

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

SENATE BILL 464

4
5 By: Senator Bell

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE
10 17, CHAPTER 81 CONCERNING THE ARKANSAS CHIROPRACTIC
11 PRACTICES ACT; TO AMEND ARKANSAS CODE 25-16-905 AND REPEAL
12 ARKANSAS CODE 25-16-903 (17) TO INCREASE THE STIPEND FOR
13 THE BOARD; AND FOR OTHER PURPOSES."

Subtitle

15 "AN ACT TO REVISE THE ARKANSAS
16 CHIROPRACTIC PRACTICES ACT."

17
18
19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code 17-81-201 is amended to read as follows:

23 "17-81-201. Creation - Members - Appointment.

24 (a) The Arkansas State Board of Chiropractic Examiners is established.

25 (b) The board shall be composed of seven (7) members appointed by the
26 Governor for terms of five (5) years.

27 (1) Five (5) members shall be qualified chiropractors. At least
28 thirty (30) days prior to the expiration of the term of office of each
29 professional member, ~~the Arkansas Chiropractic Association may submit to the~~
30 ~~Governor a list of three (3) names of qualified chiropractors for each~~
31 ~~position for which a term expires. On or before June 30 of each year, the~~
32 Governor may appoint a person to fill ~~each position for which the term of~~
33 ~~office expires from the list~~ all vacancies on the board.

34 (2) Two (2) members of the board shall not be actively engaged in
35 or retired from the profession of chiropractic. One (1) shall represent
36 consumers, and one (1) shall be sixty (60) years of age or older and shall be

1 the representative of the elderly. Both shall be appointed from the state at
 2 large subject to confirmation by the Senate. The two (2) positions may not be
 3 held by the same person. Both shall be full voting members but shall not
 4 participate in the grading of examinations.

5 (c) When a vacancy occurs on the board for any reason ~~other than the~~
 6 ~~normal expiration of a term~~, the vacancy may be filled by appointment by the
 7 Governor for the unexpired term. ~~Vacancies of professional members may be~~
 8 ~~filled from a list of three (3) names of qualified chiropractors submitted by~~
 9 ~~the Arkansas Chiropractic Association."~~

10

11 SECTION 2. Arkansas Code 17-81-205 is amended to read as follows:

12 "17-81-205. Minutes - Records.

13 (a) The ~~secretary~~ executive director of the board shall keep a record
 14 of the minutes of the meetings of the board and a record of the names of all
 15 persons making application for license under the provisions of this chapter
 16 together with a record of the action of the board thereon.

17 (b) The ~~secretary~~ executive director shall also keep a roll of the
 18 names of all licensed and deceased chiropractors who have been licensed to
 19 practice in the State of Arkansas.

20 (c) The record shall at all reasonable times be open for public
 21 inspection."

22

23 SECTION 3. Arkansas Code 17-81-206 is amended to read as follows:

24 "17-81-206. Duties and powers.

25 (a)(1) The Arkansas State Board of Chiropractic Examiners is empowered
 26 to incur whatever expenses it may deem necessary or expedient in performing
 27 its functions. It may employ whatever assistants it may deem necessary or
 28 expedient therefor and fix their compensation.

29 (2) ~~Each member of the board shall receive seventy-five dollars~~
 30 ~~(\$75.00) per day for each day of attendance at regular or special meetings or~~
 31 ~~in attending to any proper business of the board. In addition each member is~~
 32 ~~entitled to reimbursement for all expenses incurred in attending any such~~
 33 ~~meeting or expense incurred in attending to any proper business of the board.~~
 34 Each member of the board may receive expense reimbursement and stipends in
 35 accordance with 25-16-901 et seq.

36 (3) All of the disbursements provided for in this section shall

1 be out of the fees and fines collected by the board.

2 (b) The board is authorized to:

3 (1) Make suitable bylaws for carrying out its duties under the
4 provisions of this chapter;

5 (2) Sue and be sued;

6 (3) Have an official seal which shall bear the words Arkansas
7 State Board of Chiropractic Examiners ;

8 (4) Provide a secretary's certificate. The certificate of the
9 secretary of the board under seal shall be accepted in the courts of the state
10 as the best evidence as to the minutes of the board and shall likewise be
11 accepted in the courts of the state as the best evidence as to the
12 registration and nonregistration of any person under the requirements of this
13 chapter;

14 (5) Adopt and, from time to time, revise such rules and
15 regulations not inconsistent with the law as may be necessary to enable it to
16 carry into effect the provisions of this chapter;

17 (6) Cause the prosecution of all persons violating this chapter
18 and have power to incur necessary expenses therefor;

19 (7) Keep a record of all its proceedings;

20 (8) Employ such persons as may be necessary to carry out the work
21 of the board, who shall have their duties and compensation prescribed by the
22 board within appropriations for that purpose;

23 (9) Fix the time for holding its regular meetings for the
24 examination of applicants;

25 (10) Examine, license, and renew the licenses of duly qualified
26 applicants. The board shall have exclusive jurisdiction to determine who shall
27 be permitted to practice chiropractic in the State of Arkansas; and

28 (11) Conduct disciplinary proceedings as provided in this
29 chapter.

30 (c)(1) In the performance of its duties, the board is empowered to
31 issue subpoenas and thereby compel the attendance of persons before it for the
32 purpose of examining into any facts or conditions properly pending before the
33 board for its action.

34 (2) All subpoenas issued by the board shall be served in the
35 manner prescribed by law for the service of subpoenas issuing from the courts,
36 and all persons so served shall obey the subpoenas or be subject to the

1 penalties provided by law for the disobedience of subpoenas issuing from the
2 courts.

3 (3) All persons subpoenaed by the board are entitled to their pay
4 and mileage and shall have all the other rights now provided by law for
5 persons served with subpoenas issuing from the courts."

6
7 SECTION 4. Arkansas Code 17-81-207 is amended to read as follows:

8 "17-81-207. ~~Treasurer~~ Executive Director.

9 ~~—— (a)(1) The treasurer of the board shall give bond to the State of~~
10 ~~Arkansas for the use and benefit of the board in the sum of five thousand~~
11 ~~dollars (\$5,000) with sureties to be approved by the board for the faithful~~
12 ~~discharge of his duties. However, the board may require bond to be made in a~~
13 ~~larger amount should it be justified and approved.~~

14 ~~—— (2) Cost of the surety bond shall be an expense of the board and~~
15 ~~not of the treasurer.~~

16 (a) Pursuant to its authority set forth in section 17-81-206(b)(8), the
17 board may employ an executive director to maintain and operate its office
18 pursuant to its directions.

19 (b)(1) The executive director in consultation with and review of the
20 board treasurer, shall collect all fees and fines on behalf of the board and
21 submit all payment requests on behalf of the board for its state
22 appropriations.

23 (2) The ~~treasurer~~ executive director shall give in writing at the
24 annual meeting of the board a fully itemized report of his receipts and
25 disbursements for the preceding year showing the amount of money on hand and
26 shall, at other times as may be requested by the board or by any of its
27 members, submit reports for inspection.

28 ~~—— (2) (3) Copies of the annual reports, actions of the board,~~
29 ~~examinations, and number licensed for the year, certified by the secretary of~~
30 ~~the board, shall be filed~~ submitted by the executive director with the
31 Arkansas Chiropractic Association various chiropractic professional
32 organizations in Arkansas."

33

34 SECTION 5. Arkansas Code 17-81-208 (a), concerning disposition of
35 funds, is amended to read as follows:

36 [§](a) All fees and fines authorized by this chapter are the property of

1 the board and shall be paid to the office of its executive director who shall
 2 collect and dispose of such funds on behalf of the board ~~its treasurer to be~~
 3 ~~disposed of~~ as provided in this chapter. Any surplus in the treasury of the
 4 board at the end of the fiscal year shall remain in the treasury and may be
 5 expended in succeeding years for the purposes herein set out."

6

7 SECTION 6. Arkansas Code 17-81-302 is amended to read as follows:

8 "17-81-302. Exempted activities.

9 Nothing herein shall be construed to prohibit or to require a license
 10 hereunder with respect to any of the following acts:

11 (1) The performance of services in case of an emergency;

12 (2) The performance of services in this state on an occasional basis,
 13 limited to ninety (90) days in each calendar year, by a chiropractor lawfully
 14 practicing chiropractic in another state or territory. However, if any such
 15 chiropractor performs services on a regular basis, or for his regular use
 16 maintains or is provided with any office or other place to meet persons for
 17 the performance of such services in the State of Arkansas, he shall obtain a
 18 license to practice chiropractic in the State of Arkansas; or

19 (3) The practice of medicine and surgery, osteopathy, dentistry,
 20 podiatry, optometry, Christian Science, physical therapy, cosmetology, therapy
 21 technology, or any other branch of the healing arts as defined by the laws of
 22 this state as now or hereafter enacted, it not being intended by this chapter
 23 to limit, restrict, enlarge, or alter the privileges and practices of any of
 24 these professions or branches of the healing arts.✕

25

26 SECTION 7. Arkansas Code 17-81-304 is amended to read as follows:

27 "17-81-304. Application - Fees.

28 (a)(1) Applications for license to practice chiropractic in the State
 29 of Arkansas shall be made to the ~~secretary~~ executive director of the board in
 30 writing on forms furnished by the board. The application shall be signed by
 31 the applicant in his or her own handwriting and acknowledged before an officer
 32 authorized to administer oaths.

33 (2) The applicant must submit proof, satisfactory to the board,
 34 of graduation from a chartered school or college of chiropractic as herein
 35 described and file with his application the affidavits of at least two (2)
 36 licensed and reputable doctors of chiropractic showing him to be possessed of

1 good moral character.

2 (3) The application shall be accompanied by the payment of one
3 hundred fifty dollars (\$150), and fifty dollars (\$50) orientation fee.

4 (4) The application shall be filed with the ~~secretary~~ executive
5 director of the board not less than forty-five (45) days prior to the next
6 regular meeting of the board.

7 (b) If the applicant is approved, the applicant shall be admitted for
8 examination. Should the applicant pass the examination, no part of the fee
9 shall be returned and he shall be issued a license to practice chiropractic in
10 accordance with the provisions of this chapter.

11 (c) If the applicant is not approved, ~~the application and one-half~~
12 ~~(1/2) of the examination fee shall be returned to him with~~ he or she shall be
13 notified the reasons for the disapproval ~~fully stated.~~

14 (d) Should an applicant be approved but fail to appear for the
15 examination, no part of his fee shall be returned, but he shall be eligible
16 for examination at a later date upon at least thirty (30) days' prior notice
17 to the board.

18 (e) Should the approved applicant fail the examination, no part of his
19 fee shall be returned, and he shall be eligible for reexamination at a later
20 date, at the discretion of the board, and upon paying an examination fee of
21 twenty-five dollars (\$25.00) per failed subject up to seventy-five dollars
22 (\$75.00)."

23

24 SECTION 8. Arkansas Code 17-81-305 is amended to read as follows:

25 "17-81-305. Qualifications of applicants.

26 (a) To qualify to take the examination, an applicant must:

27 (1) Be at least twenty-one (21) years of age;

28 (2) Have successfully completed not less than a minimum of sixty
29 (60) semester credit hours of college education, to include a minimum of
30 thirty (30) semester credit hours in the field of science;

31 (3) Not have had a license to practice chiropractic in any other
32 state suspended or revoked nor have been placed on probation for any cause;

33 (4) Possess a valid doctor of chiropractic degree from a
34 chiropractic institution whose requirements include a course of instruction of
35 not less than four (4) years of nine (9) academic months each or not less than
36 four thousand four hundred (4,400) fifty-minute resident class hours and

1 include one hundred twenty (120) classroom hours of physiological
 2 therapeutics;

3 (5) Possess a valid National Board certificate, to include Parts
 4 I, II, and III, and the physiological therapeutics section;

5 (6) Be of good moral character;

6 (7) Not have been convicted of a felony; ~~and~~

7 (8) Not be an habitual user of intoxicants, drugs, or
 8 hallucinatory preparations;

9 (9) Application fee as provided in Arkansas Practices Act § 17-
 10 81-304; and

11 (10) Certified chiropractic college transcript or National Board
 12 transcript submitted directly from the respective institutions.

13 (b) An applicant graduated, as of July 19, 1971, from a school or
 14 college of chiropractic, the requirements and course of instruction of which
 15 were equal and comparable to other recognized schools or colleges of
 16 chiropractic at the time of his or her attendance, may be acceptable.

17 (c) For students enrolled in any approved chiropractic school or
 18 college which may not, at the passage date of this act, meet the requirements
 19 as set forth in subdivision (a)(4) of this section, the board may waive the
 20 requirement, in individual cases, at its discretion.

21 ~~—— (d) An applicant for licensing who has been licensed to practice~~
 22 ~~chiropractic by another state and who has five (5) years or more of practice~~
 23 ~~experience shall qualify for licensing in this state by being examined in a~~
 24 ~~practical manner as provided for under practice experience rules and~~
 25 ~~regulations."~~

26

27 SECTION 9. Section 17-81-306 (a)(1), concerning examinations under the
 28 Arkansas Chiropractic Practices Act, is amended to read as follows:

29 (1) Examinations shall be given in English and in writing, except for
 30 certain handicapped applicants such as blind persons, and shall include the
 31 following subjects:

32 ~~—— (A) Chiropractic principle and practice ;~~

33 ~~—— (B)(A) Practice management, ethics, and jurisprudence;~~

34 ~~—— (C)(B) Physical and clinical diagnosis;~~

35 ~~—— (D) Physiological therapeutics;~~

36 ~~—— (E) Nutritional associated chiropractic examination procedures;~~

- 1 ~~_____ (F) Roentgenological principle and practice;~~
 2 ~~_____ (G)(C) Chiropractic examination procedures;~~
 3 ~~_____ (H)(D) Chiropractic adjustive and manipulative therapeutics;~~
 4 ~~_____ (I) Physical and clinical diagnostic methods; and~~
 5 ~~_____ (J)(E) X ray interpretations.~~

6

7 SECTION 10. Arkansas Code 17-81-307 is amended to read as follows:

8 "17-81-307. Issuance and recording of licenses.

9 (a) The board shall issue licenses to all applicants who have been
 10 approved, paid all the required fees, and gained a satisfactory grade on
 11 examination, with a general average of seventy-five percent (75%) with no
 12 subject falling below sixty percent (60%).

13 (b)(1) Each person receiving a license from the board, prior to
 14 practicing chiropractic, shall have the certificate recorded in the office of
 15 the county clerk of the county where he proposes to practice.

16 (2) When the licensee moves to another county for the purpose of
 17 continuing the practice of chiropractic, he shall file for record, with the
 18 county clerk of the county to which he moves, a certified copy of his license.

19 (3) The fee for each recording of each license shall be two
 20 dollars (\$2.00).

21 (4) Each licensee shall display conspicuously in his/her
 22 principal place of business or place of employment the license issued by this
 23 board. Annual renewal certificate shall be displayed in connection with the
 24 original license."

25

26 SECTION 11. Arkansas Code 17-81-310 is amended to read as follows:

27 "17-81-310. Orientation class.

28 (a) The Arkansas State Board of Chiropractic Examiners is authorized to
 29 conduct an orientation class for all new licensees.

30 (b) The board is authorized to include in the orientation class
 31 instruction relating to office procedures, the filing of insurance claims, and
 32 such other matters as the board may deem necessary or appropriate to equip new
 33 licensees to establish and maintain a practice and to effectively and
 34 efficiently operate and manage their offices and other facilities related to
 35 their practice of chiropractic ~~medicine~~ practice."

36

1 SECTION 12. Arkansas Code 17-81-311 is amended to read as follows:

2 "17-81-311. Renewal - Fee.

3 (a)(1) The board may charge an annual renewal fee not to exceed three
4 hundred dollars (\$300) for the license. However, in its discretion, the board
5 may set the renewal fee for license holders not practicing in this state, or
6 for those inactive, at a lower fee than for those practicing in this state.

7 (2) The board may waive the renewal fee for all licentiates who
8 are serving in the armed services at the time the fee is due.

9 (b) If the license renewal fee is not paid by January 1 of each year or
10 within sixty (60) days from the mailing of notice by the board, whichever is
11 the later date, the license shall automatically expire and be forfeited. The
12 license can only be reinstated upon payment of all sums due, and, in its
13 discretion, the board may assess the delinquent holder an additional sum as a
14 penalty.

15 (c) Any licensee failing to pay the renewal fee herein shall be subject
16 to a penalty of one hundred dollars (\$100) as a late fee. If more than ninety
17 (90) days has expired since the fee was due, a penalty of five hundred dollars
18 (\$500) shall be assessed as late fee.

19 (d) Failure of the licensee to receive the renewal form shall not
20 relieve him of the duty to renew his license and pay the fee required by this
21 chapter."

22

23 SECTION 13. Arkansas Code 17-81-312 is amended to read as follows:

24 "17-81-312. Renewal - Education requirement.

25 (a) The board shall not renew the license of any person actively
26 engaged in practice within the State of Arkansas unless the person presents to
27 the board evidence of attendance, during the preceding twelve (12) months, at:

28 (1) An approved educational session or sessions of not less than
29 twenty-four (24) hours' duration conducted by an approved chiropractic
30 institution of learning or by some association approved by the board for the
31 teaching of scientific courses pertaining to the profession; or

32 (2) An educational course conducted by the board.

33 (b)(1) The board may waive the requirement upon being presented a
34 certificate from the doctor in charge that the license holder was physically
35 unable on account of sickness or injury, or upon a showing that the license
36 holder was in military service, when the course was conducted within this

1 state during the preceding twelve (12) months.

2 (2) The board may waive the requirement for any other valid
3 reason.

4 (3) Any person who is initially licensed in January shall be
5 required to complete twenty-four (24) hours of continuing education by
6 December 31, and each year thereafter comply with §17-81-312(a)(1).

7 (4) Any person who is initially licensed in July shall submit a
8 certificate of attendance of a minimum of twelve (12) hours of continuing
9 education program approved by the board. Each year thereafter the doctor
10 shall submit a certificate of attendance of completion of twenty-four (24)
11 hours of continuing education seminars by December 31 of each year.

12 (5) Any retired license holder who may practice fifty (50) days a
13 year or less shall be exempt from the continuing education requirement.

14 (c) The presentation of a fraudulent or forged evidence of attendance
15 at an educational session shall be a cause for suspension or revocation of the
16 holder's license."

17

18 SECTION 14. Arkansas Code 17-81-313 is amended to read as follows:

19 "17-81-313. Disciplinary proceedings - Revocation or suspension.

20 (a)(1) The board shall have sole authority over licensed chiropractors
21 to levy a civil penalty of not more than five thousand dollars (\$5,000) nor
22 less than one thousand dollars (\$1,000) for each violation, to deny, place
23 under probation, suspend, or revoke any license to practice chiropractic
24 issued by the board or applied for in accordance with the provisions of this
25 chapter or otherwise to discipline a licensee upon proof that the person:

26 (A) Is guilty of fraud or deceit in procuring or attempting to procure
27 a license to practice chiropractic;

28 (B) Is guilty of crime or gross immorality;

29 (C) Is unfit or incompetent by reason of negligence, habits, or other
30 causes;

31 (D) Is habitually intemperate or is addicted to the use of habit-
32 forming drugs;

33 (E) Is mentally incompetent;

34 (F) Is guilty of unprofessional conduct;

35 (G) Is guilty of fraud or deceit in filing insurance forms, documents,
36 or information pertaining to the health or welfare of a patient; or

1 (H) Has willfully or repeatedly violated any of the provisions of this
2 chapter.

3 (2) The board may levy a fine of up to five thousand dollars (\$5,000) for
4 each such violation or for each day that such violation occurs or continues.

5 (b) Proceedings under this section shall be as provided in the Arkansas
6 Administrative Procedure Act, as amended, § 25-15-201 et seq.

7

8 SECTION 15. Arkansas Code Title 17, Chapter 81, Subchapter 3 is amended
9 to add the following new sections:

10 "17-81-317. Reactivation of lapsed license.

11 Any licensee who allows his/her license to lapse by failing to renew the
12 license as provided under §17-81-311 may apply to the board for a
13 reinstatement of his/her license and must submit to the board a reinstatement
14 fee of twenty-five dollars (\$25.00) together with all back fees, plus
15 continuing education hours. The delinquent licensee must obtain verification
16 from all states in which he/she has practiced indicating whether or not
17 disciplinary action has been taken against said licensee during that period.
18 If the licensee's license has been inactive for a period of five (5) years,
19 the board may require the licensee to enroll in and pass a refresher course
20 approved by the board at an accredited chiropractic college and/or upon
21 successfully passing a competency exam given by the board.

22

23 17-81-318. Peer Review.

24 Peer Review organizations should file a report with the board if their
25 activities uncover evidence of negligence or incompetence in the practice of
26 chiropractic."

27

28 SECTION 16. Arkansas Code 25-16-905 is amended to read as follows:

29 §25-16-905. Stipend - Authorization for \$100.

30 Each of the following state boards may, by a majority vote of the total
31 membership of the board cast during its first regularly scheduled meeting of
32 each calendar year, authorize payment to its members of a stipend not to
33 exceed one hundred dollars (\$100) per meeting attended, and the board members
34 shall receive no other compensation, expense reimbursement, or in-lieu-of
35 payments except as provided in § 25-16-902:

36 (1) Arkansas State Board of Dental Examiners; ~~and~~

- 1 (2) Arkansas State Medical Board; and
 2 (3) Arkansas State Board of Chiropractic Examiners. ~~3~~

3
 4 SECTION 17. Arkansas Code 25-16-903 (17), which provided for a stipend
 5 of fifty dollars (\$50) for the Arkansas State Board of Chiropractic Examiners
 6 is repealed.

7 ~~(17) Arkansas State Board of Chiropractic Examiners;~~

8
 9 SECTION 18. All provisions of this act of a general and permanent
 10 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
 11 Code Revision Commission shall incorporate the same in the Code.

12
 13 SECTION 19. If any provision of this act or the application thereof to
 14 any person or circumstance is held invalid, such invalidity shall not affect
 15 other provisions or applications of the act which can be given effect without
 16 the invalid provision or application, and to this end the provisions of this
 17 act are declared to be severable.

18
 19 SECTION 20. All laws and parts of laws in conflict with this act are
 20 hereby repealed.

21
 22 SECTION 21. EMERGENCY. It is found and determined by the General
 23 Assembly of the State of Arkansas that regular examinations for licensure
 24 under the Arkansas Chiropractic Practices Act are held in January and July;
 25 that brochures containing Arkansas law must be prepared for applicants; that
 26 for the effective administration of the Arkansas Chiropractic Practices Act it
 27 shall become effective immediately. Therefore, an emergency is declared to
 28 exist and this act being immediately necessary for the preservation of the
 29 public peace, health and safety shall be in full force and effect on the date
 30 of its approval by the Governor. If the bill is neither approved nor vetoed
 31 by the Governor, it shall become effective on the expiration of the period of
 32 time during which the Governor may veto the bill. If the bill is vetoed by the
 33 Governor and the veto is overridden, it shall become effective on the date the
 34 last house overrides the veto.

35