ENROLLED SENATE
BILL NO. 1032

By: Stipe of the Senate

and

Crocker of the House

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 161.3, 161.4, as amended by Section 1, Chapter 193, O.S.L. 1993, 161.5, 161.6, 161.7, 161.11 and 161.14 (59 O.S. Supp. 1993, Section 161.4), which relate to the Board of Chiropractic Examiners; modifying definition; modifying certain term of office and appointment procedures; modifying causes for removal of Board member; requiring certain oaths or affirmations; modifying meeting requirements; authorizing certain meetings; modifying powers and duties; granting power to establish minimum standards for continuing education programs; modifying certain requirements and procedures relating to application for license; deleting certain retesting provision and related fee; modifying provision for waiver of continuing education; providing for suspension of license if certain requirements are not met; modifying fine; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 161.3, is amended to read as follows:

Section 161.3 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 the Commission on Accreditation of the Council on Chiropractic Education, a national, independent accreditation body recognized and approved by the U.S. Department of Education, or its successor;

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", "practitioner 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 2. AMENDATORY 59 O.S. 1991, Section 161.4, as amended by Section 1, Chapter 193, O.S.L. 1993 (59 O.S. Supp. 1993, Section 161.4), is amended to read as follows:

Section 161.4 A. A Board of Chiropractic Examiners is hereby re-created to continue until July 1, 1999, in accordance with the provisions of the Oklahoma Sunset Law. ~~Said~~ The 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) chiropractic physicians and one (1) lay member representing the public. ~~The term of office for each member of the Board shall be three (3) years. One (1) chiropractic physician member shall be appointed to the Board each year. Members of the Board shall serve beyond the expiration of their term of office until a successor is appointed by the Governor. The Governor shall, by appointment, fill all vacancies on 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 to the Board;

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 of the healing ~~art~~ arts or be related ~~by blood or marriage~~ within the third degree of consanguinity or affinity to any such person; and

3. Participate in Board proceedings only for the purposes of:

a. reviewing, investigating and disposing of written complaints regarding the conduct of chiropractic physicians, and

b. formulating, adopting and promulgating rules pursuant to Article I of the Administrative Procedures Act.

D. The term of office of each chiropractic physician member of the Board shall be three (3) years, with one such member being appointed each year. The lay member of the Board shall serve a term coterminous with that of the Governor. Each member shall hold office until the expiration of the term of office for which appointed or until a qualified successor has been duly appointed. An appointment shall be made by the Governor within ninety (90) days after the expiration of the term of any member, or the occurrence of a vacancy on the Board due to resignation, death, or any other cause resulting in an unexpired term.

E. Before assuming duties on the Board, each member shall take and subscribe to the oath or affirmation provided in Article XV of the Oklahoma Constitution, which oath or affirmation shall be administered and filed as provided in said article.

F. 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, through due process, 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 any provision of the Oklahoma Chiropractic Practice Act; or

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

SECTION 3. AMENDATORY 59 O.S. 1991, Section 161.5, is amended to read as follows:

Section 161.5 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 of Chiropractic Examiners shall organize annually at the ~~last~~ first meeting of the Board ~~before~~ after the beginning of ~~the next~~ each fiscal year, by electing from among its ~~number~~ members a president, a vice-president and a secretary-treasurer. The Board shall hold ~~regular~~ regularly scheduled meetings at least once each quarter at a time and place determined by the Board, and may hold such ~~adjourned and~~ special meetings, emergency meetings, or continued or reconvened meetings as found by the Board to be expedient or necessary. A majority of the Board shall constitute a quorum for the transaction of business.

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~~ president'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 deposited in the Board of Chiropractic Examiners' Revolving Fund and 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 as 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 4. AMENDATORY 59 O.S. 1991, Section 161.6, is amended to read as follows:

Section 161.6 A. 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 rules as may be necessary to regulate the practice of chiropractic in this state and to implement and enforce the provisions of the Oklahoma Chiropractic Practice Act.

B. The Board is authorized and empowered to:

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;

3. Adopt and enforce standards governing the professional conduct of chiropractic physicians, consistent with the provisions of the Oklahoma Chiropractic Practice Act, for the purpose of establishing and maintaining a high standard of honesty, dignity, integrity and proficiency in the profession;

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

5. Purchase office furniture, equipment and supplies;

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

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 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;

9. Employ one or more investigators, as needed, for the sole purpose of investigating written complaints regarding the conduct of chiropractic physicians, and fix and pay their salaries or wages;

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

11. Establish minimum standards for continuing education programs administered by chiropractic associations pursuant to Section 161.11 of this title; and

12. Make such other expenditures as may be necessary in the performance of its duties.

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 an original license to practice chiropractic in this state;

2. Investigating written complaints regarding the conduct of chiropractic physicians, including alleged violations of the Oklahoma Chiropractic Practice Act or of the rules 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 desiring to submit a list. The term of service for members of the Advisory Committee shall be determined by the Board. Members of the Advisory Committee 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 5. AMENDATORY 59 O.S. 1991, Section 161.7, is amended to read as follows:

Section 161.7 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 on a form and in a manner prescribed by the Board. The application shall be supported by the affidavits of two (2) ~~chiropractic physicians,~~ persons who hold a valid license to practice chiropractic in this state or in another state, country, territory or province, and who are not related to or under financial obligations to the applicant, showing the applicant to be a person of good moral character. The application shall be accompanied by a fee of One Hundred Fifty Dollars ($150.00), which shall not be refundable under any circumstances. If the application is disapproved by the Board, ~~it shall be returned to the applicant~~ the applicant shall be so notified by the secretary-treasurer of the Board, with the reason for ~~its~~ such 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 an examination administered by the Board for the purpose of securing an original license. ~~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 6. AMENDATORY 59 O.S. 1991, Section 161.11, is amended to read as follows:

Section 161.11 A. Except as provided in subsection B of this section, every person holding an original license to practice

chiropractic in this state shall pay to the Board of Chiropractic Examiners, on or before the first day of January of each year, a renewal license fee of One Hundred Fifty Dollars ($150.00). ~~The Board shall, upon receipt of the fee, issue a renewal license, which shall entitle the holder to practice chiropractic in this state during the succeeding calendar year. Before such renewal license may be issued, the~~ In addition, each licensee shall present to the Board~~:~~

~~1. Satisfactory~~ satisfactory evidence that during the preceding year the licensee attended ~~two (2) days or more~~ at least twelve (12) hours of a continuing education program administered by a chiropractic association whose constitution, bylaws and continuing education program have been approved by the Board. ~~One-half (1/2) day~~ Three (3) hours 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 a continuing education program, together with the recommendation of two (2) chiropractic physicians who personally know the licensee and vouch for his good standing in the profession~~. The Board may, in its discretion, waive the continuing education requirement for a licensee if the licensee has presented to the Board satisfactory evidence that said licensee was unavoidably prevented, by illness or otherwise, from attending such a continuing education program.

B. The Board is authorized, but is not required, to establish a reduced 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 an original license, 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 an original license, 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. 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 renewal license.

C. The Board shall, upon determination that a licensee has complied with the requirements of subsection A or subsection B of this section, issue a renewal license to said licensee.

D. In the event ~~that any~~ a licensee ~~shall fail~~ fails to comply with the requirements of this section, the original license of such licensee shall, upon order of the Board, be suspended or 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~~ requirement of this section.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 161.14, is amended to read as follows:

Section 161.14 Any person who shall practice or attempt to practice chiropractic in this state, or who shall hold himself out to the public as a practitioner of chiropractic 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 punishable by a fine of not less than ~~Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00)~~ Five Hundred Dollars ($500.00) nor more than Two Thousand Dollars ($2,000.00), 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 8. This act shall become effective September 1, 1994.

Passed the Senate the 17th day of May, 1994.

President of the Senate

Passed the House of Representatives the 25th day of May, 1994.

Speaker of the House of Representatives