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SENATE BILL 110

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Bill Tallman

AN ACT

RELATING TO CHIROPRACTIC PRACTICE; EXPANDING ELIGIBILITY FOR PROFESSIONAL MEMBER VACANCIES ON THE CHIROPRACTIC BOARD; PROVIDING FOR ELECTION OF A VICE CHAIR ON THAT BOARD; PROVIDING FOR TEMPORARY LICENSURE UNDER CERTAIN CIRCUMSTANCES; PROVIDING LICENSURE AND APPLICATION EXEMPTIONS FROM THE CHIROPRACTIC PHYSICIAN PRACTICE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. 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. The "chiropractic board" is created and is administratively attached to the regulation and licensing department. The board shall consist of six persons, four of

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1 whom have been continuously engaged in the practice of
2 chiropractic in New Mexico for five years immediately prior to
3 their appointment. Two persons shall represent the public and
4 shall not have practiced chiropractic in this state or any
5 other jurisdiction. A person shall not be appointed to the
6 board who is an officer or employee of or who is financially
7 interested in any school or college of chiropractic, medicine,
8 surgery or osteopathy.

9 B. Members of the board shall be appointed by the
10 governor for staggered terms of five years [~~or less~~] and in a
11 manner that the term of one board member expires on July 1 of
12 each year. [~~A list of five names for each professional member
13 vacancy shall be submitted by the New Mexico chiropractic
14 association to the governor for consideration in the
15 appointment of board members.~~] A vacancy shall be filled by
16 appointment for the unexpired term. Board members shall [~~serve
17 until their successors have been appointed and qualified~~] be
18 limited to two full consecutive terms and one full term after a
19 three-year hiatus.

20 C. The board shall annually elect a chair and a
21 [~~secretary-treasurer~~] vice chair. A majority of the board
22 constitutes a quorum. The board shall meet quarterly. Special
23 meetings may be called by the chair and shall be called upon
24 the written request of two members of the board. Notification
25 of special meetings shall be made by certified mail unless such

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1 notice is waived by the entire board and the action noted in
2 the minutes. Notice of all regular meetings shall be made by
3 regular mail at least ten days prior to the meeting, and copies
4 of the minutes of all meetings shall be mailed to each board
5 member within thirty days after a meeting.

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

9 E. The board shall adopt a seal.

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

15 G. The board, for the purpose of protecting the
16 health and well-being of the citizens of this state and
17 maintaining and continuing informed professional knowledge and
18 awareness, shall establish by rule mandatory continuing
19 education requirements for chiropractic physicians and
20 certified advanced practice chiropractic physicians licensed in
21 this state.

22 H. Failure to comply with the rules adopted by the
23 board shall be grounds for investigation, which may lead to
24 revocation of license.

25 I. Members of the board shall be reimbursed as

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1 provided in the Per Diem and Mileage Act, but shall receive no
2 other compensation, perquisite or allowance for each day
3 necessarily spent in the discharge of their duties."

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

6 "61-4-4. APPLICATION REQUIREMENTS--EVALUATION.--

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

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

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

21 (3) except as otherwise provided in the
22 Chiropractic Physician Practice Act or Section 61-1-34 NMSA
23 1978, pay in advance to the board fees:

24 (a) for examination; and

25 (b) ~~[except as provided in Section~~

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1 ~~61-1-34 NMSA 1978~~] for issuance of a license.

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

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

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

12 "61-4-6. EXAMINATION--SUBJECTS--METHOD OF TREATMENT--
13 RECORDING LICENSE.--

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

17 B. The board shall examine each applicant in the
18 act of chiropractic adjusting, procedures and methods as shall
19 reveal the applicant's qualifications; provided that the board
20 may waive the requirement for the board-administered
21 examination as provided in the Chiropractic Physician Practice
22 Act or upon proof of satisfactory completion of the examination
23 conducted by the national board of chiropractic examiners.

24 C. The board shall issue a license to all
25 applicants whose applications have been filed with and approved

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1 by the board and who have paid the required fees and passed
2 either the board-administered examination with a general
3 average of not less than seventy-five percent with no subject
4 below sixty-five percent or the examination conducted by the
5 national board of chiropractic examiners with a general average
6 of not less than seventy-five percent with no subject below
7 sixty-five percent. A license shall be refused to an applicant
8 who fails to make application as provided in this section,
9 fails the examination or fails to pay the required fees.

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

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1 healing act, such as food, water, heat, cold, electricity,
2 mechanical appliances, herbs, nutritional supplements and
3 homeopathic remedies administered by a chiropractic assistant.

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

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

14 SECTION 4. A new section of the Chiropractic Physician
15 Practice Act is enacted to read:

16 "[NEW MATERIAL] TEMPORARY LICENSE WITHOUT EXAMINATION--
17 FEDERAL OR STATE DISASTER DECLARATION--FEES.--

18 A. Pursuant to rules issued by the board, a
19 temporary license to practice in this state without examination
20 may be granted to a person who is a licensed chiropractic
21 physician practicing in good standing in a state in which a
22 federal or state man-made or natural disaster has been declared
23 and, during such time, the chiropractic physician cannot
24 practice in the area of the declared disaster in the
25 chiropractic physician's licensing state, if the chiropractic

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1 physician:

2 (1) is of good moral character; and

3 (2) is a graduate of a chiropractic college
4 having status with the accrediting commission of the council on
5 chiropractic education or equivalent criterion.

6 B. A temporary license without examination issued
7 pursuant to this section shall be issued for the duration of
8 the federal or state disaster for a period of time that is:

9 (1) no more than three months immediately
10 following the lifting of the declared disaster; or

11 (2) the duration of the remainder of the term
12 of the license issued to the chiropractic physician in the
13 other state.

14 C. The board may impose a fee of no greater than
15 twenty-five percent of the current licensing fee for a license
16 issued pursuant to this section.

17 D. A license issued pursuant to this section shall
18 be issued within thirty days of the receipt of an online
19 application that complies with the requirements of this
20 section."

21 SECTION 5. A new section of the Chiropractic Physician
22 Practice Act is enacted to read:

23 "[NEW MATERIAL] TEMPORARY LICENSE WITHOUT EXAMINATION--
24 SUBSTITUTION--FEES.--

25 A. Pursuant to rules issued by the board, a person

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1 who is a chiropractic physician licensed and practicing in
2 another state may be granted a temporary license for not more
3 than twelve months for the purpose of serving as a substitute
4 for a chiropractic physician who is:

5 (1) licensed pursuant to the provisions of
6 Section 61-4-6 or 61-4-8 NMSA 1978;

7 (2) on vacation;

8 (3) on family medical leave; or

9 (4) unable to perform chiropractic services
10 due to illness, injury, pregnancy or other medical condition
11 approved by the board.

12 B. The board may impose a fee of no greater than
13 twenty-five percent of the current licensing fee for a
14 temporary license issued pursuant to this section.

15 C. A license issued pursuant to this section shall
16 be issued within fourteen days of receipt of an online
17 application that complies with the requirements of this
18 section.

19 D. Nothing in this section shall prevent an
20 applicant from applying for a subsequent temporary license."

21 SECTION 6. Section 61-4-13 NMSA 1978 (being Laws 1968,
22 Chapter 3, Section 12, as amended) is amended to read:

23 "61-4-13. ANNUAL RENEWAL OF LICENSE--FEE--NOTICE.--

24 A. Except as otherwise provided in the Chiropractic
25 Physician Practice Act or in Section 61-1-34 NMSA 1978, a

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

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

17 SECTION 7. Section 61-4-15 NMSA 1978 (being Laws 1968,
18 Chapter 3, Section 14, as amended) is amended to read:

19 "61-4-15. APPLICATION AND EXAMINATION EXEMPTIONS.--
20 Sections 61-4-4 and 61-4-6 NMSA 1978 of the Chiropractic
21 Physician Practice Act ~~[does]~~ do not apply to:

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

24 B. a ~~[chiropractor]~~ chiropractic physician who is
25 legally qualified to practice in the state or territory in

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1 which ~~[he]~~ the chiropractic physician resides, when in actual
2 consultation with a licensed ~~[chiropractor]~~ chiropractic
3 physician of this state; ~~[or]~~

4 C. any bona fide student of any standard
5 chiropractic college chiropractically analyzing and adjusting
6 the human body under the direct supervision of a licensed
7 ~~[chiropractor]~~ chiropractic physician;

8 D. a chiropractic physician who is licensed in
9 another jurisdiction of the United States or credentialed to
10 practice in another country, if the chiropractic physician is
11 teaching, demonstrating or providing chiropractic in connection
12 with an educational seminar in this state for not more than ten
13 days;

14 E. a chiropractic college professor or a post-
15 graduate educator or instructor holding a doctor of
16 chiropractic degree endorsed by a chiropractic college, if that
17 person is teaching, demonstrating or providing chiropractic in
18 connection with an educational seminar in this state for not
19 more than ten days;

20 F. a chiropractic physician who is licensed in
21 another jurisdiction of the United States and practicing in
22 good standing in that jurisdiction and who is practicing in
23 this state on a single, temporary assignment for a specific
24 sporting or performing arts event; provided that:

25 (1) the chiropractic physician is employed or

1 designated in the chiropractic physician's professional
2 capacity by a sports or performing arts entity to practice
3 chiropractic for a specific sports or performing arts event in
4 this state;

5 (2) the chiropractic physician's practice is
6 limited to members, coaches and staff of the team or event for
7 which the chiropractic physician is employed or designated; and

8 (3) the scope of the chiropractic physician's
9 practice is limited to the practices permitted pursuant to the
10 laws of the state in which the chiropractic physician is
11 licensed but not to exceed the scope permitted pursuant to the
12 Chiropractic Physician Practice Act; or

13 G. a chiropractic physician who is licensed in
14 another jurisdiction of the United States and without licensure
15 in this state during a state or federal disaster; provided that
16 the chiropractic physician shall:

17 (1) only practice in the area of the declared
18 disaster or within a contiguous county; and

19 (2) limit the chiropractic physician's scope
20 of practice to practices permitted pursuant to the law of the
21 state in which the chiropractic physician is licensed but not
22 to exceed the scope permitted pursuant to the Chiropractic
23 Physician Practice Act."