

1-1 By: Taylor of Collin, et al. S.B. No. 304
 1-2 (In the Senate - Filed February 28, 2017; March 6, 2017,
 1-3 read first time and referred to Committee on Health & Human
 1-4 Services; March 30, 2017, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; March 30, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the continuation and functions of the Texas Board of
 1-20 Chiropractic Examiners; authorizing a reduction in fees.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 201.002(b), Occupations Code, is amended
 1-23 to read as follows:

1-24 (b) A person practices chiropractic under this chapter if
 1-25 the person:

1-26 (1) uses objective or subjective means to diagnose,
 1-27 analyze, examine, or evaluate the biomechanical condition of the
 1-28 spine and musculoskeletal system of the human body;

1-29 (2) performs nonsurgical, nonincisive procedures,
 1-30 including adjustment and manipulation, to improve the subluxation
 1-31 complex or the biomechanics of the musculoskeletal system;

1-32 (3) represents to the public that the person is a
 1-33 chiropractor; or

1-34 (4) uses the term "chiropractor," "chiropractic,"
 1-35 "doctor of chiropractic," "D.C.," or any derivative of those terms
 1-36 or initials in connection with the person's name.

1-37 SECTION 2. Section 201.004, Occupations Code, is amended to
 1-38 read as follows:

1-39 Sec. 201.004. APPLICATION OF SUNSET ACT. The Texas Board of
 1-40 Chiropractic Examiners is subject to Chapter 325, Government Code
 1-41 (Texas Sunset Act). Unless continued in existence as provided by
 1-42 that chapter, the board is abolished and this chapter expires
 1-43 September 1, 2029 [~~2017~~].

1-44 SECTION 3. Section 201.061, Occupations Code, is amended by
 1-45 amending Subsection (b) and adding Subsection (d) to read as
 1-46 follows:

1-47 (b) The training program must provide the person with
 1-48 information regarding:

1-49 (1) this chapter;

1-50 (2) [and] the board's programs, functions, rules, and
 1-51 budget;

1-52 (3) the scope of and limitations on the board's
 1-53 rulemaking authority;

1-54 (4) [~~(2)~~] the results of the most recent formal audit
 1-55 of the board;

1-56 (5) [~~(3)~~] the requirements of:

1-57 (A) laws relating to open meetings, public
 1-58 information, administrative procedure, and disclosing conflicts of
 1-59 interest; and

1-60 (B) other laws applicable to members of the board
 1-61 in performing their duties; and

2-1 (6) [~~4~~] any applicable ethics policies adopted by
2-2 the board or the Texas Ethics Commission.

2-3 (d) The executive director of the board shall create a
2-4 training manual that includes the information required by
2-5 Subsection (b). The executive director shall distribute a copy of
2-6 the training manual annually to each board member. On receipt of
2-7 the training manual, each board member shall sign and submit to the
2-8 executive director a statement acknowledging receipt of the
2-9 training manual.

2-10 SECTION 4. Section 201.153(a), Occupations Code, is amended
2-11 to read as follows:

2-12 (a) The board by rule shall set fees in amounts reasonable
2-13 and necessary to cover the costs of administering this chapter.
2-14 [~~The board may not set a fee in an amount that is less than the~~
2-15 ~~amount of that fee on September 1, 1993.~~]

2-16 SECTION 5. The heading to Section 201.206, Occupations
2-17 Code, is amended to read as follows:

2-18 Sec. 201.206. CONFIDENTIALITY OF COMPLAINTS, INVESTIGATION
2-19 FILES, AND OTHER INFORMATION.

2-20 SECTION 6. Section 201.206, Occupations Code, is amended by
2-21 amending Subsection (a) and adding Subsections (c-1) and (f) to
2-22 read as follows:

2-23 (a) Each complaint, adverse report, investigation file, and
2-24 other investigation report and all other investigative information
2-25 in the possession of or received or gathered by the board or the
2-26 board's employees or agents relating to a license holder, an
2-27 application for a license, or a criminal investigation or
2-28 proceeding is privileged and confidential and is [~~The board's~~
2-29 ~~investigation files are confidential, privileged, and~~] not subject
2-30 to discovery, subpoena, or any other means of legal compulsion for
2-31 release to anyone other than [~~to~~] the board or an employee or agent
2-32 of the board involved in any disciplinary action relating to a
2-33 license holder.

2-34 (c-1) The board's providing of information under Subsection
2-35 (c) does not constitute a waiver of a privilege or confidentiality
2-36 under this chapter or any other law.

2-37 (f) The board shall protect the identity of a complainant to
2-38 the extent possible.

2-39 SECTION 7. Subchapter E, Chapter 201, Occupations Code, is
2-40 amended by adding Section 201.2065 to read as follows:

2-41 Sec. 201.2065. REQUIREMENTS FOR CERTAIN COMPLAINTS.

2-42 (a) In this section:

2-43 (1) "Anonymous complaint" means a complaint that lacks
2-44 sufficient information to identify the source or the name of the
2-45 person who filed the complaint.

2-46 (2) "Insurance agent" means a person licensed under
2-47 Chapter 4054, Insurance Code.

2-48 (3) "Insurer" means an insurance company or other
2-49 entity authorized to engage in the business of insurance under
2-50 Subtitle C, Title 6, Insurance Code.

2-51 (4) "Third-party administrator" means a person
2-52 required to have a certificate of authority under Chapter 4151,
2-53 Insurance Code.

2-54 (b) The board may not accept anonymous complaints.

2-55 (c) Notwithstanding any confidentiality requirements under
2-56 Chapter 552, Government Code, or this chapter, a complaint filed
2-57 with the board by an insurance agent, insurer, pharmaceutical
2-58 company, or third-party administrator against a license holder must
2-59 include the name and address of the insurance agent, insurer,
2-60 pharmaceutical company, or third-party administrator filing the
2-61 complaint.

2-62 (d) Not later than the 15th day after the date the complaint
2-63 is filed with the board, the board shall notify the license holder
2-64 who is the subject of the complaint of the name and address of the
2-65 insurance agent, insurer, pharmaceutical company, or third-party
2-66 administrator who filed the complaint, unless the notice would
2-67 jeopardize an investigation.

2-68 SECTION 8. Subchapter E, Chapter 201, Occupations Code, is
2-69 amended by adding Section 201.210 to read as follows:

3-1 Sec. 201.210. EXPERT REVIEW PROCESS. (a) The board by
3-2 rule shall develop an expert review process to assist the board with
3-3 the investigation of complaints filed with the board that require
3-4 additional chiropractic expertise.

3-5 (b) The board shall:

3-6 (1) determine the type of complaints that require
3-7 potential expert review, including standard of care complaints;

3-8 (2) create a list of qualified experts to review
3-9 complaints that require additional chiropractic expertise; and

3-10 (3) establish a method for assigning an expert to a
3-11 complaint that ensures unbiased assignments of complaints,
3-12 maintains confidentiality of complaints, and avoids conflicts of
3-13 interest related to complaints.

3-14 (c) The rules adopted under this section must address:

3-15 (1) the qualifications of the experts who may review
3-16 complaints;

3-17 (2) the grounds for removal of an expert who is
3-18 assigned to review a complaint;

3-19 (3) the time in which a complaint that requires expert
3-20 review must be resolved; and

3-21 (4) the content and format of expert review documents.

3-22 (d) The board may contract with a qualified expert on the
3-23 list created under this section to assist the board in the
3-24 investigation of a complaint that requires additional chiropractic
3-25 expertise.

3-26 SECTION 9. Section 201.302(a), Occupations Code, is amended
3-27 to read as follows:

3-28 (a) An applicant for a license by examination must present
3-29 satisfactory evidence to the board that the applicant:

3-30 (1) is at least 18 years of age;

3-31 (2) ~~is of good moral character;~~

3-32 ~~[(3)]~~ has completed 90 semester hours of college
3-33 courses other than courses included in a doctor of chiropractic
3-34 degree program; and

3-35 (3) ~~[(4)]~~ is either a graduate or a final semester
3-36 student of a bona fide reputable doctor of chiropractic degree
3-37 program.

3-38 SECTION 10. Section 201.303(d), Occupations Code, is
3-39 amended to read as follows:

3-40 (d) A bona fide reputable doctor of chiropractic degree
3-41 program that satisfies Section 201.302(a)(3) ~~[201.302(a)(4)]~~ is
3-42 one that:

3-43 (1) has entrance requirements and a course of
3-44 instruction as high as those of a better class of doctor of
3-45 chiropractic degree programs in the United States;

3-46 (2) maintains a resident course of instruction
3-47 equivalent to:

3-48 (A) not less than four terms of eight months
3-49 each; or

3-50 (B) not less than the number of semester hours
3-51 required by The University of Texas for a bachelor of arts or
3-52 bachelor of science degree;

3-53 (3) provides a course of instruction in the
3-54 fundamental subjects listed in Section 201.305(b); and

3-55 (4) has the necessary teaching staff and facilities
3-56 for proper instruction in all of the fundamental subjects listed in
3-57 Section 201.305(b).

3-58 SECTION 11. Section 201.307(b), Occupations Code, is
3-59 amended to read as follows:

3-60 (b) The board by rule shall establish the number of times an
3-61 applicant may retake the examination required by Section
3-62 201.304(a)(1) or (b), as applicable. ~~[An applicant must pass the~~
3-63 ~~examination required by Section 201.304(a)(2) within three~~
3-64 ~~attempts.]~~ The board by rule shall establish the conditions under
3-65 which an applicant may retake an examination. The board may require
3-66 an applicant to fulfill additional educational requirements.

3-67 SECTION 12. Subchapter G, Chapter 201, Occupations Code, is
3-68 amended by adding Sections 201.313 and 201.314 to read as follows:

3-69 Sec. 201.313. CRIMINAL HISTORY RECORD INFORMATION FOR

4-1 LICENSE ISSUANCE. (a) The board shall require that an applicant
 4-2 for a license submit a complete and legible set of fingerprints, on
 4-3 a form prescribed by the board, to the board or to the Department of
 4-4 Public Safety for the purpose of obtaining criminal history record
 4-5 information from the Department of Public Safety and the Federal
 4-6 Bureau of Investigation.

4-7 (b) The board may not issue a license to a person who does
 4-8 not comply with the requirement of Subsection (a).

4-9 (c) The board shall conduct a criminal history record
 4-10 information check of each applicant for a license using
 4-11 information:

4-12 (1) provided by the individual under this section; and
 4-13 (2) made available to the board by the Department of
 4-14 Public Safety, the Federal Bureau of Investigation, and any other
 4-15 criminal justice agency under Chapter 411, Government Code.

4-16 (d) The board may:

4-17 (1) enter into an agreement with the Department of
 4-18 Public Safety to administer a criminal history record information
 4-19 check required under this section; and

4-20 (2) authorize the Department of Public Safety to
 4-21 collect from each applicant the costs incurred by the Department of
 4-22 Public Safety in conducting the criminal history record information
 4-23 check.

4-24 Sec. 201.314. SEARCH OF NATIONAL PRACTITIONER DATABASE.
 4-25 The board shall establish a process to search at least one national
 4-26 practitioner database to determine whether another state has taken
 4-27 any disciplinary action against an applicant or license holder
 4-28 before issuing an initial or renewal license under this chapter.

4-29 SECTION 13. The heading to Subchapter H, Chapter 201,
 4-30 Occupations Code, is amended to read as follows:

4-31 SUBCHAPTER H. [ANNUAL] REGISTRATION AND LICENSE RENEWAL

4-32 SECTION 14. Section 201.351, Occupations Code, is amended
 4-33 to read as follows:

4-34 Sec. 201.351. [ANNUAL] REGISTRATION. A chiropractor may
 4-35 not practice chiropractic in this state unless the chiropractor
 4-36 [annually] registers with the board [not later than January 1 of
 4-37 each year].

4-38 SECTION 15. The heading to Section 201.352, Occupations
 4-39 Code, is amended to read as follows:

4-40 Sec. 201.352. APPLICATION FOR [ANNUAL] REGISTRATION.

4-41 SECTION 16. Section 201.352, Occupations Code, is amended
 4-42 by amending Subsections (a) and (d) and adding Subsection (c-1) to
 4-43 read as follows:

4-44 (a) A person required to register shall:

4-45 (1) file [annually] with the board a written
 4-46 application for registration; and

4-47 (2) pay, with the application, a [an annual]
 4-48 registration fee to the board.

4-49 (c-1) On receipt of a renewal application, the board shall
 4-50 check the national practitioner database with respect to the
 4-51 license holder as provided by Section 201.314.

4-52 (d) If the board determines that the applicant is licensed
 4-53 to practice chiropractic in this state, the board shall issue a [an
 4-54 annual] registration receipt certifying that the applicant has
 4-55 filed an application and paid the registration fee.

4-56 SECTION 17. Section 201.353, Occupations Code, is amended
 4-57 by amending Subsection (a) and adding Subsection (a-1) to read as
 4-58 follows:

4-59 (a) A license under this chapter is valid for a term of one
 4-60 or two years as determined by board rule.

4-61 (a-1) The board by rule may adopt a system under which
 4-62 licenses expire on various dates during the year.

4-63 SECTION 18. Sections 201.354(c), (d), (f), and (g),
 4-64 Occupations Code, are amended to read as follows:

4-65 (c) The [annual] renewal fee applies to each person licensed
 4-66 by the board, even if the person is not practicing chiropractic in
 4-67 this state.

4-68 (d) A person whose license has been expired for 90 days or
 4-69 less may renew the license by paying to the board a renewal fee that

5-1 is equal to 1-1/2 times the [~~annual~~] renewal fee set by the board
5-2 under Section 201.153(a). If a person's license has been expired
5-3 for more than 90 days but less than one year, the person may renew
5-4 the license by paying to the board a renewal fee that is equal to two
5-5 times the [~~annual~~] renewal fee set by the board under Section
5-6 201.153(a).

5-7 (f) A person who practices chiropractic without a [~~an~~
5-8 ~~annual~~] renewal receipt for the current year practices chiropractic
5-9 without a license.

5-10 (g) A person may renew a license that has been expired for at
5-11 least one year but not more than three years if:

5-12 (1) the board determines according to criteria adopted
5-13 by board rule that the person has shown good cause for the failure
5-14 to renew the license; and

5-15 (2) the person pays to the board:

5-16 (A) the [~~annual~~] renewal fee set by the board
5-17 under Section 201.153(a) for each year in which the license was
5-18 expired; and

5-19 (B) an additional fee in an amount equal to the
5-20 sum of:

5-21 (i) the [~~annual~~] renewal fee set by the
5-22 board under Section 201.153(a), multiplied by the number of years
5-23 the license was expired, prorated for fractional years; and

5-24 (ii) two times the [~~annual~~] renewal fee set
5-25 by the board under Section 201.153(a).

5-26 SECTION 19. Subchapter H, Chapter 201, Occupations Code, is
5-27 amended by adding Section 201.3545 to read as follows:

5-28 Sec. 201.3545. CRIMINAL HISTORY RECORD INFORMATION
5-29 REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a
5-30 license issued under this chapter shall submit a complete and
5-31 legible set of fingerprints for purposes of performing a criminal
5-32 history record information check of the applicant as provided by
5-33 Section 201.313.

5-34 (b) The board may administratively suspend or refuse to
5-35 renew the license of a person who does not comply with the
5-36 requirement of Subsection (a).

5-37 (c) A license holder is not required to submit fingerprints
5-38 under this section for the renewal of the license if the license
5-39 holder has previously submitted fingerprints under:

5-40 (1) Section 201.313 for the initial issuance of the
5-41 license; or

5-42 (2) this section as part of a prior license renewal.

5-43 SECTION 20. Section 201.502, Occupations Code, is amended
5-44 by amending Subsection (a) and adding Subsection (c) to read as
5-45 follows:

5-46 (a) The board may refuse to admit a person to examinations
5-47 and may revoke or suspend a license or place a license holder on
5-48 probation for a period determined by the board for:

5-49 (1) violating this chapter or a rule adopted under
5-50 this chapter, including committing an act prohibited under Section
5-51 201.5025;

5-52 (2) engaging in deception or fraud in the practice of
5-53 chiropractic;

5-54 (3) presenting to the board or using a license,
5-55 certificate, or diploma or a transcript of a license, certificate,
5-56 or diploma that was illegally or fraudulently obtained,
5-57 counterfeited, or materially altered;

5-58 (4) presenting to the board an untrue statement or a
5-59 document or testimony that was illegally used to pass the
5-60 examination;

5-61 (5) being convicted of a crime involving moral
5-62 turpitude or a felony;

5-63 (6) procuring or assisting in the procuring of an
5-64 abortion;

5-65 (7) engaging in grossly unprofessional conduct or
5-66 dishonorable conduct of a character likely to deceive or defraud
5-67 the public;

5-68 (8) having a habit of intemperance or drug addiction
5-69 or another habit that, in the opinion of the board, endangers the

6-1 life of a patient;

6-2 (9) using an advertising statement that is false or
6-3 that tends to mislead or deceive the public;

6-4 (10) directly or indirectly employing or associating
6-5 with a person who, in the course of the person's employment, commits
6-6 an act constituting the practice of chiropractic when the person is
6-7 not licensed to practice chiropractic;

6-8 (11) advertising professional superiority, or
6-9 advertising the performance of professional services in a superior
6-10 manner, if that advertising is not readily subject to verification;

6-11 (12) purchasing, selling, bartering, using, or
6-12 offering to purchase, sell, barter, or use a chiropractic degree,
6-13 license, certificate, or diploma or transcript of a license,
6-14 certificate, or diploma in or relating to an application to the
6-15 board for a license to practice chiropractic;

6-16 (13) altering with fraudulent intent a chiropractic
6-17 license, certificate, or diploma or transcript of a chiropractic
6-18 license, certificate, or diploma;

6-19 (14) impersonating or acting as proxy for another in
6-20 an examination required by this chapter for a chiropractic license;

6-21 (15) impersonating a licensed chiropractor;

6-22 (16) allowing one's chiropractic license to be used by
6-23 another person to practice chiropractic;

6-24 (17) being proved insane by a person having authority
6-25 to make that determination;

6-26 (18) failing to use proper diligence in the practice
6-27 of chiropractic or using gross inefficiency in the practice of
6-28 chiropractic;

6-29 (19) failing to clearly differentiate a chiropractic
6-30 office or clinic from another business or enterprise;

6-31 (20) personally soliciting a patient or causing a
6-32 patient to be solicited by the use of a case history of another
6-33 patient of another chiropractor;

6-34 (21) using for the purpose of soliciting patients an
6-35 accident report prepared by a peace officer in a manner prohibited
6-36 by Section 38.12, Penal Code; ~~or~~

6-37 (22) advertising using the term "physician" or
6-38 "chiropractic physician" or any combination or derivation of the
6-39 term "physician"; or

6-40 (23) failing to submit fingerprints to the board or
6-41 Department of Public Safety to enable the board to obtain criminal
6-42 history record information as required by Section 201.313.
6-43 ["physician."]

6-44 (c) The board may refuse to admit a person to an examination
6-45 and may revoke or suspend a license or place a license holder on
6-46 probation for a period determined by the board because of the
6-47 person's or license holder's violation of a law of this state, other
6-48 than this chapter, or a rule of another licensing board in this
6-49 state, or of a statute or rule of another state as determined
6-50 through a search conducted as provided by Section 201.314, if the
6-51 violation constitutes a violation of the laws of this state or a
6-52 board rule.

6-53 SECTION 21. The following provisions of the Occupations
6-54 Code are repealed:

6-55 (1) Subchapter F, Chapter 201; and
6-56 (2) Section 201.312.

6-57 SECTION 22. (a) Not later than March 1, 2018, the Texas
6-58 Board of Chiropractic Examiners shall adopt rules to establish the
6-59 expert review process as required by Section 201.210, Occupations
6-60 Code, as added by this Act.

6-61 (b) Not later than September 1, 2019, the Texas Board of
6-62 Chiropractic Examiners shall obtain criminal history record
6-63 information on each person who on the effective date of this Act
6-64 holds a license issued under Chapter 201, Occupations Code, and did
6-65 not undergo a criminal history record information check based on
6-66 the license holder's fingerprints on the initial application for
6-67 the license. The board may suspend the license of a license holder
6-68 who does not provide the criminal history record information as
6-69 required by the board and this subsection.

7-1 SECTION 23. (a) Except as provided by Subsection (b) of
7-2 this section, Section 201.061, Occupations Code, as amended by this
7-3 Act, applies to a member of the Texas Board of Chiropractic
7-4 Examiners appointed before, on, or after the effective date of this
7-5 Act.

7-6 (b) A member of the Texas Board of Chiropractic Examiners
7-7 who, before the effective date of this Act, completed the training
7-8 program required by Section 201.061, Occupations Code, as that law
7-9 existed before the effective date of this Act, is required to
7-10 complete additional training only on subjects added by this Act to
7-11 the training program as required by Section 201.061, Occupations
7-12 Code, as amended by this Act. A board member described by this
7-13 subsection may not vote, deliberate, or be counted as a member in
7-14 attendance at a meeting of the board held on or after December 1,
7-15 2017, until the member completes the additional training.

7-16 SECTION 24. This Act takes effect September 1, 2017.

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