

AN ACT

RELATING TO THE PRACTICE OF CHIROPRACTIC; AMENDING CERTAIN SECTIONS OF THE CHIROPRACTIC PHYSICIAN PRACTICE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-4-3 NMSA 1978 (being Laws 1968, Chapter 3, Section 3, as amended) is amended to read:

"61-4-3. BOARD CREATED--APPOINTMENT--OFFICERS--DUTIES--COMPENSATION.--

A. There is created the "chiropractic board". The board shall be administratively attached to the regulation and licensing department. The board shall consist of six persons. Four shall have been continuously engaged in the practice of chiropractic in New Mexico for five years immediately prior to their appointment. Two persons shall represent the public and shall not have practiced chiropractic in this state or any other jurisdiction. A person shall not be appointed to the board who is an officer or employee of or who is financially interested in any school or college of chiropractic, medicine, surgery or osteopathy.

B. Members of the board shall be appointed by the governor for staggered terms of five years or less and in a manner that the term of one board member expires on July 1 of each year. A list of five names for each professional member vacancy shall be submitted by the New Mexico chiropractic

association to the governor for consideration in the appointment of board members. A vacancy shall be filled by appointment for the unexpired term. Board members shall serve until their successors have been appointed and qualified.

C. The board shall annually elect a chair and a secretary-treasurer. A majority of the board constitutes a quorum. The board shall meet quarterly. Special meetings may be called by the chair and shall be called upon the written request of two members of the board. Notification of special meetings shall be made by certified mail unless such notice is waived by the entire board and the action noted in the minutes. Notice of all regular meetings shall be made by regular mail at least ten days prior to the meeting, and copies of the minutes of all meetings shall be mailed to each board member within thirty days after a meeting.

D. A board member failing to attend three consecutive meetings, either regular or special, shall automatically be removed as a member of the board.

E. The board shall adopt a seal.

F. The board shall promulgate and file, in accordance with the State Rules Act, all rules and regulations necessary for the implementation and enforcement of the provisions of the Chiropractic Physician Practice Act, including educational requirements for a chiropractic assistant.

G. The board, for the purpose of protecting the health and well-being of the citizens of this state and maintaining and continuing informed professional knowledge and awareness, shall establish by regulations adopted in accordance with the provisions of the Uniform Licensing Act mandatory continuing education requirements for chiropractic physicians licensed in this state.

H. Failure to comply with the rules and regulations adopted by the board shall be grounds for investigation, which may lead to revocation of license.

I. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance for each day necessarily spent in the discharge of their duties."

Section 2. Section 61-4-4 NMSA 1978 (being Laws 1968, Chapter 3, Section 4, as amended) is amended to read:

"61-4-4. APPLICATION REQUIREMENTS--EVALUATION.--

A. Each applicant for a license to practice chiropractic shall:

(1) make application on forms furnished by the board;

(2) submit evidence on oath satisfactory to the board that the applicant has reached the age of majority, has completed a preliminary education equal to the requirements for graduation from high school, is of good moral

character and, after January 1, 1976, except for any student currently enrolled in a college of chiropractic, has completed two years of college-level study in an accredited institution of higher learning and is a graduate of a college of chiropractic that meets the standards of professional education prescribed in Section 61-4-5 NMSA 1978; and

(3) pay in advance to the board fees:

(a) for examination; and

(b) for issuance of a license.

B. In evaluating an application, the board may use the services of a professional background information service that compiles background information regarding applicants from multiple sources."

Section 3. Section 61-4-6 NMSA 1978 (being Laws 1968, Chapter 3, Section 6, as amended) is amended to read:

"61-4-6. EXAMINATION--SUBJECTS--METHOD OF TREATMENT--RECORDING LICENSE.--

A. The board shall recognize successful completion of all parts of the examination conducted by the national board of chiropractic examiners.

B. The board shall examine each applicant in the act of chiropractic adjusting, procedures and methods as shall reveal the applicant's qualifications; provided that the board may waive the requirement for the board-administered examination upon proof of satisfactory completion of the

examination conducted by the national board of chiropractic examiners.

C. The board shall issue a license to all applicants whose applications have been filed with and approved by the board and who have paid the required fees and passed either the board-administered examination with a general average of not less than seventy-five percent with no subject below sixty-five percent or the examination conducted by the national board of chiropractic examiners with a general average of not less than seventy-five percent with no subject below sixty-five percent. A license shall be refused to an applicant who fails to make application as provided in this section, fails the examination or fails to pay the required fees.

D. The license, when granted by the board, carries with it the title of doctor of chiropractic and entitles the holder to diagnose using any necessary diagnostic procedures, excluding invasive procedures, except as provided by the board by rule, and treat injuries, deformities or other physical or mental conditions relating to the basic concepts of chiropractic by the use of any methods as provided in this section, including but not limited to palpating, diagnosing, adjusting and treating injuries and defects of human beings by the application of manipulative, manual and mechanical means, including all natural agencies imbued with the healing act,

such as food, water, heat, cold, electricity and mechanical appliances, herbs, nutritional supplements and homeopathic remedies, but excluding operative surgery and prescription or use of controlled or dangerous drugs. The holder may also supervise the use of any natural agencies imbued with the healing act, such as food, water, heat, cold, electricity, mechanical appliances, herbs, nutritional supplements and homeopathic remedies administered by a chiropractic assistant.

E. Failure to display the license shall be grounds for the suspension of the license to practice chiropractic until so displayed and shall subject the licensee to the penalties for practicing without a license."

Section 4. Section 61-4-7 NMSA 1978 (being Laws 1968, Chapter 3, Section 7, as amended) is amended to read:

"61-4-7. DISPOSITION OF FUNDS--CHIROPRACTIC FUND
CREATED--METHOD OF PAYMENT.--

A. There is created the "chiropractic fund".

B. All funds received by the board and money collected under the Chiropractic Physician Practice Act shall be deposited with the state treasurer. The state treasurer shall place the money to the credit of the chiropractic fund.

C. Payments out of the chiropractic fund shall be made on vouchers issued and signed by the superintendent of regulation and licensing upon warrants drawn by the department of finance and administration in accordance with the budget

approved by the department of finance and administration.

D. All amounts paid into the chiropractic fund shall be subject to the order of the board and shall only be used for the purpose of meeting necessary expenses incurred in the performance of the purposes of the Chiropractic Physician Practice Act, the duties imposed by that act and the promotion of chiropractic education and standards in this state. All money unused at the end of the fiscal year shall remain in the chiropractic fund for use in accordance with the provisions of the Chiropractic Physician Practice Act to further its purpose.

E. All funds that may have accumulated to the credit of the board under any previous act shall be continued for use by the board in the administration of the Chiropractic Physician Practice Act.

F. The board shall, by rule, designate a portion of the annual licensing fee for the exclusive purposes of investigating and funding hearings regarding complaints against doctors of chiropractic."

Section 5. Section 61-4-10 NMSA 1978 (being Laws 1968, Chapter 3, Section 10, as amended) is amended to read:

"61-4-10. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE.--

A. The board may refuse to issue or may suspend or revoke any license or may censure, reprimand, fine or place on

probation and stipulation any licensee in accordance with the procedures as contained in the Uniform Licensing Act upon the grounds that the licensee or applicant:

(1) is convicted of a felony. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of such conviction;

(2) is guilty of fraud or deceit in procuring or attempting to procure a license in the chiropractic profession or in connection with applying for or procuring license renewal;

(3) is guilty of incompetence;

(4) is habitually intemperate or is addicted to the use of habit-forming drugs or is addicted to any vice to such a degree as to render the licensee or applicant unfit to practice chiropractic;

(5) is guilty of practicing or attempting to practice under an assumed name or fails to use the title "doctor of chiropractic", chiropractic physician or the initials "D.C." in connection with the licensee's or applicant's practice or advertisements;

(6) is guilty of failing to comply with any of the provisions of the Chiropractic Physician Practice Act or rules and regulations promulgated by the board and filed in accordance with the State Rules Act;

(7) is guilty of willfully or negligently practicing beyond the scope of chiropractic practice as defined in the Chiropractic Physician Practice Act;

(8) is guilty of advertising by means of knowingly false statements;

(9) has been declared mentally incompetent by regularly constituted authorities or is manifestly incapacitated to practice chiropractic;

(10) advertises or attempts to attract patronage in any unethical manner prohibited by the rules and regulations of the board;

(11) is guilty of obtaining any fee by fraud or misrepresentation;

(12) is guilty of making false or misleading statements regarding the licensee's or applicant's skill or the efficacy or value of treatment or remedy prescribed or administered by the licensee or applicant or at the licensee's or applicant's direction;

(13) is guilty of aiding or abetting the practice of chiropractic by a person not licensed by the board;

(14) has incurred a prior suspension or revocation in another state where the suspension or revocation of a license to practice chiropractic was based upon acts by the licensee similar to acts described in this section and by

board rules promulgated pursuant to Paragraph (6) of this subsection. A certified copy of the record of suspension or revocation of the state making such suspension or revocation is conclusive evidence thereof;

(15) is guilty of making a false, misleading or fraudulent claim; or

(16) is guilty of unprofessional conduct that includes but is not limited to the following:

(a) procuring, aiding or abetting a criminal abortion;

(b) representing to a patient that a manifestly incurable condition of sickness, disease or injury can be cured;

(c) willfully or negligently divulging a professional confidence;

(d) conviction of any offense punishable by incarceration in a state penitentiary or federal prison. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence;

(e) impersonating another person licensed in the practice of chiropractic or permitting or allowing any person to use the licensee's or applicant's license;

(f) gross negligence in the practice of

chiropractic;

(g) fee splitting;

(h) conduct likely to deceive, defraud
or harm the public;

(i) repeated similar negligent acts;

(j) employing abusive billing
practices;

(k) failure to report to the board any
adverse action taken against the licensee or applicant by: 1)
another licensing jurisdiction; 2) any peer review body; 3)
any health care entity; 4) any governmental agency; or 5) any
court for acts or conduct similar to acts or conduct that
would constitute grounds for action as provided in this
section;

(l) failure to report to the board
surrender of a license or other authorization to practice
chiropractic in another state or jurisdiction or surrender of
membership on any chiropractic staff or in any chiropractic or
professional association or society following, in lieu of, and
while under disciplinary investigation by any of those
authorities or bodies for acts or conduct similar to acts or
conduct that would constitute grounds for action as provided
in this section;

(m) failure to furnish the board, its
investigators or representatives with information requested by

the board;

(n) abandonment of patients;

(o) failure to adequately supervise, as provided by board regulation, a chiropractic assistant or technician or professional licensee who renders care;

(p) intentionally engaging in sexual contact with a patient other than the licensee's or applicant's spouse during the doctor-patient relationship; and

(q) conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public.

B. The board may at its discretion hire investigators or issue investigative subpoenas for the purpose of investigating complaints made to the board regarding chiropractic physicians.

C. All written and oral communication made by any person to the board or an agent of the board relating to actual or potential disciplinary action, including complaints made to the board, are confidential communications and are not public records for the purposes of the Inspection of Public Records Act; provided that all information contained in a complaint file is public information and subject to disclosure when the board acts on a complaint.

D. Licensees shall bear all costs of disciplinary proceedings unless exonerated." _____