

SHORT TITLE: Practice of chiropractic; requiring standard of clear and convincing evidence for certain disciplinary actions; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 222

By: Stipe

AS INTRODUCED

An Act relating to practice of chiropractic; amending 59 O.S. 1991, Sections 161.12, 161.13 and 731.7, which relate to disciplinary actions and spinal manipulation; requiring standard of clear and convincing evidence for certain disciplinary actions; clarifying language; modifying sanctions and providing for confidential letter of concern; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 161.12, 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 ~~it~~ the Board finds ~~any~~, by clear and convincing evidence, that a chiropractic physician ~~guilty of~~ 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. ~~Imposition of an~~ An administrative fine not to exceed One Thousand Dollars (\$1,000.00) for each count or separate ~~offense~~ violation;

5. ~~Issuance of a~~ A censure or reprimand; and

6. Placement of a chiropractic physician on probation for a period of time and ~~subject to~~ 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. ~~Being~~ Pleading guilty or nolo contendere to, or being convicted of, a felony or of any offense, a misdemeanor involving moral turpitude, or ~~of violating the laws relating to~~ a violation of federal or state controlled dangerous substances of the United States or the State of Oklahoma laws. A copy of the judgment and sentence of ~~said~~ the conviction, duly certified by the clerk of the court in which the conviction was obtained, and a certificate of ~~said~~ the clerk that ~~said~~ 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 ~~said~~ 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. Violating any provision of the Oklahoma Chiropractic Practice Act; or

11. 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 ~~such~~ 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, ~~such~~ the 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~~ The guidelines may include ~~minimum:~~

1. Minimum and maximum administrative fines, ~~periods;~~

2. Periods of ~~supervision or~~ suspension, probation, ~~or~~ supervision;

3. Terms and conditions of probation, ~~or;~~ 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 ~~such~~ the chiropractic physician is received by the Board, ~~said~~ the complaint and all related documents shall be expunged from the records of the Board.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 161.13, is amended to read as follows:

Section 161.13 A. The Board of Chiropractic Examiners 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 a chiropractic physician ~~who becomes~~ whenever the Board finds, by clear and convincing evidence, that the chiropractic physician has become incompetent to practice chiropractic because of mental illness. Commitment of a chiropractic physician to an institution

for the mentally ill shall be considered prima facie evidence of 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~~ the order pursuant to Article II of 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~~ the chiropractic physician's competency to practice chiropractic has been restored, to reinstate ~~such~~ the license or licenses at any time; provided, however, reinstatement shall not be made while ~~such~~ the 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 3. AMENDATORY 59 O.S. 1991, Section 731.7, is amended to read as follows:

Section 731.7 A. No person shall perform spinal manipulation in this state until first being adequately trained in this procedure through formal education at an accredited college or school.

B. As used in this section, "spinal manipulation" means a manual procedure that involves a directed thrust to move a spinal joint past the physiological range of motion, without exceeding the anatomical limit.

SECTION 4. This act shall become effective November 1, 1997.

46-1-0570

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