

By the Committee on 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 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
29 registration under certain circumstances; requiring

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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
57 to accept or require electronically submitted
58 applications, notifications, signatures, or

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

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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 appointing
105 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.

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

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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,
141 ~~and~~ III, and IV, and the physiotherapy examination of the
142 National Board of Chiropractic Examiners, with a score approved
143 by the board.

144

145 The board may require an applicant who graduated from an

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146 institution accredited by the Council on Chiropractic Education
147 more than 10 years before the date of application to the board
148 to take the National Board of Chiropractic Examiners Special
149 Purposes Examination for Chiropractic, or its equivalent, as
150 determined by the board. The board shall establish by rule a
151 passing score.

152 Section 4. Paragraph (y) of subsection (1) of section
153 460.413, Florida Statutes, is amended to read:

154 460.413 Grounds for disciplinary action; action by board or
155 department.—

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

158 (y) Failing to preserve identity of funds and property of a
159 patient, the value of which is greater than \$501. As provided by
160 rule of the board, money or other property entrusted to a
161 chiropractic physician for a specific purpose, including
162 advances for costs and expenses of examination or treatment
163 which may not exceed the value of \$1,500, is to be held in trust
164 and must be applied only to that purpose. Money and other
165 property of patients coming into the hands of a chiropractic
166 physician are not subject to counterclaim or setoff for
167 chiropractic physician's fees, and a refusal to account for and
168 deliver over such money and property upon demand shall be deemed
169 a conversion. This is not to preclude the retention of money or
170 other property upon which the chiropractic physician has a valid
171 lien for services or to preclude the payment of agreed fees from
172 the proceeds of transactions for examinations or treatments.
173 Controversies as to the amount of the fees are not grounds for
174 disciplinary proceedings unless the amount demanded is clearly

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175 excessive or extortionate, or the demand is fraudulent. All
176 funds of patients paid to a chiropractic physician, other than
177 advances for costs and expenses, shall be deposited into ~~in~~ one
178 or more identifiable bank accounts maintained in the state in
179 which the chiropractic physician's office is situated, and ~~no~~
180 funds belonging to the chiropractic physician may not ~~shall~~ be
181 deposited therein except as follows:

182 1. Funds reasonably sufficient to pay bank charges may be
183 deposited therein.

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

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

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

202 460.4165 Certified chiropractic physician's assistants.—

203 (2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S

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

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

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

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

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

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

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233 consist of a curriculum of at least 200 didactic classroom hours
234 ~~during those 24 months.~~

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

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

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

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

258 460.4166 Registered chiropractic assistants.—

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

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- 262 (a) Perform clinical procedures, which include:
- 263 1. Preparing patients for the chiropractic physician's
- 264 care.
- 265 2. Taking vital signs.
- 266 3. Observing and reporting patients' signs or symptoms.
- 267 (b) Administer basic first aid.
- 268 (c) Assist with patient examinations or treatments other
- 269 than manipulations or adjustments.
- 270 (d) Operate therapeutic office equipment.
- 271 (e) Collect routine laboratory specimens as directed by the
- 272 chiropractic physician or certified chiropractic physician's
- 273 assistant.
- 274 (f) Administer nutritional supplements as directed by the
- 275 chiropractic physician or certified chiropractic physician's
- 276 assistant.
- 277 (g) Perform office procedures required by the chiropractic
- 278 physician or certified chiropractic physician's assistant under
- 279 direct supervision of the chiropractic physician or certified
- 280 chiropractic physician's assistant.
- 281 (3) REGISTRATION.—
- 282 (a) A registered chiropractic assistant shall register with
- 283 assistants may be registered by the board for a biennial fee not
- 284 to exceed \$25. Effective April 1, 2013, a person must register
- 285 with the board as a registered chiropractic assistant if the
- 286 person performs any duties described in subsection (2), unless
- 287 the person is otherwise certified or licensed to perform those
- 288 duties.
- 289 (b) A person employed as a registered chiropractic
- 290 assistant shall submit to the board an initial application for

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

308 (c) A registered chiropractic assistant, within 30 days
309 after a change of employment, shall notify the board of the new
310 place of employment and the names of all chiropractic physicians
311 under whose supervision the registered chiropractic assistant
312 performs duties described in subsection (2) at the new place of
313 employment. The notification must be signed by a chiropractic
314 physician who is an owner of the new place of employment. Upon
315 the board's receipt of the notification, the registered
316 chiropractic assistant may be supervised by any licensed
317 chiropractic physician or certified chiropractic physician's
318 assistant who is employed by the registered chiropractic
319 assistant's new employer or who is listed on the notification.

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

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

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

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

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

334 2. The registered chiropractic assistant's current place of
335 employment and the names of all chiropractic physicians under
336 whose supervision the applicant performs duties described in
337 subsection (2). The application for registration renewal must be
338 signed by a chiropractic physician who is an owner of the place
339 of employment specified in the application.

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

345 (5) APPLICATION AND NOTIFICATION FORMS.—The board shall
346 prescribe by rule the forms for the registration application,
347 notification, and registration renewal that are required under
348 subsections (3) and (4). The board may accept or may require

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349 electronically submitted registration applications,
350 notifications, registration renewals, attestations, or
351 signatures in lieu of paper applications, notifications,
352 renewals, or attestations or actual signatures.

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

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

365 460.4167 Proprietorship by persons other than licensed
366 chiropractic physicians.—

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

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378 ~~for:~~

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

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

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

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

391
392 If the chiropractic physician described in subparagraph (a)2.
393 dies, notwithstanding part X of chapter 400, the surviving
394 spouse or adult children may hold, operate, pledge, sell,
395 mortgage, assign, transfer, own, or control the chiropractic
396 physician's ownership interests for so long as the surviving
397 spouse or adult children remain the sole proprietors of the
398 chiropractic practice.

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

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

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

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

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

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

421 (h)~~(g)~~ A clinic licensed under part X of chapter 400 which
 422 ~~that~~ provides chiropractic services by a chiropractic physician
 423 licensed under this chapter and other health care services by
 424 physicians licensed under chapter 458 or, chapter 459, ~~or~~
 425 ~~chapter 460~~, the medical director of which is licensed under
 426 chapter 458 or chapter 459.

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

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

430 (2) A ~~No~~ person other than a chiropractic physician
 431 licensed under this chapter may not ~~shall~~ direct, control, or
 432 interfere with a chiropractic physician's clinical judgment
 433 regarding the medical necessity of chiropractic treatment. For
 434 purposes of this subsection, a chiropractic physician's clinical
 435 judgment does not apply to chiropractic services that are

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436 contractually excluded, the application of alternative services
437 that may be appropriate given the chiropractic physician's
438 prescribed course of treatment, or determinations that compare
439 ~~comparing~~ contractual provisions and scope of coverage with a
440 chiropractic physician's prescribed treatment on behalf of a
441 covered person by an insurer, health maintenance organization,
442 or prepaid limited health service organization.

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

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

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465 chiropractic physician pursuant to which such ~~unlicensed~~ person
466 or ~~such~~ entity exercises control over the following:

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

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

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

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

477

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

484 (5) Any person who violates this section commits a felony
485 of the third degree, punishable as provided in s. 775.082 ~~s.~~
486 ~~775.081~~, s. 775.083, or s. 775.084 ~~s. 775.035~~.

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

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