

ASSEMBLY BILL NO. 231—ASSEMBLYMAN OSCARSON

MARCH 5, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the practice of chiropractic. (BDR 54-701)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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; authorizing the President, or a designated member, of the Chiropractic Physicians' Board of Nevada to require certain chiropractic physicians or chiropractor's assistants to submit to a mental or physical examination under certain circumstances; providing that the results of such an examination or the details of a chiropractic physician or chiropractor's assistant's participation in a diversion program to address alcohol or drug misuse may be exchanged with the Board; revising the unprofessional conduct for which a practitioner of chiropractic may be subject to discipline; revising the requirements for a license to practice chiropractic; providing a waiver of fees for certain applicants for a temporary license to practice chiropractic; revising the requirements for the reinstatement of a license to practice chiropractic; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides for the licensing, certification and regulation of
- 2 practitioners of chiropractic. (Chapter 634 of NRS) Existing law also authorizes the
- 3 various licensing boards for physicians, homeopathic physicians, osteopathic
- 4 physicians, veterinary practitioners and certain therapists and counselors to require
- 5 a licensee to submit to a mental or physical examination if the licensee's
- 6 competence is questioned. (NRS 630.318, 630A.420, 633.561, 638.142, 641A.315)
- 7 **Section 1** of this bill authorizes the President, or a designated member, of the
- 8 Chiropractic Physicians' Board of Nevada to require that a licensed chiropractic
- 9 physician or certified chiropractor's assistant submit to a mental or physical



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examination if his or her competence is questioned. **Section 1** also provides that the results of such an examination or of a diversion program for the treatment of alcohol or drug misuse by the person are not privileged. Existing law defines the term "unprofessional conduct" for which a practitioner of chiropractic may be subject to discipline. (NRS 634.018) **Section 2** of this bill revises this definition by: (1) expanding the types of misleading public communications to include letterhead and electronic communications, such as social media and Internet websites; and (2) changing repeated malpractice as a grounds for discipline to any single incident of malpractice. Existing law enumerates the requirements for a license to practice chiropractic. (NRS 634.090) **Section 3** of this bill revises those requirements to include chiropractic training and education from certain foreign schools under certain circumstances. Existing law requires an applicant for a temporary license to practice chiropractic to pay an application fee. (NRS 634.115) **Section 4** of this bill waives the application fee for an applicant for a temporary license who applies for a temporary license solely to provide chiropractic services to a patient in this State without remuneration. **Section 5** of this bill revises the date by which the fee for renewal of a license or certificate must be paid. **Section 6** of this bill requires a licensee whose license has expired and who is applying to reinstate the license to submit a set of his or her fingerprints and pay a fee for the processing of the fingerprints.

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:

1. If the President or a member of the Board designated to review a complaint pursuant to NRS 634.170 has reason to believe that the conduct of a chiropractic physician or chiropractor's assistant has raised a reasonable question as to his or her competence to practice as a chiropractic physician or as a chiropractor's assistant, as applicable, with reasonable skill and safety to patients, the President or the member of the Board designated by the President may require the chiropractic physician or chiropractor's assistant to submit to a mental or physical examination conducted by the appropriate medical providers designated by the Board. The Board shall pay the costs of any examination required pursuant to this subsection.

2. If the chiropractic physician or chiropractor's assistant participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the chiropractic physician or chiropractor's assistant in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct a chiropractic physician or chiropractor's assistant's alcohol or drug dependence or any other impairment.

3. For the purposes of this section:



(a) A chiropractic physician who is licensed or a chiropractor's assistant who is certified under this chapter and who accepts the privilege of practicing chiropractic or practicing as a chiropractor's assistant in this State is deemed to have given consent to submit to a mental or physical examination pursuant to a written order by the President or member of the Board designated to review a complaint.

(b) The testimony or examination reports of the examining medical provider are not privileged communications.

4. Except in extraordinary circumstances, as determined by the Board, the failure of a chiropractic physician who is licensed or a chiropractor's assistant who is certified under this chapter to submit to an examination pursuant to this section constitutes an admission of the charges against the chiropractic physician or chiropractic assistant.

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, by any form of public communication, a chiropractic practice:

(a) Using grossly improbable statements; or

(b) In any manner that will tend to deceive, defraud or mislead the public.

➤ As used in this subsection, "public communication" includes, but is not limited to, communications by means of television, radio, motion pictures, Internet websites, electronic mail, social media accounts and newspapers, books, ~~and~~ periodicals, ~~motion picture,~~ handbills ~~for~~, letterhead and other printed matter.

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

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

7. Administering, dispensing or prescribing any controlled substance.

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



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

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

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

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

13. ~~[Repeated—malpractice,]~~ *Malpractice*, which may be evidenced by claims of malpractice settled against a practitioner.

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

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

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

15. Employing, directly or indirectly, any person as a chiropractor's assistant unless the person has been issued a certificate by the Board pursuant to NRS 634.123, or has applied for such a certificate and is awaiting the determination of the Board concerning the application.

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

(a) The medical records of the patient; or

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

17. Violating a lawful order of the Board, a lawful agreement with the Board, or any of the provisions of this chapter or any regulation adopted pursuant thereto.



18. Practicing below the standard of care required from a chiropractic physician or chiropractor's assistant under the circumstances.

Sec. 3. NRS 634.090 is hereby amended to read as follows:

634.090 1. An applicant must, in addition to the requirements of NRS 634.070 and 634.080, furnish satisfactory evidence to the Board:

(a) That the applicant is of good moral character;

(b) Except as otherwise provided in ~~subsection~~ *subsections 2 and 5*, not less than 60 days before the date of the examination, that the applicant has a high school education and is a graduate from a college of chiropractic which is accredited by the Council on Chiropractic Education or which has a reciprocal agreement with the Council on Chiropractic Education or any governmental accrediting agency, whose minimum course of study leading to the degree of doctor of chiropractic consists of not less than 4,000 hours of credit which includes instruction in each of the following subjects:

(1) Anatomy;

(2) Bacteriology;

(3) Chiropractic theory and practice;

(4) Diagnosis and chiropractic analysis;

(5) Elementary chemistry and toxicology;

(6) Histology;

(7) Hygiene and sanitation;

(8) Obstetrics and gynecology;

(9) Pathology;

(10) Physiology; and

(11) Physiotherapy; and

(c) That the applicant:

(1) Holds certificates which indicate that he or she has passed parts I, II, III and IV, and the portion relating to physiotherapy, of the examination administered by the National Board of Chiropractic Examiners; or

(2) Has actively practiced chiropractic in another state for not fewer than 7 of the immediately preceding 10 years without having any adverse disciplinary action taken against him or her.

2. The Board may, for good cause shown, waive the requirement for a particular applicant that the college of chiropractic from which the applicant graduated must be accredited by the Council on Chiropractic Education or have a reciprocal agreement with the Council on Chiropractic Education or a governmental accrediting agency.

3. Except as otherwise provided in ~~subsection~~ *subsections 4 and 5*, every applicant is required to submit evidence of the



1 successful completion of not less than 60 credit hours at an
2 accredited college or university.

3 4. Any applicant who has been licensed to practice in another
4 state, and has been in practice for not less than 5 years, is not
5 required to comply with the provisions of subsection 3.

6 *5. If an applicant has received his or her training and*
7 *education at a school or college located in a foreign country, the*
8 *Board may, if the Board determines that such training and*
9 *education is substantially equivalent to graduation from a college*
10 *of chiropractic that is accredited by the Council on Chiropractic*
11 *Education and otherwise meets the requirements specified in*
12 *paragraph (b) of subsection 1, waive the requirement that an*
13 *applicant attend or graduate from a college that:*

14 (a) *Is accredited by the Council on Chiropractic Education; or*

15 (b) *Has a reciprocal agreement with the Council on*
16 *Chiropractic Education or a governmental accrediting agency.*

17 **Sec. 4.** NRS 634.115 is hereby amended to read as follows:

18 634.115 1. Except as otherwise provided in subsections 4 and
19 5, upon application, payment of the ~~required~~ fee, *if required*, and
20 the approval of its Secretary and President, the Board may, without
21 examination, grant a temporary license to practice chiropractic in
22 this State to a person who holds a corresponding license or
23 certificate in another jurisdiction which is in good standing and who
24 actively practices chiropractic in that jurisdiction. A temporary
25 license may be issued for the limited purpose of authorizing the
26 holder thereof to treat patients in this State.

27 2. Except as otherwise provided in this subsection, an applicant
28 for a temporary license must file an application with the Secretary of
29 the Board not less than 30 days before the applicant intends to
30 practice chiropractic in this State. Upon the request of an applicant,
31 the President or Secretary may, for good cause, authorize the
32 applicant to file the application fewer than 30 days before he or she
33 intends to practice chiropractic in this State.

34 3. ~~Am~~ *Except as otherwise provided in subsection 6, an*
35 *application for a temporary license must be accompanied by a fee of*
36 *\$50 and include:*

37 (a) The applicant's name, the address of his or her primary place
38 of practice and the applicant's telephone number;

39 (b) A current photograph of the applicant measuring 2 by 2
40 inches;

41 (c) The name of the chiropractic school or college from which
42 the applicant graduated and the date of graduation; and

43 (d) The number of the applicant's license to practice chiropractic
44 in another jurisdiction.

45 4. A temporary license:



(a) Is valid for the period designated on the license, which must be not more than 10 days;

(b) Is valid for the place of practice designated on the license; and

(c) Is not renewable.

5. The Board may not grant more than two temporary licenses to an applicant during any calendar year.

6. A chiropractic physician who applies for a temporary license solely for the purpose of providing chiropractic services to a patient in this State without remuneration is not required to pay the fee required pursuant to subsection 3.

Sec. 5. NRS 634.130 is hereby amended to read as follows:

634.130 1. Licenses and certificates must be renewed biennially. Except as otherwise provided in subsection 9, each person who is licensed or holds a certificate as a chiropractor's assistant pursuant to the provisions of this chapter must, upon the payment of the required renewal fee and the submission of all information required to complete the renewal, be granted a renewal license or certificate which authorizes the person to continue to practice for 2 years.

2. Except as otherwise provided in subsection 9, the renewal fee must be paid and all information required to complete the renewal must be submitted to the Board ~~on or before~~ by January 1 of:

(a) Each odd-numbered year for a licensee; and

(b) Each even-numbered year for a holder of a certificate as a chiropractor's assistant.

3. Except as otherwise provided in subsection 5, 6 or 7, a licensee in active practice within this State must submit satisfactory proof to the Board that, during the 24 months immediately preceding the renewal date of the license, the licensee has attended at least 36 hours of continuing education which is approved or endorsed by the Board.

4. Except as otherwise provided in subsection 5, 6 or 8, a holder of a certificate as a chiropractor's assistant in active practice within this State must submit satisfactory proof to the Board that, during the 24 months immediately preceding the renewal date of the certificate, the certificate holder has attended at least 12 hours of continuing education which is approved or endorsed by the Board or the equivalent board of another state or jurisdiction that regulates chiropractors' assistants. The continuing education required by this subsection may include education related to lifesaving skills, including, without limitation, a course in cardiopulmonary resuscitation. The Board shall by regulation determine how many of the required 12 hours of continuing education must be course work



related to such lifesaving skills. Any course of continuing education approved or endorsed by the Board or the equivalent board of another state or jurisdiction pursuant to this subsection may be conducted via the Internet or in a live setting, including, without limitation, a conference, workshop or academic course of instruction. The Board shall not approve or endorse a course of continuing education which is self-directed or conducted via home study.

5. The educational requirement of subsection 3 or 4 may be waived by the Board if the licensee or holder of a certificate as a chiropractor's assistant files with the Board a statement of a chiropractic physician, osteopathic physician or doctor of medicine certifying that the licensee or holder of a certificate as a chiropractor's assistant is suffering from a serious or disabling illness or physical disability which prevented the licensee or holder of a certificate as a chiropractor's assistant from completing the requirements for continuing education during the 24 months immediately preceding the renewal date of the license or certificate.

6. The Board may waive the educational requirement of subsection 3 or 4 for a licensee or a holder of a certificate as a chiropractor's assistant if the licensee or holder of a certificate submits to the Board proof that the licensee or holder of a certificate was in active military service which prevented the licensee or holder of a certificate from completing the requirements for continuing education during the 24 months immediately preceding the renewal date of the license or certificate.

7. A licensee is not required to comply with the requirements of subsection 3 until the first odd-numbered year after the year the Board issues to the licensee an initial license to practice as a chiropractor in this State.

8. A holder of a certificate as a chiropractor's assistant is not required to comply with the requirements of subsection 4 until the first even-numbered year after the Board issues to the holder of a certificate an initial certificate to practice as a chiropractor's assistant in this State.

9. The Board may waive the renewal fee for a licensee or holder of a certificate as a chiropractor's assistant if the licensee or holder of a certificate submits proof to the Board that the licensee or holder of a certificate was in active military service at the time the renewal fee was due.

10. If a licensee fails to:

(a) Except as otherwise provided in subsection 9, pay the renewal fee by January 1 of an odd-numbered year;

(b) Except as otherwise provided in subsection 5 or 6, submit proof of continuing education pursuant to subsection 3;



(c) Notify the Board of a change in the location of his or her office pursuant to NRS 634.129; or

(d) Submit all information required to complete the renewal, ➤ the license automatically expires and, except as otherwise provided in NRS 634.131, may be reinstated only upon the payment, by January 1 of the even-numbered year following the year in which the license expired, of the required fee for reinstatement in addition to the renewal fee.

11. If a holder of a certificate as a chiropractor's assistant fails to:

(a) Except as otherwise provided in subsection 9, pay the renewal fee by January 1 of an even-numbered year;

(b) Except as otherwise provided in subsection 5 or 6, submit proof of continuing education pursuant to subsection 4;

(c) Notify the Board of a change in the location of his or her office pursuant to NRS 634.129; or

(d) Submit all information required to complete the renewal, ➤ the certificate automatically expires and may be reinstated only upon the payment of the required fee for reinstatement in addition to the renewal fee.

Sec. 6. NRS 634.131 is hereby amended to read as follows:

634.131 1. If a license expires pursuant to the provisions of subsection 10 of NRS 634.130 and the license was not reinstated pursuant to the provisions of that subsection, the person who held the license may apply to the Board to have the license reinstated to active status.

2. An applicant to have an expired license reinstated to active status pursuant to subsection 1 must:

(a) Either:

(1) Submit satisfactory evidence to the Board:

(I) That the applicant has maintained an active practice in another state, territory or country within the preceding 5 years;

(II) From all other licensing agencies which have issued the applicant a license that he or she is in good standing and has no legal actions pending against him or her; and

(III) That the applicant has participated in a program of continuing education in accordance with NRS 634.130 for the year in which he or she seeks to be reinstated to active status; or

(2) Score 75 percent or higher on an examination prescribed by the Board on the provisions of this chapter and the regulations adopted by the Board; ~~and~~

(b) Pay:

(1) The fee for the biennial renewal of a license to practice chiropractic; ~~and~~



(2) The fee for reinstating a license to practice chiropractic which has expired ~~§~~; and

(3) *The fee for the processing of fingerprints established pursuant to subsection 4; and*

(c) Submit a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. If any of the requirements set forth in subsection 2 are not met by an applicant for the reinstatement of an expired license to active status, the Board, before reinstating the license of the applicant to active status:

(a) Must hold a hearing to determine the professional competency and fitness of the applicant; and

(b) May require the applicant to:

(1) Pass the Special Purposes Examination for Chiropractic prepared by the National Board of Chiropractic Examiners; and

(2) Satisfy any additional requirements that the Board deems to be necessary.

4. The Board shall establish by regulation the fee for processing fingerprints. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

Sec. 7. 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.~~ 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.

~~6.~~ 5. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:



- 1 (a) The license of the facility is suspended or revoked; or
- 2 (b) An act or omission occurs which results in the suspension or
- 3 revocation of the license pursuant to NRS 449.160.

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

6 **Sec. 8.** This act becomes effective:

- 7 1. Upon passage and approval for the purpose of adopting
- 8 regulations and performing any other preparatory administrative
- 9 tasks that are necessary to carry out the provisions of this act; and
- 10 2. On October 1, 2015, for all other purposes.

