

Chapter 811 Board of Chiropractic Examiners

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DIVISION 1

RULES OF PROCEDURE

811-001-0001

Notice of Proposed Rule

Prior to the adoption, amendment or repeal of any administrative rule, the Board shall give notice of the proposed adoption, amendment or repeal:

(1) By mailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(7) at least 28 days prior to the effective date.

(2) By mailing a copy of the notice to the following persons, organizations and publications at least 28 days prior to the effective date:

- (a) All Chiropractic Associations;
- (b) Associated Press.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: 2CE 1-1982, f. & ef. 1-15-82; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93; CE 5-1997, f. & cert. ef. 12-19-97; BCE 3-2000, cert. ef. 8-23-00

811-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Board of Chiropractic Examiners adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act January 2012, these rules shall be controlling except as otherwise required by statute or rule.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Chiropractic Examiners.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: 2CE 10, f. 2-3-72, ef. 2-15-72; 2CE 12, f. 11-20-73, ef. 12-11-73; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 3-1981, f. & ef. 11-27-81; 2CE 3-1984, f. & ef. 11-26-84; 2CE 4-1986, f. & ef. 7-3-86; CE 2-1988, f. & cert. ef. 7-1-88; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93; CE 1-1995, f. & cert. ef. 10-30-95; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2004, f. & cert. ef. 6-7-04; BCE 2-2007, f. 11-30-07, cert. ef. 1-31-08; BCE 2-2012, f. & cert. ef. 10-15-12

811-001-0010

Rules of Procedure in Contested Cases

(1) In sexual boundary and unprofessional conduct cases; The Board requires an answer to charges as part of notices to parties in contested cases: In addition to the requirements of the Attorney General's Model Rules of Procedure adopted by the Board, the notice to parties in contested cases may include a statement that an answer to the assertions or charges will be requested and, if so, the consequences of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of section (2) of this rule with the notice.

(2) In sexual boundary and unprofessional conduct cases, hearing requests and answers: Consequences of failure to answer:

(a) A hearing request, and answer when requested, shall be made in writing to the Board by the party or his attorney and an answer shall include the following:

(A) An admission or denial of each factual matter alleged in the notice;

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(B) A short and plain statement of each relevant affirmative defense the party may have.

(b) Except for good cause:

(A) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;

(B) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

(C) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and

(D) Evidence shall not be taken on any issue not raised in the notice and answer.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: 2CE 1-1985, f. & ef. 2-15-85; BCE 2-2012, f. & cert. ef. 10-15-12

811-001-0060

Purchase of Board-Provided Materials

For the following materials and services available to the public and licensees the Board of Chiropractic Examiners may charge as follows:

(1) Lists or labels of current licensees: \$50.00 for entire list; \$25.00 for only active licensees or inactive licensees; or partial by city/zip code, \$2.00 per page.

(2) Complete or partial list or labels of Certified Chiropractic Assistants: \$15.00.

(3) Duplicating requests requiring records search: Labor — \$15.00 per hour or partial hour and 15 cents per page.

(4) Duplicate sealed License (Wall Certificate): \$5.00.

(5) Duplicate Certificate of Registration: \$5.00.

(6) The Board may charge for pamphlets and/or forms developed by the agency. Costs will be determined by using the actual costs of printing and handling incurred by the Board.

Stat. Auth.: ORS 183, 192 & 684

Stats. Implemented: ORS 192.440 & 684.155(4)

Hist.: CE 3-1993(Temp),f. & cert. ef. 3-16-93; CE 4-1993, f. & cert. ef. 5-26-93; BCE 2-1998, f. & cert. ef. 5-29-98

811-001-0070

Mediation Communications

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the “mediator” in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromised negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6) through (10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency’s employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential; or

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) and (d), (j) through (l) or (o) and (p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8) and (9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or non-discoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties’ agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an “agreement to mediate.”

(9) Exceptions to confidentiality and inadmissibility:

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding;

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law;

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person;

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report;

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law;

(f) A party to the mediation may disclose confidential mediation communications to a person if the party’s communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining

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advice concerning the subject matter of the mediation, if all the parties agree;

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation;

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure;

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement;

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements;

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute;

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the

Board determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law;

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under 17.095 or state or federal law requires the terms to be confidential;

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 684.155(1)(b), 36.220, 36.224 & 36.245

Stats. Implemented: ORS 36.220 & 36.245

Hist.: BCE 3-2001, f. 10-3-01, cert. ef. 10-15-01

DIVISION 10

GENERAL RULES AND LICENSING

811-010-0005

Definitions

As used in OAR chapter 811, unless otherwise required by context:

(1) "Chiropractic Physician" means a physician licensed to practice Chiropractic under the provisions of ORS 684.040.

(2) "Advertising" means any form of promotional (educational) information.

(3) "Food" means nutritive material taken into an organism for the growth, work, or repair and for maintaining the vital processes; anything that nourishes or sustains.

(4) "Patient" means any person who is examined, treated, or otherwise provided chiropractic services whether or not the person has entered into a physician/patient relationship or has agreed to pay a fee for services.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.150

Hist.: 2CE 3, f. 10-9-59; 2CE 5, f. & ef. 6-22-66; 2CE 6, f. 2-10-67, ef. 12-31-68; 2CE 7, f. 12-19-67; 2CE 9, f. 10-16-70; 2CE 11, f. 6-20-72, ef. 7-1-72; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; CE 2-1992(Temp), f. 4-22-92, cert. ef. 4-27-92; CE 4-1992, f. & cert. ef. 9-29-92

811-010-0015

Filing Addresses

Each person holding a license to practice Chiropractic in the State of Oregon under the laws administered by this Board shall file their proper and current business address or their mailing address if they are not currently in practice, with the Board at its office. Each individual shall immediately notify this Board in writing at its office address of any change in mailing or business address, giving both the old and the new address.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.054

Hist.: 2CE 3, f. 10-9-59; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; CE 3-1990, f. & cert. ef. 5-17-90

811-010-0020

Procedure in Disciplinary Proceedings

All proceedings relating to the refusal to grant, suspension, or revocation of a license to practice Chiropractic or for the reissuance or reinstatement of a license which has been suspended or revoked or for the disciplining of licensing in any manner shall be conducted in accordance with the provisions of the Rules of

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Administrative Procedure which are filed with the Secretary of State in accordance with the Chiropractic Act of the State of Oregon (OAR 811-001-0005).

Stat. Auth.: ORS 183 & 684

Stats. Implemented: ORS 183.341 & 684.155(8)

Hist.: 2CE 3, f. 10-9-59; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78

811-010-0025

Display of License

Each person holding a license to practice Chiropractic in the State of Oregon under laws administered by this Board shall display the license in a conspicuous place in his principal office, place of business, or place of employment. The yearly certification should be on display with the license certificate.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155

Hist.: 2CE 3, f. 10-9-59; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; BCE 3-2000, cert. ef. 8-23-00

811-010-0040

Duty to Report

(1) It shall be the duty of every licensee to notify the Board's administrative office or any member of this Board of any violation of the Act or of these rules in order that the Board may take appropriate investigative and corrective or disciplinary action.

(2) Any person who reports or provides factual information to the Board under this rule and who provides such information in good faith shall not be subject to suit for civil damages as a result thereof.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.200

Hist.: 2CE 3, f. 10-9-59; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 6-1983, f. 11-22-83, ef. 12-1-83; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93

811-010-0045

Chiropractic Students

(1) Senior interns at a chiropractic college may obtain clinic instruction hours at a licensee's office while under the immediate on-site supervision of a licensed Chiropractic Physician, upon written notification by the college's clinic administrator to the Board.

(2) Interns shall wear name badges identifying them as senior interns and shall not use the title "Doctor."

(3) A student who has completed a course in Physiological Therapeutics from an approved college may be employed in the office of a licensed Chiropractor to work as a certified Ancillary Personnel without the necessity of first having to complete the training program as outlined in OAR 811-010-0110(2)(a). Students employed as Ancillary Personnel must comply with 811-010-0110(1)-(18).

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.020 & 648.150

Hist.: 2CE 3, f. 10-9-59; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 2-1979, f. 8-15-79, ef. 9-15-79; 2CE 2-1984, f. 8-14-84, ef. 9-1-84; 2CE 4-1985, f. 11-13-85, ef. 12-1-85; CE 4-1993, f. & cert. ef. 5-26-93; BCE 2-2002, f. & cert. ef. 5-29-02

811-010-0066

Reciprocity

A person licensed to practice Chiropractic under the laws of another state or states for at least five years may apply for reciprocity with the Oregon Board of Chiropractic Examiners for a chiropractic license in Oregon. An application and \$250 fee shall be submitted and must be accompanied by all items required by ORS 684.040 (2)(a)(b)(c)(d) and (e), and the following:

(1) The applicant will present a certified transcript from the Board of Chiropractic Examiners in the state(s) where licensed equivalent to the Oregon Clinical Proficiency Examination (Oral/Practical and X-ray) or the National Board of Chiropractic Examiners Part IV, including a state or national examination in physiotherapy

(2) The Board may also require a written and/or oral examination listed in section (1) in which there is no official transcript available.

(3) The applicant will have furnished a certified statement from the Board of Chiropractic Examiners in the state(s) where licensed, that the applicant is not guilty of unprofessional or unethical practices or the subject of any pending disciplinary actions in that state.

(4) Any applicant for reciprocity, licensed in another state prior to July 1, 1992, is not required to have passed the Part III examination given by the National Board of Chiropractic Examiners.

(5) Upon qualification for licensure, the applicant will submit the \$150 initial license fee.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.040 & 684.060

Hist.: 2CE 3-1982, f. 7-1-82, ef. 8-1-82; 2CE 2-1983, f. 7-19-83, ef. 8-1-83; 2CE 2-1985, f. 11-13-85, ef. 12-1-85; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 2-2002, f. & cert. ef. 5-29-02; BCE 3-2015, f. 6-8-15, cert. ef. 7-1-15

811-010-0071

Board Members

(1) Members of the State Board of Examiners during their terms as such shall maintain a position of strict neutrality.

(2) Board members shall receive a per diem of \$155 a day for board meetings, conference attendance and presentations.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.150

Hist.: 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; BCE 1-1998, f. & cert. ef. 2-5-98; BCE 2-2009, f. & cert. ef. 12-22-09

811-010-0080

Attendance at Board Meetings

Board meetings are public meetings and are open for attendance by any person wishing to be present.

(1) The Board is composed of seven members appointed by the Governor of the State of Oregon.

(2) Four members present at any meeting shall constitute a quorum and therefore the regular or special business of the Board may be conducted.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.130 & 684.140

Hist.: 2CE 3, f. 10-9-59; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; CE 4-1997, f. & cert. ef. 11-3-97

811-010-0084

Fitness Determinations for Licensure; State and Nationwide Criminal Background Checks

(1) Purpose. The purpose of this rule is to provide for the reasonable screening of subject individuals in order to determine if they have a history of criminal behavior such that they are not fit to be granted a license or certificate, registration, permit in occupations, or professions covered by Oregon Laws 2005, chapter 730.

(2) These rules are to be applied when evaluating the criminal history of a subject individual and conducting fitness determinations based upon such history. The fact that a subject individual is approved does not guarantee the granting of a license, certification, registration, or permit.

(3) "Subject individual" means a person from whom the Board may require fingerprints for the purpose of enabling the Board of Chiropractic Examiners to request a state or nationwide criminal records check. Under this chapter, subject individual means applicants for doctor of chiropractic license, applicants for chiropractic assistant certification, and any licensee under investigation as ordered by the Board.

(4) The Board may request that the Department of State Police conduct a Criminal History Check and a National Criminal History Check, using fingerprint identification, of subject individuals. The Board may conduct criminal records checks on subject individuals and any licensee/certificate holder under investigation through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police. Criminal history information obtained from the Law Enforcement Data System must be handled in accordance with applicable Oregon State Police

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requirements in ORS Chapter 181 and OAR chapter 257, division 15.

(5) Additional Information Required. In order to conduct an Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the subject individual as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial, or other background information.

(6) The Board shall determine whether an applicant is fit to be granted a license or certification, based on the criminal records background check, on any false statements made by the individual regarding the criminal history of the individual, on any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If a subject individual is determined to be unfit, then the individual may not be granted a license or certification. The Board may make a fitness determination conditional upon applicant's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(7) Except as otherwise provided in section 6 in making the fitness determination the Board shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(8) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.

(9) Criminal offender information is confidential. Dissemination of information received under ORS 181A.195 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant, licensee and certificate holder and as such is confidential pursuant to ORS 676.175(1). All original fingerprint cards will be destroyed per ORS 181A.195.

(10) The Board will permit the subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(11) The Board may consider any felony or misdemeanor conviction involving moral turpitude.

(12) If an applicant, licensee or certificate holder is determined not to be fit for a license and/or certificate, they are entitled to a contested case process pursuant to ORS 183.413-470. Challenges to the accuracy or completeness of information provided by the Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process pursuant to ORS 183.

(13) Request for Re-Evaluation Following Correction. If the subject individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the Federal

Bureau of Investigation or other agency reporting information to the Board, the Board will conduct a new criminal history check and re-evaluate the criminal history upon submission of a new criminal history request form.

(14) If the subject individual discontinues the application or fails to cooperate with the criminal history check process then the application is considered incomplete.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.100, 183

Hist.: BCE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-1-06; BCE 4-2006, f. & cert. ef. 8-2-06; BCE 2-2016, f. & cert. ef. 6-6-16

811-010-0085

Application and Examination of Applicants

(1) Applicants shall be examined according to ORS 684.050 or 684.052.

(2) The Board shall provide a Candidate's Guide, which contains all necessary examination information.

(3) Fee and application requirements include the following:

(a) A \$100 application and examination fee for chiropractic exams must be received by the Board prior to applicant receiving approval to sit for the examinations.

(b) Re-examinations:

(A) Request for re-examination of the Ethics and Jurisprudence exam must be made to the Board, submitted in writing with a \$100 re-examination fee.

(B) Request for re-examination of the Minor Surgery/Proctology and/or the Obstetrics/Gynecology examinations must be submitted directly to the national testing agency.

(c) A complete set of fingerprints or LiveScan Transmittal Verification form and the criminal background check results obtained from any state or local law enforcement agency, or from any other agency approved by the Board. Applicants shall use forms or methods prescribed by the Board.

(d) Applicant must pay to the Board the current actual cost of conducting the state and federal background check

(4) Documents to be submitted prior to approval to take the Oregon Specifics Examinations:

(a) A completed official application including a recent photograph and fingerprints or LiveScan Transmittal Verification form;

(b) Social Security Number Authorization form;

(c) Evidence of the applicant's good moral character on the letterhead stationary of a chiropractic physician;

(d) A signed affidavit attesting to successful completion of at least two years of liberal arts and sciences study in an accredited college. Original transcripts must be provided if requested by the Board; and

(e) A transcript certified by the registrar, from an approved chiropractic college, including transcripts of coursework as required by OAR 811-020-0006 (minimum Educational Requirements for physiotherapy and minor surgery/ proctology). A transcript of grades is necessary from each chiropractic college attended; and

(f) An official transcript of passing grades from the National Board of Chiropractic Examiners on Part I, II and III and physiotherapy.

(5) Documents and fee to be submitted prior to licensure include:

(a) A \$150 initial license fee;

(b) A diploma or other evidence of graduation certified by the registrar from an approved chiropractic college; and

(c) An official transcript of passing grades from the National Board of Chiropractic Examiners Part IV.

(6) All applicants must take and pass the Oregon Specifics Examination consisting of written examination in ethics and jurisprudence, obstetrics and gynecology, minor surgery and proctology. Applicants who have previously taken and passed obstetrics and gynecology, and/or minor surgery and proctology within the last five years from the date of application as received by the Board are not required to retake these tests, however, all applicants must take and pass the Ethics and Jurisprudence examination.

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(7) Oregon Specifics Examination Grades: The Board shall determine the passing scores. All examinations are designed to test minimal competency to protect the public health and safety.

(8) Regrades:

(a) Any request for regrade of the Ethics and Jurisprudence examination must be submitted in writing to the Board. A regrade involves a manual tally of points.

(b) Any regrade of the Minor Surgery/Proctology and/or the Obstetrics/Gynecology examination(s) requires contact to be made directly to the national testing agency and the regrade procedures are determined by them.

(9) An applicant failing to achieve a passing grade, as determined by the Board for the Ethics and Jurisprudence examination, may make application to the Board for a re-examination of the failed section. An applicant failing to achieve a passing grade as determined by the Board for the Minor Surgery/Proctology, and/or the Obstetrics/Gynecology examination(s), must contact the national testing agency for re-examination of the failed section(s).

(10) An applicant must take at least one of the failed section(s) within 13 months following the date when the applicant took the entire examination. If the applicant fails to re-test on at least one failed section within 13 months of the last examination, the file shall become inactive and the applicant must re-apply and take the entire examination.

(11) An applicant attempting to give aid or accepting aid from another while examinations are in progress shall fail the examination and will not be allowed to take the examination for a period of five (5) years.

(12) Refunds:

(a) The application fee is non-refundable; and

(b) The re-examination fee for the Ethics and Jurisprudence exam may be refundable upon request prior to testing.

(c) The criminal background check fee is non-refundable.

(13) The Board may reject applications for good cause, including evidence of unprofessional behavior.

(14) Effective June 1, 2001 applicants who have completed all requirements for licensure, including passage of all required examinations, must submit the initial license fee to obtain license within one year from the date they completed all the requirements. An applicant's initial license will be valid for a minimum of 180 days. However, if the applicant's next birth date is within the 180 days, the initial license will be valid for an additional 12 months beyond the applicant's birth date.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.050 & 684.052

Hist.: 2CE 3, f. 10-9-59; 2CE 7, f. 7-9-68; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 2-1985, f. 11-13-85, ef. 12-1-85; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93; CE 6-1993(Temp), f. 9-29-93, cert. ef. 11-3-93; CE 1-1994, f. & cert. ef. 7-26-94; CE 4-1995, f. & cert. ef. 12-6-95; CE 2-1997, f. & cert. ef. 7-29-97; CE 3-1997(Temp), f. & cert. ef. 9-25-97; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01; BCE 2-2002, f. & cert. ef. 5-29-02; BCE 2-2003, f. & cert. ef. 12-11-03; BCE 1-2004, f. & cert. ef. 6-7-04; BCE 2-2006, f. & cert. ef. 2-9-06; BCE 5-2006, f. & cert. ef. 11-24-06; BCE 1-2007, f. & cert. ef. 11-30-07; BCE 1-2015, f. & cert. ef. 3-20-15; BCE 3-2015, f. 6-8-15, cert. ef. 7-1-15; BCE 4-2015, f. & cert. ef. 10-29-15; BCE 1-2016, f. 4-5-16, cert. ef. 5-2-16

811-010-0086

Annual Registration

The license period for chiropractic physicians in Oregon is a period equal to 12 months, expiring on the last day of the licensee's birth date month.

(1) At least 30 days prior to the renewal due date the board shall mail to the last-known professional address of each licensed chiropractor a notice of the requirements of ORS 684.090 and 684.092.

(2) Active licensees must meet the requirements of ORS 684.092 during the 12 months prior to the expiration of the Certificate of Registration and pay to the board the annual \$425 registration fee.

(3) Licensees may apply for a \$315 senior active license within 45 days prior to the expiration of the Certificate of Registration if the licensee meets all of the following requirements:

(a) Is 60 years of age or older; and

(b) Has held an active chiropractic license for at least 25 years.

(4) Senior active licensees shall fulfill the requirements of ORS 684.090, 684.092 and 684.094 except that continuing chiropractic education shall not be less than 6 hours per year.

(5) Senior active licensees shall show proof at the time of license renewal that the criteria of subsection (3)(a) and (b) of this rule have been met.

(6) Active licensees may apply for a \$225 inactive license within 45 days prior to the expiration of the Certificate of Registration if the licensee qualifies because of one of the following:

(a) Military service;

(b) Peace Corps or VISTA service;

(c) Retirement; or

(d) Licensee is not engaged in the practice of chiropractic in Oregon.

(7) Inactive licensees do not have to fulfill the requirements of ORS 684.092.

(8) Inactive licensees who want to reinstate their active license during the same fiscal year shall pay the full active annual registration fee and provide proof of compliance with ORS 684.092.

(9) Inactive licensees who apply for reinstatement after five or more years after the date of transfer to inactive license, or who cannot demonstrate to the satisfaction of the Board they have been in active practice during the preceding five years, may be required to establish their competency in the practice of chiropractic by

(a) Receiving a passing grade on all or part of an examination required by the Board; or

(b) Submitting a letter showing proof of active practice and any disciplinary actions from the state boards where licensure is maintained.

(10) A license that is not renewed on time may not be renewed except:

(a) Upon written application and payment to the board of the fee for the license category plus a delinquent fee of \$125 for each week or portion thereof, not to exceed \$500.

(b) Upon compliance with or exemption from the requirements of ORS 684.092.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.090 & 684.092

Hist.: 2CE 9, f. 10-16-70; 2CE 13(Temp), f. & ef. 4-13-76 through 8-10-76; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 1-1986, f. 4-14-86, ef. 5-1-86; Suspended by CE 1-1989(Temp), f. & cert. ef. 7-28-89; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93; CE 2-1995, f. & cert. ef. 10-30-95; BCE 3-2000, cert. ef. 8-23-00; BCE 2-2002, f. & cert. ef. 5-29-02; BCE 2-2004, f. & cert. ef. 6-7-04; BCE 1-2007, f. & cert. ef. 11-30-07; BCE 3-2013, f. 10-8-13, cert. ef. 11-1-13; BCE 3-2015, f. 6-8-15, cert. ef. 7-1-15

811-010-0089

Competency Examination

The Board may at any time direct and order a mental, physical or professional competency examination or any combination thereof, and make such investigations in order to fully inform itself with respect to the performance or conduct of a licensee pursuant to ORS 684.100(5), (6), and (7):

(1) The professional competency examination shall be administered as a written or oral examination. The Board may elect to administer one or both examinations or may elect to use a nationally recognized competency examination such as the National Board of Chiropractic Examiners (NBCE) Part IV or Special Purposes Examination for Competency (SPEC). The Board may elect to use other methods of competency examination, including but not limited to psychological examinations conducted by a licensed psychologist or psychiatrist.

(a) The written examination shall be determined by the Board according to ORS 684.100(5), (6) and (7);

(b) The Board shall make a determination of the passing grade. When the Board elects to use either the NBCE Part IV or SPEC examination, the passing grade suggested by the NBCE shall be adopted.

(2) The examinee shall be given no less than two weeks' notice of the date, time and place of any examination administered.

(3) Failure to achieve a passing grade on any competency examination shall constitute grounds for suspension or revocation of examinee's license by the Board.

(4) Any licensee by practicing Chiropractic shall be deemed to have given consent to submit to any competency examination including a mental or physical examination when so directed by the Board and, further, to have waived all objection to the admissibility of information derived from such mental or physical or professional competency examination on the grounds of statutory privileged communications.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.100(6)

Hist.: 2CE 1-1981, f. 4-8-81, ef. 6-1-81; CE 1-1987, f. 2-13-87, ef. 3-1-87; CE 4-1990, f. & cert. ef. 5-17-90; BCE 3-2000, cert. ef. 8-23-00

811-010-0090

Food and Drugs

(1) The Chiropractic Physician is prohibited by law from the administration or dispensation of prescription drugs or the writing of prescription therefor.

(2) The Chiropractic Physician is specifically authorized to issue orders for, or procure anesthetics, and antiseptics; also opaque media for X-ray diagnosis as authorized by section (1) of ORS 684.025; also such other items that may fall within the provisions of the Chiropractic Act.

(3) A person has received training in the administration of emergency use of oxygen if the person has completed a course in emergency medical procedures that includes the use of emergency oxygen at a chiropractic college or otherwise can demonstrate familiarity with the protocols for emergency oxygen use.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.015 & 684.025

Hist.: 2CE 3, f. 10-9-59; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2007, f. & cert. ef. 11-30-07

811-010-0093

Guide to Policy and Practice Questions

The Board's Guide to Policy and Practice Questions, originally dated January 14, 1998, and last amended May 23, 2013, is hereby adopted.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.010 & 684.155

Hist.: BCE 3-1998, f. & cert. ef. 8-4-98; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2003, f. & cert. ef. 9-17-03; BCE 3-2006, f. & cert. ef. 3-27-06; BCE 1-2007, f. & cert. ef. 11-30-07; BCE 1-2013, f. & cert. ef. 6-6-13

811-010-0095

Peer Review

(1) The Board of Chiropractic Examiners shall appoint and form committees for Peer Review in accordance with ORS 684.185.

(2) Definitions:

(a) "Peer Review" means the evaluation of the efficacy and appropriateness of health care and services provided to a patient based on those standards of care, skill and treatment which are recognized as being reasonable, prudent and acceptable under similar conditions and circumstances by Oregon chiropractors;

(b) The Board's Practice and Utilization Guidelines (NMS) as published in 1991, may be used as a guide to assist the Board and Peer Review Committee.

(c) "Peer Review Committee" means a committee of seven Chiropractic physicians, licensed under ORS Chapter 684, who qualify under 684.185(2). Each Peer Review Committee may include two observation members appointed by the Board. Four members present at any meeting shall constitute a quorum, and allow the Peer Review Committee to carry out its business.

(3) Peer Review will occur upon submission of a request for review by a patient, the patient's representative, insurer or health care provider, made in writing to the Board and submitted with sufficient information so that the board would find the case to be appropriate for a Peer Review investigation. Such information would include, where available, chart notes and written reports of the physician, bills, invoices, and insurance claim forms, statements

of witnesses and complainants, and any previous correspondence between the physician and any other relevant person.

(4) The Peer Review Committee may request an informal interview with any person, including the physician being reviewed and, when appropriate, may request the opinion of other health care providers for reviews involving a particular area of practice.

(5) Any member of the Peer Review Committee shall withdraw from any investigation which concerns a close personal and/or professional involvement or association with the physician under review, patient, patient's representative, or insurer; lack of impartiality; or if the member is in professional competition in the community with the reviewed doctor. The doctor being reviewed may protest being reviewed by a specific Peer Review member and may be accompanied by legal counsel.

(6) Peer Review Committee shall consider all information submitted to it by the Board. The Committee shall also consider any written and/or oral comments made by the physician being reviewed, and the involved patient. The committee shall meet, complete the review, and submit a written report to the Board. This report should be adopted by a majority of the committee members at the Peer Review Committee meeting, or by circulating draft reports to the members for their written approval. The report shall include a brief statement of the facts of the case, any violation of rules or statutes pertaining to the practice of Chiropractic and/or any deviation from accepted standards, along with any additional comments which might assist the board in taking appropriate action.

(7) The members of the Peer Review Committee shall be paid mileage and per diem at the state rate while performing official functions.

Stat. Auth.: ORS 684.185

Stats. Implemented: ORS 684.185

Hist.: 2CE 1-1980, f. 1-16-80, ef. 2-1-80; CE 1-1988, f. & cert. ef. 5-17-88; CE 1-1991, f. & cert. ef. 10-21-91; CE 4-1997, f. & cert. ef. 11-3-97; BCE 2-2003, f. & cert. ef. 12-11-03

811-010-0110

Chiropractic Assistants

(1) The certification period for Chiropractic Assistants begins on August 1 and ends on July 31. A 30 day grace period will follow whereupon the Chiropractic Assistant may continue to practice. Any Chiropractic Assistant who has not renewed by September 1 must cease practice.

(2) Chiropractic Assistants may be certified upon compliance with the following standards and procedures:

(a) The Chiropractic Assistant applicant shall successfully complete a Board approved training course offered by an association, college or otherwise approved person. The initial training course shall be at least twelve hours in length, of which eight hours shall be didactic training and four hours shall be practical training;

(A) The practical training must be in physiotherapy, electrotherapy and hydrotherapy administered by a health care provider licensed to independently provide those therapies.

(B) A chiropractic physician may perform the initial practical training provided this is direct contact time.

(C) The initial training must have been completed within 60 days preceding the application submission date.

(b) Submit to a complete state and federal background check performed by a local law enforcement agency;

(A) Applicant must pay to the Board the current actual cost of conducting the state and federal background check.

(B) Criminal background check results must be submitted to the Board prior to certification.

(c) The applicant shall complete an application form and an open book examination supplied by the Board;

(d) If an applicant has a certificate or license from another state and adequate documentation of training, the Board may waive the requirement for the initial training course; and

(e) A person initially certified between March 1st and May 31st is exempt from the continuing education requirement for renewal.

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(3) The training course verification form, completed application form, completed examination, and fees in the following amounts shall be submitted to the Board:

- (a) A non-refundable application fee — \$50;
- (b) A non-refundable examination fee — \$35; and
- (c) An initial certification fee — \$50. A refund of the certification fee will only be allowed when requested within 60 days of the initial application.

(d) The criminal background check fee is non-refundable.

(e) In circumstances beyond the applicant's control (e.g. Board review of criminal history) the Board may determine to refund the fees or portion thereof.

(f) In the event the Board requires the NBCE chiropractic assistant examination in lieu of the Board's examination, the fee in subsection (b) will be waived.

(4) The Board shall maintain an incomplete application file for six months from the date the application was received; afterward, applicants will need to re-apply.

(5) The applicant shall be at least 18 years of age.

(6) The Chiropractic Assistant shall not perform electrotherapy, hydrotherapy, or physiotherapy until he or she receives a certificate from the Board.

(7) A Chiropractic Assistant shall be directly supervised by the Chiropractor at all times. The supervising Chiropractor must be on the premises.

(8) The Chiropractic Assistant scope of practice

(a) includes physiotherapy, electrotherapy and hydrotherapy, taking vitals such as height, weight, blood pressure, temperature, pulse, respiration and/or body fat percentages and other duties as described by the Board, and

(b) does not otherwise include performing physical examinations, taking initial histories, taking X-rays (unless properly licensed), interpretation of postural screening, doing manual muscle testing, or performing osseous adjustments or manipulations or other tasks as authorized by the Board.

(9) Chiropractic Assistants shall report to the Board, in writing, his/her mailing address and place of employment. Notification of a change of mailing address or place of employment must be made within 10 days of the change.

(10) On or before each June 1, the Board of Examiners shall send the renewal notice to the Chiropractic Assistant at the last known mailing address.

(11) On or before each July 31 the Chiropractic Assistant shall mail to the Board of Examiners the renewal form with a renewal fee of \$75. A certificate that is not renewed on time may not be renewed except:

(a) Upon written application and payment to the Board of the renewal fee plus a delinquent fee of \$25 for renewals submitted between August 1 and August 31 of each year; or

(b) Upon written application and payment to the Board of the renewal fee plus a delinquent fee of \$50 for renewals submitted on September 1 or later; and

(c) Upon submission of proof of compliance with or exemption from the requirements of ORS 684.092.

(12) A Chiropractic Assistant has up to one year following their July 31 renewal date to renew and reinstate their certificate upon meeting the provisions of (11)(a) through (c) above. After 12 months a person must restart the application process.

(13) Continuing education programs may be comprised of subjects that are pertinent to clinical practices of chiropractic. Continuing education must meet the criteria outlined in OAR 811-015-0025 sections (8), (9) and (10). No continuing education hours may be carried over into the next renewal year. Evidence of successful completion of six hours of continuing education during the 12 months preceding the renewal must be submitted upon request by the Board.

(14) The Chiropractic Assistant's certificate shall be displayed at all times in the Chiropractic Physician's office during the Chiropractic Assistant's employment.

(15) The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate, or may impose upon an

applicant for certification or Chiropractic Assistant a civil penalty not to exceed \$1,000 upon finding of any of the following:

(a) Cause, which is defined as, but not limited to, failure to follow directions, unprofessional or dishonorable conduct, injuring a patient, or unlawful disclosure of patient information. The supervising Chiropractic Physician is required to notify the Board, in writing, of any dismissal of a Chiropractic Assistant for cause within ten days. The Board shall determine if there is cause for action and shall be governed by the rules of the Board adopted pursuant to ORS Chapter 183;

(b) Conviction of a misdemeanor involving moral turpitude or a felony; or

(c) Failure to notify the Board of a change of location of employment as required by these rules.

(16) Unprofessional or dishonorable conduct is defined as: any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or failure to conform to, the minimal standards of acceptable Chiropractic Assistant practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic Assistant:

(a) Engaging in any conduct or verbal behavior with or towards a current patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).

(b) A certificate holder shall not engage in sexual relations or have a romantic relationship with a current patient unless a consensual sexual relationship or a romantic relationship existed between them before the commencement of the Chiropractic Assistant-patient relationship.

(A) "Sexual relations" means:

(i) Sexual intercourse; or

(ii) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the Chiropractic Assistant for the purpose of arousing or gratifying the sexual desire of either Chiropractic Assistant or patient.

(B) A patient's consent to, initiation of or participation in sexual behavior or involvement with a Chiropractic Assistant does not change the nature of the conduct nor lift the prohibition.

(C) In determining whether a patient is a current patient, the Board may consider the length of time of the Chiropractic Assistant-patient contact, evidence of termination of the Chiropractic Assistant-patient relationship, the nature of the Chiropractic Assistant-patient relationship, and any other relevant information.

(c) Use of protected or privileged information obtained from the patient to the detriment of the patient.

(d) Practicing outside the scope of the practice of a Chiropractic Assistant in Oregon;

(e) Charging a patient for services not rendered;

(f) Intentionally causing physical or emotional injury to a patient;

(g) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;

(h) Soliciting or borrowing money from patients;

(i) Possessing, obtaining, attempting to obtain, furnishing, or prescribing controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; illegally using or dispensing controlled drugs;

(j) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of Chiropractic Assistants or other health care providers; or

(k) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;

(l) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;

(m) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of a Chiropractic Assistant;

(n) Practicing as a Chiropractic Assistant without a current Oregon certificate;

(o) Allowing another person to use one's Chiropractic Assistant certification for any purpose;

(p) Resorting to fraud, misrepresentation, or deceit in applying for or taking the certificate examination or obtaining a certificate or renewal thereof;

(q) Impersonating any applicant or acting as a proxy for the applicant in any Chiropractic Assistant certificate examination;

(r) Disclosing the contents of the certificate examination or soliciting, accepting, or compiling information regarding the contents of the examination before, during, or after its administration;

(s) Failing to provide the Board with any documents requested by the Board;

(t) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege;

(u) Claiming any academic degree not actually conferred or awarded;

(v) Disobeying a final order of the Board; and

(w) Splitting fees or giving or receiving a commission in the referral of patients for services.

(x) Receiving a suspension or revocation of a certificate for a Chiropractic Assistant, or other license or certificate by another state based upon acts by the Chiropractic Assistant or applicant that describes acts similar to this section. A certified copy of the record of suspension or revocation of the state making that is conclusive evidence thereof.

(17) The service of the Chiropractic Assistant is the direct responsibility of the licensed Chiropractic Physician. Violations may be grounds for disciplinary action against the Chiropractic Physician under ORS 684.100(9).

Stat. Auth.: ORS 684.155

Stats. Implemented: ORS 684.054 & 684.155(c)(A)

Hist.: CE 1-1990, f. & cert. ef. 2-15-90; CE 5-1992(Temp), f. 10-21-92, cert. ef. 10-23-92; CE 2-1993, f. 3-1-93, cert. ef. 4-23-93; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01; BCE 1-2002, f. & cert. ef. 2-6-02; BCE 2-2008, f. & cert. ef. 10-9-08; BCE 2-2010, f. & cert. ef. 6-15-10; BCE 1-2012, f. & cert. ef. 5-31-12; BCE 3-2013, f. 10-8-13, cert. ef. 11-1-13; BCE 4-2013, f. 10-21-13, cert. ef. 11-1-13; BCE 4-2014, f. & cert. ef. 8-11-14; BCE 5-2014, f. & cert. ef. 9-5-14; BCE 2-2016, f. & cert. ef. 6-6-16

811-010-0120

Chiropractic Professional Corporation and Business Entity Majority Ownership

(1) Definitions. As used in this rule, unless the context requires otherwise:

(a) "Business entity" means:

(A) A professional corporation organized under ORS Chapter 58, predecessor law or comparable law of another jurisdiction;

(B) A limited liability company organized under ORS Chapter 63 or comparable law of another jurisdiction;

(C) A partnership organized in Oregon after January 1, 1998, or that is registered as a limited liability partnership, or that has elected to be governed by ORS Chapter 67 or comparable law of another jurisdiction; or

(D) A limited partnership organized under ORS Chapter 70, predecessor law or comparable law of another jurisdiction.

(b) "Majority ownership interest" means more than 50 percent of:

(A) The issued voting stock of a professional corporation;

(B) The members of a limited liability company; or

(C) Participation in the profits of a partnership.

(c) "Organizational document" means:

(A) The articles of incorporation of a professional corporation, or comparable document of another jurisdiction;

(B) The articles of organization of a limited liability company, or comparable document of another jurisdiction;

(C) The partnership agreement and, for a limited liability partnership, its registration, or comparable document(s) of another jurisdiction; or

(D) A certificate of limited partnership, or comparable document of another jurisdiction.

(d) "Owner" means a voting shareholder of a professional corporation, member of a limited liability company, or partner of a partnership.

(e) "Principal" means a person who is a director of a professional corporation, manager of a limited liability company, or general partner of a limited partnership.

(2) Requirements for business entities organized to practice chiropractic. The purpose of this rule is to protect the public by ensuring that business entities are organized for the purpose of providing chiropractic health care by majority owned and controlled Oregon licensed chiropractic physicians and/or chiropractic health care in a multi-disciplinary setting which are majority owned and controlled by Oregon licensed health care professionals.

(a) In a business entity organized for the purpose of practicing chiropractic:

(A) The majority ownership interest shall be held by chiropractic physicians licensed in this state to practice chiropractic.

(B) A majority of the principals shall be chiropractic physicians who are licensed in this state to practice chiropractic.

(C) All officers except the secretary and treasurer, if any, must be chiropractic physicians who are licensed in this state to practice chiropractic. Any two or more offices may be held by the same person.

(b) A professional corporation may be a shareholder of a professional corporation organized for the purpose of practicing chiropractic solely for the purpose of effecting a reorganization as defined in the Internal Revenue Code.

(c) Business entities organized before August 15, 2001 that are not in compliance with the provisions of this rule have until August 15, 2002 to come into compliance.

(d) The Board of Chiropractic Examiners has the discretion to allow business entities to apply for a waiver of the majority ownership requirement provided full disclosure of clinic ownership is provided to the Board of Chiropractic Examiners, a plan and timetable is presented for a transition to meet the requirements of this rule, and the Board finds that the health and welfare of the patient is the first priority of the Chiropractic physicians and business entity.

(e) Upon a finding that a holder or owner of a chiropractic practice has failed to comply with the provisions of this rule or the regulations prescribed by the Board pursuant to the practice of chiropractic, the Board of Chiropractic Examiners may consider the failure to comply with this rule as a violation of this rule which may subject a holder or owner to discipline pursuant to ORS 684.100.

(3) Powers of professional corporations organized to practice chiropractic.

(a) A professional corporation organized for the purpose of practicing chiropractic has the powers enumerated in ORS 60.077 and 60.081, except as provided otherwise by the Board of Chiropractic Examiners.

(b) A general corporation under the provisions of ORS Chapter 60 may not be organized to practice chiropractic.

(4) Proxies.

(a) A proxy to exercise voting rights in a business entity organized for the purpose of practicing chiropractic may be given under the following conditions:

(A) If the voting rights belong to a chiropractic physician licensed in this state to practice chiropractic, the proxy may be given only to an owner of the same business entity who is also a chiropractic physician licensed in this state to practice chiropractic, or to an attorney licensed in this state to practice law.

(B) If the voting rights do not belong to a chiropractic physician licensed in this state to practice chiropractic, the proxy may be given only to another owner of the same business entity whether or not the other owner is a chiropractic physician licensed in this state to practice chiropractic, or to an attorney licensed in this state to practice law.

(b) No voting trust may be created to exercise the voting rights of one or more owners of a business entity organized for the purpose of practicing chiropractic.

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(c) Two or more persons with voting rights in a business entity organized for the purpose of practicing chiropractic may enter into a voting agreement provided that the voting agreement does not transfer voting rights from an individual who is a chiropractic physician licensed in this state to practice chiropractic to an individual who is not so licensed. Notwithstanding any provision of this subsection, voting rights may be transferred to an attorney licensed in this state to practice law.

(5) Acquisition and disposition of ownership interest.

(a) Persons with an ownership interest in a business entity organized for the purpose of practicing chiropractic may acquire, transfer, assign or dispose of such ownership interest only in a manner that leaves the business entity in compliance with the provisions of this rule.

(b) If the majority ownership interest of a business entity organized for the purpose of practicing chiropractic is no longer held by chiropractic physician(s) licensed in this state to practice chiropractic due to such ownership interest being held by an administrator, executor, personal representative, guardian, conservator or receiver of the estate of a former owner, or by a transferee who receives such ownership interest by operation of law or court decree, such administrator, executor, personal representative, guardian, conservator, receiver or transferee may act in the same ownership capacity as the former owner, including acting in the former owner's capacity as principal or officer, until the ownership requirements are in compliance with the provisions of this rule, but not to exceed six months following receipt or transfer of such ownership interest.

(c) Subject to subsection (a) of this section, the organizational document, bylaws or agreements among owners of a business entity organized for the purpose of practicing chiropractic may provide limitations on the ability to acquire, transfer, assign or dispose of an ownership interest in the business entity.

(d) Subject to subsection (a) of this section, the articles of incorporation, bylaws or agreements among shareholders of a professional corporation may provide for the purchase or redemption of shares by the corporation.

(6) Disqualification of chiropractic physician; disposition of ownership interest.

(a) If a chiropractic physician practicing chiropractic on behalf of a business entity is disqualified from practicing chiropractic for more than six months or assumes a public office, the duties of which prohibit practicing chiropractic for more than six months under the rules of the Board of Chiropractic Examiners or other law, within 60 days after the disqualification or prohibition, the chiropractic physician's ownership interest shall be disposed of in accordance with section (5); or

(A) In the case of a professional corporation, the corporation shall have the right to redeem the shares of the chiropractic physician.

(B) In the case of a limited liability company, the chiropractic physician shall cease to be a member by withdrawal or expulsion.

(C) In the case of a partnership, the chiropractic physician shall cease to be a partner by withdrawal, dissociation or expulsion.

(b) If the disposition of ownership interest under subsection (a) of this section results in less than majority ownership of the business entity by chiropractic physicians licensed in this state to practice chiropractic, the business entity shall have six months from the date of disqualification or prohibition to come into compliance with the majority ownership provisions of this rule.

(c) If a chiropractic physician practicing chiropractic on behalf of a business entity is disqualified from practicing chiropractic for six months or less or assumes a public office, the duties of which prohibit practicing chiropractic for six months or less under the rules of the Board of Chiropractic Examiners or other law, the chiropractic physician may retain interest in the business entity and may remain a principal of the business entity during the period of disqualification or prohibition, unless otherwise prohibited under the rules of the Board of Chiropractic Examiners or by law.

(7) Disposition of ownership interest upon death of owner.

(a) A business entity organized for the purpose of practicing chiropractic may provide for the disposition of the ownership interest of a deceased owner in the organizational document, in the bylaws, by agreement between owners or between the business entity and its owners, providing such disposition leaves the business entity in compliance with the provisions of this rule.

(b) If there is no provision for the disposition of a deceased owner's interest as described in subsection (a) of this section, the ownership interest shall be disposed of in any manner that leaves the business entity in compliance with the provisions of this rule and the laws of this state.

(c) If the ownership interest of a deceased owner is not disposed of within twelve months after the owner's death, a special meeting of the remaining owners shall be called within fourteen months after the owner's death to decide by vote of the remaining owners whether the business entity shall dispose of such ownership interest in accordance with the provisions of this rule, or whether the business entity shall be voluntarily dissolved. The action determined to be taken by the remaining owners shall be completed within eighteen months after the owner's death. The Board may grant an extension of this time period upon request.

(d) If the deceased owner of a business entity organized for the purpose of practicing chiropractic was the sole owner of the business entity at the time of death:

(A) The business entity shall cease the practice of chiropractic as of the date of the owner's death unless it has retained the services of another chiropractic physician licensed in this state to practice chiropractic.

(B) Notwithstanding section (2)(c) of this rule, within twelve months after the date of the owner's death, the business entity shall be dissolved unless the ownership interest of the deceased owner has been sold or assigned to one or more chiropractic physicians who are licensed in this state to practice chiropractic.

(8) Multidisciplinary Provisions. A business entity may be organized for the purpose of rendering professional services within two or more health-related licensed professions, provided the majority ownership interest is held by persons licensed in this state in a health-related licensed profession and such licensees are acting only within their license scope of practice and code of professional conduct and are subject to the disciplinary authority of their respective licensing board.

Stat. Auth.: ORS 58 & 684

Stats. Implemented: ORS 58.367 & 684.155(1)(b)

Hist.: BCE 2-2001, f. 8-14-01, cert. ef. 8-15-01; BCE 3-2002, f. & cert. ef. 10-10-02; BCE 1-2010, f. & cert. ef. 4-15-10

811-010-0130

Other Licensed Health Care Providers

A chiropractic business entity or chiropractic physician, in accordance with decades long accepted scope of practice, may employ or contract for the services of other health care providers as part of their chiropractic practice for the purpose of providing care to patients, to the extent this does not conflict with other applicable state or federal laws. Other health care providers may include, but are not limited to, licensed massage therapists, physical therapists, athletic trainers, nurses, acupuncturists, naturopathic physicians, and physicians licensed under ORS 677.

Stat. Auth.: ORS 684.155(1)(b)

Stats. Implemented:

Hist.: BCE 2-2006, f. & cert. ef. 2-9-06

DIVISION 15

CONSUMER PROTECTION

811-015-0000

Fees

(1) The usual and customary fee that a Doctor of Chiropractic charges for services is a personal privilege.

(2) Each licensee shall maintain a schedule of fees charged for common services and the schedule of fees shall be available to patients upon request. The billing procedure must be fully explained

to the patient orally and in writing. Licensees shall make certain that each patient is informed about the charging and billing procedures of the licensee's office prior to any charges being incurred.

(3) If licensees agree to bill third party payors on behalf of their patients, licensees must bill third party payors at the same rate the patient was billed and the bill must accurately reflect any discount that was given to the patient.

(4) It is not unethical for licensees to charge interest on time payments of past due accounts, if the billing procedure is fully explained to the patient orally and in writing and complies with other applicable laws. The monthly rate of interest must be printed on the statement.

(5) Licensees may offer free or reduced cost services to any patient of their choice. However, it is the licensees responsibility to comply with other applicable federal and state laws regarding billing practices.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155(b)

Hist.: 2CE 1-1978, f. 6-16-78, cf. 7-1-78; CE 1-1991, f. & cert. ef. 10-21-91

811-015-0002

Pre-Paid and Contracted Treatment Plans

A Pre-Paid Plan is a package of services and/or products that are purchased by patients at a reduced or discounted cost than if the services were purchased individually.

(1) Chiropractic physicians may accept pre-payment for services planned but not yet delivered only if they do so in such a way that it does not constitute the practice of insurance.

(a) "Insurance" is defined as a contract whereby one undertakes to indemnify another or pay or allow a specified or ascertainable amount or benefit upon determinable risk contingencies (ORS 731.102).

(b) Chiropractic physicians or clinics who are certified by the Oregon Department of Insurance as Medical Retainer Plans are exempted from this section.

(c) These plans must not be in violation of OAR 811-015-0000 (Fees).

(2) Pre-Paid and Contracted Treatment Plans must include the following, in writing:

(a) The total costs/fees that the patient will incur and the method and timing of payment(s).

(b) Description of what services and products are included and excluded — If nutritional products or other hard goods including braces, supports or patient aids are to be used during the proposed treatment plan, the patient documents must state whether these items are included in the gross treatment costs or if they constitute a separate and distinct service and fee. Any additional fees must be explained to the patient in advance and noted in the chart notes.

(c) Description of the time frame which the plan covers.

(d) How special circumstances, such as extended absences, new injury or illness are handled.

(e) Statement that there is no claim or representation of a guarantee of results, outcome, or the cure of a particular condition.

(3) Early Termination of Care:

(a) The pre-payment plan must include a written explanation on how the unused portion of funds are calculated or prorated should the patient complete care early or discontinue care due to the patient's choice, doctor's choice, moving, or new injury, or condition. The written explanation must be clearly labeled "Refund Policy" and explained in plain language that is understood by the patient. The explanation must include a table of calculations that illustrates the amount of refunds or amount owed in the event of the pre-paid plan's early termination.

(b) The patient may have the right to terminate the Pre-Pay Plan at any time: In event of early termination of a pre-paid treatment plan by the patient, the maximum fee charged cannot exceed the chiropractor's usual and customary fee cash pay (including any time of service discount) for the services rendered.

(c) The chiropractic physician may terminate the Pre-Pay Plan at any time, for good and sufficient cause, except licensee must ensure that patient abandonment does not occur. In event of early

termination of a pre-paid treatment plan by the chiropractic physician or clinic, the maximum fee charged cannot exceed prorated fees as agreed upon in the pre-paid treatment plan.

(4) Pre-Pay Plans must be in compliance with all other applicable State or Federal Laws.

Stat. Auth.: ORS 684

Stats. Implemented:

Hist.: BCE 3-2010, f. & cert. ef. 6-15-10; BCE 2-2013, f. & cert. ef. 8-2-13

811-015-0005

Records

(1) Failure to keep complete and accurate records on all patients shall be considered unprofessional conduct

(a) Each patient shall have exclusive records which shall be clear, legible, complete and accurate; as to allow any other Chiropractic physician to understand the nature of that patient's case and to be able to follow up with the care of that patient if necessary.

(b) Every page of chart notes will identify the patient by name and one other unique identifier (date of birth, medical record number, etc.), and the clinic of origin by name and address. Each entry will be identified by day, month, year, provider of service and author of the record.

(c) Clear, legible, complete and accurate records contain the following:

(A) A description of the chief complaint or primary reason the patient sought treatment from the licensee.

(B) Documentation of any significant event that affects the chief complaint of the patient or the general history of the health of the patient.

(C) An accurate record of the diagnostic and therapeutic procedures that the licensee has employed in providing chiropractic services to the patient, including, but not limited to:

(i) Examinations and the results of those examinations;

(ii) Diagnoses;

(iii) Treatment plan, and any subsequent changes to the treatment plan and the clinical reasoning for those changes;

(iv) Dates on which the licensee provided clinical services to the patient, as well as the services performed and clinical indications for those services;

(v) Areas of the patient's body where the licensee has provided care;

(vi) Patient's response to treatment;

(vii) Therapeutic procedures must be clearly described including information such as providers involved, timing, setting and tools used as appropriate.

(D) Relevant information concerning the patient such as height, weight, and blood pressure.

(E) Documentation of informed consent for examination and treatment.

(F) Other clinically relevant correspondence including but not limited to telephonic or other patient communications, referrals to other practitioners, and expert reports.

(d) A chiropractic physician shall maintain billing records for services performed for which payment is received from or billed to the patient, an insurance company, or another person or entity who has assumed the financial responsibility for the payment of services performed to the patient. Such records will be maintained for same amount of time as other patient records. As a minimum, a billing record will include the date of the patient encounter or financial entry, a notation of the services performed either by description or code, common codes such as the AMA Current Procedural Terminology (CPT) codes may be used without additional explanation or legend, and the fee charged for the services billed. If third party payers are billed, the billing instrument (CMS 1500 form or its successor) should be retrievable. Such information may be maintained on a handwritten or printed ledger, with the assistance of a computer or other device either by direct entry or with a particular program or application, or by an alternative method. To the extent billing records do not contain patient health care records not kept elsewhere, they are not consider part of the clinical record.

(e) Such information as described in section (d) must be readily available upon request of the patient, an agent of the

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patient, an insurance carrier or entity responsible for the payment of the services, or by the Board or other entity with a legal right to review such information.

(2) Practitioners with dual licenses shall indicate on each patient's records under which license the services were rendered.

(3) A patient's original health care and billing records shall be kept by the chiropractic physician a minimum of seven years from the date of last treatment. However, if a patient is a minor, the records must be maintained at least seven years from the time they turn 18 years of age.

(a) If the treating chiropractic physician is an employee or associate, the duty to maintain original records shall be with the chiropractic business entity or chiropractic physician that employs or contracts with the treating chiropractic physician.

(b) Chiropractic physicians shall be responsible for keeping an available copy of all authored reports for seven years from the date authored.

(4) If a chiropractic physician releases original radiographic films to a patient or another party, upon the patient's written request, he/she should create an expectation that the films will be returned, and a notation shall be made in the patient's file or in an office log where the films are located (either permanently or temporarily). If a chiropractic physician has radiographic films stored outside his/her clinic, a notation shall be made in the patient's file or in an office log where the films are located and chiropractic physician must ensure those films are available for release if requested by the patient.

(5) The responsibility for maintaining original patient records may be transferred to another chiropractic business entity or to another chiropractic physician as part of a business ownership transfer transaction.

(6) A chiropractic physician shall establish a plan for custodianship of these records in the event they are incapacitated, deceased or otherwise unable to maintain these records pursuant to paragraph (7).

(7) Except as provided for in paragraph (7)(e) of this rule, a chiropractic physician who is an independent contractor or who has an ownership interest in a chiropractic practice shall provide notice when leaving, selling, or retiring from the chiropractic office where the chiropractic physician has provided chiropractic services.

(a) Notification shall be sent to all patients who received services from the chiropractic physician during the two years immediately preceding the chiropractic physician's last date for seeing patients. This notification shall be sent no later than thirty days prior to the last date the chiropractic physician will see patients.

(b) The notice shall include all of the following:

(A) A statement that the chiropractic physician will no longer be providing chiropractic services at the practice;

(B) The date on which the chiropractic physician will cease to provide services;

(C) Contact information that enables the patient to obtain the patient's records.

(c) The notice shall be sent in one of the following ways:

(A) A letter sent through the US Postal Service to the last known address of the patient with the date of the mailing of the letter documented, or

(B) A secure electronic message.

(d) In the event of an illness, unforeseen emergency, incarceration, or other unanticipated incident, a chiropractic physician is unable to provide a thirty day notice as required by paragraph (7)(a) of this rule the chiropractic physician shall provide such notice within thirty days after it is determined that the physician will not be returning to practice.

(e) Paragraph (7) of this rule does not apply to the chiropractic physician who is departing as an employee of another Oregon licensed chiropractic physician. It is the licensed Oregon chiropractic physician employer's responsibility to maintain continuity of care, or to comply with this rule if patient care will be terminated upon a chiropractic physician employee's leaving employment or retiring.

(f) In the event a chiropractic physician dies or becomes incapacitated and unable to practice, and there is no other chiropractic

physician associated with the practice, the deceased, incapacitated, or unavailable chiropractic physician's executor, guardian, administrator, conservator, next of kin, or other legal representative shall notify the board in writing of the management arrangement for the custody and transfer of patient files and records. This individual shall ensure the security of, and access to, patient files and records by the patient or other authorized party, and must report plans or arrangements for permanent custody of patient files and records to the Board in writing within 180 days. Transfer of patient files and records must occur within one year of the death of the chiropractic physician.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155

Hist.: 2CE 1-1978, f. 6-16-78, ef. 7-1-78; CE 5-1995, f. & cert. ef. 12-6-95; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 2-2006, f. & cert. ef. 2-9-06; BCE 5-2013, f. & cert. ef. 11-27-13; BCE 3-2014, f. & cert. ef. 8-7-14; BCE 6-2014, f. & cert. ef. 9-5-14; BCE 2-2015, f. & cert. ef. 4-10-15

811-015-0006

Disclosure Of Records

(1) A Chiropractic physician shall make available within a reasonable time to a patient or a third party upon the patient's written request, copies or summaries of medical records and originals or copies of the patient's X-rays.

(a) The medical records do not necessarily include the personal office notes of the Chiropractic physician or personal communications between a referring and consulting physician relating to the patient.

(b) The Chiropractic physician shall preserve a patient's medical records from disclosure and will release them only on a patient's written consent stating to whom the records are being released or as required by State or Federal law.

(2) The Chiropractic physician may establish a reasonable charge to the patient for the costs incurred in providing the patient with copies of any portion of the medical records. A patient shall not be denied summaries or copies of his/her medical records or X-rays because of inability to pay or financial indebtedness to the Chiropractic physician.

(3) Whenever the OBCE asks a Chiropractic physician for a response to a complaint or an investigation:

(a) The Chiropractic physician shall make available to the OBCE all requested patient file information, such as, but not limited to chart notes, billing records, x-rays, correspondence, reports and any and all relevant information.

(b) The requested patient file information shall be made available within 14 days of receipt of the OBCE's request unless the OBCE or the OBCE's representative determines by memo to the OBCE's investigative file that immediate availability of the requested records is necessary for the OBCE's investigation. Additional response time may be granted by the OBCE or its representative upon a reasonable request.

(c) The Chiropractic physician must certify that all the requested records have been provided unless clear and compelling reasons are presented for failure to do so. Any documents not provided within the specified time must be identified along with the reasons. Failure to provide records to the OBCE within the time period specified by this rule for the purpose of responding to a complaint or an investigation is a violation of OAR 811-035-0015(19).

Stat. Auth.: ORS 684 & 791

Stats. Implemented: ORS 684.155 & 791 (SB 235)

Hist.: 2CE 2-1984, f. 8-14-84, ef. 9-1-84; CE 2-1987, f. 8-14-87, ef. 9-1-87; CE 1-1995, f. & cert. ef. 10-30-95; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01

811-015-0010

Clinical Justification

(1) Clinical rationale, within accepted standards and understood by a group of peers, must be shown for all opinions, diagnostic and therapeutic procedures.

(2) Accepted standards mean skills and treatment which are recognized as being reasonable, prudent and acceptable under similar conditions and circumstances.

(3) All initial examinations and subsequent re-examinations performed by a chiropractor to determine the need for chiropractic treatment of neuro-musculoskeletal conditions shall include a functional chiropractic analysis. Some combination of the following PARTS exam constitutes a functional chiropractic analysis:

- P — Location, quality, and intensity of pain or tenderness produced by palpation and pressure over specific structures and soft tissues;
- A — Asymmetry of sectional or segmental components identified by static palpation;
- R — The decrease or loss of specific movements (active, passive, and accessory);
- T — Tone, texture, and temperature change in specific soft tissues identified through palpation;
- S — Use of special tests or procedures.

(4) Chiropractic physicians shall treat their patients as often as necessary to insure favorable progress. Evidence based outcomes management shall determine whether the frequency and duration of curative chiropractic treatment is, has been, or continues to be necessary. Outcomes management shall include both subjective or patient-driven information as well as objective provider-driven information. In addition, treatment of neuro-musculoskeletal conditions outside of the Oregon Practices and Utilization Guidelines — NMS Volume I, Chapter 5, may be considered contrary to accepted standards. Chiropractic physicians treating outside of the Practices and Utilization Guidelines — NMS Volume I, Chapter 5, bear the burden of proof to show that the treatment, or lack thereof, is clinically justified.

(5) Copies of any independent examination report must be made available to the patient, the patient's attorney, the treating doctor and the attending physician at the time the report is made available to the initial requesting party.

Stat. Auth.: ORS 684

Stats Implemented: ORS 684.155

Hist.: 2CE 1-1978, f. 6-16-78, ef. 7-1-78; CE 1-1995, f. & cert. ef. 10-30-95;

BCE 2-2003, f. & cert. ef. 12-11-03; BCE 1-2005, f. 1-28-04, cert. ef. 2-1-05;

BCE 1-2007, f. & cert. ef. 11-30-07

811-015-0025

Continuing Chiropractic Education

(1) The purpose of continuing chiropractic education (CE) licensure credit is to assist in assuring the competence and skills of Oregon Chiropractic physicians, and to help assure the Oregon public of the continued competence of these physicians within the statutory scope of practice.

(2) In order to renew an active license, each licensee shall submit a signed affidavit on a form provided by the OBCE attesting to successful completion of 20 or more hours of chiropractic continuing education course or activity hours completed during the preceding licensure period. Each licensee shall maintain records as required in section (10) to support the hours reported in the signed affidavit.

(3) Courses or activities determined by licensees to meet the criteria of sections (8) and (9) are presumed to be approved until or unless specifically disapproved by the OBCE. Licensees will be informed of any disapproved courses in a timely manner. The Board will not retroactively disapprove course credits. The Board will maintain a list of disapproved courses available for review by licensees.

(4) The Board may require specific courses as part of a chiropractic physician's annual relicensure hours for an upcoming licensure period.

(5) Any Chiropractic physician who is also licensed as a naturopath, osteopath, medical doctor, nurse or nurse practitioner is exempt from the over-the-counter non-prescriptive substances requirements of sections (6) and (7).

(6) Any Chiropractic physician holding an initial license is exempt from continuing education for the first year of licensure, except for four (4) hours relating to over-the-counter non-prescriptive substances and any specific courses required by the Board.

(7) Anyone changing license status from inactive to active or senior active license shall take four (4) hours of the required hours relating to over-the-counter non-prescriptive substances prior to

changing license status and any specific courses required by the Board.

(8) Approved continuing chiropractic education shall be obtained from courses or activities which meet the following criteria:

- (a) They do not misrepresent or mislead;
- (b) They are presented by a Chiropractic physician, licensed here or in another state, other appropriate health care provider, or other qualified person;
- (c) They exclude practice-building subjects and the principle purpose of the program may not be to sell or promote a commercial product. However the mere mention of practice building concepts shall not disqualify a program's eligibility for CE credit.
- (d) The material covered shall pertain to the practice of chiropractic in Oregon or be related to the doctor's practice;
- (e) Continuing education hours for Board activities must assist in assuring the competence and skills of the chiropractic physician; and
- (f) Shall be quality courses or activities adequately supported by evidence or rationale as determined by the Board.

(9) The Board may accept credit hours from courses, seminars or other activities. Completion of other activities is chiropractic continuing education defined as follows:

- (a) Continuing Medical Education (CME);
- (b) Video or audio taped Continuing Education courses or seminars;
- (c) Long distance learning courses;
- (d) Being an original author of an article, published in a peer reviewed journal, given in the year of publication;
- (e) Participation in a formal protocol writing process associated with an accredited health care institution or state or government health care agency;
- (f) Participation on an OBCE committee and assisting with a National Board of Chiropractic Examiners (NBCE) examination or NBCE test writing committee;

(g) Participation in a research project, approved by the Board, related to chiropractic health care directed by an educational institution or other qualified chiropractic organization;

- (h) Teaching courses at an accredited health care institution;
- (i) Teaching chiropractic continuing education courses;
- (j) CPR courses; and
- (k) Instruction related to OAR 811-015-0030, minor surgery/proctology rotation;

(l) And any other course or activity specifically authorized by the OBCE.

(10) All licensees are required to keep full, accurate and complete records:

- (a) A verification of attendance for all CE courses or activities showing hours claimed for relicensure credit, and or proof of completion signed by the sponsor and licensee.
- (b) Video taped or audio taped courses shall be supported through record keeping with a letter, memo or on a form provided by the Board, that includes the dates and times, vendor's or presenter's name/s, total hours claimed for each course, location, and includes the following statement, "I swear or affirm that I viewed or listened to these continuing education courses in their entirety on the dates and times specified in this report."

(c) A copy of a published article including the date of publication;

(d) A written record of hours in clinical protocol development and research projects. The record shall include the names and addresses of the institutions involved, name of supervisors, and their signatures verifying hours.

(e) For licensees claiming CE hours under the provisions of (9)(h), a record of employment by health care institutions, signed by their supervisor, a copy of the course syllabus if applicable, and verification of hours.

(f) For licensees claiming CE hours under the provisions of (9) (i), licensee shall obtain and keep verification of the course taught including, the dates of the course, a syllabus and the sponsoring organization.

(g) For licensees claiming CE hours under the provisions of (9)(f), for participation on an OBCE committee and assisting with a National Board of Chiropractic Examiners; (NBCE) examination or NBCE test writing committee, certification from the OBCE or NBCE.

(h) For licensees claiming CE hours under the provisions of (9)(k), a record of the dates, topics/procedures, and hours.

(11) At each renewal the OBCE will generate a random computer list of a minimum of 10% or up to 100% of renewing licensees, who will then have their CE records reviewed to ensure compliance with this rule. Licensees shall respond to this request within 30 days by supplying the OBCE with verification of their CE courses or activities as provided in section 10.

(12) Any licensee who has submitted inadequate, insufficient, or deficient CE records or who otherwise appears to be in noncompliance with the requirements of this rule will be given written notice by the OBCE and will have 30 days from the date of notice to submit additional documentation, information or written explanation to the OBCE establishing the licensee's compliance with this rule.

(13) At its discretion, the Board may audit by attendance the content of any program in order to verify the content thereof. Denial of an audit is grounds for disapproval.

(14) Any chiropractic physician seeking a hardship waiver from their continuing education requirements shall apply to the Board, in writing, as soon as possible after the hardship is identified and prior to the close of licensure for that year. Specific details of the hardship must be included. The Board must make a finding that a hardship exists.

(15) The Board shall maintain and make available through its WEB page and mailings to licensees a list of disapproved courses, if any. The Board may disapprove a course or CE activity after giving the sponsor and/or licensees the opportunity to provide additional information of compliance with the criteria contained in this rule, and opportunity for contested case hearing under the provisions of ORS 183.341 if requested. Any CE sponsor or licensee may request the Board to review any previously disapproved course at any time.

Stat. Auth.: ORS 684.155

Stats. Implemented: ORS 684.092

Hist.: 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 1-1984, f. 7-16-84, ef. 8-1-84; 2CE 5-1985, f. 11-13-85, ef. 12-1-85; CE 1-1996, f. & cert. ef. 2-28-96; CE 4-1996(Temp), f. & cert. ef. 9-27-96; CE 1-1997, f. & cert. ef. 3-4-97; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2002, f. & cert. ef. 2-6-02; BCE 1-2007, f. & cert. ef. 11-30-07; BCE 3-2008, f. & cert. ef. 12-23-08

811-015-0030

Chiropractic Obstetrics, Minor Surgery, and Proctology

(1) A Minor Surgery/ Proctology Review Committee will be appointed by the Board of Examiners. Members will serve at the pleasure of the Board. The committee may review the applications and rotation plans. The committee will review the results of the rotation and make a recommendation to the Board regarding the certification. The committee may advise the Board on all issues related to minor surgery and proctology.

(2) A chiropractic physician licensed in Oregon who wishes to practice minor surgery and/or proctology must apply to, and receive from, the Board a certification of special competency in minor surgery and/or proctology. To receive and maintain certification, the applicant must fulfill the following requirements:

(a) Give written application to the Board of Chiropractic Examiners to practice minor surgery and/or proctology, provide evidence of completion of 36 hours of undergraduate or postgraduate coursework in minor surgery/proctology, and propose a plan to complete a rotation for practical experience in not less than 25 minor surgery/proctology cases. The purpose of the rotation is to learn and demonstrate competencies, as determined by the Minor Surgery/Proctology Review Committee, under the guidance of one or more supervising licensed physicians. The numbers of procedures required in each of these areas will be determined by this committee.

(A) The rotation must include no less than five cases where all aspects of the cases are performed solely by the chiropractic physician, and observed by the supervising licensed physician.

(B) The remainder of the rotation not covered in paragraph (A) shall consist of cases where the chiropractic physician observes and/or assists.

(C) Adequate documentation of the Chiropractic physician's participation in all cases is required on forms provided by the Board, and signed by the supervising licensed physician. It is recommended the rotation be completed within one year.

(b) 12 hours of continuing education (seminar, course or instruction) related to minor surgery/proctology every three years. Optionally, in lieu of eight hours of the continuing education requirement, a chiropractic physician may document performance or observation of twelve minor surgery/proctology procedures every three years. Reasonable documentation of the procedure or observation is a copy of the patient schedule and/or patient billing/ or other patient record with the patient name redacted which indicates the type of procedure and date performed.

(3) A chiropractic physician who is also licensed in Oregon as a doctor of naturopathy may make written application to practice minor surgery and proctology. The application may be approved by the Board if the chiropractic physician can demonstrate his naturopathic training and experience is equivalent to that required under section (2).

(4) A chiropractic physician licensed in Oregon who wishes to practice natural childbirth must apply to and receive from the Board a certification of special competency in natural childbirth. To receive and maintain certification, the applicant must fulfill the following requirements:

(a) Successfully complete at least 200 hours of direct instruction hours at an approved chiropractic, naturopathic, medical, osteopathic college or hospital in obstetrics and furnish a signed log showing evidence that subsections (b) and (c) of this section have been completed under the direct supervision of a licensed practitioner with specialty training in obstetrics and/or natural childbirth;

(b) Take part in the care of 50 women in both the prenatal (including obstetrics intakes) and postnatal periods;

(c) Observe and assist in the intrapartum care and delivery of 50 natural childbirths in a hospital or alternative birth setting. These births must be under the supervision of a licensed practitioner with specialty training in obstetrics and/or natural childbirth. A labor and delivery that starts under the care of someone licensed to assist in childbirth and includes hospitalization shall count as a birth.

(d) Pass a certification exam in obstetrics given by or approved by the Board.

(e) Submit annually, at the time certificate holders submit their general continuing education hours, 15 hours of Board approved continuing education in obstetrics. Seven of the 15 hours in obstetrics may be used to satisfy OAR 811-015-0025(4). Every other year an approved class in neonatal resuscitation shall be part of this continuing education requirement.

(5) Licensing action by the Board under ORS 684 shall be deemed to have an equal effect upon a certificate of special competency issued the practitioner, unless specifically provided otherwise in the Board action.

(a) When the subject of a disciplinary proceeding relates specifically to the practice of minor surgery, proctology, or natural childbirth by a licensee who possesses a certificate of special competency, the license action may in lieu of affecting the entire scope of the licensee's practice, suspend, revoke, or curtail only the practitioner's authority under the certificate of special competency.

(b) To address emergency or other circumstances which indicate the use of substances or procedures not authorized for use by chiropractic physicians, a plan to access these must be developed in a timely fashion and entered in the patient's chart.

(6) Notwithstanding section (4), a Chiropractic physician may obtain a license as a direct entry midwife from the Board of Direct Entry Midwifery. Any chiropractic physician licensed as a naturo-

pathic physician and certified in natural childbirth by the Oregon Board of Naturopathic Examiners, may also practice natural childbirth/obstetrics as a chiropractic physician to the extent allowed by ORS 684.

Stat. Auth.: ORS 684
Stats. Implemented: ORS 684.155
Hist.: 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 6-1985, f. 11-13-85, ef. 12-1-85; CE 2-1995, f. & cert. ef. 10-30-95; CE 3-1995, f. & cert. ef. 11-3-95; BCE 2-1998, f. & cert. ef. 5-29-98; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2009, f. & cert. ef. 1-29-09

811-015-0045

Advertising

(1) A Chiropractic physician shall not use or participate in the use of improper advertising. Improper advertising is any advertising which:

(a) States any fact which would result in the communication being untruthful, misleading or deceptive;

(b) Contains statistical or other assertions of predicted rates of success of treatment; or

(c) Claims a specialty, degree or diplomate not possessed or that does not exist;

(2) A chiropractor shall not practice under a name that is misleading as to the identity of the chiropractor or chiropractors practicing under such name or under a firm name which is misleading.

(3) A Chiropractic physician shall adhere to the Doctors' Title Act, ORS 676.110(2).

(4) A Chiropractic physician may use a professional card and/or letterhead identifying the Chiropractic physician's name, profession, address, telephone number, name of the chiropractic office and educational degrees. It may also include names of licensed associates.

Stat. Auth.: ORS 684
Stats. Implemented: ORS 684.155
Hist.: 2CE 1-1983, f. 1-12-83, ef. 2-1-83; 2CE 7-1985, f. 11-13-85, ef. 12-1-85; 2CE 2-1986, f. 5-15-86, ef. 6-1-86; CE 1-1995, f. & cert. ef. 10-30-95; CE 2-1996(Temp), f. & cert. ef. 5-31-96; CE 3-1996, f. & cert. ef. 9-26-96; BCE 4-2001, f. & cert. ef. 11-23-01

811-015-0070

Scope of Practice Regarding Examinations, Tests, Substances, Devices and Procedures

(1) The Board may examine any diagnostic and/or therapeutic examination, test, substance, device or procedure, herein after referred to as ETSDP, to determine its acceptability for patient care. The Board may require a Chiropractic physician to provide information on any ETSDP for determination of its status. The Board may take into account all relevant factors and practices, including but not limited to, the practices generally and currently followed and accepted by persons licensed to practice chiropractic in the state, the teachings at chiropractic schools accredited by the Council on Chiropractic Education or its successor at any time since 1974, relevant technical reports published in recognized journals and the desirability of reasonable experimentation in the furtherance of the chiropractic arts.

(2) A Chiropractic physician may use any diagnostic and/or therapeutic ETSDP which is considered standard. A standard diagnostic and/or therapeutic ETSDP is one in which one or more of the following criteria have been satisfied:

(a) Is taught or has been taught by a chiropractic school accredited by the Council on Chiropractic Education or its successor at any time since 1974, or health professions' courses taught by regionally accredited colleges with subject matter that is within the scope of chiropractic practice and has not been disapproved by the Board; or

(b) Has been approved by the Board through the petition process:

(A) The petition requires a formalized agreement of 10% or more of the Chiropractic physicians, holding an active chiropractic license in Oregon, attesting to the safety and efficacy of a particular ETSDP. The petition shall be submitted in writing to the Board by any party wishing to establish any ETSDP as standard. It is the responsibility of the petitioner to gather the required evidence and supporting statements. It is the sole responsibility and discretion of

the Board to review the sufficiency of the evidence in the petition and to make a determination whether to concur and affirm the ETSDP as standard or to deny the petition. The Board may, but is not required to, hold a public hearing on any petition. The Board shall make its determination and reply to the petitioner within 180 days of receipt of the petition unless the Board and the petitioner mutually agree to extend the deadline;

(B) The petition shall specifically address the following issues:

(i) The kind of ETSDP that is the subject of the petition, i.e., whether it is an examination, a test, a substance, a device, a procedure, or a combination thereof;

(ii) A detailed description of the proposed ETSDP;

(iii) The clinical rationale for the ETSDP;

(iv) A method for determination of appropriate termination of care and/or consultation to other providers with special skills/knowledge for the welfare of the patient;

(v) Whether the proposed ETSDP is to be used by itself or used in addition to any other generally accepted or standard ETSDP;

(vi) A description of known or anticipated contraindications; risks, and benefits;

(vii) A description of any subpopulations for which greater risk or benefit is expected;

(viii) A description of any standard ETSDP for the equivalent condition together with its relative risks and benefits; and

(ix) An assessment of the expected consequences of withholding the proposed ETSDP.

(c) Is supported by adequate evidence of clinical efficacy as determined by the Board. In determining adequacy the Board may consider whether the ETSDP:

(A) Has clinical rationale;

(B) Has valid outcome assessment measures;

(C) Is supported in peer reviewed literature;

(D) Is consistent with generally recognized contraindications to chiropractic procedures; and

(E) The potential benefit outweighs the potential risk to the patient.

(3) A Chiropractic physician may use any diagnostic and/or therapeutic ETSDP that has not met the criteria of subsections (2)(a) or (b) or (c) of this rule as investigational. It must show potential merit for effectiveness and be of acceptable risk. Documentation requirements are based on potential risk to the patient. All investigational diagnostic ETSDP's must include or be accompanied by standard diagnostic procedures until full Board approval is attained under the criteria cited in subsections (2)(a) or (b) or (c) of this rule. Nothing in this section is intended to interfere with the right of any patient to refuse standard or investigational ETSDP's. In determining risk, the Board may use the following criteria:

(a) For minimal risk procedures, defined as those which when properly or improperly performed on the general population would have a slight chance of a slight injury and when properly performed on select populations have an extremely remote chance of serious injury:

(A) Informed consent is suggested but not required; and

(B) The Chiropractic physician is recommended, but not required, to participate in or conduct a formal investigation of the procedure.

(b) For low risk procedures, defined as those which when properly performed on the general population have a slight chance of mild injury, when improperly performed on the general public have a mild chance of mild to moderate injury, and when properly performed in select populations have a remote chance of serious injury:

(A) Informed consent is required; and

(B) The Chiropractic physician is recommended but not required to participate or conduct a formal investigation of the procedure.

(c) For moderate risk procedures, defined as those which when properly performed on the general public have a significant chance of mild injury and a mild chance of moderate injury, when

improperly performed on the general population have a slight chance of severe injury, and when properly performed in select populations have a slight chance of serious injury.

(A) Written informed consent is required; and

(B) The Chiropractic physician is recommended but not required to participate or conduct a formal investigation of the procedure.

(d) For high risk procedures, those which when properly performed on the general population have a significant chance of moderate injury and a slight chance of serious injury, when improperly performed on the general population have a significant chance of serious injury, and when properly performed in select populations have a significant chance of serious injury;

(A) Written informed consent is required; and

(B) The Chiropractic physician is required to participate in or conduct a formal investigation of the procedure under the auspices of, or in conjunction with, any other health care professionals knowledgeable and competent in the care and treatment of potential serious injuries.

(e) Board approval is required of all moderate or high risk procedures.

(4) The Board shall maintain a list of ETSDPs which have been reviewed by the Board and have been determined to be unacceptable or approved as investigational.

(5) A Chiropractic physician may not use any diagnostic and/or therapeutic ETSDPs which have been determined by the Board to be unacceptable.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155

Hist.: CE 3-1987, f. 8-14-87, ef. 9-1-87; CE 6-1995, f. & cert. ef. 12-19-95

811-015-0080

License Suspension and Probation

(1) Chiropractic physicians and Chiropractic Assistants who are placed on suspension may not provide chiropractic treatment or services to any patient and are not to be in the clinic during business hours.

(2) The suspended chiropractic physicians shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, member of the public, or other person as to the nature of and reason for the suspension. It shall be prohibited to portray themselves to patients in any way as potentially practicing. Suspended chiropractic physicians may not perform intake functions and greeting patients. Suspended chiropractors and assistants should not be visible to patients as that could induce the belief they are practicing.

(3) Suspended chiropractic physicians shall prominently post in their clinic a suspension notice provided by the Board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual suspension. The Board may waive this for good cause.

(4) Chiropractic physicians and assistants are prohibited from misrepresenting the status of licensure to any patients.

(5) Chiropractic physicians will be prohibited from using any student interns during the period of suspension or probation.

(6) Suspended chiropractic physicians may not provide any therapies as a CA. They may not personally sell or provide supplements or other products to clinic patients or persons coming in to the clinic. They may not perform adjustments on family or friends while they are suspended as this is the practice of chiropractic. They may not take films or perform any diagnostic procedures.

(7) Suspended chiropractic physicians may not engage in marketing which leads clients, consumers or patients to believe they are a practicing chiropractic physician at the time they are suspended. They may not place new advertising which indicates in any way the suspended chiropractic physician is practicing chiropractic during the suspension period.

(8) The list of prohibitions in this rule is not all inclusive and if the Board determines that a chiropractor was practicing chiropractic during the term of suspension it may result in disciplinary

action. Violations of this rule may result in further discipline pursuant to ORS 684.100.

(9) A limited exception includes providing expert testimony at hearing or deposition, information to legal counsel in regards to a patient's case that is in legal process of resolution regarding care provided prior to the suspension. Suspended chiropractic physicians are not prohibited from performing such business functions such as billing and attending tasks not related to patient scheduling, care, treatment or evaluation; but, it must be done outside of regular business hours.

Stat. Auth.: ORS 183.684 & 684.100

Stats. Implemented: ORS 684.155(b)

Hist.: BCE 3-2012, f. & cert. ef. 11-28-12

DIVISION 20

RULES GOVERNING APPROVAL OF SCHOOLS

811-020-0006

Statement of Purpose

It is the purpose of this Board to approve only those schools teaching the schedule of minimum educational requirements as defined by the Council on Chiropractic Education (CCE) Standards. These schools will also be evaluated for minimum educational requirements in minor surgery, proctology and physiotherapy (ORS 684.050(4)), subjects which are not required by CCE standards. This Board may also approve those programs that are mutually recognized and endorsed by CCE through membership in the Councils on Chiropractic Education International, on a case-by-case basis.

(1) 120 hours is required in physiotherapy. Any chiropractic physician also licensed as a physical therapist is exempt from this requirement.

(2) 36 hours (survey course) is required in minor surgery/proctology (in addition to the standard courses of physical examination, emergency/first aid, histology etc.).

(3) Applicants for licensure in Oregon who have graduated from schools which do not meet the requirements for physiotherapy, minor surgery, or proctology must provide evidence of sufficient hours in these subjects from any approved CCE school (undergraduate or post-graduate educational program).

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.050(4) & 684.155(5)

Hist.: 2CE 4, f. 5-13-63; 2CE 9, f. 10-16-70; CE 5-1997, f. & cert. ef. 12-19-97; BCE 2-2011, f. 10-25-11, cert. ef. 11-8-11

811-020-0011

List of Approved Schools

The list of approved programs shall be made available as published by the Council on Chiropractic Education and approved by this Board, along with any other educational programs that are recognized and endorsed by CCE and approved by this Board.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.050(4) & 684.155(5)

Hist.: 2CE 4, f. 5-13-63; 2CE 9, f. 10-16-70; CE 5-1997, f. & cert. ef. 12-19-97; BCE 2-2011, f. 10-25-11, cert. ef. 11-8-11

DIVISION 21

EDUCATIONAL STANDARDS FOR CHIROPRACTIC SCHOOLS

811-021-0005

Educational Standards for Chiropractic Colleges

The educational standards for Chiropractic colleges published by the Council on Chiropractic Education or their equivalent, current as of September 22, 2011, is hereby adopted and prescribed.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155(5)

Hist.: 2CE 8, f. 12-10-68; 2CE 9, f. 10-1-70; CE 5-1997, f. & cert. ef. 12-19-97; BCE 3-2000, cert. ef. 8-23-00; BCE 2-2006, f. & cert. ef. 2-9-06; BCE 1-2007, f. & cert. ef. 11-30-07; BCE 2-2011, f. 10-25-11, cert. ef. 11-8-11

DIVISION 30

X-RAY

811-030-0011

X-Rays

Staff employees of a Doctor of Chiropractic may be directed to take X-rays of a patient if they are in possession of a permit issued by the State Board of Radiologic Technology, but this permit is limited only to the taking of X-rays.

Stat. Auth.: ORS 684
 Stats. Implemented: ORS 684.155
 Hist.: 2CE 3-1986, f. 6-23-86, ef. 7-1-86

811-030-0020

Scope of Radiography in the Chiropractic Practice

(1) The radiographic diagnostic aspect of Chiropractic practice shall include all standard radiographic procedures that do not conflict with ORS 684.025.

(2) All radiographs shall be of diagnostic quality. Radiographic films are subject to review by the Board to determine quality. Poor quality radiographs may result in disciplinary action.

(3) X-ray is not to be used for therapeutic purposes.

(4) Fluoroscopy shall not be used as a substitute for an initial radiographic study and shall be used only with documented clinical justification.

(5) Chiropractic physicians may order or refer patients for any diagnostic imaging study, including contrast studies using radio-opaque substances. Use of radio-opaque substances for diagnostic X-ray, other than by mouth or rectum, is not permitted.

(6) Pregnant females shall not be radiographed unless the patient's symptoms are of such significance that the proper treatment of the patient might be jeopardized without the use of such radiographs.

(7) All critical parts, i.e. fetus, eyes, thyroid gland and gonads, beyond the area of primary examination shall be shielded.

Stat. Auth.: ORS 684
 Stats. Implemented: ORS 684
 Hist.: 2CE 9, f. 10-16-70; 2CE 11, f. 6-20-72, ef. 7-1-72; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 2-1984, f. 8-14-84, ef. 9-1-84; 2CE 3-1985, f. 11-13-85, ef. 12-1-85; CE 7-1993, f. 12-9-93, cert. ef. 12-10-93; CE 2-1996(Temp), f. & cert. ef. 5-31-96; CE 3-1996, f. & cert. ef. 9-26-96; BCE 1-2008, f. & cert. ef. 5-29-08

811-030-0030

X-Ray Departments, Equipment and Procedures

(1) All X-ray departments, equipment and procedures including fluoroscopy shall be in compliance with the current rules and regulations of the Oregon State Health Division Radiation Control Section, including but not limited to, the physical design of the department, occupational exposure, collimation, shielding, exposure charts.

(2) In addition:

(a) The patient shall be an adequate candidate for the radiographic or fluoroscopic procedure employed;

(b) The radiographic field shall be restricted to the area of clinical interest;

(c) Specialized views shall be used any time the area of clinical interest is not clearly visualized on a standard film;

(d) Every exposure, including post-treatment exposures, and scanograms, shall have clinical justification with adequate documentation consistent with the patient's case history;

(e) The operator shall maintain a record on each exposure of each patient containing the patient's name, the date, the operator's name or initials, the type of exposure and the radiation factors of time, mA, kVp and target film distance, including those exposures resulting in the necessity of repeat exposure for better diagnostic information such as patient motion or poor technical factors. For computerized and automated systems the recording of technique factors is not necessary as long as the equipment is calibrated and maintained. OAR 333-106-045 requires the facility to determine the typical patient exposure for their most common radiographic examinations, i.e. technique chart.

(f) Each film shall be properly identified by date of exposure, location of X-ray department, patient's name or number, patient's age, right or left marker and postural position marker and indication of the position of the patient;

(g) The patient with tremors must be immobilized;

(h) The radiographs of a patient with an antalgic posture may be taken in an upright position only if the patient is adequately supported and immobilized to insure diagnostic quality. Otherwise, the recumbent position shall be used;

(i) Upright or postural views shall not be used for any patient whose size exceeds the capacity of the X-ray equipment. Penetration must be adequate on all films;

(j) Sectional views shall be taken in preference to a single 14 x 36 inch film if the patient's size or height prevents diagnostic quality on a single 14 x 36 inch film;

(k) If two exposures are made on a single film, the area of exposure shall be critically collimated to avoid double exposure of the overlapping area;

(l) All views shall employ graduated filtration or adequate devices to attenuate the primary beam for the purpose of reducing unnecessary radiation and to improve film quality. Split screens, gradient or graded screens, paper light barriers inside the cassette, or any other attenuating device in the beam between the patient and the film shall not be permitted, other than the grid controlling scattered radiation.

(m) A record of radiographic findings on every set of radiographs reviewed shall be included in the patient's permanent file;

(n) Radiographs shall be kept and available for review for a minimum of seven years or until a minor becomes 18 years of age, whichever is longer.

Stat. Auth.: ORS 441 & 684
 Stats. Implemented: ORS 684.025, 684.150, 684.155 & 441.059
 Hist.: 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 1-1980, f. 1-16-80, ef. 2-1-80; CE 7-1993, f. 12-9-93, cert. ef. 12-10-93; BCE 3-2004, f. & cert. ef. 12-10-04

DIVISION 35

CODE OF ETHICS

811-035-0001

Definitions

(1) "Direct supervision": means that the licensed Chiropractic physician is physically present in the clinic, is monitoring the activities of the supervisee and is available to intervene, if necessary.

(2) "Supervisee": one under direct supervision by a licensee.

(3) "Diagnosis": as defined in the Practice and Utilization Guidelines means the art of distinguishing one disease from another.

(4) "Prognosis": as defined in the Practice and Utilization Guidelines means a forecast as to the probable outcome of an attack of disease; the prospect as to recovery from a disease as indicated by the nature and symptoms of the case.

Stat. Auth.: ORS 684
 Stats. Implemented: ORS 684.150
 Hist.: CE 2-1995, f. & cert. ef. 10-30-95

811-035-0005

Duties and Obligations of Chiropractic Physicians to Their Patients

(1) The health and welfare of the patient shall always be the first priority of Chiropractic physicians and expectation of remuneration shall not affect the quality of service to the patient.

(2) The patient has the right to informed consent regarding examination, therapy and treatment procedures, risks and alternatives, and answers to questions with respect to the examination, therapy and treatment procedures, in terms that they can be reasonably expected to understand.

(a) Chiropractic physicians shall inform the patient of the diagnosis, plan of management, and prognosis in order to obtain a

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fully informed consent of the patient during the early course of treatment.

(b) In order to obtain the informed consent of a patient, the chiropractic physician shall explain the following:

(A) In general terms, the examination procedure or treatment to be undertaken;

(B) That there may be alternative examination procedures or methods of treatment, if any; and

(C) That there are risks, if any, to the examination procedure or treatment

(3) Chiropractic physicians have the right to select their cases and patients. The patient has the right to continuity of care once the doctor has agreed to treat the patient. The chiropractor may terminate the patient-doctor relationship only when the patient has been given reasonable notice. It is permissible for the doctor to terminate the patient-doctor relationship when the patient fails to cooperate.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.150

Hist.: 2CE 1-1979, f. 1-17-79, ef. 2-1-79; 2CE 4-1983, f. 9-28-83, ef. 10-15-83; 2CE 1-1984, f. 7-16-84, ef. 8-1-84; CE 2-1995, f. & cert. ef. 10-30-95; BCE 2-2003, f. & cert. ef. 12-11-03; BCE 2-2009, f. & cert. ef. 12-22-09

811-035-0015

Unprofessional Conduct in the Chiropractic Profession

Unprofessional conduct means any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or failure to conform to, the minimal standards of acceptable chiropractic practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic physician:

(1)(a) Engaging in any conduct or verbal behavior with or towards a patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).

(b) A licensee shall not engage in sexual relations or have a romantic relationship with a current patient unless a consensual sexual relationship or a romantic relationship existed between them before the commencement of the doctor-patient relationship.

(c) "Sexual relations" means:

(A) Sexual intercourse; or

(B) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the licensee for the purpose of arousing or gratifying the sexual desire of either licensee or patient.

(d) In determining whether a patient is a current patient, the Board may consider the length of time of the doctor-patient contact, evidence of termination of the doctor-patient relationship, the nature of the doctor-patient relationship, and any other relevant information.

(e) A patient's consent to, initiation of or participation in sexual behavior or involvement with a licensee does not change the nature of the conduct nor lift the prohibition.

(2) Charging fees for unnecessary services;

(3) Failing to teach and/or directly supervise persons to whom chiropractic services have been delegated;

(4) Practicing outside the scope of the practice of chiropractic in Oregon;

(5) Charging a patient for services not rendered;

(6) Intentionally causing physical or emotional injury to a patient;

(7) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;

(8) Soliciting or borrowing money from patients;

(9) Possessing, obtaining, attempting to obtain, furnishing, or prescribing controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; illegally using or dispensing controlled drugs;

(10) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of Chiropractic physicians or other health care providers; or

(11) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;

(12) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;

(13) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of chiropractic;

(14) Practicing chiropractic without a current Oregon license;

(15) Allowing another person to use one's chiropractic license for any purpose;

(16) Resorting to fraud, misrepresentation, or deceit in applying for or taking the licensure exam or obtaining a license or renewal thereof;

(17) Impersonating any applicant or acting as a proxy for the applicant in any chiropractic licensure examination;

(18) Disclosing the contents of the licensure examination or soliciting, accepting, distributing, or compiling information regarding the contents of the examination before, during, or after its administration; Notwithstanding this section, the Ethics and Jurisprudence Examination is open book and there is no restriction on applicants discussing answers to individual questions between themselves or with others

(19) Failing to provide the Board with any documents requested by the Board;

(20) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege;

(21) Failing to comply with State and Federal laws regarding child and elderly abuse, and communicable diseases;

(22) Claiming any academic degree not actually conferred or awarded;

(23) Disobeying a final order of the Board;

(24) Splitting fees or giving or receiving a commission in the referral of patients for services;

(25) Making an agreement with a patient or person, or any person or entity representing patients or persons, or provide any form of consideration that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Board, to truthfully and fully answer any questions posed by an agent or representative of the Board regarding a board proceeding, or to participate as a witness in a Board proceeding; and

(26) Chiropractic physicians holding an ownership interest as described in OAR 811-010-0120 may be held responsible, entirely or in part, for supervised staff (listed below) who provide patient services. This includes a responsibility to render adequate supervi-