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SENATE BILL 329

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING AND ENACTING
SECTIONS OF THE CHIROPRACTIC PHYSICIAN PRACTICE ACT TO PROVIDE
FOR CERTIFICATION OF ADVANCED PRACTICE CHIROPRACTIC PHYSICIANS
AND TO DEFINE "CHIROPRACTIC MEDICINE".

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

SECTION 1. Section 61-4-2 NMSA 1978 (being Laws 1968,
Chapter 3, Section 2, as amended) is amended to read:

"61-4-2. DEFINITIONS.--As used in the Chiropractic
Physician Practice Act:

A. "advanced practice chiropractic certification
registry" means a compendium kept by the board that meets and
maintains the board's established credentials for level-one
certified advanced practice chiropractic physicians and level-
two certified advanced practice chiropractic physicians;

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1 B. "board" means the chiropractic board;

2 [~~B.~~] C. "certified advanced practice chiropractic
3 physician" means a chiropractic physician who has been included
4 in the advanced practice chiropractic certification registry as
5 a level-one certified advanced practice chiropractic physician
6 or a level-two certified advanced practice chiropractic
7 physician;

8 D. "chiropractic assistant" means a person who
9 practices under the on-premises supervision of a licensed
10 chiropractic physician;

11 [~~E.~~] E. "chiropractic medicine":

12 (1) means the science, art and philosophy of
13 things natural, the science of locating and removing
14 interference with the transmissions or expression of nerve
15 forces in the human body by the correction of misalignments or
16 subluxations of the articulations and adjacent structures, more
17 especially those of the vertebral column and pelvis, for the
18 purpose of restoring and maintaining health for treatment of
19 human disease primarily by, but not limited to, adjustment and
20 manipulation of the human structure, [~~It shall include, but not~~
21 ~~be limited to~~] including diagnosis and treatment of a condition
22 for which the chiropractic physician has been educated and
23 trained; the prescribing and administering of all natural
24 agents to assist in the healing act, such as food, water, heat,
25 cold, light, oxygen, electricity, mechanical appliances and

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1 medical devices; and the selling of [herbs] herbal medicine,
2 nutritional [~~supplements~~] medicine and homeopathic [~~remedies;~~
3 ~~the administering of a drug by injection by a certified~~
4 ~~advanced practice chiropractic physician; and any necessary~~
5 ~~diagnostic procedure excluding invasive procedures, except as~~
6 ~~provided by the board by rule and regulation. It shall exclude~~
7 ~~operative surgery, the prescription or use of controlled or~~
8 ~~dangerous drugs and the practice of acupuncture] medicine; and~~

9 (2) excludes:

10 (a) the practice of operative surgery;

11 (b) the practice of acupuncture; and

12 (c) the prescription, administration,

13 injection or dispensing of dangerous drugs, unless by a level-
14 one certified advanced practice chiropractic physician or a
15 level-two certified advanced practice chiropractic physician;
16 and

17 [~~D. "board" means the chiropractic board;~~

18 ~~E.] F. "chiropractic physician" includes doctor of~~

19 chiropractic, chiropractor and chiropractic physician and means

20 a person who practices chiropractic medicine as defined in the

21 Chiropractic Physician Practice Act [~~and~~

22 ~~F. "chiropractic assistant" means a person who~~
23 ~~practices under the on-premises supervision of a licensed~~
24 ~~chiropractic physician]."~~

25 SECTION 2. Section 61-4-3 NMSA 1978 (being Laws 1968,

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1 Chapter 3, Section 3, as amended) is amended to read:

2 "61-4-3. BOARD CREATED--APPOINTMENT--OFFICERS--DUTIES--
3 COMPENSATION.--

4 A. [~~There is created~~] The "chiropractic board" is
5 created. The board shall be administratively attached to the
6 regulation and licensing department. The board shall consist
7 of six [~~persons~~] members. Four members shall have been
8 continuously engaged in the practice of chiropractic medicine
9 in New Mexico for five years immediately prior to their
10 appointment. At least one of these six members shall be a
11 level-one certified advanced practice chiropractic physician or
12 a level-two certified advanced practice chiropractic physician.
13 Two [~~persons~~] members shall represent the public and shall not
14 have practiced chiropractic medicine in this state or any other
15 jurisdiction. A person shall not be appointed to the board who
16 is an officer or employee of or who is financially interested
17 in any school or college of chiropractic medicine, allopathic
18 medicine, surgery or [~~osteopathy~~] osteopathic medicine.

19 B. Members of the board shall be appointed by the
20 governor for staggered terms of five years or less and in a
21 manner that the term of one board member expires on July 1 of
22 each year. A list of five names for each professional member
23 vacancy shall be submitted by the New Mexico chiropractic
24 association to the governor for consideration in the
25 appointment of board members. A vacancy shall be filled by

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1 appointment for the unexpired term. Board members shall serve
2 until their successors have been appointed and qualified.

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

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

17 E. The board shall adopt a seal.

18 F. The board shall promulgate and file, in
19 accordance with the State Rules Act, all rules [~~and~~
20 ~~regulations~~] necessary for the implementation and enforcement
21 of the provisions of the Chiropractic Physician Practice Act,
22 including educational requirements for a chiropractic
23 assistant.

24 G. The board, for the purpose of protecting the
25 health and well-being of the citizens of this state and

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1 maintaining and continuing informed professional knowledge and
2 awareness, shall establish by [~~regulations~~] rules adopted in
3 accordance with the provisions of the Uniform Licensing Act
4 mandatory continuing education requirements for chiropractic
5 physicians and certified advanced practice chiropractic
6 physicians licensed in this state.

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

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

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

16 "61-4-4. APPLICATION REQUIREMENTS--EVALUATION.--

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

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

21 (2) submit evidence on oath satisfactory to
22 the board that the applicant has reached the age of majority,
23 has completed a preliminary education equal to the requirements
24 for graduation from high school, is of good moral character
25 and, after January 1, 1976, except for any student currently

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1 enrolled in a college of chiropractic medicine, has completed
2 two years of college-level study in an accredited institution
3 of higher learning and is a graduate of a college of
4 chiropractic medicine that meets the standards of professional
5 education prescribed in Section 61-4-5 NMSA 1978; and

6 (3) pay in advance to the board fees for:

7 (a) [~~for~~] examination; and

8 (b) [~~for~~] issuance of a license.

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

13 C. Each applicant for inclusion in the advanced
14 practice chiropractic certification registry shall furnish
15 materials and proof of education and training as established by
16 rule of the board."

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

19 "61-4-6. EXAMINATION--SUBJECTS--METHOD OF TREATMENT--
20 RECORDING LICENSE.--

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

24 B. The board shall examine each applicant in the
25 [~~act~~] practice of chiropractic medicine, including adjusting,

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1 procedures and methods as shall reveal the applicant's
2 qualifications; provided that the board may waive the
3 requirement for the board-administered examination upon proof
4 of satisfactory completion of the examination conducted by the
5 national board of chiropractic examiners.

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

17 D. The license, when granted by the board, carries
18 with it the title of doctor of chiropractic medicine and
19 entitles the holder to diagnose using any necessary diagnostic
20 procedures, excluding invasive procedures, except as provided
21 by the board by rule, and treat injuries, deformities or other
22 physical or mental conditions relating to the basic concepts of
23 chiropractic medicine by the use of any methods as provided in
24 this section, including but not limited to palpating,
25 diagnosing, adjusting and treating injuries and defects of

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1 human beings by the application of manipulative, manual and
2 mechanical means, including all natural agencies imbued with
3 the healing act, such as food, water, heat, cold, light,
4 oxygen, electricity and mechanical appliances, [~~herbs~~] herbal
5 medicine, nutritional [~~supplements~~] medicine and homeopathic
6 [~~remedies, but excluding~~] medicine. "Chiropractic medicine"
7 excludes operative surgery or acupuncture and prescription, [~~or~~
8 ~~use~~] administration, injection and dispensing of controlled
9 substances or dangerous drugs; provided that a level-one
10 certified advanced practice chiropractic physician or level-two
11 certified advanced practice chiropractic physician may
12 prescribe, administer, inject and dispense dangerous drugs in
13 accordance with board rules. The holder may also supervise the
14 use of any natural agencies imbued with the healing act, such
15 as food, water, heat, cold, light, oxygen, electricity,
16 mechanical appliances, [~~herbs~~] herbal medicine, nutritional
17 [~~supplements~~] medicine and homeopathic [~~remedies~~] medicine
18 administered by a chiropractic assistant.

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

23 [~~F. The board shall certify a chiropractic~~
24 ~~physician as a "certified advanced practice chiropractic~~
25 ~~physician" when the chiropractic physician has demonstrated~~

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1 ~~completion of advanced coursework and met other requirements~~
2 ~~established in the Chiropractic Physician Practice Act and by~~
3 ~~rule of the board.]"~~

4 SECTION 5. Section 61-4-9 NMSA 1978 (being Laws 1968,
5 Chapter 3, Section 9, as amended) is amended to read:

6 "61-4-9. PRIVILEGES AND OBLIGATIONS.--

7 A. Licensed chiropractic physicians shall observe
8 all health and hygiene laws and regulations of the state and
9 its political subdivisions and shall report births and deaths
10 to the proper authorities. Reports rendered by [~~chiropractors~~]
11 chiropractic physicians shall be accepted by officers of
12 departments or agencies to which they are made.

13 B. It is the purpose of the Chiropractic Physician
14 Practice Act to grant to [~~chiropractors~~] chiropractic
15 physicians the right to practice chiropractic medicine as
16 taught and practiced in standard accredited colleges of
17 chiropractic medicine and to entitle the holder of a license
18 the right to diagnose, palpate and treat injuries, deformities
19 and other physical or mental conditions relating to the basic
20 concepts of chiropractic medicine by use of any methods
21 provided in the Chiropractic Physician Practice Act, as
22 provided in rules [~~and regulations~~] established and monitored
23 by the board, but excluding operative surgery and prescription
24 or use of controlled or dangerous drugs as provided in rules
25 [~~and regulations~~] established and monitored by the board."

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1 SECTION 6. Section 61-4-9.1 NMSA 1978 (being Laws 2008,
2 Chapter 44, Section 1) is amended to read:

3 "61-4-9.1. ADVANCED PRACTICE CHIROPRACTIC CERTIFICATION
4 REGISTRY ESTABLISHED--USE OF TITLES--The board shall establish
5 by rule the advanced practice chiropractic certification
6 registry. The advanced practice chiropractic physician
7 certification registry shall include the names of those
8 chiropractic physicians who are certified as level-one
9 certified advanced practice chiropractic physicians and level-
10 two certified advanced practice chiropractic physicians. A
11 chiropractic physician authorized by the board to use the title
12 "level-one certified advanced practice chiropractic physician"
13 or "level-two certified advanced practice chiropractic
14 physician" shall have prescriptive authority for therapeutic
15 and diagnostic purposes as authorized by statute and rules of
16 the board. Only a chiropractic physician included in the
17 advanced practice chiropractic certification registry may use
18 the title "level-one certified advanced practice chiropractic
19 physician" or "level-two certified advanced practice
20 chiropractic physician", and it is unlawful for a person to use
21 either of the certified advanced practice chiropractic
22 physician [title] titles unless the person is accordingly
23 included in the advanced practice chiropractic certification
24 registry. [~~The advanced practice chiropractic certification~~
25 ~~registry shall include a chiropractic physician who applies for~~

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1 ~~the designation and:~~

2 ~~A. holds a chiropractic license in good standing;~~

3 ~~B. has completed three years of post-graduate~~
4 ~~clinical chiropractic practice or equivalent clinical~~
5 ~~experience as established by the board;~~

6 ~~C. has an advanced practice chiropractic~~
7 ~~certification by a nationally recognized credentialing agency~~
8 ~~providing credentialing and demonstrated competency by~~
9 ~~examination and additionally, after December 31, 2012,~~
10 ~~successful completion of a graduate degree in a chiropractic~~
11 ~~clinical practice specialty;~~

12 ~~D. has completed a minimum of ninety clinical and~~
13 ~~didactic contact course hours in pharmacology, pharmacognosy,~~
14 ~~medication administration and toxicology certified by an~~
15 ~~examination from an institution of higher education approved by~~
16 ~~the board and the New Mexico medical board; and~~

17 ~~E. has completed annual continuing education for~~
18 ~~advanced practice chiropractic physicians as set by the~~
19 ~~board.]"~~

20 SECTION 7. Section 61-4-9.2 NMSA 1978 (being Laws 2008,
21 Chapter 44, Section 2, as amended) is amended to read:

22 "61-4-9.2. LEVEL-ONE CERTIFIED ADVANCED PRACTICE
23 CHIROPRACTIC PHYSICIAN--AUTHORITY DEFINED.--

24 A. The board shall certify as a "level-one
25 certified advanced practice chiropractic physician" a

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1 chiropractic physician who applies for certification in
2 accordance with board rules and who:

3 (1) on or after December 31, 2012, has
4 successfully completed a postgraduate degree in a clinical
5 specialty from an institution of higher education that is
6 accredited by an agency accredited by the United States
7 department of education; and

8 (2) holds a license in good standing to
9 practice chiropractic medicine.

10 B. The board shall certify as a level-one certified
11 advanced practice chiropractic physician a chiropractic
12 physician who applies for certification in accordance with
13 board rules and who:

14 (1) prior to December 31, 2012, successfully
15 completed a minimum of ninety clinical and didactic-contact
16 course hours in pharmacology, pharmacognosy, medication
17 administration and toxicology certificated by an examination
18 from an institution of higher education;

19 (2) holds a license in good standing to
20 practice chiropractic medicine;

21 (3) has completed three years of postgraduate
22 chiropractic medicine practice or equivalent clinical
23 experience as established by the board; and

24 (4) has a certification in advanced clinical
25 chiropractic medicine practice or its equivalent by a

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1 nationally recognized credentialing agency or institution and
2 has demonstrated competency by examination.

3 C. A level-one certified advanced practice
4 chiropractic physician shall complete annual continuing
5 education requirements for level-one certified advanced
6 chiropractic physicians as established by the board.

7 D. A level-one certified advanced practice
8 chiropractic physician may prescribe, administer, inject and
9 dispense herbal medicines, homeopathic medicines, over-the-
10 counter drugs, vitamins, carbohydrates, sugars, alcohols,
11 minerals, enzymes, glandular products, protomorphogens, live
12 cell products, gerovital, amino acids, dietary supplements,
13 foods for special dietary use, bioidentical hormones, sterile
14 water, sterile saline, sarapin or its generic, caffeine,
15 procaine, lidocaine, oxygen, epinephrine and vapocoolants.

16 ~~[B. A formulary that includes all substances listed~~
17 ~~in Subsection A of this section, including compounded~~
18 ~~preparations for topical and oral administration, shall be~~
19 ~~developed and approved by the board. A formulary for injection~~
20 ~~that includes the substances in Subsection A of this section~~
21 ~~that are within the scope of practice of the certified advanced~~
22 ~~practice chiropractic physician shall be developed and approved~~
23 ~~by the board. Dangerous drugs or controlled substances, drugs~~
24 ~~for administration by injection and substances not listed in~~
25 ~~Subsection A of this section shall be submitted to the board of~~

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1 ~~pharmacy and the New Mexico medical board for approval.]~~

2 E. A level-one certified advanced practice
3 chiropractic physician may prescribe, administer, inject and
4 dispense a substance not listed in Subsection B of this section
5 if the board has by rule approved that substance's use or
6 prescription. In collaboration with the board of pharmacy, the
7 board shall promulgate rules relating to the prescription,
8 administration, injection and dispensing of substances in
9 accordance with the provisions of this subsection."

10 SECTION 8. Section 61-4-9.3 NMSA 1978 (being Laws 2008,
11 Chapter 44, Section 3) is amended to read:

12 "61-4-9.3. USE OF CHIROPRACTIC NAME LIMITED.--The terms
13 "chiropractor", "chiropractic physician", [ø] "chiropractic"
14 or "chiropractic medicine" may be used only by persons licensed
15 pursuant to the Chiropractic Physician Practice Act."

16 SECTION 9. Section 61-4-10 NMSA 1978 (being Laws 1968,
17 Chapter 3, Section 10, as amended) is amended to read:

18 "61-4-10. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE.--

19 A. The board may refuse to issue or may suspend or
20 revoke any license or may censure, reprimand, fine or place on
21 probation and stipulation any licensee in accordance with the
22 procedures as contained in the Uniform Licensing Act upon the
23 grounds that the licensee or applicant:

24 (1) is convicted of a felony. A copy of the
25 record of conviction, certified to by the clerk of the court

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1 entering the conviction, shall be conclusive evidence of such
2 conviction;

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

7 (3) is guilty of incompetence;

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

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

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

21 (7) is guilty of willfully or negligently
22 practicing beyond the scope of chiropractic [~~practice~~] medicine
23 as defined in the Chiropractic Physician Practice Act;

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

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

4 (10) advertises or attempts to attract
5 patronage in any unethical manner prohibited by the rules [~~and~~
6 ~~regulations~~] of the board;

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

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

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

17 (14) has incurred a prior suspension or
18 revocation in another state where the suspension or revocation
19 of a license to practice chiropractic medicine was based upon
20 acts by the licensee similar to acts described in this section
21 and by board rules promulgated pursuant to Paragraph (6) of
22 this subsection. A certified copy of the record of suspension
23 or revocation of the state making such suspension or revocation
24 is conclusive evidence thereof;

25 (15) is guilty of making a false, misleading

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1 or fraudulent claim; or

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

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

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

9 (c) willfully or negligently divulging a
10 professional confidence;

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

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

19 (f) gross negligence in the practice of
20 chiropractic medicine;

21 (g) fee splitting;

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

24 (i) repeated similar negligent acts;

25 (j) employing abusive billing practices;

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

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

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

19 (n) abandonment of patients;

20 (o) failure to adequately supervise, as
21 provided by board [~~regulation~~] rule, a chiropractic medicine
22 assistant or technician or professional licensee who renders
23 care;

24 (p) intentionally engaging in sexual
25 contact with a patient other than the licensee's or applicant's

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1 spouse during the doctor-patient relationship; and

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

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

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

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

19 **SECTION 10.** Section 61-4-12 NMSA 1978 (being Laws 1968,
20 Chapter 3, Section 11, as amended) is amended to read:

21 "61-4-12. PENALTIES.--

22 A. Each of the following acts constitutes a
23 misdemeanor punishable upon conviction by a fine of not less
24 than fifty dollars (\$50.00) or more than one thousand dollars
25 (\$1,000) or by imprisonment not to exceed one year, or both:

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1 (1) practice of chiropractic medicine or an
2 attempt to practice chiropractic medicine without a license;

3 (2) obtaining or attempting to obtain a
4 license or practice in the profession for money or any other
5 thing of value by fraudulent misrepresentation;

6 (3) willfully falsifying any oath or
7 affirmation required by the Chiropractic Physician Practice
8 Act;

9 (4) practicing or attempting to practice under
10 an assumed name; or

11 (5) advertising or attempting to attract
12 patronage in any unethical manner prohibited by the rules [~~and~~
13 ~~regulations~~] of the board.

14 B. Any second violation of the act constitutes a
15 fourth degree felony."

16 SECTION 11. Section 61-4-13 NMSA 1978 (being Laws 1968,
17 Chapter 3, Section 12, as amended) is amended to read:

18 "61-4-13. ANNUAL RENEWAL OF LICENSE--FEE--NOTICE.--

19 A. [~~Any~~] A person licensed to practice chiropractic
20 medicine in this state shall, on or before July 1 of each year,
21 pay to the board an annual fee set by [~~regulation~~] rule and
22 shall submit proof of completion of continuing education
23 requirements as required by the board. The board shall send
24 written notice to every person holding a license prior to June
25 1 of each year, directed to the last known address of the

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1 licensee, notifying [~~him~~] the licensee that it is necessary
2 [~~for him~~] to pay the renewal fee as provided in the
3 Chiropractic Physician Practice Act. Proper forms shall
4 accompany the notice, upon which forms the licensee shall make
5 application for the renewal of [~~his~~] the license. The licensee
6 is responsible for renewal of the license even if the licensee
7 does not receive the renewal notice.

8 B. The board shall establish a schedule of
9 reasonable fees for applications, licenses, certificates,
10 renewals, placement or inactive status and administrative
11 fees."

12 SECTION 12. Section 61-4-14 NMSA 1978 (being Laws 1968,
13 Chapter 3, Section 13) is amended to read:

14 "61-4-14. FAILURE TO RENEW--CANCELLATION--REINSTATEMENT--
15 PERMISSIVE TEMPORARY CANCELLATION.--[~~Any~~] A licensee who fails
16 to comply with the requirements for renewal as set forth in
17 Section [~~12~~] 61-4-13 NMSA 1978 shall, upon order of the board,
18 forfeit [~~his~~] the right to practice chiropractic medicine in
19 this state, and [~~his~~] the licensee's license and any
20 certificates of renewal shall be [~~cancelled~~] canceled. The
21 board may reinstate [~~him~~] the licensee upon payment of all fees
22 or penalties due and upon the presentation of evidence of
23 attendance at educational programs as may be provided by rules
24 [~~and regulations~~] of the board. [~~Any~~] A person licensed to
25 practice chiropractic medicine in this state who desires to

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1 withdraw from active practice in this state may apply to the
2 board for a temporary suspension of [~~his~~] the person's license
3 with the right to renew and reinstate [~~his~~] the license upon a
4 showing that [~~he~~] the person has paid [~~his~~] the annual license
5 renewal fee on or before [~~the first day of~~] July 1 of each
6 year; provided that no suspension shall be granted for a period
7 of less than one year."

8 SECTION 13. Section 61-4-15 NMSA 1978 (being Laws 1968,
9 Chapter 3, Section 14, as amended) is amended to read:

10 "61-4-15. EXEMPTIONS.--The Chiropractic Physician
11 Practice Act does not apply to:

12 A. any commissioned officer of the armed forces of
13 the United States in the discharge of [~~his~~] official duties;

14 B. a [~~chiropractor~~] chiropractic physician who is
15 legally qualified to practice in the state or territory in
16 which [~~he~~] the chiropractic physician resides, when in actual
17 consultation with a licensed [~~chiropractor~~] chiropractic
18 physician of this state; or

19 C. any bona fide student of any standard
20 chiropractic college chiropractically analyzing and adjusting
21 the human body under supervision of a licensed [~~chiropractor~~]
22 chiropractic physician."

23 SECTION 14. A new section of the Chiropractic Physician
24 Practice Act is enacted to read:

25 "[NEW MATERIAL] LEVEL-TWO CERTIFIED ADVANCED PRACTICE

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1 CHIROPRACTIC PHYSICIAN AUTHORITY--DEFINED.--

2 A. A level-two certified advanced practice
3 chiropractic physician may prescribe, administer, inject and
4 dispense dangerous drugs that are used in a standard primary
5 care practice, with the exception of controlled substances
6 enumerated under Schedule I and Schedule II of the Controlled
7 Substances Act.

8 B. A level-one certified advanced practice
9 chiropractic physician may apply to the board for certification
10 as a level-two certified advanced practice chiropractic
11 physician. The application for certification as a level-two
12 certified advanced practice chiropractic physician shall be
13 made on a form prescribed by the board and at a minimum contain
14 evidence satisfactory to the board that the applicant:

15 (1) holds a current license to practice
16 chiropractic medicine;

17 (2) has successfully completed the level-one
18 advanced practice chiropractic physician certification program
19 approved by the board and currently holds certification by the
20 board as a level-one certified advanced practice chiropractic
21 physician;

22 (3) has successfully completed an organized
23 program of medically supervised clinical rotation from an
24 institution of higher education or professional school that is
25 accredited by an agency accredited by the United States

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1 department of education that consists of clinical and hands-on
2 instruction of no fewer than six hundred fifty hours in at
3 least the following core areas of instruction:

- 4 (a) clinical pharmacology;
- 5 (b) evidence-based clinical assessment;
- 6 (c) clinical pharmacotherapeutics;
- 7 (d) primary care case management; and
- 8 (e) patient safety and standards of
9 primary care;

10 (4) has professional liability insurance in
11 place during the clinical education that is sufficient to
12 satisfy board rules; and

13 (5) has obtained a declaration from a
14 supervising medical doctor, osteopathic physician, certified
15 nurse practitioner or level-two certified advanced practice
16 chiropractic physician that the applicant has successfully
17 completed the prescribed clinical experience.

18 C. The board shall certify an applicant as a level-
19 two certified advanced practice chiropractic physician if the
20 applicant:

21 (1) is a level-one certified advanced practice
22 chiropractic physician;

23 (2) has provided proof of successful
24 completion of the requirements to obtain certification as a
25 level-two certified advanced practice chiropractic physician;

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1 and

2 (3) continues to hold a current license to
3 practice chiropractic medicine and continues to maintain
4 professional liability insurance in accordance with board
5 rules.

6 D. A level-two certified advanced practice
7 chiropractic physician shall complete the annual continuing
8 education program requirements for a level-two certified
9 advanced practice chiropractic physician established in board
10 rules.

11 E. The board shall promulgate rules providing for:

12 (1) continuing education requirements that
13 shall require at least twenty hours of continuing education per
14 year;

15 (2) the issuance and renewal of level-two
16 advanced practice chiropractic physician certificates;

17 (3) the denial of new or renewed level-two
18 advanced practice chiropractic physician certificates and
19 suspension and revocation of level-two advanced practice
20 chiropractic physician certificates; and

21 (4) the suspension and revocation of licenses
22 to practice chiropractic medicine.

23 F. As used in this section, "dangerous drug" means
24 a drug, other than a controlled substance enumerated in
25 Schedule I of the Controlled Substances Act that, because of a

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1 potentiality for harmful effect or the method of its use or the
2 collateral measures necessary to its use is not safe except
3 under the supervision of a practitioner licensed by law to
4 direct the use of such drug and, hence, for which adequate
5 directions for use cannot be prepared. "Adequate directions
6 for use" means directions under which the layperson can use a
7 drug or device safely and for the purposes for which it is
8 intended. A drug shall be dispensed only upon the prescription
9 or drug order of a practitioner licensed by law to administer
10 or prescribe the drug if it:

11 (1) is a habit-forming drug and contains any
12 quantity of a narcotic or hypnotic substance or a chemical
13 derivative of such substance that has been found under the
14 Federal Food, Drug, and Cosmetic Act and the board to be habit
15 forming;

16 (2) because of its toxicity or other potential
17 for harmful effect or the method of its use or the collateral
18 measures necessary to its use, is not safe for use except under
19 the supervision of a practitioner licensed by law to administer
20 or prescribe the drug;

21 (3) is limited by an approved application by
22 Section 505 of the Federal Food, Drug, and Cosmetic Act to the
23 use under the professional supervision of a practitioner
24 licensed by law to administer or prescribe the drug;

25 (4) bears the legend: "Caution: federal law

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prohibits dispensing without prescription.";

(5) bears the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

(6) bears the legend "RX only"."