

Section 1 is effective upon final enactment. Sections 9 to 12 are effective January 1, 1984. Sections 2 to 8 are effective August 1, 1983, and apply to violations committed on or after that date. The remaining sections of this act are effective August 1, 1983.

Approved June 14, 1983

CHAPTER 346 — S.F.No. 159

An act relating to occupations and professions; regulating chiropractic practice; providing for the management of expenditures and revenues of the board; providing grounds for revocation, suspension, or refusal to renew licenses; providing for the payment of costs of disciplinary proceedings; authorizing temporary license suspensions; providing rulemaking authority to the board; creating a legislative study commission; amending Minnesota Statutes 1982, sections 148.01; 148.06; 148.07, subdivision 2; 148.08, by adding a subdivision; and 148.10, subdivisions 1, 3, and by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 148.01, is amended to read:

148.01 CHIROPRACTIC.

Subdivision 1. For the purposes of sections 148.01 to 148.10, "chiropractic" is hereby defined as being the science of adjusting any abnormal articulations of the human body, especially those of the spinal column, for the purpose of giving freedom of action to impinged nerves that may cause pain or deranged function.

Subd. 2. The practice of chiropractic is hereby declared not to be the practice of medicine, surgery, or osteopathy.

Subd. 3. Chiropractic practice includes those noninvasive means of clinical, physical, and laboratory measures and analytical xray of the bones of the skeleton which are necessary to make a determination of the presence or absence of a chiropractic condition. The practice of chiropractic may include procedures which are used to prepare the patient for chiropractic adjustment or to complement the chiropractic adjustment. The procedures may not be used as independent therapies or separately from chiropractic adjustment. No device which utilizes heat or sound shall be used in the treatment of a chiropractic condition unless it has been approved by the Federal Communications Commission. No device shall be used above the neck of the patient. Any chiropractor who utilizes procedures in violation of this subdivision shall be guilty of professional miscon-

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~~due~~ unprofessional conduct and subject to disciplinary procedures pursuant according to section 148.10.

Sec. 2. Minnesota Statutes 1982, section 148.06, is amended to read:
148.06 APPLICATION; EXAMINATION; LICENSE; FEE.

Subdivision 1. **LICENSE REQUIRED; QUALIFICATIONS.** No person shall practice chiropractic in this state without first being licensed by the state board of chiropractic examiners. The applicant shall have earned at least one-half of all academic credits required for awarding of a baccalaureate degree from the university of Minnesota, or other university, college or community college of equal standing, in subject matter determined by the board, and taken a four-year resident course of at least eight months each in a school or college of chiropractic that is fully accredited by, ~~or has accreditation status with,~~ the council on chiropractic education or fully accredited by an agency approved by the United States office of education or their successors. The board may recommend a two-year prechiropractic course of instruction to any university, college or community college which in its judgment would satisfy the academic prerequisite for licensure as established by this section.

An examination for a license shall be in writing and shall include testing in:

(a) The basic sciences including but not limited to anatomy, physiology, bacteriology, pathology, hygiene, and chemistry as related to the human body or mind;

(b) The clinical sciences including but not limited to the science and art of chiropractic, chiropractic physiotherapy, diagnosis, roentgenology and nutrition; and

(c) Professional ethics and any other subjects that the board may deem advisable.

The board may consider a valid certificate of examination from the National Board of Chiropractic Examiners as evidence of compliance with the written examination requirements of this subdivision. The applicant shall be required to give practical demonstration in vertebral palpation, nerve tracing, adjusting and any other subject that the board may deem advisable. A license, counter-signed by the members of the board and authenticated by the seal thereof, shall be granted to each applicant who correctly answers 75 percent of the questions propounded in each of the subjects required by this subdivision and meets the standards of practical demonstration established by the board. Each application shall be accompanied by a fee set by the board. The fee shall not be returned in the event of failure to pass, but the applicant may, within one year, present himself for examination without the payment of an additional fee. The board may grant a license to an applicant who holds a valid license to practice

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chiropractic issued by the appropriate licensing board of another state or country, provided the applicant meets the other requirements of this section and satisfactorily passes the practical examination before the board.

Sec. 3. Minnesota Statutes 1982, section 148.07, subdivision 2, is amended to read:

Subd. 2. **EXPENSES.** The expenses of administering sections 148.01 to 148.101 shall be paid from the appropriation made to the state board of chiropractic examiners. Expenditures and revenues must be managed in accordance with the statewide accounting principles and requirements of the commissioner of finance.

Sec. 4. Minnesota Statutes 1982, section 148.08, is amended by adding a subdivision to read:

Subd. 3. **RULES.** The board of chiropractic examiners shall promulgate rules necessary to administer sections 148.01 to 148.101 to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms, whether or not used in sections 148.01 to 148.101, if the definitions are not inconsistent with the provisions of sections 148.01 to 148.101.

Sec. 5. Minnesota Statutes 1982, section 148.10, subdivision 1, is amended to read:

Subdivision 1. **GROUND.** The state board of chiropractic examiners may refuse to grant, or may revoke, suspend, condition, limit, restrict or qualify a license to practice chiropractic, or may cause the name of a person licensed to be removed from the records in the office of the clerk of the district court for:

(1) the publishing or distributing, or causing to be published or distributed, in newspapers, magazines, directories, pamphlets, posters, cards, or in any other manner by advertisement, wherein the term "cure" or "guarantee to cure" or similar terms are used; which is hereby declared to be fraudulent and misleading to the general public;

(2) the employment of fraud or deception in applying for a license or in passing the examination provided for in section 148.06;

(3) the practice of chiropractic under a false or assumed name or the impersonation of another practitioner of like or different name;

(4) the conviction of a crime involving moral turpitude;

(5) habitual intemperance in the use of alcohol or drugs;

(6) failure to pay the annual renewal license fee;

(7) Advanced physical or mental disability;

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(8) The revocation or suspension of a license to practice chiropractic; or other disciplinary action against the licensee; or the denial of an application for a license by the proper licensing authority of another state, territory or country;

(9) The violation of, or failure to comply with, the provisions of sections 148.01 to 148.101, the rules of the state board of chiropractic examiners, or a lawful order of the board; or

(10) Unprofessional conduct; or

(11) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, professional incompetence, senility, drunkenness, use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition. If the board has probable cause to believe that a person comes within this clause, it shall direct the person to submit to a mental or physical examination. For the purpose of this clause, every person licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a person to submit to such examination when directed shall constitute an admission of the allegations against him, unless the failure was due to circumstances beyond his control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A person affected under this clause shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of chiropractic with reasonable skill and safety to patients.

In any proceeding under this clause, neither the record of proceedings nor the orders entered by the board shall be used against a person in any other proceeding.

For the purposes of clause (4), conviction shall be deemed to include a criminal proceeding in which a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

For the purposes of clauses (4) and (5), a copy of the judgment or proceeding under seal of the clerk of the court or of the administrative agency which entered the same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of its contents.

For the purposes of clause (10), unprofessional conduct means any unethical, deceptive or deleterious conduct or practice harmful to the public, any departure from or the failure to conform to the minimal standards of acceptable chiropractic practice, or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

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- (a) Gross ignorance of, or incompetence in, the practice of chiropractic;
- (b) Making suggestive, lewd, lascivious or improper advances to a patient;
- (c) Performing unnecessary services;
- (d) Charging a patient an unconscionable fee or charging for services not rendered;
- (e) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;
- (f) Perpetrating fraud upon patients, third party payers, or others, relating to the practice of chiropractic; and
- (g) Any other act that the board by rule may define.

Sec. 6. Minnesota Statutes 1982, section 148.10, subdivision 3, is amended to read:

Subd. 3. **REPRIMAND; PENALTIES; PROBATION.** In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing, adjudges unqualified or whom the board, after a hearing, finds to have performed one or more of the acts described in subdivision 1:

- (a) Publicly reprimand or censure the person; and
- (b) Place the person on probation for the period and upon the terms and conditions that the board may prescribe; and
- (c) Require payment of all costs of proceedings resulting in the disciplinary action.

Sec. 7. Minnesota Statutes 1982, section 148.10, is amended by adding a subdivision to read:

Subd. 4. **TEMPORARY SUSPENSION.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend a license for not more than 60 days if the board finds that a person has violated a statute or rule which the board is empowered to enforce and continued practice by the person would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the person, specifying the statute or rule violated. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act. The person shall be provided with at least 20 days notice of any hearing held pursuant to this subdivision.

Sec. 8. **LEGISLATIVE STUDY COMMISSION.**

A legislative study commission is created to study and report on the utilization of venipuncture for diagnostic purposes in the practice of chiropractic

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and medicine. The commission shall report its findings to the legislature on October 1, 1984. The commission shall consist of two members of the house of representatives appointed by the speaker of the house and two members of the senate appointed by the majority leader of the senate. There shall also be two doctors of chiropractic and two doctors of medicine, all appointed by their respective licensing boards.

Sec. 9. **EFFECTIVE DATE.**

Sections 1 to 8 are effective the day following final enactment.

Approved June 14, 1983

CHAPTER 347 — S.F.No. 194

An act relating to causes of action; providing that certain causes of action survive the death of a party; allowing award of punitive damages in actions for death by wrongful act; clarifying the time limitation for bringing an action for wrongful death when the act constitutes murder; amending Minnesota Statutes 1982, sections 573.01; and 573.02, subdivisions 1 and 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 573.01, is amended to read:

573.01 SURVIVAL OF CAUSES.

A cause of action arising out of an injury to the person dies with the person of the party in whose favor it exists, except as provided in section 573.02. It also dies with the person against whom it exists, ~~except a cause of action arising out of bodily injuries or death caused by the negligence of a decedent or based upon strict liability, statutory liability or breach of warranty of a decedent, survives against his personal representatives.~~ All other causes of action by one against another, whether arising on contract or not, survive to the personal representatives of the former and against those of the latter.

Sec. 2. Minnesota Statutes 1982, section 573.02, subdivision 1, is amended to read:

Subdivision 1. When death is caused by the wrongful act or omission of any person or corporation, the trustee appointed as provided in subdivision 3 may maintain an action therefor if the decedent might have maintained an action, had he lived, for an injury caused by the wrongful act or omission. An action to recover damages for a death caused by the alleged professional negligence of a physician, surgeon, dentist, hospital or sanatorium, or an employee of a physician, surgeon, dentist, hospital or sanatorium shall be commenced within the time set forth in section 541.07, subdivision 1. An action to recover damages for a death caused by an intentional act constituting murder may be commenced at any time after the death of the decedent. Any other action under this section may be

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