

By: Taylor of Collin, et al.

S.B. No. 304

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

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

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

22 Sec. 201.004. APPLICATION OF SUNSET ACT. The Texas Board of
23 Chiropractic Examiners is subject to Chapter 325, Government Code
24 (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;i

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) [~~(2)~~] the results of the most recent formal audit
14 of the board;

15 (5) [~~(3)~~] the requirements of:

16 (A) laws relating to open meetings, public
17 information, administrative procedure, and disclosing conflicts of
18 interest; and

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

21 (6) [~~(4)~~] any applicable ethics policies adopted by
22 the board or the Texas Ethics Commission.

23 (d) The executive director of the board shall create a
24 training manual that includes the information required by
25 Subsection (b). The executive director shall distribute a copy of
26 the training manual annually to each board member. On receipt of
27 the training manual, each board member shall sign and submit to the

1 executive director a statement acknowledging receipt of the
2 training manual.

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

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

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

11 Sec. 201.206. CONFIDENTIALITY OF COMPLAINTS, INVESTIGATION
12 FILES, AND OTHER INFORMATION.

13 SECTION 6. Section 201.206, Occupations Code, is amended by
14 amending Subsection (a) and adding Subsections (c-1) and (f) to
15 read as follows:

16 (a) Each complaint, adverse report, investigation file, and
17 other investigation report and all other investigative information
18 in the possession of or received or gathered by the board or the
19 board's employees or agents relating to a license holder, an
20 application for a license, or a criminal investigation or
21 proceeding is privileged and confidential and is [~~The board's~~
22 ~~investigation files are confidential, privileged, and~~] not subject
23 to discovery, subpoena, or any other means of legal compulsion for
24 release to anyone other than [~~to~~] the board or an employee or agent
25 of the board involved in any disciplinary action relating to a
26 license holder.

27 (c-1) The board's providing of information under Subsection

1 (c) does not constitute a waiver of a privilege or confidentiality
2 under this chapter or any other law.

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

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

7 Sec. 201.2065. REQUIREMENTS FOR CERTAIN COMPLAINTS. (a)

8 In this section:

9 (1) "Anonymous complaint" means a complaint that lacks
10 sufficient information to identify the source or the name of the
11 person who filed the complaint.

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

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

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

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

21 (c) Notwithstanding any confidentiality requirements under
22 Chapter 552, Government Code, or this chapter, a complaint filed
23 with the board by an insurance agent, insurer, pharmaceutical
24 company, or third-party administrator against a license holder must
25 include the name and address of the insurance agent, insurer,
26 pharmaceutical company, or third-party administrator filing the
27 complaint.

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

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

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

13 (b) The board shall:

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

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

18 (3) establish a method for assigning an expert to a
19 complaint that ensures unbiased assignments of complaints,
20 maintains confidentiality of complaints, and avoids conflicts of
21 interest related to complaints.

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

23 (1) the qualifications of the experts who may review
24 complaints;

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

27 (3) the time in which a complaint that requires expert

1 review must be resolved; and

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

3 (d) The board may contract with a qualified expert on the
4 list created under this section to assist the board in the
5 investigation of a complaint that requires additional chiropractic
6 expertise.

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

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

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

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

13 ~~(3)]~~ has completed 90 semester hours of college
14 courses other than courses included in a doctor of chiropractic
15 degree program; and

16 (3) ~~(4)]~~ is either a graduate or a final semester
17 student of a bona fide reputable doctor of chiropractic degree
18 program.

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

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

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

27 (2) maintains a resident course of instruction

1 equivalent to:

2 (A) not less than four terms of eight months
3 each; or

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

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

9 (4) has the necessary teaching staff and facilities
10 for proper instruction in all of the fundamental subjects listed in
11 Section 201.305(b).

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

14 (b) The board by rule shall establish the number of times an
15 applicant may retake the examination required by Section
16 201.304(a)(1) or (b), as applicable. [~~An applicant must pass the
17 examination required by Section 201.304(a)(2) within three
18 attempts.~~] The board by rule shall establish the conditions under
19 which an applicant may retake an examination. The board may require
20 an applicant to fulfill additional educational requirements.

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

23 Sec. 201.313. CRIMINAL HISTORY RECORD INFORMATION FOR
24 LICENSE ISSUANCE. (a) The board shall require that an applicant
25 for a license submit a complete and legible set of fingerprints, on
26 a form prescribed by the board, to the board or to the Department of
27 Public Safety for the purpose of obtaining criminal history record

1 information from the Department of Public Safety and the Federal
2 Bureau of Investigation.

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

5 (c) The board shall conduct a criminal history record
6 information check of each applicant for a license using
7 information:

8 (1) provided by the individual under this section; and

9 (2) made available to the board by the Department of
10 Public Safety, the Federal Bureau of Investigation, and any other
11 criminal justice agency under Chapter 411, Government Code.

12 (d) The board may:

13 (1) enter into an agreement with the Department of
14 Public Safety to administer a criminal history record information
15 check required under this section; and

16 (2) authorize the Department of Public Safety to
17 collect from each applicant the costs incurred by the Department of
18 Public Safety in conducting the criminal history record information
19 check.

20 Sec. 201.314. SEARCH OF NATIONAL PRACTITIONER DATABASE.

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

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

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

1 SECTION 14. Section 201.351, Occupations Code, is amended
2 to read as follows:

3 Sec. 201.351. [~~ANNUAL~~] REGISTRATION. A chiropractor may
4 not practice chiropractic in this state unless the chiropractor
5 [~~annually~~] registers with the board [~~not later than January 1 of~~
6 ~~each year~~].

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

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

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

13 (a) A person required to register shall:

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

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

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

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

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

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

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

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

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

10 (d) A person whose license has been expired for 90 days or
11 less may renew the license by paying to the board a renewal fee that
12 is equal to 1-1/2 times the ~~[annual]~~ renewal fee set by the board
13 under Section 201.153(a). If a person's license has been expired
14 for more than 90 days but less than one year, the person may renew
15 the license by paying to the board a renewal fee that is equal to two
16 times the ~~[annual]~~ renewal fee set by the board under Section
17 201.153(a).

18 (f) A person who practices chiropractic without a ~~[an~~
19 ~~annual]~~ renewal receipt for the current year practices chiropractic
20 without a license.

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

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

26 (2) the person pays to the board:

27 (A) the ~~[annual]~~ renewal fee set by the board

1 under Section 201.153(a) for each year in which the license was
2 expired; and

3 (B) an additional fee in an amount equal to the
4 sum of:

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

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

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

12 Sec. 201.3545. CRIMINAL HISTORY RECORD INFORMATION
13 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
14 license issued under this chapter shall submit a complete and
15 legible set of fingerprints for purposes of performing a criminal
16 history record information check of the applicant as provided by
17 Section 201.313.

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

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

24 (1) Section 201.313 for the initial issuance of the
25 license; or

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

27 SECTION 20. Section 201.502, Occupations Code, is amended

1 by amending Subsection (a) and adding Subsection (c) to read as
2 follows:

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

6 (1) violating this chapter or a rule adopted under
7 this chapter, including committing an act prohibited under Section
8 [201.5025](#);

9 (2) engaging in deception or fraud in the practice of
10 chiropractic;

11 (3) presenting to the board or using a license,
12 certificate, or diploma or a transcript of a license, certificate,
13 or diploma that was illegally or fraudulently obtained,
14 counterfeited, or materially altered;

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

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

20 (6) procuring or assisting in the procuring of an
21 abortion;

22 (7) engaging in grossly unprofessional conduct or
23 dishonorable conduct of a character likely to deceive or defraud
24 the public;

25 (8) having a habit of intemperance or drug addiction
26 or another habit that, in the opinion of the board, endangers the
27 life of a patient;

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

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

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

10 (12) purchasing, selling, bartering, using, or
11 offering to purchase, sell, barter, or use a chiropractic degree,
12 license, certificate, or diploma or transcript of a license,
13 certificate, or diploma in or relating to an application to the
14 board for a license to practice chiropractic;

15 (13) altering with fraudulent intent a chiropractic
16 license, certificate, or diploma or transcript of a chiropractic
17 license, certificate, or diploma;

18 (14) impersonating or acting as proxy for another in
19 an examination required by this chapter for a chiropractic license;

20 (15) impersonating a licensed chiropractor;

21 (16) allowing one's chiropractic license to be used by
22 another person to practice chiropractic;

23 (17) being proved insane by a person having authority
24 to make that determination;

25 (18) failing to use proper diligence in the practice
26 of chiropractic or using gross inefficiency in the practice of
27 chiropractic;

1 (19) failing to clearly differentiate a chiropractic
2 office or clinic from another business or enterprise;

3 (20) personally soliciting a patient or causing a
4 patient to be solicited by the use of a case history of another
5 patient of another chiropractor;

6 (21) using for the purpose of soliciting patients an
7 accident report prepared by a peace officer in a manner prohibited
8 by Section 38.12, Penal Code; ~~or~~

9 (22) advertising using the term "physician" or
10 "chiropractic physician" or any combination or derivation of the
11 term "physician"; or

12 (23) failing to submit fingerprints to the board or
13 Department of Public Safety to enable the board to obtain criminal
14 history record information as required by Section 201.313.
15 ["physician."]

16 (c) The board may refuse to admit a person to an examination
17 and may revoke or suspend a license or place a license holder on
18 probation for a period determined by the board because of the
19 person's or license holder's violation of a law of this state, other
20 than this chapter, or a rule of another licensing board in this
21 state, or of a statute or rule of another state as determined
22 through a search conducted as provided by Section 201.314, if the
23 violation constitutes a violation of the laws of this state or a
24 board rule.

25 SECTION 21. The following provisions of the Occupations
26 Code are repealed:

27 (1) Subchapter F, Chapter 201; and

1 (2) Section 201.312.

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

6 (b) Not later than September 1, 2019, the Texas Board of
7 Chiropractic Examiners shall obtain criminal history record
8 information on each person who on the effective date of this Act
9 holds a license issued under Chapter 201, Occupations Code, and did
10 not undergo a criminal history record information check based on
11 the license holder's fingerprints on the initial application for
12 the license. The board may suspend the license of a license holder
13 who does not provide the criminal history record information as
14 required by the board and this subsection.

15 SECTION 23. (a) Except as provided by Subsection (b) of
16 this section, Section 201.061, Occupations Code, as amended by this
17 Act, applies to a member of the Texas Board of Chiropractic
18 Examiners appointed before, on, or after the effective date of this
19 Act.

20 (b) A member of the Texas Board of Chiropractic Examiners
21 who, before the effective date of this Act, completed the training
22 program required by Section 201.061, Occupations Code, as that law
23 existed before the effective date of this Act, is required to
24 complete additional training only on subjects added by this Act to
25 the training program as required by Section 201.061, Occupations
26 Code, as amended by this Act. A board member described by this
27 subsection may not vote, deliberate, or be counted as a member in

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1 attendance at a meeting of the board held on or after December 1,
2 2017, until the member completes the additional training.

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