

2/14/11

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 127

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

DISCUSSION DRAFT

AN ACT

RELATING TO CHIROPRACTIC PRACTICE; PROVIDING FOR A CERTIFIED
ADVANCED PRACTICE CHIROPRACTIC PHYSICIAN TO PRESCRIBE AND
ADMINISTER DANGEROUS DRUGS AND TO PERFORM CERTAIN OTHER
PROCEDURES; DEFINING "CHIROPRACTIC MEDICINE"; AMENDING CERTAIN
SECTIONS OF THE CHIROPRACTIC PHYSICIAN PRACTICE ACT.

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 certified
advanced practice chiropractic physicians;

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underscored material = new
[bracketed material] = delete

1 B. "certified advanced practice chiropractic
2 physician" means a chiropractic physician who has been included
3 in the advanced practice chiropractic certification registry;

4 C. "chiropractic medicine" means the science, art
5 and philosophy of things natural, the science of locating and
6 removing interference with the transmissions or expression of
7 nerve forces in the human body by the correction of
8 misalignments or subluxations of the articulations and adjacent
9 structures, more especially those of the vertebral column and
10 pelvis, for the purpose of restoring and maintaining health for
11 treatment of human disease primarily by, but not limited to,
12 adjustment and manipulation of the human structure [~~It shall~~
13 ~~include~~], including, but not [~~be~~] limited to, diagnosis and
14 treatment of a condition for which the chiropractic physician
15 has been educated and trained; the prescribing and
16 administering of all natural agents to assist in the healing
17 act, such as food, water, heat, cold, light, electricity,
18 mechanical appliances and medical devices; the selling of
19 [~~herbs~~] herbal medicine, nutritional [~~supplements~~] medicine and
20 homeopathic [~~remedies~~] medicine; the administering of a drug by
21 injection by a certified advanced practice chiropractic
22 physician; and any necessary diagnostic procedure [~~excluding~~
23 ~~invasive procedures~~]. Except as provided by the board by rule
24 [~~and regulation. It~~], "chiropractic medicine" shall exclude
25 [~~operative surgery~~]:

1 (1) invasive procedures; and
 2 (2) the prescription or use of ~~[controlled or]~~
 3 dangerous drugs; ~~[and the practice of acupuncture]~~

4 D. "board" means the chiropractic board;

5 E. "chiropractic physician" includes doctor of
 6 chiropractic, chiropractor and chiropractic physician and means
 7 a person who practices chiropractic medicine as defined in the
 8 Chiropractic Physician Practice Act; and

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

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

14 "61-4-3. BOARD CREATED--APPOINTMENT--OFFICERS--DUTIES--
 15 COMPENSATION.--

16 A. ~~[There is created]~~ The "chiropractic board" is
 17 created. The board shall be administratively attached to the
 18 regulation and licensing department. The board shall consist
 19 of six persons. Four shall have been continuously engaged in
 20 the practice of chiropractic medicine in New Mexico for five
 21 years immediately prior to their appointment, at least one of
 22 whom shall be a certified advanced practice chiropractic
 23 physician. Two persons shall represent the public and shall
 24 not have practiced chiropractic medicine in this state or any
 25 other jurisdiction. A person shall not be appointed to the

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1 board who is an officer or employee of or who is financially
2 interested in any school or college of chiropractic, medicine,
3 surgery or osteopathy.

4 B. Members of the board shall be appointed by the
5 governor for staggered terms of five years or less and in a
6 manner that the term of one board member expires on July 1 of
7 each year. A list of five names for each professional member
8 vacancy shall be submitted by the New Mexico chiropractic
9 association to the governor for consideration in the
10 appointment of board members. A vacancy shall be filled by
11 appointment for the unexpired term. Board members shall serve
12 until their successors have been appointed and qualified.

13 C. The board shall annually elect a chair and a
14 secretary-treasurer. A majority of the board constitutes a
15 quorum. The board shall meet quarterly. Special meetings may
16 be called by the chair and shall be called upon the written
17 request of two members of the board. Notification of special
18 meetings shall be made by certified mail unless such notice is
19 waived by the entire board and the action noted in the minutes.
20 Notice of all regular meetings shall be made by regular mail at
21 least ten days prior to the meeting, and copies of the minutes
22 of all meetings shall be mailed to each board member within
23 thirty days after a meeting.

24 D. A board member failing to attend three
25 consecutive meetings, either regular or special, shall

.185427.1

1 automatically be removed as a member of the board.

2 E. The board shall adopt a seal.

3 F. The board shall promulgate and file, in
4 accordance with the State Rules Act, all rules [~~and~~
5 ~~regulations~~] necessary for the implementation and enforcement
6 of the provisions of the Chiropractic Physician Practice Act,
7 including educational requirements for a chiropractic
8 assistant.

9 G. The board, for the purpose of protecting the
10 health and well-being of the citizens of this state and
11 maintaining and continuing informed professional knowledge and
12 awareness, shall establish by [~~regulations~~] rules adopted in
13 accordance with the provisions of the Uniform Licensing Act
14 mandatory continuing education requirements for chiropractic
15 physicians and certified advanced practice chiropractic
16 physicians licensed in this state.

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

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

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

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1 "61-4-4. APPLICATION REQUIREMENTS--EVALUATION.--

2 A. Each applicant for a license to practice
3 chiropractic medicine shall:

4 (1) make application on forms furnished by the
5 board;

6 (2) submit evidence on oath satisfactory to
7 the board that the applicant has reached the age of majority,
8 has completed a preliminary education equal to the requirements
9 for graduation from high school, is of good moral character
10 and, after January 1, 1976, except for any student currently
11 enrolled in a college of chiropractic, has completed two years
12 of college-level study in an accredited institution of higher
13 learning and is a graduate of a college of chiropractic that
14 meets the standards of professional education prescribed in
15 Section 61-4-5 NMSA 1978; and

16 (3) pay in advance to the board fees:

17 (a) for examination; and

18 (b) for issuance of a license.

19 B. In evaluating an application, the board may use
20 the services of a professional background information service
21 that compiles background information regarding applicants from
22 multiple sources.

23 C. Each applicant for inclusion in the advanced
24 practice chiropractic certification registry shall furnish
25 materials and proof of education and training as established by

1 rule of the board."

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

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

6 A. The board shall recognize successful completion
7 of all parts of the examination conducted by the national board
8 of chiropractic examiners.

9 B. The board shall examine each applicant in the
10 [~~aet~~] practice of chiropractic medicine, including adjusting,
11 procedures and methods, as shall reveal the applicant's
12 qualifications; provided that the board may waive the
13 requirement for the board-administered examination upon proof
14 of satisfactory completion of the examination conducted by the
15 national board of chiropractic examiners.

16 C. The board shall issue a license to all
17 applicants whose applications have been filed with and approved
18 by the board and who have paid the required fees and passed
19 either the board-administered examination with a general
20 average of not less than seventy-five percent with no subject
21 below sixty-five percent or the examination conducted by the
22 national board of chiropractic examiners with a general average
23 of not less than seventy-five percent with no subject below
24 sixty-five percent. A license shall be refused to an applicant
25 who fails to make application as provided in this section,

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1 fails the examination or fails to pay the required fees.

2 D. The license, when granted by the board, carries
3 with it the title of doctor of chiropractic and entitles the
4 holder to diagnose using any necessary diagnostic procedures,
5 excluding invasive procedures, except as provided by the board
6 by rule, and treat injuries, deformities or other physical or
7 mental conditions relating to the basic concepts of
8 chiropractic medicine by the use of any methods as provided in
9 this section, including but not limited to palpating,
10 diagnosing, adjusting and treating injuries and defects of
11 human beings by the application of manipulative, manual and
12 mechanical means, including all natural agencies imbued with
13 the healing act, such as food, water, heat, cold, light,
14 electricity and mechanical appliances, herbs, nutritional
15 supplements and homeopathic remedies but excluding operative
16 surgery and prescription or use of controlled [~~or dangerous~~
17 ~~drugs~~] substances. The holder may also supervise the use of
18 any natural agencies imbued with the healing act, such as food,
19 water, heat, cold, light, electricity, mechanical appliances,
20 herbs, nutritional supplements and homeopathic remedies
21 administered by a chiropractic assistant.

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

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1 F. The board shall certify a chiropractic physician
 2 as a "certified advanced practice chiropractic physician" when
 3 the chiropractic physician has demonstrated completion of
 4 advanced coursework and met other requirements established in
 5 the Chiropractic Physician Practice Act and by rule of the
 6 board."

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

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

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

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

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1 ~~excluding operative surgery and prescription or use of~~
2 ~~controlled or dangerous drugs as provided in rules and~~
3 ~~regulations established and monitored by the board]."~~

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

6 "61-4-9.1. ADVANCED PRACTICE CHIROPRACTIC CERTIFICATION
7 REGISTRY ESTABLISHED.--The board shall establish by rule the
8 advanced practice chiropractic certification registry. A
9 chiropractic physician authorized by the board to use the title
10 "certified advanced practice chiropractic physician" shall have
11 prescriptive authority for therapeutic and diagnostic purposes
12 as authorized by statute and rule of the board. Only a
13 chiropractic physician included in the advanced practice
14 chiropractic certification registry may use the title certified
15 advanced practice chiropractic physician, and it is unlawful
16 for a person to use the certified advanced practice
17 chiropractic physician title unless the person is included in
18 the advanced practice chiropractic certification registry. The
19 advanced practice chiropractic certification registry shall
20 include a chiropractic physician who applies for the
21 designation and:

22 A. holds a chiropractic license in good standing;

23 B. has completed three years of postgraduate
24 clinical chiropractic practice or equivalent clinical
25 experience as established by the board;

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1 C. has ~~[an advanced practice chiropractic~~
 2 ~~certification by a nationally recognized credentialing agency~~
 3 ~~providing credentialing and demonstrated competency by~~
 4 ~~examination and additionally, after December 31, 2012,~~
 5 ~~successful completion of a graduate degree in a chiropractic~~
 6 ~~clinical practice specialty]~~ a certification in advanced
 7 clinical chiropractic practice or its equivalent by a
 8 nationally recognized credentialing agency and has demonstrated
 9 competency by examination;

10 D. has completed, prior to December 31, 2012, a
 11 minimum of ninety clinical and didactic contact course hours in
 12 pharmacology, pharmacognosy, medication administration and
 13 toxicology certified by an examination from an institution of
 14 higher education approved by the board and the New Mexico
 15 medical board or has successfully completed after December 31,
 16 2012, a postgraduate degree in a clinical specialty; and

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

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

21 "61-4-9.2. CERTIFIED ADVANCED PRACTICE CHIROPRACTIC
 22 PHYSICIAN AUTHORITY DEFINED.--

23 A. A certified advanced practice chiropractic
 24 physician may prescribe, administer and dispense herbal
 25 medicines, homeopathic medicines, over-the-counter drugs,

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1 vitamins, minerals, enzymes, glandular products,
2 protomorphogens, live cell products, gerovital, amino acids,
3 dietary supplements, foods for special dietary use,
4 bioidentical hormones, sterile water, sterile saline, sarapin
5 or its generic, caffeine, procaine, oxygen, epinephrine and
6 vapocoolants.

7 B. A formulary that includes all substances listed
8 in Subsection A of this section, including compounded
9 preparations for topical and oral administration, shall be
10 developed and approved by the board. A formulary for injection
11 that includes the substances in Subsection A of this section
12 that are within the scope of practice of the certified advanced
13 practice chiropractic physician shall be developed and approved
14 by the board. ~~[Dangerous drugs or controlled substances, drugs~~
15 ~~for administration by injection and substances not listed in~~
16 ~~Subsection A of this section shall be submitted to the board of~~
17 ~~pharmacy and the New Mexico medical board for approval.]~~

18 C. A certified advanced practice chiropractic
19 physician with a conditional prescription certificate or
20 prescription certificate may, in addition to those substances
21 specified in Subsection A of this section, prescribe,
22 administer and dispense dangerous drugs, including compounded
23 preparations for topical and oral administration and injection,
24 testosterone in all its forms and codeine in cough syrup. The
25 board, with the New Mexico medical board and the board of

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1 pharmacy serving in an advisory capacity, and with all parties
2 agreeing to act in good faith, shall establish by rule a
3 formulary that includes substances listed in this subsection.

4 D. A certified advanced practice chiropractic
5 physician may apply to the board for a conditional prescription
6 certificate. The application for a conditional prescription
7 certificate shall be made on a form prescribed by the board and
8 at a minimum contain evidence satisfactory to the board that
9 the applicant:

10 (1) has successfully completed an education
11 program in advanced clinical practice at a master's degree
12 level or higher or equivalent from an accredited institution of
13 higher education or professional school, which program includes
14 a minimum number of clinical rotation hours set by the board by
15 rule;

16 (2) holds a current license to practice
17 chiropractic medicine;

18 (3) has successfully completed pharmacological
19 training from an institution of higher education approved by
20 the board or from a provider of continuing education approved
21 by the board;

22 (4) within the five years immediately
23 preceding the date of application, has successfully completed
24 an organized program of education approved by the board and
25 consisting of didactic instruction of no fewer than two hundred

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1 classroom hours in at least the following core areas of
2 instruction:

3 (a) pharmacology;

4 (b) physiology;

5 (c) pathophysiology;

6 (d) appropriate and relevant physical
7 and laboratory assessment; and

8 (e) clinical pharmacotherapeutics;

9 (5) within five years immediately preceding
10 the date of application, successfully completed a clinical
11 experience approved by the board, under the supervision of a
12 medical doctor that at a minium consists of:

13 (a) four hundred hours or more of
14 clinical rotation practicum in clinical assessment and
15 pathophysiology; and

16 (b) four hundred hours or more of
17 treating one hundred or more patients with disorders relevant
18 to the certified advanced practice chiropractic physician's
19 clinical specialty;

20 (6) has malpractice insurance in place that is
21 sufficient to satisfy the rules adopted by the board and that
22 will cover the applicant during the period the conditional
23 prescription certificate is in effect; and

24 (7) a declaration from the supervising medical
25 doctor that the applicant has made a successful completion of

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1 the clinical experience.

2 E. The board shall issue a conditional prescription
3 certificate if it finds that the applicant has met the
4 requirements of Subsection D of this section. The conditional
5 prescription certificate shall be valid for a period of two
6 years, at the end of which the holder may again apply pursuant
7 to the provisions of Subsection D of this section. During the
8 period that the conditional prescription certificate is in
9 effect, the board shall ensure that a certified advanced
10 practice chiropractic physician with a conditional prescription
11 certificate:

12 (1) continues to hold a current license to
13 practice chiropractic medicine and maintains malpractice
14 insurance;

15 (2) has no disciplinary actions taken against
16 the certified advanced practice chiropractic physician by the
17 board;

18 (3) only prescribes substances specified in
19 Subsection C of this section under the supervision of a medical
20 doctor, informs the board of the name of the medical doctor
21 under whose supervision the certified advanced practice
22 chiropractic physician will prescribe substances specified in
23 Subsection C of this section and promptly informs the board of
24 any change of the supervising medical doctor;

25 (4) submits a report to the supervising

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1 medical doctor every three months demonstrating twenty-five or
2 more patient clinical assessments, including diagnosis,
3 medications prescribed and outcomes; and

4 (5) has the supervising medical doctor review
5 the report and submit with the report a declaration that the
6 certified advanced practice chiropractic physician has met the
7 conditions of Paragraphs (1) through (4) of this subsection to
8 the board.

9 F. A certified advanced practice chiropractic
10 physician may apply to the board for a prescription
11 certificate. The application shall be made on a form
12 prescribed by the board and at a minium contain evidence
13 satisfactory to the board that the applicant:

14 (1) has been issued a conditional prescription
15 certificate and has successfully completed two years of
16 prescribing substances specified in Subsection C of this
17 section;

18 (2) has successfully undergone a process of
19 independent peer review approved by the board;

20 (3) holds a current license to practice
21 chiropractic medicine;

22 (4) has malpractice insurance in place that is
23 sufficient to satisfy the rules adopted by the board; and

24 (5) meets all other requirements, as
25 determined by rule of the board, for obtaining a prescription

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1 certificate.

2 G. The board shall issue a prescription certificate
3 if it finds that the applicant has met the requirements of
4 Subsection F of this section. The board shall ensure that a
5 certified advanced practice chiropractic physician with a
6 prescription certificate:

7 (1) continues to hold a current license to
8 practice chiropractic medicine and continues to maintain
9 malpractice insurance; and

10 (2) annually satisfies the continuing
11 education program requirements for prescribing advanced
12 practice chiropractic physicians as set by the board, which
13 continuing education program shall be no fewer than twenty
14 hours each year.

15 H. The board shall promulgate rules providing for
16 the issuance of a conditional prescription certificate, a
17 prescription certificate and renewal. The board shall also
18 promulgate rules for the denial, suspension or revocation of a
19 conditional prescription certificate, prescription certificate
20 or renewal authorized to be issued pursuant to this section,
21 including a provision for suspension or revocation of a license
22 to practice chiropractic upon suspension or revocation of a
23 prescription certificate. Actions of denial, suspension or
24 revocation of a certificate shall be in accordance with the
25 Uniform Licensing Act."

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

3 "61-4-9.3. USE OF CHIROPRACTIC NAME LIMITED.--The terms
4 "chiropractor", "chiropractic physician", ~~[or]~~ "chiropractic"
5 or "chiropractic medicine" may be used only by persons licensed
6 pursuant to the Chiropractic Physician Practice Act."

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

9 "61-4-10. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE.--

10 A. The board may refuse to issue or may suspend or
11 revoke any license or may censure, reprimand, fine or place on
12 probation and stipulation any licensee in accordance with the
13 procedures as contained in the Uniform Licensing Act upon the
14 grounds that the licensee or applicant:

15 (1) is convicted of a felony. A copy of the
16 record of conviction, certified to by the clerk of the court
17 entering the conviction, shall be conclusive evidence of such
18 conviction;

19 (2) is guilty of fraud or deceit in procuring
20 or attempting to procure a license in the chiropractic
21 profession or in connection with applying for or procuring
22 license renewal;

23 (3) is guilty of incompetence;

24 (4) is habitually intemperate or is addicted
25 to the use of habit-forming drugs or is addicted to any vice to

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1 such a degree as to render the licensee or applicant unfit to
2 practice chiropractic medicine;

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

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

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

15 (8) is guilty of advertising by means of
16 knowingly false statements;

17 (9) has been declared mentally incompetent by
18 regularly constituted authorities or is manifestly
19 incapacitated to practice chiropractic medicine;

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

23 (11) is guilty of obtaining any fee by fraud
24 or misrepresentation;

25 (12) is guilty of making false or misleading

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1 statements regarding the licensee's or applicant's skill or the
2 efficacy or value of treatment or remedy prescribed or
3 administered by the licensee or applicant or at the licensee's
4 or applicant's direction;

5 (13) is guilty of aiding or abetting the
6 practice of chiropractic medicine by a person not licensed by
7 the board;

8 (14) has incurred a prior suspension or
9 revocation in another state where the suspension or revocation
10 of a license to practice chiropractic medicine was based upon
11 acts by the licensee similar to acts described in this section
12 and by board rules promulgated pursuant to Paragraph (6) of
13 this subsection. A certified copy of the record of suspension
14 or revocation of the state making such suspension or revocation
15 is conclusive evidence thereof;

16 (15) is guilty of making a false, misleading
17 or fraudulent claim; or

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

20 (a) procuring, aiding or abetting a
21 criminal abortion;

22 (b) representing to a patient that a
23 manifestly incurable condition of sickness, disease or injury
24 can be cured;

25 (c) willfully or negligently divulging a

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1 professional confidence;

2 (d) conviction of any offense punishable
3 by incarceration in a state penitentiary or federal prison. A
4 copy of the record of conviction, certified by the clerk of the
5 court entering the conviction, is conclusive evidence;

6 (e) impersonating another person
7 licensed in the practice of chiropractic medicine or permitting
8 or allowing any person to use the licensee's or applicant's
9 license;

10 (f) gross negligence in the practice of
11 chiropractic medicine;

12 (g) fee splitting;

13 (h) conduct likely to deceive, defraud
14 or harm the public;

15 (i) repeated similar negligent acts;

16 (j) employing abusive billing practices;

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

23 (l) failure to report to the board
24 surrender of a license or other authorization to practice
25 chiropractic medicine in another state or jurisdiction or

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1 surrender of membership on any chiropractic staff or in any
2 chiropractic medicine or professional association or society
3 following, in lieu of, and while under disciplinary
4 investigation by any of those authorities or bodies for acts or
5 conduct similar to acts or conduct that would constitute
6 grounds for action as provided in this section;

7 (m) failure to furnish the board, its
8 investigators or representatives with information requested by
9 the board;

10 (n) abandonment of patients;

11 (o) failure to adequately supervise, as
12 provided by board [~~regulation~~] rule, a chiropractic medicine
13 assistant or technician or professional licensee who renders
14 care;

15 (p) intentionally engaging in sexual
16 contact with a patient other than the licensee's or applicant's
17 spouse during the doctor-patient relationship; and

18 (q) conduct unbecoming a person licensed
19 to practice chiropractic medicine or detrimental to the best
20 interests of the public.

21 B. The board may at its discretion hire
22 investigators or issue investigative subpoenas for the purpose
23 of investigating complaints made to the board regarding
24 chiropractic physicians.

25 C. All written and oral communication made by any

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1 person to the board or an agent of the board relating to actual
 2 or potential disciplinary action, including complaints made to
 3 the board, are confidential communications and are not public
 4 records for the purposes of the Inspection of Public Records
 5 Act; provided that all information contained in a complaint
 6 file is public information and subject to disclosure when the
 7 board acts on a complaint.

8 D. Licensees shall bear all costs of disciplinary
 9 proceedings unless exonerated."

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

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

13 A. Each of the following acts constitutes a
 14 misdemeanor punishable upon conviction by a fine of not less
 15 than fifty dollars (\$50.00) or more than one thousand dollars
 16 (\$1,000) or by imprisonment not to exceed one year, or both:

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

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

22 (3) willfully falsifying any oath or
 23 affirmation required by the Chiropractic Physician Practice
 24 Act;

25 (4) practicing or attempting to practice under

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1 an assumed name; or

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

5 B. Any second violation of the act constitutes a
6 fourth degree felony."

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

9 "61-4-13. ANNUAL RENEWAL OF LICENSE--FEE--NOTICE.--

10 A. [~~Any~~] A person licensed to practice chiropractic
11 medicine in this state shall, on or before July 1 of each year,
12 pay to the board an annual fee set by [~~regulation~~] rule and
13 shall submit proof of completion of continuing education
14 requirements as required by the board. The board shall send
15 written notice to every person holding a license prior to June
16 1 of each year, directed to the last known address of the
17 licensee, notifying [~~him~~] the licensee that it is necessary
18 [~~for him~~] to pay the renewal fee as provided in the
19 Chiropractic Physician Practice Act. Proper forms shall
20 accompany the notice, upon which forms the licensee shall make
21 application for the renewal of [~~his~~] the license. The licensee
22 is responsible for renewal of the license even if the licensee
23 does not receive the renewal notice.

24 B. The board shall establish a schedule of
25 reasonable fees for applications, licenses, certificates,

.185427.1

1 renewals, placement or inactive status and administrative
2 fees."

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

5 "61-4-14. FAILURE TO RENEW--CANCELLATION--REINSTATEMENT--
6 PERMISSIVE TEMPORARY CANCELLATION.--~~[Any]~~ A licensee who fails
7 to comply with the requirements for renewal as set forth in
8 Section ~~[+2]~~ 61-4-13 NMSA 1978 shall, upon order of the board,
9 forfeit ~~[his]~~ the right to practice chiropractic medicine in
10 this state, and ~~[his]~~ the licensee's license and any
11 certificates of renewal shall be ~~[cancelled]~~ canceled. The
12 board may reinstate ~~[him]~~ the licensee upon payment of all fees
13 or penalties due and upon the presentation of evidence of
14 attendance at educational programs as may be provided by ~~[rules~~
15 ~~and regulations]~~ rule of the board. ~~[Any]~~ A person licensed to
16 practice chiropractic medicine in this state who desires to
17 withdraw from active practice in this state may apply to the
18 board for a temporary suspension of ~~[his]~~ the person's license
19 with the right to renew and reinstate ~~[his]~~ the license upon a
20 showing that ~~[he]~~ the person has paid ~~[his]~~ the annual license
21 renewal fee on or before ~~[the first day of]~~ July 1 of each
22 year; provided that no suspension shall be granted for a period
23 of less than one year."

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

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1 "61-4-15. EXEMPTIONS.--The Chiropractic Physician
2 Practice Act does not apply to:

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

5 B. a ~~[chiropractor]~~ chiropractic physician who is
6 legally qualified to practice in the state or territory in
7 which ~~[he]~~ the chiropractic physician resides, when in actual
8 consultation with a licensed ~~[chiropractor]~~ chiropractic
9 physician of this state; ~~[or]~~

10 C. any bona fide student of any standard
11 chiropractic college chiropractically analyzing and adjusting
12 the human body under supervision of a licensed ~~[chiropractor]~~
13 chiropractic physician; or

14 D. the practice of acupuncture or oriental
15 medicine."

16 - 26 -