

**CHIROPRACTIC PHYSICIAN PRACTICE ACT**

**AMENDMENTS**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: J. Brent Haymond**

AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; AMENDING THE SCOPE OF PRACTICE OF A CHIROPRACTOR; ~~h [AMENDING THE DEFINITION OF UNLAWFUL CONDUCT TO INCLUDE INTERFERENCE WITH THE INDEPENDENT JUDGMENT OF A CHIROPRACTOR;]~~ ~~h~~ ESTABLISHING CRIMINAL PENALTIES; ~~§ AND § h~~ **PERMITTING A CHIROPRACTIC ASSISTANT TO PERFORM SERVICES UNDER THE SUPERVISION OF A LICENSED CHIROPRACTIC PHYSICIAN § [;] . § h § [AND PERMITTING A CHIROPRACTOR TO PERFORM ACUPUNCTURE UPON SUCCESSFUL COMPLETION OF TRAINING AND AN EXAMINATION.] §**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**58-73-102**, as renumbered and amended by Chapter 253, Laws of Utah 1996

~~h~~ **58-73-301**, as renumbered and amended by Chapter 253, Laws of Utah 1996

~~h~~ **58-73-304**, as renumbered and amended by Chapter 253, Laws of Utah 1996 ~~h~~

**58-73-601**, as last amended by Chapters 247, 248 and renumbered and amended by Chapter 253 and last amended by Chapter 282, Laws of Utah 1996

ENACTS:

**58-73-502**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **58-73-102** is amended to read:

**58-73-102. Definitions.**

(1) "Adjustment of the articulation of the spinal column" means performance by a chiropractic physician by the use of passive movements directed toward the goal of restoring joints

lilac-February 6, 1998

**Amend on 3**—goldenrod March 3, 1998

24 to their proper physiological relationship of motion and related function, releasing adhesions, or  
25 stimulating joint receptors using one or more of the following techniques:

26 (a) impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature  
27 that the patient cannot prevent the motion, commencing where the motion encounters the elastic

1 barrier of resistance and ends at the limit of anatomical integrity;

2 (b) instrument adjusting, utilizing instruments specifically designed to deliver sudden, high  
3 velocity, short amplitude thrust;

4 (c) light force adjusting utilizing sustained joint traction or applied directional pressure,  
5 or both, which may be combined with passive motion to restore joint mobility; and

6 (d) long distance lever adjusting utilizing forces delivered at some distance from the  
7 dysfunctional site and aimed at transmission through connected structures to accomplish joint  
8 mobility.

9 (2) "Board" means the Chiropractic Physician Licensing Board created in Section  
10 58-73-201.

10a **h (3) "CHIROPRACTIC ASSISTANT" MEANS A PERSON WHO PERFORMS ACTIVITIES**  
10b **RELATED TO THE PRACTICE OF CHIROPRACTIC UNDER THE SUPERVISION OF A LICENSED**  
10c **CHIROPRACTIC PHYSICIAN IN ACCORDANCE WITH DIVISION RULE ESTABLISHED IN**  
10d **COLLABORATION WITH THE BOARD.** h

11 [(4)] h [(3)] (4) h "Chiropractic physician" means a person who has been licensed under this  
11a chapter  
12 to practice chiropractic.

13 [(5)] h [(4)] (5) h "Diagnosis of the articulation of the spinal column" means to examine the  
14 articulations of the spinal column of another human to determine the source, nature, kind, or extent  
15 of a disease, vertebral subluxation, or other physical condition, and to make a determination of the  
16 source, nature, kind, or extent of a disease or other physical condition.

17 [(6)] h [(5)] (6) h "Elastic barrier" means the point at which the patient cannot move a joint by  
17a his  
18 own means and through which movement is obtained or caused by a practitioner's skillful  
19 treatment using the practitioner's hands in a manipulation of a joint by thrust of sudden, high  
20 velocity, short amplitude so the patient cannot prevent the motion.

21 [(7)] h [(6)] (7) h "Incisive surgery" means any procedure having the power or quality of  
21a cutting  
22 of a patient for the purpose of treating disease, injury, or deformity, and includes the use of laser.

23 [(8)] h [(7)] (8) h (a) "Manipulate the articulation of the spinal column" means use by a

23a practitioner  
24 of a skillful treatment using the practitioner's hands in a manipulation of a joint by thrust of  
25 sudden, high velocity, short amplitude so the patient cannot prevent the motion. Movement of the  
26 joint is by force beyond its active limit of motion.

27 (b) This manipulation commences where mobilization ends and specifically begins when  
28 the elastic barrier of resistance is encountered and ends at the limit of anatomical integrity.

29 (c) Manipulation as described in this definition is directed to the goal of restoring joints  
30 to their proper physiological relationship of motion and related function, releasing adhesions, or  
31 stimulating joint receptors.

1           [(3)] ~~h~~ [(8)] (9) ~~h~~ "[Chiropractic] Practice of chiropractic" means a practice of a branch of the  
2 healing arts:

3           (a) the purpose of which is to restore or maintain human health, in which patient care or  
4 first aid, hygienic, nutritional, or rehabilitative procedures are administered; [and]

5           (b) which places emphasis upon specific vertebral adjustment, manipulation, and treatment  
6 of the articulation and adjacent tissues of the spinal column, musculoskeletal structure of the body,  
7 and nervous system;

8           (c) that involves examining, diagnosing, treating, correcting, or prescribing treatment for  
9 any human disease, ailment, injury, infirmity, deformity, pain, or other condition, or the attempt  
10 to do so, in accordance with Section 58-73-601; and

11           (d) that involves diagnosing, prescribing treatment, or making a determination of treatment  
12 necessity for another person's condition by means of:

13           (i) a physical examination of the person; or

14           (ii) a determination based upon or derived from information supplied directly or indirectly  
15 by a third person.

16           ~~h~~ [(9)] (10) ~~h~~ "Therapeutically position the articulation of the spinal column" means to adjust or  
17 manipulate the articulation of the spinal column.

17a           ~~h~~ **Section 2. Section 58-73-301 is amended to read:**

17b                       **58-73-301. Licensure required -- License classifications.**

17c           **(1) A license is required to engage in the practice of chiropractic, except as specifically**  
17d **provided in Section [58-1-307 or] 58-73-304.**

17e           **(2) The division shall issue to a person who qualifies under this chapter a license in the**  
17f **classification of chiropractic physician.**

17g           **Section 3. Section 58-73-304 is amended to read:**

17h                       **58-73-304. Exemptions from licensure.**

17i           **(1) [In addition to the exemptions from licensure in Section 58-1-307, an intern-in-training in a**  
17j **chiropractic college or university may] EXCEPT AS PROVIDED IN SUBSECTION (2), THE EXEMPTIONS**  
17k **FROM LICENSURE SET FORTH IN SECTION 58-1-307 APPLY.**

17l           **(2) WITH REGARD TO SUBSECTIONS 58-1-307(1)(b) AND (c), THE ONLY EXEMPTION FROM**  
17m **LICENSURE PERMITTED IS A PRECEPTORSHIP WHICH MAY PERMIT A STUDENT TO engage in acts**  
17n **or practices included within the definition of the practice of chiropractic, while: ~~h~~**

17o            ~~h~~ [(1)] (a) performing the duties and activities which are part of the approved program of  
 17p            education and training of [the] A college or university ACCREDITED BY THE COUNCIL ON  
 17q            CHIROPRACTIC EDUCATION; and  
 17r            ~~[(2)]~~ (b) under a form of supervision approved by the division.  
 17s            (3) IN ADDITION TO THE EXEMPTIONS PROVIDED IN SUBSECTION (1) AND (2), A  
 17t            CHIROPRACTIC ASSISTANT WHILE WORKING UNDER THE SUPERVISION OF A LICENSED  
 17u            CHIROPRACTIC PHYSICIAN IS EXEMPT FROM LICENSURE UNDER THIS CHAPTER TO THE EXTENT  
 17v            THE CHIROPRACTIC ASSISTANT IS ENGAGED IN TASKS APPROPRIATELY DELEGATED BY THE  
 17w            SUPERVISOR IN ACCORDANCE WITH THE STANDARDS AND ETHICS OF THE PRACTICE OF  
 17x            CHIROPRACTIC AND DIVISION RULE ESTABLISHED IN COLLABORATION WITH THE BOARD. ~~h~~

18            Section ~~h~~ [2] 4 ~~h~~ . Section 58-73-502 is enacted to read:

19            58-73-502. Unlawful conduct -- Penalties.

20            (1) "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

21            (a) buying, selling, or fraudulently obtaining any chiropractic diploma, license, certificate,  
 22 or registration; ~~h~~ **AND** ~~h~~

23            (b) aiding or abetting the buying, selling, or fraudulently obtaining of any chiropractic  
 24 diploma, license, certificate, or registration ~~h~~ [;] ~~h~~

25            (c) substantially interfering with a licensee's lawful and competent practice of chiropractic  
 26 in accordance with this chapter by:

27            ~~h~~ [(i) any person or entity that manages, owns, operates, or conducts a business having a  
 28 direct or indirect financial interest in the licensee's professional practice; or

29            ~~h~~ [(ii) anyone other than another chiropractic physician licensed under this chapter, who is  
 30 engaged in direct clinical care or consultation with the licensee in accordance with the standards  
 31 and ethics of the profession of chiropractic;] ~~h~~

1           ~~h [(d) entering into a contract that limits a licensee's responsibility to advise the licensee's~~  
2 ~~patients fully about treatment options or other issues that affect the health care of the licensee's~~  
3 ~~patients; or~~  
4           ~~—— (e) directing or interfering with a licensed chiropractic physician's judgment and~~  
5 ~~competent practice of chiropractic;~~  
6           ~~—— (2) "Unlawful conduct" does not include:~~  
7           ~~—— (a) establishing, administering, or enforcing the provisions of a policy of disability~~  
8 ~~insurance by an insurer doing business in this state in accordance with Title 31A, Insurance Code;~~  
9           ~~—— (b) adopting, implementing, or enforcing the utilization management standards related to~~  
10 ~~payment for a licensee's services, provided that:~~  
11           ~~—— (i) utilization management standards adopted, implemented, and enforced by the payer~~  
12 ~~have been approved by:~~  
13           ~~—— (A) a chiropractic physician licensed under this chapter in good standing; or~~  
14           ~~—— (B) a committee that contains one or more chiropractic physicians licensed under this~~  
15 ~~chapter who are in good standing; and~~  
16           ~~—— (ii) the utilization management standards do not preclude a licensee from exercising~~  
17 ~~independent professional judgment on behalf of the licensee's patients in a manner that is~~  
18 ~~independent of payment considerations;~~  
19           ~~—— (c) developing and implementing clinical practice standards that are intended to reduce~~  
20 ~~morbidity and mortality or are related to the standardization of effective health care practices;~~  
21 ~~providing that:~~  
22           ~~—— (i) the practice standards and recommendations have been approved by:~~  
23           ~~—— (A) a chiropractic physician licensed under this chapter in good standing; or~~  
24           ~~—— (B) a committee that contains one or more chiropractic physicians licensed under this~~  
25 ~~chapter who are in good standing; and~~  
26           ~~—— (ii) the practice standards do not preclude a licensee from exercising independent~~  
27 ~~professional judgment on behalf of the licensee's patients in a manner that is independent of~~  
28 ~~payment considerations;~~  
29           ~~—— (d) requesting or recommending that a patient obtain a second opinion from a licensee;~~  
30           ~~—— (e) conducting peer review, quality evaluation, quality improvement, risk management,~~  
31 ~~or similar activities designed to identify and address practice deficiencies with health care] h~~

1 h [providers, health care facilities, or the delivery of health care;  
2 —— (f) providing employment supervision or adopting employment requirements that do not  
3 interfere with the licensee's ability to exercise independent professional judgment on behalf of the  
4 licensee's patients, provided that employment requirements that may not be considered to interfere  
5 with an employed licensee's exercise of independent professional judgment include:  
6 —— (i) an employment requirement that restricts the licensee's access to patients with whom  
7 the licensee's employer does not have a contractual relationship, either directly or through contracts  
8 with one or more third-party payers; or  
9 —— (ii) providing compensation incentives that are not related to the treatment of any  
10 particular patient;  
11 —— (g) providing benefit coverage information, giving advice, or expressing opinions that do  
12 not substantially interfere with the licensee's ability to exercise independent professional judgment  
13 on behalf of the licensee's patient and that does not constitute the practice of chiropractic as  
14 defined in this chapter, to a patient or to a family member of a patient to assist the patient or family  
15 member in making a decision about health care that has been recommended by a licensee; or  
16 —— (h) any otherwise lawful conduct that does not substantially interfere with the licensee's  
17 ability to exercise independent professional judgment on behalf of the licensee's patients and that  
18 does not constitute the practice of chiropractic as defined in this chapter.] h

19 h [(3)](2) h Any person who violates any provision of Subsection (1) is guilty of a third degree  
20 felony.

21 Section h [3] 5 h . Section **58-73-601** is amended to read:

22 **58-73-601. Scope of practice for a chiropractic physician.**

23 (1) A chiropractic physician licensed under this chapter may engage in the practice of  
24 chiropractic as defined in Section 58-73-102 in accordance with the following standards.

25 (2) A chiropractic physician may:

26 (a) examine, diagnose, and treat only within the scope of chiropractic as described in this  
27 Subsection (2);

28 (b) use x-ray for diagnostic purposes only;

29 (c) administer:

30 (i) physical agents, including light, heat, cold, water, air, sound, compression, electricity,  
31 and electromagnetic radiation except gamma radiation; and

- 1 (ii) physical activities and devices, including:
- 2 (A) exercise with and without devices;
- 3 (B) joint mobilization;
- 4 (C) mechanical stimulation;
- 5 (D) postural drainage;
- 6 (E) traction;
- 7 (F) positioning;
- 8 (G) wound debridement, cleansing, and dressing changes;
- 9 (H) splinting;
- 10 (I) training in locomotion and other functional activities with and without assistance
- 11 devices; and
- 12 (J) correction of posture, body mechanics, and gait;
- 13 (d) administer the following topically applied medicinal agents, including steroids,
- 14 anesthetics, coolants, and analgesics for wound care and for musculoskeletal treatment, including
- 15 their use by iontophoresis or phonophoresis;
- 16 (e) treat pain incident to major or minor surgery, cancer, obstetrics, or x-ray therapy;
- 17 (f) utilize immobilizing appliances, casts, and supports for support purposes, but may not
- 18 set displaced bone fractures;
- 19 (g) inform the patient of possible side effects of medication and recommend referral to the
- 20 prescribing practitioner;
- 21 (h) provide instruction in the use of physical measures, activities, and devices for
- 22 preventive and therapeutic purposes;
- 23 (i) provide consulting, educational, and other advisory services for the purposes of
- 24 reducing the incidence and severity of physical disability, movement dysfunctions, bodily
- 25 malfunction, and pain;
- 26 (j) treat a human being to assess, prevent, correct, alleviate, and limit physical disability,
- 27 movement dysfunction, bodily malfunction, and pain resulting from disorders, congenital and
- 28 aging conditions, injury, and disease; § [†] § and § [†] §
- 29 (k) administer, interpret, and evaluate tests § [†] § . § [†; and] §
- 30 ~~§ [(f) perform acupuncture as an adjunct to chiropractic treatment upon successful:~~
- 31 ~~—— (i) completion of a certified training program as established by division rule h [in] h~~
- 31a ~~h WITH ESSENTIALLY THE SAME NUMBER OF HOURS AS REQUIRED BY A LICENSED~~
- 31b ~~ACUPUNCTURIST h] §~~

1 § ~~h [collaboration with the board] h ; and~~  
2 ~~—— (ii) passage of an examination approved by the division h [in collaboration with the board] h~~  
3 ~~demonstrating the applicant's skill and knowledge] § h [h ; OR~~  
3a ~~—— (iii) MEET THE REQUIREMENTS FOR CURRENT ACTIVE CERTIFICATION IN ACUPUNCTURE~~  
3b ~~UNDER GUIDELINES ESTABLISHED BY THE~~  
3c ~~DIVISION AS DEMONSTRATED THROUGH A CURRENT CERTIFICATE OR OTHER APPROPRIATE~~  
3d ~~DOCUMENTATION h] h .~~

4 (3) A chiropractic physician may not:  
5 (a) perform incisive surgery;  
6 (b) administer drugs or medicines for which an authorized prescription is required by law  
7 except as provided in Subsection (2)(d);  
8 (c) treat cancer;  
9 (d) practice obstetrics;  
10 (e) prescribe or administer x-ray therapy; or  
11 (f) set displaced fractures.

12 (4) A chiropractic physician shall assume responsibility for his examinations, diagnoses,  
13 and treatment.

14 (5) Nothing in this section authorizes a chiropractic physician to prescribe, possess for  
15 dispensing, dispense, purchase without a prescription written by a licensed and authorized  
16 practitioner, or administer, except under Subsection (2)(d), a drug requiring a prescription to  
17 dispense, under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter [17]  
18 17a, Pharmacy Practice Act.

19 (6) Only primary health care providers licensed under this title as osteopathic physicians,  
20 physicians and surgeons, h [f] naturopaths, [j] h and chiropractic physicians, may diagnose, adjust,  
21 manipulate, or therapeutically position the articulation of the spinal column h **TO THE EXTENT**  
21a **PERMITTED BY THEIR SCOPES OF PRACTICE h .**

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**Legislative Review Note**

**as of 1-23-98 6:06 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**