

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 434

By: Floyd

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6 AS INTRODUCED

7 An Act relating to the Oklahoma Chiropractic Practice
8 Act; amending 59 O.S. 2011, Section 161.6, as amended
9 by Section 15, Chapter 11, O.S.L. 2012 (59 O.S. Supp.
10 2014, Section 161.6), which relates to powers of the
11 Board; modifying powers of the Board; establishing
12 certain procedure for complaints and investigations;
13 making certain information confidential; providing
14 certain exceptions; authorizing respondent to acquire
15 certain information for certain purpose; and
16 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 161.6, as
19 amended by Section 15, Chapter 11, O.S.L. 2012 (59 O.S. Supp. 2014,
20 Section 161.6), is amended to read as follows:

21 Section 161.6. A. Pursuant to and in compliance with Article I
22 of the Administrative Procedures Act, the Board of Chiropractic
23 Examiners shall have the power to formulate, adopt and promulgate
24 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 1. Establish and maintain a procedure or system for the
2 certification or accreditation of chiropractic physicians who are
3 qualified in chiropractic post-doctorate Diplomate and all other
4 chiropractic specialties;

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

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

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

18 5. Purchase office furniture, equipment and supplies;

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

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

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

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

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

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

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

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

22 14. Establish policies for Board operations;

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

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

8 17. Assess chiropractic applicants the cost for a criminal
9 background check. The criminal background checks required by this
10 section shall follow the requirements of Section 1-1950.1 of Title
11 63 of the Oklahoma Statutes;

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

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

19 C. The Board shall promulgate rules regarding continuing
20 education seminars or courses or license renewal seminars or courses
21 including, but not limited to, the qualifications of an applicant,
22 association or entity seeking to sponsor a seminar or course, where
23 the association or entity is domiciled, whether the association or
24 entity is classified as a nonprofit organization, and the

1 educational experience of instructors applying to conduct a seminar
2 or course. The Board shall also promulgate rules regarding
3 certified chiropractic assistants.

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

- 8 a. investigating the qualifications of applicants for an
9 original license to practice chiropractic in this state,
- 10 b. investigating written complaints regarding the conduct
11 of chiropractic physicians, including alleged violations
12 of the Oklahoma Chiropractic Practice Act or of the
13 rules of the Board, and
- 14 c. such other matters as the Board shall delegate to them.

15 2. The Advisory Committee shall be selected from a list of ten
16 chiropractic physicians and three lay persons submitted by each
17 chiropractic association or society in this state or any
18 unaffiliated chiropractic physician desiring to submit a list. The
19 term of service for members of the Advisory Committee shall be
20 determined by the Board. Members of the Advisory Committee shall be
21 reimbursed for all actual and necessary expenses incurred in the
22 performance of their duties in accordance with the State Travel
23 Reimbursement Act.

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

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

15 3. The complaint and findings of the investigator shall be
16 presented to the Advisory Committee for review. The Advisory
17 Committee ~~shall review and determine whether the findings of the~~
18 ~~investigator and/or the Advisory Committee shall be presented to the~~
19 ~~Board for possible further action,~~ in consultation with the Board's
20 prosecuting attorney, shall make an informal recommendation for
21 disposition of the complaint to the Board.

22 F. 1. The Board, its employees, appointed committee members,
23 independent contractors or other agents of the Board shall keep
24 confidential the complaint and information obtained during an

1 investigation into violations of the Oklahoma Chiropractic Practice
2 Act; provided, however, such information may be introduced by the
3 state in administrative proceedings before the Board and the
4 information then becomes a public record.

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

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

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

3 SECTION 2. This act shall become effective November 1, 2015.
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