

COMMITTEE REPORT

TO: Patrick O'Donnell
Clerk of the Legislature

FROM: Senator Sara Howard
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on
Regulated Occupations within Committee Jurisdiction – Chiropractor

GENERAL INFORMATION

- I. Occupation Regulated
 - A) Chiropractor

- II. Name of Occupational Board Responsible for Enforcement
 - A) Per Nebraska Revised Statutes Section [38-161](#), the Board of Chiropractic provides recommendations to the Department of Health and Human Services regarding the issuance or denial of credentials, and provides recommendations to the Department of Health and Human Services regarding rules and regulations to carry out the Uniform Credentialing Act.

- III. Public Purpose and Assumptions Underlying License Creation
 - A) The practice of chiropractics is defined as being one or a combination of the following, without the use of drugs or surgery: 1. The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders and disease by the use of diagnostic x-ray, physical, and clinical examination and routine procedures including urine analysis; 2. The science and art of treating human ailments, disorders, and disease by locating and removing any interference with the transmission and expression of nerve energy in the human body by chiropractic adjustment, chiropractic physiotherapy and the use of exercise, nutrition, dietary guidance, and colonic irrigation. The purpose underlying the creation of the license is to protect the public health, safety, and welfare.

- IV. Number of Regulated Professionals in Nebraska
 - A) There are 792 licensed Chiropractors in Nebraska.

BOARD MEMBERSHIPS AND MEETINGS

- I. Number of Members
 - A) There are four members of the Board of Chiropractic.

- II. Who Appoints Members of the Board / Is Legislative Approval Required?
 - A) The Board of Health appoints the members of the Board of Chiropractic. Legislative approval is not required.

- III. Term Length
 - A) The length of term for service on the Board of Chiropractic is up to two consecutive five year terms, on a rotating basis.

- IV. Qualifications for Membership of the Board
 - A) The Board of Chiropractic is made up of two Respiratory Care Practitioners, one physician, and one public member. The professional members shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member.

- V. The Number of Meetings Required Per Year / Meetings Actually Held
 - A) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 3.
 - B) For FY 2015-2016: Meetings Required – 1; Meetings Held – 4.
 - C) For FY 2016-2017: Meetings Required – 1; Meetings Held – 6.
 - D) For FY 2017-2018: Meetings Required – 1; Meetings Held – 3.
 - E) For FY 2018-2019: Meetings Required – 1; Meetings Held – 3.

- VI. Annual Budget Information for the Previous Five Years
 - A) The Board of Chiropractic is cash-funded from licensure fees. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
 - B) For FY 2014-2015: \$5,044
 - C) For FY 2015-2016: \$8,287
 - D) For FY 2016-2017: \$33,328
 - E) For FY 2017-2018: \$35,687
 - F) For FY 2018-2019: \$33,870

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Chair of the Board of Chiropractic stated that he has been on the Board of Chiropractic for nine years. In that time, he has seen the effectiveness of regulations for the practice of Chiropractic in Nebraska. The board had installed directed, mandated topics for re-licensure that have been effective in limiting the number of complaints against chiropractors and have allowed the Board to respond to trends in practice behavior that may affect patient safety. He believes the regulations are effective.

AUTHORIZATION

I. Statutory Authorization

- A) Statutory authorization for the Chiropractor occupation may be found in the Nebraska Revised Statutes, sections [38-801](#) to [38-811](#), which may be cited as the Chiropractic Practice Act. For text of the Nebraska statutes relating to the Chiropractor occupation, see Appendix A.

II. Other Authorization

- A) Rules and regulations regarding the licensure of Chiropractors may be found in the Nebraska Administrative Code [Title 172, Chapter 29](#). Rules and regulations regarding the use of routing procedures by Chiropractors may be found in the Nebraska Administrative Code [Title 172, Chapter 30](#).

CREDENTIALING

I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years

- A) There have been 190 Chiropractor licenses issued in the past five years.

II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years

- A) There was one Chiropractor license denied in the past five years.
- B) Grounds for denial include misrepresentation of material facts, failure to complete required examinations, failure to provide licensure fees, and immoral or dishonorable conduct, amongst other grounds.

III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years

- A) There was one Chiropractor license revoked in the past five years.
- B) The license was revoked for failure to keep adequate records and unprofessional conduct.

IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years

- A) There were 48 Chiropractor licenses penalized in the past five years.
- B) The penalties were administrative penalties for practice without a valid license.

V. Comparison of How Other States Regulate This Occupation

- A) All 50 states require licensure for the Chiropractor occupation. The Federation of Chiropractic Licensing Boards maintains a [website](#) which has links to the state licensing boards.

VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?

- A) If Chiropractors were no longer licensed, the public health, safety, and welfare would be jeopardized. Licensure and regulation allows for the Board of Chiropractic to protect the public by ensuring Chiropractors have the proper education, experience, and training to properly treat patients. If an individual practicing as a Chiropractor did not have proper education and experience, he or she could seriously injure a patient during alignments or through improper treatment plans.

COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may

create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Board of Chiropractic and the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Chiropractor occupation by licensure is appropriate and balanced and does not need modification at this time.

APPENDIX A

STATUTES PERTAINING TO THE CHIROPRACTIC PRACTICE ACT

38-801. Act, how cited.

Sections 38-801 to 38-811 shall be known and may be cited as the Chiropractic Practice Act.

Source: Laws 2007, LB463, § 242.

38-802. Definitions, where found.

For purposes of the Chiropractic Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-803 to 38-805 apply.

Source: Laws 2007, LB463, § 243.

38-803. Accredited college of chiropractic, defined.

An accredited college of chiropractic means (1) one which is approved by the board, (2) a legally chartered college of chiropractic requiring for admission a diploma from an accredited high school or its equivalent and, beginning with students entering a college of chiropractic on or after January 1, 1974, at least two years credit from an accredited college or university of this or some other state, which requirement shall be regularly published in each prospectus or catalog issued by such institution, (3) one which conducts a clinic for patients in which its students are required to regularly participate in the care and adjustment of patients, (4) one giving instruction in anatomy, orthopedics, physiology, embryology, chemistry, pathology, health ecology, bacteriology, symptomatology, histology, spinal analysis, diagnosis, roentgenology, neurology, and principles and practice of chiropractic, and (5) one requiring an actual attendance for four college years totaling not less than four thousand hours.

Source: Laws 1927, c. 167, § 79, p. 475; C.S.1929, § 71-1104; R.S.1943, § 71-180; Laws 1945, c. 163, § 1, p. 528; Laws 1973, LB 115, § 1; Laws 1996, LB 1044, § 405; Laws 1999, LB 828, § 67; R.S.1943, (2003), § 71-180; Laws 2007, LB463, § 244.

38-804. Board, defined.

Board means the Board of Chiropractic.

Source: Laws 2007, LB463, § 245.

38-805. Practice of chiropractic, defined.

(1) Practice of chiropractic means one or a combination of the following, without the use of drugs or surgery:

(a) The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders, and disease by the use of diagnostic X-ray, physical and clinical examination, and routine procedures including urine analysis; or

(b) The science and art of treating human ailments, disorders, and disease by locating and removing any interference with the transmission and expression of nerve energy in the human body by chiropractic adjustment, chiropractic physiotherapy, and the use of exercise, nutrition, dietary guidance, and colonic irrigation.

(2) The use of X-rays beyond the axial skeleton as described in subdivision (1)(a) of this section shall be solely for diagnostic purposes and shall not expand the practice of chiropractic to include the treatment of human ailments, disorders, and disease not permitted when the use of X-rays was limited to the axial skeleton.

Source: Laws 1927, c. 167, § 76, p. 474; C.S.1929, § 71-1101; R.S.1943, § 71-177; Laws 1983, LB 142, § 1; Laws 1990, LB 348, § 1; R.S.1943, (2003), § 71-177; Laws 2007, LB463, § 246.

38-806. Chiropractic practice; persons excepted.

The Chiropractic Practice Act shall not be construed to include the following classes of persons: (1) Licensed physicians and surgeons and licensed osteopathic physicians who are exclusively engaged in the practice of their respective professions;

(2) Physicians who serve in the armed forces of the United States or the United States Public Health Service or who are employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;

(3) Chiropractors licensed in another state when incidentally called into this state in consultation with a chiropractor licensed in this state; or

(4) Students enrolled in an accredited college of chiropractic when the services performed are a part of the course of study and are under the direct supervision of a licensed chiropractor.

Source: Laws 1927, c. 167, § 77, p. 474; C.S.1929, § 71-1102; R.S.1943, § 71-178; Laws 1989, LB 342, § 14; Laws 1990, LB 1064, § 12; R.S.1943, (2003), § 71-178; Laws 2007, LB463, § 247.

38-807. Chiropractic; license; qualifications required.

Every applicant for a license to practice chiropractic shall present proof of graduation from an accredited college of chiropractic and (1) pass an examination given by the National Board of Chiropractic Examiners which consists of Parts I, II, III, IV, and physiotherapy or (2) pass an examination approved by the Board of Chiropractic.

Source: Laws 1927, c. 167, § 78, p. 475; C.S.1929, § 71-1103; R.S.1943, § 71-179; Laws 1965, c. 413, § 1, p. 1321; Laws 1975, LB 92, § 2; Laws 1988, LB 1100, § 29; Laws 1999, LB 828, § 65; R.S.1943, (2003), § 71-179; Laws 2007, LB463, § 248.

38-808. Continuing competency requirements.

An applicant for licensure to practice chiropractic who has met the education and examination requirements in section 38-807, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

Source: Laws 2007, LB463, § 249.

38-809. Reciprocity; continuing competency requirements; military spouse; temporary license.

(1) An applicant for licensure to practice chiropractic who has met the standards set by the board pursuant to section 38-126 for a license based on licensure in another jurisdiction but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the two years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

(2) An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Source: Laws 1927, c. 167, § 80, p. 475; C.S.1929, § 71-1105; R.S.1943, § 71-181; Laws 1996, LB 1044, § 406; R.S.1943, (2003), § 71-181; Laws 2007, LB296, § 324; Laws 2007, LB463, § 250; Laws 2017, LB88, § 42.

Operative Date: April 26, 2017

38-810. Fees.

The department shall establish and collect fees for initial licensure and renewal under the Chiropractic Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 251.

38-811. Chiropractic practitioner; powers and duties.

Chiropractic practitioners shall observe and be subject to all state and municipal laws and regulations relative to the control of contagious and infectious diseases, and all matters pertaining to public health. They shall report to the proper health officers the same as other practitioners. Chiropractic practitioners may sign death certificates. When performing acupuncture, a chiropractor licensed under the Uniform Credentialing Act shall provide the same standard of care to patients as that provided by a person licensed under the Uniform Credentialing Act to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery when such person performs acupuncture.

Source: Laws 1927, c. 167, § 81, p. 475; C.S.1929, § 71-1106; R.S.1943, § 71-182; Laws 1945, c. 164, § 1, p. 529; Laws 2001, LB 270, § 15; R.S.1943, (2003), § 71-182; Laws 2007, LB463, § 252.

71-177. Transferred to section 38-805.

71-178. Transferred to section 38-806.

71-179. Transferred to section 38-807.

71-179.01. Repealed. Laws 2007, LB 463, § 1319.

71-180. Transferred to section 38-803.

71-180.01 to 71-180.05. Repealed. Laws 1988, LB 1100, §185.

71-181. Transferred to section 38-809.

71-182. Transferred to section 38-811.