

New members named to the OBCE



Appointed by the Governor and confirmed by the Oregon State Senate, Drs. Joyce McClure, Michael Vissers and public member Estelle (Cookie) Parker-Kent have been attending

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New OBCE Board members Cookie Parker-Kent, Michael Vissers, DC, and Joyce McClure, DC, on the state Capitol steps following their appearance before the Senate Rules and Executive Appointments Committee



Dr. Megehee (left) with Senator David Nelson (R-Pendleton) outside the Senate Rules & Executive Appointments Committee confirmation hearing, October 21, 2005. See story, Page 2.

Doctor's Title Act Enforcement

At their September 2005 meeting, the OBCE decided to change their approach to complaints about Doctor's Title

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BackTalk

Megehee joins OBCE

Dr. Michael Megehee, Pendleton, has been appointed by the Governor to the OBCE. He replaces Jim Wilkens DC from Bend. He has been in practice since 1990 and has served as part-time faculty at Blue Mountain Community College as an instructor of Anatomy and Physiology. He has completed the Alcohol Testing and Substance Evaluation, and the Medical Review Officer Training Program from the American Association of Medical Review Officers and has authored several articles regarding alcohol and drug testing and the chiropractic profession which have appeared in the Journal of the American Chiropractic Association and other publications. Dr. Megehee is a member of the OBCE

Administrative Rules Advisory Committee and has served as Chairman of the Eastern Regional Airport Commission. He is a Western States Graduate. In his application he says,

"There is great diversity within the Chiropractic Profession. I have always believed that to be one of our profession's greatest strengths. Oregonians should be allowed to have freedom to obtain treatment from the chiropractic physician of their choice. Although there can be no quarter given in regard to public safety, honest, and ethical and responsible practices, we can invite, communicate, and welcome all licensed Chiropractic Physicians to participate."

New Board members

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OBCE board meetings since July. They replaced outgoing members Drs. Kathleen Galligan and Richard McCarthy, and public member Jan Nelson.

Joyce McClure DC.

Dr. McClure has been a chiropractic physician since 1987 currently practices in Multnomah Village in Washington County. She has served as Chair of the OBCE's Peer Review Committee. In this capacity she has assisted with complaint investigations concerning clinical justification, record keeping, treatment and utilization

issues, often conducting in-depth interviews with respondent doctors. She is a graduate of Palmer-West Chiropractic College in San Jose, California. In her application, she stated,

"My desire to be involved with the OBCE stems from the belief that a focus and direction of energy toward the common good for our profession and the public we serve is the best way to unite and succeed within our profession. My recent experience as a member of the Peer Review Committee

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The mission of the Oregon Board of Chiropractic Examiners is to protect and benefit the public health and safety, and promote equity in the chiropractic profession.

BackTalk is the official newsletter of the Oregon Board of Chiropractic Examiners. The Board's next meetings are November 17, 2005, and January 19, 2006. The November meeting will be held in the 1st floor conference room in the Morrow Crane Building, 3218 SE Pringle Road SE, Salem, Oregon. The January 2006 meeting will be held in Portland. Call the Board office at 503-378-5816 for meeting times, directions or a map.

Board Members

Minga Guerrero, DC
Acting President, Portland

Michael Vissers, DC
Secretary, Canby

George Siegfried, DC
McMinnville

Joyce McClure DC
Portland

Michael Megehee, DC
Pendleton

James Hendry, AAL
Public Member, Portland

Estelle Parker-Kent
Public Member

Staff Directory

Telephone 503/378-5816

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Dave McTeague (Extension 23)

Executive Director

Administration; Legal questions; Board issues; Practice questions

Kelly Bird (Extension 22)

Administrative Assistant

DC license renewal & information; CA certification, renewal & information; Continuing education, Practice questions

Michael Summers (Extension 25)

Investigator

Complaints; Investigations

Jane Billings (Extension 24)

Administrative Assistant

DC applicants; Examinations; Peer Review; Contracts

Carol Rohde (Extension 21)

Office Specialist I

DC lists; Record requests; Meeting coordinator; License verifications

EDITORIAL

Advertising Concerns

By Minga Guerrero DC
Acting President, OBCE

The Federation of Chiropractic Licensing Board (FCLB) annual meeting was held in Montreal, Canada the first week of May 2005. A delegate from each state in the USA, each province in Canada, the presidents of several Chiropractic colleges and representatives from many other countries in the world attended. The FBI fraud task force presented information on 'medical fraud trends' that each representative could take back to their constituents. We

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New Board members

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has afforded me a unique opportunity to see first hand some of the issues in the private practice realm. My ability to work with other chiropractors towards consensus despite individual differences has been proven again in this arena...My practice is focused on the individual with a sound basis in responsible healthcare. I work in a multidisciplinary setting including practitioners of acupuncture, naturopathic medicine, massage and exercise therapy. My experience with various sports and their related injuries led to my previous position as the Team Chiropractor for the Portland area women's professional football team (The Shockwave). I am committed to the team

process and a devoted advocate of common sense practices."

Michael Vissers DC. Dr. Vissers has been a chiropractic physician since 1990 and has practiced in Canby since 2001. He served as a member of the OBCE's Peer Review Committee assisting with investigations and report writing. He has frequently attended and participated in OBCE public meetings and rules hearings. He is a graduate of Northwestern College of Chiropractic in Minnesota. In his application he stated,

"In the past 15 years, I have seen how the practices of a few doctors can bring difficulties to all of those in my profession. Sometimes the doctor is lacking in documentation, in examination procedures, or in reporting to their patients

or third party payers. These doctors would be well served by the Board assisting them in eliminating their deficiency so that they may better serve the public. Other times, a doctor may attempt to defraud the public for personal or financial reasons. In this situation, the Board must act to protect the public by enforcing the state regulations and statutes."

Estelle Parker-Kent, public member. Ms. Parker-Kent is a Correctional Lieutenant at the Oregon State Penitentiary. She worked as a line staff member for several years before promotion to Lieutenant, a management position. According to a co-worker at the Department of Corrections, "She has excellent rapport with staff and inmates and does outstanding work. As an African-American and being the Penitentiary does not have a Diversity Manager, she has been helpful in dealing with issues. She is an excellent mentor for female staff coming into the institution and taking time to give sound direction and advice. She has a lot of common sense, is not shy about speaking up..." She lives in Marion County with her husband who also works for the Department of Corrections. She has expressed a strong public service ethic & wants to give back to the community.

BackTalk

Advertising concerns

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live in a culture of commercialism where it seems 'anything goes'. This attitude in our profession could foster negative feelings towards the profession as a whole if in fact, 'anything goes'. As delegates we were asked to take a few thoughts back to the profession and each appropriate regulatory board to consider. Please consider the following when advertising.

Advertising that describes your professional skills and abilities can impact the profession in both positive and negative ways. For example:

1. When you state that, *"Most medical doctors don't know how to treat XYZ conditions. You need to contact a Chiropractor if you wish to find the real answers to solve your pain."* Consider how a medical doctor in your community reading this newspaper statement will feel towards the clinic that sponsors this type of advertising. Will this foster good mutual referrals? How would you feel if an MD in your community advertised negatively about Chiropractic? Would you want to refer to their clinic? Would it foster good relations to co-treat in your community?
2. If you advertise that you are *"the authority/expert on auto accident injuries in your community,"* consider how your colleagues will feel towards you when they see this ad. Use of the word 'THE' implies that your expertise is somehow better than all other chiropractors in your community. Remember that our statutes require us to PROVE what we advertise. Could you actually prove that your education is somehow superior to all other DCs in your community? There is no way you could have access to all of your peers' CVs to know if you are any better trained than every peer in your community. Wouldn't this claim alienate you from your peers? Isn't it better to work with your peers to foster mutual referrals, discussion and professional camaraderie? The best you can say is that you are "An authority/expert".
3. Hypothetically, 80% of the population will most likely see through poorly written advertising. 20% will succumb. Is it worth building your business on that 20% at the expense of 80% of the population reading your ad to think poorly of Chiropractic?
4. Can you write an advertisement that elevates Chiropractic without denigrating another healing profession?

Title Act

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Act violations. They will now issue a Notice of Proposed Disciplinary Action if a violation is found.

Violations of this law are a common problem. For years the OBCE has taken a non-disciplinary approach to most first time violations of this law (ORS 676.110) by closing complaints once a doctor has come into compliance. Education about these provisions has been ongoing in BackTalk articles and board member presentations and is also covered in the Ethics & Jurisprudence state examination.

The Oregon Doctor's Title Act requires the designation of chiropractor, chiropractic physician (or at least chiropractic) on all chiropractic advertising, "... in connection with the business or profession, on any written or printed matter, or in connection with any advertising, billboards, signs or professional notices."

Doctors and clinic staff are requested to review the Oregon Doctor's Title Act and other advertising rules and laws. These can be found at egov.oregon.gov/obce.

BackTalk



John Schmidt, DC, Silverton, addresses the OBCE at its September meeting.

New CE Requirements

Chiropractic physicians must complete 2 CE hours related to "Evidence-Based Outcomes Management" as a result of recent amendments to OAR 811-015-0010 (Clinical Justification). These two hours may be taken any time from now until January 1, 2008.

Continuing Education courses that meet the general criteria for "Evidence-Based Outcomes Management" for the 2 hour requirement should:

Identify "outcomes management" tools appropriate for curative chiropractic treatment. This should include both subjective or patient-driven information as well as objective or pro-

vider-driven information.

Identify and present the evidence that supports use of these tools, and comment on the strength of this evidence.

Present methods or protocols for use of these outcomes management tools, including documentation that carries substance, offers specific treatment approaches, and proves or not the need for ongoing care.

Also required by January 1, 2008 is seven hours of pain management CE (including a one hour online course which can be found at <http://www.oregonpain.org/Presentation.aspx>)

OregonDCs listserve

The Oregon DCs listserve is an independent email discussion group that addresses chiropractic practice issues. It is moderated by Michael Freeman PhD DC MPH of Salem. Members receive a steady flow of email discussion and exchange of views. Oregon chiropractors may subscribe by sending an email message to oregondcs-subscribe@yahoogroups.com with your name, year and school of graduation, and the town or city in which you practice.

OBCE Public Protection Update

Final and proposed actions, February 5, 2005, to September 30, 2005

Final Actions

Dennis Stanturf DC, Final Order by Default. Three-month suspension. Violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015 (7) and (12), and OAR 811-015-0005(1). Licensee took cash from patients and did not report it to his employer and failed to make chart notes for those patients. (5/4/2005)

W. David Stoltz DC, Final Order by Default. Denial of license application (Doctor was previously licensed in Oregon). Violations of: ORS 684.100(1)(d) for conviction of a felony or misdemeanor involving moral turpitude; ORS 684.100(1)(g), OAR 811-035-0015 (16) for not being truthful on the application. (8/23/2005)

CCA applicant, Stipulated Final Order Condition on License. Under the provisions of ORS 684.100 (1)(d) and ORS 670.280, licensee must disclose to any and all prospective chiropractic employers that she was charged with possession of a controlled substance, and participated in an accelerated probation which was successfully completed, resulting in dismissal of the charges. (8-15-2005)

Jason Lutz, CCA applicant. Stipulated Final Order. Condition on License. Under the provisions of ORS 684.100 (1)(d) and ORS 670.280, licensee must disclose conviction history to any and all prospective chiropractic employers. (8-15-2005)

Venus Smith DC. Final Order by Default. Letter of Reprimand. Board action follows Peer Review Committee interview and report. Violations of: ORS 684.100(1)(g)(B) and OAR 811-015-0010 for re-examinations that do not meet mini-

imum standards; ORS 684.100(1)(g)(B) and OAR 811-015-0005(1) for chart notes that do not meet minimum standards; ORS 684.100(1)(g)(B), OAR 811-015-0010 and OAR 811-015-0005(1) for excessive treatment after initial course of treatment; ORS 684.100(1)(g)(B), OAR 811-015-0010 and OAR 811-015-0005(1) for continuing or increasing numbers of passive modalities without expressed clinical rationale in the patient record; OAR 811-035-0015(2), OAR 811-015-0010(1) and OAR 811-015-0005(1) charging for services without supporting documentation; ORS 684.100 (1)(a) and OAR 811-035-0015 (5) charging for services not rendered; ORS 684.100 (1) (g) (A), OAR 811-015-0005 (1)(b), OAR 811-035-0015 (1) and (5), OAR 811-035-0015 (7) and (12) altered chart notes. (9/22/2005)

Bryan Scott DC, Stipulated Final Order. Licensee's failure to make cost recovery payments as agreed in his Stipulated Final Order Case # 1999-1014 is a violation of ORS 684.100 (1)(g); OAR 811-035-0015(23) and terms of probation. Suspension was proposed and Licensee agreed to make monthly payments towards \$1005 owed. (9-29-2005)

Proposed Actions

Case # 2004-1036. Notice of Proposed Action one-year license suspension. Licensee attempted to borrow substantial amounts of money from up to four patients. (Licensee has previous disciplinary order for charging patients credit cards without their knowledge.) Violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015 (8). Contested case hearing has been requested. (3/25/2005)

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OBCE Public Protection Update

Final and proposed actions, February 5, 2005, to September 30, 2005

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Case # 2003-2001, 2004-2000, 2004-1032. Notice of Proposed Action for three-month suspension followed by a five-year probation, mentoring plan followed by quarterly file reviews, \$3,000 civil penalty and 12 hours CE in chart noting. Board action follows Peer Review Committee interview, report and recommendations. Violations of: ORS 684.100(1)(A) and OAR 811-015-0010 for lack of re-examinations where indicated, billing for a re-examination for which there is no documentation; ORS 684.100(1)(A) and OAR 811-015-0005(1) for chart notes and treatment plans below minimum standard & chart notes that did not indicate the name or initials and signature of the treating physician nor the author of the notes; OAR 811-015-0005(1) for two different versions of the same ancillary chart notes for the same dates of service; ORS 684.100(1)(n), and OAR 811-035-0015(10) for allowing employees to perform the physiotherapy and massage duties without being licensed as a chiropractic assistant or massage therapist; OAR 811-035-0015(7) billing for services provided by unlicensed personnel; OAR 811-015-0010(1) (clinical justification) for use of the evaluation and management code level 99204 not substantiated by the records reviewed resulting in upcoding; ORS 684.100(1)(A) and OAR 811-035-0015(7) for collection of money in excess of amount of services rendered; ORS 684.100(1)(g), OAR 811-015-0005(1) and OAR 811-035-0015(12) for altering chart notes; ORS 684.100(1)(A) and OAR 811-035-0015(7) and (12) for charging excessive amounts for durable medical goods provided to patients. (4/22/2005)

Case # 2005-5005. Notice of Proposed De-

nial of CCA license. Violations of: OAR 811-010-0110(14)(b) for misrepresentations in responses to questions regarding criminal arrests and convictions. (8/27/2005)

Case # 2005-5000. Notice of Proposed Denial of CCA license. Violations of: OAR 811-010-0110(14)(b) for misrepresentations in responses to questions regarding criminal arrests and convictions. (8/28/2005)

Case # 2005-5008. Notice of Proposed Denial of CCA license. Violations of: OAR 811-010-0110(14)(b) for misrepresentations in responses to questions regarding criminal arrests and convictions.

Case # 2005-5003. Notice of Proposed License Suspension. Licensee's failure to make cost recovery payments as agreed in his Stipulated Final Order is a violation of ORS 684.100 (1)(g); OAR 811-035-0015(23). (8/26/2005)

Case # 2004-2002, Notice of Proposed Action, Letter of Reprimand and \$1,000 civil penalty. Violations of ORS 684.100(1)(A) and OAR 811-015-0010(1), OAR 811-015-0005(1) OAR 811-035-0015 (7), (12) and 811-030-0030 (2)(d) and 811-030-0020(1)(2)(6) for below standard chart notes and clinical justification and inadequate justification for taking certain x-ray views. (9/28/2005)

Dismissed Complaints

During this reporting period the OBCE made a determination of insufficient evidence (I.E.) on 25 cases; no statutory violation on 4 cases, and case closed on 7 cases.

Policy & Practice Questions

Records Release Rules

A prompt response to a valid request for release of patient records from a patient or authorized representative is in the patient's and the public's interest. What is a "reasonable time" may vary depending upon the circumstances of the chiropractic physician and the request. The Board requests the records be released as soon as possible with the expectation that in most cases release would occur within 7 days. Without a valid reason, failure to release records within 30 days of a documented request may be considered to be a violation of OAR 811-015-0006(1) and ORS 684.100 (t).

OAR 811-015-0006 (2) states: "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." However, charges for patient records must also comply with ORS 192.521 passed as part of HB 2305 in 2003.

ORS 192.521 states, Health care provider and state health plan charges. "A health care provider or state health plan that receives an authorization to disclose protected health

information may charge:

(1) No more than \$25 for copying 10 or fewer pages of written material and no more than 25 cents per page for each additional page;

(2) Postage costs to mail copies of protected health information or an explanation or summary of protected health information, if requested by an individual or a personal representative of the individual; and

(3) Actual costs of preparing an explanation or summary of protected health information, if requested by an individual or a personal representative of the individual."

Clinical Justification Rule Clarified

Nothing in the Clinical Justification rule, OAR 811-015-0010, limits the types of neuromusculoskeletal conditions chiropractors may treat to those specifically listed in Chapter 5 of the Oregon Chiropractic Practices & Utilization Guidelines, NMS, adopted in 1991. The OBCE understands that OCPUG was written to address common NMS conditions. This has never been interpreted to exclude treatment of any other NMS condition.

Evidence based outcomes management should be used to help determine the frequency and duration of chiropractic care. It is not the intent of the rule to say that an adverse outcome implies "no

treatment is necessary". If there is an adverse outcome a re-evaluation is needed. The intent of the rule is to have doctors document their care, the results and offer a new course of treatment, diagnostic work-up or referral when outcomes are consistently adverse or offer no improvement.

Imminent danger exception to patient confidentiality

HIPAA regulations provide that a chiropractic physician may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the chiropractic physician in good faith, believes the use or disclosure:

1) (A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and

(B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
2) Is necessary for law enforcement authorities to identify or apprehend an individual:

(A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or

(B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in Sec. 164.501.

BackTalk



TOP: New Oregon chiropractors meet with OBCE members, October 6, 2005. OBCE members Minga Guerrero and Michael Vissers, seated at left, listen to Peer Review member Michael Burke's presentation on clinical documentation. **ABOVE:** Drs. Guerrero (right, facing camera) and Vissers (center) lead breakout groups to review a professional complaint and propose a resolution. **LEFT:** Dr. Guerrero addresses boundary and billing issues.

Educational Manual Report

The Diagnostic Imaging Chapter was approved by the OBCE at their July meeting. This followed two

years of seed panel meetings, nominal panel and finally four Delphi rounds. Over 140 clinicians participated in

writing and reviewing this chapter. This chapter will be published later this fall.

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Licensing and Continuing Education

By Kelly Bird

Here is a recap of the transition to the birth month system. We received LOTS of telephone calls with questions regarding due dates, continuing education requirements, and verifications of fees. Overall, OBCE staff was prepared for the volume of calls and the first phase of the transition seemed smooth. ("First" phase, you ask!)



PHASE TWO. The "second phase" will begin December 2005 for licensees with a January 2006 birth month. In phase two, I begin to send out the renewal notices/affidavits on a monthly basis

(in December for January, January for February, etc.). Licensees will have 30-45 days to submit their payments and signed renewal notices. Here are the fees to be submitted and CE hours to report regardless of which month you were born.

- ◆ Active license - \$300 and 20 hours CE

- ◆ Limited Active license - \$225 and 6 hours CE
- ◆ Inactive license - \$175 (no CE)

Some of you may be expecting the fees or CE to be prorated (again) but that was only necessary during the June/July renewal. The above requirements will get you licensed to practice for the 12 months following your birth month. THEN the transition is complete.

We happily say goodbye to the once-a-year license renewal - Yay! (Ok with much more enthusiasm - Yippee! Yahoo! and Woohoo too!)

Chiropractic Assistant Corner

By Kelly Bird

Good News! There is now a listserve for chiropractic assistants, office managers and billing staff. If you have not yet accessed this valuable resource, today is a good time! As Johna Hicks (the initiator of this listserve) states, it is for those "who need information about insurance, Medicare, privacy, and other information related to running a chiropractic office. We should all be sharing what we know, and helping each other out..." It is a way for staff to "to post their ques-

tions, concerns and things they discover." Thank Johna and Jacquelynn Wright for setting up this listserve. You can join the group by visiting this web site <http://health.groups.yahoo.com/group/oregonccagroup/> OR you can reach Johna Hicks at this email ancina@easystreet.com and she will help you register as a member.

Inquiring Minds

Want to Know:

Besides hydrotherapy, physiotherapy and electro-

therapy, what other duties may I perform as a CCA?

The following is an excerpt from the Board's Guide to Policy and Practice Questions document (a great resource for many other policy and practice issues you may encounter). This list is not intended to be all-inclusive.

- ◆ Clarify initial patient intake history, which includes recording height, weight, and blood pressure, temperature,

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Subpoenas for Patient Records



Board President Jim Wilkens presents OBCE Plaques of Appreciation to outgoing board members Jan Nelson (public member) and Kathleen Galligan, DC.

Chiropractic Assistant Corner

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- ◆ Record hand dynamometer readings.
- ◆ Facilitate provision of cervical pillow or support as recommended by the doctor.
- ◆ Perform postural screenings under the on-site supervision of a chiropractor, but only a Chiropractor may interpret the information.

By Lori Lindley

Assistant Attorney General

As part of your job description as a chiropractor or CCA, you come in contact with patient records on a daily basis. You are also called upon to provide records to patients and third parties in a variety of circumstances. This article is intended to give you some basic information in regards to records and what obligations you have.

Oregon Administrative Rule (OAR) 811-015-0006 obligates a chiropractor to provide within a reasonable time (see related article) to a patient or third party upon the patient's written release, copies or summaries of medical records and originals or copies of the x rays. But, what if you didn't get a release but instead received a subpoena?

The Oregon Rules of Civil Procedure 55 provides that a subpoena may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents or tangible things in the possession, custody or control of that person at a specified time and place. The rule provides that the service of the

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subpoena should be provided 14 days prior than the date set for the records to be produced. The subpoena must be served upon the party or attorney designated if appropriate. If the person who is served objects to the subpoena, the party serving the subpoena cannot inspect the documents until the Court issues an order. There are a few options at this point. The party attempting to get the information may go to court and motion the court to compel the information sought in the subpoena. Or, the party that objects to the subpoena may move for an order to quash the subpoena. Of course, to quash the subpoena you must have legal grounds to quash; for example, there was not adequate notice given or the records are exempt from public disclosure as examples.

The OAR anticipates that subpoenas will be issued to chiropractors. In subsection (1)(b) of that rule it provides that 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. The ability of a party to subpoena is supported by State Law.

Most commonly, you will receive a subpoena from a lawyer involved in

a personal injury or civil suit, attempting to gain medical records on a prior patient. A good defense attorney will attempt to get their hands on all prior medical records on a plaintiff in a suit. If that suit is a valid suit, filed in a court within the State of Oregon, and the subpoena is served timely with the appropriate witness and mileage fees, it's likely a valid subpoena under the laws of this state. As a practitioner, you are obligated to follow the laws of this state, and responding timely to a subpoena is required by law.

However, according to the Oregon State Bar (Bulletin, November 2003) if a litigant seeks to obtain medical records through the use of a subpoena, the litigant must attach to the subpoena either a qualified protective order or an affidavit which certifies: (1) the litigant made a good faith effort to provide 14 days notice to the subject of the medical records prior to the release, (2) that the individual did not object, or all objections had been resolved, and that the information sought is consistent with the resolution and (3) that the litigant will promptly allow inspection and copying of the records received on request.

In the event you are served with a subpoena for

patient records, we strongly recommend you seek legal counsel.

In another instance, if you are requested to provide records to the Oregon Board of Chiropractic Examiners in relation to a complaint or discipline matter, under ORS 684.150 the Board has authority to request that you appear and produce documents and records pertaining to the complaint. (This authority is also recognized in HIPAA rules.) Failure to provide the Board with records they request or failing to cooperate with the Board during an investigation is deemed unprofessional conduct pursuant to ORS 684.100(1)(g) and OAR 811-035-0015(19) and (20). Thus, ignoring the Board when records are requested is not a wise decision.

Let's turn the tables; what if the Board is subpoenaed for information on discipline cases from another person. What does the Board do? The Board is obligated by law to provide copies of the public records. Pursuant to ORS 676.175 the Board must disclose a notice of intent to impose disciplinary sanction, a final order that results from the notice of intent; an emergency suspension order, and a consent order or stipulated agreement that

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Should Oregon keep or drop the state OB-GYN Exam?

At their July 2005 meeting, the OBCE discussed correspondence from Lester Lamm DC, WSCC Vice-President for Student Affairs. Dr. Lamm says students frequently ask why the OBCE requires a separate state OB-GYN examination when this subject matter is addressed in the NBCE's Part II examination? Dr. Lamm states,

"In light of the remarkable requirements outlined in the (laws and rules) regarding the practice of chiropractic obstetrics, it seems that applicants for chiropractic licensure would be better served if the OB/GYN portion of the (state) examination were reserved for those who qualify to practice these procedures."

During discussion, board members noted this was discussed extensively in 2001, prior to the project which updated all three of the Oregon Specific Examinations*. They agreed that while there was sentiment and reasons to drop the state OB-GYN exam, there was a

strong feeling within some parts of the profession that to do so would jeopardize this part of Oregon's chiropractic scope of practice. As in 2001, the board said this perception would have to be addressed first.

Here are some facts and history concerning this issue:

The OB-GYN test has traditionally been part of the chiropractic examination in Oregon. The OBCE kept this state test as they accepted National Board of Chiropractic Examiners examinations Parts I — IV which were instituted over a period of years.

The chiropractic natural childbirth rule (811-015-0030) was amended in August 2000 to have certification requirements comparable to those for naturopathic doctors. These require 200 hours in obstetrics and natural childbirth, and participation in care of 50 women in both prenatal and postnatal periods, and observation and assistance in

intrapartum care and delivery in 50 natural childbirths.

Currently only four Oregon DCs are certified to attend and assist in natural childbirth, and all of these were originally certified under the previous administrative rule. No DCs have sought certification under the revised rule.

An informal OBCE survey revealed in 2001 that many Oregon DCs believed this is a scope of practice issue. The OBCE Rules Advisory Committee recommended keeping the test in November 2001.

The OBCE considered a proposed rule to drop the OB-GYN test at their November 15, 2001 meeting, but decided not to. They were swayed by the argument that elimination of this examination would be interpreted by the Legislature as a change in the scope of practice, and said this perception would have to be addressed first. At the OBCE rule hearing, 13 DCs offered testimony opposed to dropping the OB-GYN exam and 3 supported.

Oregon is unique in that it is the only state which has its own state OB-GYN examination. This is a 50 question multiple choice test which covers obstetrics, gynecology, genitourinary and general female health issues.

AAG: Subpoenas for Patient Records CONTINUED FROM PAGE 12

involves a licensee or applicant conduct. Those are the documents the Board may release to anyone on behalf of the public requesting information. The case files of the Board are not open for public scrutiny.

They are confidential under ORS 676.175. In addition, ORS 192.502(9) provides that information restricted by law or otherwise made confidential is exempt from public disclosure under the public records law.

CONTINUED ON PAGE 14

On the state OB-GYN Exam

CONTINUED FROM PAGE 13

An average of 22% fail this exam on the first try. A very small number have failed it several times.

NBCE Parts I & II contain approximately 16-20 questions relative to obstetrics and gynecology. (Horace C. Elliot, NBCE Ex. Dir., letter, August 27, 1997)

Here is a sampling of comments received in 2001:

“Oregon’s unusual practice act has historically been a center of controversy — Personally I treat many pregnant patients during their term, providing advice and spinal care. Childbirth is a major part of every chiropractic practice, perhaps we do not perform gynecological exams or deliver the child, but we do treat the patient. OB-GYN is part of every individual doctor who has ever practiced in Oregon. Who knows what the future practice of chiropractic will be 50 years from now? Natural childbirth at home may be as common as it was 100 years ago. We should preserve our present for our possible future.”

Roger Setera DC

“By eliminating differences between the states’ requirements, we achieve greater unity as a profession, and greater unity in the eyes of the public we serve. A licensed chiropractor ought to be able to move freely between the states. Does pro-

tecting .004% of doctors of chiropractic in Oregon seem to you reasonable in regard to the majority? Because a doctor electing to practice obstetrics in the state must pass further requirements to do so, the test upon admittance is redundant.”

Patrick Lynn Hart DC

“Based on my experience from taking the national exam and the Oregon exam, I feel the national exam did not cover this topic as extensively as the Oregon exam — Oregon’s historical broad-scope practice must continue forward and not backward as chiropractic continues to gain more acceptance.”

**Miven B. Donato, DC
PT, MOMT, OCS**

“OB-GYN should be kept within the chiropractic scope of practice. The specific examination should be dropped in favor of an optional examination for those interested in providing such services within their practice. As an example, the Arizona Chiropractic Board offers separate and optional examinations in physiotherapy as well as acupuncture after meeting specific requirements of training in those areas.”

John A. Partmann, DC

*The Oregon Specifics Examinations consist of OB-GYN, Minor Surgery/Proctology, and Ethics & Juris-

prudence. The Minor Surgery/Proctology exam is not addressed in this discussion because there is no NBCE test that cover this. The OBCE is required to test to the full scope of practice, thus dropping this is not an option. Also, there is no certification requirement for gynecology as there is for natural childbirth.

Peer Review Appointments

Drs. Christine Robinson, Steve Koc, David Corll, and Todd Bilby were appointed to the Peer Review Committee at the OBCE’s July meeting. Six applicants were interviewed. They join current members Drs. Bonnie Malone, Elizabeth Dunlop, Michael Burke and Bradley Pfeiffer.

Dr. **Robinson** practices in Phoenix, OR, which is halfway between Grants Pass and Ashland and is the town’s only doctor. She graduated from Los Angeles Chiropractic College and is also a member of the OBCE Administrative Rules Advisory Committee.

Dr. **Koch** has practiced in Salem since 1998 and is a Life Chiropractic College graduate. He previously practiced in California where he assisted their board as an exam commissioner and also in peer review where he reviewed complaints and made recommendations for appropriate action.

Dr. **Corll** practices in Wilsonville and is a Western

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Record keeping proposals

The OBCE and the Administrative Rules Advisory Committee are considering changes to the Oregon Administrative Rule (OAR) 811-015-0005. Vigorous discussion has whittled the proposals down to two essential concepts.

1) "If the treating chiropractic physician is an employee or associate, the duty to maintain original records shall be with the chiropractic professional corporation/business entity that employs or contracts with the treating chiropractic physician."

This clarifies where the primary responsibility lies. However, it is highly recommended that employing chiropractors and employee/associates enter into written agreements to clarify their expectations and working relationship. If a former employee/associate DC needs to access patient records to respond to a complaint or legal action they need either a records release or a sub-

poena.

2) "The responsibility for maintaining original patient records may be transferred to another chiropractic professional corporation/business entity or to another chiropractic physician as part of a business ownership transfer transaction."

Chiropractors have been selling their clinics to other chiropractors and along with that the responsibility to maintain original patient records for years. While this practice has always been accepted by the OBCE, there is no provision for this in administrative rule.

The OBCE and the Administrative Rules Advisory Committee will review this proposal one more time before beginning the formal rulemaking process. This includes further public comment and a hearing before the OBCE. Your thoughts on this subject are appreciated. Email the OBCE at oregon.obce@state.or.us

Peer Review Appointments

CONTINUED FROM PAGE 14

States Chiropractic College graduate. He has a law enforcement background in New Mexico which included investigations, documentation, and testimony.

Dr. Bilby practices in Corvallis, Oregon and is a Palmer West graduate. He begins service on the Peer Review Committee as an Observation member, and will fill one of the seven positions the next time there is a vacancy.

Other appointments

Drs. David Ager (Klamath Falls), John Collins (Newberg) and Western States Chiropractic College student Michelle Waggoner have been appointed to the Administrative Rules Advisory Committee. OBCE Board member Michael Vissers has been appointed to the Educational Manual Steering Committee.

Education Manual FROM PAGE 9

This chapter has several useful tables. They are Table 1: Guidelines for Chiropractic Utilization of Radiographic Studies, Table 2: Minimum Standard Views for the Axial Skeleton, Chest, and Abdomen; Table 3: Minimum Standard Views for the Extremities, and Table 4: Comparison of Imaging Procedures.

The topic of videofluoroscopy was especially challenging and took four Delphi rounds to address all the issue raised by reviewers, a comprehensive literature search, and special seed panel dedicated to this topic. The result provides a balanced view based on the most recent clinical research, that recognizes, "Videofluoroscopy (VF) is a modality that enables clinicians to view dynamic, real-time imaging of anatomy and function... is not typically utilized as an initial imaging procedure. It may be used as a follow-up to demonstrate abnormal joint mobility that is suspected clinically but not adequately substantiated by other diagnostic studies."

The Record Keeping Chapter is undergoing Delphi review, and when ultimately approved will replace the current chapter in the Oregon Chiropractic Practice and Utilization Guidelines. The Patient Safety Seed Panel (former Contraindications & Complications) is currently meeting and reviewing literature.

BackTalk

Newly Licensed DCs

3/11/05 through 9/26/05

Cameron J Belnap	Bobby W Jones
Guillermo J Bermudez	McCoy D Kanistanaux
David C Blakely	Stephen P Lowe
Gretchen K Blyss	Alfredo C Macedo
Donald K Bojnowski	Joseph G Maier
Michael F Bryant	Chris A McAvin
Mary Kate Connolly	Melissa B McMullen
Travis J Davis	Brandon L Nielsen
Kimberly L DeAlto	William A Parker
Jonathon T Douglas	Dawn S Seater
Tara E Douglas	Fred E Seater
Evan Ginsberg	On J Shin
Wayne A Grisso III	Kelly B Staron
Daniel O Halko	Jeffrey K Tunick
Steven A Hanson	Clay D Warren
Michael L Hopkins	Andrew D Winn
Wen Pin Hou	Christina N Yogerst
Ian M Jarman	~o000o~



BackTalk

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