

# 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)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Revises various provisions relating to practice of chiropractic and chiropractic assisting.

## A BILL FOR AN ACT

1  
2 Relating to State Board of Chiropractic Examiners; creating new provisions; and amending ORS  
3 684.010, 684.025, 684.050, 684.090, 684.092, 684.100 and 684.130.

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

5 **SECTION 1.** ORS 684.010 is amended to read:

6 684.010. As used in this chapter:

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

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

9 **(a) Is licensed under ORS 684.054;**

10 **(b) Is at least 60 years of age; and**

11 **(c) Has been in practice for 25 years or more.**

12 **(2) "Chiropractic" is defined as:**

13 (a) That system of adjusting with the hands the articulations of the bony framework of the hu-  
14 man body, and the employment and practice of physiotherapy, electrotherapy, hydrotherapy and  
15 minor surgery.

16 (b) The chiropractic diagnosis, treatment and prevention of body dysfunction; correction, main-  
17 tenance of the structural and functional integrity of the neuro-musculoskeletal system and the ef-  
18 fects thereof or interferences therewith by the utilization of all recognized and accepted chiropractic  
19 diagnostic procedures and the employment of all rational therapeutic measures as taught in ap-  
20 proved chiropractic colleges.

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

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

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (6) "Minor surgery" means the use of electrical or other methods for the surgical repair and  
 2 care incident thereto of superficial lacerations and abrasions, benign superficial lesions, and the  
 3 removal of foreign bodies located in the superficial structures; and the use of antiseptics and local  
 4 anesthetics in connection therewith.

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

6 684.025. (1) *[Nothing in this chapter shall be deemed to prevent one]* **This chapter does not**  
 7 **prevent a person** licensed under *[this chapter]* **ORS 684.054** from the administration of the anes-  
 8 thetics or antiseptics authorized in ORS 684.010 or the use of radiopaque substances administered  
 9 by mouth or rectum necessary for Roentgen diagnostic purposes.

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

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

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

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

23 (c) **As used in this subsection, "emergency oxygen" means oxygen delivered at a mini-**  
 24 **imum flow rate for a specified period of time as determined and regulated by the United**  
 25 **States Food and Drug Administration.**

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

27 684.050. (1) Examinations for license to practice chiropractic shall be made by the State Board  
 28 of Chiropractic Examiners according to the method deemed to be the most practicable to test the  
 29 applicant's qualifications.

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

32 [(3)] (2) The board shall give an examination on subjects described in subsection [(4)] (3) of this  
 33 section. The board shall determine the passing score. The applicant shall, however, be given credit  
 34 for all sections passed. The board may authorize an applicant to retake all or part of an examination  
 35 upon payment of a fee not to exceed \$100.

36 [(4)] (3) The schedule of minimum educational requirements to enable any person to practice  
 37 chiropractic in this state includes the basic science subjects of anatomy, physiology, chemistry,  
 38 pathology and public health and hygiene; also the clinical subjects of physical diagnosis, differential  
 39 diagnosis, laboratory diagnosis, theory and practice of chiropractic, nutrition and dietetics,  
 40 physiotherapy, electrotherapy, hydrotherapy, chiropractic orthopedics, written and practical  
 41 roentgenology, eye-ear-nose-throat, proctology, obstetrics and gynecology, minor surgery,  
 42 jurisprudence, psychology, office procedure and other subjects that the board may, from time to  
 43 time, require, except internal medicine and major surgery. The minimum number of academic hours  
 44 in an approved chiropractic college *[shall]* **may** not be less than 4,200 or the equivalent requirement  
 45 in semester or quarter credits. The board may recognize a national chiropractic testing agency for

1 grades received in both basic science and clinical subjects.

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

3 684.090. (1) In addition to meeting the requirements of ORS 684.092, each person practicing  
4 chiropractic within this state shall, on or before the renewal date of each year after a license is  
5 issued to the person, pay to the State Board of Chiropractic Examiners an annual registration fee  
6 *[not to exceed \$300, as]* **in an amount** determined by **rule of** the State Board of Chiropractic Ex-  
7 aminers and approved by the Oregon Department of Administrative Services.

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

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

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

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

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

25 *[(2)]* **(7) The failure, neglect or refusal of any person holding a license or certificate to practice**  
26 **under this chapter to pay the annual fee and to show compliance with or exemption from the re-**  
27 **quirement of ORS 684.092 during the time the license remains in force shall cause the license to**  
28 **expire after a period of 30 days from the renewal date of the year for which the failure occurs.**

29 *[(3)]* **(8) The licenses not renewed on time shall not be renewed except upon written application**  
30 **and a payment to the board of the fee for the license category plus a delinquent fee of \$100 for each**  
31 **week or portion thereof, not to exceed \$500, and upon compliance with or exemption from the re-**  
32 **quirements of ORS 684.092. A licensee who pays the annual renewal fee and shows compliance or**  
33 **exemption within 12 months of the expiration date of the license shall not be required to submit to**  
34 **an examination for the reissuance of a license.**

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

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

40 684.092. (1) Except as provided in subsection *[(2)]* **(3)** of this section, a chiropractic physician  
41 submitting a fee under ORS 684.090 shall, at the same time, *[submit]* **verify with** satisfactory evi-  
42 dence *[of]* the successful completion *[of 20 or more hours]* of approved continuing chiropractic edu-  
43 cation during the preceding 12-month period **as provided in subsection (2) of this section** and  
44 completion, or documentation of previous completion, of:

45 (a) A pain management education program approved by the **State Board of Chiropractic Ex-**

1 **aminers** and developed in conjunction with the Pain Management Commission established under  
2 ORS 409.500; or

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

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

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

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

9 [(2)] (3) The State Board of Chiropractic Examiners may exempt a chiropractic physician from  
10 the requirements of subsection (1) of this section upon an application by the chiropractic physician  
11 showing by evidence satisfactory to the board that the chiropractic physician is unable to comply  
12 with the requirements because of unusual or extenuating circumstances or because no program has  
13 been approved by the board.

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

15 684.100. (1) The State Board of Chiropractic Examiners may refuse to grant a license to any  
16 applicant or may discipline a person upon any of the following grounds:

17 (a) Fraud or misrepresentation.

18 (b) The practice of chiropractic under a false or assumed name.

19 (c) The impersonation of another practitioner of like or different name.

20 (d) A conviction of a felony or misdemeanor involving moral turpitude. A copy of the record of  
21 conviction, certified to by the clerk of the court entering the conviction, is conclusive evidence of  
22 the conviction.

23 (e) Commitment to a mental institution. A copy of the record of commitment, certified to by the  
24 clerk of the court entering the commitment, is conclusive evidence of the commitment.

25 (f) Habitual intemperance in the use of intoxicants or controlled substances to such an extent  
26 as to incapacitate the person from the performance of professional duties.

27 (g) Unprofessional or dishonorable conduct, including but not limited to:

28 (A) Any conduct or practice contrary to recognized standard of ethics of the chiropractic pro-  
29 fession or any conduct or practice that does or might constitute a danger to the health or safety  
30 of a patient or the public or any conduct, practice or condition that does or might impair a physi-  
31 cian's ability safely and skillfully to practice chiropractic.

32 (B) Willful ordering or performance of unnecessary laboratory tests or studies; administration  
33 of unnecessary treatment; failure to obtain consultations or perform referrals when failing to do so  
34 is not consistent with the standard of care; or otherwise ordering or performing any chiropractic  
35 service, X-ray or treatment that is contrary to recognized standards of practice of the chiropractic  
36 profession.

37 (C) Gross malpractice or repeated malpractice.

38 (h) Failing to notify the board of a change in location of practice as provided in ORS 684.054.

39 (i) Representing to a patient that a manifestly incurable condition of sickness, disease or injury  
40 can be permanently cured.

41 (j) The use of any advertising making untruthful, improper, misleading or deceptive statements.

42 (k) The advertising of techniques or modalities to infer or imply superiority of treatment or di-  
43 agnosis by the use thereof that cannot be conclusively proven to the satisfaction of the board.

44 (L) Knowingly permitting or allowing any person to use the license of the person in the practice  
45 of any system or mode of treating the sick.

1 (m) Advertising either in the name of the person or under the name of another person, clinic  
 2 or concern, actual or pretended, in any newspaper, pamphlet, circular or other written or printed  
 3 paper or document, professing superiority to or a greater skill than that possessed by other  
 4 chiropractic physicians that cannot be conclusively proven to the satisfaction of the board.

5 (n) Aiding or abetting the practice of any of the healing arts by an unlicensed person.

6 (o) The use of the name of the person under the designation, "Doctor," "Dr.," "D.C.,"  
 7 "Chiropractor," "Chiropractic D.C.," "Chiropractic Physician," or "Ph.C.," or any similar desig-  
 8 nation with reference to the commercial exploitation of any goods, wares or merchandise.

9 (p) The advertising or holding oneself out to treat diseases or other abnormal conditions of the  
 10 human body by any secret formula, method, treatment or procedure.

11 (q) Violation of any provision of this chapter or any rule adopted thereunder.

12 (r) Gross incompetency or gross negligence.

13 (s) The suspension or revocation by another state of a license to practice chiropractic, based  
 14 upon acts by the licensee similar to acts described in this section. A certified copy of the record  
 15 of suspension or revocation of the state making the suspension or revocation is conclusive evidence  
 16 thereof.

17 (t) Failing to give prior notice to patients of the permanent or temporary closure of the physi-  
 18 cian's practice or failing to give reasonable access to the records and files of the physician's pa-  
 19 tients at any time.

20 (u) The suspension or revocation by another licensing board in the state of a license to practice  
 21 as another type of health care provider.

22 (v) **An act or conduct derogatory to the practice of chiropractic or chiropractic assisting**  
 23 **that would cause a reasonable person to have substantial doubt about the individual's ability**  
 24 **to safely practice chiropractic or chiropractic assisting. The act or conduct must be ra-**  
 25 **tionally connected to the ability to practice chiropractic or chiropractic assisting.**

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

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

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

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

42 (6) Notwithstanding any other provisions of ORS 684.010, 684.040, 684.050, 684.090, 684.100,  
 43 684.112, 684.130, 684.150 and 684.155, the board may at any time direct and order a professional  
 44 competency examination limited to the area of practice out of which a specific complaint has arisen  
 45 and make an investigation, including the taking of depositions or otherwise in order to fully inform

1 itself with respect to the performance or conduct of a physician licensed under ORS 684.010, 684.040,  
 2 684.050, 684.090, 684.100, 684.112, 684.130, 684.150 and 684.155.

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

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

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

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

10 (b) Person certified to provide physiotherapy, electrotherapy or hydrotherapy pursuant to ORS  
 11 684.155 (1)(c) is or may be unable to provide the therapies with reasonable skill and safety to pa-  
 12 tients, the board may:

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

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

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

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

22 (a) Suspend judgment.

23 (b) Place the person on probation.

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

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

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

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

28 (g) Take other disciplinary action as the board in its discretion finds proper, including assess-  
 29 ment of the costs of the disciplinary proceedings.

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

32 (b) Any person who reports or provides information to the board under ORS 684.090, 684.100,  
 33 684.112, 684.150 and 684.155 and who provides information in good faith shall not be subject to an  
 34 action for civil damages as a result thereof.

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

36 684.130. (1) There is established the State Board of Chiropractic Examiners. The board shall be  
 37 composed of five chiropractors and two public members who are residents of this state. The  
 38 chiropractor members must have practiced chiropractic in this state for [*one year*] **five years** prior  
 39 to appointment. Annually, upon the expiration of the term of any members of the board, the Gov-  
 40 ernor shall appoint one or more qualified persons to the board to serve for a period of three years.

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

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

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

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

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

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

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

11

---