

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1789

6 By: Easley of the Senate

7 and

8 Adkins of the House

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to professions and occupations;
11 amending 59 O.S. 2001, Sections 161.6, as last
12 amended by Section 3, Chapter 149, O.S.L. 2005,
13 161.11, as last amended by Section 1, Chapter 36,
14 O.S.L. 2006 and 161.12, as last amended by Section
15 10, Chapter 269, O.S.L. 2004 (59 O.S. Supp. 2007,
16 Sections 161.6, 161.11 and 161.12), which relate to
17 the Oklahoma Chiropractic Practice Act; requiring the
18 Board of Chiropractic Examiners to promulgate certain
19 rules by a specific date; modifying date for payment
20 of renewal license fee; modifying certain provision
21 relating to expunging certain complaints and
22 documents in certain circumstances; and declaring an
23 emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 161.6, as
last amended by Section 3, Chapter 149, O.S.L. 2005 (59 O.S. Supp.
2007, 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

1 rules as may be necessary to regulate the practice of chiropractic
2 in this state and to implement and enforce the provisions of the
3 Oklahoma Chiropractic Practice Act.

4 B. The Board ~~is authorized and empowered to~~ shall:

5 1. Establish and maintain a procedure or system for the
6 certification or accreditation of chiropractic physicians who are
7 qualified in chiropractic post-doctorate Diplomate and all other
8 chiropractic specialties;

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

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

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

22 5. Purchase office furniture, equipment and supplies;

23 6. Employ, direct, reimburse, evaluate, and dismiss such office
24 personnel, as may be necessary, in accordance with state procedures;

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

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

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

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

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

18 12. Promulgate rules by January 1, 2009, regarding continuing
19 education seminars or courses or license renewal seminars or courses
20 including, but not limited to, the qualifications of an applicant,
21 association or entity seeking to sponsor a seminar or course, where
22 the association or entity is domiciled, whether the association or
23 entity is classified as a nonprofit organization, and the

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1 educational experience of instructors applying to conduct a seminar
2 or course;

3 13. Make such other expenditures as may be necessary in the
4 performance of its duties;

5 ~~13.~~ 14. Establish appropriate fees and charges to implement the
6 provisions of the Oklahoma Chiropractic Practice Act;

7 ~~14.~~ 15. Establish policies for Board operations;

8 ~~15.~~ 16. Determine and direct Board operating administrative,
9 personnel and budget policies and procedures in accordance with
10 applicable statutes;

11 ~~16.~~ 17. Provide travel expenses for at least the Executive
12 Director and provide travel expenses for members of the Board to
13 attend an annual national conference. The Board shall give each
14 member the opportunity to attend the annual national conference;

15 ~~17.~~ 18. Assess chiropractic applicants the cost for a criminal
16 background check. The criminal background checks required by this
17 section shall follow the requirements of Section 1-1950.1 of Title
18 63 of the Oklahoma Statutes;

19 ~~18.~~ 19. Out-of-state licensed chiropractic physicians may
20 travel into Oklahoma to treat patients for special events, including
21 but not limited to sporting events and state emergencies within the
22 borders of Oklahoma after properly registering with the Board of
23 Chiropractic Examiners; and

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1 ~~19.~~ 20. The Board of Chiropractic Examiners, by rule, shall
2 promulgate a code of ethics.

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

7 a. investigating the qualifications of applicants for an
8 original license to practice chiropractic in this
9 state~~+~~;

10 b. investigating written complaints regarding the conduct
11 of chiropractic physicians, including alleged violations
12 of the Oklahoma Chiropractic Practice Act or of the
13 rules of the Board~~+~~; and

14 c. such other matters as the Board shall delegate to them.

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

1 SECTION 2. AMENDATORY 59 O.S. 2001, Section 161.11, as
2 last amended by Section 1, Chapter 36, O.S.L. 2006 (59 O.S. Supp.
3 2007, Section 161.11), is amended to read as follows:

4 Section 161.11 A. 1. Beginning January 1, 2005:

- 5 a. a person holding an original license and who is
6 actively engaged in the practice of chiropractic in
7 this state shall pay to the Board of Chiropractic
8 Examiners, on or before ~~January~~ July 1 of each year, a
9 renewal license fee of Two Hundred Twenty-five Dollars
10 (\$225.00),
- 11 b. an inactive nonresident holding an original license to
12 practice chiropractic in Oklahoma and who has filed a
13 statement with the Board that the licensee is not
14 actively engaged in the practice of chiropractic in
15 this state and shall not engage in the practice of
16 chiropractic in this state during the succeeding year,
17 shall pay to the Board, on or before ~~January~~ July 1 of
18 each year, a renewal license fee of One Hundred
19 Seventy-five Dollars (\$175.00),
- 20 c. an inactive resident holding an original license to
21 practice chiropractic in Oklahoma, and who has filed,
22 or on whose behalf has been filed, a statement with
23 the Board that because of illness, infirmity, active
24 military service or other circumstances as approved by

1 the Board, the licensee is unable to actively engage
2 in the practice of chiropractic during the succeeding
3 year, shall pay to the Board a renewal license fee of
4 One Hundred Dollars (\$100.00), and

5 d. a person holding an original license, but who is
6 sixty-five (65) years of age or older and who has
7 filed a statement with the Board that the licensee is
8 not actively engaged in the practice of chiropractic
9 in this state and shall not engage in the practice of
10 chiropractic in this state during the succeeding year,
11 shall pay to the Board a renewal licensee fee of Fifty
12 Dollars (\$50.00).

13 2. In addition, each licensee shall present to the Board
14 satisfactory evidence that during the preceding twelve (12) months
15 the licensee attended sixteen (16) hours of continuing education
16 that meets the requirements of Section 161.10a of this title,
17 provided that inactive resident licensees may, at the discretion of
18 the Board, be exempt from this requirement.

19 3. Beginning January 1, 2006, every chiropractic physician who
20 is actively engaged in the practice of chiropractic in this state
21 shall submit to the Board documentary evidence that the chiropractor
22 has malpractice insurance and maintains such insurance twelve (12)
23 months of each year when practicing in this state. Any licensee who
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1 is not actively engaged in practice in this state, shall be exempt
2 from providing proof of malpractice insurance.

3 B. Subject to the laws of this state and rules promulgated
4 pursuant to the Oklahoma Chiropractic Practice Act, the Board shall,
5 upon determination that a licensee has complied with the
6 requirements of subsection A of this section, issue a renewal
7 license to said licensee.

8 C. The failure of a licensee to properly renew a license or
9 certificate shall be evidence of noncompliance with the Oklahoma
10 Chiropractic Practice Act.

11 1. The license shall automatically be placed in a lapsed status
12 for failure to renew and shall be considered lapsed and not in good
13 standing for purposes of the practice of chiropractic.

14 2. If within sixty (60) calendar days after ~~January~~ July 1 the
15 licensee pays the renewal fee, and the reinstatement fee set by the
16 Board, the license may be reactivated.

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

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

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

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

3 2. Payment of the renewal license fee for the calendar year in
4 which the original license is reinstated; and

5 3. Presentation to the Board of satisfactory evidence of
6 compliance with the continuing education requirement of this section
7 for the calendar year in which the original license is reinstated.

8 E. The Board, by rule, may establish guidelines for the
9 disposition of disciplinary cases involving specific types of
10 violations. The guidelines may include, but are not limited to:

11 1. Minimum and maximum administrative fines;

12 2. Periods of suspension, probation or supervision;

13 3. Terms and conditions of probation; and

14 4. Terms and conditions for the reinstatement of an original
15 license or renewal license, or both.

16 SECTION 3. AMENDATORY 59 O.S. 2001, Section 161.12, as
17 last amended by Section 10, Chapter 269, O.S.L. 2004 (59 O.S. Supp.
18 2007, Section 161.12), is amended to read as follows:

19 Section 161.12 A. The Board of Chiropractic Examiners is
20 authorized, after notice and an opportunity for a hearing pursuant
21 to Article II of the Administrative Procedures Act, to issue an
22 order imposing one or more of the following penalties whenever the
23 Board finds, by clear and convincing evidence, that a chiropractic
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1 physician has committed any of the acts or occurrences set forth in
2 subsection B of this section:

3 1. Disapproval of an application for a renewal license;

4 2. Revocation or suspension of an original license or renewal
5 license, or both;

6 3. Restriction of the practice of a chiropractic physician
7 under such terms and conditions as deemed appropriate by the Board;

8 4. An administrative fine not to exceed One Thousand Dollars
9 (\$1,000.00) for each count or separate violation;

10 5. A censure or reprimand; and

11 6. Placement of a chiropractic physician on probation for a
12 period of time and under such terms and conditions as the Board may
13 specify, including requiring the chiropractic physician to submit to
14 treatment, to attend continuing education courses, to submit to
15 reexamination, or to work under the supervision of another
16 chiropractic physician.

17 B. The following acts or occurrences by a chiropractic
18 physician shall constitute grounds for which the penalties specified
19 in subsection A of this section may be imposed by order of the
20 Board:

21 1. Pleading guilty or nolo contendere to, or being convicted
22 of, a felony, a misdemeanor involving moral turpitude, or a
23 violation of federal or state controlled dangerous substances laws.

24 A copy of the judgment and sentence of the conviction, duly

1 certified by the clerk of the court in which the conviction was
2 obtained, and a certificate of the clerk that the conviction has
3 become final, shall be sufficient evidence for the imposition of a
4 penalty;

5 2. Being habitually drunk or habitually using habit-forming
6 drugs;

7 3. Using advertising in which statements are made that are
8 fraudulent, deceitful or misleading to the public;

9 4. Aiding or abetting any person not licensed to practice
10 chiropractic in this state to practice chiropractic, except students
11 who are regularly enrolled in an accredited chiropractic college;

12 5. Performing or attempting to perform major or minor surgery
13 in this state, or using electricity in any form for surgical
14 purposes, including cauterization;

15 6. Using or having in a chiropractic physician's possession any
16 instrument for treatment purposes, the use or possession of which
17 has been prohibited or declared unlawful by any agency of the United
18 States or the State of Oklahoma;

19 7. Unlawfully possessing, prescribing or administering any
20 drug, medicine, serum or vaccine. This section shall not prevent a
21 chiropractic physician from possessing, prescribing or
22 administering, by a needle or otherwise, vitamins, minerals or
23 nutritional supplements, or from practicing within the scope of the
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1 science and art of chiropractic as defined in Section 161.2 of this
2 title;

3 8. Advertising or displaying, directly or indirectly, any
4 certificate, diploma or other document which conveys or implies
5 information that the person is skilled in any healing art other than
6 chiropractic unless the chiropractic physician also possesses a
7 valid current license in said healing art;

8 9. Obtaining an original license or renewal license in a
9 fraudulent manner;

10 10. Violating any provision of the Unfair Claims Settlement
11 Practices Act or any rule promulgated pursuant thereto;

12 11. Willfully aiding or assisting an insurer, as defined in
13 Section 1250.2 of Title 36 of the Oklahoma Statutes, or an
14 administrator, as defined in Section 1442 of Title 36 of the
15 Oklahoma Statutes, to deny claims which under the terms of the
16 insurance contract are covered services and are medically necessary;

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

19 13. Violating any of the rules of the Board.

20 C. Any chiropractic physician against whom a penalty is imposed
21 by an order of the Board under the provisions of this section shall
22 have the right to seek a judicial review of the order pursuant to
23 Article II of the Administrative Procedures Act.

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1 D. The Board is authorized to issue a confidential letter of
2 concern to a chiropractic physician when, though evidence does not
3 warrant initiation of an individual proceeding, the Board has noted
4 indications of possible errant conduct by the chiropractic physician
5 that could lead to serious consequences and formal action by the
6 Board.

7 E. If no order imposing a penalty against a chiropractic
8 physician is issued by the Board within ~~two (2)~~ three (3) years
9 after a complaint against the chiropractic physician is received by
10 the Board, the complaint and all related documents shall be expunged
11 from the records of the Board.

12 SECTION 4. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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