

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 352

Introduced by Senator Huff

February 15, 2011

An act to ~~amend Section 650.3 of~~ *add Sections 1006 and 1007* to the Business and Professions Code, relating to chiropractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 352, as amended, Huff. Chiropractors.

Existing law, *the Chiropractic Act, enacted by initiative act*, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. ~~Existing law authorizes a person to participate in or operate a group advertising and referral service for chiropractors under specified circumstances.~~ *Under the act, a license authorizes its holder to practice chiropractic as taught in chiropractic schools or colleges but does not authorize its holder to practice medicine, surgery, osteopathy, dentistry, or optometry.*

~~This bill would make nonsubstantive, technical changes to those provisions.~~

Existing law prohibits a chiropractor, among other healing arts practitioners, from disseminating any form of public communications containing a false, fraudulent, misleading, or deceptive statement for the purpose of inducing the rendering of professional services, as specified.

This bill would specify that the practice of chiropractic does not include the treatment or diagnosis of hypersensitivity to foods, medications, environmental allergens, or venoms, and would prohibit a chiropractor from advertising that he or she provides or is able to provide those services, as specified. The bill would specify that a

violation of these provisions constitutes a cause for discipline by the State Board of Chiropractic Examiners.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature hereby finds and declares the*
 2 *following:*

3 (a) *The law governing practitioners of chiropractic is an*
 4 *initiative statute known as the Chiropractic Act that was originally*
 5 *approved by the electorate on November 7, 1922.*

6 (b) *The scope of practice authorized by the Chiropractic Act*
 7 *does not extend beyond the scope of the term “chiropractic” as it*
 8 *was understood and defined in 1922. In addition, the Chiropractic*
 9 *Act prohibits a chiropractor from engaging in the practice of*
 10 *medicine.*

11 (c) *As it was understood in 1922, the term “chiropractic” did*
 12 *not include the treatment or diagnosis of hypersensitivity to foods,*
 13 *medications, environmental allergens, or venoms. Furthermore,*
 14 *those services constitute the practice of medicine. Therefore, the*
 15 *Chiropractic Act does not authorize licensees to provide those*
 16 *services.*

17 SEC. 2. *Section 1006 is added to the Business and Professions*
 18 *Code, to read:*

19 1006. (a) *The practice of chiropractic does not include the*
 20 *treatment or diagnosis of hypersensitivity to foods, medications,*
 21 *environmental allergens, or venoms, including, but not limited to,*
 22 *the use of laser therapy for those purposes.*

23 (b) *A violation of this section shall constitute a cause for*
 24 *discipline by the State Board of Chiropractic Examiners. For*
 25 *purposes of this subdivision, the board shall have the same powers*
 26 *of suspension, revocation, and discipline as authorized by the*
 27 *initiative measure referred to in Section 1000.*

28 SEC. 3. *Section 1007 is added to the Business and Professions*
 29 *Code, to read:*

30 1007. (a) *A person licensed by the State Board of Chiropractic*
 31 *Examiners under the Chiropractic Act shall not advertise that he*
 32 *or she provides or is able to provide the services described in*

1 Section 1006, unless that person holds another license under this
2 division that authorizes the person to provide those services.

3 (b) For purposes of this section, “advertise” includes, but is
4 not limited to, the issuance of any card, sign, or device to any
5 person, or the causing, permitting, or allowing of any sign or
6 marking on, or in, any building or structure, or in any newspaper
7 or magazine or in any directory, or any printed matter whatsoever,
8 with or without any limiting qualification. It also includes business
9 solicitations communicated by radio or television broadcasting.

10 (c) A violation of this section shall constitute a cause for
11 discipline by the State Board of Chiropractic Examiners. For
12 purposes of this subdivision, the board shall have the same powers
13 of suspension, revocation, and discipline as authorized by the
14 initiative measure referred to in Section 1000.

15 SEC. 4. The provisions of this act are severable. If any
16 provision of this act or its application is held invalid, that invalidity
17 shall not affect other provisions or applications that can be given
18 effect without the invalid provision or application.

19 SECTION 1. ~~Section 650.3 of the Business and Professions~~
20 ~~Code is amended to read:~~

21 ~~650.3. (a) Notwithstanding Section 650 or any other provision~~
22 ~~of law, it shall not be unlawful for a person licensed pursuant to~~
23 ~~the Chiropractic Act, or any other person, to participate in or~~
24 ~~operate a group advertising and referral service for chiropractors~~
25 ~~if all of the following conditions are met:~~

26 ~~(1) Patient referrals by the service are the result of patient~~
27 ~~initiated responses to service advertising.~~

28 ~~(2) The service advertises, if at all, in conformity with Section~~
29 ~~651.~~

30 ~~(3) The service does not employ a solicitor.~~

31 ~~(4) The service does not impose a fee on the member~~
32 ~~chiropractors that is dependent upon the number of referrals or~~
33 ~~amount of professional fees paid by the patient to the chiropractor.~~

34 ~~(5) Participating chiropractors charge no more than their usual~~
35 ~~and customary fees to any patient referred.~~

36 ~~(6) The service registers with the State Board of Chiropractic~~
37 ~~Examiners, providing its name and address.~~

38 ~~(7) The service files with the State Board of Chiropractic~~
39 ~~Examiners a copy of the standard form contract that regulates its~~

1 relationship with member chiropractors, which contract shall be
2 confidential and not open to public inspection.

3 (8) If more than 50 percent of its referrals are made to one
4 individual, association, partnership, corporation, or group of three
5 or more chiropractors, the service discloses that fact in all public
6 communications, including, but not limited to, communication by
7 means of television, radio, motion picture, newspaper, book, or
8 list or directory of healing arts practitioners.

9 (b) The State Board of Chiropractic Examiners may adopt
10 regulations necessary to enforce and administer this section.

11 (c) The State Board of Chiropractic Examiners or 10 individual
12 licensed chiropractors may petition the superior court of any county
13 for the issuance of an injunction restraining any conduct that
14 constitutes a violation of this section.

15 (d) It is unlawful and shall constitute a misdemeanor for a person
16 to operate a group advertising and referral service for chiropractors
17 without providing its name and address to the State Board of
18 Chiropractic Examiners.

19 (e) It is the intent of the Legislature in enacting this section not
20 to otherwise affect the prohibitions provided in Section 650. The
21 Legislature intends to allow the pooling of resources by
22 chiropractors for the purpose of advertising.

23 (f) This section shall not be construed in any manner that would
24 authorize a service to engage in the practice of chiropractic.