AN ACT

RELATING TO CHIROPRACTIC PRACTICE; PROVIDING FOR A CERTIFIED ADVANCED PRACTICE CHIROPRACTIC PHYSICIAN TO PRESCRIBE AND ADMINISTER DANGEROUS DRUGS OR CONTROLLED SUBSTANCES 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 .183368.5
advanced practice chiropractic physicians;

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

C. "chiropractic medicine" means the science, art and philosophy of things natural, the science of locating and removing interference with the transmissions or expression of nerve forces in the human body by the correction of misalignments or subluxations of the articulations and adjacent structures, more especially those of the vertebral column and pelvis, for the purpose of restoring and maintaining health for treatment of human disease primarily by, but not limited to, adjustment and manipulation of the human structure [it shall include], including, but not [be] limited to, diagnosis and treatment of a condition for which the chiropractic physician has been educated and trained; the prescribing and administering of all natural agents to assist in the healing act, such as food, water, heat, cold, light, electricity, mechanical appliances and medical devices; the selling of herbal medicine, nutritional supplements medicine and homeopathic remedies medicine; the administering of a drug by injection by a certified advanced practice chiropractic physician; and any necessary diagnostic procedure [excluding invasive procedures]. Except as provided by the board by rule [and regulation. It], "chiropractic medicine" shall exclude:
operative surgery;
(2) the prescription or use of controlled or
dangerous drugs; and
(3) the practice of acupuncture;
D. "board" means the chiropractic board;
E. "chiropractic physician" includes doctor of
chiropractic, chiropractor and chiropractic physician and means
a person who practices chiropractic medicine as defined in the
Chiropractic Physician Practice Act; and
F. "chiropractic assistant" means a person who
practices under the on-premises supervision of a licensed
chiropractic physician."

SECTION 2. Section 61-4-3 NMSA 1978 (being Laws 1968,
Chapter 3, Section 3, as amended) is amended to read:
"61-4-3. BOARD CREATED--APPOINTMENT--OFFICERS--DUTIES--
COMPENSATION.--

A. [There is created] The "chiropractic board" is created. The board shall be administratively attached to the
regulation and licensing department. The board shall consist
of six persons. Four shall have been continuously engaged in
the practice of chiropractic medicine in New Mexico for five
years immediately prior to their appointment, at least one of
whom shall be a certified advanced practice chiropractic
physician. Two persons shall represent the public and shall
not have practiced chiropractic medicine in this state or any
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other jurisdiction. A person shall not be appointed to the
board who is an officer or employee of or who is financially
interested in any school or college of chiropractic, medicine,
surgery or osteopathy.

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

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

D. A board member failing to attend three
consecutive meetings, either regular or special, shall automatically be removed as a member of the board.

E. The board shall adopt a seal.

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

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

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

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

SECTION 3. Section 61-4-4 NMSA 1978 (being Laws 1968, .183368.5
Chapter 3, Section 4, as amended) is amended to read:

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

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

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

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

(3) pay in advance to the board fees:

(a) for examination; and

(b) for issuance of a license.

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

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

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

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

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

B. The board shall examine each applicant in the 
practice of chiropractic medicine, including adjusting, 
procedures and methods, as shall reveal the applicant's 
qualifications; provided that the board may waive the 
requirement for the board-administered examination upon proof 
of satisfactory completion of the examination conducted by the 
national board of chiropractic examiners.

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

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

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

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

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

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

A. Licensed chiropractic physicians shall observe all health and hygiene laws and regulations of the state and its political subdivisions and shall report births and deaths to the proper authorities. Reports rendered by chiropractic physicians shall be accepted by officers of departments or agencies to which they are made.

B. It is the purpose of the Chiropractic Physician Practice Act to grant to chiropractic physicians the right to practice chiropractic medicine as taught and practiced in standard colleges of chiropractic and to entitle the holder of a license the right to diagnose, palpate and treat injuries, deformities and other physical or mental conditions relating to the basic concepts of chiropractic medicine by use of any methods provided in the Chiropractic Physician Practice Act, as provided in rules [and .183368.5

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

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

"61-4-9.1. ADVANCED PRACTICE CHIROPRACTIC CERTIFICATION REGISTRY ESTABLISHED.--The board shall establish by rule the advanced practice chiropractic certification registry. A chiropractic physician authorized by the board to use the title "certified advanced practice chiropractic physician" shall have prescriptive authority for therapeutic and diagnostic purposes as authorized by statute and rule of the board. Only a chiropractic physician included in the advanced practice chiropractic certification registry may use the title certified advanced practice chiropractic physician, and it is unlawful for a person to use the certified advanced practice chiropractic physician title unless the person is included in the advanced practice chiropractic certification registry. The advanced practice chiropractic certification registry shall include a chiropractic physician who applies for the designation and:

A. holds a chiropractic license in good standing;

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

C. has [an advanced practice chiropractic certification by a nationally recognized credentialing agency providing credentialing and demonstrated competency by examination and additionally, after December 31, 2012, successful completion of a graduate degree in a chiropractic clinical practice specialty] a certification in advanced clinical chiropractic practice or its equivalent by a nationally recognized credentialing agency and has demonstrated competency by examination;

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

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

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

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

[A. A certified advanced practice chiropractic physician may prescribe, administer and dispense herbal
medicines, homeopathic medicines, over-the-counter drugs, vitamins, minerals, enzymes, glandular products, protomorphogens, live cell products, gerovital, amino acids, dietary supplements, foods for special dietary use, bioidentical hormones, sterile water, sterile saline, sarapin or its generic, caffeine, procaine, oxygen, epinephrine and vapocoolants.

B. A formulary that includes all substances listed in Subsection A of this section, including compounded preparations for topical and oral administration, shall be developed and approved by the board. A formulary for injection that includes the substances in Subsection A of this section that are within the scope of practice of the certified advanced practice chiropractic physician shall be developed and approved by the board. Dangerous drugs or controlled substances, drugs for administration by injection and substances not listed in Subsection A of this section shall be submitted to the board of pharmacy and the New Mexico medical board for approval.

Subject to the approval of the board, a certified advanced practice chiropractic physician may prescribe and administer any dangerous drug or controlled substance and perform any procedure that is accepted for use within the certified advanced practice chiropractic physician's clinical specialty and for which the certified advanced practice chiropractic physician can demonstrate appropriate clinical education and
hands-on training that has been approved by a nationally recognized credentialing agency or nationally recognized institution of higher learning. The board shall establish by rule the formulary for a certified advanced practice chiropractic physician."

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

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

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

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

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

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

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

(3) is guilty of incompetence;

(4) is habitually intemperate or is addicted
to the use of habit-forming drugs or is addicted to any vice to
such a degree as to render the licensee or applicant unfit to
practice chiropractic medicine;

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

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

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

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

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

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

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

(12) is guilty of making false or misleading statements regarding the licensee's or applicant's skill or the efficacy or value of treatment or remedy prescribed or administered by the licensee or applicant or at the licensee's or applicant's direction;

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

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

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

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

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

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

(c) willfully or negligently divulging a
professional confidence;

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

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

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

(g) fee splitting;

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

(i) repeated similar negligent acts;

(j) employing abusive billing practices;

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

(l) failure to report to the board surrender of a license or other authorization to practice chiropractic medicine in another state or jurisdiction or surrender of membership on any chiropractic staff or in any chiropractic medicine or professional association or society following, in lieu of, and while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as provided in this section;

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

(n) abandonment of patients;

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

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

(q) conduct unbecoming a person licensed to practice chiropractic medicine or detrimental to the best interests of the public.
B. The board may at its discretion hire investigators or issue investigative subpoenas for the purpose of investigating complaints made to the board regarding chiropractic physicians.

C. All written and oral communication made by any person to the board or an agent of the board relating to actual or potential disciplinary action, including complaints made to the board, are confidential communications and are not public records for the purposes of the Inspection of Public Records Act; provided that all information contained in a complaint file is public information and subject to disclosure when the board acts on a complaint.

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

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

"61-4-12. PENALTIES.--

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

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

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

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

(4) practicing or attempting to practice under
an assumed name; or

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

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

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

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

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

B. The board shall establish a schedule of reasonable fees for applications, licenses, renewals, placement or inactive status and administrative fees."

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

"61-4-14. FAILURE TO RENEW--CANCELLATION--REINSTATION--PERMISSIVE TEMPORARY CANCELLATION.--[Any] A licensee who fails to comply with the requirements for renewal as set forth in Section [42] 61-4-13 NMSA 1978 shall, upon order of the board, forfeit [his] the right to practice chiropractic medicine in this state, and [his] the licensee's license and any certificates of renewal shall be [cancelled] canceled. The board may reinstate [him] the licensee upon payment of all fees or penalties due and upon the presentation of evidence of attendance at educational programs as may be provided by [rules and regulations] rule of the board. [Any] A person licensed to practice chiropractic medicine in this state who desires to withdraw from active practice in this state may apply to the board for a temporary suspension of [his] the person's license with the right to renew and reinstate [his] the license upon a showing that [he] the person has paid [his] the annual license renewal fee on or before [the first day of] July 1 of each
year; provided that no suspension shall be granted for a period of less than one year."

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

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

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

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

C. any bona fide student of any standard chiropractic college chiropractically analyzing and adjusting the human body under supervision of a licensed [chiropractor] chiropractic physician."