STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1809 By: Plunk

AS INTRODUCED

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, and 161.16 (59 O.S. Supp. 1998, Section 161.12), which relates to the Board of Chiropractic Examiners; adding to grounds for which penalties may be imposed; updating language; increasing scholarship amount for certain program; 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~~ a chiropractic physician's 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~~ the chiropractic physician 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 Unfair Claims Settlement Practices Act or any rule promulgated pursuant thereto;

11. Aiding or assisting an insurer, as defined in Section 1250.2 of Title 36 of the Oklahoma Statutes, or an administrator, as defined in Section 1442 of Title 36 of the Oklahoma Statutes, to violate any provisions of the Unfair Claims Settlement Practices Act or any rule promulgated pursuant thereto;

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

~~11.~~ 13. 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 161.16, is amended to read as follows:

Section 161.16 A. A Chiropractic Education Scholarship Program, to be administered by the Board of Chiropractic Examiners, is hereby created. Chiropractic education scholarships shall be

awarded each fiscal year to persons approved by the Board for the study of chiropractic leading to the attainment of the degree of doctor of chiropractic. To be eligible to receive a scholarship a person must:

1. Be a legal resident of this state for not less than five (5) years prior to the date of ~~his~~ submitting an application to the Board;

2. Meet all requirements and academic standards established by the Board;

3. Attend an accredited chiropractic college; and

4. Demonstrate ~~that he is making~~ satisfactory progress in ~~his~~ the study of chiropractic.

B. Preference in the granting of such scholarships shall be given to those individuals with the highest weighted scholastic averages, provided they are persons of high integrity and character and are found by the Board to have those qualities and attributes which give a reasonable assurance of their pursuing to completion the course of study required for ~~attainment of the~~ a degree of doctor of chiropractic. The scholarships shall be awarded in an amount not to exceed ~~Three Thousand Dollars ($3,000.00)~~ Six Thousand Dollars ($6,000.00) each year per student. No student shall be given more than four (4) annual scholarships. The Board is authorized to accept any federal, state, county or private funds, grants or appropriations to be used to award such scholarships to qualified persons.

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

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