

SENATE BILL NO. 174—SENATOR CARLTON

MARCH 10, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to chiropractic.
(BDR 54-699)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to chiropractic; increasing the number of members of the Chiropractic Physicians' Board of Nevada; requiring any person who practices chiropractic to maintain professional liability insurance; revising provisions governing disclosure by the Board of certain information related to investigations and disciplinary actions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation and licensure of chiropractic physicians in this State by the Chiropractic Physicians' Board of Nevada. (Chapter 634 of NRS) Existing law provides for disciplinary action against a chiropractic physician in certain circumstances and provides that violation of any provision of statutes governing the regulation of chiropractors is a misdemeanor unless a greater penalty is provided. (NRS 634.140, 634.227, 634.230)

This bill makes it unlawful for a person to practice chiropractic in this State without maintaining professional liability insurance that provides coverage in certain amounts. A person who violates this requirement is guilty of a misdemeanor.

Existing law defines "unprofessional conduct" for the purpose of establishing conduct of a person licensed to practice chiropractic which is subject to disciplinary action by the Chiropractic Physicians' Board of Nevada. (NRS 634.018, 634.140) That definition includes a provision making it unprofessional conduct to engage in certain acts that are intended to cause payment for the care or treatment of a patient to be reduced or denied, unless such action is supported by medical records or by



an examination of the patient by the chiropractic physician taking the action.
(NRS 634.018)

This bill provides that such acts constitute unprofessional conduct subject to disciplinary action unless supported by medical records or an examination of the patient.

Existing law creates the Chiropractic Physicians' Board of Nevada, consisting of six members who are appointed by the Governor. (NRS 634.020)

This bill increases the membership of the Board to seven members.

Existing law provides that a complaint filed with the Chiropractic Physicians' Board of Nevada and all information filed with the complaint or compiled as a result of an investigation of a complaint are confidential. (NRS 634.214)

This bill authorizes the Board to disclose such confidential information as necessary in administering its duties or with another licensing board or agency or any governmental agency that is investigating a person licensed by the Board.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 634 of NRS is hereby amended by adding thereto a new section to read as follows:

It is unlawful for any person to practice chiropractic in this State without maintaining professional liability insurance that provides for coverage of not less than \$100,000 per claim and for coverage of an aggregate liability limit for all claims during a year of not less than \$300,000.

Sec. 2. NRS 634.018 is hereby amended to read as follows:

634.018 "Unprofessional conduct" means:

1. Obtaining a certificate upon fraudulent credentials or gross misrepresentation.

2. Procuring, or aiding or abetting in procuring, criminal abortion.

3. Assuring that a manifestly incurable disease can be permanently cured.

4. Advertising chiropractic business in which grossly improbable statements are made, advertising in any manner that will tend to deceive, defraud or mislead the public or preparing, causing to be prepared, using or participating in the use of any form of public communication that contains professionally self-laudatory statements calculated to attract lay patients. As used in this subsection, "public communication" includes, but is not limited to, communications by means of television, radio, newspapers, books and periodicals, motion picture, handbills or other printed matter.



1 5. Willful disobedience of the law, or of the regulations of the
2 State Board of Health or of the Chiropractic Physicians' Board of
3 Nevada.

4 6. Conviction of any offense involving moral turpitude, or the
5 conviction of a felony. The record of the conviction is conclusive
6 evidence of unprofessional conduct.

7 7. Administering, dispensing or prescribing any controlled
8 substance.

9 8. Conviction or violation of any federal or state law regulating
10 the possession, distribution or use of any controlled substance. The
11 record of conviction is conclusive evidence of unprofessional
12 conduct.

13 9. Habitual intemperance or excessive use of alcohol or
14 alcoholic beverages or any controlled substance.

15 10. Conduct unbecoming a person licensed to practice
16 chiropractic or detrimental to the best interests of the public.

17 11. Violating, or attempting to violate, directly or indirectly, or
18 assisting in or abetting the violation of, or conspiring to violate, any
19 provision of this chapter or the regulations adopted by the Board, or
20 any other statute or regulation pertaining to the practice of
21 chiropractic.

22 12. Employing, directly or indirectly, any suspended or
23 unlicensed practitioner in the practice of any system or mode of
24 treating the sick or afflicted, or the aiding or abetting of any
25 unlicensed person to practice chiropractic under this chapter.

26 13. Repeated malpractice, which may be evidenced by claims
27 of malpractice settled against a practitioner.

28 14. Solicitation by the licensee or his designated agent of any
29 person who, at the time of the solicitation, is vulnerable to undue
30 influence, including, without limitation, any person known by the
31 licensee to have recently been involved in a motor vehicle accident,
32 involved in a work-related accident, or injured by, or as the result of
33 the actions of, another person. As used in this subsection:

34 (a) "Designated agent" means a person who renders service to a
35 licensee on a contract basis and is not an employee of the licensee.

36 (b) "Solicitation" means the attempt to acquire a new patient
37 through information obtained from a law enforcement agency,
38 medical facility or the report of any other party, which information
39 indicates that the potential new patient may be vulnerable to undue
40 influence, as described in this subsection.

41 15. Employing, directly or indirectly, any person as a
42 chiropractor's assistant unless the person has been issued a
43 certificate by the Board pursuant to NRS 634.123, or has applied for



1 such a certificate and is awaiting the determination of the Board
2 concerning the application.

3 16. Aiding, abetting, commanding, counseling, encouraging,
4 inducing or soliciting an insurer or other third-party payor to reduce
5 or deny payment or reimbursement for the care or treatment of a
6 patient, unless such action is supported by:

7 (a) The medical records of the patient; ~~land~~ **or**

8 (b) An examination of the patient by the chiropractic physician
9 taking such action.

10 **Sec. 3.** NRS 634.020 is hereby amended to read as follows:

11 634.020 1. The Chiropractic Physicians' Board of Nevada,
12 consisting of ~~six~~ **seven** members appointed by the Governor, is
13 hereby created.

14 2. The Governor shall appoint:

15 (a) Four members who are:

16 (1) Graduates of chiropractic schools or colleges giving a
17 course of study embracing the following subjects: Anatomy,
18 bacteriology, chiropractic theory and practice, diagnosis or analysis,
19 elementary chemistry and toxicology, histology, hygiene and
20 sanitation, obstetrics and gynecology, pathology, physiology and
21 symptomatology;

22 (2) Licensed under this chapter; and

23 (3) Actually engaged in the practice of chiropractic in this
24 State and who have been so engaged in this State for at least 3 years
25 preceding their appointment.

26 (b) One member who represents the interests of persons or
27 agencies that regularly provide health care to patients who are
28 indigent, uninsured or unable to afford health care. This member
29 may be licensed under the provisions of this chapter.

30 (c) ~~One member who is a representative~~ **Two members who**
31 **are representatives** of the general public. ~~This~~ **A** member
32 **appointed pursuant to this paragraph** must not be:

33 (1) A chiropractor or a chiropractor's assistant; or

34 (2) The spouse or the parent or child, by blood, marriage or
35 adoption, of a chiropractor or a chiropractor's assistant.

36 3. At least two of the appointees must have had a course in
37 physiotherapy in a school or college of chiropractic. Not more than
38 two persons who are resident graduates of the same school or
39 college of chiropractic may serve simultaneously as members of the
40 Board.

41 4. If a member is not licensed under the provisions of this
42 chapter, the member shall not participate in preparing any
43 examination required by the Board.



1 **Sec. 4.** NRS 634.214 is hereby amended to read as follows:

2 634.214 1. Except as otherwise provided in this section, a
3 complaint filed with the Board, all documents and other information
4 filed with the complaint and all documents and other information
5 compiled as a result of the investigation conducted to determine
6 whether to initiate disciplinary action are confidential ~~H~~ *and may*
7 *be disclosed in whole or in part only as necessary in the course of*
8 *administering this chapter or to a licensing board or agency or*
9 *any other governmental agency, including, without limitation, a*
10 *law enforcement agency, that is investigating a person who is*
11 *licensed pursuant to the provisions of this chapter.*

12 2. The complaint or other document filed by the Board to
13 initiate disciplinary action and all documents and information
14 considered by the Board when determining whether to impose
15 discipline are public records.

16 **Sec. 5.** The Governor shall appoint to the Chiropractic
17 Physicians' Board of Nevada the additional representative of the
18 general public required by paragraph (c) of subsection 2 of NRS
19 634.020, as amended by section 3 of this act, to a term that begins
20 on November 1, 2005, and expires on October 31, 2009.



