

By: Taylor of Collin, et al.
(Raymond)

S.B. No. 304

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Board of
Chiropractic Examiners; authorizing a reduction in fees.

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

SECTION 1. Section 201.002(b), Occupations Code, is amended
to read as follows:

(b) A person practices chiropractic under this chapter if
the person:

(1) uses objective or subjective means to diagnose,
analyze, examine, or evaluate the biomechanical condition of the
spine and musculoskeletal system of the human body;

(2) performs nonsurgical, nonincisive procedures,
including adjustment and manipulation, to improve the subluxation
complex or the biomechanics of the musculoskeletal system;

(3) represents to the public that the person is a
chiropractor; or

(4) uses the term "chiropractor," "chiropractic,"
"doctor of chiropractic," "D.C.," or any derivative of those terms
or initials in connection with the person's name.

SECTION 2. Section 201.004, Occupations Code, is amended to
read as follows:

Sec. 201.004. APPLICATION OF SUNSET ACT. The Texas Board of
Chiropractic Examiners is subject to Chapter 325, Government Code
(Texas Sunset Act). Unless continued in existence as provided by

1 that chapter, the board is abolished and this chapter expires
2 September 1, 2029 [~~2017~~].

3 SECTION 3. Section 201.061, Occupations Code, is amended by
4 amending Subsection (b) and adding Subsection (d) to read as
5 follows:

6 (b) The training program must provide the person with
7 information regarding:

8 (1) this chapter;

9 (2) [~~and~~] the board's programs, functions, rules, and
10 budget;

11 (3) the scope of and limitations on the board's
12 rulemaking authority;

13 (4) the types of board rules, interpretations, and
14 enforcement actions that may implicate federal antitrust law by
15 limiting competition or impacting prices charged by persons engaged
16 in a profession or business the board regulates, including rules,
17 interpretations, and enforcement actions that:

18 (A) regulate the scope of practice of persons in
19 a profession or business the board regulates;

20 (B) restrict advertising by persons in a
21 profession or business the board regulates;

22 (C) affect the price of goods or services
23 provided by persons in a profession or business the board
24 regulates; and

25 (D) restrict participation in a profession or
26 business the board regulates;

27 (5) [~~2~~] the results of the most recent formal audit

1 of the board;

2 (6) [~~(3)~~] the requirements of:

3 (A) laws relating to open meetings, public
4 information, administrative procedure, and disclosure of conflicts
5 of interest; and

6 (B) other laws applicable to members of the board
7 in performing their duties; and

8 (7) [~~(4)~~] any applicable ethics policies adopted by
9 the board or the Texas Ethics Commission.

10 (d) The executive director of the board shall create a
11 training manual that includes the information required by
12 Subsection (b). The executive director shall distribute a copy of
13 the training manual annually to each board member. On receipt of
14 the training manual, each board member shall sign and submit to the
15 executive director a statement acknowledging receipt of the
16 training manual.

17 SECTION 4. Section 201.153(a), Occupations Code, is amended
18 to read as follows:

19 (a) The board by rule shall set fees in amounts reasonable
20 and necessary to cover the costs of administering this chapter.
21 [~~The board may not set a fee in an amount that is less than the~~
22 ~~amount of that fee on September 1, 1993.~~]

23 SECTION 5. The heading to Section 201.206, Occupations
24 Code, is amended to read as follows:

25 Sec. 201.206. CONFIDENTIALITY OF COMPLAINTS, INVESTIGATION
26 FILES, AND OTHER INFORMATION.

27 SECTION 6. Section 201.206, Occupations Code, is amended by

1 amending Subsection (a) and adding Subsections (c-1) and (f) to
2 read as follows:

3 (a) Each complaint, adverse report, investigation file, and
4 other investigation report and all other investigative information
5 in the possession of or received or gathered by the board or the
6 board's employees or agents relating to a license holder, an
7 application for a license, or a criminal investigation or
8 proceeding is privileged and confidential and is [~~The board's~~
9 ~~investigation files are confidential, privileged, and~~] not subject
10 to discovery, subpoena, or any other means of legal compulsion for
11 release to anyone other than [~~to~~] the board or an employee or agent
12 of the board involved in any disciplinary action relating to a
13 license holder.

14 (c-1) The board's providing of information under Subsection
15 (c) does not constitute a waiver of a privilege or confidentiality
16 under this chapter or any other law.

17 (f) The board shall protect the identity of a complainant to
18 the extent possible.

19 SECTION 7. Subchapter E, Chapter 201, Occupations Code, is
20 amended by adding Section 201.2065 to read as follows:

21 Sec. 201.2065. REQUIREMENTS FOR CERTAIN COMPLAINTS.

22 (a) In this section:

23 (1) "Anonymous complaint" means a complaint that lacks
24 sufficient information to identify the source or the name of the
25 person who filed the complaint.

26 (2) "Insurance agent" means a person licensed under
27 Chapter 4054, Insurance Code.

1 (3) "Insurer" means an insurance company or other
2 entity authorized to engage in the business of insurance under
3 Subtitle C, Title 6, Insurance Code.

4 (4) "Third-party administrator" means a person
5 required to have a certificate of authority under Chapter 4151,
6 Insurance Code.

7 (b) The board may not accept anonymous complaints.

8 (c) Notwithstanding any confidentiality requirements under
9 Chapter 552, Government Code, or this chapter, a complaint filed
10 with the board by an insurance agent, insurer, pharmaceutical
11 company, or third-party administrator against a license holder must
12 include the name and address of the insurance agent, insurer,
13 pharmaceutical company, or third-party administrator filing the
14 complaint.

15 (d) Not later than the 15th day after the date the complaint
16 is filed with the board, the board shall notify the license holder
17 who is the subject of the complaint of the name and address of the
18 insurance agent, insurer, pharmaceutical company, or third-party
19 administrator who filed the complaint, unless the notice would
20 jeopardize an investigation.

21 SECTION 8. Subchapter E, Chapter 201, Occupations Code, is
22 amended by adding Section 201.210 to read as follows:

23 Sec. 201.210. EXPERT REVIEW PROCESS. (a) The board by
24 rule shall develop an expert review process to assist the board with
25 the investigation of complaints filed with the board that require
26 additional chiropractic expertise.

27 (b) The board shall:

1 (1) determine the type of complaints that require
2 potential expert review, including standard of care complaints;

3 (2) create a list of qualified experts to review
4 complaints that require additional chiropractic expertise; and

5 (3) establish a method for assigning an expert to a
6 complaint that ensures unbiased assignments of complaints,
7 maintains confidentiality of complaints, and avoids conflicts of
8 interest related to complaints.

9 (c) The rules adopted under this section must address:

10 (1) the qualifications of the experts who may review
11 complaints;

12 (2) the grounds for removal of an expert who is
13 assigned to review a complaint;

14 (3) the time in which a complaint that requires expert
15 review must be resolved; and

16 (4) the content and format of expert review documents.

17 (d) The board may contract with a qualified expert on the
18 list created under this section to assist the board in the
19 investigation of a complaint that requires additional chiropractic
20 expertise.

21 SECTION 9. Section 201.302(a), Occupations Code, is amended
22 to read as follows:

23 (a) An applicant for a license by examination must present
24 satisfactory evidence to the board that the applicant:

25 (1) is at least 18 years of age;

26 (2) ~~[is of good moral character,~~

27 ~~(3)]~~ has completed 90 semester hours of college

1 courses other than courses included in a doctor of chiropractic
2 degree program; and

3 (3) [~~(4)~~] is either a graduate or a final semester
4 student of a bona fide reputable doctor of chiropractic degree
5 program.

6 SECTION 10. Section 201.303(d), Occupations Code, is
7 amended to read as follows:

8 (d) A bona fide reputable doctor of chiropractic degree
9 program that satisfies Section 201.302(a)(3) [~~201.302(a)(4)~~] is
10 one that:

11 (1) has entrance requirements and a course of
12 instruction as high as those of a better class of doctor of
13 chiropractic degree programs in the United States;

14 (2) maintains a resident course of instruction
15 equivalent to:

16 (A) not less than four terms of eight months
17 each; or

18 (B) not less than the number of semester hours
19 required by The University of Texas for a bachelor of arts or
20 bachelor of science degree;

21 (3) provides a course of instruction in the
22 fundamental subjects listed in Section 201.305(b); and

23 (4) has the necessary teaching staff and facilities
24 for proper instruction in all of the fundamental subjects listed in
25 Section 201.305(b).

26 SECTION 11. Section 201.307(b), Occupations Code, is
27 amended to read as follows:

1 (b) The board by rule shall establish the number of times an
2 applicant may retake the examination required by Section
3 201.304(a)(1) or (b), as applicable. [~~An applicant must pass the~~
4 ~~examination required by Section 201.304(a)(2) within three~~
5 ~~attempts.~~] The board by rule shall establish the conditions under
6 which an applicant may retake an examination. The board may require
7 an applicant to fulfill additional educational requirements.

8 SECTION 12. Subchapter G, Chapter 201, Occupations Code, is
9 amended by adding Sections 201.313 and 201.314 to read as follows:

10 Sec. 201.313. CRIMINAL HISTORY RECORD INFORMATION FOR
11 LICENSE ISSUANCE. (a) The board shall require that an applicant
12 for a license submit a complete and legible set of fingerprints, on
13 a form prescribed by the board, to the board or to the Department of
14 Public Safety for the purpose of obtaining criminal history record
15 information from the Department of Public Safety and the Federal
16 Bureau of Investigation.

17 (b) The board may not issue a license to a person who does
18 not comply with the requirement of Subsection (a).

19 (c) The board shall conduct a criminal history record
20 information check of each applicant for a license using
21 information:

22 (1) provided by the individual under this section; and
23 (2) made available to the board by the Department of
24 Public Safety, the Federal Bureau of Investigation, and any other
25 criminal justice agency under Chapter 411, Government Code.

26 (d) The board may:

27 (1) enter into an agreement with the Department of

1 Public Safety to administer a criminal history record information
2 check required under this section; and

3 (2) authorize the Department of Public Safety to
4 collect from each applicant the costs incurred by the Department of
5 Public Safety in conducting the criminal history record information
6 check.

7 Sec. 201.314. SEARCH OF NATIONAL PRACTITIONER DATABASE.

8 The board shall establish a process to search at least one national
9 practitioner database to determine whether another state has taken
10 any disciplinary action against an applicant or license holder
11 before issuing an initial or renewal license under this chapter.

12 SECTION 13. The heading to Subchapter H, Chapter 201,
13 Occupations Code, is amended to read as follows:

14 SUBCHAPTER H. [~~ANNUAL~~] REGISTRATION AND LICENSE RENEWAL

15 SECTION 14. Section 201.351, Occupations Code, is amended
16 to read as follows:

17 Sec. 201.351. [~~ANNUAL~~] REGISTRATION. A chiropractor may
18 not practice chiropractic in this state unless the chiropractor
19 [~~annually~~] registers with the board [~~not later than January 1 of~~
20 ~~each year~~].

21 SECTION 15. The heading to Section 201.352, Occupations
22 Code, is amended to read as follows:

23 Sec. 201.352. APPLICATION FOR [~~ANNUAL~~] REGISTRATION.

24 SECTION 16. Section 201.352, Occupations Code, is amended
25 by amending Subsections (a) and (d) and adding Subsection (c-1) to
26 read as follows:

27 (a) A person required to register shall:

1 (1) file [~~annually~~] with the board a written
2 application for registration; and

3 (2) pay, with the application, a [~~an annual~~]
4 registration fee to the board.

5 (c-1) On receipt of a renewal application, the board shall
6 check the national practitioner database with respect to the
7 license holder as provided by Section 201.314.

8 (d) If the board determines that the applicant is licensed
9 to practice chiropractic in this state, the board shall issue a [~~an~~
10 ~~annual~~] registration receipt certifying that the applicant has
11 filed an application and paid the registration fee.

12 SECTION 17. Section 201.353, Occupations Code, is amended
13 by amending Subsection (a) and adding Subsection (a-1) to read as
14 follows:

15 (a) A license under this chapter is valid for a term of one
16 or two years as determined by board rule.

17 (a-1) The board by rule may adopt a system under which
18 licenses expire on various dates during the year.

19 SECTION 18. Sections 201.354(c), (d), (f), and (g),
20 Occupations Code, are amended to read as follows:

21 (c) The [~~annual~~] renewal fee applies to each person licensed
22 by the board, even if the person is not practicing chiropractic in
23 this state.

24 (d) A person whose license has been expired for 90 days or
25 less may renew the license by paying to the board a renewal fee that
26 is equal to 1-1/2 times the [~~annual~~] renewal fee set by the board
27 under Section 201.153(a). If a person's license has been expired

1 for more than 90 days but less than one year, the person may renew
2 the license by paying to the board a renewal fee that is equal to two
3 times the [~~annual~~] renewal fee set by the board under Section
4 201.153(a).

5 (f) A person who practices chiropractic without a [~~an~~
6 ~~annual~~] renewal receipt for the current year practices chiropractic
7 without a license.

8 (g) A person may renew a license that has been expired for at
9 least one year but not more than three years if:

10 (1) the board determines according to criteria adopted
11 by board rule that the person has shown good cause for the failure
12 to renew the license; and

13 (2) the person pays to the board:

14 (A) the [~~annual~~] renewal fee set by the board
15 under Section 201.153(a) for each year in which the license was
16 expired; and

17 (B) an additional fee in an amount equal to the
18 sum of:

19 (i) the [~~annual~~] renewal fee set by the
20 board under Section 201.153(a), multiplied by the number of years
21 the license was expired, prorated for fractional years; and

22 (ii) two times the [~~annual~~] renewal fee set
23 by the board under Section 201.153(a).

24 SECTION 19. Subchapter H, Chapter 201, Occupations Code, is
25 amended by adding Section 201.3545 to read as follows:

26 Sec. 201.3545. CRIMINAL HISTORY RECORD INFORMATION
27 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a

1 license issued under this chapter shall submit a complete and
2 legible set of fingerprints for purposes of performing a criminal
3 history record information check of the applicant as provided by
4 Section 201.313.

5 (b) The board may administratively suspend or refuse to
6 renew the license of a person who does not comply with the
7 requirement of Subsection (a).

8 (c) A license holder is not required to submit fingerprints
9 under this section for the renewal of the license if the license
10 holder has previously submitted fingerprints under:

11 (1) Section 201.313 for the initial issuance of the
12 license; or

13 (2) this section as part of a prior license renewal.

14 SECTION 20. Section 201.502, Occupations Code, is amended
15 by amending Subsection (a) and adding Subsection (c) to read as
16 follows:

17 (a) The board may refuse to admit a person to examinations
18 and may revoke or suspend a license or place a license holder on
19 probation for a period determined by the board for:

20 (1) violating this chapter or a rule adopted under
21 this chapter, including committing an act prohibited under Section
22 201.5025;

23 (2) engaging in deception or fraud in the practice of
24 chiropractic;

25 (3) presenting to the board or using a license,
26 certificate, or diploma or a transcript of a license, certificate,
27 or diploma that was illegally or fraudulently obtained,

1 counterfeited, or materially altered;

2 (4) presenting to the board an untrue statement or a
3 document or testimony that was illegally used to pass the
4 examination;

5 (5) being convicted of a crime involving moral
6 turpitude or a felony;

7 (6) procuring or assisting in the procuring of an
8 abortion;

9 (7) engaging in grossly unprofessional conduct or
10 dishonorable conduct of a character likely to deceive or defraud
11 the public;

12 (8) having a habit of intemperance or drug addiction
13 or another habit that, in the opinion of the board, endangers the
14 life of a patient;

15 (9) using an advertising statement that is false or
16 that tends to mislead or deceive the public;

17 (10) directly or indirectly employing or associating
18 with a person who, in the course of the person's employment, commits
19 an act constituting the practice of chiropractic when the person is
20 not licensed to practice chiropractic;

21 (11) advertising professional superiority, or
22 advertising the performance of professional services in a superior
23 manner, if that advertising is not readily subject to verification;

24 (12) purchasing, selling, bartering, using, or
25 offering to purchase, sell, barter, or use a chiropractic degree,
26 license, certificate, or diploma or transcript of a license,
27 certificate, or diploma in or relating to an application to the

- 1 board for a license to practice chiropractic;
- 2 (13) altering with fraudulent intent a chiropractic
3 license, certificate, or diploma or transcript of a chiropractic
4 license, certificate, or diploma;
- 5 (14) impersonating or acting as proxy for another in
6 an examination required by this chapter for a chiropractic license;
- 7 (15) impersonating a licensed chiropractor;
- 8 (16) allowing one's chiropractic license to be used by
9 another person to practice chiropractic;
- 10 (17) being proved insane by a person having authority
11 to make that determination;
- 12 (18) failing to use proper diligence in the practice
13 of chiropractic or using gross inefficiency in the practice of
14 chiropractic;
- 15 (19) failing to clearly differentiate a chiropractic
16 office or clinic from another business or enterprise;
- 17 (20) personally soliciting a patient or causing a
18 patient to be solicited by the use of a case history of another
19 patient of another chiropractor;
- 20 (21) using for the purpose of soliciting patients an
21 accident report prepared by a peace officer in a manner prohibited
22 by Section 38.12, Penal Code; ~~or~~
- 23 (22) advertising using the term "physician" or
24 "chiropractic physician" or any combination or derivation of the
25 term "physician"; or
- 26 (23) failing to submit fingerprints to the board or
27 Department of Public Safety to enable the board to obtain criminal

1 history record information as required by Section 201.313.
2 ["physician."]

3 (c) The board may refuse to admit a person to an examination
4 and may revoke or suspend a license or place a license holder on
5 probation for a period determined by the board because of the
6 person's or license holder's violation of a law of this state, other
7 than this chapter, or a rule of another licensing board in this
8 state, or of a statute or rule of another state as determined
9 through a search conducted as provided by Section 201.314, if the
10 violation constitutes a violation of the laws of this state or a
11 board rule.

12 SECTION 21. The following provisions of the Occupations
13 Code are repealed:

- 14 (1) Subchapter F, Chapter 201; and
15 (2) Section 201.312.

16 SECTION 22. (a) Not later than March 1, 2018, the Texas
17 Board of Chiropractic Examiners shall adopt rules to establish the
18 expert review process as required by Section 201.210, Occupations
19 Code, as added by this Act.

20 (b) Not later than September 1, 2019, the Texas Board of
21 Chiropractic Examiners shall obtain criminal history record
22 information on each person who on the effective date of this Act
23 holds a license issued under Chapter 201, Occupations Code, and did
24 not undergo a criminal history record information check based on
25 the license holder's fingerprints on the initial application for
26 the license. The board may suspend the license of a license holder
27 who does not provide the criminal history record information as

1 required by the board and this subsection.

2 SECTION 23. (a) Except as provided by Subsection (b) of
3 this section, Section 201.061, Occupations Code, as amended by this
4 Act, applies to a member of the Texas Board of Chiropractic
5 Examiners appointed before, on, or after the effective date of this
6 Act.

7 (b) A member of the Texas Board of Chiropractic Examiners
8 who, before the effective date of this Act, completed the training
9 program required by Section 201.061, Occupations Code, as that law
10 existed before the effective date of this Act, is required to
11 complete additional training only on subjects added by this Act to
12 the training program as required by Section 201.061, Occupations
13 Code, as amended by this Act. A board member described by this
14 subsection may not vote, deliberate, or be counted as a member in
15 attendance at a meeting of the board held on or after December 1,
16 2017, until the member completes the additional training.

17 SECTION 24. This Act takes effect September 1, 2017.