ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 975 By: Shurden of the Senate

and

Gray of the House

[professions and occupations - language gender neutral - obsolete language - effective date]

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"(professions and occupations - language gender neutral - obsolete language - effective date)

SECTION 1. AMENDATORY 59 O.S. 2001, Section 161.4, is amended to read as follows:

Section 161.4 A. A Board of Chiropractic Examiners is hereby re-created to continue until July 1, 2006, in accordance with the provisions of the Oklahoma Sunset Law. The Board shall regulate the practice of chiropractic in this state in accordance with the provisions of the Oklahoma Chiropractic Practice Act. The Board, appointed by the Governor, shall be composed of ~~three (3)~~ four (4) chiropractic physicians and one (1) lay member representing the public.

B. Each chiropractic physician member of the Board shall:

1. Be a legal resident of this state;

2. Have practiced chiropractic continuously in this state during the five (5) years immediately preceding ~~his~~ appointment to the Board;

3. Be free of pending disciplinary action or active investigation by the Board; and

4. Be a person of recognized professional ability, integrity and good reputation.

C. The lay member of the Board shall:

1. Be a legal resident of this state; and

2. Not be a registered or licensed practitioner of any of the healing arts or be related within the third degree of consanguinity or affinity to any such person~~; and~~

~~3. Participate in Board proceedings only for the purposes of:~~

~~a. reviewing, investigating and disposing of written complaints regarding the conduct of chiropractic physicians, and~~

~~b. formulating, adopting and promulgating rules pursuant to Article I of the Administrative Procedures Act~~.

D. ~~The term of office of each~~ Each chiropractic physician member of the Board shall be ~~three (3)~~ appointed for four (4) years, with one such member being appointed each year. The lay member of the Board shall serve a term coterminous with that of the Governor. Members appointed after June 2002 shall serve no more than two (2) consecutive terms. Each member shall hold office until the expiration of the term of office for which appointed or until a qualified successor has been duly appointed. An appointment shall be made by the Governor within ninety (90) days after the expiration of the term of any member, or the occurrence of a vacancy on the Board due to resignation, death, or any other cause resulting in an unexpired term.

E. Before assuming duties on the Board, each member shall take and subscribe to the oath or affirmation provided in Article XV of

the Oklahoma Constitution, which oath or affirmation shall be administered and filed as provided in ~~said~~ the article.

F. A member may be removed from the Board by the Governor for cause which shall include, but not be limited to:

1. Ceasing to be qualified;

2. Being found guilty by a court of competent jurisdiction of a felony or any offense involving moral turpitude;

3. Being found guilty, through due process, of malfeasance, misfeasance or nonfeasance in relation to his Board duties;

4. Being found mentally incompetent by a court of competent jurisdiction;

5. Being found in violation of any provision of the Oklahoma Chiropractic Practice Act; or

6. Failing to attend three ~~consecutive~~ meetings of the Board without just cause, as determined by the Board.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 161.6, is amended to read as follows:

Section 161.6 A. Pursuant to and in compliance with Article I of the Administrative Procedures Act, the Board of Chiropractic Examiners shall have the power to formulate, adopt and promulgate rules as may be necessary to regulate the practice of chiropractic in this state and to implement and enforce the provisions of the Oklahoma Chiropractic Practice Act.

B. The Board is authorized and empowered to:

1. Establish and maintain a procedure or system for the certification or accreditation of chiropractic physicians who are qualified in chiropractic specialties;

2. Establish a registration system and adopt and enforce standards for the education and training of chiropractic physicians who engage in the business of issuing professional opinions on the condition, prognosis or treatment of a patient;

3. Adopt and enforce standards governing the professional conduct of chiropractic physicians, consistent with the provisions of the Oklahoma Chiropractic Practice Act, for the purpose of establishing and maintaining a high standard of honesty, dignity, integrity and proficiency in the profession;

4. Lease office space for the purpose of operating and maintaining a state office, and pay the rent thereon; provided, however, such state office shall not be located in or directly adjacent to the office of any practicing chiropractic physician;

5. Purchase office furniture, equipment and supplies;

6. Employ, direct, reimburse, evaluate, and dismiss such office personnel, as may be necessary, ~~and fix and pay their salaries or wages~~ in accordance with state procedures;

7. Employ legal counsel, as needed, to represent the Board in all legal matters and to assist authorized state officers in prosecuting or restraining violations of the Oklahoma Chiropractic Practice Act, and pay the fees for such services;

8. Order or subpoena the attendance of witnesses, the inspection of records and premises and the production of relevant books and papers for the investigation of matters that may come before the Board;

9. Employ one or more investigators, as needed, for the sole purpose of investigating written complaints regarding the conduct of chiropractic physicians, and fix and pay their salaries or wages;

10. Pay the costs of such research programs in chiropractic as in the determination of the Board would be beneficial to the chiropractic physicians in this state;

11. Establish minimum standards for continuing education programs administered by chiropractic associations pursuant to Section 161.11 of this title; and

12. Make such other expenditures as may be necessary in the performance of its duties.

C. The Board shall appoint an Advisory Committee of a minimum of four (4) and no more than six (6) chiropractic physicians and one (1) lay member representing the public who ~~shall~~ may advise and assist the Board in:

1. Investigating the qualifications of applicants for an original license to practice chiropractic in this state;

2. Investigating written complaints regarding the conduct of chiropractic physicians, including alleged violations of the Oklahoma Chiropractic Practice Act or of the rules of the Board; and

3. Such other matters as the Board shall delegate to them.

The Advisory Committee shall be selected from a list of ten (10) chiropractic physicians and three (3) lay persons submitted by each chiropractic association or society in this state or any unaffiliated chiropractic physician desiring to submit a list. The term of service for members of the Advisory Committee shall be determined by the Board. Members of the Advisory Committee shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 161.10, is amended to read as follows:

Section 161.10 A. Applicants for an original license, by examination or reciprocity, to practice chiropractic in this state shall submit to the Board of Chiropractic Examiners documentary evidence of completion of:

1. A course of standard high school education;

2. Sixty (60) semester hours of college credits in a college or university whose credits are accepted by the University of Oklahoma. Beginning with the fall class of 2003, students in an accredited Doctor of Chiropractic Degree Program must furnish proof of having earned a minimum of ninety (90) semester hours of college credits at an institution or institutions for which credits are accepted by the University of Oklahoma; and

3. A course of resident study of not less than four (4) years of nine (9) months each in an accredited chiropractic college; provided, however, a senior student at an accredited chiropractic college may, prior to graduation, make application for an original license by examination, but such a license shall not be issued until documentary evidence of the student's graduation from said college has been submitted to the Board.

B. Any applicant requesting relocation of a practice into this state shall:

1. Submit to the Board documentary evidence that the applicant has been in active practice for five (5) years immediately preceding the date of application;

2. Provide full disclosure to facilitate the investigative process to allow the Board to assure the applicant has a clean practice record;

3. Comply with the jurisprudence assessment of this state;

4. If requested, appear before the Board for a personal interview; and

5. Pay an application fee as set by the Board.

SECTION 4. AMENDATORY 59 O.S. 2001, 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 Twenty-five Dollars ($125.00)~~ One Hundred Seventy-five Dollars ($175.00) effective January 1, 2003. In addition, each licensee shall present to the Board satisfactory evidence that during the preceding year the licensee attended ~~twelve (12)~~ sixteen (16) hours of a continuing education program administered by ~~a~~ the largest chiropractic association in the State of Oklahoma 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 Twenty-five Dollars ($125.00)~~ One Hundred Seventy-five Dollars ($175.00), 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~~ the licensee 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:

1. Payment of a reinstatement fee in an amount fixed by the Board not to exceed ~~Three Hundred Dollars ($300.00)~~ Four Hundred Dollars ($400.00);

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 5. AMENDATORY 59 O.S. 2001, 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 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 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. Willfully 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 deny claims which under the terms of the insurance contract are covered services and are medically necessary;

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

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)~~ Four Hundred Dollars ($400.00);

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, but are not limited to:

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 6. AMENDATORY 59 O.S. 2001, Section 161.14, is amended to read as follows:

Section 161.14 A. Any person who shall practice or attempt to practice chiropractic in this state, or who shall hold himself or herself out to the public as a practitioner of chiropractic in this state, without having first obtained an original license to practice chiropractic from the Board of Chiropractic Examiners, or after ~~his~~ the original license to practice chiropractic has been revoked, or while such original license is under suspension, shall be deemed guilty of a misdemeanor and upon conviction shall be 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 less than five (5) days nor more than thirty (30) days,

or by both such fine and imprisonment. Each day of such violation shall constitute a separate and distinct offense.

B. The Board of Chiropractic Examiners is hereby authorized to apply to a court of competent jurisdiction for an order enjoining an unlicensed person from practicing chiropractic or holding himself or herself out as a practitioner of chiropractic. Any injunctive relief granted by the court shall be without bond.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 161.18, is amended to read as follows:

Section 161.18 A. There is hereby created the "Oklahoma Chiropractic Code of Ethics". This Code of Ethics is based upon the fundamental principle that the ultimate end and objective of the chiropractic physician's professional services and effort should be: "The greatest good for the patient."

B. Responsibility to the patient:

1. Chiropractic physicians should hold themselves ready at all times to respond to the call of those needing their professional services, although they are free to accept or reject a particular patient except in an emergency;

2. Chiropractic physicians should attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments;

3. Having once undertaken to serve a patient, chiropractic physicians should not neglect the patient. Chiropractic physicians should not terminate their professional services to patients without taking reasonable steps to protect such patients, including due notice to them allowing sufficient time for obtaining professional services of others, delivering to their patients all papers and documents in compliance with paragraph 5 of this subsection;

4. Chiropractic physicians should endeavor to practice with the highest degree of professional competency and honesty in the proper care of their patients;

5. Chiropractic physicians should comply with a patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records. A reasonable charge may be made for the cost of copying records;

6. Subject to paragraph 5 of this subsection, chiropractic physicians should preserve and protect the patient's confidences and records, except as the patient directs or consents, or if the law requires otherwise. They should not discuss a patient's history, symptoms, diagnosis, or treatment with a lawyer until they have received the informed consent of the patient or the patient's personal representative. They should avoid exploiting the trust and dependency of their patients;

7. Chiropractic physicians owe loyalty, compassion and respect to their patients. Their clinical judgment and practice should be objective and exercised solely for the patient's benefit;

8. Chiropractic physicians should recognize and respect the right of every person to free choice of chiropractic physicians or other health-care providers and to the right to change such choice at will;

9. Chiropractic physicians are entitled to receive proper and reasonable compensation for their professional services commensurate with the value of the services they have rendered in the light of their experience, ~~the~~ time required, <u>and</u> the reputation and nature of the condition involved. Chiropractic physicians should terminate a professional relationship when it becomes reasonably clear that the patient is not benefiting from it. Chiropractic physicians should support and participate in proper activities designed to enable access to necessary chiropractic care on the part of persons unable to pay such reasonable fees;

10. Chiropractic physicians should maintain the highest standards of professional and personal conduct and should refrain from all illegal or morally reprehensible conduct;

11. Chiropractic physicians should be ready to consult and seek the talents of other health-care professionals when such consultation would benefit their patients or when their patients express a desire for such consultation;

12. Chiropractic physicians should assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient should make his or her own determination on such treatment; and

13. Chiropractic physicians should utilize only those laboratory and x-ray procedures, and such devices or nutritional products that are in the best interest of the patient and not in conflict with state statutes or administrative rulings.

C. Responsibility to the public:

1. Chiropractic physicians should act as members of a learned profession dedicated to the promotion of health, the prevention of illness and the alleviation of suffering;

2. Chiropractic physicians should observe the appropriate laws, decisions and rules of state governmental agencies and cooperate with the pertinent activities and policies of associations legally authorized to regulate or assist in the regulation of chiropractic physicians;

3. Chiropractic physicians should participate as responsible citizens in the public affairs of their local community, state and nation in order to improve laws, administrative procedures and public policies that pertain to chiropractic and the system of health-care delivery. Chiropractic physicians should stand ready to take the initiative in the proposal and development of measures to benefit the health and well-being of the general public, and should cooperate in

the administration and enforcement of such measures and programs to the extent consistent with law;

4. Chiropractic physicians may advertise but should exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public should not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians should conform to all applicable state laws, rules and judicial decisions in connection with professional advertising;

5. Chiropractic physicians should continually strive to improve their skill and competency by keeping abreast of current developments contained in health and scientific literature, and by participating in chiropractic continuing education programs and utilizing all other appropriate means;

6. Chiropractic physicians may testify either as experts or when their patients are involved in court cases, workers' compensation proceedings or in other similar proceedings in personal injury or related cases;

7. The chiropractic profession should address itself to improvements in licensing procedures consistent with the development of the profession and of relevant advances in science;

8. Chiropractic physicians who are public officers part time or full time, should not engage in activities which are, or may be perceived to be, in conflict with their official duties;

9. Chiropractic physicians should protect the public and reputation of the chiropractic profession by bringing to the attention of the appropriate public or private organizations those chiropractic physicians who engage in deception, fraud or dishonesty, or otherwise engage in conduct inconsistent with this Code of Ethics,

the rules of the Board of Chiropractic Examiners, or the laws of this state;

10. Each certified chiropractic physician engaging in animal chiropractic diagnosis and treatment shall carry at least ~~One Million Dollars ($1,000,000.00)~~ Five Hundred Thousand Dollars ($500,000.00) of additional malpractice insurance coverage for the performance of animal chiropractic diagnosis and treatment. The certified chiropractic physician shall provide to the Board of Chiropractic Examiners written evidence of the required malpractice insurance coverage;

11. Chiropractic physicians engaging in animal chiropractic diagnosis and treatment shall have appropriate training in animal chiropractic diagnosis and treatment. The Board shall certify any chiropractic physicians wishing to engage in animal chiropractic diagnosis and treatment who meet the standards established by the Board pursuant to this paragraph. Upon request, the Board shall make available to the public a list of physicians so certified. The Board of Chiropractic Examiners shall have the authority to establish educational criteria for certification standards in animal chiropractic diagnosis and treatment. The Board of Chiropractic Examiners shall work in conjunction with the Veterinary Examining Board to establish comparable standards for animal chiropractic diagnosis and treatment for both medical professions within thirty (30) days after the effective date of this act; and

12. A licensed chiropractic physician may provide chiropractic treatment to an animal without being certified in animal chiropractic diagnosis and treatment if the animal has been referred to the chiropractic physician by a licensed veterinarian.

D. Responsibility to the profession:

1. Chiropractic physicians should assist in maintaining the integrity, competency and highest standards of the chiropractic profession;

2. Chiropractic physicians should, by their behavior, avoid even the appearance of professional impropriety and should recognize that their public behavior may have an impact on the ability of the profession to serve the public. Chiropractic physicians should promote public confidence in the chiropractic profession;

3. Chiropractic physicians and their immediate dependents should receive gratuitous professional services from other doctors of chiropractic;

4. As teachers, chiropractic physicians should recognize their obligation to help others acquire knowledge and skill in the practice of the profession. They should maintain high standards of scholarship, education, training and objectivity in the accurate and full dissemination of information and ideas;

5. Chiropractic physicians should promote and maintain cordial relationships with other members of the chiropractic profession and other professions for the exchange of information advantageous to the public's health and well-being; and

6. Chiropractic physicians ~~shall~~ may, at their discretion, be listed in all directories as:

a. Physicians, Chiropractic,

b. Chiropractors, or

c. Doctors of Chiropractic.

SECTION 8. This act shall become effective November 1, 2002."

Passed the House of Representatives the 24th day of April, 2002.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2002.

_____
Presiding Officer of the Senate