

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 461

BY: LEFTWICH of the SENATE

and

BASTIN of the HOUSE

AS INTRODUCED

AN ACT RELATING TO PROFESSIONS AND OCCUPATIONS;

AMENDING 59 O.S. 1981, SECTIONS 161, AS LAST AMENDED BY SECTION 8, CHAPTER 225, O.S.L. 1988, 162, AS LAST AMENDED BY SECTION 1, CHAPTER 182, O.S.L. 1990, 163, AS AMENDED BY SECTION 3, CHAPTER 268, O.S.L. 1982, 164, AS LAST AMENDED BY SECTION 2, CHAPTER 163, O.S.L. 1990, 164a, AS AMENDED BY SECTION 1, CHAPTER 41, O.S.L. 1982, 164b, AS AMENDED BY SECTION 5, CHAPTER 268, O.S.L. 1982, SECTION 15, CHAPTER 260, O.S.L. 1984, 164c AND 164d, AS LAST AMENDED BY SECTIONS 2 AND 3, CHAPTER 182, O.S.L. 1990, 164f, 165, 167, 170, AS AMENDED BY SECTION 9, CHAPTER 268, O.S.L. 1982 AND SECTION 3, CHAPTER 176, O.S.L. 1985 (59 O.S. SUPP. 1990, SECTIONS 161, 162, 163, 164, 164a, 164b, 164b.2, 164c, 164d, 170 AND 170.1), WHICH RELATE TO THE LICENSURE OF CHIROPRACTIC PHYSICIANS; PROVIDING SHORT TITLE; DEFINING CHIROPRACTIC AND STATING SCOPE OF PRACTICE; DEFINING TERMS; MODIFYING DUTY AND QUALIFICATIONS OF MEMBERS OF BOARD OF CHIROPRACTIC EXAMINERS; STATING CONDITIONS FOR

REMOVING MEMBER FOR CAUSE; REQUIRING CERTAIN OATH AND PROVIDING FOR OFFICERS AND MEETINGS; REQUIRING BOND AND STATING LIABILITY OF MEMBERS; PROVIDING FOR COMPENSATION; CONFORMING LANGUAGE; MODIFYING POWERS AND DUTIES; MODIFYING DUTIES OF ADVISORY COMMITTEE; MODIFYING LICENSE APPLICATION PROVISIONS; MODIFYING EXAMINATION PROVISIONS; MODIFYING RECIPROCITY PROVISIONS, CONDITIONS FOR LICENSURE AND FEE RELATED THERETO; MODIFYING DOCUMENTED EVIDENCE REQUIRED FOR LICENSURE AND EDUCATION REQUIREMENTS; MODIFYING RENEWAL LICENSE PROVISIONS AND CONFORMING LANGUAGE; PROVIDING FOR REVOCATION AND REINSTATEMENT OF LICENSE UNDER CERTAIN CONDITIONS; MODIFYING PENALTIES; MODIFYING ACTS WHICH CONSTITUTE GROUNDS FOR PENALTIES; PROVIDING FOR JUDICIAL REVIEW; PROVIDING FOR GUIDELINES FOR DISCIPLINARY ACTIONS AND FOR EXPUNGING OF RECORD IF NO ACTION IS TAKEN; PROVIDING FOR SUSPENSION OF LICENSE FOR MENTAL ILLNESS AND FOR JUDICIAL REVIEW AND REINSTATEMENT OF LICENSE; MODIFYING CRIMINAL PENALTIES; CONFORMING LANGUAGE; MODIFYING SCHOLARSHIP PROVISIONS; MODIFYING PROVISIONS OF PRECEPTORSHIP PROGRAM; CLARIFYING LANGUAGE; CREATING REVOLVING FUND; PROVIDING FOR RECODIFICATION; REPEALING SECTION 6, CHAPTER 268, O.S.L. 1982 AND 59 O.S. 1981, SECTIONS 164e, 168, 169, AS AMENDED BY SECTION 4, CHAPTER 182, O.S.L. 1990 AND SECTION 4, CHAPTER 176, O.S.L. 1985 (59 O.S. SUPP. 1990, SECTIONS 164b.1, 169 AND 170.2), WHICH RELATE TO LICENSURE OF CHIROPRACTIC PHYSICIANS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 161.1 through 161.20 of Title 59 of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Chiropractic Practice Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

Chiropractic is the science and art that teaches health in anatomic relation and disease or abnormality in anatomic disrelation, and includes hygienic, sanitary and therapeutic measures incident thereto. The scope of practice of chiropractic shall include those diagnostic and treatment services and procedures which have been taught by an accredited chiropractic college.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Chiropractic Practice Act, these words, phrases or terms, unless the context otherwise indicates, shall have the following meanings:

1. "Accredited chiropractic college" means a chiropractic educational institution which is accredited by, or has candidate status with, the Council on Chiropractic Education, a national, independent accreditation body recognized and approved by the U.S. Department of Education;

2. "Applicant" means any person submitting an application for licensure to the Board;

3. "Board" means the Board of Chiropractic Examiners;

4. "Chiropractic physician", "chiropractor", "doctor of chiropractic" and "licensee" are synonymous and mean a person holding an original license to practice chiropractic in this state;

5. "Examination" means the process used by the Board, prior to the issuance of an original license, to test the qualifications and knowledge of an applicant in the basic sciences and the science and art of chiropractic;

6. "Intern" means a student at an accredited chiropractic college who is participating in the Chiropractic Undergraduate Preceptorship Program;

7. "Original license" means a license granting initial authorization to practice chiropractic in this state issued by the Board to an applicant found by the Board to meet the licensing requirements of the Oklahoma Chiropractic Practice Act, by examination pursuant to Section 161.7 of this title, or by reciprocity pursuant to Section 161.9 of this title;

8. "Preceptor" means a chiropractic physician who is participating in the Chiropractic Undergraduate Preceptorship Program;

9. "Reciprocity" means the recognition and approval by the Board, prior to the issuance of an original license, of the chiropractic licensing process in another state, country, territory or province; and

10. "Renewal license" means a license issued to a chiropractic physician by the Board, on or before the first day of January of each year, which authorizes such licensee to practice chiropractic in this state during the succeeding calendar year.

SECTION 4. AMENDATORY 59 O.S. 1981, Section 161, as last amended by Section 8, Chapter 225, O.S.L. 1988 (59 O.S. Supp. 1990, Section 161), is amended to read as follows:

Section 161. A. A Board of Chiropractic Examiners is hereby re-created to continue until July 1, 1993, in accordance with the provisions of the Oklahoma Sunset Law. Said Board shall regulate the practice of chiropractic in this state in accordance with the provisions of the Oklahoma Chiropractic Practice Act. The Board, appointed by the Governor, shall be composed of three (3) ~~chiropractors licensed to practice chiropractic in this state~~ chiropractic physicians and one (1) lay member representing the public ~~who shall participate only for the purpose of assisting in the review of consumer complaints and in rules and decision making.~~ ~~The lay member shall not participate in the examination or licensing of chiropractors, and shall not be a registered or licensed member of any healing art or be related by blood or marriage within the third degree to such person.~~ ~~The lay member shall be a resident of the state and shall serve for a term of three (3) years.~~ ~~The chiropractor members of the Board shall be graduates of legally chartered schools or colleges of chiropractic. Such members shall have practiced chiropractic continuously in this state for and during the five (5) years preceding their appointment.~~ The term of office for each member of the Board shall be three (3) years. One (1) chiropractic physician member shall be appointed to ~~said the~~ Board each year. Members of the Board shall serve beyond the expiration of their term until a successor is appointed by the Governor. The Governor shall, by appointment, fill all vacancies on ~~said the~~ Board for the balance of an unexpired term.

B. Each chiropractic physician member of the Board shall:

1. Be a legal resident of this state;
2. Have practiced chiropractic continuously in this state during the five (5) years immediately preceding his appointment;

3. Be free of pending disciplinary action or active investigation by the Board; and

4. Be a person of recognized professional ability, integrity and good reputation.

C. The lay member of the Board shall:

1. Be a legal resident of this state;

2. Not be a registered or licensed practitioner of any healing art or be related by blood or marriage within the third degree to any such person; and

3. Participate in Board proceedings only for the purposes of reviewing written complaints regarding the conduct of chiropractic physicians and formulating, adopting and promulgating rules pursuant to Article I of the Administrative Procedures Act.

D. A member may be removed from the Board by the Governor for cause which shall include, but not be limited to:

1. Ceasing to be qualified;

2. Being found guilty by a court of competent jurisdiction of a felony or any offense involving moral turpitude;

3. Being found guilty of malfeasance, misfeasance or nonfeasance in relation to his Board duties;

4. Being found mentally incompetent by a court of competent jurisdiction;

5. Being found in violation of the Oklahoma Chiropractic Practice Act; or

6. Failing to attend three (3) successive meetings of the Board without just cause, as determined by the Board.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Each member of the Board of Chiropractic Examiners shall take the constitutional oath of office before assuming his duties on the Board. The Board shall organize annually at the last meeting of

the Board before the beginning of the next fiscal year, by electing from its number a president, vice-president and secretary-treasurer. The Board shall hold regular meetings at least once each quarter at a time and place determined by the Board, and may hold such adjourned and special meetings as found by the Board to be expedient or necessary.

B. The president shall preside at meetings of the Board, arrange the Board agenda, sign Board orders and other required documents, coordinate Board activities and perform such other duties as may be prescribed by the Board.

C. The vice-president shall perform the duties of the president during the latter's absence or disability and shall perform such other duties as may be prescribed by the Board.

D. The secretary-treasurer shall:

1. Keep a record of all proceedings of the Board and certify to actions of the Board;

2. Receive and care for all monies received by the Board and cause the same to be disbursed upon orders of the Board;

3. Submit, at the first regular meeting of the Board after the end of each fiscal year, a full itemized report of the receipts and disbursements for the prior fiscal year, showing the amount of funds on hand; and

4. Perform such other duties as are prescribed in the Oklahoma Chiropractic Practice Act or which may be prescribed by the Board.

E. The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes; the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes; and the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

F. All members of the Board and such employees as determined by the Board shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

G. The liability of any member or employee of the Board acting within the scope of his Board duties or employment shall be governed by the Governmental Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes.

H. Members of the Board shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

SECTION 6. AMENDATORY 59 O.S. 1981, Section 162, as last amended by Section 1, Chapter 182, O.S.L. 1990 (59 O.S. Supp. 1990, Section 162), is amended to read as follows:

Section 162. A. ~~The Board of Chiropractic Examiners shall elect one member as president, one as vice president and one as secretary-treasurer, each of whom shall perform the duties generally appertaining to such offices.~~

~~The Board shall convene regularly on the second Saturday of January and July of each year, and shall hold such adjourned and special meetings as shall be found expedient or necessary.~~

~~B.~~ Pursuant to and in compliance with Article I of the Administrative Procedures Act, the Board of Chiropractic Examiners shall have the power to formulate, adopt and promulgate:

~~1. Rules and regulations~~ rules as may be necessary to regulate the practice of chiropractic in this state and to implement and enforce the provisions of Sections 161 et seq. of this title the Oklahoma Chiropractic Practice Act; and

~~2. Rules and regulations governing the professional conduct of chiropractic physicians for the purpose of establishing and maintaining a high standard of honesty, dignity, integrity and proficiency in the profession.~~

~~C.~~ B. The Board is authorized and empowered to establish:

1. Establish and maintain a procedure or system for the certification or accreditation of chiropractic physicians who are uniquely qualified in particular chiropractic or diagnostic specialties;

2. Establish a registration system and adopt and enforce standards for the education and training of chiropractic physicians who engage in the business of issuing professional opinions on the condition, prognosis or treatment of a patient without first examining the patient and all relevant diagnostic and treatment records.

~~D.~~ ~~The Board is authorized to:~~

3. Adopt and enforce standards governing the professional conduct of chiropractic physicians for the purpose of establishing and maintaining a high standard of honesty, dignity, integrity and proficiency in the profession.

~~1.~~ 4. Lease office space for the purpose of operating and maintaining a state office, and pay the rent thereon; provided, however, ~~beginning July 1, 1990,~~ such state office shall not be located in or directly adjacent to the office of any ~~licensed~~ practicing chiropractic physician;

~~2.~~ 5. Purchase office furniture, equipment and supplies;

~~3.~~ 6. Employ such office personnel as may be necessary, and fix and pay their salaries or wages;

~~4.~~ 7. Employ legal counsel, as needed, to represent the Board in all legal matters and to assist authorized state officers in prosecuting or restraining violations of ~~Sections 161 et seq. of this title~~ the Oklahoma Chiropractic Practice Act, and pay the fees for such services;

8. Order or subpoena the attendance of witnesses, the inspection of records and premises and the production of relevant

books and papers for the investigation of matters that may come before the Board;

~~5.~~ 9. Employ one or more investigators, as needed, for the sole purpose ~~set forth in Section 169 of this title~~ of investigating written complaints regarding the conduct of chiropractic physicians, and fix and pay their salaries or wages;

~~6.~~ 10. Pay the cost of such research programs in chiropractic as in the determination of the Board would be beneficial to the ~~licensed~~ chiropractic physicians in this state; and

~~7.~~ 11. Make such other expenditures as may be necessary in the performance of its duties.

~~E.~~ C. The Board shall appoint an Advisory Committee of four (4) chiropractic physicians and one (1) lay member representing the public who shall advise and assist the Board in:

1. Investigating the qualifications of applicants for ~~examination and licensure as chiropractic physicians~~ an original license to practice chiropractic in this state;

2. Investigating written complaints ~~as to~~ regarding the conduct of chiropractic physicians, including alleged violations of ~~Sections 161 et seq. of this title~~ the Oklahoma Chiropractic Practice Act or of the rules ~~and regulations~~ of the Board; and

3. Such other matters as the Board shall delegate to them.

The Advisory Committee shall be selected from a list of ten (10) chiropractic physicians and three (3) lay persons submitted by each chiropractic association or society in this state or any unaffiliated chiropractic physician ~~licensed in this state~~ desiring to submit a list. The ~~terms~~ term of service for members of the Advisory Committee shall be determined by the Board. ~~The~~ Members of the Advisory Committee shall be reimbursed for all actual and necessary expenses incurred in the ~~discharge of official~~ performance of their duties ~~as provided~~ in accordance with the State Travel Reimbursement Act.

SECTION 7. AMENDATORY 59 O.S. 1981, Section 163, as amended by Section 3, Chapter 268, O.S.L. 1982 (59 O.S. Supp. 1990, Section 163), is amended to read as follows:

Section 163. A. Applications for an original license by examination to practice chiropractic in this state shall be made to the Board of Chiropractic Examiners in writing. Such application shall be on a form and in a manner prescribed by the Board. In addition, the The application shall be supported by the affidavits of two ~~chiropractors~~ (2) chiropractic physicians, licensed to practice chiropractic in this state, who are not related to or under financial obligations to the applicant, showing the applicant to be ~~possessed~~ a person of good moral character. The application shall be accompanied by a fee of One Hundred Fifty Dollars (\$150.00), which shall ~~be retained by the Board. Such fee shall not be returned to the applicant. The fee shall also constitute payment of the first year's license fees~~ not be refundable under any circumstances. If the application is disapproved by the Board, it shall be returned to the applicant with the reason for its disapproval fully stated in writing. If the application is approved, the applicant, upon payment of an examination fee of One Hundred Fifty Dollars (\$150.00), may take ~~a written~~ an examination administered by the Board for the purpose of securing ~~a~~ an original license to practice as a chiropractor in this state. Any applicant who fails the examination may request to retake any portion of the examination for a fee of Seventy-five Dollars (\$75.00).

B. The Board shall issue an original license to those applicants who have passed the required examination with a score acceptable to the Board. No license fee shall be charged by the Board for the balance of the calendar year in which such a license is issued.

SECTION 8. AMENDATORY 59 O.S. 1981, Section 164, as last amended by Section 2, Chapter 163, O.S.L. 1990 (59 O.S. Supp. 1990, Section 164), is amended to read as follows:

Section 164. The examination administered by the Board of Chiropractic Examiners shall cover ~~such~~ those technical, professional and practical subjects ~~as~~ that relate to the practice of ~~the profession of~~ chiropractic. ~~The examination shall also cover the following subjects:~~ including, but not limited to, chiropractic principles, anatomy, histology, physiology, symptomatology, orthopedia, chemistry, spinography, diagnosis, sanitation and hygiene, pathology, public health service and adjustology. The ~~Board of Chiropractic Examiners~~ shall also examine each applicant in the art of chiropractic adjusting, x-ray, diagnostic laboratory procedures, physiological therapeutics and other subjects taught by accredited chiropractic colleges ~~approved by the Council on Chiropractic Education.~~

~~The Board shall issue licenses to all applicants whose applications have been approved by the Board, who have paid the required fees, and have passed the required examination attaining a score of not less than seventy-five percent (75%) on each subject. The license shall entitle the holder to practice the science of chiropractic, defined as follows:~~

~~"Chiropractic is defined to be the science that teaches health in anatomic relation and disease or abnormality in anatomic disrelation, and includes hygienic and sanitary measures incident thereto."~~

~~The secretary-treasurer shall submit, at the July meeting of the Board, a full itemized report of the receipts and disbursements for the year, showing the amount on hand. The fees retained by the Board shall be kept in a separate fund to be paid out only for the actual expenses of the Board, on the order of the Board, and signed by the president and secretary-treasurer of the Board. Each member~~

~~of said Board of Chiropractic Examiners shall receive travel expenses as provided in the State Travel Reimbursement Act.~~

SECTION 9. AMENDATORY 59 O.S. 1981, Section 164b, as amended by Section 5, Chapter 268, O.S.L. 1982 (59 O.S. Supp. 1990, Section 164b), is amended to read as follows:

~~Section 164b. Reciprocity may be granted with states having equal educational requirements at the discretion of the Board of Chiropractic Examiners. A license to practice chiropractic may be granted by the Board to any applicant who submits satisfactory evidence that such applicant has met all the requirements of Sections 161 through 170 of this title and has passed the examination given by the National Board of Chiropractic Examiners attaining a score of not less than seventy-five percent (75%) on each subject. Applicants~~

A. Applications for a reciprocal an original license by reciprocity to practice chiropractic in this state shall make application be made to the Board of Chiropractic Examiners in writing on a form and in a manner and upon forms prescribed by the Board and pass an oral interview and a practical examination. A The application shall be accompanied by a fee of One Hundred Fifty Dollars (\$150.00) to be retained by the Board shall accompany the application Three Hundred Dollars (\$300.00) which shall not be refundable under any circumstances. If the application is disapproved by the Board, it shall be returned to the applicant with the reason for its disapproval fully stated in writing.

B. The Board may, in its discretion, issue an original license by reciprocity to an applicant who is currently licensed to practice chiropractic in another state, country, territory or province, upon the following conditions:

1. That the applicant is of good moral character;
2. That the requirements for licensure in the state, country, territory or province in which the applicant is licensed are deemed

by the Board to be equivalent to the requirements for an original license in force in this state at the date of such license;

3. That the applicant has no disciplinary matters pending against him in any state, country, territory or province;

4. That the license being reciprocated was obtained by examination in the state, country, territory or province wherein it was issued, or was obtained by examination of the National Board of Chiropractic Examiners;

5. That the applicant passes an oral interview and a practical examination given by the Board; and

6. That the applicant meets all other requirements of the Oklahoma Chiropractic Practice Act.

No license fee shall be charged by the Board for the balance of the calendar year in which such a license is issued.

SECTION 10. AMENDATORY 59 O.S. 1981, Section 164a, as amended by Section 1, Chapter 41, O.S.L. 1982 (59 O.S. Supp. 1990, Section 164a), is amended to read as follows:

Section 164a. Applicants for an original license, by examination or reciprocity, to practice chiropractic in the State of Oklahoma this state shall show submit to the Board of Chiropractic Examiners documentary evidence of completion of a:

1. A course of standard high school education, and in addition thereto, satisfactory evidence of having completed a course of resident study of not less than four (4) years of nine (9) months each in an accredited school or college of chiropractic, and in addition thereto, after the first day of June, 1960, sixty (60);

2. Sixty (60) semester hours of college credits in a college or university whose credits are accepted by the University of Oklahoma; and

3. A course of resident study of not less than four (4) years of nine (9) months each in an accredited chiropractic college; provided, however, a senior student at an accredited chiropractic

college may, prior to graduation, make application for an original license by examination, but such a license shall not be issued until documentary evidence of such student's graduation from said college has been submitted to the Board.

~~An accredited school or college of chiropractic shall be a school or college teaching chiropractic which shall have a standard of education not below that of the 1978 Council on Chiropractic Education required for an accredited status.~~

~~The Board shall have the discretion to grant a license to any resident of this state who has completed the educational requirements at a college or university not accredited as provided by this section, provided at least one-half (1/2) of the required semester hours of college credit was completed prior to April 9, 1979.~~

SECTION 11. AMENDATORY 59 O.S. 1981, Section 164c, as last amended by Section 2, Chapter 182, O.S.L. 1990 (59 O.S. Supp. 1990, Section 164c), is amended to read as follows:

Section 164c. A. Except as provided in subsection B of this section, every person holding a an original license to practice chiropractic in ~~the State of Oklahoma~~ this state shall pay to the Board of Chiropractic Examiners ~~of the State of Oklahoma,~~ on or before the first day of January of each year, ~~an annual~~ a renewal license fee of One Hundred Fifty Dollars (\$150.00). The Board shall, upon receipt of the fee, issue a ~~chiropractic~~ renewal license, which shall entitle the holder to practice chiropractic in ~~the State of Oklahoma~~ this state during the succeeding calendar year. Before such ~~chiropractic~~ renewal license may be issued, the licensee shall present to the Board:

1. Satisfactory evidence that in the preceding year ~~preceding the application for renewal~~ the licensee attended two (2) days or more of ~~an educational or postgraduate~~ a continuing education program administered by a chiropractic association whose

constitution, bylaws and ~~postgraduate~~ continuing education program have been approved by the Board ~~of Chiropractic Examiners~~. One-half (1/2) day per year of continuing education credit may be obtained by attending a national chiropractic association meeting, or

2. Satisfactory evidence that the licensee was unavoidably prevented, by sickness or otherwise, from attending such ~~educational or postgraduate~~ a continuing education program, together with the recommendation of two (2) ~~licensed Oklahoma~~ chiropractic physicians who personally know the licensee and vouch for his good standing in the profession.

B. The Board is authorized, but is not required, to establish a reduced ~~annual~~ renewal license fee, in an amount less than One Hundred Fifty Dollars (\$150.00), for each of the following classes of licensees:

1. Persons who hold a an original license ~~to practice chiropractic in this state~~, but who are sixty-five (65) years of age or older and are not actively engaged in the practice of chiropractic in this state; and

2. Persons who hold a an original license ~~to practice chiropractic in this state~~, but who are nonresidents of Oklahoma and are not actively engaged in the practice of chiropractic in this state.

Each such licensee shall file a statement with the Board that he is not actively engaged in the practice of chiropractic in this state, and shall not engage in the practice of chiropractic in this state during the succeeding calendar year. ~~Each~~ Unless otherwise determined by the Board, each such licensee must comply with the other requirements of subsection A of this section in order to receive a ~~chiropractic~~ renewal license.

C. In the event that any licensee shall fail to comply with the requirements of this section, the licensee shall, upon order of the Board, forfeit the right to practice chiropractic in this state and

his original license shall be revoked; provided, however, that the Board may reinstate the original license of such person upon the payment of all fees due, plus a penalty fee in an amount fixed by the Board not to exceed twice the amount of the renewal license fee, and upon presentation to the Board of satisfactory evidence of compliance with the continuing education requirements of this section.

SECTION 12. AMENDATORY 59 O.S. 1981, Section 164d, as last amended by Section 3, Chapter 182, O.S.L. 1990 (59 O.S. Supp. 1990, Section 164d), is amended to read as follows:

Section 164d. A. The Board of Chiropractic Examiners is authorized, after notice and opportunity for a hearing, pursuant to Article II of the Oklahoma Administrative Procedures Act, to censure a chiropractic physician, or to revoke, or suspend for a period of time to be fixed by the Board, the original and renewal license of any licensed chiropractic physician of this state: to issue an order imposing one or more of the following penalties whenever it finds any chiropractic physician guilty of any of the acts set forth in subsection B of this section:

1. Disapproval of an application for a renewal license;
2. Revocation or suspension of an original license or renewal license, or both;
3. Restriction of the practice of a chiropractic physician;
4. Imposition of an administrative fine not to exceed One Thousand Dollars (\$1,000.00) for each count or separate offense;
5. Issuance of a reprimand; and
6. Placement of a chiropractic physician on probation for a period of time and subject to such conditions as the Board may specify, including requiring the chiropractic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another chiropractic physician.

B. The following acts by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board:

1. ~~Who, while holding such license, is~~ Being convicted of a felony or of any offense involving moral turpitude, or of violating the ~~narcotic laws~~ relating to controlled dangerous substances of the United States or ~~of~~ the State of Oklahoma. A copy of the judgment and sentence of said conviction, duly certified by the clerk of the court in which the conviction was obtained, and a certificate of said clerk that said conviction has become final, shall be sufficient evidence for ~~revocation or suspension of said license~~ the imposition of a penalty;

2. ~~Who is~~ Being habitually drunk or habitually ~~uses~~ using habit-forming drugs;

3. ~~Who makes use of~~ Using advertising in which statements are made that are fraudulent, deceitful or misleading to the public;

4. ~~Who aids or abets~~ Aiding or abetting any person not licensed to practice chiropractic in this state to practice chiropractic, except students who are regularly enrolled in ~~a~~ an accredited chiropractic ~~school or~~ college;

5. ~~Who practices or attempts~~ Practicing or attempting to practice major or minor surgery in this state, or ~~who uses~~ using electricity in any form for surgical purposes, including cauterization;

6. ~~Who uses or has~~ Using or having in his possession any instrument for treatment purposes, the use or possession of which has been prohibited or declared unlawful by any ~~legal~~ agency of the United States or ~~of~~ the State of Oklahoma;

7. ~~Who possesses, administers or prescribes~~ Unlawfully possessing, prescribing or administering any drug, medicine, serum or vaccine, ~~by a needle or otherwise, other than vitamins, minerals and nutritional supplements.~~ This section shall not prevent a

~~licensed doctor of chiropractic physician from possessing, prescribing or administering, by a needle or otherwise, vitamins, minerals or nutritional supplements, or from practicing within the scope of the science and art of chiropractic as defined in Section 164 161.2 of this title;~~

~~8. Who directly or indirectly advertises or displays Advertising or displaying, directly or indirectly, any certificate, diploma or other instrument document which conveys or implies information that said person is skilled in any healing art other than chiropractic unless he also possesses a valid current license in said healing art;~~

~~9. Who makes use of fraudulent or false statements of any material fact required in the application or by the rules and regulations of this Board as a part of any application for any license pursuant to Sections 161 through 170 of this title. Such action shall constitute sufficient cause for the rejection of the application;~~

~~10. Who obtains a Obtaining an original license or renewal license in a fraudulent manner;~~

~~11. Who violates 10. Violating any provision of the Oklahoma Chiropractic Code of Ethics Practice Act; or~~

~~12. Who violates 11. Violating any of the rules and regulations of the Board.~~

~~The licensee shall be notified by registered mail, directed to his last-known post office address, as shown by the records of the Board, at least thirty (30) days before the hearing. The notice shall set forth the date, hour and place of said hearing, and shall have attached a copy of the complaint which has been filed against the licensee. The Board shall have power to prescribe rules and regulations relating to such hearings. Any person whose license is revoked under the provisions of this section shall have the right to appeal to the district court.~~

~~It shall be the duty of the secretary-treasurer of the Board to enter upon the Board's record of each revoked or suspended license the fact of such revocation or suspension. When a period of suspension has expired, the secretary-treasurer of the Board, upon the payment of a reinstatement fee in the amount of One Hundred Dollars (\$100.00), shall enter upon the Board's record of such suspended license the fact of such reinstatement.~~

C. Any chiropractic physician against whom a penalty is imposed by an order of the Board under the provisions of this section shall have the right to seek a judicial review of such order pursuant to Article II of the Administrative Procedures Act.

D. When an original license or renewal license, or both, have been suspended under the provisions of this section, and the period of suspension has expired, such license or licenses shall be reinstated upon the payment to the Board of a reinstatement fee in the amount of One Hundred Dollars (\$100.00).

E. The Board may by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, conditions of probation, or conditions for the reinstatement of an original license or renewal license, or both.

F. If no disciplinary action is taken by the Board against a chiropractic physician within two (2) years after a complaint against such chiropractic physician is received by the Board, said complaint and all related documents shall be expunged from the records of the Board.

SECTION 13. AMENDATORY 59 O.S. 1981, Section 167, is amended to read as follows:

Section 167. A. The Board of Chiropractic Examiners, State of Oklahoma, may suspend is authorized, after notice and opportunity for a hearing, pursuant to Article II of the Administrative

Procedures Act, to issue an order suspending the original license or renewal license, or both, of any chiropractor holding a license to practice chiropractic in the State of Oklahoma when such chiropractor a chiropractic physician who becomes incompetent to practice chiropractic because of insanity mental illness. The same procedure, for giving notice of hearing for such suspension, shall be followed as is now provided by law for hearings on revocation of licenses of chiropractors for offenses involving moral turpitude. Commitment of a chiropractic physician to an institution for the insane mentally ill shall be considered prima facie evidence of insanity of any chiropractor his incompetency to practice chiropractic because of mental illness.

B. Any chiropractic physician who has his original license or renewal license, or both, suspended under the provisions of this section shall have the right to seek a judicial review of such order pursuant to the Administrative Procedures Act.

C. The Board, on its own motion or on the application of a chiropractic physician whose original license or renewal license, or both, have been suspended under the provisions of this section, is authorized, on proper showing that such chiropractic physician's competency to practice chiropractic has been restored, to reinstate such license or licenses at any time; provided, however, reinstatement shall not be made while such chiropractic physician is confined in an institution for the mentally ill. No reinstatement fee shall be charged by the Board for the reinstatement of any license which has been suspended under the provisions of this section.

SECTION 14. AMENDATORY 59 O.S. 1981, Section 164f, is amended to read as follows:

Section 164f. Any person ~~not in the legal possession of a valid current unrevoked chiropractic renewal license,~~ who after January 1, 1938, shall practice or attempt to practice chiropractic in this

state, or who shall hold himself out to the public ~~therein~~ as a ~~practitioner of chiropractic~~ physician in this state, without having first obtained an original license to practice chiropractic from the Board of Chiropractic Examiners, or after his original license to practice chiropractic has been revoked, or while such original license is under suspension, shall be deemed guilty of a misdemeanor and upon conviction shall be ~~punished~~ punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), or by imprisonment in the county jail for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment. Each day of such violation shall constitute a separate and distinct offense.

SECTION 15. AMENDATORY 59 O.S. 1981, Section 165, is amended to read as follows:

Section 165. Chiropractic ~~practitioners hereunder~~ physicians shall be bound by all the ~~health police regulations of this state~~ provisions of the Oklahoma Public Health Code that shall apply to them, and shall be qualified to sign death certificates, and all other certificates, including those relating to public health, the same as ~~medical practitioners~~ doctors of medicine and surgery and doctors of osteopathy, and with like effect. ~~It is further provided, that any person who shall practice chiropractic without having first procured the license provided for herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall for the first offense be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00); for each subsequent offense, shall be fined as for the first, and in addition thereto, confined in the county jail for not less than one (1) month and not more than three (3) months, and in either event shall pay the cost of prosecution.~~

SECTION 16. AMENDATORY 59 O.S. 1981, Section 170, as amended by Section 9, Chapter 268, O.S.L. 1982 (59 O.S. Supp. 1990, Section 170), is amended to read as follows:

Section 170. ~~There are hereby created semiannual chiropractic scholarships~~ A Chiropractic Education Scholarship Program, to be administered by the ~~Oklahoma State Board of Chiropractic Examiners~~ is hereby created. ~~Such Chiropractic education~~ Such Chiropractic education scholarships shall be awarded each fiscal year to persons ~~recommended~~ approved by the ~~Oklahoma State Board of Chiropractic Examiners~~ for the study of chiropractic leading to the attainment of the degree of doctor of chiropractic. To be eligible to receive a scholarship ~~an applicant~~ a person must:

1. Be a ~~citizen and~~ legal resident of ~~the~~ this state for not less than five (5) years prior to the date of his application;
2. Meet ~~the~~ all requirements and academic standards ~~approved~~ established by the ~~Oklahoma State Board of Chiropractic Examiners~~ for admission to a chiropractic college; and
3. Attend ~~a~~ an accredited chiropractic college ~~approved by the~~ Oklahoma State Board of Chiropractic Examiners; and
4. Demonstrate that he is making satisfactory progress in his study of chiropractic.

Preference in the granting of ~~the~~ such scholarships shall be given to those ~~applicants~~ individuals with the highest weighted scholastic averages, provided they are persons of high integrity and character and ~~provided further that such applicants shall be~~ are found by the Board to have ~~such those~~ those qualities and attributes ~~as shall~~ which give a reasonable assurance of their pursuing to completion the course of study for attainment of the degree of doctor of chiropractic. The scholarships shall be awarded ~~on a semiannual basis~~, in an amount not to exceed ~~Two Thousand Dollars (\$2,000.00)~~ Three Thousand Dollars (\$3,000.00) each year per student. No student shall be given more than four (4) annual scholarships ~~of Two~~

~~Thousand Dollars (\$2,000.00) each year. The Board is authorized to accept any federal, state, county or private funds, grants or appropriations which shall to be used to award such scholarships to qualified persons and any supplies or equipment which may be made available to the Board for hospital facilities, goods and services. The State Board of Chiropractic Examiners shall have the authority to make reasonable rules and regulations for carrying out the provisions of this section.~~

SECTION 17. AMENDATORY Section 15, Chapter 260, O.S.L. 1984 (59 O.S. Supp. 1990, Section 164b.2), is amended to read as follows:

Section 164b.2 A Chiropractic Undergraduate Preceptorship Program ~~for this state,~~ in conjunction with accredited chiropractic colleges, shall be established by the Board of Chiropractic Examiners, who may appoint five (5) ~~chiropractors licensed to practice chiropractic in this state~~ chiropractic physicians to administer ~~this~~ the program.

~~The participating~~ Each intern in the program shall pay a nonrefundable fee of Thirty-five Dollars (\$35.00) to the Board ~~of Chiropractic Examiners~~ each trimester the intern participates in the program.

The Board ~~of Chiropractic Examiners~~ shall ~~adopt rules and regulations as may be necessary to~~ by rule establish ~~minimum standards and requirements,~~ qualifications and responsibilities for ~~the participating intern and chiropractic institution~~ interns, preceptors and accredited chiropractic colleges participating in the program.

~~The participating chiropractic institution shall have a standard of education not below that required by the 1978 Council on Chiropractic Education for accreditation status.~~

SECTION 18. AMENDATORY Section 3, Chapter 176, O.S.L. 1985 (59 O.S. Supp. 1990, Section 170.1), is amended to read as follows:

Section 170.1 A. There is hereby created the "Oklahoma Chiropractic Code of Ethics". This Code of Ethics is based upon the fundamental principle that the ultimate end and ~~object~~ objective of the ~~chiropractor's~~ chiropractic physician's professional services and effort should be: "The greatest good for the patient."

B. Responsibility to the patient:

1. Chiropractic physicians should hold themselves ready at all times to respond to the call of those needing their professional services, although they are free to accept or reject a particular patient except in an emergency;

2. Chiropractic physicians should attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments;

3. Having once undertaken to serve a patient, chiropractic physicians should not neglect the ~~patients~~ patient. Chiropractic physicians should not terminate their professional services to patients without taking reasonable steps to protect such patients, including due notice to them allowing sufficient time for obtaining professional services of others, delivering to their patients all papers and documents in compliance with paragraph 5 of this ~~subsection A of this Code of Ethics~~;

4. Chiropractic physicians should endeavor to practice with the highest degree of professional competency and honesty in the proper care of their patients;

5. Chiropractic physicians should comply with a patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records. A reasonable charge may be made for the cost of ~~duplicating~~ copying records;

6. Subject to paragraph 5 of this subsection A, chiropractic physicians should preserve and protect the patient's confidences and records, except as the patient directs or consents, or if the law requires otherwise. They should not discuss a patient's history, symptoms, diagnosis, or treatment with a lawyer until they have received the informed consent of the patient or the patient's personal representative. They should avoid exploiting the trust and dependency of their patients;

7. Chiropractic physicians owe loyalty, compassion and respect to their patients. Their clinical judgment and practice should be objective and exercised solely for the patient's benefit;

8. Chiropractic physicians should recognize and respect the right of every person to free choice of ~~chiropractors~~ chiropractic physicians or other health-care providers and to the right to change such choice at will;

9. Chiropractic physicians are entitled to receive proper and reasonable compensation for their professional services commensurate with the value of the services they have rendered in the light of their experience, the time required, the reputation and nature of the condition involved. Chiropractic physicians should terminate a professional relationship when it becomes reasonably clear that the patient is not benefiting from it. Chiropractic physicians should support and participate in proper activities designed to enable access to necessary chiropractic care on the part of persons unable to pay such reasonable fees;

10. Chiropractic physicians should maintain the highest standards of professional and personal conduct and should refrain from all illegal or morally reprehensible conduct;

11. Chiropractic physicians should be ready to consult and seek the talents of other health-care professionals when such consultation would benefit their patients or when their patients express a desire for such consultation;

12. Chiropractic physicians should assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient should make his or her own determination on such treatment; and

13. Chiropractic physicians should utilize only those laboratory and x-ray procedures, and such devices or nutritional products that are in the best interest of the patient and not in conflict with state ~~statute~~ statutes or administrative rulings.

C. Responsibility to the public:

1. Chiropractic physicians should act as members of a learned profession dedicated to the promotion of health, the prevention of illness and the alleviation of suffering;

2. Chiropractic physicians should observe the appropriate laws, decisions and ~~regulations~~ rules of state governmental agencies and cooperate with the pertinent activities and policies of associations legally authorized to regulate or assist in the regulation of chiropractic physicians;

3. Chiropractic physicians should participate as responsible citizens in the public affairs of their local community, state and nation in order to improve ~~law~~ laws, administrative procedures and public policies that pertain to chiropractic and the system of health-care delivery. Chiropractic physicians should stand ready to take the initiative in the proposal and development of measures to benefit the health and well-being of the general public, and should cooperate in the administration and enforcement of such measures and programs to the extent consistent with law;

4. Chiropractic physicians may advertise but should exercise utmost care that such advertising is relevant to the selection of a ~~chiropractor~~ chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the ~~chiropractor's~~ chiropractic physician's professional status and area of special competence. Communications

to the public should not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians should conform to all applicable state laws, ~~regulations~~ rules and judicial decisions in connection with professional advertising;

5. Chiropractic physicians should continually strive to improve their skill and competency by keeping abreast of current developments contained in ~~the~~ health and scientific literature, and by participating in chiropractic continuing ~~chiropractic educational~~ education programs and utilizing all other appropriate means;

6. Chiropractic physicians may testify either as experts or when their patients are involved in court cases, workers' compensation proceedings or in other similar ~~administrative~~ proceedings in personal injury or related cases;

7. The chiropractic profession should address itself to improvements in licensing procedures consistent with the development of the profession and of relevant advances in science;

8. Chiropractic physicians who are public officers part time or full time, should not engage in activities which are, or may be perceived to be, in conflict with their official duties; and

9. Chiropractic physicians should protect the public and reputation of the chiropractic profession by bringing to the attention of the appropriate public or private organizations ~~chiropractors~~ those chiropractic physicians who engage in deception, fraud or dishonesty, or otherwise engage in conduct inconsistent with this Code of Ethics ~~or relevant provisions of applicable law or regulations within~~, the rules of the Board of Chiropractic Examiners, or the laws of this state.

D. Responsibility to the profession:

1. Chiropractic physicians should assist in maintaining the integrity, competency and highest standards of the chiropractic profession;

2. Chiropractic physicians should, by their behavior, avoid even the appearance of professional impropriety and should recognize that their public behavior may have an impact on the ability of the profession to serve the public. Chiropractic physicians should promote public confidence in the chiropractic profession;

3. Chiropractic physicians and their immediate dependents should receive gratuitous professional services from other doctors of chiropractic;

4. As teachers, chiropractic physicians should recognize their obligation to help others acquire knowledge and skill in the practice of the profession. They should maintain high standards of scholarship, education, training and objectivity in the accurate and full dissemination of information and ideas;

5. Chiropractic physicians should promote and maintain cordial relationships with other members of the chiropractic profession and other professions for the exchange of information advantageous to the public's health and well-being; and

6. Chiropractic physicians ~~should~~ shall be listed in all directories as Physicians, Chiropractic. In addition, chiropractic physicians, at their discretion, may be listed as Chiropractor or Doctor of Chiropractic.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.20 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Board of Chiropractic Examiners, to be designated as the "Board of Chiropractic Examiners' Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board pursuant to the provisions of the Oklahoma Chiropractic Practice Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board for the purpose of

implementing and enforcing the provisions of the Oklahoma Chiropractic Practice Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims signed by the secretary-treasurer of the Board or by an authorized employee or employees of the Board and filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 20. RECODIFICATION 59 O.S. 1981, Section 161, as last amended by Section 4 of this act, shall be recodified as Section 161.4 of Title 59 of the Oklahoma Statutes. 59 O.S. 1981, Sections 162, as last amended by Section 6 of this act, 163, as last amended by Section 7 of this act, 164, as last amended by Section 8 of this act, 164b, as last amended by Section 9 of this act, 164a, as last amended by Section 10 of this act, 164c, as last amended by Section 11 of this act, 164d, as last amended by Section 12 of this act, 167, as amended by Section 13 of this act, 164f, as amended by Section 14 of this act, 165, as amended by Section 15 of this act, 170, as last amended by Section 16 of this act, Section 15, Chapter 260, O.S.L. 1984 (59 O.S. Supp. 1990, Section 164b.2), as amended by Section 17 of this act, and Section 3, Chapter 176, O.S.L. 1985 (59 O.S. Supp. 1990, Section 170.1), as amended by Section 19 of this act, shall be recodified as Sections 161.6 through 161.18 of Title 59 of the Oklahoma Statutes respectively.

SECTION 21. REPEALER Section 6, Chapter 268, O.S.L. 1982 and 59 O.S. 1981, Sections 164e, 168 and 169, as amended by Section 4, Chapter 182, O.S.L. 1990, and Section 4, Chapter 176, O.S.L. 1985 (59 O.S. Supp. 1990, Sections 164b.1, 169 and 170.2), are hereby repealed.

SECTION 22. This act shall become effective October 1, 1991.

43-1-5701 KSM