

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE C. OTHER PROFESSIONS PERFORMING MEDICAL PROCEDURES

CHAPTER 201. CHIROPRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 201.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Chiropractic Examiners.

(2) "Chiropractor" means a person licensed to practice chiropractic by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.002. PRACTICE OF CHIROPRACTIC. (a) In this section:

(1) "Controlled substance" has the meaning assigned to that term by Section 481.002, Health and Safety Code.

(2) "Dangerous drug" has the meaning assigned to that term by Section 483.001, Health and Safety Code.

(3) "Incisive or surgical procedure" includes making an incision into any tissue, cavity, or organ by any person or implement. The term does not include the use of a needle for the purpose of drawing blood for diagnostic testing.

(4) "Surgical procedure" includes a procedure described in the surgery section of the common procedure coding system as adopted by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services.

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

(1) uses objective or subjective means to 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.

(c) The practice of chiropractic does not include:

(1) incisive or surgical procedures;

(2) the prescription of controlled substances, dangerous drugs, or any other drug that requires a prescription; or

(3) the use of x-ray therapy or therapy that exposes the body to radioactive materials.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 1, eff. September 1, 2005.

Sec. 201.003. APPLICATIONS AND EXEMPTIONS. (a) This chapter does not apply to a registered nurse licensed under Chapter 301, a vocational nurse licensed under Chapter 301, a person who provides spinal screening services as authorized by Chapter 37, Health and Safety Code, a physical therapist licensed under Chapter 453, or a massage therapist or a massage therapy instructor qualified and registered under Chapter 455 if:

(1) the person does not represent to the public that the person is a chiropractor or use the term "chiropractor," "chiropractic," "doctor of chiropractic," "D.C.," or any derivative of those terms or initials in connection with the person's name or practice; and

(2) the person practices strictly within the scope of the license or registration held in compliance with all laws relating to the license and registration.

(b) This chapter does not limit or affect the rights and powers of a physician licensed in this state to practice medicine.

(c) This section does not affect or prevent a student enrolled in a college of chiropractic in this state from engaging in all phases of clinical practice if the practice is:

(1) part of the curriculum; and

(2) conducted under the supervision of a licensed

chiropractor or a licensed physician.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 2.014, eff. Feb. 1, 2004.

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 that chapter, the board is abolished and this chapter expires September 1, 2017.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 2, eff. September 1, 2005.

SUBCHAPTER B. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

Sec. 201.051. BOARD; MEMBERSHIP. (a) The Texas Board of Chiropractic Examiners consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) six chiropractors who are reputable practicing chiropractors and who have resided in this state for at least five years preceding appointment; and

(2) three members who represent the public.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.052. MEMBERSHIP ELIGIBILITY. (a) A person is not eligible to serve as a member of the board if the person:

(1) is a member of the faculty or board of trustees of a chiropractic school or a doctor of chiropractic degree program;

(2) is a stockholder in a chiropractic school or college; or

(3) has a financial interest in a chiropractic school or college.

(b) A person is not eligible for appointment as a public

member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 802 (S.B. 776), Sec. 1, eff. June 15, 2007.

Sec. 201.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(c) Repealed by Acts 2005, 79th Leg., Ch. 1020, Sec. 36,

eff. September 1, 2005.

(d) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 36, eff. September 1, 2005.

Sec. 201.054. TERMS; VACANCY. (a) Members of the board are appointed for staggered six-year terms. The terms of one-third of the members expire on February 1 of each odd-numbered year.

(b) A person may not be appointed to serve more than two terms.

(c) If a vacancy occurs because of the death or resignation of a board member, the governor shall appoint a replacement to fill the unexpired term.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.055. OFFICERS. (a) The governor shall designate a chiropractic member of the board as the board's president. The president serves in that capacity at the will of the governor.

(b) The board shall elect one of its members as vice president and one of its members as secretary-treasurer at the first board meeting after the biennial appointment of board members.

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(31).
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 31(31), eff. Sept. 1, 2003.

Sec. 201.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the

qualifications required by Sections 201.051 and 201.052(b);

(2) does not maintain during service on the board the qualifications required by Sections 201.051 and 201.052(b);

(3) is ineligible for membership under Section 201.052 or 201.053;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the president of the board of the potential ground. The president shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the president, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 4, eff. September 1, 2005.

Sec. 201.057. PER DIEM; REIMBURSEMENT. (a) A board member is entitled to a per diem as set by the General Appropriations Act for each day the member engages in the business of the board.

(b) A member may not receive reimbursement for travel expenses, including expenses for meals and lodging, other than transportation expenses as provided by the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.058. MEETINGS. (a) The board shall hold regular meetings to examine applicants and transact business at least twice each year at the times and places determined by the board.

(b) A special meeting may be held at the call of three board members.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.060. BOARD SEAL. The seal of the board consists of a five-point star with the words, "The State of Texas," and the words, "Texas Board of Chiropractic Examiners," around the margin.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.061. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

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

(1) this chapter and the board's programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. [972](#)), Sec. 5, eff. September 1, 2005.

SUBCHAPTER C. BOARD PERSONNEL

Sec. 201.101. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 6, eff. September 1, 2005.

Sec. 201.102. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The board shall provide as often as necessary to its members and employees information regarding their:

(1) qualifications for office or employment under this chapter; and

(2) responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.103. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require intra-agency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.104. EQUAL EMPLOYMENT OPPORTUNITY; REPORT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure implementation of an equal employment opportunity program under which all personnel transactions are made without regard to race,

color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel, that are in compliance with Chapter 21, Labor Code;

(2) a comprehensive analysis of the board workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of the significant underuse in the board workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under Subsection (a) must be:

(1) prepared to cover an annual period;

(2) updated annually;

(3) reviewed by the Commission on Human Rights for compliance with Subsection (a)(1); and

(4) filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as part of other biennial reports made to the legislature.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. BOARD POWERS AND DUTIES

Sec. 201.151. GENERAL POWERS AND DUTIES. The board shall administer the purposes of and enforce this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.152. RULES. (a) The board may adopt rules and bylaws:

(1) necessary to:

(A) perform the board's duties; and

(B) regulate the practice of chiropractic; and
(2) relating to the board's proceedings and the board's examination of an applicant for a license to practice chiropractic.

(b) The board shall adopt rules for the enforcement of this chapter. The board shall issue all rules based on a vote of a majority of the board at a regular or special meeting. The issuance of a disciplinary action or disciplinary order of the board is not limited by this subsection.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 7, eff. September 1, 2005.

Sec. 201.1525. RULES CLARIFYING SCOPE OF PRACTICE OF CHIROPRACTIC. The board shall adopt rules clarifying what activities are included within the scope of the practice of chiropractic and what activities are outside of that scope. The rules:

(1) must clearly specify the procedures that chiropractors may perform;

(2) must clearly specify any equipment and the use of that equipment that is prohibited; and

(3) may require a license holder to obtain additional training or certification to perform certain procedures or use certain equipment.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 8, eff. September 1, 2005.

Sec. 201.1526. DEVELOPMENT OF PROPOSED RULES REGARDING SCOPE OF PRACTICE OF CHIROPRACTIC. (a) This section applies to the process by which the board develops proposed rules under Section 201.1525 before the proposed rules are published in the Texas Register and before the board complies with the rulemaking requirements of Chapter 2001, Government Code. This section does not affect the duty of the board to comply with the rulemaking requirements of that law.

(b) The board shall establish methods under which the board, to the extent appropriate, will seek input early in the rule development process from the public and from persons who will be most affected by a proposed rule. Methods must include identifying persons who will be most affected and soliciting, at a minimum, the advice and opinions of those persons. Methods may include negotiated rulemaking, informal conferences, advisory committees, and any other appropriate method.

(c) A rule adopted by the board under Section 201.1525 may not be challenged on the grounds that the board did not comply with this section. If the board was unable to solicit a significant amount of advice and opinion from the public or from affected persons early in the rule development process, the board shall state in writing the reasons why the board was unable to do so.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 8, eff. September 1, 2005.

Sec. 201.153. FEES. (a) The board by rule shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter. The board may not set a fee in an amount that is less than the amount of that fee on September 1, 1993.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 448, Sec. 31(1)(2), eff. September 1, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 448, Sec. 31(1)(2), eff. September 1, 2015.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 899, Sec. 2.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 31(1)(2), eff. September 1, 2015.

Sec. 201.154. CERTIFICATION FOR MANIPULATION UNDER ANESTHESIA PROHIBITED. Notwithstanding any other provision of this chapter, the board may not adopt a process to certify chiropractors to perform manipulation under anesthesia.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.155. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by that person.

(b) The board may not include in rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the use of a trade name in advertising by the person.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.1555. FRAUD. (a) The board shall strictly and vigorously enforce the provisions of this chapter prohibiting fraud.

(b) The board shall adopt rules to prevent fraud in the practice of chiropractic, including rules relating to:

(1) the filing of workers' compensation and insurance claims; and

(2) records required to be maintained in connection with the practice of chiropractic.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 9, eff. September 1, 2005.

Sec. 201.156. BOARD DUTIES REGARDING COMPLAINTS. (a) The board by rule shall:

(1) adopt a form to standardize information concerning complaints made to the board; and

(2) prescribe information to be provided to a person when the person files a complaint with the board.

(b) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

(c) The board by rule shall adopt procedures concerning:

(1) the retention of information files on license holders; and

(2) the expunction of files on license holders, including complaints, adverse reports, and other investigative information on license holders.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.157. IMMUNITY. In the absence of fraud, conspiracy, or malice, a member or employee of the board, a witness called to testify by the board, or a consultant or hearing officer is not liable in a civil action for any alleged injury, wrong, loss, or damage for any investigation, report, recommendation, statement, evaluation, finding, order, or award made in the course of performing the person's official duties.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.158. BOARD COMMITTEES. (a) The board may appoint committees from its own members.

(b) A committee appointed from the members of the board shall:

(1) consider matters referred to the committee relating to the enforcement of this chapter and the rules adopted by the board; and

(2) make recommendations to the board.

(c) The board may delegate to a committee of the board an authority granted to the board under Section [201.505\(c\)](#).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.159. RECORDS. (a) The board shall preserve a record of its proceedings in a register that contains:

(1) the name, age, place, and duration of residence of each applicant for a license;

(2) the amount of time spent by the applicant in the study of chiropractic in respective doctor of chiropractic degree programs; and

(3) other information the board desires to record.

(b) The register shall show whether an applicant was rejected or licensed.

(c) The information recorded in the register is prima facie evidence of the matters contained in the register. A certified copy of the register with the seal of the board is admissible as evidence in any court of this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.051(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 802 (S.B. 776), Sec. 2, eff. June 15, 2007.

Sec. 201.160. PAYMENT OF OTHER EXPENSES. The board shall pay the necessary expenses of an employee of the board incurred in the performance of the employee's duties.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 24, eff. Sept. 1, 2003.

Sec. 201.161. APPROPRIATION FROM STATE TREASURY PROHIBITED. The legislature may not appropriate money, other than fees, from the state treasury for an expenditure made necessary by this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.163. POLICY ON TECHNOLOGICAL SOLUTIONS. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 10, eff. September 1, 2005.

Sec. 201.164. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter

2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 10, eff. September 1, 2005.

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 201.201. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and the procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.202. PUBLIC PARTICIPATION. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the board's programs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.203. COMPLAINTS. (a) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notice:

(1) on each registration form, application, or written contract for services of a person regulated by the board; or

(2) on a sign prominently displayed in the place of business of each person regulated by the board.

(b) The board shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.204. RECORDS OF COMPLAINTS. (a) The board shall keep an information file about each complaint filed with the board. The board's information file must be kept current and contain a record for each complaint of:

(1) each person contacted in relation to the complaint;

(2) a summary of findings made at each step of the complaint process;

(3) an explanation of the legal basis and reason for a complaint that is dismissed;

(4) the schedule required under Section 201.205 and a notification of any change in the schedule; and

(5) other relevant information.

(b) Except as provided by Subsection (c), if a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) If a written complaint that the board has authority to

resolve is referred to the enforcement committee, the board at least semiannually and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.205. GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION. (a) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules adopted under this section must:

- (1) distinguish between categories of complaints;
- (2) require the board to prioritize complaints for purposes of determining the order in which they are investigated, taking into account the seriousness of the allegations made in a complaint and the length of time a complaint has been pending;
- (3) ensure that a complaint is not dismissed without appropriate consideration;
- (4) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the complaint;
- (5) ensure that the person who filed the complaint has the opportunity to explain the allegations made in the complaint; and
- (6) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.

(b) The board shall:

- (1) dispose of a complaint in a timely manner; and
- (2) establish a schedule for conducting each phase of the complaint process that is under the control of the board not later than the 30th day after the date the board receives the complaint.

(c) The board shall notify the parties to the complaint of the projected time requirements for pursuing the complaint.

(d) The board shall notify the parties to the complaint of

any change in the schedule not later than the seventh day after the date the change is made.

(e) The executive director shall notify the board of a complaint that is unresolved after the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 11, eff. September 1, 2005.

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

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

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

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

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

Added by Acts 2003, 78th Leg., ch. 329, Sec. 1, eff. Sept. 1, 2003.

Sec. 201.207. INSPECTIONS. (a) The board, during reasonable business hours, may:

(1) conduct an on-site inspection of a chiropractic facility to investigate a complaint filed with the board; and

(2) examine and copy records of the chiropractic facility pertinent to the inspection or investigation.

(b) The board is not required to provide notice before conducting an inspection under this section.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 12, eff. September 1, 2005.

Sec. 201.208. COOPERATION WITH TEXAS DEPARTMENT OF INSURANCE. (a) In this section, "department" means the Texas Department of Insurance.

(b) This section applies only to information held by or for the department or the board that relates to a person who is licensed or otherwise regulated by the department or the board.

(c) The department and the board, on request or on the department or board's own initiative, may share confidential information or information to which access is otherwise restricted by law. The department and the board shall cooperate with and assist each other when either agency is conducting an investigation by providing information that is relevant to the investigation. Except as provided by this section, confidential

information that is shared under this section remains confidential under law, and legal restrictions on access to the information remain in effect unless the agency sharing the information approves use of the information by the receiving agency for enforcement purposes. The provision of information by the board to the department or by the department to the board under this subsection does not constitute a waiver of privilege or confidentiality as established by law.

(d) The department and the board shall develop and maintain a system for tracking investigations conducted by each agency with the cooperation and assistance of the other agency, including information on all disciplinary actions taken.

(e) The department and the board shall collaborate on taking appropriate disciplinary actions to the extent practicable.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 12, eff. September 1, 2005.

Sec. 201.209. INFORMATION ON STATUS OF CERTAIN INVESTIGATIONS. The board shall include in the annual financial report required by Section 2101.011, Government Code, information on all investigations conducted by the board with the cooperation and assistance of the Texas Department of Insurance and the Texas Workers' Compensation Commission during the preceding fiscal year.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 12, eff. September 1, 2005.

SUBCHAPTER F. PEER REVIEW COMMITTEES

Sec. 201.251. APPOINTMENT OF PEER REVIEW COMMITTEES; TERMS.

(a) The board shall appoint local chiropractic peer review committees. Members of a local chiropractic peer review committee serve staggered terms of three years, with as near to one-third of the members' terms as possible expiring December 31 of each year.

(b) The board may seek input from state chiropractic associations in selecting persons to appoint to a local peer review committee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 13, eff. September 1, 2005.

Sec. 201.252. COMMITTEE MEMBER ELIGIBILITY. (a) Only a chiropractor who has completed a program of peer review training approved by the board is eligible to serve on a chiropractic peer review committee.

(b) A member of a local peer review committee may not be a consultant to or an employee of any company or carrier of health care insurance.

(c) The board shall establish requirements for peer review training programs that do not discriminate against any chiropractor. A peer review training program must include training in the investigation of complaints in accordance with this chapter and board rules.

(d) The board by rule shall adopt additional requirements for eligibility to serve on a chiropractic peer review committee, including a requirement that a member have:

(1) a clean disciplinary record; and

(2) an acceptable record regarding utilization review performed in accordance with Article 21.58A, Insurance Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 14, eff. September 1, 2005.

Sec. 201.253. EXECUTIVE PEER REVIEW COMMITTEE. (a) The board shall appoint an executive chiropractic peer review committee to direct the activities of the local committees. The executive peer review committee consists of six volunteer members. Members of the executive peer review committee serve staggered terms of three years, with one-third of the members' terms expiring December 31 of each year. The executive peer review committee shall elect a presiding officer from its members.

(b) The executive peer review committee shall conduct hearings relating to disputes referred by a local peer review

committee and shall make its recommendations based solely on evidence presented in the hearings.

(c) A member of an executive peer review committee may not be a consultant to or an employee of any company or carrier of health care insurance.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 15, eff. September 1, 2005.

Sec. 201.254. DUTIES OF PEER REVIEW COMMITTEE WITH REGARD TO CERTAIN DISPUTES. (a) Each local chiropractic peer review committee shall:

(1) review and evaluate chiropractic treatment and services in disputes involving a chiropractor and a patient or a person obligated to pay a fee for chiropractic services or treatment; and

(2) mediate in a dispute involving a chiropractor and a patient or person obligated to pay a fee for chiropractic services or treatment.

(b) Each local peer review committee shall report its findings and recommendations to the executive chiropractic peer review committee. A local peer review committee shall refer a dispute that is not resolved at the local level to the executive peer review committee.

(c) Repealed by Acts 2005, 79th Leg., Ch. 1020, Sec. 36, eff. September 1, 2005.

(d) Repealed by Acts 2005, 79th Leg., Ch. 1020, Sec. 36, eff. September 1, 2005.

(e) Repealed by Acts 2005, 79th Leg., Ch. 1020, Sec. 36, eff. September 1, 2005.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 16, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 36, eff. September 1, 2005.

Sec. 201.2545. COMPLAINT INVESTIGATION BY PEER REVIEW COMMITTEE. (a) The board may refer to a local chiropractic peer review committee for investigation a complaint regarding whether chiropractic treatment or services provided by a chiropractor were provided according to the standard of care in the practice of chiropractic.

(b) In conducting an investigation of a referred complaint, the committee shall review the records and other evidence obtained by the staff of the board in the course of the staff's investigation of the complaint.

(c) The committee shall report to the board its findings regarding the complaint, including a statement of:

(1) the standard of care in the practice of chiropractic governing the chiropractic treatment or services provided by the chiropractor;

(2) whether the chiropractor met the standard of care in providing the treatment or services; and

(3) the clinical basis for the committee's finding under Subdivision (2).

(d) The board may request a member of the committee to attend an informal conference or testify at a contested case hearing.

(e) The board, with input from the executive chiropractic peer review committee, shall adopt rules necessary to implement this section.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 17, eff. September 1, 2005.

Sec. 201.2546. IMMUNITY; ELIGIBILITY TO PARTICIPATE IN COMMITTEE ACTIVITIES. (a) In the absence of fraud, conspiracy, or malice, a member of a peer review committee is not liable in a civil action for a finding, evaluation, recommendation, or other action made or taken by the member as a member of the committee or by the committee. The immunity granted by this subsection does not limit the operation of federal or state antitrust laws as applied to the conduct of a local or executive peer review committee that involves

price fixing or any other unreasonable restraint of trade.

(b) A member of a peer review committee may not participate in committee deliberations or other activities involving chiropractic services or treatment rendered or performed by the member.

(c) Except for the express immunity provided by Subsection (a), this section does not deprive any person of a right or remedy, legal or equitable.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 17, eff. September 1, 2005.

Sec. 201.255. REQUEST FOR INFORMATION; REPORT TO BOARD ON DISPUTES MEDIATED. (a) The board may request from a chiropractic peer review committee information pertaining to actions taken by the peer review committee.

(b) The executive chiropractic peer review committee shall file annually with the board a report on the disputes mediated by the local chiropractic peer review committees under Section 201.254 during the preceding calendar year. The report must include:

- (1) the number of disputes referred to the committees;
- (2) a categorization of the disputes referred to the committees and the number of complaints in each category; and
- (3) the number of disputes resolved and the manner in which they were resolved.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 18, eff. September 1, 2005.

Sec. 201.256. PUBLIC ACCESS TO INFORMATION REGARDING PEER REVIEW COMMITTEES. The board shall maintain on the board's Internet website information regarding local chiropractic peer review committees, including:

- (1) the services committees provide; and
- (2) the types of disputes committees mediate.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 19, eff. September 1, 2005.

SUBCHAPTER G. LICENSE REQUIREMENTS

Sec. 201.301. LICENSE REQUIRED. A person may not practice chiropractic unless the person holds a license issued by the board. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.302. LICENSING EXAMINATION APPLICATION. (a) An applicant for a license by examination must present satisfactory evidence to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

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

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

(b) An application for examination must be:

(1) made in writing;

(2) verified by affidavit;

(3) filed with the secretary-treasurer of the board on a form prescribed by the board; and

(4) accompanied by a fee.

(c) Each applicant shall be given reasonable notice of the time and place of the examination.

(d) Notwithstanding Subsection (a)(3), if the Council on Chiropractic Education or another national chiropractic education accreditation organization recognized by the board requires a number of semester hours of college courses other than courses included in a doctor of chiropractic degree program that is greater or less than the number of hours specified by that subsection to qualify for admission to a doctor of chiropractic degree program, the board may adopt the requirement of that organization if the board determines that requirement to be appropriate.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. [972](#)), Sec. 20, eff.

September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 802 (S.B. 776), Sec. 3, eff. June 15, 2007.

Sec. 201.303. EDUCATIONAL REQUIREMENTS. (a) To comply with the requirements of Section 201.302, the applicant must submit to the board a transcript of credits that certifies that the applicant has satisfactorily completed at least the number of semester hours of college credits required by that section at a college or university that issues credits accepted by The University of Texas at Austin for a bachelor of arts or bachelor of science degree.

(b) Repealed by Acts 2003, 78th Leg., ch. 329, Sec. 5.

(c) The board may charge a fee of not more than \$50 for verifying that the applicant has satisfied the requirements of this section.

(d) A bona fide reputable doctor of chiropractic degree program that satisfies Section 201.302(a)(4) is one that:

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

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

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

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

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

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

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 329, Sec. 5.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 21, eff.

September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 802 (S.B. 776), Sec. 4, eff. June 15, 2007.

Sec. 201.304. EXAMINATION REQUIREMENTS. (a) To receive a license, an applicant for a license by examination must pass:

(1) the required and optional parts of the examination given by the National Board of Chiropractic Examiners, as required by and under conditions established by board rule; and

(2) an examination prepared by the board that tests the applicant's knowledge and understanding of the laws relating to the practice of chiropractic in this state.

(b) The board shall periodically determine whether applicants who hold National Board of Chiropractic Examiners certificates have been adequately examined. If the board determines that those applicants have not been adequately examined, the board shall require those applicants to submit to an additional examination prepared by the board.

(c) The board may give an examination during the applicant's last semester of college if the board receives evidence indicating the applicant has satisfactory grades. Immediately after the applicant graduates from chiropractic college, the applicant must forward to the board evidence of satisfactory completion of the applicant's course of study.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 721, Sec. 1, eff. Sept. 1, 2001.

Sec. 201.305. EXAMINATION PROCEDURE. (a) Each examination for a license to practice chiropractic shall be conducted in the English language and in a fair and impartial manner.

(b) An examination given under Section 201.304(a)(1) shall be conducted on practical and theoretical chiropractic and in the subjects of anatomy-histology, chemistry, bacteriology, physiology, symptomatology, pathology and analysis of the human spine, and hygiene and public health.

(c) Applicants may be known to the examiners only by numbers, without a name or another method of identification on

examination papers by which members of the board could identify an applicant, until after the general averages of the applicants' numbers in the class are determined and the licenses are granted or refused.

(d) The board by rule shall ensure that the examination is administered to applicants with disabilities in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 721, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 22, eff. September 1, 2005.

Sec. 201.306. EXAMINATION RESULTS. (a) The board shall notify each applicant of the results of an examination given by the board not later than the 30th day after the date the licensing examination is administered.

(b) If requested by a person who fails an examination given by the board, the board shall review with the person the circumstances surrounding the adverse score.

(c) To pass the examination under Section 201.304(a)(2), an applicant must score a grade of at least 75 percent.

(d) All questions and answers from an examination given by the board, with the grades attached, authenticated by the signature of the examiner, shall be preserved in the executive office of the board for at least one year.

(e) Each license shall be attested by the seal of the board and signed by all members of the board or a quorum of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 721, Sec. 3, eff. Sept. 1, 2001.

Sec. 201.307. REEXAMINATION. (a) An applicant who fails to pass a required examination may take another examination.

(b) The board by rule shall establish the number of times an applicant may retake the examination required by Section 201.304(a)(1) or (b), as applicable. An applicant must pass the

examination required by Section 201.304(a)(2) within three attempts. The board by rule shall establish the conditions under which an applicant may retake an examination. The board may require an applicant to fulfill additional educational requirements.

(c) If the applicant makes a satisfactory grade on reexamination, the board shall grant to the applicant a license to practice chiropractic.

(d) The board's decision under this section is final.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 721, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 23, eff. September 1, 2005.

Sec. 201.308. TEMPORARY LICENSE. (a) The board by rule may provide for the issuance of a temporary license.

(b) The board by rule shall provide a time limit for the period a temporary license is valid.

(c) The board may issue a temporary faculty license to practice chiropractic to a person as provided by this section. The person:

(1) must hold a current chiropractic license that is unrestricted and not subject to a disciplinary order or probation in another state or a Canadian province;

(2) may not hold a chiropractic license in another state or a Canadian province that has any restrictions, disciplinary orders, or probation;

(3) must pass the examination required under Section 201.304(a)(2);

(4) must have been engaged in the practice of chiropractic:

(A) for at least the three years preceding the date of the application under this section; or

(B) as a chiropractic educator in a doctor of chiropractic degree program accredited by the Council on Chiropractic Education for at least the three years preceding the

date of the application under this section; and

(5) must hold a salaried faculty position of at least the level of assistant professor and be working full-time at:

(A) Parker College of Chiropractic; or

(B) Texas Chiropractic College.

(d) A person is eligible for a temporary license under Subsection (c) if the person holds a faculty position of at least the level of assistant professor, the person works at least part-time at an institution listed in Subsection (c)(5), and:

(1) the person is on active duty in the United States armed forces; and

(2) the person's practice under the temporary license will fulfill critical needs of the citizens of this state.

(e) A chiropractor who is issued a temporary license under Subsection (c) must sign an oath on a form prescribed by the board swearing that the person:

(1) has read and is familiar with this chapter and board rules;

(2) will abide by the requirements of this chapter and board rules while practicing under the chiropractor's temporary license; and

(3) will be subject to the disciplinary procedures of the board.

(f) A chiropractor holding a temporary license under Subsection (c) and the chiropractor's chiropractic school must file affidavits with the board affirming acceptance of the terms and limits imposed by the board on the chiropractic activities of the chiropractor.

(g) A temporary license issued under Subsection (c) is valid for one year.

(h) The holder of a temporary license issued under Subsection (c) is limited to the teaching confines of the applying chiropractic school as a part of the chiropractor's duties and responsibilities assigned by the program and may not practice chiropractic outside of the setting of the chiropractic school or an affiliate of the chiropractic school.

(i) The application for a temporary license under

Subsection (c) must be made by the chiropractic school in which the chiropractor teaches and must contain the information and documentation requested by the board. The application must be endorsed by the dean of the chiropractic school or the president of the institution.

(j) A chiropractor who holds a temporary license issued under Subsection (c) and who wishes to receive a permanent unrestricted license must meet the requirements for issuance of a permanent unrestricted license, including any examination requirements.

(k) The board shall adopt:

(1) rules governing the issuance of a renewal temporary faculty license, including a rule that permits a person licensed under Subsection (c) to continue teaching while an application for a renewal temporary license is pending;

(2) fees for the issuance of a temporary license and a renewal temporary license; and

(3) an application form for temporary licenses and renewal temporary licenses to be issued under this section.

(1) The fee for a renewal temporary license issued under Subsection (k)(1) must be less than the amount of the fee for a temporary license issued under Subsection (c).

(m) A chiropractic school shall notify the board not later than 72 hours after the time:

(1) except as provided by Subdivision (2), a chiropractor licensed under Subsection (c) ceases to hold a full-time salaried position of at least the level of assistant professor at the school; and

(2) a chiropractor described by Subsection (d) ceases to hold a part-time salaried position of at least the level of assistant professor at the school.

(n) The board shall revoke a license issued under this section if the license holder no longer satisfies the requirements of this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 957 (H.B. [3450](#)), Sec. 1, eff.

September 1, 2009.

Sec. 201.309. LICENSE ISSUANCE TO CERTAIN OUT-OF-STATE APPLICANTS. The board shall issue a license to practice chiropractic to an out-of-state applicant who:

(1) submits a written application to the board on a form prescribed by the board, accompanied by the application fee set by the board and any other information requested by the board;

(2) is licensed in good standing to practice chiropractic in another state or foreign country that has licensing requirements substantially equivalent to the requirements of this chapter;

(3) has not been the subject of a disciplinary action and is not the subject of a pending investigation in any jurisdiction in which the applicant is or has been licensed;

(4) has graduated from a doctor of chiropractic degree program accredited by the Council on Chiropractic Education and approved by rule by the board;

(5) has passed a national or other examination recognized by the board relating to the practice of chiropractic;

(6) has passed the board's jurisprudence examination;

(7) has practiced chiropractic:

(A) for at least the three years immediately preceding the date of the application under this section; or

(B) as a chiropractic educator in a doctor of chiropractic degree program accredited by the Council on Chiropractic Education for at least the three years immediately preceding the date of the application under this section; and

(8) meets any other requirements adopted by rule by the board under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 899, Sec. 1.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 802 (S.B. 776), Sec. 5, eff. June 15, 2007.

Sec. 201.311. INACTIVE STATUS. (a) The board by rule shall

adopt a system by which a license holder may place the license on inactive status. A license holder must apply for inactive status, on a form prescribed by the board, before the expiration date of the license.

(b) A license holder whose license is on inactive status:

(1) is not required to pay license renewal fees; and
(2) may not perform an activity regulated under this chapter.

(c) A license holder whose license is on inactive status may return to active practice by notifying the board in writing. The board shall remove the license holder's license from inactive status after the holder pays an administrative fee and complies with any educational or other requirements established by board rules.

(d) The board by rule shall establish a rule setting a limit on the time a license holder's license may remain on inactive status.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.312. REGISTRATION OF FACILITIES. (a) The board by rule shall adopt requirements for registering chiropractic facilities as necessary to protect the public health, safety, and welfare.

(b) The rules adopted under this section must:

(1) specify the registration requirements for a chiropractic facility;

(2) prescribe the standards for the chiropractic facility registration program;

(3) provide for the issuance of a separate certificate of registration to an owner of a chiropractic facility for each chiropractic facility owned by the owner; and

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

(c) The standards adopted under Subsection (b)(2) must be consistent with industry standards for the practice of

chiropractic.

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

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

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

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

(f) A certificate of registration under this section must be renewed annually. To renew the certificate, the certificate holder shall apply to the board and pay an annual fee equal to the amount of the registration fee under Subsection (d)(2).

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

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

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 227, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 329, Sec. 2.

SUBCHAPTER H. ANNUAL REGISTRATION AND LICENSE RENEWAL

Sec. 201.351. ANNUAL REGISTRATION. A chiropractor may not practice chiropractic in this state unless the chiropractor annually registers with the board not later than January 1 of each year.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.352. APPLICATION FOR ANNUAL REGISTRATION. (a) A person required to register shall:

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

(2) pay, with the application, an annual registration fee to the board.

(b) The application must include:

(1) the person's full name, age, post office address, and place of residence;

(2) each place where the person is engaged in the practice of chiropractic;

(3) the college of chiropractic from which the person graduated; and

(4) the number and date of the person's license.

(c) On receipt of the application and registration fee, the board shall determine whether the applicant is licensed to practice chiropractic in this state based on the records of the board or other sources the board considers reliable.

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

(e) The registration receipt is not evidence in a prosecution for the unlawful practice of chiropractic under Section 201.605 that the person is lawfully entitled to practice chiropractic.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.353. LICENSE EXPIRATION DATE. (a) The board by rule may adopt a system under which licenses expire on various dates during the year.

(b) For a year in which the license expiration date is changed, license fees payable on January 1 shall be prorated on a monthly basis so that each license holder pays only the portion of the fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.354. LICENSE RENEWAL. (a) A person may renew an unexpired license by paying the required renewal fee to the board before the expiration date of the license.

(b) At least 30 days before the expiration of a person's license, the board shall send written notice of the impending license expiration to the person at the person's last known address according to the board's records.

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

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

(e) Except as provided by Subsection (g) and Section 201.355, a person may not renew a license that has been expired for one year or more. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(f) A person who practices chiropractic without an annual renewal receipt for the current year practices chiropractic without a license.

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

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

(2) the person pays to the board:

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

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

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

(ii) two times the annual renewal fee set by the board under Section 201.153(a).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 230, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 24, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 31(a), eff. September 1, 2015.

Sec. 201.355. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) The board may renew without reexamination an expired license of a person who was licensed in this state, moved to another state or foreign country, and is currently licensed in good standing and has been in practice in the other state or foreign country for the two years preceding application.

(b) The person must pay to the board a fee that is equal to the normally required renewal fee for the license.

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

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

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

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 329, Sec. 3.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 25, eff. September 1, 2005.

Sec. 201.356. CONTINUING EDUCATION. (a) The board by rule

shall:

(1) assess the continuing education needs of license holders;

(2) adopt requirements for mandatory continuing education for license holders in subjects relating to the practice of chiropractic;

(3) establish a minimum number of hours of continuing education required to renew a license; and

(4) develop a process to evaluate and approve continuing education courses.

(b) The board may require license holders to attend continuing education courses specified by the board. The board shall adopt a procedure to assess a license holder's participation and performance in continuing education programs.

(c) The board shall identify the key factors for the competent performance by a license holder of the license holder's professional duties.

(d) The board shall notify license holders of approved continuing education courses at least annually.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER I. PATIENT CONFIDENTIALITY

Sec. 201.401. DEFINITION OF PATIENT. In this subchapter, "patient" means any person who consults or is seen by a chiropractor to receive chiropractic care.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.402. PATIENT CONFIDENTIALITY. (a) Communications between a chiropractor and a patient relating to or in connection with any professional services provided by a chiropractor to the patient are confidential and privileged and may not be disclosed except as provided by this subchapter.

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a chiropractor that are created or maintained by a chiropractor are confidential and privileged and may not be disclosed except as provided by this subchapter.

(c) A person who receives information from the confidential communications or records, excluding a person listed in Section 201.404(a) who is acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

(d) The prohibitions of this section apply to confidential communications or records concerning any patient regardless of when the patient received the services of a chiropractor.

(e) The privilege of confidentiality may be claimed by the patient or chiropractor acting on the patient's behalf. The authority of a chiropractor to claim the privilege of confidentiality on behalf of a patient is presumed in the absence of evidence to the contrary.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.403. EXCEPTIONS TO CONFIDENTIALITY FOR ADMINISTRATIVE PROCEDURE. (a) Section 201.402 does not apply in a court or administrative proceeding:

(1) brought by a patient against a chiropractor, including:

(A) a malpractice proceeding; and

(B) any criminal or license revocation proceeding in which the patient is a complaining witness and disclosure is relevant to the claims or defense of the chiropractor;

(2) in which the patient or a person authorized to act on the patient's behalf submits a written consent to the release of confidential information, as provided by Section 201.405;

(3) brought to substantiate and collect on a claim for chiropractic services rendered to the patient;

(4) brought by the patient or a person on the patient's behalf who is attempting to recover monetary damages for any physical or mental condition, including death of the patient;

(5) brought in connection with a disciplinary investigation of a chiropractor under this chapter, except as provided by Subsection (b);

(6) brought in connection with a criminal investigation of a chiropractor if the board is participating or assisting in the investigation or proceeding by providing certain records obtained from the chiropractor, except as provided by Subsection (c); and

(7) brought in connection with a criminal prosecution in which the patient is a victim, witness, or defendant except as provided by Subsection (d).

(b) The board shall protect the identity of any patient whose chiropractic records are examined in connection with an investigation or proceeding described by Subsection (a)(5), excluding patients described by Subsection (a)(1) and patients who have submitted written consent to the release of their chiropractic records as provided by Section 201.405.

(c) The board shall protect the identity of any patient whose records are provided in connection with an investigation or proceeding described by Subsection (a)(6), excluding patients described by Subsection (a)(1) and patients who have submitted written consent to the release of their chiropractic records as provided by Section 201.405. The board does not authorize the release of any confidential information for the purpose of instigating or substantiating criminal charges against a patient.

(d) In a proceeding described by Subsection (a)(7), records or communications are not discoverable until the court in which the prosecution is pending makes an in camera determination of relevancy. A determination of relevancy by a court under this subsection is not a determination of the admissibility of any record or communication.

(e) Information is discoverable in a court or administrative proceeding in this state if the court or administrative body has jurisdiction over the subject matter of the proceeding.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.404. EXCEPTIONS TO CONFIDENTIALITY FOR OTHER CIRCUMSTANCES. (a) In circumstances other than court or administrative proceedings, exceptions to Section 201.402 exist

only for:

(1) a governmental agency, if the disclosure is required or permitted by law except as provided by Subsection (b);

(2) medical or law enforcement personnel, if the chiropractor determines that a probability of imminent physical injury to the patient, the chiropractor, or others exists or a probability of immediate mental or emotional injury to the patient exists;

(3) qualified personnel for the purpose of management audits, financial audits, program evaluations, or research, under the conditions provided by Subsection (c);

(4) those parts of the records reflecting charges and specific services performed, if necessary to collect fees for services provided by a chiropractor, a professional association, or another entity qualified to render or arrange for services;

(5) any person who possesses a written consent described by Section [201.405](#);

(6) an individual, corporation, or governmental agency involved in paying or collecting fees for services performed by a chiropractor;

(7) another chiropractor or personnel under the direction of the chiropractor who participate in the diagnosis, evaluation, or treatment of the patient; or

(8) an official legislative inquiry of state hospitals or state schools under the conditions provided under Subsection (d).

(b) A governmental agency shall protect the identity of any patient whose chiropractic records are examined under Subsection (a)(1).

(c) Personnel described by Subsection (a)(3) may not directly or indirectly identify a patient in any report of research, audit, or evaluation or otherwise disclose a patient's identity in any manner.

(d) Information released under Subsection (a)(8) may not include:

(1) information or records that identify a patient or client for any purpose without proper consent given by the patient;

and

(2) records that were not created by the state hospital or school or its employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.405. CONSENT FOR RELEASE. (a) In this section, "chiropractic records" means any record relating to the history, diagnosis, treatment, or prognosis of a patient.

(b) Consent for the release of confidential information must be in writing and signed by:

(1) the patient;

(2) a parent or legal guardian if the patient is a minor;

(3) a legal guardian if the patient has been adjudicated incompetent to manage the patient's personal affairs;

(4) an attorney ad litem appointed for the patient, as authorized by:

(A) Subtitle B, Title 6, Health and Safety Code;

(B) Subtitle C, D, or E, Title 7, Health and Safety Code;

(C) Chapter XIII, Texas Probate Code;

(D) Chapter 107, Family Code; or

(E) another applicable provision; or

(5) a personal representative if the patient is deceased.

(c) The written consent must specify:

(1) the information records covered by the release;

(2) the reason or purpose for the release; and

(3) the person to whom the information is to be released.

(d) The patient or the person authorized to consent to disclosure under this section may withdraw consent to the release of any information. Withdrawal of consent does not affect any information disclosed before written notice of the withdrawal.

(e) A person who receives information made confidential by this chapter may disclose the information to another only to the extent that disclosure is consistent with the authorized purposes

for which consent to release the information was obtained.

(f) A chiropractor shall furnish copies of chiropractic records or a summary or narrative of the records requested under a written consent for release of the information. The chiropractor shall furnish the information within a reasonable time. The patient or a person acting on the patient's behalf shall pay a reasonable fee for the information provided by the chiropractor. The chiropractor may delete confidential information about another person who has not consented to the release.

(g) A chiropractor who determines that access to information requested under Subsection (f) would be harmful to the physical, mental, or emotional health of the patient may refuse to release the information requested under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER J. PRACTICE BY LICENSE HOLDER

Sec. 201.451. DELEGATION TO ASSISTANTS. (a) The board by rule shall establish guidelines relating to the tasks and procedures that a chiropractor may delegate to an assistant.

(b) A chiropractor who delegates a task or procedure under this section retains full responsibility for the task or procedure.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.452. USE OF X-RAY. (a) The board may require evidence of proper training and safety in the use of analytical and diagnostic x-ray in conformity with:

(1) Chapter 401, Health and Safety Code; and

(2) rules of the Texas Radiation Control Agency and the Texas Department of Health.

(b) This section does not modify or amend:

(1) Section 201.002 by enlarging the scope of the practice of chiropractic or the acts that a chiropractor is authorized to perform; or

(2) Chapter 151.

(c) The board shall implement any federal and state requirements relating to radiologic training of the employees of a

chiropractor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.453. MALPRACTICE SETTLEMENT INFORMATION AND EXPERT REPORTS. (a) The Texas Department of Insurance shall provide to the board any information received by the department regarding a settlement of a malpractice claim against a chiropractor.

(b) An insurer who delivers or issues for delivery in this state professional liability insurance coverage to a chiropractor who practices in this state shall provide to the board a copy of any expert report served under Section 74.351, Civil Practice and Remedies Code, in a malpractice action against the chiropractor. Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 27, eff. September 1, 2005.

SUBCHAPTER K. DISCIPLINARY PROCEDURES

Sec. 201.501. DISCIPLINARY POWERS OF BOARD. (a) On a determination that a person has violated this chapter or a rule adopted by the board under this chapter, the board:

(1) shall revoke or suspend the person's license, place on probation a person whose license has been suspended, or reprimand a license holder; or

(2) may impose an administrative penalty.

(b) If a license suspension is probated, the board may require the license holder to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(c) In addition to other disciplinary actions authorized by this chapter, the board may require a license holder who violates this chapter to participate in a continuing education program. The

board shall specify the continuing education programs that the license holder may attend and the number of hours that the license holder must complete.

(d) Disciplinary proceedings of the board are governed by Chapter [2001](#), Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.502. GROUNDS FOR REFUSAL, REVOCATION, OR SUSPENSION OF LICENSE. (a) The board may refuse to admit a person to examinations and may revoke or suspend a license or place a license holder on probation for a period determined by the board for:

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

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

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

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

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

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

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

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

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

(10) directly or indirectly employing or associating

with a person who, in the course of the person's employment, commits an act constituting the practice of chiropractic when the person is not licensed to practice chiropractic;

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

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

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

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

(15) impersonating a licensed chiropractor;

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

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

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

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

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

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

(22) advertising using the term "physician" or "chiropractic physician" or any combination or derivation of the term "physician."

(b) Notwithstanding Subsection (a)(22), the term "chiropractic physician" may be used for the express purpose of

filing a claim for necessary services within the definition of chiropractic under this chapter if the billing for the services has universally applied, predetermined coding or description requirements that are a prerequisite to appropriate reimbursement. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 28, eff. September 1, 2005.

Sec. 201.5025. PROHIBITED PRACTICES BY CHIROPRACTOR OR LICENSE APPLICANT. (a) A chiropractor or an applicant for a license to practice chiropractic commits a prohibited practice if that person:

(1) submits to the board a false or misleading statement, document, or certificate in an application for a license;

(2) commits fraud or deception in taking or passing an examination;

(3) commits unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 201.5026, or injure the public;

(4) engages in conduct that subverts or attempts to subvert an examination process required by this chapter for a chiropractic license;

(5) directly or indirectly employs a person whose license to practice chiropractic has been suspended, canceled, or revoked;

(6) associates in the practice of chiropractic with a person:

(A) whose license to practice chiropractic has been suspended, canceled, or revoked; or

(B) who has been convicted of the unlawful practice of chiropractic in this state or elsewhere; or

(7) directly or indirectly aids or abets the practice of chiropractic by a person that is not licensed to practice chiropractic by the board.

(b) For purposes of Subsection (a)(4), conduct that

subverts or attempts to subvert the chiropractic licensing examination process includes, as prescribed by board rule, conduct that violates:

- (1) the security of the examination materials;
- (2) the standard of test administration; or
- (3) the accreditation process.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 29, eff. September 1, 2005.

Sec. 201.5026. UNPROFESSIONAL OR DISHONORABLE CONDUCT. (a) For purposes of Section 201.5025(a)(3), unprofessional or dishonorable conduct that is likely to deceive or defraud the public includes conduct in which a chiropractor:

(1) commits an act that violates any state or federal law if the act is connected with the chiropractor's practice of chiropractic;

(2) prescribes or administers a treatment that is nontherapeutic in nature or nontherapeutic in the manner the treatment is prescribed or administered;

(3) violates Section 311.0025, Health and Safety Code;

(4) fails to supervise adequately the activities of those acting under the supervision of the chiropractor; or

(5) delegates professional chiropractic responsibility or acts to a person if the delegating chiropractor knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the responsibility or acts.

(b) A complaint, indictment, or conviction of a violation is not necessary for the enforcement of Subsection (a)(1). Proof of the commission of the act while in the practice of chiropractic or under the guise of the practice of chiropractic is sufficient for the board's action.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 29, eff. September 1, 2005.

Sec. 201.503. SCHEDULE OF SANCTIONS. (a) The board by rule shall adopt a schedule of the maximum amount of sanctions that may

be assessed against a license holder for each category of violation of this chapter. In establishing the schedule of sanctions or in imposing the amount of an administrative penalty under this chapter, the board shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, or gravity of any prohibited acts and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(b) The State Office of Administrative Hearings shall use the schedule of sanctions for any sanction imposed as the result of a hearing conducted by that office.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.504. INFORMAL PROCEEDINGS; REFUNDS. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

(1) provide the complainant and the license holder an opportunity to be heard; and

(2) require the presence of a representative of the attorney general or the board's legal counsel to advise the board or the board's employees.

(c) Subject to Subsection (d), the board may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(d) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not

exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The board may not require payment of other damages or estimate harm in a refund order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 30, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 31, eff. September 1, 2005.

Sec. 201.505. HEARINGS. (a) A person is entitled to a hearing before the board if the board proposes to:

- (1) refuse the person's application for a license;
- (2) suspend or revoke the person's license; or
- (3) place on probation or reprimand the person.

(b) The board is not bound by strict rules of evidence or procedure in conducting its proceedings and hearings, but the board must base its determination on sufficient legal evidence.

(c) The board may:

- (1) issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records, and other documents;
- (2) administer oaths; and
- (3) take testimony concerning all matters within its jurisdiction.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.506. ENFORCEMENT COMMITTEE. (a) The board shall appoint an enforcement committee to:

- (1) oversee and conduct the investigation of complaints filed with the board under this chapter; and
- (2) perform other enforcement duties as directed by the board.

(b) The enforcement committee consists of three board members. Two members must be chiropractors, and one member must be a representative of the public.

(c) The attorney general shall provide legal counsel to the

enforcement committee concerning enforcement matters, including the investigation and disposition of complaints.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.5065. REQUIRED SUSPENSION OR REVOCATION OF LICENSE FOR CERTAIN OFFENSES. (a) The board shall suspend a chiropractor's license on proof that the chiropractor has been:

(1) initially convicted of:

(A) a felony;

(B) a misdemeanor under Chapter 22, Penal Code, other than a misdemeanor punishable by fine only;

(C) a misdemeanor on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure;

(D) a misdemeanor under Section 25.07, Penal Code; or

(E) a misdemeanor under Section 25.071, Penal Code; or

(2) subject to an initial finding by the trier of fact of guilt of a felony under:

(A) Chapter 481 or 483, Health and Safety Code;

(B) Section 485.033, Health and Safety Code; or

(C) the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.).

(b) On final conviction for an offense described by Subsection (a), the board shall revoke the chiropractor's license. Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 32, eff. September 1, 2005.

Sec. 201.507. TEMPORARY LICENSE SUSPENSION. (a) The enforcement committee may temporarily suspend the license of a license holder on an emergency basis if the enforcement committee determines from the evidence or information presented to the committee that the continued practice of chiropractic by the license holder constitutes a continuing or imminent threat to the public welfare.

(b) The board by rule shall adopt procedures for the

temporary suspension of a license under this section.

(c) A license temporarily suspended under this section may be suspended without notice or hearing if, at the time the suspension is ordered, a hearing on whether disciplinary proceedings under this chapter should be initiated against the license holder is scheduled to be held not later than the 14th day after the date of the suspension.

(d) A second hearing on the suspended license shall be held not later than the 60th day after the date the suspension is ordered. If the second hearing is not held in the time required by this subsection, the suspended license is automatically reinstated.

(e) A temporary suspension may also be ordered on a vote of two-thirds of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.508. POWERS OF DISTRICT COURTS; DUTIES OF DISTRICT AND COUNTY ATTORNEYS. (a) A district court may revoke or suspend a chiropractor's license on proof of a violation of the law relating to the practice of chiropractic.

(b) On the request of the board, a district or county attorney shall represent the state by filing and prosecuting a judicial proceeding for the revocation, cancellation, or suspension of the chiropractor's license.

(c) The district or county attorney may institute the judicial proceeding by filing a petition that:

- (1) is in writing;
- (2) states the grounds for prosecution; and
- (3) is signed officially by the prosecuting officer.

(d) Citation must be issued in the name of the state in the manner and form as in other cases and shall be served on the defendant, who is required to answer within the time and manner provided by law in civil cases.

(e) If a chiropractor, after proper citation, is found guilty or fails to appear and deny the charge, the court shall:

- (1) enter an order to suspend or revoke the chiropractor's license; and

(2) give proper judgment for costs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.509. REPRESENTATION BY ATTORNEY GENERAL. (a) The board may apply to the attorney general for representation by stating that the board previously requested the representation of a district or county attorney under Section 201.508 and the district or county attorney failed to prosecute or proceed against the person accused of violating this chapter.

(b) The attorney general shall institute a civil or criminal proceeding against the person in the county of the person's residence.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.510. RIGHT TO APPEAL. (a) A person whose license to practice chiropractic has been revoked or suspended or against whom the board has imposed an administrative penalty may appeal to a Travis County district court.

(b) The decision of the board may not be enjoined or stayed unless the person appeals the board's decision as provided by Subsection (a) and provides notices to the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 228, Sec. 1, eff. Sept. 1, 2001.

Sec. 201.511. REISSUANCE OF LICENSE. (a) On application, the board may reissue a license to practice chiropractic to a person whose license has been canceled or suspended.

(b) An applicant whose license has been canceled or revoked:

- (1) may not apply for reissuance before the first anniversary of the date the license was canceled or revoked; and
- (2) must apply for reissuance in the manner and form required by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER L. ADMINISTRATIVE PENALTY

Sec. 201.551. IMPOSITION OF ADMINISTRATIVE PENALTY. The

board may impose an administrative penalty on a person licensed or regulated under this chapter if the person violates this chapter or a rule or order adopted under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.552. AMOUNT OF PENALTY. (a) The amount of an administrative penalty may not exceed \$1,000.

(b) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.553. ENFORCEMENT COMMITTEE RECOMMENDATIONS. (a) On a determination by the enforcement committee that a violation of this chapter or a rule or order adopted under this chapter occurred, the committee may issue a report to the board stating:

- (1) the facts on which the determination is based; and
- (2) the enforcement committee's recommendation on the imposition of the administrative penalty, including a recommendation on the amount of the penalty.

(b) Not later than the 14th day after the date the report is issued, the executive director shall give written notice of the violation by certified mail to the person on whom the penalty may be imposed.

- (c) The notice issued under this section must:
- (1) include a brief summary of the alleged violation;
 - (2) state the amount of the recommended penalty; and
 - (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.554. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date a person receives the notice under Section [201.553](#), the person may:

- (1) accept in writing the enforcement committee's determination and recommended administrative penalty; or
- (2) make a written request for a hearing on the

occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the enforcement committee's determination and recommended penalty, the board by order shall approve the determination and impose the recommended penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.0515, eff. Sept. 1, 2001.

Sec. 201.555. HEARING ON ENFORCEMENT COMMITTEE RECOMMENDATIONS. (a) If the person requests a hearing or fails to respond timely to the notice, the executive director shall set a hearing and give notice of the hearing to the person.

(b) A hearing set by the executive director under Subsection (a) shall be held by an administrative law judge of the State Office of Administrative Hearings.

(c) The administrative law judge shall:

(1) make findings of fact and conclusions of law; and

(2) promptly issue to the board a proposal for a decision as to the occurrence of the violation and the amount of a proposed administrative penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.556. DECISION BY BOARD. (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may determine that:

(1) a violation has occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The notice of the board's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.557. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Not later than the 30th day after the date the board's order becomes final, the person shall:

(1) pay the administrative penalty;

(2) pay the penalty and file a petition for judicial

review contesting the fact of the violation, the amount of the penalty, or both; or

(3) without paying the penalty, file a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both.

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court and that:

(i) is for the amount of the penalty; and

(ii) is effective until judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(c) If the executive director receives a copy of an affidavit under Subsection (b)(2), the director may, at the direction of the enforcement committee, file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and stay the enforcement of the penalty on finding that the alleged facts are true. The person who files the affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.558. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty

is not stayed, the executive director may, at the direction of the enforcement committee, refer the matter to the attorney general for collection of the penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.559. DETERMINATION BY COURT. (a) If a court sustains the finding that a violation occurred after the court reviews the order of the board imposing an administrative penalty, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that an administrative penalty is not owed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.560. REMITTANCE OF PENALTY AND INTEREST. (a) If after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall, after the judgment becomes final:

(1) order the appropriate amount, plus accrued interest, be remitted to the person if the person paid the penalty; or

(2) order the release of the bond in full if the penalty is not imposed or order the release of the bond after the person pays the penalty imposed if the person posted a supersedeas bond.

(b) The interest paid under Subsection (a)(1) is the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.561. ADMINISTRATIVE PROCEDURE. All proceedings under this subchapter are subject to Chapter 2001, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER M. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 201.601. INJUNCTIVE RELIEF. (a) The board may institute in the board's name an action to restrain a violation of this chapter. An action under this subsection is in addition to any other action authorized by law.

(b) The state may sue for an injunction to restrain the practice of chiropractic in violation of this chapter.

(c) The state shall be represented in suits for injunction by:

(1) the attorney general;

(2) the district attorney of the district in which the defendant resides; or

(3) the county attorney of the county in which the defendant resides.

(d) A suit for injunction under Subsection (b) may not be filed before the final conviction for a violation of this chapter of the party sought to be enjoined.

(e) The state is not required to show that a person is personally injured by the defendant's unlawful practice of chiropractic.

(f) A court may not grant a temporary or permanent injunction until a hearing of the complaint on its merits. A court may not issue an injunction or restraining order until the final trial and final judgment on the merits of the suit.

(g) If the defendant is shown to have been unlawfully practicing chiropractic or to have been about to unlawfully practice chiropractic, the court shall perpetually enjoin the defendant from practicing chiropractic in the manner that was the subject of the suit.

(h) A defendant who disobeys the injunction is subject to the penalties provided by law for the violation of an injunction. The remedy by injunction is in addition to a criminal prosecution.

(i) A suit for injunction under this section shall be advanced for trial on the docket of the trial court and advanced and tried in the appellate courts in the same manner as other suits for injunction.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.6015. CEASE AND DESIST ORDER. (a) If it appears to the board that a person is engaging in an act or practice that constitutes the practice of chiropractic without a license or registration under this chapter, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in that activity.

(b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under Subchapter L. Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 33, eff. September 1, 2005.

Sec. 201.602. MONITORING LICENSE HOLDER. The board by rule shall develop a system for monitoring compliance with the requirements of this chapter of a license holder who is the subject of disciplinary action. Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the board to perform certain acts; and

(2) identify and monitor each license holder who is the subject of disciplinary action and who presents a continuing threat to the public welfare through the practice of chiropractic.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.603. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted by the board under this chapter is liable to the state for a civil penalty of \$1,000 for each day of violation.

(b) At the request of the board, the attorney general shall bring an action to recover a civil penalty authorized by this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.604. GENERAL CRIMINAL PENALTY. A person commits an offense if the person violates this chapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$50

or more than \$500 or by confinement in the county jail for not more than 30 days.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 34, eff. September 1, 2005.

Sec. 201.605. CRIMINAL PENALTY: PRACTICE WITHOUT LICENSE.

(a) A person commits an offense if the person violates Section 201.301.

(b) Except as provided by Subsection (c), an offense under this section is a Class A misdemeanor.

(c) If it is shown on the trial of the offense that the defendant has been previously convicted under Subsection (a), the offense is a felony of the third degree.

(d) Each day of violation constitutes a separate offense.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 201.606. CRIMINAL PENALTY: PROVIDING CHIROPRACTIC TREATMENT OR SERVICES WHILE INTOXICATED. (a) In this section, "intoxicated" has the meaning assigned by Section 49.01, Penal Code.

(b) A person commits an offense if the person is licensed or regulated under this chapter, provides chiropractic treatment or services to a patient while intoxicated, and, by reason of that conduct, places the patient at a substantial and unjustifiable risk of harm.

(c) An offense under this section is a state jail felony.

Added by Acts 2005, 79th Leg., Ch. 1020 (H.B. 972), Sec. 35, eff. September 1, 2005.