

A Bill for an Act Relating to Chiropractors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 442-3, Hawaii Revised Statutes, is amended to read as follows:

“§442-3 Board of examiners. There shall be a board to be known as the “state board of chiropractic examiners,” which shall consist of five members, who shall be appointed by the governor, in the manner prescribed in section 26-34. Three members of the board must have pursued a resident course in a regularly incorporated chiropractic school or college and must be graduates thereof and hold a diploma therefrom and two shall be public members.

At least three members of the board shall be licensees hereunder. No person connected with any chiropractic school or college is eligible to appointment as a member of the board. Each member licensed under this chapter shall have practiced chiropractic in this State for at least five years immediately prior to the date of appointment. Each member of the board shall serve without pay; provided[,] that the actual and necessary traveling expenses of the members of the board incurred in connection with the performance of official duties shall be paid by the department of commerce and consumer affairs, upon proper vouchers approved by the department.”

SECTION 2. Section 442-5, Hawaii Revised Statutes, is amended to read as follows:

“§442-5 Board’s powers. The board of chiropractic examiners may adopt a seal, which shall be affixed to all official acts of the board; adopt from time to time such rules [and regulations] as the board may deem proper and necessary for the performance of its work; examine applicants and issue licenses and order the limitation, restriction, revocation [or], suspension, or placement under probation of licenses to practice chiropractic; summon witnesses and take testimony as to matters pertaining to its duties[.]; promulgate by rule continuing

educational requirements for reregistration of licenses designed to promote the continuing professional competence of licensees and protection of the public. Each member may administer oaths and take affidavits, and do any and all things necessary or incidental to the exercise of the powers and duties herein granted or imposed.”

SECTION 3. Section 442-6, Hawaii Revised Statutes, is amended to read as follows:

“§442-6 Examinations. (a) The board of chiropractic examiners shall meet as a board of examiners for the purpose of conducting examinations on the first Tuesday following the second Monday of April and October of each year, and the board shall meet otherwise regularly on the Thursday nearest the 15th day of March, May, September, and November, and at such other times and places as may be found necessary for the performance of its duties. The office of the board shall be in Honolulu.

(b) Each applicant shall be designated by a number instead of the name, so that the applicant’s identity will not be disclosed to the examiners until the papers are graded.

(c) The examinations shall be in the subjects enumerated in section 442-2 and shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The examination shall include both practical demonstration and a written examination. The board may accept an applicant who presents bona fide evidence as having passed the national board of chiropractic examiners’ examination in lieu of the written portion of the state board of [chiropractice] chiropractic examiners’ examination. A license shall be granted to any applicant who attains a score of seventy-five per cent, or higher in all subjects and sections of the examination. Any applicant failing to make the required grade, may be reexamined at the next regular examination on all of the subjects mentioned in section 442-2, upon payment of a fee of \$50.

(d) No person licensed as a chiropractic in this State shall use physiotherapy modalities without receiving approval by the board to do so. The board by rule shall establish the criteria and procedures for granting this approval. Any person seeking licensure under this chapter, including approval to use physiotherapy modalities must demonstrate to the satisfaction of the board that the person has received training in the use of physiotherapy modalities at an accredited institution and passed the physiotherapy portion of the National Board of Chiropractic Examiners examination, in addition to the requirements of subsection (c). The board shall require an applicant for approval to use physiotherapy modalities to complete a practical demonstration examination which shall include an examination of the applicant’s performance in using physiotherapy treatment techniques and equipment, with emphasis on the more complex and dangerous techniques. The practical demonstration examination

shall use standardized questions of uniform difficulty for each applicant and provide for grading of each applicant by two examiners who shall grade independently and have had appropriate training in calibrated grading procedures.

The board shall adopt rules for granting approval for the use of physiotherapy modalities by persons holding valid, current licenses under this chapter on the effective date of this Act. The board may require any licensed chiropractor to take and pass a written or practical examination before granting approval to use physiotherapy modalities.

(e) For each year of actual practice as a licensed chiropractor in another state the applicant shall be given a credit of one-half per cent up to twenty years maximum to be added to each score for each subject area.”

SECTION 4. Section 442-8, Hawaii Revised Statutes, is amended to read as follows:

**“§442-8 License form, authority under.** One form of license shall be issued which shall be designated “License to Practice Chiropractic” and which shall authorize the holder thereof to practice chiropractic as defined in section 442-1 and also to use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, but shall not authorize the administration of drugs or medicine now or hereafter included in materia medica, or the performance of any surgical operation or the practice of osteopathy, dentistry, or optometry[.]; provided that a holder of a license which has been limited, restricted, or placed under probation may practice chiropractic only within the limitation, restriction, or terms of probation.”

SECTION 5. Section 442-9, Hawaii Revised Statutes, is amended to read as follows:

**“§442-9 License refusal, revocations, suspension, limitation, restriction, probation, reissuance.** (a) The board of chiropractic examiners shall refuse to issue or may order any license issued under this chapter to be revoked [or], suspended, limited, restricted, or placed under probation at any time in a proceeding before the board upon any one or more of the following grounds:

- (1) Procuring or aiding or abetting in procuring a criminal abortion;
- (2) Employing what is popularly known as a “capper” or “steerer”;
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying a professional secret;
- (5) Making any untruthful statement in advertising one’s practice or business under this chapter;
- (6) False, fraudulent, or deceptive advertising;

- (7) Advertising directly or indirectly, or in substance upon any card, sign, newspaper advertisement, or other written or printed sign of advertisement that the holder of such license or his employer or employee will treat, cure, or attempt to treat or cure any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, lost manhood, sexual weakness, or sexual disorder or any disease of the sexual organs;
- (8) Being habitually intemperate;
- (9) Habitually using any habit-forming drug, such as opium, or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;
- (10) The advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed;
- (11) Procuring a license through fraudulent misrepresentation or deceit;
- (12) Professional misconduct or gross carelessness or manifest incapability in the practice of chiropractic;
- (13) Violating section 453-2.

(b) At any time following the suspension [or], revocation, limitation, restriction, or placement under probation of a license, the board may restore such license with all of its original rights and privileges. Any person to whom such rights have been restored shall pay to the secretary the sum of \$25 upon the issuance of a new license.

(c) Any person making application for reinstatement or restoration of a license or the original rights and privileges to practice under a license which has been revoked, suspended, restricted, limited, or placed under probation may be required, as part of the relief granted, to complete an approved course of continuing education or to complete such study or training as the board may require."

SECTION 6. Section 442-10, Hawaii Revised Statutes, is amended to read as follows:

**"§442-10 Proceedings for revocation [or], suspension, limitation, restriction, or placement under probation of license.** In any proceeding for the revocation [or], suspension, limitation, restriction, or placement under probation of a license under this chapter for any act or condition listed in section 442-9, the person whose license is [sought to be revoked or suspended] the subject of the proceeding shall be given notice and opportunity for hearing in conformity with chapter 91.

In any such proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in such proceeding. The person whose license is [sought in such] the subject of the proceeding [to be revoked or suspended] shall be entitled to require the board or any member thereof to

subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in such proceeding, and shall be entitled to examine any such witness and any other witness in such proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in such proceeding.

If any person called before the board as a witness in such proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to him by the board, a member thereof or the person whose license is [sought to be revoked or suspended in such] the subject of the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and such person shall be cited to appear before the circuit judge to show cause why he should not be punished for contempt of court under [chapter 729.] section 710-1077.

Any person who wilfully and knowingly makes under oath any false statement in connection with any such proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury.”

SECTION 7. Section 442-11, Hawaii Revised Statutes, is amended to read as follows:

“**§442-11 Biennial registration; fees; failure to register.** Every person holding a license to practice chiropractic in the State shall reregister with the [secretary- treasurer] secretary of the board of chiropractic examiners on or before December 31 of each odd-numbered year and shall pay a reregistration fee of \$15. If the board has established continuing education requirements for reregistration, no person holding a license shall be reregistered unless proof of compliance with the requirements is submitted to the secretary. The secretary of the board shall, on or before November 30 of each odd-numbered year, mail to the last known address of all licensed chiropractors a notice thereof.

The failure, neglect, or refusal of any person holding a license to practice chiropractic to reregister or to pay the reregistration fee of \$15, after thirty days of delinquency, constitutes a forfeiture of his license; provided that the license shall be restored upon written application therefor together with proof of compliance with the continuing education requirements, if any, and a payment of all delinquent fees and \$25, if such application and payments are made within a period of one year from the date of the inception of such delinquency. In the event, however, such delinquency is permitted to continue over a period of one

year, in addition to the foregoing requirements, such person shall submit to and successfully pass a reexamination written or oral, conducted by the board at its regular meetings.”

**SECTION 8.** Statutory material to be repealed is bracketed. New material is underscored.

**SECTION 9.** This Act shall take effect upon its approval.

(Approved June 4, 1984.)