

CHAPTER 2012-171

Committee Substitute for House Bill No. 413

An act relating to chiropractic medicine; amending s. 460.4062, F.S.; revising the requirements for obtaining a chiropractic medicine faculty certificate; amending s. 460.408, F.S.; authorizing the Board of Chiropractic Medicine to approve continuing education courses sponsored by chiropractic colleges under certain circumstances; prohibiting the board from approving certain courses in continuing chiropractic education; amending s. 460.406, F.S.; revising requirements for a person who desires to be licensed as a chiropractic physician; amending s. 460.413, F.S.; requiring that a chiropractic physician preserve the identity of funds or property of a patient in excess of a specified amount; limiting the amount that may be advanced to a chiropractic physician for certain costs and expenses; amending s. 460.4165, F.S.; providing that services rendered by a certified chiropractic physician's assistant under indirect supervision may occur only at the supervising chiropractic physician's address of record; deleting the length of time specified for the basic program of education and training for certified chiropractic physician's assistants; amending s. 460.4167, F.S.; authorizing certain sole proprietorships, group practices, partnerships, corporations, limited liability companies, limited partnerships, professional associations, other entities, health care clinics licensed under part X of ch. 400, F.S., health maintenance organizations, or prepaid health clinics to employ a chiropractic physician or engage a chiropractic physician as an independent contractor to provide services authorized by ch. 460, F.S.; authorizing the spouse or adult children of a deceased chiropractic physician to hold, operate, pledge, sell, mortgage, assign, transfer, own, or control the deceased chiropractic physician's ownership interests under certain conditions; authorizing an employer that employs a chiropractic physician to exercise control over the patient records of the employed chiropractic physician, the policies and decisions relating to pricing, credit, refunds, warranties, and advertising, and the decisions relating to office personnel and hours of practice; deleting an obsolete provision; providing an effective date.

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

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

460.4062 Chiropractic medicine faculty certificate.—

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

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

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

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

460.408 Continuing chiropractic education.—

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

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

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

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

460.406 Licensure by examination.—

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

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

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

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

460.413 Grounds for disciplinary action; action by board or department.

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

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

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

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

Every chiropractic physician shall maintain complete records of all funds, securities, and other properties of a patient coming into the possession of the physician and render appropriate accounts to the patient regarding them. In addition, every chiropractic physician shall promptly pay or deliver to the

patient, as requested by the patient, the funds, securities, or other properties in the possession of the physician which the patient is entitled to receive.

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

460.4165 Certified chiropractic physician's assistants.—

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

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

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

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

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

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

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

(b) The board shall create groups of specialty classifications of training for certified chiropractic physician's assistants. These classifications must ~~shall~~ reflect the training and experience of the certified chiropractic physician's assistant. The certified chiropractic physician's assistant may

receive training in one or more such classifications, which shall be shown on the certificate issued.

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

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

460.4167 Proprietorship by persons other than licensed chiropractic physicians.—

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

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

- 1. One or more chiropractic physicians licensed under this chapter;
- 2. A chiropractic physician licensed under this chapter and the spouse or surviving spouse, parent, child, or sibling of the chiropractic physician; or
- 3. A trust whose trustees are chiropractic physicians licensed under this chapter and the spouse, parent, child, or sibling of a chiropractic physician.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor April 27, 2012.

Filed in Office Secretary of State April 27, 2012.