

The Texas Board of Chiropractic Examiners (Board) proposes new 22 TAC §72.18 (Criminal History); the current rule is being repealed in a separate rulemaking action. The only purpose is to remove language in the current rule about a licensee's or applicant's requirement to report criminal convictions and deferred adjudications to the Board. That language will be placed in a stand-alone rule (proposed 22 TAC §72.19), making that information easier to find. Other than this change, the provisions about a licensee's or applicant's criminal history remain the same.

The Board's Executive Director, Patrick Fortner, has determined that for the first five-year period the proposed new rule is in effect there will be no fiscal implications for state or local government. There will be no adverse effect on small businesses or rural communities, micro-businesses, or local or state employment. There will be no additional economic costs to persons required to comply with the new rule as proposed. An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed new rule will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Mr. Fortner has determined that for each year of the first five years the proposed new rule will be in effect the public benefit is to remove language in the current rule about a licensee's or applicant's requirement to report criminal convictions and deferred adjudications to the Board. That language will be placed in a stand-alone rule (proposed 22 TAC §72.19), making that information easier to find.

The Board provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the new 22 TAC §72.18. For each year of the first five years the proposed new rule is in effect, Mr. Fortner has determined:

- (1) The proposed new rule does not create or eliminate a government program.
- (2) Implementation of the proposed new rule does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed new rule does not require an increase or decrease in future legislative appropriations to the Board.
- (4) The proposed new rule does not require a decrease in fees paid to the Board.
- (5) The proposed new rule does not create a new regulation.
- (6) The proposal new rule amends an existing Board rules for an administrative process.
- (7) The proposed new rule does not decrease the number of individuals subject to the rule's applicability.
- (8) The proposed new rule does not positively or adversely affect the state economy.

Comments on the proposed new rule or a request for a public hearing may be submitted to Christopher Burnett, General Counsel, Texas Board of Chiropractic Examiners, 333 Guadalupe, Suite 3-825, Austin, Texas 78701, via email: rules@tbce.state.tx.us; or fax: 512-305-6705, no later than 30 days from the date that this proposed new rule is published in the *Texas Register*.

Please include the rule name and number in the subject line of any comments submitted by email.

The new rule is proposed under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic), Texas Occupations Code §201.313 (which requires the Board to conduct criminal history checks on applicants for licensure), and Texas Occupations Code §53.22 (which requires the Board to consider an applicant's criminal background).

No other statutes or rules are affected by this proposed new rule.

<rule>

72.18. Criminal History.

- (a) The Board may suspend or revoke a current license or refuse to approve an applicant to sit for the jurisprudence examination because of the licensee's or applicant's conviction of an offense that directly relates to the practice of chiropractic.
- (b) The Board shall revoke a license upon a licensee's imprisonment following a felony conviction or revocation of felony community supervision, parole, or mandatory supervision.
- (c) An individual in prison is not eligible for a license.
- (d) An individual in prison with a verifiable release date from prison of three months or less may submit an application for a license.
- (e) The Board shall consider the following to determine whether a criminal conviction directly relates to the occupation of chiropractic:
 - (1) the nature and seriousness of the crime;
 - (2) the relationship of the crime to the practice of chiropractic; and
 - (3) if a license might reasonably lead to a repeat of the crime.
- (f) The Board shall also determine an applicant's fitness to become a licensed chiropractor by considering:
 - (1) the extent and nature of the applicant's past criminal activity;
 - (2) the age at the time of the crime;
 - (3) the time since the crime occurred;
 - (4) the applicant's personal and work conduct after the crime;
 - (5) evidence of the applicant's rehabilitation while incarcerated and after release; and
 - (6) other evidence of fitness for a license, including recommendation letters from prosecutors, law enforcement, or correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant, the sheriff or chief of police where the applicant lives, or any other person familiar with the applicant.

(g) The Board shall notify an individual whose application has been denied or license revoked or suspended of the procedures for appealing the Board's decision.

(h) The Board may delegate to the executive director the authority to consider an applicant's minor criminal convictions.

UNOFFICIAL