

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. 460.4167, F.S.;
25 authorizing certain sole proprietorships, group
26 practices, partnerships, corporations, limited
27 liability companies, limited partnerships,
28 professional associations, other entities, health care

29 | clinics licensed under part X of ch. 400, F.S., health
 30 | maintenance organizations, or prepaid health clinics
 31 | to employ a chiropractic physician or engage a
 32 | chiropractic physician as an independent contractor to
 33 | provide services authorized by ch. 460, F.S.;

34 | authorizing the spouse or adult children of a deceased
 35 | chiropractic physician to hold, operate, pledge, sell,
 36 | mortgage, assign, transfer, own, or control the
 37 | deceased chiropractic physician's ownership interests
 38 | under certain conditions; authorizing an employer that
 39 | employs a chiropractic physician to exercise control
 40 | over the patient records of the employed chiropractic
 41 | physician, the policies and decisions relating to
 42 | pricing, credit, refunds, warranties, and advertising,
 43 | and the decisions relating to office personnel and
 44 | hours of practice; deleting an obsolete provision;
 45 | providing an effective date.

46 |

47 | Be It Enacted by the Legislature of the State of Florida:

48 |

49 | Section 1. Paragraph (e) of subsection (1) of section
 50 | 460.4062, Florida Statutes, is amended to read:

51 | 460.4062 Chiropractic medicine faculty certificate.—

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

57 (e)1. Performs research or has been offered and has
 58 accepted a full-time or part-time faculty appointment to teach
 59 in a program of chiropractic medicine at a publicly funded state
 60 university or college or at a college of chiropractic located in
 61 the state and accredited by the Council on Chiropractic
 62 Education; and

63 2. Provides a certification from the dean of the
 64 appointing college acknowledging the appointment.

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

67 460.408 Continuing chiropractic education.—

68 (1) The board shall require licensees to periodically
 69 demonstrate their professional competence as a condition of
 70 renewal of a license by completing up to 40 contact classroom
 71 hours of continuing education.

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

77 (b) The board shall approve those courses that build upon
 78 the basic courses required for the practice of chiropractic
 79 medicine, and the board may also approve courses in adjunctive
 80 modalities. Courses that consist of instruction in the use,
 81 application, prescription, recommendation, or administration of
 82 a specific company's brand of products or services are not
 83 eligible for approval.

84 Section 3. Paragraph (e) of subsection (1) of section

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85 460.406, Florida Statutes, is amended to read:

86 460.406 Licensure by examination.—

87 (1) Any person desiring to be licensed as a chiropractic
88 physician must apply to the department to take the licensure
89 examination. There shall be an application fee set by the board
90 not to exceed \$100 which shall be nonrefundable. There shall
91 also be an examination fee not to exceed \$500 plus the actual
92 per applicant cost to the department for purchase of portions of
93 the examination from the National Board of Chiropractic
94 Examiners or a similar national organization, which may be
95 refundable if the applicant is found ineligible to take the
96 examination. The department shall examine each applicant who the
97 board certifies has:

98 (e) Successfully completed the National Board of
99 Chiropractic Examiners certification examination in parts I, II,
100 ~~and III, and IV,~~ and the physiotherapy examination of the
101 National Board of Chiropractic Examiners, with a score approved
102 by the board.

103
104 The board may require an applicant who graduated from an
105 institution accredited by the Council on Chiropractic Education
106 more than 10 years before the date of application to the board
107 to take the National Board of Chiropractic Examiners Special
108 Purposes Examination for Chiropractic, or its equivalent, as
109 determined by the board. The board shall establish by rule a
110 passing score.

111 Section 4. Paragraph (y) of subsection (1) of section
112 460.413, Florida Statutes, is amended to read:

113 460.413 Grounds for disciplinary action; action by board
 114 or department.—

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

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

141 1. Funds reasonably sufficient to pay bank charges may be
 142 deposited therein.

143 2. Funds belonging in part to a patient and in part
 144 presently or potentially to the physician must be deposited
 145 therein, but the portion belonging to the physician may be
 146 withdrawn when due unless the right of the physician to receive
 147 it is disputed by the patient, in which event the disputed
 148 portion may ~~shall~~ not be withdrawn until the dispute is finally
 149 resolved.

150
 151 Every chiropractic physician shall maintain complete records of
 152 all funds, securities, and other properties of a patient coming
 153 into the possession of the physician and render appropriate
 154 accounts to the patient regarding them. In addition, every
 155 chiropractic physician shall promptly pay or deliver to the
 156 patient, as requested by the patient, the funds, securities, or
 157 other properties in the possession of the physician which the
 158 patient is entitled to receive.

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

161 460.4165 Certified chiropractic physician's assistants.—

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

169 chiropractic physicians certified by the board. Any certified
 170 chiropractic physician's assistant certified under this section
 171 to perform services may perform those services only:

172 (a) In the office of the chiropractic physician to whom
 173 the certified chiropractic physician's assistant has been
 174 assigned, in which office such physician maintains her or his
 175 primary practice;

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

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

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

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

194 (a) In developing criteria for program approval, the board
 195 shall give consideration to, and encourage, the use ~~utilization~~
 196 of equivalency and proficiency testing and other mechanisms

197 | whereby full credit is given to trainees for past education and
 198 | experience in health fields.

199 | (b) The board shall create groups of specialty
 200 | classifications of training for certified chiropractic
 201 | physician's assistants. These classifications must ~~shall~~ reflect
 202 | the training and experience of the certified chiropractic
 203 | physician's assistant. The certified chiropractic physician's
 204 | assistant may receive training in one or more such
 205 | classifications, which shall be shown on the certificate issued.

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

214 | Section 6. Section 460.4167, Florida Statutes, is amended
 215 | to read:

216 | 460.4167 Proprietorship by persons other than licensed
 217 | chiropractic physicians.—

218 | (1) A ~~No person other than a sole proprietorship, group~~
 219 | ~~practice, partnership, or corporation that is wholly owned by~~
 220 | ~~one or more chiropractic physicians licensed under this chapter~~
 221 | ~~or by a chiropractic physician licensed under this chapter and~~
 222 | ~~the spouse, parent, child, or sibling of that chiropractic~~
 223 | ~~physician~~ may not employ a chiropractic physician licensed under
 224 | this chapter or engage a chiropractic physician licensed under

225 this chapter as an independent contractor to provide services
 226 that chiropractic physicians are authorized to offer ~~by this~~
 227 ~~chapter to be offered by a chiropractic physician licensed under~~
 228 this chapter, unless the person is any of the following, except
 229 for:

230 (a) A sole proprietorship, group practice, partnership,
 231 corporation, limited liability company, limited partnership,
 232 professional association, or any other entity that is wholly
 233 owned by:

234 1. One or more chiropractic physicians licensed under this
 235 chapter;

236 2. A chiropractic physician licensed under this chapter
 237 and the spouse or surviving spouse, parent, child, or sibling of
 238 the chiropractic physician; or

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

242
 243 If the chiropractic physician described in subparagraph (a)2.
 244 dies, notwithstanding part X of chapter 400, the surviving
 245 spouse or adult children may hold, operate, pledge, sell,
 246 mortgage, assign, transfer, own, or control the chiropractic
 247 physician's ownership interests for so long as the surviving
 248 spouse or adult children remain the sole proprietors of the
 249 chiropractic practice.

250 (b) ~~(a)~~ A sole proprietorship, group practice, partnership,
 251 ~~or~~ corporation, limited liability company, limited partnership,
 252 professional association, or any other entity that is wholly

253 | owned by a physician or physicians licensed under this chapter,
 254 | chapter 458, chapter 459, or chapter 461.

255 | (c)~~(b)~~ An entity ~~Entities~~ that is wholly ~~are~~ owned,
 256 | directly or indirectly, by an entity licensed or registered by
 257 | the state under chapter 395.

258 | (d)~~(e)~~ A clinical facility that is ~~facilities~~ affiliated
 259 | with a college of chiropractic accredited by the Council on
 260 | Chiropractic Education at which training is provided for
 261 | chiropractic students.

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

263 | (f)~~(e)~~ An entity wholly owned and operated by an
 264 | organization that is exempt from federal taxation under s.
 265 | 501(c)(3) or (4) of the Internal Revenue Code, a ~~any~~ community
 266 | college or university clinic, or an ~~and any~~ entity owned or
 267 | operated by the Federal Government or by state government,
 268 | including any agency, county, municipality, or other political
 269 | subdivision thereof.

270 | (g)~~(f)~~ An entity owned by a corporation the stock of which
 271 | is publicly traded.

272 | (h)~~(g)~~ A clinic licensed under part X of chapter 400 which
 273 | ~~that~~ provides chiropractic services by a chiropractic physician
 274 | licensed under this chapter and other health care services by
 275 | physicians licensed under chapter 458 or, chapter 459, ~~or~~
 276 | ~~chapter 460,~~ the medical director of which is licensed under
 277 | chapter 458 or chapter 459.

278 | (i)~~(h)~~ A state-licensed insurer.

279 | (j) A health maintenance organization or prepaid health
 280 | clinic regulated under chapter 641.

281 (2) A ~~No~~ person other than a chiropractic physician
 282 licensed under this chapter may not ~~shall~~ direct, control, or
 283 interfere with a chiropractic physician's clinical judgment
 284 regarding the medical necessity of chiropractic treatment. For
 285 purposes of this subsection, a chiropractic physician's clinical
 286 judgment does not apply to chiropractic services that are
 287 contractually excluded, the application of alternative services
 288 that may be appropriate given the chiropractic physician's
 289 prescribed course of treatment, or determinations that compare
 290 ~~comparing~~ contractual provisions and scope of coverage with a
 291 chiropractic physician's prescribed treatment on behalf of a
 292 covered person by an insurer, health maintenance organization,
 293 or prepaid limited health service organization.

294 (3) Any lease agreement, rental agreement, or other
 295 arrangement between a person other than a licensed chiropractic
 296 physician and a chiropractic physician whereby the person other
 297 than a licensed chiropractic physician provides the chiropractic
 298 physician with chiropractic equipment or chiropractic materials
 299 must ~~shall~~ contain a provision whereby the chiropractic
 300 physician expressly maintains complete care, custody, and
 301 control of the equipment or practice.

302 (4) The purpose of this section is to prevent a person
 303 other than the ~~a~~ licensed chiropractic physician from
 304 influencing or otherwise interfering with the exercise of the ~~a~~
 305 chiropractic physician's independent professional judgment. In
 306 addition to the acts specified in subsection (2) ~~(1)~~, a person
 307 or entity other than an employer or entity authorized in
 308 subsection (1) ~~a licensed chiropractic physician and any entity~~

309 ~~other than a sole proprietorship, group practice, partnership,~~
 310 ~~or corporation that is wholly owned by one or more chiropractic~~
 311 ~~physicians licensed under this chapter or by a chiropractic~~
 312 ~~physician licensed under this chapter and the spouse, parent,~~
 313 ~~child, or sibling of that physician, may not employ or engage a~~
 314 ~~chiropractic physician licensed under this chapter. A person or~~
 315 ~~entity may not~~ or enter into a contract or arrangement with a
 316 chiropractic physician pursuant to which such ~~unlicensed~~ person
 317 or ~~such~~ entity exercises control over the following:

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

322 (b) The patient records of the chiropractic physician a
 323 ~~chiropractor~~;

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

326 (d) The decisions relating to office personnel and hours
 327 of practice.

328
 329 However, a person or entity that is authorized to employ a
 330 chiropractic physician under subsection (1) may exercise control
 331 over the patient records of the employed chiropractic physician;
 332 the policies and decisions relating to pricing, credit, refunds,
 333 warranties, and advertising; and the decisions relating to
 334 office personnel and hours of practice.

335 (5) Any person who violates this section commits a felony
 336 of the third degree, punishable as provided in s. 775.082 ~~s.~~

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337 ~~775.081~~, s. 775.083, or s. 775.084 ~~s. 775.035~~.

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

342 Section 7. This act shall take effect July 1, 2012.