

1 offer into evidence in presenting its case in chief at the contested
2 case hearing on the complaint. The board is not required to
3 provide:

- 4 (1) a board investigative report or memorandum;
5 (2) the identity of a nontestifying complainant; or
6 (3) attorney-client communications, attorney work
7 product, or other materials covered by a privilege recognized by
8 the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

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

- 10 (1) disclose a complaint to the affected license
11 holder; and
12 (2) provide to a complainant the license holder's
13 response to the complaint, if providing the response is considered
14 by the board to be necessary to investigate the complaint.

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

20 SECTION 2. Section 201.312, Occupations Code, is amended to
21 read as follows:

22 Sec. 201.312. REGISTRATION [~~ACCREDITATION~~] OF FACILITIES.

23 (a) The board by rule shall adopt requirements for registering
24 [~~licensing and regulating~~] chiropractic facilities as necessary to
25 protect the public health, safety, and welfare.

26 (b) The rules adopted under this section must:

- 27 (1) specify the registration [~~licensing~~] requirements

1 . for a chiropractic facility;

2 (2) prescribe the standards for the chiropractic
3 ~~[structure of the]~~ facility registration ~~[licensing]~~ program;
4 ~~[and]~~

5 (3) provide for the issuance of a separate certificate
6 of registration ~~[one facility license]~~ to an owner of a
7 chiropractic facility for each chiropractic facility owned by the
8 owner; and

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

13 (c) The standards adopted under Subsection (b)(2) must be
14 consistent with industry standards for the practice of
15 chiropractic.

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

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

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

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

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

1 the registration fee under Subsection (d)(2).

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

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

11 SECTION 3. Section 201.355, Occupations Code, is amended by
12 amending Subsection (a) and adding Subsection (c) to read as
13 follows:

14 (a) The board may renew without reexamination an expired
15 license of a person who was licensed in this state, moved to another
16 state or foreign country, and is currently licensed in good
17 standing and has been in practice in the other state or foreign
18 country for the two years preceding application.

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

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

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

1 SECTION 4. Subchapter E, Chapter 351, Occupations Code, is
2 amended by adding Section 351.2045 to read as follows:

3 Sec. 351.2045. CONFIDENTIALITY OF INVESTIGATION FILES.

4 (a) The board's investigation files are confidential, privileged,
5 and not subject to discovery, subpoena, or any other means of legal
6 compulsion for release other than to the board or an employee or
7 agent of the board.

8 (b) The board shall share information in investigation
9 files, on request, with another state or federal regulatory agency
10 or with a local, state, or federal law enforcement agency
11 regardless of whether the investigation has been completed. The
12 board is not required to disclose under this subsection information
13 that is an attorney-client communication, an attorney work product,
14 or other information protected by a privilege recognized by the
15 Texas Rules of Civil Procedure or the Texas Rules of Evidence.

16 (c) On the completion of the investigation and before a
17 hearing under Section 351.503, the board shall provide to the
18 license holder, subject to any other privilege or restriction set
19 forth by rule, statute, or legal precedent, access to all
20 information in the board's possession that the board intends to
21 offer into evidence in presenting its case in chief at the contested
22 case hearing on the complaint. The board is not required to
23 provide:

- 24 (1) a board investigative report or memorandum;
25 (2) the identity of a nontestifying complainant; or
26 (3) attorney-client communications, attorney work
27 product, or other materials covered by a privilege recognized by

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

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

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

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

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

13 SECTION 5. Subsection (b), Section 201.303, Occupations
14 Code, is repealed.

15 SECTION 6. Not later than January 1, 2004, the Texas Board
16 of Chiropractic Examiners shall adopt rules under Section 201.503,
17 Occupations Code, specifying the maximum amount of sanctions that
18 may be assessed against a chiropractor for violating Subsection
19 (g), Section 201.312, Occupations Code, as added by this Act.

20 SECTION 7. (a) This Act takes effect September 1, 2003.

21 (b) Section 201.206, Occupations Code, as added by this Act,
22 applies to a complaint or investigation pending on the effective
23 date of this Act or filed on or after that date.

24 (c) The change in law made by this Act by the amendment of
25 Subsection (a), Section 201.355, Occupations Code, applies only to
26 an application to renew a license filed on or after the effective
27 date of this Act. An application to renew a license filed before

1 the effective date of this Act is governed by the law in effect on
2 the date the application was filed, and the former law is continued
3 in effect for that purpose.

4 (d) Section 351.2045, Occupations Code, as added by this
5 Act, applies to a complaint or investigation pending on the
6 effective date of this Act or filed on or after that date.

David Newkumst

President of the Senate

Jim Cusick

Speaker of the House

I hereby certify that S.B. No. 211 passed the Senate on
March 17, 2003, by the following vote: Yeas 24, Nays 7; and that
the Senate concurred in House amendments on May 29, 2003, by a
viva-voce vote. _____

Patsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 211 passed the House, with
amendments, on May 25, 2003, by a non-record vote. _____

Robert Haney
Chief Clerk of the House

Approved:

18 JUN '03

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8:30 PM O'CLOCK

Jean Shea
JUN 18 2003
Secretary of State