

ASSEMBLY BILL NO. 456—COMMITTEE
ON COMMERCE AND LABOR

MARCH 27, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the practice of chiropractic. (BDR 54-91)

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 chiropractic; revising the definition of chiropractic adjustment; revising provisions relating to membership of the Chiropractic Physicians' Board of Nevada; revising provisions governing the application for a license to practice chiropractic; revising provisions governing disciplinary action by the Board; repealing the definition of gross malpractice; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the definition of "chiropractic adjustment." (NRS 634.014)

Section 2 of this bill removes the provision which prohibits three or more persons who are resident graduates of the same school or college of chiropractic from serving on the Chiropractic Physicians' Board of Nevada at the same time. (NRS 634.020)

Existing law requires an applicant for a license to practice chiropractic, not less than 60 days before the date of the licensing examination, to: (1) file an application for examination with the Secretary of the Board; (2) submit certain evidence relating to his or her qualifications for licensure; and (3) pay the examination application fee. (NRS 634.080, 634.090, 634.100) **Sections 3-5** of this bill eliminate this 60-day advance requirement to file an application for examination, submit evidence of certain qualifications and pay the examination application fee. **Section 3** also prohibits an applicant from taking the licensing examination until the Executive Director of the Board determines that his or her application is complete.

Existing law prescribes the grounds for initiating disciplinary action, including conviction of a felony relating to the practice of chiropractic. (NRS 634.140) **Section 6** of this bill revises the grounds by including conviction for any crime and



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adding incompetence or negligence in the practice of chiropractic as a ground for disciplinary action.

Existing law provides that a person charged with a ground for disciplinary action is entitled to a hearing before the Board and that if the Board finds the person guilty as charged in the complaint, the Board may order specified disciplinary actions. (NRS 634.190) **Section 7** of this bill revises provisions governing the Board's finding to whether the person violated one or more of the grounds made in the complaint. **Section 7** also provides that the Board's order of disciplinary action may contain such terms, provisions or conditions as the Board deems proper to remedy or address the facts and circumstances of the case.

Existing law provides immunity from civil action for the Board or any person or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of a chiropractor for gross malpractice, repeated malpractice or unprofessional conduct. (NRS 634.216) **Section 8** of this bill amends this provision to remove gross malpractice, the definition of which is repealed by **section 9** of this bill, and repeated malpractice, which is no longer specified as an independent ground for disciplinary action. (Chapter 131, Statutes of Nevada 2015, p. 514) The immunity remains for initiating or assisting in an investigation or proceeding for unprofessional conduct, which includes malpractice. (NRS 634.018)

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

Section 1. NRS 634.014 is hereby amended to read as follows:

634.014 "Chiropractic adjustment" means ~~that~~ **any** application of a precisely controlled force applied by hand or mechanical device to a specific focal point of the anatomy for the sole purpose of creating a specific angular movement in skeletal articulations to eliminate or decrease interference with neural transmission ~~and~~, **to improve health or to** correct or attempt to correct subluxation complex.

Sec. 2. NRS 634.020 is hereby amended to read as follows:

634.020 1. The Chiropractic Physicians' Board of Nevada, consisting of seven members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) Four members who are:

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

(2) Licensed under this chapter; and

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



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

(c) Two members who are representatives of the general public. A member appointed pursuant to this paragraph must not be:

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

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

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

Sec. 3. NRS 634.080 is hereby amended to read as follows:

634.080 1. An applicant for examination must file an application ~~not less than 60 days before the date of the examination.~~

~~2. An application must be filed~~ with the Secretary of the Board on a form to be furnished by the Secretary. *An applicant may not take the examination until the Executive Director determines that his or her application is complete.*

~~3.~~ 2. An application must be verified and must state:

(a) When and where the applicant was born, the various places of the applicant's residence during the 5 years immediately preceding the making of the application and the address to which he or she wishes the Board to mail the license.

(b) The name, age and sex of the applicant.

(c) The names and post office addresses of all persons by whom the applicant has been employed for a period of 5 years immediately preceding the making of the application.

(d) Whether or not the applicant has ever applied for a license to practice chiropractic in any other state and, if so, when and where and the results of the application.

(e) Whether the applicant is a citizen of the United States or lawfully entitled to remain and work in the United States.

(f) Whether or not the applicant has ever been admitted to the practice of chiropractic in any other state and, if so, whether any discharge, dismissal, disciplinary or other similar proceedings have ever been instituted against the applicant. Such an applicant must also attach a certificate from the chiropractic board of each state in which the applicant was licensed, certifying that the applicant is a member in good standing of the chiropractic profession in that state, and that no proceedings affecting the applicant's standing as a chiropractor are undisposed of and pending.



(g) The applicant's general and chiropractic education, including the schools attended and the time of attendance at each school, and whether the applicant is a graduate of any school or schools.

(h) The names of:

(1) Two persons who have known the applicant for at least 3 years; and

(2) A person who is a chiropractor licensed pursuant to the provisions of this chapter or a professor at a school of chiropractic.

(i) All other information required to complete the application.

~~14-1~~ 3. An application must include a copy of the applicant's official transcript from the school or college of chiropractic from which the applicant received his or her degree of doctor of chiropractic, which must be transmitted by the school or college of chiropractic directly to the Board.

Sec. 4. 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 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 subsections 4 and 5, every applicant is required to submit evidence of the successful completion of not less than 60 credit hours at an accredited college or university.

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

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

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

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

Sec. 5. NRS 634.100 is hereby amended to read as follows:

634.100 1. An applicant for a license to practice chiropractic in this State must pay the required fee to the Secretary of the Board ~~not less than 60 days~~ before the date of the examination.

2. Except as otherwise provided in NRS 622.090:

(a) For a written, closed-book examination which is administered in person by the Board, a score of 75 percent or higher in all subjects taken on the examination is a passing score.

(b) For a written, open-book examination which is administered in person by the Board or an examination that is taken online, a score of 90 percent or higher in all subjects taken on the examination is a passing score.

3. If an applicant fails to pass the first examination, the applicant may take a second examination within 1 year without payment of any additional fees. Except as otherwise provided in NRS 622.090, credit must be given on this examination for all subjects previously passed.



4. An applicant for a certificate as a chiropractor's assistant must pay the required fee to the Secretary of the Board before the application may be considered.

Sec. 6. 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. *Incompetence or negligence in the practice of chiropractic.*

3. 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~~ *crime* 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.

~~3-1~~ 4. Suspension or revocation of the license to practice chiropractic by any other jurisdiction.

~~14-1~~ 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.

~~15-1~~ 6. 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. 7. NRS 634.190 is hereby amended to read as follows:

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

2. If the Board finds the person ~~guilty as charged~~ *violated one or more of the grounds made* in the complaint, it may by order:

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

(b) Administer to the person a public reprimand.

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

(d) Suspend the license of the person to practice chiropractic for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice chiropractic.



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

➤ The order of the Board may contain such other terms, provisions or conditions as the Board deems proper ~~and which are not inconsistent with law.~~ *to remedy or address the facts and circumstances of the particular case.*

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

4. The Board shall not administer a private reprimand.

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

Sec. 8. NRS 634.216 is hereby amended to read as follows:

634.216 The Board or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of a chiropractor for ~~gross malpractice, repeated malpractice or~~ unprofessional conduct is immune from any civil action for that initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 9. NRS 634.015 is hereby repealed.

Sec. 10. This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTION

634.015 “Gross malpractice” defined. “Gross malpractice” means malpractice where the failure to exercise the requisite degree of care, diligence or skill consists of ministering to a patient while the chiropractor is under the influence of alcohol or any controlled substance.

