

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2028

By: Leftwich

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 amending 59 O.S. 2001, Section 161.4, as last amended
9 by Section 1, Chapter 40, O.S.L. 2006 (59 O.S. Supp.
10 2009, Section 161.4), which relates to Board of
11 Chiropractic Examiners; adding prohibition to
12 eligibility for Board membership; amending 59 O.S.
13 2001, Section 161.6, as last amended by Section 1,
14 Chapter 362, O.S.L. 2009 (59 O.S. Supp. 2009, Section
15 161.6), which relates to powers of Board; requiring
16 written notice to certain persons prior to proposed
17 rule change; requiring certain acts be incorporated
18 into standards of practice; authorizing hiring of
19 private legal counsel for lawsuits and legal actions
20 where Attorney General declines to pursue legal
21 action; amending Section 8, Chapter 269, O.S.L. 2004,
22 as last amended by Section 2, Chapter 363, O.S.L.
23 2007 (59 O.S. 2001, Section 161.10a), which relates
24 to continuing education requirements; clarifying
language; modifying where continuing education hours
may be obtained; allowing out-of-state programs
without prior approval by Board; requiring out-of-
state continuing education programs to be in state
with equal or greater licensure requirements;
providing for proof of attendance; deleting mandatory
certain hours of in-state continuing education;
modifying date for waiver of continuing education
hours under illness or extenuating circumstance;
providing an effective date; and declaring an
emergency.

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

1 SECTION 1. AMENDATORY 59 O.S. 2001, Section 161.4, as
2 last amended by Section 1, Chapter 40, O.S.L. 2006 (59 O.S. Supp.
3 2009, Section 161.4), is amended to read as follows:

4 Section 161.4 A. A Board of Chiropractic Examiners is hereby
5 re-created to continue until July 1, 2012, in accordance with the
6 provisions of the Oklahoma Sunset Law. The Board shall regulate the
7 practice of chiropractic in this state in accordance with the
8 provisions of the Oklahoma Chiropractic Practice Act. The Board,
9 appointed by the Governor, shall be composed of eight chiropractic
10 physicians and one lay member representing the public.

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

12 1. Be a legal resident of this state;

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

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

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

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

22 C. The lay member of the Board shall:

23 1. Be a legal resident of this state; and
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1 2. Not be a registered or licensed practitioner of any of the
2 healing arts or be related within the third degree of consanguinity
3 or affinity to any such person.

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

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

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

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

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

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

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

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

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

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

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

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

21 2. District 2: Tulsa County;

22 3. District 3: Kay, Logan, Lincoln, Osage, Pawnee, Payne and
23 Pottawatomie Counties;

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

3 5. District 5: Blaine, Canadian, Cleveland, Kingfisher,
4 McClain and Oklahoma Counties;

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

8 7. District 7: Adair, Cherokee, Craig, Delaware, Haskell,
9 Mayes, McIntosh, Muskogee, Nowata, Okmulgee, Ottawa, Rogers,
10 Sequoyah, Wagoner and Washington Counties.

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

13 F. Each member shall hold office until the expiration of the
14 term of office for which appointed or until a qualified successor
15 has been duly appointed. An appointment shall be made by the
16 Governor within ninety (90) days after the expiration of the term of
17 any member, or the occurrence of a vacancy on the Board due to
18 resignation, death, or any other cause resulting in an unexpired
19 term.

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

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1 H. A member may be removed from the Board by the Governor for
2 cause which 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
5 felony or any offense involving moral turpitude;

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

8 4. Being found mentally incompetent by a court of competent
9 jurisdiction;

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

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

14 I. No member of the Board shall be:

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

16 2. An officer, board member or employee of a statewide
17 organization established for the purpose of advocating the interests
18 of chiropractors licensed pursuant to the Oklahoma Chiropractic
19 Practice Act; or

20 3. An insurance claims adjustor or reviewer.

21 SECTION 2. AMENDATORY 59 O.S. 2001, Section 161.6, as
22 last amended by Section 1, Chapter 362, O.S.L. 2009 (59 O.S. Supp.
23 2009, Section 161.6), is amended to read as follows:

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1 Section 161.6 A. Pursuant to and in compliance with Article I
2 of the Administrative Procedures Act, the Board of Chiropractic
3 Examiners shall have the power to formulate, adopt and promulgate
4 rules as may be necessary to regulate the practice of chiropractic
5 in this state and to implement and enforce the provisions of the
6 Oklahoma Chiropractic Practice Act; provided, the Board shall give
7 written notice and impact statements to all Oklahoma licensed
8 chiropractic physicians at the same time of publishing any proposed
9 rule change pursuant to the Administrative Procedures Act, Section
10 303 of Title 75 of the Oklahoma Statutes, and in such notice the
11 Board shall clearly state the procedure for requesting hearing and
12 making comments on the proposed rule change.

13 B. The Board is authorized and empowered to:

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

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

22 3. Adopt and enforce standards governing the professional
23 conduct of chiropractic physicians, consistent with the provisions
24 of the Oklahoma Chiropractic Practice Act, for the purpose of

1 establishing and maintaining a high standard of honesty, dignity,
2 integrity and proficiency in the profession. The standards of
3 conduct shall include, but not be limited to, taking vital signs,
4 and requiring information obtained from x-rays, MRI and CAT scans to
5 be no older than the start of patient symptoms nor more than one (1)
6 year old since last imaged;

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

11 5. Purchase office furniture, equipment and supplies;

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

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

23 8. Order or subpoena the attendance of witnesses, the
24 inspection of records and premises and the production of relevant

1 books and papers for the investigation of matters that may come
2 before the Board;

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

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

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

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

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

16 14. Establish policies for Board operations;

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

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

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

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

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

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

20 D. 1. The Board shall appoint an Advisory Committee of a
21 minimum of four and no more than six chiropractic physicians and one
22 lay member representing the public who may advise and assist the
23 Board in:
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- a. investigating the qualifications of applicants for an original license to practice chiropractic in this state,
- b. 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
- c. such other matters as the Board shall delegate to them.

2. The Advisory Committee shall be selected from a list of ten chiropractic physicians and three 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 3. AMENDATORY Section 8, Chapter 269, O.S.L. 2004, as last amended by Section 2, Chapter 363, O.S.L. 2007 (59 O.S. Supp. 2009, Section 161.10a), is amended to read as follows:

Section 161.10a A. At least ninety (90) calendar days prior to offering a continuing education course in Oklahoma, an association shall submit to the Board of Chiropractic Examiners for approval:

1. An application to provide continuing education in this state;

- 1 2. The agenda for the continuing education seminar;
- 2 3. The professional background of the instructors; and
- 3 4. A summary of the courses to be taught at the continuing
- 4 education seminar.

5 B. No later than thirty (30) days after submission of the
6 application, the Board of Chiropractic Examiners shall either
7 approve or reject the continuing education seminar.

8 C. A continuing education program shall offer seminars
9 providing continuing education on those subjects within the scope of
10 practice of chiropractic as well as those technical, professional,
11 and practical subjects that relate to the practice of chiropractic
12 as included in Section 161.8 of Title 59 of the Oklahoma Statutes.
13 Instructors at continuing education seminars may sell products as
14 long as the sale of such products is ancillary to the purpose of the
15 seminar.

16 D. Each year a chiropractic physician must attend sixteen (16)
17 hours of continuing education. Twelve (12) hours must be within the
18 scope of practice of chiropractic as well as those technical,
19 professional, and practical subjects that relate to the practice of
20 chiropractic as included in Section 161.8 of this title. A maximum
21 of four (4) hours may be non-clinical in nature.

22 E. Beginning January 1, ~~2006~~ 2011, ~~a maximum~~ the continuing
23 education requirement of ~~eight (8)~~ sixteen (16) hours ~~of the annual~~
24 ~~Oklahoma continuing education requirements~~ may be ~~obtained~~ acquired

1 without prior approval of the Board by a continuing education
2 program outside this state if an Oklahoma licensed chiropractic
3 physician attending relevant out-of-state continuing medical
4 education programs; provided, the state offering such program has
5 equal or greater licensure requirements and the chiropractic
6 physician submits proof to the Board of having attended the out-of-
7 state continuing education program is approved by the Board.

8 F. Chiropractic physicians who have not been in active practice
9 during the previous year shall be exempt from that calendar year's
10 continuing education requirements. However, prior to returning to
11 active practice, the chiropractor must have attended the required
12 continuing education during the previous calendar year.

13 G. ~~All licensed chiropractic physicians must attend a minimum~~
14 ~~of eight (8) hours of in state continuing education programs~~
15 ~~approved by the Board of Chiropractic Examiners.~~

16 H. Beginning January 1, ~~2005~~ 2011, the Board shall waive the
17 ~~in-state~~ attendance requirements for continuing education, if the
18 licensee was prevented from attending by illness or extenuating
19 circumstances, as determined by the Board.

20 SECTION 4. This act shall become effective July 1, 2010.

21 SECTION 5. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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