

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

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1                                   A bill to be entitled  
2           An act relating to chiropractic medicine; amending s.  
3           460.4062, F.S.; revising the requirements for  
4           obtaining a chiropractic medicine faculty certificate;  
5           amending s. 460.408, F.S.; authorizing the Board of  
6           Chiropractic Medicine to approve continuing education  
7           courses sponsored by chiropractic colleges under  
8           certain circumstances; prohibiting the board from  
9           approving 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

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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

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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 appointing  
64 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  
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

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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 or  
114 department.—

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

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117 (y) Failing to preserve identity of funds and property of a  
118 patient, the value of which is greater than \$501. As provided by  
119 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

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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 the  
173 certified chiropractic physician's assistant has been assigned,  
174 in which office such physician maintains her or his primary

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175 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

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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



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233 owned by:

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

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

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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

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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~~

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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, credit,  
325 refunds, warranties, and advertising; or

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