

*Senate* BILL NO. *425*

INTRODUCED BY *Ray* Request Professional & Occupational  
*Disc. & Prof. Rights*

1 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE LICENSE  
2 RENEWAL AND DISCIPLINARY PROVISIONS RELATING TO THE PRACTICE  
3 OF CHIROPRACTIC; PROHIBITING MUNICIPALITIES AND OTHER  
4 POLITICAL SUBDIVISIONS OF THE STATE FROM IMPOSING LICENSE  
5 FEES OR TAXES FOR THE PRACTICE OF CHIROPRACTIC; AMENDING  
6 SECTION 66-512, R.C.M. 1947; AND REPEALING SECTION 66-510,  
7 R.C.M. 1947."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 66-512, R.C.M. 1947, is amended to  
13 read as follows:

14 "66-512. Renewal of license. ~~(1)~~ A license expires on  
15 September 1 of each year, and shall be renewed by the  
16 department, on payment of a renewal fee of not less than  
17 five dollars ~~(\$5)~~ nor more than twenty-five dollars ~~(\$25)~~  
18 \$50, as set by the board, and the presentation of evidence  
19 satisfactory to the board that the licensee, in the year  
20 preceding the application for renewal, attended on and  
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16 ~~license if in the preceding year for any reason, at least~~  
17 ~~one of the educational programs is not conducted in this~~  
18 ~~state~~

19 (2) No license fee or license tax may be imposed upon  
20 doctors of chiropractic by a municipality or any other  
21 political subdivision of the state."

22 Section 2. There is a new R.C.M. section numbered  
23 66-510.1 that reads as follows:

24 66-510.1. Unprofessional conduct. As used in this  
25 chapter, "unprofessional conduct" means:

1 (1) resorting to fraud, misrepresentation, or  
2 deception in applying for or securing a license or in taking  
3 the examination provided for in this chapter;

4 (2) obtaining any form of compensation, directly or  
5 indirectly, by the misrepresentation that a manifestly  
6 incurable disease, injury, or condition can be cured;

7 (3) practicing chiropractic under a false or assumed  
8 name or impersonating another practitioner of like or  
9 different name;

10 (4) knowingly disobeying a rule of the board;

11 (5) conviction of a criminal offense involving moral  
12 turpitude. A certified copy of the judgment of conviction is  
13 conclusive evidence of the conviction. This subsection is  
14 subject to Title 66, chapter 40.

15 (6) habitual intemperance or excessive use of narcotic  
16 drugs, alcohol, or any other substance to the extent that  
17 such use impairs the user's physical or mental professional  
18 capability;

19 (7) administering, dispensing, or prescribing a  
20 narcotic or hallucinatory drug, as defined by the federal  
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22 (8) resorting to fraud, misrepresentation, or  
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1 (9) testifying in court on a contingency basis;

2 (10) conspiring to misrepresent or knowingly  
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5 (11) aiding or abetting, in the practice of  
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7 or a person whose license is suspended;

8 (12) practicing chiropractic as the partner, agent, or  
9 employee of or in joint venture with a person not licensed  
10 to practice chiropractic in this state. However, this does  
11 not prohibit incorporation as a professional service  
12 corporation under Title 15, chapter 21, or prevent a single  
13 consultation with or a single treatment by a person  
14 licensed to practice chiropractic in another state or  
15 territory of the United States or a foreign country.

16 (13) violating, attempting or conspiring to violate, or  
17 aiding or abetting in the violation of this chapter or the  
18 rules adopted under it; or

19 (14) conduct unbecoming a person licensed to practice  
20 chiropractic or detrimental to the best interests of the  
21 public.

22 Section 3. There is a new R.C.M. section numbered  
23 66-510.2 that reads as follows:

24 66-510.2. Revocation or suspension of license. (1) The  
25 board may make an investigation whenever it is brought to

1 its attention that there is reason to suspect that a person  
2 licensed to practice chiropractic:

3 (a) has a mental or physical condition such that he is  
4 unable to safely engage in the practice of chiropractic;

5 (b) has been declared incompetent or seriously  
6 mentally ill by a court of competent jurisdiction and  
7 thereafter has not been declared competent or released from  
8 supervision;

9 (c) has procured his license through mistake;

10 (d) has been guilty of unprofessional conduct;

11 (e) has practiced chiropractic while his license was  
12 suspended or revoked;

13 (f) has, while under probation, violated its terms.

14 (2) The investigation shall be for the purpose of  
15 determining the probability of the existence of these  
16 conditions or the commission of these offenses and may  
17 include requiring the person to submit to a physical or  
18 mental examination, or both, by a physician or physicians  
19 selected by the board, if it appears to be in the best  
20 interests of the public that this evaluation be secured.  
21 The board may examine the hospital records and reports of  
22 the licensee as part of the examination and copies of these  
23 shall be released to the board on written request. If the  
24 board has reasonable cause to believe that this probability  
25 exists, the department shall mail to the person, at his last

1 address of record with the department, a specification of  
2 the charges against him, together with a written notice of  
3 the time and place of the hearing on such charges, advising  
4 him that he may be present in person and with counsel if he  
5 so desires to offer evidence and be heard in his defense.  
6 The time fixed for hearing may not be less than 30 days from  
7 the date of mailing the notice.

8 (3) Any person, including a member of the board, may  
9 file a sworn complaint with the department against a  
10 licensed chiropractor charging him with any of the offenses  
11 or conditions set forth in 66-510.1 or subsection (1) of  
12 this section, which complaint shall set forth a  
13 specification of the charges. When the complaint has been  
14 filed, the board may make an investigation as provided by  
15 this section or may proceed to hearing. The department shall  
16 mail a copy of the complaint to the person charged, together  
17 with notice of hearing as provided in subsection (2) of  
18 this section.

19 (4) After the hearing the board shall adopt a  
20 resolution finding that the offenses charged have or have  
21 not been committed or that the conditions charged do or do  
22 not exist. If the finding is in the negative, the board  
23 shall dismiss the charges. If the finding is in the  
24 affirmative, the board shall:

25 (a) revoke the license;

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2 period not to exceed 1 year;

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4 conditions determined by the board;

5 (d) place the licensee on probation; or

6 (e) take any other disciplinary action which the board  
7 in its discretion considers proper.

8 (5) In cases of revocation, suspension, or probation,  
9 the department shall record the facts of the case and all  
10 actions of the board in relation thereto.

11 (6) On the expiration of a term of suspension, the  
12 licensee shall be reinstated by the board if he furnishes  
13 evidence, satisfactory to the board, that he is then of good  
14 moral character and conduct or restored to good health and  
15 that he has not practiced chiropractic during the term of  
16 suspension. If the evidence fails to establish such facts to  
17 the satisfaction of the board, the board shall proceed to  
18 hearing on revocation with notice as provided in subsection  
19 (2) of this section.

20 Section 4. There is a new R.C.M. section numbered  
21 66-510.3 that reads as follows:

22 66-510.3. Reconsideration of board action -- fee for  
23 restoration of license. (1) At any time after refusal,  
24 suspension, or revocation of license or placement on  
25 probation or any other disciplinary action, the board may,

1 on its own motion or on application, reconsider its prior  
2 action and reverse, rescind, or modify such action.

3 (2) A person whose license has been revoked and later  
4 restored shall pay a fee of \$50 for the restoration.

5 Section 5. Repealer. Section 66-510, R.C.M. 1947, is  
6 repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 561-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 17, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 425 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

An act to revise license renewal and disciplinary provisions relating to the practice of chiropractic, prohibiting municipalities and other political subdivisions of the state from imposing license fees or taxes.

## ASSUMPTIONS:

1. Total licensees will remain at 180.
2. The Board will set the renewal fee at \$35 (current fee is \$25).
3. The change in continuing education requirements will have no significant fiscal impact.
4. There will be no additional disciplinary problems requiring hearings for suspension or revocation of licenses.

## FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Revenue under current law	\$4,500	\$4,500
Revenue under proposed law	<u>6,300</u>	<u>6,300</u>
Additional revenue under proposed law	<u>\$1,800</u>	<u>\$1,800</u>

*Richard L. Ziegenfuss*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-23-77

Approved by Committee  
on Public Health, Welfare  
& Safety

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INTRODUCED BY *By Request Professional & Occupational*  
*Assoc. of Chiropractors*

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*SB 425*

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*Disc. 8/1/01*

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9 the department shall record the facts of the case and all  
10 actions of the board in relation thereto.

11 (6) On the expiration of a term of suspension, the  
12 licensee shall be reinstated by the board if he furnishes  
13 evidence, satisfactory to the board, that he is then of good  
14 moral character and conduct or restored to good health and  
15 that he has not practiced chiropractic during the term of  
16 suspension. If the evidence fails to establish such facts to  
17 the satisfaction of the board, the board shall proceed to  
18 hearing on revocation with notice as provided in subsection  
19 (2) of this section.

20 Section 4. There is a new R.C.M. section numbered  
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22 66-510.3. Reconsideration of board action -- fee for  
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1 on its own motion or on application, reconsider its prior  
2 action and reverse, rescind, or modify such action.

3 (2) A person whose license has been revoked and later  
4 restored shall pay a fee of \$50 for the restoration.

5 Section 5. Repealer. Section 66-510, R.C.M. 1947, is  
6 repealed.

-End-

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE AMENDMENTS TO  
SENATE BILL 425, third reading copy:

1. Amend page 2, section 1, line 20.

Following: "chiropractic"

Insert: "as a condition to the practice of their profession"

AS AMENDED BE CONCURRED IN

## 1 SENATE BILL NO. 425

2 INTRODUCED BY (BY REQUEST PROFESSIONAL AND OCCUPATIONAL  
3 LICENSING DEPARTMENT) BOYLAN  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE LICENSE  
6 RENEWAL AND DISCIPLINARY PROVISIONS RELATING TO THE PRACTICE  
7 OF CHIROPRACTIC; PROHIBITING MUNICIPALITIES AND OTHER  
8 POLITICAL SUBDIVISIONS OF THE STATE FROM IMPOSING LICENSE  
9 FEES OR TAXES FOR THE PRACTICE OF CHIROPRACTIC; AMENDING  
10 SECTION 66-512, R.C.M. 1947; AND REPEALING SECTION 66-510,  
11 R.C.M. 1947."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 66-512, R.C.M. 1947, is amended to  
15 read as follows:

16 "66-512. Renewal of license. ~~11~~ A license expires on  
17 September 1 of each year, and shall be renewed by the  
18 department, on payment of a renewal fee of not less than  
19 ~~five dollars (\$5) nor more than twenty-five dollars (\$25)~~  
20 \$50, as set by the board, and the presentation of evidence  
21 satisfactory to the board that the licensee, in the year  
22 preceding the application for renewal, attended ~~an~~ and  
23 successfully completed a postgraduate educational program  
24 for chiropractors ~~conducted by a school of chiropractic~~  
25 ~~licensed to operate in the state of its location, or an~~

1 ~~educational program conducted by the state association of~~  
2 ~~licensed chiropractors of a state, or an educational program~~  
3 ~~consisting of monitored classroom time conducted by~~  
4 ~~instructors from accredited colleges of chiropractic in~~  
5 ~~subjects designated and approved by the board. However, the~~  
6 ~~board may authorize the department to issue renewals, but~~  
7 ~~not consecutive renewals, on a showing satisfactory to the~~  
8 ~~board that attendance at the educational programs was~~  
9 ~~unavoidably prevented; and new licensees during the six (6)~~  
10 ~~months preceding September 1, by examination, shall be~~  
11 ~~granted renewal licenses without attending the educational~~  
12 ~~programs. Failure to renew a license does not prevent a~~  
13 ~~licensee from subsequently applying for and receiving a~~  
14 ~~license as if there were no lapse of time between the~~  
15 ~~expiration of the old license and the granting of a renewal~~  
16 ~~license. This section does not prevent a renewal of the~~  
17 ~~license if in the preceding year for any reason, at least~~  
18 ~~one of the educational programs is not conducted in this~~  
19 ~~state~~

20 (2) No license fee or license tax may be imposed upon  
21 doctors of chiropractic AS A CONDITION TO THE PRACTICE OF  
22 THEIR PROFESSION by a municipality or any other political  
23 subdivision of the state."

24 Section 2. There is a new R.C.M. section numbered  
25 66-510.1 that reads as follows:

1 66-510.1. Unprofessional conduct. As used in this  
2 chapter, "unprofessional conduct" means:

3 (1) resorting to fraud, misrepresentation, or  
4 deception in applying for or securing a license or in taking  
5 the examination provided for in this chapter;

6 (2) obtaining any form of compensation, directly or  
7 indirectly, by the misrepresentation that a manifestly  
8 incurable disease, injury, or condition can be cured;

9 (3) practicing chiropractic under a false or assumed  
10 name or impersonating another practitioner of like or  
11 different name;

12 (4) knowingly disobeying a rule of the board;

13 (5) conviction of a criminal offense involving moral  
14 turpitude. A certified copy of the judgment of conviction is  
15 conclusive evidence of the conviction. This subsection is  
16 subject to Title 66, chapter 40.

17 (6) habitual intemperance or excessive use of narcotic  
18 drugs, alcohol, or any other substance to the extent that  
19 such use impairs the user's physical or mental professional  
20 capability;

21 (7) administering, dispensing, or prescribing a  
22 narcotic or hallucinatory drug, as defined by the federal  
23 food and drug administration or successors;

24 (8) resorting to fraud, misrepresentation, or  
25 deception in the examination or treatment of a person or in

1 billing or reporting to a person, company, institution, or  
2 organization;

3 (9) testifying in court on a contingency basis;

4 (10) conspiring to misrepresent or knowingly  
5 misrepresenting physical conditions in order to increase or  
6 decrease a settlement or award;

7 (11) aiding or abetting, in the practice of  
8 chiropractic, a person not licensed to practice chiropractic  
9 or a person whose license is suspended;

10 (12) practicing chiropractic as the partner, agent, or  
11 employee of or in joint venture with a person not licensed  
12 to practice chiropractic in this state. However, this does  
13 not prohibit incorporation as a professional service  
14 corporation under Title 15, chapter 21, or prevent a single  
15 consultation with or a single treatment by a person  
16 licensed to practice chiropractic in another state or  
17 territory of the United States or a foreign country.

18 (13) violating, attempting or conspiring to violate, or  
19 aiding or abetting in the violation of this chapter or the  
20 rules adopted under it; or

21 (14) conduct unbecoming a person licensed to practice  
22 chiropractic or detrimental to the best interests of the  
23 public.

24 Section 3. There is a new R.C.M. section numbered  
25 66-510.2 that reads as follows:

1       66-510.2. Revocation or suspension of license. (1) The  
2 board may make an investigation whenever it is brought to  
3 its attention that there is reason to suspect that a person  
4 licensed to practice chiropractic:

5       (a) has a mental or physical condition such that he is  
6 unable to safely engage in the practice of chiropractic;

7       (b) has been declared incompetent or seriously  
8 mentally ill by a court of competent jurisdiction and  
9 thereafter has not been declared competent or released from  
10 supervision;

11       (c) has procured his license through mistake;

12       (d) has been guilty of unprofessional conduct;

13       (e) has practiced chiropractic while his license was  
14 suspended or revoked;

15       (f) has, while under probation, violated its terms.

16       (2) The investigation shall be for the purpose of  
17 determining the probability of the existence of these  
18 conditions or the commission of these offenses and may  
19 include requiring the person to submit to a physical or  
20 mental examination, or both, by a physician or physicians  
21 selected by the board, if it appears to be in the best  
22 interests of the public that this evaluation be secured.  
23 The board may examine the hospital records and reports of  
24 the licensee as part of the examination and copies of these  
25 shall be released to the board on written request. If the

1 board has reasonable cause to believe that this probability  
2 exists, the department shall mail to the person, at his last  
3 address of record with the department, a specification of  
4 the charges against him, together with a written notice of  
5 the time and place of the hearing on such charges, advising  
6 him that he may be present in person and with counsel if he  
7 so desires to offer evidence and be heard in his defense.  
8 The time fixed for hearing may not be less than 30 days from  
9 the date of mailing the notice.

10       (3) Any person, including a member of the board, may  
11 file a sworn complaint with the department against a  
12 licensed chiropractor charging him with any of the offenses  
13 or conditions set forth in 66-510.1 or subsection (1) of  
14 this section, which complaint shall set forth a  
15 specification of the charges. When the complaint has been  
16 filed, the board may make an investigation as provided by  
17 this section or may proceed to hearing. The department shall  
18 mail a copy of the complaint to the person charged, together  
19 with notice of hearing as provided in subsection (2) of  
20 this section.

21       (4) After the hearing the board shall adopt a  
22 resolution finding that the offenses charged have or have  
23 not been committed or that the conditions charged do or do  
24 not exist. If the finding is in the negative, the board  
25 shall dismiss the charges. If the finding is in the

1 affirmative, the board shall:

2 (a) revoke the license;

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4 period not to exceed 1 year;

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6 conditions determined by the board;

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