

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 502

By: Leftwich of the Senate

and

Lindley of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to medical practice; amending 59 O.S. 1991, Sections 161.12, as last amended by Section 2, Chapter 181, O.S.L. 1998, and 731.7, as amended by Section 3, Chapter 90, O.S.L. 1997 (59 O.S. Supp. 1998, Sections 161.12 and 731.7), which relate to the Oklahoma Chiropractic Practice Act and to the unlawful practice of healing arts; eliminating gender discrimination language; modifying grounds for imposition of penalties; restricting practice of spinal manipulation to certain physicians; establishing penalties for violation; 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, as last amended by Section 2, Chapter 181, O.S.L. 1998 (59 O.S. Supp. 1998, 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 or her 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. Engaging in nonconsensual physical contact with a patient which is sexual in nature, or engaging in a verbal communication which is intended to be sexually demeaning to a patient;

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:

1. Payment of a reinstatement fee in an amount 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 2. AMENDATORY 59 O.S. 1991, Section 731.7, as amended by Section 3, Chapter 90, O.S.L. 1997 (59 O.S. Supp. 1998, Section 731.7), is amended to read as follows:

Section 731.7 A. 1. No person shall perform spinal manipulation in this state ~~until first being~~ except:

- a. a chiropractic physician,
- b. an osteopathic physician, or
- c. an allopathic physician,

who has been adequately trained in this procedure through formal education at an accredited college or school.

~~B. 2.~~ As used in this ~~section~~ subsection, "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.

B. Any person who violates the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment. Each violation shall be a separate and distinct offense.

SECTION 3. This act shall become effective November 1, 1999.

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