HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

ENGROSSED SENATE
BILL NO. 434

By: Floyd and Pittman of the Senate

and

Echols of the House

An Act relating to the Oklahoma Chiropractic Practice Act; amending 59 O.S. 2011, Sections 161.6, as amended by Section 15, Chapter 11, O.S.L. 2012 and 161.7 (59 O.S. Supp. 2014, Section 161.6), which relate to powers of the Board and Licensing; modifying powers of the Board; establishing certain procedure for complaints and investigations; making certain information confidential; providing certain exceptions; authorizing respondent to acquire certain information for certain purpose; requiring international applicants to possess certain credentials; requiring submission of certain documents; directing Board to issue licenses to certain applicants; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 161.6, as amended by Section 15, Chapter 11, O.S.L. 2012 (59 O.S. Supp. 2014, Section 161.6), is amended to read as follows:

UNDERLINED language denotes Amendments to present Statutes.
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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 rules as may be necessary to regulate the practice of chiropractic in this state and to implement and enforce the provisions of the Oklahoma Chiropractic Practice Act.

B. The Board is authorized and empowered to:

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

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

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

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

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5. Purchase office furniture, equipment and supplies;

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

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

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

9. Employ or contract with one or more investigators, as needed, for the sole purpose of investigating written complaints regarding the conduct of chiropractic physicians, and fix and pay their salaries or wages. Any investigator shall be certified as a peace officer by the Council on Law Enforcement Education and Training and shall have statewide jurisdiction to perform the duties authorized by this section;

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

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

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

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

14. Establish policies for Board operations;

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

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

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

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

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

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

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

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

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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.

E. 1. After an initial complaint is received by the Board, the Executive Director and the Chair of the Advisory Committee ~~specified in subsection D of this section~~, or designee, shall ~~meet and~~ determine whether the complaint merits further investigation. If a determination is made that the complaint merits further investigation, the Executive Director, in consultation with the Chair of the Advisory Committee, or designee, shall assign the complaint to an investigator. The focus and scope of an investigation shall pertain only to the subject of the complaint.

2. ~~The Advisory Committee may utilize the services of an investigator employed or contracted by the Board pursuant to this section. An investigator shall have the authority to investigate a complaint only upon directive of a simple majority of the Advisory Committee or the chair of the Advisory Committee.~~

~~3.~~ The complaint and findings of the investigator shall be presented to the Advisory Committee for review. The Advisory Committee ~~shall review and determine whether the findings of the investigator and/or the Advisory Committee shall be presented to the Board for possible further action~~, in consultation with the Board's

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prosecuting attorney, shall make an informal recommendation for disposition of the complaint to the Board.

F. 1. The Board, its employees, appointed committee members, independent contractors or other agents of the Board shall keep confidential the complaint and information obtained during an investigation into violations of the Oklahoma Chiropractic Practice Act; provided, however, such information may be introduced by the state in administrative proceedings before the Board and the information then becomes a public record.

2. The complaint and information obtained during the investigation but not introduced in administrative proceedings shall not be subject to subpoena or discovery in any civil or criminal proceedings, except that the Board may give such information to law enforcement and other state agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that ensure against unauthorized access to the information.

3. The respondent may acquire information obtained during an investigation, unless the disclosure of the information is otherwise prohibited, except for the investigative report, if the respondent signs a protective order whereby the respondent agrees to use the information solely for the purpose of defense in the Board proceeding and in any appeal therefrom and agrees not to otherwise disclose the information.

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G. The Board shall promulgate rules regarding the issuance of field citations and the assessment of administrative penalties no later than July 1, 2012. Administrative penalties for field citations shall not exceed Two Hundred Fifty Dollars ($250.00) for a first offense and One Thousand Dollars ($1,000.00) for a second or subsequent offense.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 161.7, is amended to read as follows:

Section 161.7. A. 1. Applications for an original license by examination to practice chiropractic in this state shall be made to the Board of Chiropractic Examiners in writing on a form and in a manner prescribed by the Board. The application shall be supported by the affidavits of two persons who hold a valid license to practice chiropractic in this state or in another state, country, territory or province, and who are not related to or under financial obligations to the applicant, showing the applicant to be a person of good moral character.

2. The application shall be accompanied by a fee of One Hundred Seventy-five Dollars ($175.00), which shall not be refundable under any circumstances.

3. If the application is disapproved by the Board, the applicant shall be so notified by the secretary-treasurer of the Board, with the reason for such disapproval fully stated in writing.

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4. If the application is approved, the applicant, upon payment of an examination fee of One Hundred Seventy-five Dollars ($175.00), may take an examination administered by the Board for the purpose of securing an original license. The Board may accept a passing score on an examination administered by the National Board of Chiropractic Examiners taken by the applicant, or may require the applicant to take an examination administered by the Board or both.

B. Applicants for an original license to practice chiropractic in this state shall submit to the Board of Chiropractic Examiners documentary evidence of completion of:

1. A course of standard high school education;

2. Ninety (90) semester hours of college credits in a college or university whose credits are accepted by the University of Oklahoma. For students enrolled in an accredited Doctor of Chiropractic Degree Program on the effective date of this act, proof of having earned a minimum of sixty (60) semester hours of college credits at an institution for which credits are accepted by the University of Oklahoma shall meet the requirements of this paragraph;

3. A course of resident study of not less than four (4) years of nine (9) months each in an accredited chiropractic college. A senior student at an accredited chiropractic college may make application for an original license by examination prior to graduation, but such a license shall not be issued until documentary

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evidence of the graduation of the student from the college has been submitted to the Board;

4. Parts I, II, III, IV and physiotherapy as administered by the National Board of Chiropractic Examiners with a passing score; and

5. Passing an examination with seventy-five percent (75%) or better.

C. Each applicant shall be a graduate of a chiropractic school, college or program accredited by an accrediting agency either recognized by the U.S. Secretary of Education or a Board-approved chiropractic school, college or program. For those graduating from a chiropractic program outside the United States, the applicants must have completed an educational program leading to a degree in chiropractic from an institution authorized to operate by the government having jurisdiction in which it is domiciled.

D. All credentials, diplomas, and other required documentation in a foreign language submitted to the Board by such applicants shall be accompanied by notarized English translations.

E. International applicants shall provide satisfactory evidence of meeting the requirements for permanent residence or temporary nonimmigrant status as set forth by the United States Citizenship and Immigration Services.

~~C.~~ F. Effective January 1, 2006, out-of-state licensed applicants shall submit to the Board documentary evidence that the

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applicant has malpractice insurance. New applicants shall submit to the Board documentary evidence that the applicant has malpractice insurance within six (6) months of obtaining their Oklahoma license.

~~D.~~ G. An applicant for an original license shall provide full disclosure to the Board of any disciplinary action taken against the applicant in any state pursuant to licensure and/or criminal proceedings including, but not limited to, pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, or a violation of federal or state controlled dangerous substance laws.

~~E.~~ H. No later than one (1) year after receiving a license to practice in Oklahoma, chiropractic physicians shall complete an orientation course of training approved by the Board. The orientation course hours shall count as continuing education credits for the year in which they were earned. An association may provide the orientation course of training.

~~F.~~ I. The Board shall issue an original license to those applicants who have passed the required examination with a score acceptable to the Board and who meet all other requirements set forth by the Board. No license fee shall be charged by the Board for the balance of the calendar year in which such a license is issued.

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SECTION 3. This act shall become effective November 1, 2015.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/08/2015 - DO PASS.

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