

SENATE BILL NO. 198—SENATOR HARDY

FEBRUARY 28, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to the practice of chiropractic. (BDR 54-834)

FISCAL NOTE: Effect on Local Government: No.
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 the practice of chiropractic; revising provisions relating to the practice of chiropractic; providing that a chiropractor's assistant may perform certain ancillary services under indirect supervision in certain circumstances; providing that a chiropractor's assistant is subject to disciplinary action under certain circumstances; providing administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a chiropractor's assistant to perform certain ancillary services relating to chiropractic under the supervision and control of a chiropractic physician. (NRS 634.125) **Section 7** of this bill provides that a chiropractor's assistant may perform certain services under the indirect supervision and control of a chiropractic physician if: (1) the services are performed on an established patient; (2) the supervising chiropractic physician is reasonably accessible by telephone, facsimile or other electronic means; and (3) the services are performed in certain facilities. **Section 7** requires a chiropractic physician who employs one or more chiropractor's assistants who perform services under indirect supervision to maintain certain liability insurance.

Section 4 of this bill authorizes the Chiropractic Physicians' Board of Nevada to adopt regulations providing for the employment by a chiropractic physician of a chiropractor's assistant trainee. **Section 5** of this bill requires the Board to adopt regulations that: (1) set forth the conditions under which a chiropractic physician may authorize a chiropractor's assistant to perform services under indirect supervision; (2) identify the services a chiropractor's assistant is authorized to perform under indirect supervision; (3) identify the services a chiropractor's assistant is prohibited from performing under indirect supervision; and (4) prescribe what notice, if any, a chiropractic physician is required to provide to a patient regarding services that a chiropractor's assistant is authorized to perform under



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indirect supervision. **Section 5** also authorizes the Board to adopt any other regulations the Board deems appropriate to ensure that services provided by a chiropractor's assistant under indirect supervision are performed safely and in the best interest of a patient. **Section 5** prohibits a chiropractic physician from authorizing a chiropractor's assistant to perform, or a chiropractor's assistant from performing, any services under indirect supervision which are not authorized: (1) by the regulations adopted by the Board; and (2) under the certificate issued to the chiropractor's assistant by the Board.

Existing law authorizes the Board to impose certain disciplinary actions against a person practicing chiropractic in this State. (NRS 634.190) **Sections 8-14** of this bill authorize the Board to impose such disciplinary actions against a person providing services as a chiropractor's assistant in this State.

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 the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Direct supervision" means that a supervising chiropractic physician is present in the chiropractic facility during the period in which a chiropractor's assistant is performing services or a chiropractor's assistant trainee is performing duties, and is available to give aid, direction and instruction to the chiropractor's assistant or chiropractor's assistant trainee.*

Sec. 3. *"Indirect supervision" means that the supervising chiropractic physician is not present in the chiropractic facility during the period in which a chiropractor's assistant is performing services.*

Sec. 4. 1. *The Board may adopt regulations which:*

(a) Authorize a chiropractic physician to employ a chiropractor's assistant trainee; and

(b) Set forth the requirements for a chiropractor's assistant trainee, including, without limitation, the types of ancillary duties which a chiropractor's assistant trainee may perform.

2. *Any regulations adopted pursuant to subsection 1 must provide that a chiropractor's assistant trainee shall perform his or her duties only under the direct supervision of a chiropractic physician.*

Sec. 5. 1. *The Board shall adopt regulations that:*

(a) Set forth the conditions under which a chiropractic physician may authorize a chiropractor's assistant to perform services under indirect supervision;

(b) Identify the services a chiropractor's assistant is authorized to perform under indirect supervision;



(c) *Identify the services a chiropractor's assistant is prohibited from performing under indirect supervision; and*

(d) *Prescribe what notice, if any, a chiropractic physician must provide to a patient regarding services that a chiropractor's assistant is authorized to perform under indirect supervision.*

2. *The Board may adopt any other regulations the Board deems appropriate to ensure that services provided by a chiropractor's assistant are performed safely and in the best interest of a patient.*

3. *A chiropractic physician shall not authorize a chiropractor's assistant to perform, and a chiropractor's assistant shall not perform, any services under indirect supervision that the chiropractor's assistant is not authorized to perform:*

(a) *By the regulations adopted by the Board pursuant to section 5 of this act; and*

(b) *Under the terms of the certificate issued to the chiropractor's assistant by the Board.*

Sec. 6. NRS 634.010 is hereby amended to read as follows:

634.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 634.012 to 634.018, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 7. NRS 634.125 is hereby amended to read as follows:

634.125 1. A chiropractor's assistant may perform such ancillary services relating to chiropractic as he or she is authorized to perform under the terms of a certificate issued by the Board. Those services ~~must~~ *may, to the extent authorized by the regulations adopted by the Board pursuant to section 5 of this act,* be rendered under the *indirect* supervision and control of a chiropractor ~~if~~ *if*:

(a) *The services are performed on a patient who has been evaluated by the supervising chiropractic physician to whom the chiropractor's assistant has been assigned and whose medical records include, without limitation, his or her patient history and an evaluation, diagnosis and treatment plan prepared by the supervising chiropractic physician;*

(b) *The supervising chiropractic physician to whom the chiropractor's assistant has been assigned is reasonably accessible by telephone, facsimile or other electronic means during any period in which services are performed under indirect supervision; and*

(c) *The services are performed:*

(1) *In the primary place of practice of the supervising chiropractic physician to whom the chiropractor's assistant has been assigned; or*



(2) In a hospital in which the supervising chiropractic physician to whom the chiropractor's assistant has been assigned is employed.

2. A chiropractic physician who employs one or more chiropractor's assistants who perform services under indirect supervision shall maintain liability insurance in an amount of not less than \$1,000,000 per occurrence and not less than \$3,000,000 annual aggregate for coverage of liability arising from any act or omission committed by a chiropractor's assistant while under indirect supervision.

Sec. 8. NRS 634.140 is hereby amended to read as follows:

634.140 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of chiropractic;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive; or

(d) Any offense involving moral turpitude.

3. Suspension or revocation of the license to practice chiropractic by any other jurisdiction.

4. Gross or repeated malpractice.

5. Any act by a chiropractor's assistant which the chiropractor's assistant is not authorized to perform under the terms of a certificate issued by the Board pursuant to NRS 634.125.

6. Referring, in violation of NRS 439B.425, a patient to a health facility, medical laboratory or commercial establishment in which the licensee has a financial interest.

~~16-1~~ **7.** Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 9. NRS 634.160 is hereby amended to read as follows:

634.160 1. The Board or any of its members who become aware that any one or a combination of the grounds for initiating disciplinary action may exist as to a person practicing chiropractic *or providing services as a chiropractor's assistant* in this State shall, and any other person who is so aware may, file a written



1 complaint specifying the relevant facts with the Executive Director
2 of the Board.

3 2. The Board shall retain all complaints filed with the
4 Executive Director pursuant to this section for at least 10 years,
5 including, without limitation, any complaints not acted upon.

6 **Sec. 10.** NRS 634.190 is hereby amended to read as follows:

7 634.190 1. The person charged is entitled to a hearing before
8 the Board, but the failure of the person charged to attend a hearing
9 or to defend himself or herself does not delay or void the
10 proceedings. The Board may, for good cause shown, continue any
11 hearing from time to time.

12 2. If the Board finds the person guilty as charged in the
13 complaint, it may by order:

14 (a) Place the person on probation for a specified period or until
15 further order of the Board.

16 (b) Administer to the person a public reprimand.

17 (c) Limit the practice of the person to, or by the exclusion of,
18 one or more specified branches of chiropractic.

19 (d) Suspend the license of the person to practice chiropractic *or*
20 *the person's certificate as a chiropractor's assistant* for a specified
21 period or until further order of the Board.

22 (e) Revoke the license of the person to practice chiropractic ~~H~~
23 *or the person's certificate as a chiropractor's assistant.*

24 (f) Impose a fine of not more than \$5,000 for each act which
25 constitutes a ground for disciplinary action, which must be
26 deposited with the State Treasurer for credit to the State General
27 Fund.

28 ➔ The order of the Board may contain such other terms, provisions
29 or conditions as the Board deems proper and which are not
30 inconsistent with law.

31 3. If the Board finds that a licensee has violated the provisions
32 of NRS 439B.425, the Board shall suspend the license for a
33 specified period or until further order of the Board.

34 4. The Board shall not administer a private reprimand.

35 5. An order that imposes discipline and the findings of fact and
36 conclusions of law supporting that order are public records.

37 **Sec. 11.** NRS 634.193 is hereby amended to read as follows:

38 634.193 1. Any disciplinary action taken by a hearing officer
39 or panel pursuant to NRS 634.050 is subject to the same procedural
40 requirements which apply to disciplinary actions taken by the
41 Board, and the officer or panel has those powers and duties given to
42 the Board in relation thereto.

43 2. A decision of the hearing officer or panel relating to the
44 imposition of a fine is a final decision in a contested case. Any party
45 aggrieved by a decision of the officer or panel to place a ~~licensee~~



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1 *chiropractic physician or a chiropractor's assistant* on probation or
2 revoke or suspend a license *or certificate* may appeal that decision
3 to the Board.

4 **Sec. 12.** NRS 634.200 is hereby amended to read as follows:

5 634.200 1. Any person who has been placed on probation or
6 whose license *or certificate* has been limited, suspended or revoked
7 by the Board is entitled to judicial review of the Board's order.

8 2. The district court shall give a petition for judicial review of
9 the Board's order priority over other civil matters which are not
10 expressly given that priority by law.

11 **Sec. 13.** NRS 634.204 is hereby amended to read as follows:

12 634.204 1. Any person:

13 (a) Whose practice of chiropractic has been limited; or

14 (b) Whose license ~~to practice chiropractic~~ *or certificate* has
15 been suspended until further order or revoked,

16 ➔ by an order of the Board may apply to the Board after a
17 reasonable period for removal of the limitation or restoration of his
18 or her license ~~to~~ *or certificate*.

19 2. In hearing the application, the Board:

20 (a) May require the person to submit to a mental or physical
21 examination by physicians or other appropriate persons whom it
22 designates and submit such other evidence of changed conditions
23 and of fitness as it deems proper;

24 (b) Shall determine whether under all the circumstances the time
25 of the application is reasonable; and

26 (c) May deny the application or modify or rescind its order as it
27 deems the evidence and the public safety warrant.

28 **Sec. 14.** NRS 634.208 is hereby amended to read as follows:

29 634.208 1. In addition to any other remedy provided by law,
30 the Board, through its President, Secretary or its attorney, or the
31 Attorney General, may bring an action in any court of competent
32 jurisdiction to ~~enjoin~~ :

33 (a) *Enjoin* any person who does not hold a license issued by the
34 Board from practicing chiropractic or representing himself or herself
35 to be a chiropractor. As used in this ~~subsection~~ *paragraph*,
36 "practicing chiropractic" includes the conducting of independent
37 examinations and the offering of opinions regarding the treatment or
38 care, or both, with respect to patients who are residents of this State.

39 (b) *Enjoin any person who does not hold a certificate issued*
40 *pursuant to NRS 634.123 from practicing as a chiropractor's*
41 *assistant or representing himself or herself to be a chiropractor's*
42 *assistant*.

43 2. The court in a proper case may issue an injunction for such
44 purposes without proof of actual damage sustained by any person,
45 this provision being a preventive as well as a punitive measure. The



- 1 issuance of such an injunction does not relieve the person from
- 2 criminal prosecution for a violation of NRS 634.227.

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