

- SUBJECT:** Continuing the Texas Board of Chiropractic Examiners
- COMMITTEE:** Public Health — favorable without amendment
- VOTE:** 5 ayes — Laubenberg, Jackson, McReynolds, Truitt, Zedler
0 nays
4 absent — Delisi, Coleman, Dawson, Solis
- WITNESSES:** For — None
Against — None
On — Jessica Harwell, Franz Klein, James Moss, and Sandra Smith, Texas Board of Chiropractic Examiners; Emilie Leroux, Sunset Advisory Commission
- BACKGROUND:** The Texas Board of Chiropractic Examiners oversees professional standards for the practice of chiropractic medicine. Chiropractic medicine, generally, uses spinal and other manual manipulation to treat health problems.
- Texas enacted the Chiropractic Act and established the board in 1949. The board's primary functions include licensing chiropractors, registering chiropractic radiological technicians, approving continuing professional education programs, investigating and resolving complaints, and taking disciplinary action. The board licensed 4,688 chiropractors and registered 2,986 facilities and 157 radiological technicians in fiscal 2003.
- The board underwent Sunset review in 1993 and was continued by the 73rd Legislature. If not continued by the 79th Legislature, the board will be abolished September 1, 2005.
- DIGEST:** HB 972 would continue the Texas Board of Chiropractic Examiners until September 1, 2017. It would add standard Sunset provisions governing conflicts of interest, grounds for removing a board member, training of board members, separation of responsibilities, use of technology, negotiated rulemaking, and standard licensing board recommendations and

conforming changes to legislation enacted in 2003 and to prohibited practices under other health licensing practice acts.

The bill also would require the board to adopt rules rather than issue opinions. Specifically, it would require rules clarifying a chiropractor's scope of practice, including any required education or training to perform certain procedures. Stakeholder input would be required in the rule-making process.

It would direct the board to establish and strictly enforce rules prohibiting fraud, particularly relating to filing of insurance and workers' compensation claims and record keeping. The board could conduct unannounced on-site inspections to investigate complaints and could examine any records. It also could share information with the Texas Department of Insurance (TDI), with which it would develop a method for tracking investigations by either agency. The board would report the status of those investigations in its annual financial report. TDI and insurers also would report malpractice settlement information and expert reports to the board.

Complaint investigations in standard-of-care issues could be sent to a local chiropractic peer review committee for review. The peer review committee would report back with a determination of whether standard of care had been met and the clinical basis for the finding. Members generally would be immune from liability. A member of the peer review committee could attend an informal conference or contested case review, if requested by the board.

Peer committee members would be required to have clean disciplinary records and acceptable records of utilization review and would serve staggered three-year terms. Input on the selection of peer committee members could be solicited from local chiropractic associations, and training of members would include complaint investigation procedures. Information about peer review committee dispute resolution activities would be compiled in an annual report, and public access about peer review committees would be published on the board's Web site.

The number of credit hours required for licensure would be increased to 90 semester hours of college courses. The bill also would reduce renewal fees for expired licenses.

The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 972 appropriately would continue the Texas Board of Chiropractic Examiners until 2017, but would make several changes to improve its operation. The bill would require the board to adopt rules, rather than issuing opinions, which would conform the board with practices in other agencies. The rule-making process, public input, and other procedural matters that are common to other agencies ensure that the all agency rules are based on common methodology and appropriate public scrutiny. A defined scope of practice in rule also would help licensees, the public, and the state have a better set of definitions upon which to evaluate the practice of chiropractic medicine.

The provisions relating to enforcement, including inspections and peer review, are important because the Sunset commission found that the board's enforcement had not kept pace with the profession. Complaints about fraudulent record-keeping and standard of practice violations were not as vigorously investigated and enforced as they would be under the requirements of HB 972. Chiropractors acting within the law would have no difficulty producing records during an on-site visit, and most chiropractors would appreciate peer review in standard-of-practice disputes because other chiropractors are best equipped to evaluate them.

**OPPONENTS
SAY:**

This bill should make further modifications to the Texas Board of Chiropractic Examiners, including clarifying that the board can charge fees for continuing education classes, requiring additional national exams for licensure, exempting the board's jurisprudence exam questions and other information from the Public Information Act, conforming with the Medical Practice Act by authorizing the board to order non-disciplinary rehabilitation orders, requiring the board to investigate certain licensees who have been sued, and modifying the board composition, all issues that emerged during Sunset review.

Other suggested modifications include limiting chiropractic facility ownership to chiropractors, authorizing chiropractors to use the term "chiropractic physician," conforming more closely with the Medical Practice Act in matters of delegated duties, authorizing chiropractors to issue temporary handicap-parking permits, and prohibiting the solicitation of clients.

NOTES:

The companion bill, SB 401 by Nelson, has been referred to the Senate Government Organization Committee.

According to the fiscal note, HB 972 would result in a net loss of \$65,600 to the state in general revenue-related funds in fiscal 2006-07.

Reimbursing chiropractors for peer review services would cost an estimated \$5,600 per year, and the state would lose \$27,200 per year through the reduction in renewal fees for expired licenses.