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.

**RULE CAPTION**

Draft 4 Proposed amendments to clarify minimum requirements for clinical record keeping and documentation

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

<table>
<thead>
<tr>
<th>Hearing Date</th>
<th>Time</th>
<th>Location</th>
<th>Hearings Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-22-14</td>
<td>2:00 p.m.</td>
<td>University of Western States, Hampton Hall, 2900 NE 132nd Ave,</td>
<td>Daniel Cote, Board Chair</td>
</tr>
</tbody>
</table>

**RULEMAKING ACTION**

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

**ADOPT:**

**AMEND:**

OAR 811-015-0005 Records

**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 684.155(1)(b), 684.150, 684.100(1)(f)(A)

**RULE SUMMARY**

Draft 4 Proposed amendments to clarify minimum requirements for clinical record keeping and documentation

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.

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*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.*
Draft 4 Proposed amendments to clarify minimum requirements for clinical record keeping and documentation

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)
In the Matter of:
Proposed Amendments to OAR 811-015-0005 Records

Statutory Authority:
ORS 684

Other Authority:

Statutes Implemented:
ORS 684.155(1)(b), 684.150, 684.100(1)(f)(A)

Need for the Rule(s):
Changes in reimbursement codes (ICD 10) and increasing expectations for effective clinical practice have increased the need for the OBCE to clarify the expected minimum standards and requirements for patient clinical record keeping and related documentation. These clarified requirements are needed to properly guide and instruct the professionals and give the OBCE a more definitive standard by which to evaluate the presenting clinical, practice issues and complaints.

Fiscal and Economic Impact:
The fiscal impact to the OBCE is undetermined since we don't if clarified minimum requirements would increase or decrease resulting complaints or contested cases. Those chiropractic physicians with below standard or otherwise have minimally detailed record keeping will have to expend additional time and effort to maintain appropriate patient record documentation or in some case invest in record keeping systems that assist them in this regard. The current demands of practice and the marketplace are already causing practitioners to make these improvements.

Statement of Cost of Compliance:
1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
Indefinite. There would be a positive impact to the public by improving the effectiveness of administrative rules governing chiropractic. There would not appreciable impact on other state agencies or units of local government.

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:
   Chiropractic small businesses may benefit from clarification of minimum standards. See Fiscal and Economic impact above. Otherwise, this is unknown.
   a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: There are an estimated 1,600 Oregon chiropractic physicians with an active license.
   
   b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
The Board may in the future require continuing education in record keeping/documentation as it did in 2013. Compliance checks are done in conjunction with review of complaints and doctors who are subject to monitoring, mentoring and file reviews. All licensees have a Duty to Report suspected violations of ORS 684 or OAR 811, so reporting of violations can occur with any reviewer of a patient's clinical record or documentation.

   c. Equipment, supplies, labor and increased administration required for compliance:
The rule is not expected to increase these costs for the agency.

How were small businesses involved in the development of this rule?
The rule is being issued for public comment and, the licensees are being informed via the Board's email publication list and web site. The
OBCE Administrative Rules Advisory Committee will review this at their March 13, 2014 meeting, and possibly future meetings.

**Administrative Rule Advisory Committee consulted?:** Yes

**If not, why?:**

<table>
<thead>
<tr>
<th>Last Day (m/d/yyyy) and Time</th>
<th>Printed Name</th>
<th>Email Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>05-22-2014 2:00 p.m.</td>
<td>Kelly J. Beringer</td>
<td><a href="mailto:kelly.beringer@state.or.us">kelly.beringer@state.or.us</a></td>
</tr>
</tbody>
</table>

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.
Record Keeping Rule update, Draft 34
(See checklist on page 4.)

OAR 811-015-0005

Records

(1) **Failure to keep complete and accurate records on all patients shall be considered unprofessional conduct**, not to keep complete and accurate records on all patients, including but not limited to case histories, examinations, diagnostic and therapeutic services, treatment plan, instructions in home treatment and supplements, work status information and referral recommendations.¹

(a) Each patient shall have exclusive records which shall be **sufficiently detailed and legible, clear, legible, complete and accurate**², 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 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)³ Clear, legible, complete and accurate records contain the following:

   (4A) A description of the chief complaint or primary reason the patient sought treatment from the licensee.

   (2B) Documentation of any significant event that affects the chief complaint of the patient or the general history of the health of the patient.

   (3C) 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.

¹ These are incorporated into subsection “c”
² This is merely amplifying existing language, and incorporating material from the Nevada rule.
³ This is taken largely from the Nevada regulations, but slightly reformatted
Board of Chiropractic Examiners revised RAC recommendations (3/17/14)

4 Relevant information concerning the patient—excluding but not limited to height, weight, blood pressure—(i.e., vitals).

5D Documentation of informed consent for examination and treatment.

6E Financial information, including but not limited to billing agreements, billing records, ledgers, and billing forms (i.e., CMS 1500s).

7F Other clinically relevant correspondence including but not limited to billing and payment, telephonic or other patient communications, referrals to other practitioners, and expert reports.

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

3 A patient's original records shall be kept by the Chiropractic physician a minimum of seven years from the date of last treatment. There is no requirement to keep any patient records older than seven years; except if the patient is a minor, the records shall be kept seven years or until the patient is 18 years of age, whichever is longer.

(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.

Stat. Auth.: ORS 684
Stats. Implemented: ORS 684.155
Record Keeping Compliance Checklist

This checklist is provided to assist Oregon licensees in assuring their compliance with chiropractic health care records regulations. Records…

☐ Are clear, legible, complete, and accurate

☐ Include a description of the chief complaint for which the patient sought treatment from you.

☐ Include documentation of any significant event that affects the chief complaint of the patient.

☐ Include the general history of the health of the patient.

☐ Include documentation of informed consent.

☐ Include an accurate record of the examinations and the results of those Examinations including vitals if taken.

☐ Include an accurate record of the diagnoses.

☐ Include an accurate record of the plans for treatment of the patient and any changes in those plans and the reasons for those changes.

☐ Include an accurate record of the areas of the body of the patient on which you performed chiropractic adjustment.

☐ Include an accurate record of the dates on which you provided chiropractic services to the patient.

☐ Include an accurate record of the response of the patient to treatment

☐ Identify each entry by day, month, year, provider of service and author of the record.

☐ Contain (or be available upon valid request) financial information, including but not limited to billing agreements, billing records, ledgers, billing forms (i.e. CMS 1500s).

☐ Include other clinically relevant correspondence including but not limited to billing and payment, telephonic or other clinically-relevant patient communications, referrals to other practitioners, and expert reports.

☐ Are kept for at least seven (7) years and if a minor, also until age 18.