

**THE HOUSE OF REPRESENTATIVES**  
Thursday, April 1, 2010

**ENGROSSED**

**Senate Bill No. 1040**

ENGROSSED SENATE BILL NO. 1040 - By: SCHULZ of the Senate and ARMES of the House.

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

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

1       SECTION 1.   AMENDATORY   59 O.S. 2001, Section 161.4, as last amended by  
2   Section 1, Chapter 40, O.S.L. 2006 (59 O.S. Supp. 2009, Section 161.4), is amended to  
3   read as follows:  
4       Section 161.4. A. A Board of Chiropractic Examiners is hereby re-created to  
5   continue until July 1, 2012, in accordance with the provisions of the Oklahoma Sunset  
6   Law. The Board shall regulate the practice of chiropractic in this state in accordance  
7   with the provisions of the Oklahoma Chiropractic Practice Act. The Board, appointed by  
8   the Governor, shall be composed of eight chiropractic physicians and one lay member  
9   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 during the five (5) years  
4 immediately preceding appointment to the Board;

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

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

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

8 C. The lay member of the Board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1           2. District 2: Tulsa County;
- 2           3. District 3: Kay, Logan, Lincoln, Osage, Pawnee, Payne and Pottawatomie
- 3 Counties;
- 4           4. District 4: Carter, Comanche, Cotton, Garvin, Grady, Love, Murray, Jefferson,
- 5 Stephens and Tillman Counties;
- 6           5. District 5: Blaine, Canadian, Cleveland, Kingfisher, McClain and Oklahoma
- 7 Counties;
- 8           6. District 6: Atoka, Bryan, Coal, Choctaw, Creek, Hughes, Johnston, Latimer,
- 9 LeFlore, Marshall, McCurtain, Okfuskee, Pittsburg, Pontotoc, Pushmataha and Seminole
- 10 Counties; and
- 11          7. District 7: Adair, Cherokee, Craig, Delaware, Haskell, Mayes, McIntosh,
- 12 Muskogee, Nowata, Okmulgee, Ottawa, Rogers, Sequoyah, Wagoner and Washington
- 13 Counties.

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

15          F. Each member shall hold office until the expiration of the term of office for which

16 appointed or until a qualified successor has been duly appointed. An appointment shall

17 be made by the Governor within ninety (90) days after the expiration of the term of any

18 member, or the occurrence of a vacancy on the Board due to resignation, death, or any

19 other cause resulting in an unexpired term.

20          G. Before assuming duties on the Board, each member shall take and subscribe to

21 the oath or affirmation provided in Article XV of the Oklahoma Constitution, which oath

22 or affirmation shall be administered and filed as provided in the article.

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

- 3 1. Ceasing to be qualified;
- 4 2. Being found guilty by a court of competent jurisdiction of a felony or any offense  
5 involving moral turpitude;
- 6 3. Being found guilty, through due process, of malfeasance, misfeasance or  
7 nonfeasance in relation to Board duties;
- 8 4. Being found mentally incompetent by a court of competent jurisdiction;
- 9 5. Being found in violation of any provision of the Oklahoma Chiropractic Practice  
10 Act; or
- 11 6. Failing to attend three meetings of the Board without just cause, as determined  
12 by the Board.

- 13 I. No member of the Board shall be:
  - 14 1. A registered lobbyist; ~~or~~
  - 15 2. An officer, board member or employee of a statewide organization established for  
16 the purpose of advocating the interests of chiropractors licensed pursuant to the  
17 Oklahoma Chiropractic Practice Act; or
  - 18 3. An insurance claims adjuster, reviewer, or consultant.

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

1 Section 161.6. A. Pursuant to and in compliance with Article I of the  
2 Administrative Procedures Act, the Board of Chiropractic Examiners shall have the  
3 power to formulate, adopt and promulgate rules as may be necessary to regulate the  
4 practice of chiropractic in this state and to implement and enforce the provisions of the  
5 Oklahoma Chiropractic Practice Act.

6 B. The Board is authorized and empowered to:

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

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

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

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

20 5. Purchase office furniture, equipment and supplies;

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

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

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

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

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

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

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

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

22           14. Establish policies for Board operations;

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

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

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

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

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

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

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

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND  
16 FINANCIAL SERVICES, dated 03-31-10 - DO PASS.