AN ACT
RELATING TO CHIROPRACTIC PRACTICE; AMENDING SECTION 54-704, IDAHO CODE, TO DEFINE TERMS, TO REQUIRE A CERTIFICATE IN SPECIALIZED CLINICAL NUTRITION IN ORDER TO ADMINISTER CERTAIN ROUTES OF CLINICAL NUTRITIONAL METHODS, TO AUTHORIZE THE STATE BOARD OF CHIROPRACTIC PHYSICIANS TO ISSUE A CERTIFICATE IN SPECIALIZED CLINICAL NUTRITION UPON THE ATTAINMENT OF CERTAIN EDUCATIONAL AND OTHER REQUIREMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 7, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-704A, IDAHO CODE, ESTABLISHING A CHIROPRACTIC NUTRITIONAL SUBSTANCE FORMULARY COUNCIL AND TO PROVIDE FOR ITS DUTIES; AMENDING SECTION 54-705, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR CHIROPRACTORS WHO HOLD A CERTIFICATE IN SPECIALIZED CLINICAL NUTRITION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-707, IDAHO CODE, TO AUTHORIZE THE BOARD OF CHIROPRACTIC PHYSICIANS TO PROMULGATE RULES REGARDING CERTIFICATION STANDARDS AND CONTINUING EDUCATION REQUIREMENTS; AND TO PROVIDE FOR EFFECTIVE DATES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-704, Idaho Code, be, and the same is hereby amended to read as follows:

54-704. CHIROPRACTIC PRACTICE. Chiropractic practice and procedures which may be employed by physicians are as follows:

1. The system of specific adjustment or manipulation of the articulations and tissues of the body; the investigation, examination and clinical diagnosis of conditions of the human body and the treatment of the human body by the application of manipulative, manual, mechanical, physiotherapeutic or clinical nutritional methods and may include the use of diagnostic X-rays.

a. "Adjustment" means the application of a precisely controlled force applied by hand or by mechanical device to a specific focal point on the anatomy for the express purpose of creating a desired angular movement in skeletal joint structures in order to eliminate or decrease interference with neural transmission and correct or attempt to correct subluxation complex; "chiropractic adjustment" utilizes, as appropriate, short lever force, high velocity force, short amplitude force, or specific line-of-correction force to achieve the desired angular movement, as well as low force neuromuscular, neurovascular, neuro-cranial, or neuro-lymphatic reflex technique procedures.

b. "Clinical nutritional methods" as referenced herein means to obtain and administer, prescribe, recommend, distribute or sell vitamins, minerals, botanicals, herbs, homeopathic, phytonutrients, antioxidants, enzymes and glandular extracts that are not listed as controlled substances identified in 21 CFR 1308. Clinical nutritional
methods shall include the administration, prescription, recommenda-
tion, distribution or sale of all over-the-counter vitamins, minerals
and botanical substances that are generally available to the public.

(i) All licensed chiropractic physicians can administer, pre-
scribe, recommend and distribute vitamins, minerals, botanicals,
herbals, homeopathic agents, phytocarbohydrates, antioxidants, en-
zymes and glandular extracts only via oral, enteral, topical and
transdermal routes of administration as long as the aforemen-
tioned substances do not require a prescription drug order as
described in subsection (2) of this section.

(ii) A chiropractor wishing to administer, prescribe, recom-
mend, distribute and sell natural substances referenced in sec-
tion 54-704A, Idaho Code, through intravenous, intramuscular,
 intra-articular, subcutaneous and subdermal routes of adminis-
tration, must apply for a certificate in specialized clinical
nutrition. This certificate will be governed by subsection (4) of
this section, by section 54-704A, Idaho Code, and by rules adopted
by the board.

(c) "Manipulation" means an application of a resistive movement by ap-
plying a nonspecific force without the use of a thrust, that is directed
into a region and not into a focal point of the anatomy for the general
purpose of restoring movement and reducing fixation.

(ed) "Massage therapy," also called massology, means the systematic
manual or mechanical mobilization of the soft tissue of the body by such
movements as rubbing, kneading, pressing, rolling, slapping and tap-
ning, for the purpose of promoting circulation of the blood and lymph,
relaxation of muscles, release from pain, restoration of metabolic bal-
ance, and the other benefits both physical and mental.

(e) "Prescribe," for purposes of this chapter, means the direction,
recommendation or suggestion, by a physician to a patient, of specific
activities or lack of activity, which may include, but is not limited
to, exercise, stretching, nutrition, diet, use of heat, ice, light,
natural substances referenced herein, and durable and nondurable medi-
cal equipment.

(2) Nothing herein contained shall allow any a licensed chiropractic
physician to:

(a) Perform surgical operations or surgical procedures or practice ob-
estetrics;
(b) Prescribe, dispense, independently administer, distribute, di-
rect or suggest to a patient that such patient shall use a drug,
substance which, under federal law is required or product that, prior to
being dispensed or delivered, is required by federal law to be labeled
with either any of the following statements: (i) "Caution: Federal Law
Prohibits Dispensing Without Prescription"; or (ii) "Rx Only"; (iii)
"Caution: Federal Law Restricts This Drug To Use By or On The Order Of A
Licensed Veterinarian"; or (iv) is a drug, substance or product which
that is required by any applicable federal or state law or regulation to
be dispensed on prescription drug order only or is restricted to use by
practitioners only, with the exception of those substances or products
approved by the chiropractic nutritional substance formulary council
identified and established in section 54-704A, Idaho Code, for use by chiropractic physicians holding a certificate in specialized clinical nutrition established in subsection (4) of this section.

(c) Nothing herein shall allow a chiropractic physician to obtain, administer, prescribe or dispense any prescription drug as defined in 21 CFR 1308, which includes schedules I-V of the uniform controlled substances schedule.

(3) Chiropractic practice, as herein defined is hereby declared not to be the practice of medicine within the meaning of the laws of the state of Idaho defining the same, and physicians licensed pursuant to this chapter shall not be subject to the provisions of chapter 18, title 54, Idaho Code, nor liable to any prosecution thereunder, when acting within the scope of practice as defined in this chapter.

(4) The state board of chiropractic physicians shall issue a certificate in specialized clinical nutrition to chiropractic physicians licensed in this state authorizing the chiropractic physician to administer, prescribe, recommend, distribute or sell clinical nutritional substances established in section 54-704A, Idaho Code. The certificate in specialized clinical nutrition for chiropractic physicians shall allow the holder to administer the substances listed in section 54-704A, Idaho Code, via intravenous, intramuscular, intra-articular, subcutaneous and subdermal routes of administration. Such a certificate shall be issued only to a chiropractic physician who:

(a) Has successfully completed a minimum of the following courses, which are taught by faculty employed at a chiropractic college or university accredited by an agency that is recognized by the United States department of education:

(i) Forty-four (44) hours of didactic human nutrition or nutritional pharmacology;
(ii) Forty-four (44) hours of practicum in human nutrition or nutritional pharmacology; and
(iii) Thirty-two (32) hours of practicum in chiropractic injectable nutrients, which must include sterile needle practices, phlebotomy, proper injection technique, intravenous safety practices, trigger point injections, intramuscular injections, intravenous therapy, lab testing and blood chemistry interpretation.

(b) On and after July 1, 2017, all active chiropractic physicians wishing to obtain the certificate in specialized clinical nutrition must first successfully complete the education outlined in subsection (4)(a) of this section.

(c) All chiropractic physicians holding the certificate in specialized clinical nutrition must maintain a current cardiopulmonary resuscitation (CPR) and basic life support (BLS) certification, as well as have BLS equipment on the chiropractic premises where treatment is being performed.

(d) All chiropractic physicians holding the specialized clinical nutrition certification must complete such regular and appropriate continuing education requirements as shall be established by the state.
board of chiropractic physicians pursuant to section 54-707(14), Idaho Code.

SECTION 2. That Chapter 7, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-704A, Idaho Code, and to read as follows:

54-704A. CHIROPRACTIC NUTRITIONAL SUBSTANCE FORMULARY COUNCIL. (1) There is hereby established a chiropractic nutritional substance formulary council, that is separate and distinct from the board of chiropractic physicians, to be composed of five (5) members. Two (2) members shall be chiropractic physicians licensed under this chapter and shall be appointed by the board of chiropractic physicians. At least one (1) of the chiropractic physicians shall have previous experience in utilizing injectable nutrition in the course of their practice. One (1) member shall be a pharmacist licensed under chapter 17, title 54, Idaho Code, and shall be appointed by the board of chiropractic physicians from a list of nominees provided by the Idaho state board of pharmacy. One (1) member shall be a medical physician licensed under chapter 18, title 54, Idaho Code, and shall be appointed by the board of chiropractic physicians from a list of nominees provided by the Idaho state board of medicine. One (1) member shall be a public member appointed by the board of chiropractic physicians from nominations from any source.

(2) The initial council shall be appointed as follows: one (1) chiropractic physician shall be appointed for a one (1) year term; one (1) medical physician licensed under chapter 18, title 54, Idaho Code, and one (1) pharmacist shall be appointed for a two (2) year term; and one (1) chiropractic physician and one (1) public member shall be appointed for a three (3) year term. Thereafter, the term of office shall be three (3) years. A quorum shall consist of three (3) members. No vote may be taken by the council without a quorum.

(3)(a) It shall be the duty of the chiropractic nutritional substance formulary council to establish a formulary for use by chiropractic physicians, and immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the board of chiropractic physicians, which shall review the formulary for board approval. The formulary will be reviewed annually by the chiropractic nutritional substance formulary council, or at any time at the request of the board. Any additions or subtractions to the chiropractic formulary approved by the chiropractic nutritional substance formulary council shall be reviewed and approved by the board prior to being adopted by rule.

(b) The chiropractic nutritional substance formulary council shall only be allowed to add substances to the chiropractic formulary that come from the following established categories:

(i) Vitamins. A group of organic compounds that are essential for normal growth and nutrition and are required in small quantities in the diet because they cannot be synthesized by the body;

(ii) Minerals. A group of inorganic compounds that are essential for growth and nutrition for the human body;
(iii) Botanical and herbal nutrients. A group of plant seeds, ber- ries, roots, leaves, bark or flowers that are used for medici- nal purposes;
(iv) Phytonutrients. A group of naturally occurring plant chem- icals not found in animal-based foods that are used for medicinal purposes;
(v) Antioxidants. A group of man-made or natural substances that may prevent or delay some type of cell damage;
(vi) Nondurable medical goods and ancillary substances. Certain medical goods are consistent and necessary for the administra- tion of injectable clinical nutritional administration, which specifically include needles, syringes, intravenous tubing sets, carrier solutions such as sterile water, oxygen, saline, lactated ringers, dextrose five percent (5%), procaine, lidocaine, heparin, epinephrine and diphenhydramine (benadryl).
(c) Nothing herein shall allow the members of the chiropractic nu- tritional substance formulary council to add any drugs or substances to the chiropractic formulary that come from the following legend drug categories: analgesics, antacids, antianxieties, antiarrhyth- mics, antibacterials, antibiotics, anticoagulants and thrombolytics, anticonvulsants, antidepressants, antifungals, antihypertensives, antipsychotics, antivirals, beta-blockers, bronchodilators, corti- costeroids, cytotoxics, hypoglycemics, immunosuppressives, muscle relaxants, sleeping drugs, tranquilizers or vaccines, unless those substances are identified as fitting into one (1) of the natural sub- stance categories identified in subsection (3)(b) of this section.
(d) Nothing herein shall allow the members of the chiropractic nu- tritional substance formulary council to add any drugs or substances to the chiropractic formulary that come from the uniform controlled sub- stances schedule defined in 21 CFR 1308.
(e) Following the approval of the original formulary, no substance or product shall be added to the formulary, obtained, administered, pre- scribed or dispensed, except those of a similar nature and character- istics as determined by the board to be consistent with the practice of chiropractic; provided that at least one hundred twenty (120) days' advance notice of the proposal to allow the use of such substances is given to the board of pharmacy and the board of medicine and neither board ob- jects to the addition of such substances to the chiropractic formulary.

SECTION 3. That Section 54-705, Idaho Code, be, and the same is hereby amended to read as follows:

54-705. EXCEPTIONS -- PROHIBITED PRACTICES -- NEGLIGENCE ESTAB- LISHED. (1) Under the circumstances described and, subject in each case to the limitations stated, the following persons, though not holding a license to practice chiropractic in this state, may engage in activities included in the practice of chiropractic:
(a) A person licensed by this state pursuant to chapter 18, title 54, Idaho Code;
(b) A chiropractic assistant as shall be defined and regulated by the board, administering a procedure set forth in section 54-704, Idaho Code, but not including the adjustment or manipulation of articulations of the body, as specifically directed by a chiropractic physician as long as such directions are within the scope of chiropractic practice; (c) A person rendering aid in an emergency, for which no fee for the services is contemplated, charged or received; (d) A person residing in another state or country and authorized to practice chiropractic there, who is called in consultation by a person licensed in this state to practice chiropractic, or who for the purpose of furthering chiropractic education is invited into this state to conduct a lecture, clinic or demonstration, while engaged in activities in connection with the consultation, lecture, clinic or demonstration, so long as he does not open an office or appoint a place to meet patients or receive calls in this state; (e) A person authorized to practice chiropractic in another state or country rendering chiropractic care in a time of disaster or while caring for an ill or injured person while at the scene of an emergency and while continuing to care for such person; (f) Nothing in this chapter shall be construed as preventing or restricting the practice, services or activities or requiring licensure pursuant to the provisions of this chapter, of any person licensed or registered in this state by any other law, from engaging in any health care profession or occupation for which such person is licensed or registered; (g) A medical officer of the armed forces of the United States, of the United States public health service, or of the veterans administration, while engaged in the performance of his official duties; (h) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician; (i) A person administering a family remedy to a member of the family; (j) A person authorized or licensed by this state to engage in activities which may involve the practice of medicine; (k) A person who administers treatment or provides advice regarding the human body and its functions that: (i) Does not use legend drugs or prescription drugs in such practice, except for chiropractors that have a limited use of prescriptive substances by obtaining a certificate in specialized clinical nutrition, as provided for in sections 54-704 and 54-704A, Idaho Code; (ii) Uses natural elements such as air, heat, water and light; (iii) Only uses class I or class II nonprescription, approved, medical devices as defined in section 513 of the federal food, drug and cosmetic act; (iv) Only uses vitamins, minerals, herbs, natural food products and their extracts, and nutritional supplements; and who (v) Does not perform surgery; (vi) Requires each person receiving services to sign a declaration of informed consent which includes an overview of the health care provider's education which states that the health care
provider is not an "M.D." or "D.O." and is not licensed under the
provisions of this chapter;

(1) Any person who practices massage therapy as defined in section
54-704(1)(ed), Idaho Code;

(m) A chiropractic intern, as defined and regulated by the board, who is
registered with the board to practice chiropractic under the direct su-
pervision of a licensed chiropractic physician pursuant to a preceptor
program adopted and developed by the rules of the board.

(2) Except as provided in subsection (1) of this section, it is unlaw-
ful for any person to practice chiropractic in this state without a license
and, upon conviction thereof, shall be fined not less than one thousand dol-
ars ($1,000) nor more than three thousand dollars ($3,000), or imprisoned
for not less than six (6) months nor more than one (1) year, or by both such
fine and imprisonment.

(3) It is unlawful for any person to assume or use the title or design-
ation "chiropractor," "chiropractic physician," "doctor of chiropractic,"
the initials "D.C.," or any word, title or abbreviation thereof calculated
to induce the belief that he is engaged in the practice of chiropractic or to
indicate to the public that such person is licensed to practice chiropractic
pursuant to this chapter unless such person is so licensed, and upon convic-
tion thereof, such person shall be fined not less than five hundred dollars
($500) nor more than three thousand dollars ($3,000), or imprisoned for not
less than six (6) months nor more than one (1) year, or by both such fine and
imprisonment.

(4) When a person has been a recipient of services constituting the un-
lawful practice of chiropractic, whether or not he knew the rendition of the
services was unlawful, proof of the rendition of unlawful services to the re-
cipient, in an action against the provider of such services for damages al-
legedly caused by the services, constitutes prima facie evidence of negli-
gence, shifting the burden of proof to such provider of unlawful services.
The following damages in addition to any other remedies provided by law may
be recovered in such an action:

(a) Amount of any fees paid for the unlawful services; and

(b) Reasonable attorney's fees and court costs.

(5) The board shall refer all violations made known to it to an appro-
priate prosecuting attorney. The board shall render assistance to a prose-
cuting attorney in the prosecution of a case pursuant to this section.

SECTION 4. That Section 54-707, Idaho Code, be, and the same is hereby
amended to read as follows:

54-707. POWERS AND DUTIES. The board shall have the authority to:

(1) Hire or appoint employees, including an executive director, inves-
tigators, attorneys, consultants and independent hearing examiners;

(2) Establish, pursuant to the provisions of chapter 52, title 67, Idaho Code, rules for the administration of the provisions of this chapter;

(3) Conduct investigations and examinations and hold hearings;

(4) Revoke or suspend licenses to practice chiropractic after provid-
ing the licensee with an opportunity for an appropriate contested case in ac-
cordance with the provisions of chapter 52, title 67, Idaho Code;
(5) In any disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have the power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may desire at any hearing and, for that purpose, the board may issue a subpoena for any witnesses or subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county in the state of Idaho, where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. The licensee accused in such proceedings shall have the same right of subpoena upon making application to the board therefor. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum, served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which this disobedience, neglect or refusal occurs, on application by the board to compel compliance with the subpoena, to issue its order directing compliance with such subpoena, and in the event of a violation of such order, to compel compliance with such order by proceedings for contempt as in the case of disobedience of the requirement of a subpoena issued from such court or for refusal to testify therein;

(6) Seek injunctive relief prohibiting the unlawful practice of chiropractic;

(7) Make and enter into contracts in the necessary performance of its duties pursuant to this chapter;

(8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions;

(9) Perform such other duties as set forth in the laws of this state;

(10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities;

(11) Adopt rules to provide for reasonable fees and for administrative costs and to assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation thereof;

(12) Adopt a rule requiring continuing education as a condition of continued licensure; and

(13) Adopt rules pursuant to chapter 52, title 67, Idaho Code, to establish and operate a system of peer review for chiropractic physicians which shall include, but not be limited to, the appropriateness, quality, utilization, and cost of chiropractic services and the ethical performance of chiropractic care; and

(14) Adopt rules pursuant to chapter 52, title 67, Idaho Code, to create and establish standards for a specialized clinical nutrition certification and continuing education standards required to maintain the certification.
SECTION 5. Sections 2 and 4 of this act shall be in full force and effect on and after July 1, 2016. Sections 1 and 3 of this act shall be in full force and effect on and after July 1, 2017.