

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2724:

Stanley

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Section 161.2, which relates to Chiropractors; extending scope of practice; amending 59 O.S. 2001, Sections 161.4, 161.6, 161.10 and 161.11, as amended by Sections 1, 2, 3 and 4, Chapter 255, O.S.L. 2002 (59 O.S. Supp. 2003, Sections 161.4, 161.6, 161.10 and 161.11), which relate to the Board of Chiropractic Examiners; modifying membership; modifying terms; 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; and providing an effective date.

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. Animal chiropractic diagnosis and treatment shall include complementary and alternative therapies. Such therapies shall be defined by rule pursuant to Section 161.6 of this title.

SECTION 2. 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 chiropractic physicians and one ~~(1)~~ lay member representing the public. Each board member may be selected by the Governor from:

1. A list of three persons nominated by the chiropractic physicians practicing in each of the eight geographical districts in this subsection; and

2. A list of three persons by a nonprofit chiropractic association which meets the requirements of subsection F of Section 161.10 of Title 63 of the Oklahoma Statutes. The Governor shall appoint a new member to the Board from each of the following geographical 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

In addition, such Board members shall:

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

2. Have been licensed to practice chiropractic in this state for at least five (5) years;

3. Not serve for more than three consecutive terms; and

4. Elect a chair, a vice-chair, a secretary, and a treasurer.

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.

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. The term of all Board members shall be in active clinical practice at least fifty percent (50%) of the time. Each

chiropractic physician member ~~of~~ serving on the Board on July 1, 2004, shall be appointed for four (4) years, with one such member being appointed terminate. The Governor shall appoint new members to the Board as follows:

1. 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.

2. Subsequent appointments shall be for three-year terms.

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

SECTION 3. 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;~~

11. Provide travel expenses for at least the Executive Director and provide travel for different members of the Board to attend an annual national conference each year;

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

13. Promulgate rules that provide out-of-state licensed chiropractic physicians the ability 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.

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

D. 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. 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 4. AMENDATORY 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 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. ~~Ninety (90) semester hours of college credits in a~~ A four-year college or university bachelor's degree whose credits are accepted by the University of Oklahoma; provided, however, 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)~~ ninety (90) semester hours of college credits at an institution or institutions for which credits are accepted by the University of Oklahoma shall meet this requirement;

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; ~~and~~

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

5. Passing a jurisprudence examination with a score of seventy-five percent (75%) or above.

B. Effective January 1, 2006, applicants for an original license shall submit to the Board documentary evidence that the applicant has malpractice insurance.

C. 1. In addition, the applicant for an original license shall also provide full disclosure to the Board of any disciplinary action taken against the applicant by a chiropractic licensing authority in any state or any criminal proceedings in which the applicant:

- a. had pleaded guilty,
- b. had pleaded nolo contendere,
- c. was convicted of a felony, including but not limited to, conviction for a violation of federal or state controlled dangerous substances laws, or
- d. was convicted of a misdemeanor involving moral turpitude.

2. No later than six (6) months after receiving a license to practice in Oklahoma, pursuant to subsection A, B or C of this section applicants shall complete a preparative course of training

approved by the Board, which shall include but not be limited to, orientation of procedures and completion of necessary forms required to be in compliance with the following subjects:

- a. Title 36 of the Oklahoma Statutes which relates to insurance,
- b. Title 63 of the Oklahoma Statutes which relates to public health and safety,
- c. Title 85 of the Oklahoma Statutes which relates to workers' compensation,
- d. Title 12 of the Oklahoma Statutes which relates to civil procedure,
- e. electronic billing,
- f. malpractice insurance requirements,
- g. risk management, and
- h. lien law.

D. Applicants for an original license, by examination or reciprocity, to practice chiropractic in this state shall pass, with a score of no less than seventy-five percent (75%), an exam administered by the Board of Chiropractic Examiners.

E. 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 the Board of any disciplinary action pursuant to licensure or criminal conviction;
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; and
6. Submit to the Board documentary evidence of compliance with this section.

F. Effective January 1, 2005, chiropractic continuing education and training, leading to a specialty certification offered in Oklahoma, shall be provided by a nonprofit association. Such association shall:

1. Maintain bylaws which have been approved by the Board, biannually;

2. Register with the Oklahoma Secretary of State as a nonprofit entity;

3. Have existed for a least three (3) consecutive years as an organization prior to offering a continuing education class;

4. Conduct regular business meetings at least quarterly;

5. Submit copies of minutes from all regular business meetings to the Board of Chiropractic Examiners;

6. Submit copies of all state and federal tax returns to the Board of Chiropractic Examiners;

7. Conduct research to advance the profession of chiropractic in this state and report to all licensed chiropractic physicians in Oklahoma the results of such research.

G. Effective January 1, 2005, associations offering continuing education in the State of Oklahoma shall be offered by a not-for-profit association whose board is comprised of one representative from each of the eight districts created in Section 161.4 of this title. Those districts containing a city with a population of more than two hundred thousand (200,000) from the latest Federal Decennial Census shall be comprised of two representatives.

H. At least ninety (90) calendar days prior to offering a continuing education course in Oklahoma, an association shall submit the agenda, instructor's professional background, and summary of the courses to be taught at the continuing education seminar to the Board of Chiropractic Examiners for approval. The Board of Chiropractic Examiners shall either approve or reject the submission as eligible for continuing education credits thirty (30) calendar

days after submission. The action of the Board shall be mailed to the association by certified mail at the address on file with the Secretary of State.

I. To be approved by the Board of Chiropractic Examiners, a continuing education program shall offer seminars providing continuing education on those subjects within the scope of practice of chiropractic, as defined in Section 161.2 of this title, as well as those technical, professional, and practical subjects that relate to the practice of chiropractic as included in Section 161.8 of this title.

J. 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 the State of Oklahoma if the Board of Chiropractic Examiners approves the out-of-state continuing education program.

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

L. 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.

M. All licensed chiropractic physicians in the State of Oklahoma must attend a minimum of four (4) hours of live training in state continuing education programs approved by the Board of Chiropractic Examiners.

N. Beginning January 1, 2005, the Board of Chiropractic Examiners shall waive the live training attendance of the continuing education requirements, provided the licensee was prevented by illness or extenuating circumstances, as determined by the Board of Chiropractic Examiners, from attending.

0 . Chiropractic physicians over the age of seventy (70) years and those chiropractic physicians originally licensed in Oklahoma less than two (2) years shall be permitted a discount of twenty-five percent (25%) off of the fees charged for continuing education classes approved by the Board of Chiropractic Examiners.

SECTION 5. 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. 1. 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. Effective January 1, 2005, 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 Two Hundred Twenty-five Dollars (\$225.00). 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 subsection A of Section 161.10 of this title.~~

2. Effective 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. 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), 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 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 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 6. This act shall become effective November 1, 2004.

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