

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2917

By: Lindley

AS INTRODUCED

An Act relating to chiropractics; amending 59 O.S. 1991, Sections 161.11, as amended by Section 6, Chapter 390, O.S.L. 1994, 161.12, as amended by Section 1, Chapter 90, O.S.L. 1997, and 161.15 (59 O.S. Supp. 1997, Sections 161.11 and 161.12), which relate to the Board of Chiropractic Examiners; modifying certain fees; specifying reinstatement fee and renewal fees; modifying licensure requirements; adding to list of prohibited activity; requiring certain fees and information for certain renewals and reinstatements; amending 70 O.S. 1991, Section 1210.192, which relates to certain certificates and exemptions; adding to list of type of certificates which can be signed by doctors of chiropractics; clarifying language relating to certificates that can be submitted; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 161.11, as amended by Section 6, Chapter 390, O.S.L. 1994 (59 O.S. Supp. 1997, 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)~~ One Hundred Dollars (\$100.00). In addition, each licensee shall present to the Board satisfactory evidence that during the preceding year the licensee attended ~~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. Three (3) hours per year of continuing education credit may be obtained by attending a national chiropractic association meeting. 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)~~ One Hundred Dollars (\$100.00), 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 a licensee 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:~~

1. Payment of a reinstatement fee in an amount fixed by the Board not to exceed ~~twice the amount of the renewal license fee, and upon presentation~~ Three Hundred Dollars (\$300.00);

2. Payment of the renewal license fee for the calendar year in which the original license is reinstated; and

3. Presentation to the Board of satisfactory evidence of compliance with the continuing education requirement of this section for the calendar year in which the original license is reinstated.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 161.12, as amended by Section 1, Chapter 90, O.S.L. 1997 (59 O.S. Supp. 1997, Section 161.12), is amended to read as follows:

Section 161.12 A. The Board of Chiropractic Examiners is authorized, after notice and an opportunity for a hearing pursuant to Article II of the Administrative Procedures Act, to issue an order imposing one or more of the following penalties whenever the Board finds, by clear and convincing evidence, that a chiropractic physician has committed any of the acts or occurrences 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 under such terms and conditions as deemed appropriate by the Board;

4. An administrative fine not to exceed One Thousand Dollars (\$1,000.00) for each count or separate violation;

5. A censure or reprimand; and

6. Placement of a chiropractic physician on probation for a period of time and under such terms and 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 or occurrences 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. Pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, or a violation of federal or state controlled dangerous substances laws. A copy of the judgment and sentence of the conviction, duly certified by the clerk of the court in which the conviction was obtained, and a certificate of the clerk that the conviction has become final, shall be sufficient evidence for the imposition of a penalty;

2. Being habitually drunk or habitually using habit-forming drugs;

3. Using advertising in which statements are made that are fraudulent, deceitful or misleading to the public;

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

5. Performing or attempting to perform major or minor surgery in this state, or using electricity in any form for surgical purposes, including cauterization;

6. 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 agency of the United States or the State of Oklahoma;

7. Unlawfully possessing, prescribing or administering any drug, medicine, serum or vaccine. This section shall not prevent a 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 161.2 of this title;

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

9. Obtaining an original license or renewal license in a fraudulent manner;

10. Obtaining or using information from an accident report or a copy thereof for the purpose of making a commercial solicitation, as prohibited by subsection B of Section 40-102 of Title 47 of the Oklahoma Statutes. A conviction in a criminal action for violating subsection B of Section 40-102 of Title 47 of the Oklahoma Statutes shall not be a condition precedent to the issuance of an order by the Board imposing a penalty for the act or occurrence described in this paragraph;

11. Violating any provision of the Oklahoma Chiropractic Practice Act; or

~~11.~~ 12. Violating any of the rules of the Board.

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 the 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, the license or licenses shall be reinstated upon ~~the payment to the Board:~~

1. Payment of a reinstatement fee in ~~the~~ an amount of ~~One Hundred Dollars (\$100.00)~~ fixed by the Board not to exceed Three Hundred Dollars (\$300.00);

2. Payment of the renewal license fee for the calendar year in which the original license is reinstated; and

3. Presentation to the Board of satisfactory evidence of compliance with the continuing education requirement of Section 161.11 of this title for the calendar year in which the original license is reinstated.

E. The Board may, by rule, establish guidelines for the disposition of disciplinary cases involving specific types of violations. The guidelines may include:

1. Minimum and maximum administrative fines;
2. Periods of suspension, probation or supervision;
3. Terms and conditions of probation; and
4. Terms and conditions for the reinstatement of an original license or renewal license, or both.

F. The Board is authorized to issue a confidential letter of concern to a chiropractic physician when, though evidence does not warrant initiation of an individual proceeding, the Board has noted indications of possible errant conduct by the chiropractic physician that could lead to serious consequences and formal action by the Board.

G. If no order imposing a penalty against a chiropractic physician is issued by the Board within two (2) years after a complaint against the chiropractic physician is received by the Board, the complaint and all related documents shall be expunged from the records of the Board.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 161.15, is amended to read as follows:

Section 161.15 Doctors of chiropractic shall be bound by all the provisions of the Oklahoma Public Health Code that apply to them, and shall be qualified to sign ~~death~~:

1. Death certificates, and all pursuant to Section 1-317 of Title 63 of the Oklahoma Statutes;

2. Immunization exemption certificates, pursuant to Section 1210.192 of Title 70 of the Oklahoma Statutes; and

3. All other certificates, including those relating to public health, the same as doctors of medicine and surgery and doctors of osteopathy osteopathic medicine, and with like effect.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 1210.192, is amended to read as follows:

Section 1210.192 Any minor child, through ~~his~~ the parent or, guardian, or legal custodian of the child, may submit to the health authority charged with the enforcement of the immunization laws ~~of~~ of this state;

1. A certificate of a licensed physician as defined in Section 725.2 of Title 59 of the Oklahoma Statutes, stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or ~~upon receipt of a~~

2. A written statement by the parent or, guardian or legal custodian of the child objecting to ~~such tests or immunizations and said~~ immunization of the child;

when upon the child shall be exempt from the provisions of this act immunization laws of this state.

SECTION 5. This act shall become effective November 1, 1998.

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