

ARKANSAS SENATE
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of Senate Bill No. 146

"TO AMEND THE ARKANSAS CHIROPRACTIC PRACTICES ACT."

Amendment No. 5 to Senate Bill No. 146.

Amend Senate Bill No. 146 as engrossed, S2/7/07 (version: 02-07-2007 08:54):

Delete everything after the ENACTING CLAUSE and substitute:

"SECTION 1. Arkansas Code § 17-81-102 is amended to read as follows:
17-81-102. Definitions.

As used in this chapter, ~~unless the context otherwise requires:~~

(1) "Analysis" includes physical examination, the use of X-ray and other analytical instruments, and procedures generally used in the practice of chiropractic;

(2) "Board" means the Arkansas State Board of Chiropractic Examiners;

(3) "Chiropractic" means that science and art which utilizes the inherent recuperative powers of the body and deals with the relationship between the nervous system and the spinal column, including its immediate articulations, and the role of its relationship in the restoration and maintenance of health;

(4) "Chiropractic aide" means an unlicensed member of the chiropractic team who may assist a chiropractic physician in the performance of those procedures and techniques constituting the practice of chiropractic as defined in this chapter with the exception of spinal manipulation and adjustment, provided that such assistance shall be performed under the direct supervision of a licensed chiropractic physician;

(5)(A) "Mobilization" means a nonthrust, manual therapy that involves passive movement of a joint within its physiologic range of motion.

(B) "Mobilization" is passive movement within the physiologic joint space administered for the purpose of increasing overall range of motion.

(C)(i) Mobilization and manipulation are externally applied mechanical measures.

(ii) Mobilization ends where manipulation begins;

~~(5)(6)~~ "Physician" means a person authorized or licensed to practice medicine pursuant to the Arkansas Medical Practices Act, §§ 17-95-201 – 17-95-207, 17-95-301 – 17-95-305, and 17-95-401 – 17-95-411, a person authorized or licensed to practice chiropractic pursuant to the provisions of this chapter, and a person authorized to practice osteopathy pursuant to §



17-91-101 et seq.;

~~(6)(A)(7)(A)(i)~~ "Practice of chiropractic" means the engagement in the diagnosis and analysis of ~~any interference with normal nerve transmission and expression, and patients with mechanical, physiological and developmental impairments, functional limitations, and disability or other health-related conditions in order to determine a chiropractic evaluation, prognosis, and planned therapeutic intervention, including the procedure preparatory to and complementary to the correction thereof by an adjustment of the articulations of the vertebral column, its immediate articulations, including spinal adjustments, spinal and extremity manipulations, and spinal mobilizations, such as any type of pressure, force, thrust, or passive movement, singular or plural, applied to the spinal vertebrae or their adjacent articulations by hand or mechanical device or by other incidental adjustments, for the restoration and maintenance of health.~~

(ii) The practice of chiropractic includes physiotherapy, physical therapy, exercise therapy, nutritional and botanical therapy, the normal regimen, and rehabilitation of the patient for the purpose of removing any injury, deformity, or abnormality of human beings without the use of drugs or surgery.

(iii) Nothing herein shall prevent a chiropractic physician from treating any patient taking drugs prescribed by a medical or osteopathic physician.

(B) The practice of chiropractic, as authorized under the provisions of this chapter, shall not include the performance of the duties of a midwife or obstetrician, therapy by the use of ionizing radiation, incisive surgery, prescribing for or administering to any person any drug to be taken internally, or puncturing the skin for the purpose of introducing any substance into the body. Nothing herein shall prevent puncturing the skin for routine blood analysis, including red blood count, white blood count, differential and serology, in the practice of chiropractic for diagnostic purposes; ~~and.~~

(C) A person who is licensed under this chapter may use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body.

(D) The practice of chiropractic includes the practice of acupuncture as authorized by § 17-102-102, provided the chiropractic physician is certified by the Arkansas State Board of Chiropractic Examiners; and

(E) The practice of chiropractic includes the performance of manipulation under anesthesia in collaboration with a licensed medical or osteopathic physician, provided the chiropractic physician is certified by the Arkansas State Board of Chiropractic Examiners; and

~~(7)(8)(A)~~ "Spinal and extremity manipulation", also referred to as "manipulation," and "adjustment" ~~mean the skillful or dexterous treatment whereby a corrective force or passive movement of the joint is made to realign vertebrae or articulations to their normal juxtaposition. means a passively applied movement of low amplitude and low-velocity or high-velocity thrust that moves the joint into the parapsychological range.~~

(B) Manipulation is a passive dynamic thrust that may cause cavitation or gapping and attempts to restore the manipulated joint's range of motion and neurophysiological function.

(C)(i) Manipulation and mobilization are externally

applied mechanical measures.

(ii) Manipulation begins where mobilization ends.

(D) No person may perform spinal and extremity manipulation or a spinal adjustment without first having legal authority to differentially diagnose and having graduated with a Doctor of Chiropractic degree from a Council on Chiropractic Education-accredited chiropractic college or chiropractic university at which spinal manipulation or spinal adjustment is a primary method of treatment.

SECTION 2. Arkansas Code § 17-81-106 is amended to read as follows:
17-81-106. Health and police regulations applicable.

(a) Chiropractic practitioners physicians licensed under this chapter shall be bound by all applicable health and police regulations of the state.

(b) They Chiropractic physicians shall be qualified to sign death certificates, insurance certificates, and all other certificates pertaining to public health with like effect as other licensed physicians.

SECTION 3. Arkansas Code § 17-81-208(b), concerning disposition of funds by the Arkansas State Board of Chiropractic Examiners is amended to read as follows:

(b) All funds received by the board shall be expended in the furtherance of the purposes of this chapter and the board's duties ~~thereunder under this chapter~~, which include, ~~but are not limited to~~ without limitation:

- (1) The publication and distribution of the Arkansas Chiropractic Practices Act, § 17-81-101 et seq.;
- (2) The publication and yearly distribution of a directory of all licensed chiropractic ~~practitioners~~ physicians;
- (3) Investigations of violations of this chapter;
- (4) Institution of actions to compel compliance with the provisions of this chapter; and
- (5) Defense of actions brought against it as a result of its actions under the provisions of this chapter.

SECTION 4. Arkansas Code § 17-81-302 is amended to read as follows:
17-81-302. Exempted activities.

Nothing herein shall be construed to prohibit or to require a license hereunder with respect to any of the following acts:

- (1) The performance of services in case of an emergency;
- (2) The performance of services in this state on an occasional basis, limited to ninety (90) days in each calendar year, by a chiropractor lawfully practicing chiropractic in another state or territory. However, if any such chiropractor performs services on a regular basis, or for his or her regular use maintains or is provided with any office or other place to meet persons for the performance of such services in the State of Arkansas, he or she shall obtain a license to practice chiropractic in the State of Arkansas;
~~or~~

~~(3) The practice of medicine and surgery, osteopathy, dentistry, podiatry, optometry, Christian Science, physical therapy, cosmetology, therapy technology, or any other branch of the healing arts as defined by the laws of this state as now or hereafter enacted, it not being intended by this chapter to limit, restrict, enlarge, or alter the privileges and practices of any of these professions or branches of the healing arts.~~

The practice of the following professions, as defined by the laws of this state, that this chapter is not intended to limit, restrict, enlarge, or alter the privileges and practice of, as provided by the laws of this state:

- (A) Dentistry;
- (B) Podiatry;
- (C) Optometry;
- (D) Medicine and surgery;
- (E) Osteopathy; or
- (F) Cosmetology;

(4) As defined and limited by the laws of this state, the performance of the duties of a:

- (A) Physical therapist; or
- (B) Massage therapist; or

(5) The practice of Christian Science.

SECTION 5. Arkansas Code § 17-81-303(c)(1), regarding unlawful acts under the Arkansas Chiropractic Practices Act, is amended to read as follows:

(c)(1) It is unlawful for any person other than a physician licensed to practice chiropractic under the provisions of the Arkansas Chiropractic Practices Act, § 17-81-101 et seq., or a physician licensed to practice medicine under the Arkansas Medical Practices Act, §§ 17-95-201 et seq., 17-95-301 et seq., and 17-95-401 et seq., to perform spinal and extremity manipulation, adjustment, and mobilizations, ~~spinal adjustments, or spinal manipulations~~ as those terms are defined in ~~§ 17-81-102(7)~~ § 17-81-102.

SECTION 6. Arkansas Code §§ 17-81-304 – 17-81-306 are amended to read as follows:

17-81-304. Application – Fees.

(a)(1) Applications for license to practice chiropractic in the State of Arkansas shall be made to the Executive Director of the Arkansas State Board of Chiropractic Examiners in writing on forms furnished by the board. The application shall be signed by the applicant in his or her own handwriting and acknowledged before an officer authorized to administer oaths.

(2) The applicant must submit proof satisfactory to the board of graduation from a chartered school or college of chiropractic as herein described and file with his or her application the affidavits of at least two (2) licensed and reputable doctors of chiropractic showing him or her to be possessed of good moral character.

(3) The application shall be accompanied by the payment of ~~one hundred fifty dollars (\$150)~~ two hundred fifty dollars (\$250), and fifty dollars (\$50.00) for an orientation fee.

(4) The application shall be filed with the executive director not less than forty-five (45) days prior to the next regular meeting of the board.

(b) If the applicant is approved, the applicant shall be admitted for examination, orientation, and licensure. ~~Should the applicant pass the examination, no part of the fee shall be returned, and he or she shall be issued a license to practice chiropractic in accordance with the provisions of this chapter.~~

(c) If the applicant is not approved, ~~;~~

~~(1) he~~ He or she shall be notified of the reasons for the disapproval; and

(2) The fifty-dollar orientation fee required under subdivision (a)(3) of this section shall be refunded to the applicant.

(d) Should an applicant be approved but fail to appear for the examination or orientation, no part of his or her fee shall be returned, but he or she shall be eligible for examination or orientation at a later date upon at least thirty (30) days' prior notice to the board.

(e) Should the approved applicant fail the examination, no part of his or her fee shall be returned, and he or she shall be eligible for reexamination at a later date, at the discretion of the board, and upon paying an examination fee of ~~twenty five dollars (\$25.00) up to~~ seventy-five dollars (\$75.00) ~~per failed subject.~~

17-81-305. Qualifications of applicants.

(a) To qualify ~~to take the~~ for examination, orientation, and licensure, an applicant ~~must~~ shall:

(1) Be at least twenty-one (21) years of age;

(2) Have successfully completed not less than a minimum of sixty (60) semester credit hours of college education, to include a minimum of thirty (30) semester credit hours in the field of science;

(3) Not have had a license to practice chiropractic in any other state suspended or revoked nor have been placed on probation for any cause;

(4) Possess a valid "doctor of chiropractic" degree from a chiropractic institution whose requirements include a course of instruction of not fewer than four (4) years of nine (9) academic months each or not fewer than four thousand four hundred (4,400) fifty-minute resident class hours and include one hundred twenty (120) classroom hours of physiological therapeutics;

(5) ~~Possess a valid National Chiropractic Board certificate, to include Parts I, II, and III, and the physiological therapeutics section; credentials as follows:~~

(A) If an applicant graduated on or after January 1, 1970, but before January 1, 1989, Part I, Part II, and Physiotherapy;

(B) If an applicant graduated on or after January 1, 1989 but before January 1, 2002, Part I, Part II, Part III, and Physiotherapy; or

(C) If the applicant graduated on or after January 1, 2002, Part I, Part II, Part III, and Part IV with a score of three hundred seventy-five (375) or greater, and Physiotherapy;

(6) Be of good moral character;

(7) Not have been convicted of a felony;

(8) Not be an habitual user of intoxicants, drugs, or hallucinatory preparations;

(9) Pay the application fee as provided in § 17-81-304; and

(10) Cause a certified chiropractic college transcript ~~or~~ and National Board transcript to be submitted directly from the respective institutions.

(b) An applicant ~~graduated, as of July 19, 1971, graduating before 1970~~ from a school or college of chiropractic, the requirements and course of instruction of which were equal and comparable to other recognized schools or colleges of chiropractic at the time of his or her attendance, may be acceptable.

(c) For ~~students~~ graduates who are enrolled in any Council on Chiropractic Education-approved chiropractic school or college which may not, at the passage date of this act, meet the requirements as set forth in subdivision (a)(4) of this section, the Arkansas State Board of Chiropractic Examiners may waive the requirement, in individual cases, at its discretion.

(d) ~~In lieu of the practical examination set out in § 17-81-306, with the exception of subdivision (a)(1)(A) in that section, the applicant may present the board with evidence of passing the National Board Part IV with a minimum score of 375 which shall be accepted by the board as a passing grade. The applicant shall pass the Arkansas State Board of Chiropractic Examiners' Jurisprudence and Ethics Examination.~~

17-81-306. Examination.

(a)(1) ~~Examinations~~ An examination shall be given in English and in writing, except for certain applicants with disabilities such as blind persons, and shall include the ~~following subjects:~~ subjects of ethics and jurisprudence.

- ~~(A) Practice management, ethics, and jurisprudence;~~
- ~~(B) Physical and clinical diagnosis;~~
- ~~(C) Chiropractic examination procedures;~~
- ~~(D) Chiropractic adjustive and manipulative therapeutics;~~
- ~~(E) X ray interpretations; and~~
- ~~(F) Chiropractic philosophy.~~

~~(2) Examinations for applicants having passed Part III on the National Board shall include only the following subjects:~~

- ~~(A) Practice, ethics, and jurisprudence;~~
- ~~(B) Chiropractic examination procedures;~~
- ~~(C) Chiropractic adjustive and manipulative therapeutics;~~

and

- ~~(D) Physical and clinical diagnostic methods.~~

(b) The Arkansas State Board of Chiropractic Examiners shall grade all papers and notify all applicants of the results within ~~forty five (45)~~ five (5) days of the examination.

(c)(1) Each applicant failing the examination shall be furnished a ~~list of his or her grades.~~

(2) ~~He or she~~ Each failing applicant shall be eligible for reexamination, as ~~put forth~~ permitted in the rules and regulations of the board, upon request and the payment of the required ~~fee~~ fees.

(d) All examination papers shall be retained by the board for a minimum period of two (2) years and shall be available for inspection, by appointment, by any aggrieved applicant.

SECTION 7. Arkansas Code § 17-81-307(a), concerning issuance of licenses by the Arkansas State Board of Chiropractic Examiners, is amended to read as follows:

(a) The Arkansas State Board of Chiropractic Examiners shall issue licenses to all applicants who have met the requirements and been approved by the board, paid all the required fees, and gained a satisfactory grade on examination, with a general average of seventy five percent (75%) with no subject falling below sixty percent (60%) passed the required examination of the board.

SECTION 8. Arkansas Code § 17-81-310 is amended to read as follows:
17-81-310. Orientation class.

(a) The Arkansas State Board of Chiropractic Examiners ~~is authorized to~~ may conduct an orientation class for all ~~new licensees~~ applicants for licensure.

(b) The board ~~is authorized to~~ may include in the orientation class instruction relating to office procedures, the filing of insurance claims, and ~~such~~ other matters as the board may deem necessary or appropriate to equip new licensees to establish and maintain a practice and to effectively and efficiently operate and manage their offices and other facilities related to their practice of chiropractic ~~practice~~ and for the protection of the consumer.

SECTION 9. Arkansas Code § 17-81-317(c), concerning reactivation of a lapsed chiropractic license is amended to read as follows:

(c) If the licensee's license has been inactive for a period of five (5) years, as a condition of reactivation the board may require the licensee to enroll in and pass a refresher course approved by the board at an accredited chiropractic college or to pass a competency ~~exam given by the board~~ examination such as the special purposes examination administered by the National Board of Chiropractic Examiners."

SECTION 10. Arkansas Code Title 17, Chapter 81, Subchapter 3 is amended add an additional section to read as follows:

17-81-318. Transfer of Licenses.

A chiropractic physician who has continuously held an active chiropractic license in good standing in another state or jurisdiction for a period of five (5) years may apply for transfer of the license and for licensure in Arkansas at the Arkansas State Board of Chiropractic Examiners' discretion on an individual basis and by a majority vote, if the chiropractic physician:

(1) Submits an application to the board;
(2) Passes the board's Jurisprudence and Ethics Examination;
(3) Has satisfied the National Chiropractic Board requirements of § 17-81-305;
(4) Has attended the orientation class described in § 17-81-310;
and

(5) Complies with all other requirements for maintaining a license in Arkansas, and no other reason exists that would warrant a denial, suspension, or revocation of licensure, including information available on the Chiropractic Information Network/Board Action Databank system maintained by the Federation of Chiropractic Licensing Boards and approved by the National Committee for Quality Assurance."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Wilkins
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Secretary