

By: Leftwich of the Senate
and
Lindley of the House

An Act relating to professions and occupations; amending 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), which relates to the Oklahoma Chiropractic Practice Act; modifying grounds for imposition of penalties; 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. This act shall become effective November 1, 1999.

Passed the Senate the 1st day of March, 1999.

President of the Senate

Passed the House of Representatives the ____ day of _____ ,
1999.

Speaker of the House of
Representatives