

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3537

By: Moore

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to professions and occupations;
10 amending 59 O.S. 2011, Section 161.12, as amended by
11 Section 7, Chapter 213, O.S.L. 2019 (59 O.S. Supp.
12 2019, Section 161.12), which relates to penalties
13 imposed by the Board of Chiropractic Examiners;
14 permitting chiropractic physicians to possess,
15 prescribe or administer certain articles of natural
16 origin; and providing an effective date.

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

18 SECTION 1. AMENDATORY 59 O.S. 2011, Section 161.12, as
19 amended by Section 7, Chapter 213, O.S.L. 2019 (59 O.S. Supp. 2019,
20 Section 161.12), is amended to read as follows:

21 Section 161.12 A. The Board of Chiropractic Examiners is
22 authorized, after notice and an opportunity for a hearing pursuant
23 to Article II of the Administrative Procedures Act, to issue an
24 order imposing one or more of the following penalties whenever the
 Board finds, by clear and convincing evidence, that a chiropractic

1 physician has committed any of the acts or occurrences set forth in
2 subsection B of this section:

3 1. Disapproval of an application for a renewal license;

4 2. Revocation or suspension of an original license or renewal
5 license, or both;

6 3. Restriction of the practice of a chiropractic physician
7 under such terms and conditions as deemed appropriate by the Board;

8 4. An administrative fine not to exceed One Thousand Dollars
9 (\$1,000.00) for each count or separate violation;

10 5. A censure or reprimand;

11 6. Placement of a chiropractic physician on probation for a
12 period of time and under such terms and conditions as the Board may
13 specify, including requiring the chiropractic physician to submit to
14 treatment, to attend continuing education courses, to submit to
15 reexamination, or to work under the supervision of another
16 chiropractic physician; and

17 7. The assessment of costs expended by the Board in
18 investigating and prosecuting a violation. The costs may include,
19 but are not limited to, staff time, salary and travel expenses,
20 witness fees and attorney fees, and shall be considered part of the
21 order of the Board.

22 B. The following acts or occurrences by a chiropractic
23 physician shall constitute grounds for which the penalties specified
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1 in subsection A of this section may be imposed by order of the
2 Board:

3 1. Pleading guilty or nolo contendere to, or being convicted
4 of, a felony, a misdemeanor involving moral turpitude, or a
5 violation of federal or state controlled dangerous substances laws.
6 A copy of the judgment and sentence of the conviction, duly
7 certified by the clerk of the court in which the conviction was
8 obtained, and a certificate of the clerk that the conviction has
9 become final, shall be sufficient evidence for the imposition of a
10 penalty;

11 2. Being habitually drunk or habitually using habit-forming
12 drugs;

13 3. Using advertising in which statements are made that are
14 fraudulent, deceitful or misleading to the public;

15 4. Aiding or abetting any person not licensed to practice
16 chiropractic in this state to practice chiropractic, except students
17 who are regularly enrolled in an accredited chiropractic college;

18 5. Performing or attempting to perform major or minor surgery
19 in this state, or using electricity in any form for surgical
20 purposes, including cauterization;

21 6. Using or having in a chiropractic physician's possession any
22 instrument for treatment purposes, the use or possession of which
23 has been prohibited or declared unlawful by any agency of the United
24 States or the State of Oklahoma;

1 7. Unlawfully possessing, prescribing or administering any
2 drug, medicine, serum or vaccine. This section shall not prevent a
3 chiropractic physician from possessing, prescribing or
4 administering, by a needle or otherwise, articles of natural origin,
5 including, but not limited to, vitamins, minerals, amino acids,
6 fatty acids, enzymes, antioxidants, cellular agents or extracts,
7 botanicals or phytonutrients, articles with homeopathic
8 pharmacopeia, or nutritional supplements, or from practicing within
9 the scope of the science and art of chiropractic as defined in
10 Section 161.2 of this title;

11 8. Advertising or displaying, directly or indirectly, any
12 certificate, diploma or other document which conveys or implies
13 information that the person is skilled in any healing art other than
14 chiropractic unless the chiropractic physician also possesses a
15 valid current license in said healing art;

16 9. Obtaining an original license or renewal license in a
17 fraudulent manner;

18 10. Violating any provision of the Unfair Claims Settlement
19 Practices Act or any rule promulgated pursuant thereto;

20 11. Willfully aiding or assisting an insurer, as defined in
21 Section 1250.2 of Title 36 of the Oklahoma Statutes, or an
22 administrator, as defined in Section 1442 of Title 36 of the
23 Oklahoma Statutes, to deny claims which under the terms of the
24 insurance contract are covered services and are medically necessary;

1 12. Violating any provision of the Oklahoma Chiropractic
2 Practice Act; or

3 13. Violating any of the rules of the Board.

4 C. Any chiropractic physician against whom a penalty is imposed
5 by an order of the Board under the provisions of this section shall
6 have the right to seek a judicial review of the order pursuant to
7 Article II of the Administrative Procedures Act.

8 D. The Board is authorized to issue a confidential letter of
9 concern to a chiropractic physician when, though evidence does not
10 warrant initiation of an individual proceeding, the Board has noted
11 indications of possible errant conduct by the chiropractic physician
12 that could lead to serious consequences and formal action by the
13 Board.

14 E. If no order imposing a penalty against a chiropractic
15 physician is issued by the Board within three (3) years after a
16 complaint against the chiropractic physician is received by the
17 Board, the complaint and all related documents shall be expunged
18 from the records of the Board.

19 SECTION 2. This act shall become effective November 1, 2020.

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21 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/26/2020 - DO
22 PASS, As Amended.

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