

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1040

6 By: Schulz

7 COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2001, Sections 161.4, as last
10 amended by Section 1, Chapter 40, O.S.L. 2006 and
11 161.6, as last amended by Section 1, Chapter 362,
12 O.S.L. 2009 (59 O.S. Supp. 2009, Sections 161.4 and
13 161.6), which relate to the Board of Chiropractic
14 Examiners; prohibiting certain persons from Board
15 membership; authorizing the hiring of private legal
16 counsel in certain circumstances; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY 59 O.S. 2001, Section 161.4, as
20 last amended by Section 1, Chapter 40, O.S.L. 2006 (59 O.S. Supp.
21 2009, Section 161.4), is amended to read as follows:

22 Section 161.4. A. A Board of Chiropractic Examiners is hereby
23 re-created to continue until July 1, 2012, in accordance with the
24 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,

1 appointed by the Governor, shall be composed of eight chiropractic
2 physicians and one lay member representing the public.

3 B. Each chiropractic physician member of the Board shall:

4 1. Be a legal resident of this state;

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

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

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

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

14 C. The lay member of the Board shall:

15 1. Be a legal resident of this state; and

16 2. Not be a registered or licensed practitioner of any of the
17 healing arts or be related within the third degree of consanguinity
18 or affinity to any such person.

19 D. The Governor shall appoint members to the Board and for
20 terms of years as follows:

21 1. Position 1: Upon expiration of the term of the board member
22 whose term expires November 2, 2006, the Governor shall appoint a
23 board member from District 1 for a term of four (4) years to expire
24 on November 1, 2010, and every four (4) years thereafter;

1 2. Position 2: Upon expiration of the term of the board member
2 whose term expires November 1, 2005, the Governor shall appoint a
3 board member from District 2 for a term of four (4) years to expire
4 on November 1, 2009, and every four (4) years thereafter;

5 3. Position 3: Upon expiration of the term of the board member
6 whose term expires June 7, 2007, the Governor shall appoint a board
7 member from District 3 for a term of four (4) years to expire on
8 June 1, 2011, and every four (4) years thereafter;

9 4. Position 4: Upon expiration of the term of the board member
10 whose term expires November 1, 2007, the Governor shall appoint a
11 board member from District 4 for a term of four (4) years to expire
12 on November 1, 2011, and every four (4) years thereafter;

13 5. Position 5: Upon expiration of the term of the board member
14 whose term expires June 7, 2008, the Governor shall appoint a board
15 member from District 5 for a term of four (4) years to expire on
16 June 1, 2012, and every four (4) years thereafter;

17 6. Position 6: On June 1, 2005, the Governor shall appoint a
18 board member from District 6 for a term of one (1) year to expire on
19 June 1, 2006, and every four (4) years thereafter;

20 7. Position 7: On November 1, 2005, the Governor shall appoint
21 a board member from District 7 for a term of three (3) years to
22 expire on November 1, 2008, and every four (4) years thereafter;

23 8. Position 8: Upon expiration of the term of the board member
24 whose term expires June 7, 2005, the Governor shall appoint a board

1 member from the state at large for a term of four (4) years to
2 expire on June 1, 2009, and every four (4) years thereafter; and

3 9. Position 9: The lay member of the Board shall serve a term
4 coterminous with that of the Governor.

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

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

11 2. District 2: Tulsa County;

12 3. District 3: Kay, Logan, Lincoln, Osage, Pawnee, Payne and
13 Pottawatomie Counties;

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

16 5. District 5: Blaine, Canadian, Cleveland, Kingfisher,
17 McClain and Oklahoma Counties;

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

21 7. District 7: Adair, Cherokee, Craig, Delaware, Haskell,
22 Mayes, McIntosh, Muskogee, Nowata, Okmulgee, Ottawa, Rogers,
23 Sequoyah, Wagoner and Washington Counties.

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

3 F. Each member shall hold office until the expiration of the
4 term of office for which appointed or until a qualified successor
5 has been duly appointed. An appointment shall be made by the
6 Governor within ninety (90) days after the expiration of the term of
7 any member, or the occurrence of a vacancy on the Board due to
8 resignation, death, or any other cause resulting in an unexpired
9 term.

10 G. Before assuming duties on the Board, each member shall take
11 and subscribe to the oath or affirmation provided in Article XV of
12 the Oklahoma Constitution, which oath or affirmation shall be
13 administered and filed as provided in the article.

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

16 1. Ceasing to be qualified;

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

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

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

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

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

3 I. No member of the Board shall be:

4 1. A registered lobbyist; ~~or~~

5 2. An officer, board member or employee of a statewide
6 organization established for the purpose of advocating the interests
7 of chiropractors licensed pursuant to the Oklahoma Chiropractic
8 Practice Act; or

9 3. An insurance claims adjuster, reviewer, or consultant.

10 SECTION 2. AMENDATORY 59 O.S. 2001, Section 161.6, as
11 last amended by Section 1, Chapter 362, O.S.L. 2009 (59 O.S. Supp.
12 2009, Section 161.6), is amended to read as follows:

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

19 B. The Board is authorized and empowered to:

20 1. Establish and maintain a procedure or system for the
21 certification or accreditation of chiropractic physicians who are
22 qualified in chiropractic post-doctorate Diplomate and all other
23 chiropractic specialties;

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

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

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

14 5. Purchase office furniture, equipment and supplies;

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

17 7. Employ legal counsel, as needed, to represent the Board in
18 all legal matters and to assist authorized state officers in
19 prosecuting or restraining violations of the Oklahoma Chiropractic
20 Practice Act, and pay the fees for such services. The Board may
21 hire private legal counsel to pursue any lawsuit or legal action if
22 the Attorney General or any Assistant Attorney General of the Office
23 of the Attorney General declines to pursue the lawsuit or legal
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1 action and the Board deems such action necessary under the
2 provisions of the Oklahoma Chiropractic Practice Act;

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

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

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

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

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

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

20 14. Establish policies for Board operations;

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

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

5 17. Assess chiropractic applicants the cost for a criminal
6 background check. The criminal background checks required by this
7 section shall follow the requirements of Section 1-1950.1 of Title
8 63 of the Oklahoma Statutes;

9 18. Out-of-state licensed chiropractic physicians may travel
10 into Oklahoma to treat patients for special events, including, but
11 not limited to, sporting events and state emergencies within the
12 borders of Oklahoma after properly registering with the Board of
13 Chiropractic Examiners; and

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

16 C. The Board shall promulgate rules regarding continuing
17 education seminars or courses or license renewal seminars or
18 courses, including, but not limited to, the qualifications of an
19 applicant, association or entity seeking to sponsor a seminar or
20 course, where the association or entity is domiciled, whether the
21 association or entity is classified as a nonprofit organization, and
22 the educational experience of instructors applying to conduct a
23 seminar or course.

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

- 5 a. investigating the qualifications of applicants for an
- 6 original license to practice chiropractic in this state,
- 7 b. investigating written complaints regarding the conduct
- 8 of chiropractic physicians, including alleged violations
- 9 of the Oklahoma Chiropractic Practice Act or of the
- 10 rules of the Board, and
- 11 c. such other matters as the Board shall delegate to them.

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

21 SECTION 3. This act shall become effective November 1, 2010.

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