Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1099
(Industry, Business and Labor Committee)
(At the request of the State Board of Chiropractic Examiners)

AN ACT to create and enact section 43-06-17.1 of the North Dakota Century Code, relating to temporary suspension and appeal of chiropractors; and to amend and reenact subdivision a of subsection 2 of section 43-06-01, section 43-06-02, subsections 2 and 5 of section 43-06-04.1, sections 43-06-05, 43-06-08, 43-06-09, 43-06-10.1, 43-06-13, and 43-06-14.1, subdivision g of subsection 1 of section 43-06-15, and subsections 4 and 5 of section 43-06-15 of the North Dakota Century Code, relating to the practice of chiropractic.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 2 of section 43-06-01 of the North Dakota Century Code is amended and reenacted as follows:

a. The examination, evaluation, and diagnosis by means including x-ray, other appropriate diagnostic imaging, clinical laboratory procedures, or pertinent examinations taught by chiropractic colleges accredited by the council on chiropractic education or its successor <u>or equivalent</u>;

SECTION 2. AMENDMENT. Section 43-06-02 of the North Dakota Century Code is amended and reenacted as follows:

43-06-02. Who exempt from the provisions of this chapter.

This chapter does not apply to:

1. Chiropractors from the District of Columbia, or other states, territories, or countries who are in actual consultation in this state.

2. Students duly enrolled in a college of chiropractic approved and accredited by the council on chiropractic education, or its successor <u>or equivalent</u>, who have completed chiropractic studies and who are continuing their training under a preceptorship program and performing the duties of an intern under the supervision of a chiropractor licensed in the state of North Dakota who has received approval to supervise such internship by the board and said students having received approval to participate in such internship by the board <u>and by the chiropractic college or university</u>.

3. A graduate of any approved and accredited college of chiropractic who has for the first time made application for license by examination to practice chiropractic in the state of North Dakota, and who, under the supervision of a North Dakota licensed chiropractor, performs the duties of an intern, provided that a supervising chiropractor has certified to the board that the graduate is of good character and competent chiropractic ability. The authorization granted by the board terminates within fifteen months from the date issued by the board.

4. Nothing in this chapter is to be construed to impinge upon the practice of medicine by a physician and surgeon or an osteopathic physician and surgeon who has adequate training in the use of manipulative and adjustive procedures of the spine and appendicular skeleton.

<u>5.</u> <u>A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is teaching, demonstrating, or providing chiropractic in connection with teaching or participating in an educational seminar in the state for no more than sixty days in a calendar year.</u>

SECTION 3. AMENDMENT. Subsections 2 and 5 of section 43-06-04.1 of the North Dakota Century Code are amended and reenacted as follows:

2. The board shall ~~pass upon~~verify the qualifications of applicants for licenses to practice chiropractic. It shall examine and renew the licenses of duly qualified applicants.

5. The board may inspect upon ~~complaint or~~ probable cause, at all reasonable times, any chiropractic office or place where chiropractic services are performed.

SECTION 4. AMENDMENT. Section 43-06-05 of the North Dakota Century Code is amended and reenacted as follows:

43-06-05. Meetings of board - When held - Place of meeting - Quorum - Officers - Seal - Compensation - Expenses - How paid.

The board shall hold regular meetings ~~for the examination of applicants~~ twice yearly at approximate six-month intervals and such special meetings as it may deem necessary. The meetings shall be held at such places as the board may designate. Three members of the board constitute a quorum. At the first meeting of the board of each calendar year, the members of the board shall elect from their membership a president, vice president, and secretary-treasurer. Each shall hold office for one year and until a successor is elected and qualified. The board shall have a seal and may adopt appropriate rules necessary to carry out the provisions of this chapter. A member of the board shall receive compensation in an amount to be fixed by regulation of the board for each day or portion thereof spent in the discharge of duties, such mileage as is provided by section 54-06-09, and must be reimbursed for actual and necessary expenses incurred in the discharge of official duties in accordance with section 44-08-04. In addition to the compensation, expenses, and mileage, the secretary-treasurer of the board ~~shall~~is entitled to receive such salary as must be fixed by a resolution of the board adopted at a regular meeting.

SECTION 5. AMENDMENT. Section 43-06-08 of the North Dakota Century Code is amended and reenacted as follows:

43-06-08. License required - Application - Examination required - Fee.

No person may practice chiropractic in this state unless that person has a license from the state board of chiropractic examiners. Any person who desires a license shall apply to the board and submit to an examination. Each applicant shall present with the application a diploma from a college of chiropractic accredited by the council on chiropractic education or its successor or equivalent, or a photocopy of the same, or a certificate from the college stating that the applicant is a student in good standing in the student's last trimester, and proof that the applicant has the required qualifications. The board may allow an applicant to take the examination during the period that the applicant is attending the applicant's last trimester but may not issue a license until the applicant has graduated and has provided the board with a diploma as provided in this section. Before beginning the examination, the applicant shall pay to the ~~secretary-treasurer of the~~ board a fee, to be determined by the board from time to time, of an amount not to exceed five hundred dollars. ~~The examination must be held twice yearly at intervals of approximately six months with date and place to be determined by the board.~~

SECTION 6. AMENDMENT. Section 43-06-09 of the North Dakota Century Code is amended and reenacted as follows:

43-06-09. Chiropractor - Qualifications.

An applicant for examination to practice chiropractic in this state shall have a degree or a certificate proving enrollment in the last trimester of college received from an approved and accredited college of chiropractic. An approved and accredited college of chiropractic within the meaning of this chapter is a college of chiropractic that is approved by the board and accredited by the council on chiropractic education or its successor or equivalent.

SECTION 7. AMENDMENT. Section 43-06-10.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-10.1. National board examination.

The board may in its discretion accept all parts of the national board examination in lieu of part of an examination for a license, providing all other requirements are met ~~but shall require examination in chiropractic jurisprudence and practical examinations~~.

SECTION 8. AMENDMENT. Section 43-06-13 of the North Dakota Century Code is amended and reenacted as follows:

43-06-13. Term of license - Renewal - Fee - Requirements.

A license to practice chiropractic in this state is valid for one year only and must be renewed on or before the first day of September of each year. The fee for renewal of a license must be determined by the board but may not exceed five hundred dollars. The board shall establish by rule the number of hours necessary for annual continuing education. Before it issues a renewal license, the board shall require each applicant who has a license to practice in this state to attend a postgraduate course sponsored by a college of chiropractic, accredited by the council on chiropractic education, or its successor or equivalent, a health-related seminar sponsored by an equally accredited college or university, a medical seminar qualifying for continuing education credits, or ~~at least a two-day~~an educational program arranged by the North Dakota chiropractic association and approved by the board. A license which has not been renewed, as a result of nonpayment of annual registration fees required by this chapter or as a result of the failure by the licensee to attend the required annual continuing education, may be reinstated upon payment to the board of the amount of renewal fees then in default or by certification that the required continuing education has been completed ~~within sixty days~~ after the expiration of the previous license. In either case, the board may charge an additional administrative fee to be fixed by the board not to exceed four hundred dollars. In addition to the payment of fees, the board, after an investigation, may require a chiropractor whose license has not been renewed to submit to a reexamination as to the applicant's qualifications to practice chiropractic before the applicant is reinstated, if the board in the exercise of its discretion finds and determines that the best interests of the public and the applicant will be served thereby.

SECTION 9. AMENDMENT. Section 43-06-14.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-14.1. Peer review of services and fees.

1. The board, upon receipt of ~~an inquiry from a patient, a third-party payer, including any governmental agency, or a chiropractor as to whether a chiropractor licensed in this state properly utilized services and rendered or ordered appropriate treatment or services and whether the cost of the treatment was unconscionable for a particular patient~~a complaint, may appoint a peer review committee for the purpose of investigation of the matter and rendering an opinion thereon.

2. The peer review committee must be appointed by the board and function as its agent and may consist of different individuals for review of different cases.

3. The peer review committee shall investigate each inquiry submitted by the board. It shall examine such witnesses, review such patient and business records, and otherwise take whatever action is necessary to best ascertain the facts. It shall transmit all information it possesses to the board and shall report its findings to the board. The board shall furnish copies of the findings to the ~~patient,~~party making the complaint and to the chiropractor~~, and third-party payer. The finding of the peer review committee on each inquiry must include a determination of whether the chiropractor properly utilized services and rendered or ordered appropriate treatment or services and whether the cost of the treatment was unconscionable~~.

4. The determinations of the peer review committee must be presumed valid and may be considered as prima facie evidence in any further proceedings by the board.

5. The ~~acceptance of, or the request~~provision of~~, payment for~~ treatment rendered to a patient by a chiropractor constitutes the consent of the chiropractor to the submission of all necessary records and other information concerning the treatment to the board or peer review committee.

6. The board may adopt rules it considers necessary and appropriate to implement the peer review system and activities established under this chapter.

7. All data and information, including patient records acquired by the board or the peer review committee, in the exercise of its duties and functions, are confidential and closed to the public. All board and peer review committee meetings wherein patient testimony or records are taken or reviewed are confidential and closed to the public.

8. ~~Any third-party payer~~Except a patient, any party, including any governmental agency, making a request under this section may be charged a fee by the board equal to the administration costs of performing the review.

SECTION 10. AMENDMENT. Subdivision g of subsection 1 of section 43-06-15 of the North Dakota Century Code is amended and reenacted as follows:

g. Has ~~been~~ aided, assisted, or enabled any unlicensed person to practice chiropractic contrary to this chapter or rule of the board.

SECTION 11. AMENDMENT. Subsections 4 and 5 of section 43-06-15 of the North Dakota Century Code are amended and reenacted as follows:

4. A doctor of chiropractic who is the subject of an investigation by, or on behalf of, the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by, or on behalf of, the board relating to the subject of the investigation and providing copies of patient ~~health~~ records~~, as reasonably~~ or any pertinent information requested by the board, to assist the board in its investigation.

5. Any person, including a member of the board, may file a ~~sworn~~signed written statement and other reports and information with any member of the board against a licensed chiropractor charging the chiropractor with any of the offenses or conditions set forth in subsection 1, which statement must set forth a specification of the charges. When the statement has been filed, the board shall make an investigation as provided by subsection 6.

SECTION 12. Section 43-06-17.1 of the North Dakota Century Code is created and enacted as follows:

43-06-17.1. Temporary suspension - Appeal.

1. If based on verified evidence the board determines by a clear and convincing standard that the evidence presented to the board indicates that the continued practice by the chiropractor would create significant risk of serious and ongoing harm to the public while a disciplinary proceeding is pending, and that immediate suspension of the chiropractor's license is required to reasonably protect the public from the risk of harm, the board may order a temporary suspension ex parte. For purposes of this section, "verified evidence" means testimony taken under oath and based on personal knowledge. The board shall give prompt written notice of the suspension of the chiropractor, which must include a copy of the order and complaint, the date set for a full hearing, and, upon request, a specific description of the nature of the evidence, including a list of all known witnesses and a specific description of any documents relied upon by the board in ordering the temporary suspension must be made available to the chiropractor.

2. An ex parte suspension remains in effect until a final order is issued after a full hearing or appeal under this section or until the suspension is otherwise terminated by the board.

3. The board shall conduct a hearing on the merits of the allegations to determine what disciplinary action, if any, will be taken against the chiropractor who is the subject of the ex parte suspension. That hearing must be held not later than thirty days from the issuance of the ex parte temporary suspension order. The chiropractor is entitled to a continuance of the thirty-day period upon request for a period determined by the hearing officer.

4. The chiropractor may appeal the ex parte temporary suspension order before the full hearing. For purposes of appeal, the district court shall decide whether the board acted reasonably or arbitrarily. The court shall give priority to the appeal for prompt disposition.

5. Any medical record of a patient, or other document containing personal information about a patient, which is obtained by the board is an exempt record as defined in section 44-04-17.1.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1099.

House Vote:	Yeas 90	Nays 0	Absent 4
Senate Vote:	Yeas 47	Nays 0	Absent 0

Chief Clerk of the House

Received by the Governor at 12:36 P.M. on March 19, 2015.

Approved at 12:14 P.M. on March 20, 2015.

Governor

Filed in this office this 20th day of March, 2015,

at 3:56 o'clock P M.

Secretary of State