

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1448

By: Faught of the House

and

Griffin of the Senate

11 COMMITTEE SUBSTITUTE

12 An Act relating to professions and occupations;
13 amending 59 O.S. 2011, Section 161.6, as last amended
14 by Section 1, Chapter 155, O.S.L. 2015 (59 O.S. Supp.
15 2016, Section 161.6), which relates to the powers of
16 the Board of Chiropractic Examiners; requiring
17 certain applicants to submit to national criminal
18 history record check; requiring costs of record check
19 to be paid by applicant; and providing an effective
20 date.

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

22 SECTION 1. AMENDATORY 59 O.S. 2011, Section 161.6, as
23 last amended by Section 1, Chapter 155, O.S.L. 2015 (59 O.S. Supp.
24 2016, Section 161.6), is amended to read as follows:

 Section 161.6 A. Pursuant to and in compliance with Article I
of the Administrative Procedures Act, the Board of Chiropractic

1 Examiners shall have the power to formulate, adopt and promulgate
2 rules as may be necessary to regulate the practice of chiropractic
3 in this state and to implement and enforce the provisions of the
4 Oklahoma Chiropractic Practice Act.

5 B. The Board is authorized and empowered to:

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

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

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

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

23 5. Purchase office furniture, equipment and supplies;
24

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

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

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

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

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

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

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

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

5 14. Establish policies for Board operations;

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

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

13 17. ~~Assess chiropractic applicants the cost for a criminal~~
14 ~~background check. The criminal background checks required by this~~
15 ~~section shall follow the requirements of Section 1-1950.1 of Title~~
16 ~~63 of the Oklahoma Statutes~~ Require applicants for an original
17 license to submit to a national criminal history record check
18 pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes. The
19 costs associated with the national criminal history record check
20 shall be paid directly by the applicant;

21 18. Out-of-state licensed chiropractic physicians may travel
22 into Oklahoma to treat patients for special events including, but
23 not limited to, sporting events and state emergencies within the
24

1 borders of Oklahoma after properly registering with the Board of
2 Chiropractic Examiners; and

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

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

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

18 a. investigating the qualifications of applicants for an
19 original license to practice chiropractic in this
20 state,

21 b. investigating written complaints regarding the conduct
22 of chiropractic physicians, including alleged
23 violations of the Oklahoma Chiropractic Practice Act
24 or of the rules of the Board, and

1 c. such other matters as the Board shall delegate to
2 them.

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

12 E. 1. After an initial complaint is received by the Board, the
13 Executive Director and the Chair of the Advisory Committee, or
14 designee, shall determine whether the complaint merits further
15 investigation. If a determination is made that the complaint merits
16 further investigation, the Executive Director, in consultation with
17 the Chair of the Advisory Committee, or designee, shall assign the
18 complaint to an investigator. The focus and scope of an
19 investigation shall pertain only to the subject of the complaint.

20 2. The complaint and findings of the investigator shall be
21 presented to the Advisory Committee for review. The Advisory
22 Committee, in consultation with the Board's prosecuting attorney,
23 shall make an informal recommendation for disposition of the
24 complaint to the Board.

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

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

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

23 G. The Board shall promulgate rules regarding the issuance of
24 field citations and the assessment of administrative penalties no

1 later than July 1, 2012. Administrative penalties for field
2 citations shall not exceed Two Hundred Fifty Dollars (\$250.00) for a
3 first offense and One Thousand Dollars (\$1,000.00) for a second or
4 subsequent offense.

5 SECTION 2. This act shall become effective November 1, 2017.

6
7 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT OVERSIGHT AND
8 ACCOUNTABILITY, dated 03/02/2017 - DO PASS, As Amended and
9 Coauthored.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24