

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; AMENDING THE DEFINITION OF UNLAWFUL CONDUCT TO INCLUDE INTERFERENCE WITH THE INDEPENDENT JUDGMENT OF A CHIROPRACTOR; ESTABLISHING CRIMINAL PENALTIES; 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

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

(a) impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature 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.

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

13 [~~(5)~~] (4) "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)~~] (5) "Elastic barrier" means the point at which the patient cannot move a joint by 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)~~] (6) "Incisive surgery" means any procedure having the power or quality of cutting
22 of a patient for the purpose of treating disease, injury, or deformity, and includes the use of laser.

23 [~~(8)~~] (7) (a) "Manipulate the articulation of the spinal column" means use by a 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)]~~ (8) "[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 (9) "Therapeutically position the articulation of the spinal column" means to adjust or
17 manipulate the articulation of the spinal column.

18 Section 2. 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;

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

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

27 (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 (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;

1 (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

1 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.

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

21 Section 3. 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 (l) perform acupuncture as an adjunct to chiropractic treatment upon successful:
- 31 (i) completion of a certified training program as established by division rule in

1 collaboration with the board; and
 2 (ii) passage of an examination approved by the division in collaboration with the board
 3 demonstrating the applicant's skill and knowledge.

- 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, [naturopaths,] and chiropractic physicians, may diagnose, adjust,
 21 manipulate, or therapeutically position the articulation of the spinal column.

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