

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form

<b>FILED</b> 8-11-17 12:26 PM ARCHIVES DIVISION SECRETARY OF STATE
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Board of Chiropractic Examiners	811
Agency and Division	Administrative Rules Chapter Number
Kelly J. Beringer	(503) 373-1573
Rules Coordinator	Telephone
Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302	
Address	

**RULE CAPTION**

Accommodates delegation of exams to national testing agency; Creates a broader exemption for some CE

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
9-21-17	9:00 a.m.	Best Western Sunridge Inn, 1 Sunridge Ln, Baker City, OR	Jason Young DC

**RULEMAKING ACTION**

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**

- 811-010-0085 Application and Examination of Applicants
- 811-010-0110 Chiropractic Assistants
- 811-015-0025 Continuing Chiropractic Education
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**REPEAL:**

**RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**Statutory Authority:**

ORS 684

**Other Authority:**

**Statutes Implemented:**

ORS 684.050 , 684.052 and 684.155

**RULE SUMMARY**

Amending 811-010-0085 and 811-010-0110 accommodates delegation of State Ethics and Jurisprudence exam, and Chiropractic Assistant Exam to a national testing agency.  
Amending 811-015-0025 updates which healthcare professionals may be exempt from the over-the-counter continuing education requirement.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

09-21-2017 5:00 p.m.	Kelly J. Beringer	kelly.beringer@oregon.gov
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing accompanies this form.

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8-11-17 12:26 PM  
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SECRETARY OF STATE

Board of Chiropractic Examiners

811

Agency and Division

Administrative Rules Chapter Number

Accommodates delegation of exams to national testing agency; Creates a broader exemption for some CE

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

811-010-0085 Application and Examination of Applicants

811-010-0110 Chiropractic Assistants

811-015-0025 Continuing Chiropractic Education

**Statutory Authority:**

ORS 684

**Other Authority:**

**Statutes Implemented:**

ORS 684.050 , 684.052 and 684.155

**Need for the Rule(s):**

Amending 811-010-0085 and 811-010-0110 accommodates delegation of State Ethics and Jurisprudence exam, and Chiropractic Assistant Exam to a national testing agency.

Amending 811-015-0025 updates which healthcare professionals may be exempt from the over-the-counter continuing education requirement.

**Documents Relied Upon, and where they are available:**

None

**Fiscal and Economic Impact:**

Low impact for the delegation of the exams. DC and CA applicants will pay a slightly higher fee than what is currently paid for the respective exams.

No impact for CE exemption proposal

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

No significant impact for any of the three proposed amendments.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:**

An annual estimated 100 new chiropractic physician applicants, and 200 new chiropractic assistant applicants could be affected by the exam delegation.

An estimated 300 inactive licensees could be affected by the education exemption

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

None

**c. Equipment, supplies, labor and increased administration required for compliance:**

None

**How were small businesses involved in the development of this rule?**

None

**Administrative Rule Advisory Committee consulted?: No**

**If not, why?:**

Administrative change

09-21-2017 5:00 p.m.

Kelly J. Beringer

kelly.beringer@oregon.gov

Last Day (m/d/yyyy) and Time  
for public comment

Printed Name

Email Address

## 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.~~

~~(Bb) Request for re-examination of the Ethics/ Jurisprudence, 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.

(7) Oregon Specifics Examination Grades:

(a) 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 Ethics/ Jurisprudence, 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.~~

~~(e)~~ 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~~ ~~a~~ 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. Implem: ORS 684.050; 684.052*

*Adopted Eff 6/6/16*

## 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 packet~~ and ~~an open book examination supplied by the Board;~~ an open book examination administered by a national testing agency;

(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.~~

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

(a) A non-refundable application fee - \$50; and

~~(b) A non-refundable examination fee - \$35; and~~

~~(e)~~ 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.

~~(e)~~(4) A person initially certified between March 1st and May 31st is exempt from the continuing education requirement for renewal.

~~(4)~~(5) 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)~~(6) The applicant shall be at least 18 years of age.

~~(6)~~(7) The Chiropractic Assistant shall not perform electrotherapy, hydrotherapy, or physiotherapy until he or she receives a certificate from the Board.

~~(8)~~(7) A Chiropractic Assistant shall be directly supervised by the Chiropractor at all times. The supervising Chiropractor must be on the premises.

~~(8)~~(9) 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)~~(10) 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)~~(11) 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)~~(12) 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)~~(13) 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)~~(14) 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)~~(15) The Chiropractic Assistant's certificate shall be displayed at all times in the Chiropractic Physician's office during the Chiropractic Assistant's employment.

~~(15)~~(16) 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~~17) 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.

~~(4718)~~ 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).

*Statutory Auth.: ORS 684.155*

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

*Adopted Eff 6/6/2016*