

**Enrolled**  
**House Bill 2242**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Board of Chiropractic Examiners)

CHAPTER .....

AN ACT

Relating to State Board of Chiropractic Examiners; creating new provisions; and amending ORS 684.010, 684.025, 684.050, 684.090, 684.092, 684.100 and 684.130.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 684.010 is amended to read:  
684.010. As used in this chapter:

[(1) "Board" means the State Board of Chiropractic Examiners.]

(1) "Active senior" means a person who:

- (a) Is licensed under ORS 684.054;
- (b) Is at least 60 years of age; and
- (c) Has been in practice for 25 years or more.

(2) "Chiropractic" is defined as:

(a) That system of adjusting with the hands the articulations of the bony framework of the human body, and the employment and practice of physiotherapy, electrotherapy, hydrotherapy and minor surgery.

(b) The chiropractic diagnosis, treatment and prevention of body dysfunction; correction, maintenance of the structural and functional integrity of the neuro-musculoskeletal system and the effects thereof or interferences therewith by the utilization of all recognized and accepted chiropractic diagnostic procedures and the employment of all rational therapeutic measures as taught in approved chiropractic colleges.

(3) "Chiropractic physician" means a person licensed by ORS 677.060, 684.025, 684.100, 684.155 or 688.010 to 688.201 and this section as an attending physician.

(4) "Drugs" means all medicines and preparations and all substances, except over-the-counter nonprescription substances, food, water and nutritional supplements taken orally, used or intended to be used for the diagnosis, cure, treatment, mitigation or prevention of diseases or abnormalities of humans, which are recognized in the latest editions of the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia, official National Formulary, or any supplement to any of them, or otherwise established as drugs.

(5) "Impaired chiropractic physician" means a chiropractic physician unable to practice chiropractic with reasonable skill and safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability.

(6) "Minor surgery" means the use of electrical or other methods for the surgical repair and care incident thereto of superficial lacerations and abrasions, benign superficial lesions, and the

removal of foreign bodies located in the superficial structures; and the use of antiseptics and local anesthetics in connection therewith.

**SECTION 2.** ORS 684.025 is amended to read:

684.025. (1) *[Nothing in this chapter shall be deemed to prevent one]* **This chapter does not prevent a person** licensed under *[this chapter]* **ORS 684.054** from the administration of the anesthetics or antiseptics authorized in ORS 684.010 or the use of radiopaque substances administered by mouth or rectum necessary for Roentgen diagnostic purposes.

(2) *[Nothing in]* **Neither** this section *[or]* **nor** ORS 684.010 *[shall be interpreted as authorizing]* **authorizes** the administration of any substance by the penetration of the skin or mucous membrane of the human body for a therapeutic purpose.

(3) *[Nothing in this chapter shall be interpreted to prohibit one]* **This chapter does not prohibit a person** licensed under *[this chapter]* **ORS 684.054** from accepting a referral from a practitioner licensed under ORS chapter 686. The care rendered as a result of the referral must be in writing and in accordance with ORS 686.040 (4) and only as prescribed and diagnosed by a licensee under ORS chapter 686. The applicable standard of care is established under ORS chapter 686.

(4)(a) **This chapter does not prevent a person licensed under ORS 684.054 from providing emergency first aid, including administering emergency oxygen.**

(b) **A person may not administer emergency oxygen unless the person has received training in the administration of oxygen. The State Board of Chiropractic Examiners shall adopt rules that establish training requirements.**

(c) **As used in this subsection, “emergency oxygen” means oxygen delivered at a minimum flow rate for a specified period of time as determined and regulated by the United States Food and Drug Administration.**

**SECTION 3.** ORS 684.050 is amended to read:

684.050. (1) Examinations for license to practice chiropractic shall be made by the State Board of Chiropractic Examiners according to the method deemed to be the most practicable to test the applicant’s qualifications.

*[(2) Each applicant shall be designated by a number instead of by name so that the identity of the applicant will not be disclosed to the examiners until after the papers are graded.]*

*[(3)]* (2) The board shall give an examination on subjects described in subsection *[(4)]* (3) of this section. The board shall determine the passing score. The applicant shall, however, be given credit for all sections passed. The board may authorize an applicant to retake all or part of an examination upon payment of a fee not to exceed \$100.

*[(4)]* (3) The schedule of minimum educational requirements to enable any person to practice chiropractic in this state includes the basic science subjects of anatomy, physiology, chemistry, pathology and public health and hygiene; also the clinical subjects of physical diagnosis, differential diagnosis, laboratory diagnosis, theory and practice of chiropractic, nutrition and dietetics, physiotherapy, electrotherapy, hydrotherapy, chiropractic orthopedics, written and practical roentgenology, eye-ear-nose-throat, proctology, obstetrics and gynecology, minor surgery, jurisprudence, psychology, office procedure and other subjects that the board may, from time to time, require, except internal medicine and major surgery. The minimum number of academic hours in an approved chiropractic college *[shall]* **may** not be less than 4,200 or the equivalent requirement in semester or quarter credits. The board may recognize a national chiropractic testing agency for grades received in both basic science and clinical subjects.

**SECTION 4.** ORS 684.090 is amended to read:

684.090. (1) In addition to meeting the requirements of ORS 684.092, each person practicing chiropractic within this state shall, on or before the renewal date of each year after a license is issued to the person, pay to the State Board of Chiropractic Examiners an annual registration fee *[not to exceed \$300, as]* **in an amount** determined by **rule of** the State Board of Chiropractic Examiners and approved by the Oregon Department of Administrative Services.

(2) **The maximum annual registration fee for a person actively practicing chiropractic may not exceed \$300.**

(3) The maximum annual registration fee for *[one not engaged in active practice shall]* **a person not actively practicing chiropractic may not exceed \$175**, *as determined by the board and approved by the Oregon Department of Administrative Services. A person engaged in a limited active practice shall pay to the board an annual license fee not to exceed 75 percent of the annual active license fee*.

**(4) The maximum annual registration fee for an active senior may not exceed 75 percent of the annual active registration fee.**

(5) The board, at least *[60]* **30** days prior to the renewal date, shall *[cause to be mailed]* **mail** to the last-known professional address of each licensed chiropractor in this state a notice of the requirements of ORS 684.092 and that the registration fee will be due on or before the renewal date next following.

(6) The annual registration fee *[shall be]* **is** payable only by personal, corporate or certified check, *[or]* by money order **or by credit card**. *[As used in this subsection, "limited active practice" means a practice engaged in by a person who is over 60 years of age, has been in practice over 25 years and meets such other requirements as determined by the board.]*

*[(2)]* (7) The failure, neglect or refusal of any person holding a license or certificate to practice under this chapter to pay the annual fee and to show compliance with or exemption from the requirement of ORS 684.092 during the time the license remains in force shall cause the license to expire after a period of 30 days from the renewal date of the year for which the failure occurs.

*[(3)]* (8) The licenses not renewed on time shall not be renewed except upon written application and a payment to the board of the fee for the license category plus a delinquent fee of \$100 for each week or portion thereof, not to exceed \$500, and upon compliance with or exemption from the requirements of ORS 684.092. A licensee who pays the annual renewal fee and shows compliance or exemption within 12 months of the expiration date of the license shall not be required to submit to an examination for the reissuance of a license.

*[(4) Any person whose license application was denied or whose license has been revoked or suspended and whose license privileges are granted or restored may receive the license for the year in which the privilege is granted or restored upon payment of the annual registration fee for the license category plus one-half thereof.]*

**SECTION 5.** ORS 684.092 is amended to read:

684.092. (1) Except as provided in subsection *[(2)]* (3) of this section, a chiropractic physician submitting a fee under ORS 684.090 shall, at the same time, *[submit]* **verify with** satisfactory evidence *[of]* the successful completion *[of 20 or more hours]* of approved continuing chiropractic education during the preceding 12-month period **as provided in subsection (2) of this section** and completion, or documentation of previous completion, of:

(a) A pain management education program approved by the **State Board of Chiropractic Examiners** and developed in conjunction with the Pain Management Commission established under ORS 409.500; or

(b) An equivalent pain management education program, as determined by the board.

**(2) A chiropractic physician submitting a fee under ORS 684.090 shall verify completion during the previous 12-month period of:**

**(a) At least 20 hours of approved continuing chiropractic education, for a person actively practicing chiropractic.**

**(b) At least six hours of approved continuing chiropractic education, for an active senior.**

*[(2)]* (3) The State Board of Chiropractic Examiners may exempt a chiropractic physician from the requirements of subsection (1) of this section upon an application by the chiropractic physician showing by evidence satisfactory to the board that the chiropractic physician is unable to comply with the requirements because of unusual or extenuating circumstances or because no program has been approved by the board.

**SECTION 6.** ORS 684.100 is amended to read:

684.100. (1) The State Board of Chiropractic Examiners may refuse to grant a license to any applicant or may discipline a person upon any of the following grounds:

- (a) Fraud or misrepresentation.
- (b) The practice of chiropractic under a false or assumed name.
- (c) The impersonation of another practitioner of like or different name.
- (d) A conviction of a felony or misdemeanor involving moral turpitude. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, is conclusive evidence of the conviction.
- (e) Commitment to a mental institution. A copy of the record of commitment, certified to by the clerk of the court entering the commitment, is conclusive evidence of the commitment.
- (f) Habitual intemperance in the use of intoxicants or controlled substances to such an extent as to incapacitate the person from the performance of professional duties.
- (g) Unprofessional or dishonorable conduct, including but not limited to:
  - (A) Any conduct or practice contrary to recognized standard of ethics of the chiropractic profession or any conduct or practice that does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition that does or might impair a physician's ability safely and skillfully to practice chiropractic.
  - (B) Willful ordering or performance of unnecessary laboratory tests or studies; administration of unnecessary treatment; failure to obtain consultations or perform referrals when failing to do so is not consistent with the standard of care; or otherwise ordering or performing any chiropractic service, X-ray or treatment that is contrary to recognized standards of practice of the chiropractic profession.
  - (C) Gross malpractice or repeated malpractice.
  - (h) Failing to notify the board of a change in location of practice as provided in ORS 684.054.
  - (i) Representing to a patient that a manifestly incurable condition of sickness, disease or injury can be permanently cured.
  - (j) The use of any advertising making untruthful, improper, misleading or deceptive statements.
  - (k) The advertising of techniques or modalities to infer or imply superiority of treatment or diagnosis by the use thereof that cannot be conclusively proven to the satisfaction of the board.
  - (L) Knowingly permitting or allowing any person to use the license of the person in the practice of any system or mode of treating the sick.
  - (m) Advertising either in the name of the person or under the name of another person, clinic or concern, actual or pretended, in any newspaper, pamphlet, circular or other written or printed paper or document, professing superiority to or a greater skill than that possessed by other chiropractic physicians that cannot be conclusively proven to the satisfaction of the board.
  - (n) Aiding or abetting the practice of any of the healing arts by an unlicensed person.
  - (o) The use of the name of the person under the designation, "Doctor," "Dr.," "D.C.," "Chiropractor," "Chiropractic D.C.," "Chiropractic Physician," or "Ph.C.," or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise.
  - (p) The advertising or holding oneself out to treat diseases or other abnormal conditions of the human body by any secret formula, method, treatment or procedure.
  - (q) Violation of any provision of this chapter or any rule adopted thereunder.
  - (r) Gross incompetency or gross negligence.
  - (s) The suspension or revocation by another state of a license to practice chiropractic, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of suspension or revocation of the state making the suspension or revocation is conclusive evidence thereof.
  - (t) Failing to give prior notice to patients of the permanent or temporary closure of the physician's practice or failing to give reasonable access to the records and files of the physician's patients at any time.
  - (u) The suspension or revocation by another licensing board in the state of a license to practice as another type of health care provider.
  - (v) **An act or conduct that results in a judgment of wrongdoing by a court of competent jurisdiction in any state or a finding of wrongdoing in an administrative proceeding in any**

**state. The act or conduct must be rationally connected to the ability to practice chiropractic or chiropractic assisting.**

(2) The board may, at any time two years or more after the refusal, revocation or cancellation of registration under this section, by a majority vote, issue a license restoring to or conferring on the person all the rights and privileges of the practice of chiropractic as defined and regulated by this chapter. Any person to whom those rights have been restored shall pay to the board the annual registration fee for the license category plus one-half thereof.

(3) If the board determines that a chiropractic physician's continuation in practice would constitute a serious danger to the public, the board may suspend the license of the chiropractic physician without a hearing. Simultaneously with the order of suspension, the board must institute proceedings for a hearing provided under this section and the suspension may continue unless injunctive relief is obtained from a court of competent jurisdiction showing just cause or undue burden under the circumstances existing.

(4) If a physician refuses a written request for an informal interview with the board, the board shall have grounds to suspend or revoke the license of a physician pursuant to this section.

(5) Prior to or following an informal interview as described in this section, the board may request any Oregon licensed chiropractic physician in good standing to assist the board in preparing for or conducting any professional competency examination as the board may deem appropriate.

(6) Notwithstanding any other provisions of ORS 684.010, 684.040, 684.050, 684.090, 684.100, 684.112, 684.130, 684.150 and 684.155, the board may at any time direct and order a professional competency examination limited to the area of practice out of which a specific complaint has arisen and make an investigation, including the taking of depositions or otherwise in order to fully inform itself with respect to the performance or conduct of a physician licensed under ORS 684.010, 684.040, 684.050, 684.090, 684.100, 684.112, 684.130, 684.150 and 684.155.

(7) If the board has reasonable cause to believe that any:

(a) Chiropractic physician is or may be unable to practice with reasonable skill and safety to patients, the board may:

(A) Cause a competency examination of the physician for purposes of determining the physician's fitness to practice chiropractic with reasonable skill and safety to patients; or

(B) Require the fingerprints and relevant personal history data of the physician for the purpose of requesting a state or nationwide criminal records check under ORS 181.534.

(b) Person certified to provide physiotherapy, electrotherapy or hydrotherapy pursuant to ORS 684.155 (1)(c) is or may be unable to provide the therapies with reasonable skill and safety to patients, the board may:

(A) Cause a competency examination of the person for purposes of determining the person's fitness to provide the therapies with reasonable skill and safety to patients; or

(B) Require the fingerprints and relevant personal history data of the person for the purpose of requesting a state or nationwide criminal records check under ORS 181.534.

(8) Refusal by any person to take or appear for a competency examination scheduled by the board or to submit fingerprints and relevant personal history data as required by the board under subsection (7) of this section shall constitute grounds for disciplinary action.

(9) In disciplining a person as authorized by subsection (1) of this section, the board may use any or all of the following methods:

(a) Suspend judgment.

(b) Place the person on probation.

(c) Suspend the license of the person to practice chiropractic in this state.

(d) Revoke the license of the person to practice chiropractic in this state.

(e) Place limitations on the license of the person to practice chiropractic in this state.

(f) Impose a civil penalty not to exceed \$10,000.

(g) Take other disciplinary action as the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings.

(10)(a) Any information that the board obtains pursuant to ORS 684.100, 684.112 and 684.155 (9) is confidential as provided under ORS 676.175.

(b) Any person who reports or provides information to the board under ORS 684.090, 684.100, 684.112, 684.150 and 684.155 and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

**SECTION 7.** ORS 684.130 is amended to read:

684.130. (1) There is established the State Board of Chiropractic Examiners. The board shall be composed of five chiropractors and two public members who are residents of this state. The chiropractor members must have practiced chiropractic in this state for [one year] **five years** prior to appointment. Annually, upon the expiration of the term of any members of the board, the Governor shall appoint one or more qualified persons to the board to serve for a period of three years.

(2) The Governor shall fill vacancies on the board, occasioned by death or otherwise. Upon sufficient proof to the Governor of the inability or misconduct of a member of the board, the member shall be dismissed and the Governor shall appoint as successor a person qualified to fill the vacancy.

(3) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

**SECTION 8.** (1) **The amendments to ORS 684.050 by section 3 of this 2007 Act apply to examinations given on or after the effective date of this 2007 Act.**

(2) **The amendments to ORS 684.090 by section 4 of this 2007 Act apply to annual registration fees due on or after the effective date of this 2007 Act.**

(3) **The amendments to ORS 684.092 by section 5 of this 2007 Act apply to continuing education courses taken on or after the effective date of this 2007 Act.**

(4) **The amendments to ORS 684.100 by section 6 of this 2007 Act apply to acts or conduct occurring on or after the effective date of this 2007 Act.**

(5) **The amendments to ORS 684.130 by section 7 of this 2007 Act apply to appointments made on or after the effective date of this 2007 Act.**

Passed by House March 5, 2007

Received by Governor:

Repassed by House May 30, 2007

.....M.,....., 2007

Approved:

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Chief Clerk of House

.....M.,....., 2007

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Speaker of House

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Governor

Passed by Senate May 24, 2007

Filed in Office of Secretary of State:

.....M.,....., 2007

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President of Senate

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Secretary of State