

1 ENGROSSED SENATE
2 BILL NO. 1040

By: Schulz of the Senate

3 and

4 Armes of the House

5
6
7 An Act relating to professions and occupations;
8 amending 59 O.S. 2001, Sections 161.4, as last
9 amended by Section 1, Chapter 40, O.S.L. 2006 and
10 161.6, as last amended by Section 1, Chapter 362,
11 O.S.L. 2009 (59 O.S. Supp. 2009, Sections 161.4 and
12 161.6), which relate to the Board of Chiropractic
13 Examiners; prohibiting certain persons from Board
14 membership; authorizing the hiring of private legal
15 counsel in certain circumstances; and providing an
16 effective date.

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

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

21 Section 161.4. A. A Board of Chiropractic Examiners is hereby
22 re-created to continue until July 1, 2012, in accordance with the
23 provisions of the Oklahoma Sunset Law. The Board shall regulate the
24 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 eight chiropractic
physicians and one lay member representing the public.

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

2 1. Be a legal resident of this state;

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

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

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

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

12 C. The lay member of the Board shall:

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

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

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

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

23 2. Position 2: Upon expiration of the term of the board member
24 whose term expires November 1, 2005, the Governor shall appoint a

1 board member from District 2 for a term of four (4) years to expire
2 on November 1, 2009, and every four (4) years thereafter;

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

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

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

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

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

21 8. Position 8: Upon expiration of the term of the board member
22 whose term expires June 7, 2005, the Governor shall appoint a board
23 member from the state at large for a term of four (4) years to
24 expire on June 1, 2009, and every four (4) years thereafter; and

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

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

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

9 2. District 2: Tulsa County;

10 3. District 3: Kay, Logan, Lincoln, Osage, Pawnee, Payne and
11 Pottawatomie Counties;

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

14 5. District 5: Blaine, Canadian, Cleveland, Kingfisher,
15 McClain and Oklahoma Counties;

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

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

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

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

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

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

14 1. Ceasing to be qualified;

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

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

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

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

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

1 I. No member of the Board shall be:

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

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

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

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

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

17 B. The Board is authorized and empowered to:

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

22 2. Establish a registration system and adopt and enforce
23 standards for the education and training of chiropractic physicians
24

1 who engage in the business of issuing professional opinions on the
2 condition, prognosis or treatment of a patient;

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

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

12 5. Purchase office furniture, equipment and supplies;

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

15 7. Employ legal counsel, as needed, to represent the Board in
16 all legal matters and to assist authorized state officers in
17 prosecuting or restraining violations of the Oklahoma Chiropractic
18 Practice Act, and pay the fees for such services. The Board may
19 hire private legal counsel to pursue any lawsuit or legal action if
20 the Attorney General or any Assistant Attorney General of the Office
21 of the Attorney General declines to pursue the lawsuit or legal
22 action and the Board deems such action necessary under the
23 provisions of the Oklahoma Chiropractic Practice Act;
24

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

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

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

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

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

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

18 14. Establish policies for Board operations;

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

22 16. Provide travel expenses for at least the Executive Director
23 and provide travel expenses for members of the Board to attend an
24

1 annual national conference. The Board shall give each member the
2 opportunity to attend the annual national conference;

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

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

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

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

22 D. 1. The Board shall appoint an Advisory Committee of a
23 minimum of four and no more than six chiropractic physicians and one
24

1 lay member representing the public who may advise and assist the
2 Board in:

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

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

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

20
21
22
23
24

1 Passed the Senate the 9th day of March, 2010.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2010.

7
8 _____
9 Presiding Officer of the House
10 of Representatives