

No. 1986-188

AN ACT

HB 1362

Providing for the licensing of chiropractors and the regulation of the practice of chiropractic; establishing the State Board of Chiropractic in the Department of State and providing for its powers and duties; providing for the supervision of colleges of chiropractic, for the examination of applicants, for enforcement and for disciplinary actions; providing penalties; and making repeals.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

CHAPTER 1 PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Chiropractic Practice Act.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Adjunctive procedures.” Physical measures such as mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage and mobilization.

“Board.” The State Board of Chiropractic.

“Bureau.” The Bureau of Professional and Occupational Affairs.

“Chiropractic.” A branch of the healing arts dealing with the relationship between the articulations of the vertebral column, as well as other articulations, and the neuro-musculo-skeletal system and the role of these relationships in the restoration and maintenance of health. The term shall include systems of locating misaligned or displaced vertebrae of the human spine and other articulations; the examination preparatory to the adjustment or manipulation of such misaligned or displaced vertebrae and other articulations; the adjustment or manipulation of such misaligned or displaced vertebrae and other articulations; the furnishing of necessary patient care for the restoration and maintenance of health; and the use of board-approved scientific instruments of analysis, including X-ray. The term shall also include diagnosis, provided that such diagnosis is necessary to determine the nature and appropriateness of chiropractic treatment; the use of adjunctive procedures in treating misaligned or dislocated vertebrae or articulations and related conditions of the nervous system, provided that, after January 1,

1988, the licensee must be certified in accordance with this act to use adjunctive procedures; and nutritional counseling, provided that nothing herein shall be construed to require licensure as a chiropractor in order to engage in nutritional counseling. The term shall not include the practice of obstetrics or gynecology, the reduction of fractures or major dislocations, or the use of drugs or surgery.

“Chiropractor.” A practitioner of chiropractic.

“Commissioner.” The Commissioner of Professional and Occupational Affairs.

“Department.” The Department of State of the Commonwealth.

CHAPTER 3 STATE BOARD OF CHIROPRACTIC

Section 301. State Board of Chiropractic.

(a) Establishment and composition.—There is hereby established within the Department of State the State Board of Chiropractic. The board shall consist of nine members as follows:

(1) The commissioner.

(2) The Director of the Bureau of Consumer Protection in the Office of Attorney General, or his designee.

(3) Two members representing the general public who shall be appointed by the Governor with the advice and consent of a majority of the members elected to the Senate.

(4) Five members, appointed by the Governor with the advice and consent of a majority of the members elected to the Senate, who are licensed to practice chiropractic under the laws of this Commonwealth and who have been engaged in the full-time practice of chiropractic in this Commonwealth for at least five years immediately preceding their appointment. No member shall be in any manner financially interested in or connected with the faculty or management of any school or college of chiropractic. No member shall be an officer, representative, agent or consultant to a local, state or national professional society or private entity which establishes standards adjudging the practice and fees of licensed members of the chiropractic profession or shall receive any remuneration in any form in an amount greater than \$5,000 from such society or entity, directly or indirectly, or shall engage in any activity related to the chiropractic profession for which he receives remuneration in any form in an amount greater than \$5,000, other than in the ordinary course of the practice of chiropractic.

(b) Term and vacancies.—The term of office of each professional and public member shall be four years from his appointment or until his successor has been duly appointed and qualified according to law but no longer than six months beyond the four-year period. In the event that any member should die or resign or otherwise become disqualified during his term of office, his successor shall be appointed in the same way and with the same qualifications as set forth in subsection (a) and shall hold office for the unexpired term. No member shall be eligible for appointment to serve more than two consecutive terms.

(c) Quorum and officers.—A majority of the members of the board serving in accordance with law shall constitute a quorum for purposes of conducting the business of the board. Except for temporary and automatic suspensions under section 506, a member may not be counted as part of a quorum or vote on any issue unless he is physically in attendance at the meeting. The board shall annually select, from among its members, a chairman and a secretary.

(d) Compensation.—Each member of the board other than the commissioner and the Director of the Bureau of Consumer Protection shall receive \$60 per diem when actually attending to the work of the board. Members shall also receive the amount of reasonable traveling, hotel and other expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(e) Attendance at meetings.—A member who fails to attend three consecutive meetings shall forfeit his seat unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.

(f) Attendance at training seminars.—A public member who fails to attend two consecutive statutorily mandated training seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall forfeit his seat unless the commissioner, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.

Section 302. Powers and duties.

The board shall have powers and duties as follows:

- (1) To provide for and regulate the issuance of a license to any person:
 - (i) who meets the general and educational qualifications of this act and who passes the examination specified by the board; or
 - (ii) who meets the requirements for the issuance of a license by reciprocity or of a limited license, as provided for in this act.
- (2) To decide matters relating to the issuance, renewal, suspension or revocation of licenses.
- (3) To promulgate, adopt, and enforce in the manner provided by law, the rules and regulations necessary to carry out this act.
- (4) To approve or disapprove chiropractic colleges in accordance with section 303.
- (5) To take appropriate actions to initiate injunctive and criminal prosecution proceedings in connection with the unlawful or unauthorized practice of chiropractic or other violations of this act. Injunctive and criminal proceedings shall be instituted in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.
- (6) To provide for and schedule examinations in accordance with this act and to contract with a professional testing organization for the preparation and administration of those examinations in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(7) To conduct hearings and make adjudications, including adjudications involving disciplinary actions. The board may conduct such hearings or may designate a member of the board or utilize a qualified hearing examiner to conduct such hearings and to prepare adjudications, including adjudications involving disciplinary actions, for final revision and approval by the board.

(8) To keep a record showing the names and addresses of all licensees under this act.

(9) To keep minutes and records of all its transactions and proceedings, especially with relation to the issuance, denial, registration, formal reprimand, suspension and revocation of licenses. In all actions or proceedings in any court, a transcript of any board record or any part thereof, which is certified to be a true copy by the board, shall be entitled to admission in evidence.

(10) To submit annually to the House and Senate Appropriations Committees, 15 days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.

(11) To submit annually a report to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate containing a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.

(12) To hold at least four meetings a year for the conduct of its business upon giving public notice of such meetings in the manner provided by law.

(13) To issue subpoenas, upon application of an attorney responsible for representing the Commonwealth in disciplinary matters before the board, for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. The board shall have the power to subpoena witnesses, to administer oaths, to examine witnesses and to take testimony or compel the production of books, records, papers and documents as it may deem necessary or proper in and pertinent to any proceeding, investigation or hearing held by it. Chiropractic records may not be subpoenaed without consent of the patient or without order of a court of competent jurisdiction on a showing that the records are reasonably necessary for the conduct of the investigation. The court may impose such limitations on the scope of the subpoena as are necessary to prevent unnecessary intrusion into patient confidential information. The board is authorized to apply to Commonwealth Court to enforce its subpoenas.

Section 303. Approval of chiropractic colleges.

(a) Approval of colleges.—The board shall approve any chiropractic college which is accredited by a chiropractic accrediting agency recognized by the United States Department of Education or the Council on Post-Secondary Accreditation, but the board shall not approve any chiropractic college which is not so accredited.

(b) Continuation of colleges pending accreditation.—Any college which, on the effective date of this act, is not accredited as provided in subsection (a) but which has been approved by the board on the basis of a self-study and inspection or has current status as a recognized candidate for accreditation as provided in subsection (a) or whose graduates were admitted to the most recent examination for licensure under the act of August 10, 1951 (P.L.1182, No.264), known as the Chiropractic Registration Act of 1951, shall have five years from the effective date of this act in which to obtain accreditation as provided in subsection (a). Such colleges shall continue to offer chiropractic training and education in accordance with the requirements of the Department of Education of the Commonwealth. The Department of Education of the Commonwealth shall periodically ascertain, by inspection and otherwise, the quality of instruction and facilities possessed by such colleges. A person shall be admitted to the licensing examination and shall be eligible for licensure if he otherwise satisfies the requirements of this act and if he graduated from any such college prior to the effective date of this act, graduated within five years from the effective date of this act, or graduated more than five years from the effective date of this act but was enrolled at such college on the expiration of five years from the effective date of this act.

Section 304. Certification to use adjunctive procedures.

(a) Qualifications.—In addition to its other powers and duties under this act, the board shall have the power and duty to certify qualified licensees to use adjunctive procedures. To obtain such certification, a licensee shall submit an application to the board on a form provided by the board showing to the satisfaction of the board that the licensee:

(1) passed an examination for licensure to practice chiropractic, which examination included the use of adjunctive procedures, provided that no person shall be required to take or pass an examination including the use of adjunctive procedures in order to obtain a license under this act;

(2) passed an examination on the use of adjunctive procedures, which examination was prepared and administered by a qualified and approved professional testing organization in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929;

(3) completed a minimum of 100 hours of study in the use of adjunctive procedures, as approved by the board; or

(4) used adjunctive procedures in the licensed practice of chiropractic for three years immediately preceding the effective date of this act, provided that in order to maintain such certification such a licensee shall, as part of the continuing education required for renewal of a license under this act, complete such additional study in the use of adjunctive procedures as required by the board.

(b) Implementation.—The requirement for certification to use adjunctive procedures shall not become effective until January 1, 1988, provided that the board shall expedite review of applications for certification beginning on the effective date of this act.

CHAPTER 5
LICENSURE AND REGULATION

SUBCHAPTER A
LICENSURE

Section 501. Applications for license.

(a) Requirement for licensure.—An applicant for a license under this act shall submit satisfactory proof to the board that the applicant meets all of the following:

- (1) Is 21 years of age or older.
- (2) Is of good moral character.
- (3) Has a high school diploma or its equivalent.
- (4) Has completed two years of college or 60 credit hours.
- (5) Has graduated from an approved college of chiropractic, with successful completion of not less than the minimum number of hours of classroom and laboratory instruction required by regulation of the board, which minimum shall be at least 4,000 hours.
- (6) Has passed the examination required under this act.
- (7) Has not been convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which if committed in this Commonwealth would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless the applicant satisfies all of the following criteria:
 - (i) At least ten years have elapsed from the date of conviction.
 - (ii) Satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations.
 - (iii) Satisfies the qualifications contained in this act.

An applicant's statement on the application declaring the absence of a conviction shall be deemed satisfactory evidence of the absence of a conviction, unless the board has some evidence to the contrary. As used in this section the term "convicted" shall include a judgment, an admission of guilt or a plea of *nolo contendere*.

(b) Renewal of licenses.—A license shall be renewed biennially for a period of two years upon payment of the biennial fee, provided that the licensee satisfies the other requirements of this act. Any person who has failed to renew his license for a period of longer than five years shall be required to apply for a license in accordance with subsection (a) if he desires to resume practicing chiropractic.

Section 502. Examination.

(a) Admission.—The board shall admit to a standard examination any applicant who has satisfied all of the requirements of section 501 except for the requirement to have passed the examination. The board may, in its dis-

cretion, permit a student in good standing in his final semester in an approved chiropractic college to be admitted to the standard examination, provided he meets all the other requirements of this act, but he must have certification of graduation from said college before a license may be granted.

(b) Nature and content of examination.—The examination shall be oral, practical and written, upon the principles and technique of chiropractic and shall include the following subjects: anatomy, physiology, histology, chemistry, pathology, physics, bacteriology, diagnosis, hygiene and sanitation, symptomatology, chiropractic analysis, X-ray, chiropractic principles and a practical demonstration of chiropractic technique.

(c) When conducted.—Examinations shall be conducted at least twice each year.

(d) Testing organization.—All written, oral and practical examinations required under this section shall be prepared and administered by a qualified and approved professional testing organization in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, except that the oral and practical examinations shall not be subject to section 812.1 until such examinations are available from a testing organization.

(e) Score.—A license shall be granted to an applicant who meets the requirements of this act and who achieves:

- (1) an overall score of at least 75% on the entire examination; or
- (2) an average score of at least 75% on the oral and practical examination and a passing score on the written examination administered by the National Board of Chiropractic Examiners as such passing score is determined by the national board.

Section 503. Failure of examination.

(a) Second examination.—Any applicant who shall fail any examination shall, after the expiration of six months and within two years, have the privilege of taking a second examination.

(b) Subsequent examinations.—The board may adopt regulations governing the eligibility of applicants who have failed to pass two examinations to be admitted to subsequent examinations.

Section 504. Reciprocity.

The board may grant licenses without further examination to individuals from other states and provinces of Canada if all of the following conditions are met:

- (1) The standards for licensing in such states or provinces are substantially the same as those provided in this act.
- (2) Similar privileges are accorded persons licensed in this Commonwealth.
- (3) The applicants hold valid licenses.
- (4) The applicable rules and regulations prescribed by the board are complied with.

Section 505. Limited license.

(a) Requirements.—The following educational and professional requirements must be met in order to secure a limited license which may be issued to

an out-of-State or foreign chiropractic school or college graduate for a period not to exceed one year for the purpose of teaching in an approved graduate chiropractic education program:

(1) The applicant must submit a letter of appointment to teach or practice from a training institution in this Commonwealth.

(2) The applicant must submit an application for licensure consisting of evidence that all requirements contained in this act have been met.

(3) The applicant must submit evidence that he has had teaching experience or its equivalent which is acceptable to the board.

(4) The applicant must submit to an oral examination in his specialty conducted by a board member or the board's designated representative.

(b) License to practice.—Persons granted limited licenses under this section shall not be authorized to practice chiropractic in this Commonwealth other than for the purpose of teaching, which shall not include treatment of patients, and those persons who subsequently desire to obtain a license for the practice of chiropractic shall be required to meet the standards for such license as set forth by regulation.

(c) Use of titles.—The use of titles such as “fellow,” “fellowship,” “consultant,” “visiting professor” or similar designations of an individual in a health care institution does not eliminate the need for proper licensure under this act for the practice of chiropractic.

Section 506. Refusal, suspension or revocation of license.

(a) Reasons enumerated.—The board may refuse to issue a license or may suspend or revoke a license for any of the following reasons:

(1) Failing to demonstrate the qualifications or standards for a license contained in this act or regulations of the board.

(2) Making misleading, deceptive, untrue or fraudulent representations in the practice of chiropractic.

(3) Practicing fraud or deceit in obtaining a license to practice chiropractic.

(4) Displaying gross incompetence, negligence or misconduct in carrying on the practice of chiropractic.

(5) Submitting a false or deceptive biennial registration to the board.

(6) Being convicted of a felony,¹ a misdemeanor in the practice of chiropractic, or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court, or a court of any other state, territory, possession or country.

(7) Having a license to practice chiropractic suspended, revoked or refused or receiving other disciplinary action by the proper chiropractic licensing authority of another state, territory, possession or country.

(8) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition. In enforcing this paragraph, the board shall, upon probable cause, have authority to compel a chiropractor to submit to a mental or physical examination by physicians approved by the board.

¹ “or” in enrolled bill.

Failure of a chiropractor to submit to such examination when directed by the board, unless such failure is due to circumstances beyond his control, shall constitute an admission of the allegations against him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A chiropractor affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume a competent practice of chiropractic with reasonable skill and safety to patients.

(9) Violating a lawful regulation promulgated by the board or violating a lawful order of the board previously entered in a disciplinary proceeding.

(10) Knowingly aiding, assisting, procuring or advising any unlicensed person to practice chiropractic contrary to this act or regulations of the board.

(11) Committing immoral or unprofessional conduct. Unprofessional conduct shall include any departure from, or failure to conform to, the standards of acceptable and prevailing chiropractic practice. Actual injury to a patient need not be established.

(12) Soliciting any engagement to perform professional services by any direct, in-person or uninvited soliciting through the use of coercion, duress, compulsion, intimidation, threats, overreaching or harassing conduct.

(13) Failing to perform any statutory obligation placed upon a licensed chiropractor.

(14) Intentionally submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.

(15) Failing to maintain chronological documentation of patient care in accordance with regulations prescribed by the board.

(16) Making representations that chiropractic treatment will cure cancer or an infectious or communicable disease.

(17) Holding himself out as a specialist unless he possesses a postgraduate certification in that specialty.

(18) Unconditionally guaranteeing that a cure will result from the performance of chiropractic treatment.

(19) Failing to refer a patient to a licensed practitioner of another branch of the healing arts for consultation or treatment when a diagnosis of such patient indicates that such a referral is appropriate.

(b) Discretion of board.—When the board finds that the license of any person may be refused, revoked or suspended under the terms of subsection (a), the board may:

(1) Deny the application for a license.

(2) Administer a public reprimand.

(3) Revoke, suspend, limit or otherwise restrict a license as determined by the board. Unless ordered to do so by a court, the board shall not reinstate the license of a person to practice chiropractic which has been revoked, and such person shall be required to apply for a license after a five-year period in accordance with section 501 if he desires to practice at any time after such revocation.

(4) Require a licensee to submit to the care, counseling or treatment of a physician or physicians designated by the board.

(5) Suspend enforcement of its findings thereof and place a licensee on probation with the right to vacate the probationary order for noncompliance.

(6) Restore a suspended license to practice chiropractic and impose any disciplinary or corrective measure which it might originally have imposed.

(c) Procedure.—All actions of the board shall be taken subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(d) Temporary suspension.—The board shall temporarily suspend a license under circumstances as determined by the board to be an immediate and clear danger to the public health or safety. The board shall issue an order to that effect without a hearing, but upon due notice to the licensee concerned at his last known address, which shall include a written statement of all allegations against the licensee. The provisions of subsection (c) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within 30 days following the issuance of an order temporarily suspending a license, the board shall conduct, or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee whose license has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than 180 days.

(e) Automatic suspension.—A license issued under this act shall automatically be suspended upon the legal commitment of a licensee to an institution because of mental incompetency from any cause upon filing with the board a certified copy of such commitment; conviction of a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act; or conviction of an offense under the laws of another jurisdiction, which, if committed in Pennsylvania, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act. As used in this subsection the term “conviction” shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this section shall not be stayed pending any appeal of a conviction. Restoration of such license shall be made as provided in this act for revocation or suspension of such license.

Section 507. Continuing chiropractic education.

(a) Requirement for license renewal.—As a condition for the biennial renewal of a license to practice chiropractic, a licensee shall submit to the

board evidence that he has completed at least 24 hours of continuing chiropractic education within the immediately preceding two-year period, provided that this requirement for continuing chiropractic education shall apply for the first time to the renewal of licenses in 1988.

(b) Qualifying education.—A licensee may receive credit for only those hours of continuing chiropractic education in a program approved by the board and for only those hours directed toward keeping the licensee apprised of advancements and new developments in chiropractic which build upon the basic courses required to practice chiropractic and which are in the following areas:

- (1) Anatomy.
- (2) Physiology.
- (3) Histology.
- (4) Chemistry.
- (5) Pathology.
- (6) Physics.
- (7) Bacteriology.
- (8) Diagnosis.
- (9) Hygiene and sanitation.
- (10) Symptomatology.
- (11) Chiropractic analysis.
- (12) X-ray.
- (13) Chiropractic principles.
- (14) Chiropractic technique.
- (15) Adjunctive procedures.

No credit shall be given for any course in office management or practice building.

(c) Application by sponsors.—Prior to receiving board approval for a program of continuing chiropractic education, a sponsor shall submit to the board, in writing, the following information at least 90 days prior to the date on which the program is scheduled to be presented:

(1) Evidence that the sponsor's program would be directed toward keeping the licensee apprised of advancements and new developments in chiropractic which build upon the basic courses required to practice chiropractic and which are in the areas specified in subsection (b).

(2) A detailed course outline or syllabus, including such items as methods of instruction and testing materials, if any.

(3) A current curriculum vitae of each instructor, speaker or lecturer appearing in the program.

(d) Action on application.—The board shall notify each sponsor, in writing, of approval or disapproval of the application within 45 days of the receipt of the application. If an application is disapproved, the board shall detail the reasons for disapproval in order that the sponsor may cure any defect and submit an amended application in a timely manner.

(e) Evidence of completion.—Each licensee, in order to qualify for biennial renewal of his license, shall complete a form provided by the sponsor and supplied by the board which contains the name of the licensee, business

address, name of the sponsor and instructor, course taken, hours completed, date and place of the continuing education program offered, and a signed statement sworn and attested to by the licensee that the licensee was fully in attendance at the program offered and that the information in such form is true and correct. The licensee shall be responsible for sending this form to the board.

(f) Notification.—The board, within 30 days after the effective date of this act, shall notify all licensees subject to this section that they will be required to complete 24 hours of continuing education within the two-year period before the renewal period commencing in 1988 and shall notify such licensees of continuing education required when renewal applications are issued for 1988 and every renewal period thereafter.

(g) Approved programs.—A continuing education program offered by a chiropractic college approved in accordance with this act and attended by a licensee must be accepted by the board so long as the course requirements of this section are met.

(h) Exceptions.—The board may make exceptions to the continuing education program requirements in emergency or hardship cases on the basis of evidence submitted in proof of an emergency or hardship.

Section 508. Professional liability insurance.

(a) Insurance required.—As a condition for obtaining or renewing a license to practice chiropractic in this Commonwealth beginning with the 1988 license renewal period, an applicant shall submit to the board satisfactory evidence that he has obtained professional liability insurance, or that he has established self-insurance for professional liability, in the minimum amount of \$100,000 per occurrence and \$300,000 per annual aggregate.

(b) Termination of coverage.—A licensee shall notify the board within 30 days of the cancellation of his professional liability insurance, the failure or refusal to renew his professional liability insurance, or the termination of his self-insurance for professional liability. The license of such licensee shall automatically be suspended 60 days after such cancellation, failure or refusal to renew, or termination and shall not be restored until he submits to the board satisfactory evidence that he has obtained professional liability insurance, or that he has established self-insurance for professional liability, in the minimum amount of \$100,000 per occurrence and \$300,000 per annual aggregate, provided that the board may postpone such a license suspension until the board has determined if a waiver should be granted pursuant to subsection (c).

(c) Waiver of requirement.—The board may waive the requirement that a licensee obtain professional liability insurance and self-insurance for professional liability if, after notice and a hearing, the board determines that the licensee is unable to obtain such insurance or self-insurance because of general market conditions rather than because of the individual performance of that licensee.

(d) Self-insurance.—The board, after consultation with the Insurance Commissioner, shall establish standards and procedures for self-insurance pursuant to this section.

Section 509. Impaired professionals.

(a) **Consultants.**—The board, with the approval of the commissioner, shall appoint and fix the compensation of a professional consultant who is a licensee of the board, or such other professional as the board may determine, with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. Such consultant shall be accountable to the board and shall act as a liaison between the board and the treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups, which are approved by the board and which provide services to licensees under this act.

(b) **Eligibility and disclosure.**—The board may defer and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provider shall, upon request, disclose to the consultant such information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States. Such requirement of disclosure by an approved program provider shall apply in the case of impaired professionals who enter into an agreement in accordance with this section, impaired professionals who are the subject of a board investigation or disciplinary proceeding, and impaired professionals who voluntarily enter a treatment program other than under the provisions of this section but who fail to complete the program successfully or to adhere to an aftercare plan developed by the program provider.

(c) **Agreement with board.**—An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked but enforcement of that suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on his practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.

(d) **Disciplinary action.**—If, in the opinion of the consultant after consultation with the provider, an impaired professional who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the board all information in his possession regarding said professional, and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license shall be vacated.

(e) Immunity.—An approved program provider who makes a disclosure pursuant to this section shall not be subject to civil liability for such disclosure or its consequences.

(f) Reports to the board.—Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license shall make or cause to be made a report to the board, provided that any person or facility who acts in a treatment capacity to an impaired professional in an approved treatment program is exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed \$1,000. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

SUBCHAPTER B GENERAL REGULATION

Section 521. License required.

It shall be unlawful after the effective date of this act for any person in this Commonwealth to engage in the practice of chiropractic or indicate in any manner whatsoever the ability to practice chiropractic unless licensed under the provisions of this act, except that any person licensed or legally authorized to practice chiropractic in this Commonwealth under any other act shall thereafter continue to possess the same rights and privileges with respect to the practice of chiropractic without being required to be licensed anew under the provisions of this act, and as fully as if he were licensed under the provisions of this act; and to that extent, he shall be exempt from any penalties under this act.

Section 522. Radiologic procedures; education and training required.

(a) Supervision; educational requirements.—On and after January 1, 1988, no auxiliary personnel shall perform radiologic procedures on the premises of a chiropractor unless such person is under the direct supervision of a chiropractor who is on the premises at the time the X-ray of the patient is taken and unless such person has passed an examination approved by the board and administered in accordance with section 812.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929.

(b) Exclusion.—The board shall, by regulation, provide for the exclusion of an auxiliary personnel from performing radiologic procedures if the continued performance of radiologic procedures by the auxiliary personnel is determined by the board to pose a threat to the health, safety or welfare of the public.

(c) **Penalty.**—It shall be unlawful under this act to knowingly permit radiologic procedures to be performed in violation of this section or in violation of the regulations promulgated or orders issued in accordance with this section.

(d) **Education and testing.**—No auxiliary personnel who has or obtains a license, certificate or registration issued by, or on behalf of, a board within the Bureau of Professional and Occupational Affairs shall be required to undergo any additional education or testing pursuant to this section if radiologic procedures were included in the education or the examination which he or she was required to complete successfully in order to be eligible for such license, certificate or registration.

Section 523. Reporting of multiple licensure.

Any licensed chiropractor of this Commonwealth who is also licensed to practice chiropractic in any other state, territory, possession or country shall report this information to the board on the biennial registration application. Any disciplinary action taken in such other jurisdiction shall be reported to the board on the biennial registration application or within 90 days of final disposition, whichever is sooner. Multiple licensure shall be noted by the board on the chiropractor's record and such state, territory, possession or country shall be notified by the board of any disciplinary actions taken against said chiropractor in this Commonwealth.

Section 524. Display of certificate.

Every holder of a license granted by the board under this act shall display the license in a conspicuous place in the office where such person practices chiropractic.

Section 525. Doctor of Chiropractic and abbreviation.

Any person who has a valid license in accordance with this act may practice chiropractic and use the title "Doctor of Chiropractic" and the abbreviation "DC."

Section 526. Relationship with other branches of the healing arts.

(a) **In general.**—This act shall not apply either directly or indirectly, by intent or purpose, to affect the practice of any other branch of the healing arts by any person duly licensed or certified by the department to engage in such practice.

(b) **Representation as a licensed physical therapist.**—A chiropractor shall not hold himself out in any manner to be a licensed physical therapist unless he is duly licensed under the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act.

Section 527. Revoked licenses; reinstatement; reports to the board.

(a) **Surrender of license.**—The board shall require a person whose license has been suspended or revoked to return the license in such manner as the board directs. A person who fails to do so commits a misdemeanor of the third degree.

(b) **Reinstatement after felony conviction.**—Any person whose license has been suspended or revoked because of a felony conviction under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or similar law of another jurisdiction, may

apply for reinstatement after a period of at least ten years has elapsed from the date of conviction. The board may reinstat  the license if the board is satisfied that the person has made significant progress in personal rehabilitation since the conviction such that his reinstatement should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations and if the person meets all other licensing qualifications of this act, including the examination requirement.

(c) Reports to the board.—An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reports of alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

CHAPTER 7 PENALTY PROVISIONS

Section 701. Practice of chiropractic without license prohibited.

(a) Offense defined.—It shall be unlawful for any person to:

(1) Engage or attempt to engage in the practice of chiropractic or to hold himself out as a practitioner of chiropractic unless he has first fulfilled the requirements of this act and has been licensed by the board.

(2) Practice or hold himself out as a practitioner of spinal adjustment or manipulation, spinal mobilization or manipulation of articulations of the human body for therapeutic benefit unless he has first fulfilled the requirements of this act and has been licensed by the board or unless he has been licensed or certified in accordance with another act of this Commonwealth.

(b) Penalty.—A person who violates this section commits a misdemeanor of the third degree and shall, upon conviction, for a first offense, be sentenced to a fine not to exceed \$1,000, or to imprisonment for not more than six months, or both. A second offense shall be subject to a fine not to exceed \$2,000, or imprisonment for a term of six months to one year, or both.

Section 702. Violation of other provisions.

A person commits a misdemeanor of the third degree and, upon conviction, shall be sentenced to pay a fine of not more than \$500, or to imprisonment for not more than six months, or both, if he commits any act declared unlawful by any other provision of this act, other than section 701, or if he:

(1) Makes misleading, deceptive, untrue or fraudulent representations in the practice of chiropractic.

(2) Practices fraud or deceit in obtaining a license to practice chiropractic.

(3) Displays gross incompetence, negligence or misconduct in carrying on the practice of chiropractic.

- (4) Makes a false or deceptive biennial registration with the board.
- (5) Violates a lawful regulation promulgated by the board or a lawful order of the board previously entered in a disciplinary proceeding.
- (6) Knowingly aids, assists, procures or advises any unlicensed person to practice chiropractic, contrary to this act or regulations of the board.
- (7) Commits immoral or unprofessional conduct. Unprofessional conduct shall include any departure from, or failure to conform to, the standards of acceptable and prevailing chiropractic practice. Actual injury to a patient need not be established.
- (8) Solicits any engagement to perform professional services by any direct, in-person or uninvited soliciting through the use of coercion, duress, compulsion, intimidation, threats, overreaching or harassing conduct.
- (9) Fails to perform any statutory obligation placed upon a licensed chiropractor.
- (10) Submits intentionally to any third-party payor a claim for a service or treatment which was not actually provided to a patient.
- (11) Makes representations that chiropractic treatment will cure cancer or an infectious or communicable disease.
- (12) Holds himself out as a specialist unless he possesses a postgraduate certification in that specialty.
- (13) Unconditionally guarantees that a cure will result from the performance of chiropractic treatment.

Section 703. Civil penalty.

In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law or by a vote of the majority of the duly qualified and confirmed membership or a minimum of four members, whichever is greater, may levy a civil penalty of up to \$1,000 on any current licensee who violates any provision of this act or on any person who practices chiropractic without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

Section 704. Fines and penalties.

All fines and civil penalties imposed in accordance with this chapter shall be paid into the Professional Licensure Augmentation Account.

CHAPTER 11 MISCELLANEOUS PROVISIONS

Section 1101. Fees.

(a) Adoption.—The board shall, by regulation, fix the fees required for examination, licensure, renewal of licenses and limited licenses.

(b) Insufficient revenue.—If the revenues raised by fees, fines and civil penalties imposed pursuant to this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

(c) Increase by bureau.—If the bureau determines that the fees established by the board pursuant to subsections (a) and (b) are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board, shall increase the fees by regulation so that adequate revenues are raised to meet the required enforcement effort.

(d) Review.—Any regulation proposed under this section shall be subject to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

Section 1102. Current members of board.

The presently confirmed members of the State Board of Chiropractic Examiners constituted under section 461 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as of the effective date of this act, shall continue to serve as board members until their present terms of office expire, provided that any present board member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified, but no longer than six months after the effective date of this act.

Section 1103. Current licensees.

Any person who holds a valid license issued by the State Board of Chiropractic Examiners under the act of August 10, 1951 (P.L.1182, No.264), known as the Chiropractic Registration Act of 1951, prior to the effective date of this act shall, on and after the effective date hereof, be deemed to be licensed by the State Board of Chiropractic as provided for in this act.

Section 1104. Existing regulations.

Each rule, regulation or fee of the board in effect on the effective date of this act shall remain in effect after such date until repealed or amended by the board, provided that the board shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act.

Section 1105. Reestablishment of agency.

This act, with respect to the State Board of Chiropractic Examiners, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 1106. Repeals.

(a) Absolute repeals.—The following acts and parts of acts are repealed:

Section 461 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Act of August 10, 1951 (P.L.1182, No.264), known as the Chiropractic Registration Act of 1951.

(b) General repeals.—All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 1107. Effective date.

This act shall take effect immediately.

APPROVED—The 16th day of December, A. D. 1986.

DICK THORNBURGH