

SENATE BILL NO. 147

INTRODUCED BY VAUGHN

BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE SENATE

JANUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
JANUARY 26, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 27, 1989	PRINTING REPORT.
JANUARY 28, 1989	SECOND READING, DO PASS.
JANUARY 30, 1989	ENGROSSING REPORT.
JANUARY 31, 1989	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 31, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
FEBRUARY 20, 1989	FIRST READING.
MARCH 7, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1989	SECOND READING, CONCURRED IN.
MARCH 10, 1989	THIRD READING, CONCURRED IN. AYES, 81; NOES, 9.
	RETURNED TO SENATE.

MARCH 10, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 147

INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS REGULATING THE PRACTICE OF CHIROPRACTIC; AND AMENDING SECTIONS 37-12-104, 37-12-201, 37-12-302, AND 37-12-322, MCA."

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

**Section 1.** Section 37-12-104, MCA, is amended to read:

**"37-12-104. Rights and limitations governing practice.**

(1) Chiropractors licensed under this chapter shall have the right to practice that science defined as chiropractic under 37-12-101 in accordance with the method, thought, and practice of chiropractors, and they shall be permitted to use the prefix "Dr." or "Doctor" as a title but shall not in any way imply that they are ~~regular--physicians~~ medical doctors, osteopaths, or surgeons. They shall not prescribe for or administer to any person any medicine or drugs or practice medicine or surgery or osteopathy, except that the use of antiseptics for purposes of sanitation and hygiene and to prevent infection and contagion shall be permitted.

(2) Licensed chiropractors may diagnose, palpate, and treat the human body by the application of manipulative,

manual, mechanical, and dietetic methods, including chiropractic physiotherapy, the use of supportive appliances, analytical instruments, and diagnostic x-ray in accordance with guidelines promulgated or approved by state or federal health regulatory agencies."

**Section 2.** Section 37-12-201, MCA, is amended to read:

**"37-12-201. Organization of board -- meetings -- powers and duties.** (1) The board shall elect annually a president, vice-president, and secretary-treasurer from its membership.

(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates. A majority of the board constitutes a quorum.

(3) The board shall:

(a) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

(b) adopt a seal which shall be affixed to licenses issued;

(c) make a schedule of minimum educational requirements, which are without prejudice, partiality, or discrimination, as to the different schools of chiropractic;

(d) adopt rules necessary for the implementation, administration, continuation, and enforcement of this

chapter. The rules must address but are not limited to license applications, form and display of license, license examination format, criteria for and grading of examinations, and disciplinary standards for licensees;

(e) investigate complaints;

(f) make determinations of the qualifications of applicants under this chapter;

(g) administer the examination for licensure under this chapter;

(h) establish and collect fees, fines, and charges prescribed as provided in this chapter; and

(i) issue, suspend, or revoke licenses under the conditions prescribed in this chapter.

(4) The department shall keep a record of the proceedings of the board which shall at all times be open to public inspection."

**Section 3.** Section 37-12-302, MCA, is amended to read:

**"37-12-302. Applications -- qualifications -- fees.**

(1) A person wishing to practice chiropractic in this state shall make application to the department, on the form and in the manner prescribed by the board, at least 21 days prior to a meeting of the board. Each applicant shall be a graduate of or expect to graduate within 90 days prior to the next licensing examination administered by the board from a college of chiropractic approved by the board, in

which he has attended a course of study of 4 school years of not less than 9 months each, and shall present evidence showing completion of 2 full academic years of college or university work from an institution acceptable to the board of regents of higher education. Application shall be made in writing and shall be sworn to by an officer authorized to administer oaths and shall recite the history of applicant's educational qualifications, how long he has studied chiropractic, of what school or college he is a graduate, and the length of time he has been engaged in practice. The application shall be accompanied with proofs by diplomas, certificates, etc., and satisfactory evidence of good character and reputation.

(2) There shall be paid to the department by an applicant for a license a fee prescribed by the board. Like fees shall be paid for a subsequent examination and application."

**Section 4.** Section 37-12-322, MCA, is amended to read:

**"37-12-322. Revocation Investigation of complaints -- discipline of licensees -- revocation or suspension of license.** (1) The board may make an investigation whenever it is brought to its attention that there is reason to suspect that a person licensed to practice chiropractic:

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

1 (b) has been declared incompetent or seriously  
2 mentally ill by a court of competent jurisdiction and  
3 thereafter has not been declared competent or released from  
4 supervision;

5 (c) has procured his license through mistake;

6 (d) has been guilty of unprofessional conduct;

7 (e) has practiced chiropractic while his license was  
8 suspended or revoked;

9 (f) has while under probation violated its terms.

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

1 so desires to offer evidence and be heard in his defense.  
2 The time fixed for hearing may not be less than 30 days from  
3 the date of mailing the notice.

4 (3) Any person, including a member of the board, may  
5 file a sworn complaint with the department against a  
6 licensed chiropractor charging him with any of the offenses  
7 or conditions set forth in 37-12-321 or subsection (1) of  
8 this section, which complaint shall set forth a  
9 specification of the charges. When the complaint has been  
10 filed, the board may make an investigation as provided by  
11 this section or may proceed to hearing. The department shall  
12 mail a copy of the complaint to the person charged, together  
13 with notice of hearing as provided in subsection (2) of this  
14 section.

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

21 (a) revoke the license;

22 (b) suspend the licensee's right to practice for a  
23 period not to exceed 1 year;

24 (c) suspend its judgment of revocation on terms and  
25 conditions determined by the board;

1 (d) place the licensee on probation; or  
 2 (e) fine the licensee in an amount not to exceed \$500  
 3 for each incident; or  
 4 ~~(e)~~(f) take any other disciplinary action which the  
 5 board in its discretion considers proper.

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

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

18 (7) Following a final determination resulting in any  
 19 disciplinary action taken by the board under subsection (4),  
 20 the board may recover from the disciplined party all  
 21 reasonable costs of any proceeding, not to exceed \$1,000,  
 22 incurred for the purpose of the disciplinary action. Fines  
 23 and costs recovered must be deposited in the state special  
 24 revenue fund for the use of the board, subject to  
 25 37-1-101(6)."

1 NEW SECTION. Section 5. Extension of authority. Any  
 2 existing authority to make rules on the subject of the  
 3 provisions of [this act] is extended to the provisions of  
 4 [this act].

5 NEW SECTION. Section 6. Severability. If a part of  
 6 [this act] is invalid, all valid parts that are severable  
 7 from the invalid part remain in effect. If a part of [this  
 8 act] is invalid in one or more of its applications, the part  
 9 remains in effect in all valid applications that are  
 10 severable from the invalid applications.

-End-

APPROVED BY COMMITTEE  
ON PUBLIC HEALTH, WELFARE  
& SAFETY

1 Senate BILL NO. 147  
2 INTRODUCED BY Thompson  
3 BY REQUEST OF THE DEPARTMENT OF COMMERCE  
4

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6 LAWS REGULATING THE PRACTICE OF CHIROPRACTIC; AND AMENDING  
7 SECTIONS 37-12-104, 37-12-201, 37-12-302, AND 37-12-322,  
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 37-12-104, MCA, is amended to read:

12 "37-12-104. Rights and limitations governing practice.  
13 (1) Chiropractors licensed under this chapter shall have the  
14 right to practice that science defined as chiropractic under  
15 37-12-101 in accordance with the method, thought, and  
16 practice of chiropractors, and they shall be permitted to  
17 use the prefix "Dr." or "Doctor" as a title but shall not in  
18 any way imply that they are ~~regular--physicians~~ medical  
19 doctors, osteopaths, or surgeons. They shall not prescribe  
20 for or administer to any person any medicine or drugs or  
21 practice medicine or surgery or osteopathy, except that the  
22 use of antiseptics for purposes of sanitation and hygiene  
23 and to prevent infection and contagion shall be permitted.  
24 (2) Licensed chiropractors may diagnose, palpate, and  
25 treat the human body by the application of manipulative,

1 manual, mechanical, and dietetic methods, including  
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3 appliances, analytical instruments, and diagnostic x-ray in  
4 accordance with guidelines promulgated or approved by state  
5 or federal health regulatory agencies."

6 **Section 2.** Section 37-12-201, MCA, is amended to read:

7 "37-12-201. Organization of board -- meetings --  
8 powers and duties. (1) The board shall elect annually a  
9 president, vice-president, and secretary-treasurer from its  
10 membership.

11 (2) The board shall hold a regular meeting each year  
12 at Helena and shall hold special meetings at times and  
13 places as a majority of the board designates. A majority of  
14 the board constitutes a quorum.

15 (3) The board shall:

16 (a) administer oaths, take affidavits, summon  
17 witnesses, and take testimony as to matters coming within  
18 the scope of the board;

19 (b) adopt a seal which shall be affixed to licenses  
20 issued;

21 (c) make a schedule of minimum educational  
22 requirements, which are without prejudice, partiality, or  
23 discrimination, as to the different schools of chiropractic;

24 (d) adopt rules necessary for the implementation,  
25 administration, continuation, and enforcement of this

1 chapter. The rules must address but are not limited to  
2 license applications, form and display of license, license  
3 examination format, criteria for and grading of  
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5 (e) investigate complaints;

6 (f) make determinations of the qualifications of  
7 applicants under this chapter;

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9 this chapter;

10 (h) establish and collect fees, fines, and charges  
11 prescribed as provided in this chapter; and

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13 conditions prescribed in this chapter.

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15 proceedings of the board which shall at all times be open to  
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24 the next licensing examination administered by the board  
25 from a college of chiropractic approved by the board, in

1 which he has attended a course of study of 4 school years of  
2 not less than 9 months each, and shall present evidence  
3 showing completion of 2 full academic years of college or  
4 university work from an institution acceptable to the board  
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9 chiropractic, of what school or college he is a graduate,  
10 and the length of time he has been engaged in practice. The  
11 application shall be accompanied with proofs by diplomas,  
12 certificates, etc., and satisfactory evidence of good  
13 character and reputation.

14 (2) There shall be paid to the department by an  
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18 **Section 4.** Section 37-12-322, MCA, is amended to read:

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2 mentally ill by a court of competent jurisdiction and  
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(d) place the licensee on probation; or

(e) fine the licensee in an amount not to exceed \$500 for each incident; or

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

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

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

(7) Following a final determination resulting in any disciplinary action taken by the board under subsection (4), the board may recover from the disciplined party all reasonable costs of any proceeding, not to exceed \$1,000, incurred for the purpose of the disciplinary action. Fines and costs recovered must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6)."

NEW SECTION. **Section 5. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

1 *Senate* BILL NO. *147*  
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3 BY REQUEST OF THE DEPARTMENT OF COMMERCE  
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6 **Section 2.** Section 37-12-201, MCA, is amended to read:

7 **"37-12-201. Organization of board -- meetings --**  
8 **powers and duties.** (1) The board shall elect annually a  
9 president, vice-president, and secretary-treasurer from its  
10 membership.

11 (2) The board shall hold a regular meeting each year  
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INTRODUCED BY VAUGHN

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manual, mechanical, and dietetic methods, including chiropractic physiotherapy, the use of supportive appliances, analytical instruments, and diagnostic x-ray in accordance with guidelines promulgated or approved by state or federal health regulatory agencies."

**Section 2.** Section 37-12-201, MCA, is amended to read:

"37-12-201. Organization of board -- meetings -- powers and duties. (1) The board shall elect annually a president, vice-president, and secretary-treasurer from its membership.

(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates. A majority of the board constitutes a quorum.

(3) The board shall:

(a) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

(b) adopt a seal which shall be affixed to licenses issued;

(c) make a schedule of minimum educational requirements, which are without prejudice, partiality, or discrimination, as to the different schools of chiropractic;

(d) adopt rules necessary for the implementation, administration, continuation, and enforcement of this

1 chapter. The rules must address but are not limited to  
 2 license applications, form and display of license, license  
 3 examination format, criteria for and grading of  
 4 examinations, and disciplinary standards for licensees;

5 (e) investigate complaints;

6 (f) make determinations of the qualifications of  
 7 applicants under this chapter;

8 (g) administer the examination for licensure under  
 9 this chapter;

10 (h) establish and collect fees, fines, and charges  
 11 prescribed as provided in this chapter; and

12 (i) issue, suspend, or revoke licenses under the  
 13 conditions prescribed in this chapter.

14 (4) The department shall keep a record of the  
 15 proceedings of the board which shall at all times be open to  
 16 public inspection."

17 **Section 3.** Section 37-12-302, MCA, is amended to read:

18 **"37-12-302. Applications -- qualifications -- fees.**

19 (1) A person wishing to practice chiropractic in this state  
 20 shall make application to the department, on the form and in  
 21 the manner prescribed by the board, at least 21 days prior  
 22 to a meeting of the board. Each applicant shall be a  
 23 graduate of or expect to graduate within 90 days prior to  
 24 the next licensing examination administered by the board  
 25 from a college of chiropractic approved by the board, in

1 which he has attended a course of study of 4 school years of  
 2 not less than 9 months each, and shall present evidence  
 3 showing completion of 2 full academic years of college or  
 4 university work from an institution acceptable to the board  
 5 of regents of higher education. Application shall be made  
 6 in writing and shall be sworn to by an officer authorized to  
 7 administer oaths and shall recite the history of applicant's  
 8 educational qualifications, how long he has studied  
 9 chiropractic, of what school or college he is a graduate,  
 10 and the length of time he has been engaged in practice. The  
 11 application shall be accompanied with proofs by diplomas,  
 12 certificates, etc., and satisfactory evidence of good  
 13 character and reputation.

14 (2) There shall be paid to the department by an  
 15 applicant for a license a fee prescribed by the board. Like  
 16 fees shall be paid for a subsequent examination and  
 17 application."

18 **Section 4.** Section 37-12-322, MCA, is amended to read:

19 **"37-12-322. Revocation Investigation of complaints --**  
 20 **discipline of licensees -- revocation or suspension of**  
 21 **license.** (1) The board may make an investigation whenever it  
 22 is brought to its attention that there is reason to suspect  
 23 that a person licensed to practice chiropractic:

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



1 (b) has been declared incompetent or seriously  
2 mentally ill by a court of competent jurisdiction and  
3 thereafter has not been declared competent or released from  
4 supervision;

5 (c) has procured his license through mistake;

6 (d) has been guilty of unprofessional conduct;

7 (e) has practiced chiropractic while his license was  
8 suspended or revoked;

9 (f) has while under probation violated its terms.

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

1 so desires to offer evidence and be heard in his defense.  
2 The time fixed for hearing may not be less than 30 days from  
3 the date of mailing the notice.

4 (3) Any person, including a member of the board, may  
5 file a sworn complaint with the department against a  
6 licensed chiropractor charging him with any of the offenses  
7 or conditions set forth in 37-12-321 or subsection (1) of  
8 this section, which complaint shall set forth a  
9 specification of the charges. When the complaint has been  
10 filed, the board may make an investigation as provided by  
11 this section or may proceed to hearing. The department shall  
12 mail a copy of the complaint to the person charged, together  
13 with notice of hearing as provided in subsection (2) of this  
14 section.

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

21 (a) revoke the license;

22 (b) suspend the licensee's right to practice for a  
23 period not to exceed 1 year;

24 (c) suspend its judgment of revocation on terms and  
25 conditions determined by the board;

1 (d) place the licensee on probation; or  
 2 (e) fine the licensee in an amount not to exceed \$500  
 3 for each incident; or  
 4 ~~(e)~~(f) take any other disciplinary action which the  
 5 board in its discretion considers proper.  
 6 (5) In cases of revocation, suspension, or probation,  
 7 the department shall record the facts of the case and all  
 8 actions of the board in relation thereto.  
 9 (6) On the expiration of a term of suspension, the  
 10 licensee shall be reinstated by the board if he furnishes  
 11 evidence, satisfactory to the board, that he is then of good  
 12 moral character and conduct or restored to good health and  
 13 that he has not practiced chiropractic during the term of  
 14 suspension. If the evidence fails to establish such facts to  
 15 the satisfaction of the board, the board shall proceed to  
 16 hearing on revocation with notice as provided in subsection  
 17 (2) of this section.  
 18 (7) Following a final determination resulting in any  
 19 disciplinary action taken by the board under subsection (4),  
 20 the board may recover from the disciplined party all  
 21 reasonable costs of any proceeding, not to exceed \$1,000,  
 22 incurred for the purpose of the disciplinary action. Fines  
 23 and costs recovered must be deposited in the state special  
 24 revenue fund for the use of the board, subject to  
 25 37-1-101(6)."

1 NEW SECTION. Section 5. Extension of authority. Any  
 2 existing authority to make rules on the subject of the  
 3 provisions of [this act] is extended to the provisions of  
 4 [this act].  
 5 NEW SECTION. Section 6. Severability. If a part of  
 6 [this act] is invalid, all valid parts that are severable  
 7 from the invalid part remain in effect. If a part of [this  
 8 act] is invalid in one or more of its applications, the part  
 9 remains in effect in all valid applications that are  
 10 severable from the invalid applications.

-End-