

AN ACT

relating to the licensing and regulation of chiropractors,  
optometrists, and therapeutic optometrists.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 201, Occupations Code, is  
amended by adding Section 201.206 to read as follows:

Sec. 201.206. CONFIDENTIALITY OF INVESTIGATION FILES.

(a) The board's investigation files are confidential, privileged,  
and not subject to discovery, subpoena, or any other means of legal  
compulsion for release other than to the board or an employee or  
agent of the board.

(b) The board shall share information in investigation  
files, on request, with another state or federal regulatory agency  
or with a local, state, or federal law enforcement agency  
regardless of whether the investigation has been completed. The  
board is not required to disclose under this subsection information  
that is an attorney-client communication, an attorney work product,  
or other information protected by a privilege recognized by the  
Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) On the completion of the investigation and before a  
hearing under Section 201.505, the board shall provide to the  
license holder, subject to any other privilege or restriction set  
forth by rule, statute, or legal precedent, access to all  
information in the board's possession that the board intends to

1 offer into evidence in presenting its case in chief at the contested  
2 case hearing on the complaint. The board is not required to  
3 provide:

4 (1) a board investigative report or memorandum;  
5 (2) the identity of a nontestifying complainant; or  
6 (3) attorney-client communications, attorney work  
7 product, or other materials covered by a privilege recognized by  
8 the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

9 (d) Notwithstanding Subsection (a), the board may:

10 (1) disclose a complaint to the affected license  
11 holder; and

12 (2) provide to a complainant the license holder's  
13 response to the complaint, if providing the response is considered  
14 by the board to be necessary to investigate the complaint.

15 (e) This section does not prohibit the board or another  
16 party in a disciplinary action from offering into evidence in a  
17 contested case under Chapter 2001, Government Code, a record,  
18 document, or other information obtained or created during an  
19 investigation.

20 SECTION 2. Section 201.312, Occupations Code, is amended to  
21 read as follows:

22 Sec. 201.312. REGISTRATION [~~ACCREDITATION~~] OF FACILITIES.

23 (a) The board by rule shall adopt requirements for registering  
24 [~~licensing and regulating~~] chiropractic facilities as necessary to  
25 protect the public health, safety, and welfare.

26 (b) The rules adopted under this section must:

27 (1) specify the registration [~~licensing~~] requirements

1 for a chiropractic facility;

2 (2) prescribe the standards for the chiropractic  
3 ~~[structure of the]~~ facility registration ~~[licensing]~~ program;  
4 ~~[and]~~

5 (3) provide for the issuance of a separate certificate  
6 of registration ~~[one facility license]~~ to an owner of a  
7 chiropractic facility for each chiropractic facility owned by the  
8 owner; and

9 (4) provide for the board to send notice to an owner of  
10 a chiropractic facility and to each chiropractor practicing in the  
11 facility of the impending expiration of the facility's certificate  
12 of registration before the expiration of the certificate.

13 (c) The standards adopted under Subsection (b)(2) must be  
14 consistent with industry standards for the practice of  
15 chiropractic.

16 (d) To register a chiropractic facility, the owner of the  
17 facility must:

18 (1) file with the board a written application for  
19 registration; and

20 (2) pay, with the application, a registration fee in  
21 an amount set by the board not to exceed \$75.

22 (e) The board may issue a certificate of registration only  
23 to a chiropractic facility that complies with the requirements of  
24 this section.

25 (f) A certificate of registration under this section must be  
26 renewed annually. To renew the certificate, the certificate holder  
27 shall apply to the board and pay an annual fee equal to the amount of

1 the registration fee under Subsection (d)(2).

2 (g) A person licensed to practice chiropractic in this state  
3 is subject to disciplinary action under this chapter if the person  
4 practices chiropractic in a chiropractic facility that the person  
5 knows is not registered under this section.

6 (h) An owner of a chiropractic facility who violates this  
7 section or a rule adopted under this section is subject to  
8 disciplinary action by the board in the same manner as a license  
9 holder who violates this chapter or a rule adopted under this  
10 chapter.

11 SECTION 3. Section 201.355, Occupations Code, is amended by  
12 amending Subsection (a) and adding Subsection (c) to read as  
13 follows:

14 (a) The board may renew without reexamination an expired  
15 license of a person who was licensed in this state, moved to another  
16 state or foreign country, and is currently licensed in good  
17 standing and has been in practice in the other state or foreign  
18 country for the two years preceding application.

19 (c) For purposes of this section, a person is currently  
20 licensed if the person is licensed by another chiropractic  
21 licensing board recognized by the board. The board shall adopt  
22 requirements for recognizing another chiropractic licensing board  
23 that:

24 (1) has licensing requirements substantially  
25 equivalent to the requirements of this chapter; and

26 (2) maintains professional standards considered by  
27 the board to be equivalent to the standards under this chapter.

SECTION 4. Subchapter E, Chapter 351, Occupations Code, is amended by adding Section 351.2045 to read as follows:

Sec. 351.2045. CONFIDENTIALITY OF INVESTIGATION FILES.

(a) The board's investigation files are confidential, privileged, and not subject to discovery, subpoena, or any other means of legal compulsion for release other than to the board or an employee or agent of the board.

(b) The board shall share information in investigation files, on request, with another state or federal regulatory agency or with a local, state, or federal law enforcement agency regardless of whether the investigation has been completed. The board is not required to disclose under this subsection information that is an attorney-client communication, an attorney work product, or other information protected by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) On the completion of the investigation and before a hearing under Section 351.503, the board shall provide to the license holder, subject to any other privilege or restriction set forth by rule, statute, or legal precedent, access to all information in the board's possession that the board intends to offer into evidence in presenting its case in chief at the contested case hearing on the complaint. The board is not required to provide:

- (1) a board investigative report or memorandum;
- (2) the identity of a nontestifying complainant; or
- (3) attorney-client communications, attorney work product, or other materials covered by a privilege recognized by

1 the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

2 (d) Notwithstanding Subsection (a), the board may:

3 (1) disclose a complaint to the affected license  
4 holder; and

5 (2) provide to a complainant the license holder's  
6 response to the complaint, if providing the response is considered  
7 by the board to be necessary to investigate the complaint.

8 (e) This section does not prohibit the board or another  
9 party in a disciplinary action from offering into evidence in a  
10 contested case under Chapter 2001, Government Code, a record,  
11 document, or other information obtained or created during an  
12 investigation.

13 SECTION 5. Subsection (b), Section 201.303, Occupations  
14 Code, is repealed.

15 SECTION 6. Not later than January 1, 2004, the Texas Board  
16 of Chiropractic Examiners shall adopt rules under Section 201.503,  
17 Occupations Code, specifying the maximum amount of sanctions that  
18 may be assessed against a chiropractor for violating Subsection  
19 (g), Section 201.312, Occupations Code, as added by this Act.

20 SECTION 7. (a) This Act takes effect September 1, 2003.

21 (b) Section 201.206, Occupations Code, as added by this Act,  
22 applies to a complaint or investigation pending on the effective  
23 date of this Act or filed on or after that date.

24 (c) The change in law made by this Act by the amendment of  
25 Subsection (a), Section 201.355, Occupations Code, applies only to  
26 an application to renew a license filed on or after the effective  
27 date of this Act. An application to renew a license filed before

1 the effective date of this Act is governed by the law in effect on  
2 the date the application was filed, and the former law is continued  
3 in effect for that purpose.

4 (d) Section 351.2045, Occupations Code, as added by this  
5 Act, applies to a complaint or investigation pending on the  
6 effective date of this Act or filed on or after that date.

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President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 211 passed the Senate on March 17, 2003, by the following vote: Yeas 24, Nays 7; and that the Senate concurred in House amendments on May 29, 2003, by a viva-voce vote.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 211 passed the House, with amendments, on May 25, 2003, by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor