

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2724

By: Stanley

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 161.2 and 161.3, which relate to chiropractors; extending scope of practice; modifying definitions; amending 59 O.S. 2001, Sections 161.4, as amended by Section 1, Chapter 255, O.S.L. 2002, 161.5, 161.6, as amended by Section 2, Chapter 255, O.S.L. 2002, 161.7, 161.8, 161.9, 161.11, as amended by Section 4, Chapter 255, O.S.L. 2002, 161.12, as amended by Section 5, Chapter 255, O.S.L. 2002, 161.16 and 161.18, as amended by Section 7, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, Sections 161.4, 161.6, 161.10, 161.11, 161.12 and 161.18), which relate to the Board of Chiropractic Examiners; modifying membership; modifying terms; providing for nonappropriated agency status; directing distribution of revenues; providing for operation on fiscal year; providing for budget preparation; providing for fee increases; modifying examination requirements; providing addition requirements for relocation of practice; providing for discipline; providing additional duties; modifying qualifications for chiropractic license; modifying requirements for continuing education; modifying requirements for training providers; modifying license fees; providing for proof of malpractice insurance; modifying grounds for imposing penalties; modifying administration of Chiropractic Education Scholarship Program; providing for advertising of chiropractic; repealing 59 O.S. 2001, Section 161.10, as amended by Section 3, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, Section 161.10), which relates to Oklahoma Chiropractic Code of Ethics; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 161.2, is amended to read as follows:

Section 161.2 A. Chiropractic is the science and art that teaches health in anatomic relation and disease or abnormality in anatomic disrelation, and includes hygienic, sanitary, complementary

and alternative therapies, and therapeutic measures incident thereto in humans. The scope of practice of chiropractic shall include those diagnostic and treatment services and procedures which have been taught by an accredited chiropractic college and have been approved by the Board of Chiropractic Examiners.

B. A chiropractic physician may engage in the practice of animal chiropractic diagnosis and treatment if certified to do so by the Board. A licensed chiropractic physician may provide chiropractic treatment to an animal without being certified in animal chiropractic diagnosis and treatment by the Board if an animal has been referred to the chiropractic physician by a licensed veterinarian.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 161.3, is amended to read as follows:

Section 161.3 As used in the Oklahoma Chiropractic Practice Act, these words, phrases or terms, unless the context otherwise indicates, shall have the following meanings:

1. "Accredited chiropractic college" means a chiropractic educational institution which is accredited by the Commission on Accreditation of the Council on Chiropractic Education, a national, independent accreditation body recognized and approved by the U.S. Department of Education, or its successor;

2. "Animal chiropractic diagnosis and treatment" means treatment that includes vertebral subluxation complex ~~(ves)~~ (vsc) and spinal manipulation of nonhuman vertebrates. The term "animal chiropractic diagnosis and treatment" shall not be construed to allow the:

- a. use of x-rays,
- b. performing of surgery,
- c. dispensing or administering of medications, or
- d. performance of traditional veterinary care;

3. "Applicant" means any person submitting an application for licensure to the Board;

4. "Board" means the Board of Chiropractic Examiners;

5. "Chiropractic physician", "chiropractor", "doctor of chiropractic", "practitioner of chiropractic" and "licensee" are synonymous and mean a person holding an original license to practice chiropractic in this state;

6. "Examination" means the process used by the Board, prior to the issuance of an original license, to test the qualifications and knowledge of an applicant ~~in the basic sciences and the science and art of chiropractic~~ on any or all of the following: current statutes, rules or any of those subjects listed in Section 161.8 of this title;

7. "Intern" means a student at an accredited chiropractic college who is participating in the Chiropractic Undergraduate Preceptorship Program;

8. "Original license" means a license granting initial authorization to practice chiropractic in this state issued by the Board to an applicant found by the Board to meet the licensing requirements of the Oklahoma Chiropractic Practice Act, by examination pursuant to Section 161.7 of this title, or by reciprocity pursuant to Section 161.9 of this title;

9. "Preceptor" means a chiropractic physician who is participating in the Chiropractic Undergraduate Preceptorship Program;

10. ~~"Reciprocity"~~ "Relocation of practice" means the recognition and approval by the Board, prior to the issuance of an original license, of the chiropractic licensing process in another state, country, territory or province; and

11. "Renewal license" means a license issued to a chiropractic physician by the Board, on or before the first day of January of

each year, which authorizes such licensee to practice chiropractic in this state during the succeeding calendar year.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 161.4, as amended by Section 1, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, 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 ~~four (4)~~ eight (8) 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 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; and

5. Be in active clinical chiropractic practice at least fifty percent (50%) of the time.

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.

D. 1. Each chiropractic physician member of the Board shall be appointed for four (4) years, ~~with one such member being appointed.~~ The Governor shall appoint new members to the Board as follows:

- a. one Board member from district two and one Board member from district four by November 2004,
- b. one Board member from district six and one Board member from district seven in June 2005, and
- c. one Board member from district eight in November 2005.

2. Upon expiration of the term of a Board member, the Governor shall appoint a Board member from the district of the vacating Board member.

3. The members of the Board appointed after July 1, 2004, shall serve terms of one (1) year to three (3) years so that only one term expires in each calendar year.

4. The lay member of the Board shall serve a term coterminous with that of the Governor.

E. For the purpose of the Oklahoma Chiropractic Practice Act, the state shall be divided into the following districts:

District 1: Alfalfa, Beaver, Beckham, Caddo, Cimarron, Custer, Dewey, Ellis, Grant, Greer, Garfield, Harmon, Harper, Jackson, Kiowa, Major, Noble, Roger Mills, Texas, Washita, Woods and Woodward Counties

District 2: Tulsa County

District 3: Kay, Logan, Lincoln, Osage, Pawnee, Payne and Pottawatomie Counties

District 4: Carter, Comanche, Cotton, Garvin, Grady, Love, Murray, Jefferson, Stephens and Tillman Counties

District 5: Blaine, Canadian, Cleveland, Kingfisher, McClain and Oklahoma Counties

District 6: Atoka, Bryan, Coal, Choctaw, Creek, Hughes, Johnston, Latimer, LeFlore, Marshall, McCurtain, Okfuskee, Pittsburg, Pontotoc, Pushmataha and Seminole Counties

District 7: Adair, Cherokee, Haskell, McIntosh, Muskogee, Okmulgee, Sequoyah and Wagoner Counties

District 8: Craig, Delaware, Mayes, Nowata, Ottawa, Rogers and Washington Counties

Members appointed after June 2002 shall serve no more than two (2) consecutive terms.

F. 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.

~~F.~~ G. 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 the article.

~~F.~~ H. 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 meetings of the Board without just cause, as determined by the Board.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 161.5, is amended to read as follows:

Section 161.5 A. The Board of Chiropractic Examiners shall organize annually at the first meeting of the Board after the

beginning of each fiscal year, by electing from among its members a president, a vice-president and a secretary-treasurer. The Board shall hold regularly scheduled meetings at least once each quarter at a time and place determined by the Board, and may hold such special meetings, emergency meetings, or continued or reconvened meetings as found by the Board to be expedient or necessary. A majority of the Board shall constitute a quorum for the transaction of business.

B. The president shall preside at meetings of the Board, arrange the Board agenda, sign Board orders and other required documents, coordinate Board activities and perform such other duties as may be prescribed by the Board.

C. The vice-president shall perform the duties of the president during the president's absence or disability and shall perform such other duties as may be prescribed by the Board.

D. The secretary-treasurer shall:

~~1. Keep a record of all proceedings of the Board and certify to actions of the Board;~~

~~2. Receive and care for all monies received by the Board and cause the same to be deposited in the Board of Chiropractic Examiners' Revolving Fund and disbursed upon orders of the Board;~~

~~3. Submit, at the first regular meeting of the Board after the end of each fiscal year, a full itemized report of the receipts and disbursements for the prior fiscal year, showing the amount of funds on hand; and~~

~~4. Perform such other duties as are prescribed in the Oklahoma Chiropractic Practice Act or as may be prescribed by the Board be responsible for the administrative functions of the Board and shall submit at the first regular meeting of the Board after the end of each fiscal year, a full itemized report of the receipts and disbursements for the prior fiscal year, showing the amount of funds on hand.~~

E. The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, and the Administrative Procedures Act.

F. All members of the Board and such employees as determined by the Board shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

G. The liability of any member or employee of the Board acting within the scope of ~~his~~ Board duties or employment shall be governed by the Governmental Tort Claims Act.

H. Members of the Board shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

I. All fees, charges, reimbursement minimums and other revenue-generating amounts shall be set by the Board by rule and shall reflect normal increases due to inflation or cost of doing business.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 161.6, as amended by Section 2, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, 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, 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;

13. Establish appropriate fees and charges to implement the provisions of the Oklahoma Chiropractic Practice Act;

14. Establish policies for Board operations;

15. Determine and direct Board operating administrative, personnel and budget policies and procedures in accordance with applicable statutes;

16. Provide travel expenses for at least the Executive Director and provide travel expenses for members of the Board to attend an annual national conference. The Board shall give each member the opportunity to attend the annual national conference;

17. Assess chiropractic applicants the cost for a criminal history record search based on submission of fingerprints;

18. Promulgate rules that allow out-of-state licensed chiropractic physicians to travel into Oklahoma to treat patients for special events, including but not limited to sporting events and state emergencies within the borders of Oklahoma; and

19. The Board of Chiropractic, by rule, shall promulgate a code of ethics.

C. The State Auditor and Inspector shall conduct an audit of the Board at least every two (2) years, unless otherwise required by law.

1. 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 may advise and assist the Board in:

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

~~2.~~ b. 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.~~ c. Such other matters as the Board shall delegate to
them.

2. 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 6. AMENDATORY 59 O.S. 2001, Section 161.7, is
amended to read as follows:

Section 161.7 A. 1. Applications for an original license by
examination to practice chiropractic in this state shall be made to
the Board of Chiropractic Examiners in writing on a form and in a
manner prescribed by the Board. The application shall be supported
by the affidavits of two ~~(2)~~ persons who hold a valid license to
practice chiropractic in this state or in another state, country,
territory or province, and who are not related to or under financial
obligations to the applicant, showing the applicant to be a person
of good moral character.

2. The application shall be accompanied by a fee of One Hundred
Fifty Dollars (\$150.00), which shall not be refundable under any
circumstances.

3. If the application is disapproved by the Board, the
applicant shall be so notified by the secretary-treasurer of the
Board, with the reason for such disapproval fully stated in writing.

4. If the application is approved, the applicant, upon payment
of an examination fee of One Hundred Fifty Dollars (\$150.00), may

take an examination administered by the Board for the purpose of securing an original license. The Board may accept a passing score on an examination administered by the National Board of Chiropractic Examiners taken by the applicant, or may require the applicant to take an examination administered by the Board or both.

B. Applicants for an original license 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. Ninety (90) semester hours of college credits in a college or university whose credits are accepted by the University of Oklahoma. For students enrolled in an accredited Doctor of Chiropractic Degree Program on the effective date of this act, proof of having earned a minimum of sixty (60) semester hours of college credits at an institution for which credits are accepted by the University of Oklahoma shall meet the requirements of this paragraph;

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

4. Parts I, II, III, IV and physiotherapy as administered by the National Board of Chiropractic Examiners with a passing score;
and

5. Passing an examination with seventy-five percent (75%) or better.

C. Effective January 1, 2006, out-of-state licensed applicants shall submit to the Board documentary evidence that the applicant has malpractice insurance. New applicants shall submit to the Board

documentary evidence that the applicant has malpractice insurance within six (6) months of obtaining their Oklahoma license.

D. An applicant for an original license shall provide full disclosure to the Board of any disciplinary action taken against the applicant in any state pursuant to licensure and/or criminal proceedings including, but not limited to, 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 substance laws.

E. No later than one (1) year after receiving a license to practice in Oklahoma, chiropractic physicians shall complete an orientation course of training approved by the Board. The orientation course hours shall count as continuing education credits for the year in which they were earned.

~~B.~~ F. The Board shall issue an original license to those applicants who have passed the required examination with a score acceptable to the Board. No license fee shall be charged by the Board for the balance of the calendar year in which such a license is issued.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 161.8, is amended to read as follows:

Section 161.8 ~~The~~ If an examination is administered by the Board of Chiropractic Examiners, it shall ~~ever~~ include those technical, professional and practical subjects that relate to the practice of chiropractic including, but not limited to, chiropractic principles, anatomy, histology, physiology, symptomatology, orthopedia, chemistry, spinography, diagnosis, sanitation and hygiene, pathology, public health service and adjustology. The Board shall also examine each applicant in the art of chiropractic adjusting, x-ray, diagnostic laboratory procedures, physiological therapeutics and other subjects taught by accredited chiropractic colleges.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 161.9, is amended to read as follows:

Section 161.9 A. Applications for an original license by ~~reciprocity~~ relocation of practice to practice chiropractic in this state shall be made to the Board of Chiropractic Examiners in writing on a form and in a manner prescribed by the Board. The application shall be accompanied by a fee of Three Hundred Dollars (\$300.00), which shall not be refundable under any circumstances. If the application is disapproved by the Board, it shall be returned to the applicant with the reason for its disapproval fully stated in writing.

B. The Board may, in its discretion, issue an original license by ~~reciprocity~~ relocation to practice to an applicant who is currently licensed to practice chiropractic in another state, country, territory or province, upon the following conditions:

1. That the applicant is of good moral character;
2. That the requirements for licensure in the state, country, territory or province in which the applicant is licensed are deemed by the Board to be equivalent to the requirements for obtaining an original license by examination in force in this state at the date of such license;
3. That the applicant has no disciplinary matters pending against him in any state, country, territory or province;
4. That the license ~~being reciprocated~~ of the applicant was obtained by examination in the state, country, territory or province wherein it was issued, or was obtained by examination of the National Board of Chiropractic Examiners;
5. That the applicant passes ~~an oral interview and a practical~~ the examination given by the Board with a minimum score of seventy-five percent (75%) or better; and
6. That the applicant meets all other requirements of the Oklahoma Chiropractic Practice Act.

C. Any applicant requesting a license by relocation of practice into Oklahoma shall:

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

2. Provide full disclosure to the Board of any disciplinary action taken against the applicant pursuant to licensure as a chiropractic physician in any state pursuant to licensure and/or criminal proceedings;

3. Provide full disclosure to the Board of any criminal proceeding taken against the applicant including, but not limited to:

a. pleading guilty, pleading nolo contendere or receiving a conviction of a felony,

b. pleading guilty, pleading nolo contendere or receiving a conviction for a misdemeanor involving moral turpitude, or

c. pleading guilty, pleading nolo contendere or receiving a conviction for violation of federal or state controlled dangerous substance laws;

4. Comply with the jurisprudence assessment of this state;

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

6. Pay an application fee to be set by rule of the Board.

D. No license fee shall be charged by the Board for the balance of the calendar year in which such a license is issued.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.10a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Effective January 1, 2005, chiropractic continuing education and training, leading to a specialty certification offered in Oklahoma, shall be provided by any association whose Board is

elected and is comprised of at least one representative from each of the eight districts created in Section 161.4 of Title 59 of the Oklahoma Statutes.

B. At least ninety (90) calendar days prior to offering a continuing education course in Oklahoma, an association shall submit to the Board for approval:

1. An application to provide continuing education in this state;
2. The agenda for the continuing education seminar;
3. The professional background of the instructors; and
4. A summary of the courses to be taught at the continuing education seminar.

C. No later than thirty (30) days after submission of the application, the Board of Chiropractic Examiners shall either approve or reject the association as eligible for providing continuing education credits.

D. A continuing education program shall offer seminars providing continuing education on those subjects within the scope of practice of chiropractic as well as those technical, professional, and practical subjects that relate to the practice of chiropractic as included in Section 161.8 of Title 59 of the Oklahoma Statutes.

E. Beginning January 1, 2005, a maximum of twelve (12) hours of the annual Oklahoma continuing education requirements may be obtained by a continuing education program outside this state if the out-of-state continuing education program is approved by the Board.

F. Beginning January 1, 2005, a licensee may carry over a maximum of twelve (12) hours of continuing education credits to the next year if approved by the Board of Chiropractic Examiners.

G. Chiropractic physicians who have not been in active practice during the previous year shall be exempt from that calendar year's continuing education requirements. However, prior to returning to

active practice, the chiropractor must have attended the required continuing education during the previous calendar year.

H. All licensed chiropractic physicians must attend a minimum of four (4) hours of in-state continuing education programs approved by the Board of Chiropractic Examiners.

I. Beginning January 1, 2005, the Board shall waive the in-state attendance requirements for continuing education, if the licensee was prevented from attending by illness or extenuating circumstances, as determined by the Board.

SECTION 10. AMENDATORY 59 O.S. 2001, Section 161.11, as amended by Section 4, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, Section 161.11), is amended to read as follows:

Section 161.11 A. ~~Except~~ 1. Beginning January 1, 2005:

- 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 1 of each year, a renewal license fee of ~~One Hundred Seventy-five Dollars (\$175.00) effective January 1, 2003~~ Two Hundred Twenty-five Dollars (\$225.00), and
- b. nonresidents holding an original license to practice chiropractic in Oklahoma shall pay to the Board of Chiropractic Examiners, on or before January 1 of each year, a renewal license fee of One Hundred Seventy-five Dollars (\$175.00).

2. In addition, each licensee shall present to the Board satisfactory evidence that during the preceding ~~year~~ twelve (12) months the licensee attended sixteen (16) hours of a continuing education program administered by a chiropractic association ~~whose constitution and bylaws have been approved by the Board and whose continuing education program meets the minimum standards established~~

~~by the Board pursuant to its authority under Section 161.6 of this title. 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 that meets the requirements of Section 9 of this act.~~

3. Beginning January 1, 2006, every person holding an original license to practice chiropractic in this state shall submit to the Board documentary evidence that the chiropractor has malpractice insurance and maintains such insurance twelve (12) months of each year when practicing in Oklahoma.

B. 1. The Board is authorized, but is not required, to establish a reduced renewal license fee, in an amount less than ~~One Hundred Seventy-five Dollars (\$175.00)~~ Two Hundred Twenty-five Dollars (\$225.00), for each of the following classes of licensees:

~~1.~~ a. 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.~~ b. 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.

2. Each such licensee shall file a statement with the Board that 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.

3. 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~~ Subject to the laws of this state and rules promulgated pursuant to the Oklahoma Chiropractic Practice Act, 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:~~ The failure of a licensee to properly renew a license or certificate shall be evidence of noncompliance with the Oklahoma Chiropractic Practice Act.

1. ~~Payment of a reinstatement fee in an amount fixed by the Board not to exceed Four Hundred Dollars (\$400.00);~~ The license shall automatically be placed in a lapsed status for failure to renew and shall be considered lapsed and not in good standing for purposes of the practice of chiropractic.

2. ~~Payment of the renewal license fee for the calendar year in which the original license is reinstated; and~~ If within sixty (60) calendar days after January 1 the licensee pays the renewal fee, and the reinstatement fee set by the Board, the license may be reactivated.

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~~ If sixty (60) calendar days elapse and the license is not reinstated, the license shall automatically be suspended for failure to renew.

4. The practice of chiropractic is prohibited unless the license is active and in good standing with the Board.

E. When an original license or renewal license, or both, have been suspended under the provisions of this section, the license or licenses may be reinstated upon:

1. Payment of a reinstatement fee in an amount fixed by the Board not to exceed 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.

F. The Board, by rule, may 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.

SECTION 11. AMENDATORY 59 O.S. 2001, Section 161.12, as amended by Section 5, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, 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 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.~~ E. 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 12. AMENDATORY 59 O.S. 2001, 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~~ may 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 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 satisfactory progress in 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 a degree of doctor of chiropractic. The scholarships shall be awarded in an amount not to exceed 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 13. AMENDATORY 59 O.S. 2001, Section 161.18, as amended by Section 7, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, 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, time required, and 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 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 may, ~~at their discretion,~~ be listed in all publications ~~directories~~ as:

- ~~a.~~ 1. Physicians, Chiropractic~~;~~
- ~~b.~~ 2. Chiropractors~~;~~ or
- ~~c.~~ 3. Doctors of Chiropractic.

SECTION 14. REPEALER 59 O.S. 2001, Section 161.10, as amended by Section 3, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, Section 161.10), is hereby repealed.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-2-8517 SB 02/16/04