician's clinical judgment
 432 regarding the medical necessity of chiropractic treatment. For
 433 purposes of this subsection, a chiropractic physician's clinical
 434 judgment does not apply to chiropractic services that are
 435 contractually excluded, the application of alternative services
 436 that may be appropriate given the chiropractic physician's
 437 prescribed course of treatment, or determinations that compare
 438 ~~comparing~~ contractual provisions and scope of coverage with a
 439 chiropractic physician's prescribed treatment on behalf of a
 440 covered person by an insurer, health maintenance organization,
 441 or prepaid limited health service organization.

442 (3) Any lease agreement, rental agreement, or other
 443 arrangement between a person other than a licensed chiropractic
 444 physician and a chiropractic physician whereby the person other
 445 than a licensed chiropractic physician provides the chiropractic
 446 physician with chiropractic equipment or chiropractic materials
 447 must ~~shall~~ contain a provision whereby the chiropractic
 448 physician expressly maintains complete care, custody, and

HB 413

2012

449 control of the equipment or practice.

450 (4) The purpose of this section is to prevent a person
451 other than the ~~a~~ licensed chiropractic physician from
452 influencing or otherwise interfering with the exercise of the ~~a~~
453 chiropractic physician's independent professional judgment. In
454 addition to the acts specified in subsection (2) ~~(1)~~, a person
455 or entity other than an employer or entity authorized in
456 subsection (1) ~~a licensed chiropractic physician and any entity~~
457 ~~other than a sole proprietorship, group practice, partnership,~~
458 ~~or corporation that is wholly owned by one or more chiropractic~~
459 ~~physicians licensed under this chapter or by a chiropractic~~
460 ~~physician licensed under this chapter and the spouse, parent,~~
461 ~~child, or sibling of that physician,~~ may not employ or engage a
462 chiropractic physician licensed under this chapter. A person or
463 entity may not ~~or~~ enter into a contract or arrangement with a
464 chiropractic physician pursuant to which such ~~unlicensed~~ person
465 or ~~such~~ entity exercises control over the following:

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

470 (b) The patient records of the chiropractic physician ~~a~~
471 ~~chiropractor~~;

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

474 (d) The decisions relating to office personnel and hours
475 of practice.

476

HB 413

2012

477 However, a person or entity that is authorized to employ a
478 chiropractic physician under subsection (1) may exercise control
479 over the patient records of the employed chiropractic physician;
480 the policies and decisions relating to pricing, credit, refunds,
481 warranties, and advertising; and the decisions relating to
482 office personnel and hours of practice.

483 (5) Any person who violates this section commits a felony
484 of the third degree, punishable as provided in s. 775.082 ~~s.~~
485 ~~775.081~~, s. 775.083, or s. 775.084 ~~s. 775.035~~.

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

490 Section 8. This act shall take effect July 1, 2012.