

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Board of Chiropractic Examiners

Agency and Division

Chapter 811

Administrative Rules Chapter Number

Dave McTeague, Executive Director

Rules Coordinator

3218 Pringle Rd. SE, Suite 150, Salem, OR 97302-6311 (503) 378-5816

Address

Telephone

March 18, 2010

Hearing Date

9:30 a.m

Time

Eugene Hilton, 66 East 6th Avenue, Eugene, Oregon, United States

Location _____ Conference Room

Dave McTeague, Executive Director

Hearings Officer

Are auxiliary aids for persons with disabilities available upon advance request?

Yes

No

RULE CAPTION

Establishes requirements for chiropractic pre-payment plans to address escrow accounts, refunds and treatment plans.

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

RULEMAKING ACTION

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

ADOPT: **811-015-0002 Fees (New Proposed Section)**

AMEND:

REPEAL:

RENUMBER:

AMEND & RENUMBER:

ORS 684

Stat. Auth.

Other Authority

ORS 684.155 (b)

Stats. Implemented

RULE SUMMARY

Establishes requirements for chiropractic pre-payment plans to address escrow accounts, refunds and treatment plans.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

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

Original signature on file at OBCE _____

March 18, 2010

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

Dave McTeague, OBCE Executive Director

Printed name

12/21/09

Date

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday upon which the deadline is 5:00 pm the preceding workday.

ARC 920-2005

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

Oregon Board of Chiropractic Examiners (OBCE)
Agency and Division

Chapter 811
Administrative Rules Chapter Number

In the Matter of:

Adoption of new Rule: 811-015-0002 Fees (New Proposed Section)

Rule Caption: Establishes requirements for chiropractic pre-payment plans to address escrow accounts, refunds and treatment plans.

Statutory Authority: ORS 684

Other Authority:

Stats. Implemented: ORS 684.0155 (b)

Need for the Rule(s):

Need for the Rule: The OBCE has reviewed recent consumer complaints and have noted the lack of consumer protections and clarity in many of the pre-payment plans currently offered in Oregon. Some patients have been dissatisfied that they were billed for unused portions of their plans and/or were unable to obtain a refund for unused services. Other chiropractic licensing boards, such as New Mexico, have addressed this issue in administrative rule.

Documents Relied Upon, and where they are available:

Oregon Administrative Rules 811. Delegate's report from the Federation of Chiropractic Licensing Boards. Existing rule language from New Mexico. Available upon request from the OBCE office.

Fiscal and Economic Impact, including Statement of Cost of Compliance: The fiscal impact to the agency is minimal for the initial professional education phase. There is the possibility that complaints will be filed alleging rule violations which would have to be investigated, some of which could result in a contested case proceeding. The cost of compliance for chiropractic clinics is also unknown, but would likely involve consultations with legal counsel to draw up pre-payment contracts which are in compliance with a new rule. Billing staff would have to be trained to understand and communicate the new requirements to patients and others.

How were small businesses involved in the development of this rule? A public notice is being sent to the OBCE's public notice mailing list and chiropractic clinics are represented on the OBCE Rules Advisory Committee.

Administrative Rule Advisory Committee consulted?: The OBCE Rules Advisory Committee is meeting to review prior to public hearing on March 18, 2009.

Original signature on file at OBCE

Dave McTeague, OBCE Executive Director
Printed name

12/21/09
Date

DIVISION 15

CONSUMER PROTECTION

811-015-0002 Fees (New Proposed Section)

Pre-Paid Treatment Plans:

1) Chiropractic physicians accepting pre-payment for services planned but not yet delivered must establish an escrow account to hold all pre-payment funds.

(a) Funds may be removed from the escrow account following the delivery of services in such amounts equal to the chiropractors usual and customary charges for like services with any discounted percentage contained in the pre-paid agreement for the contracted treatment plan.

(b) Funds received in advance of the day that services are delivered must be deposited into the escrow account in a timely manner.

2) The patient's file must contain the proposed treatment plan including enumeration of all aspects of evaluation, management and treatment planned to therapeutically benefit the patient relative to the condition determined to be present and necessitating treatment.

(a) The patient's financial file must contain documents outlining any necessary procedures for refunding unused payment amounts in the event that either the patient or the doctor discharges the others services or therapeutic association.

(b) The treatment plan in such cases where prepayment is contracted, must contain beginning and ending dates and a proposed breakdown of the proposed treatment frequency, types of modalities and procedures included in the contracted treatment, and methods of evaluating the patient's progress or serial outcome assessment plan and method of recording or assessing patient satisfaction.

3) A contract for services and consent for treatment document must be maintained in the patient's file. It must specify the condition(s) for which the treatment plan is formulated, prognosis and alternate treatment options.

4) The chiropractic physician is responsible for providing all treatments appropriate and necessary to address and manage the condition including unforeseen exacerbations or aggravations, within the chiropractic physician's licensure, that may occur during the course of time for which the contract is active. This does not include alternative services procured by the patient or treatment by providers other than the treating chiropractor or those under the chiropractor's direct supervision. At any time during the course of the contract, referrals to outside providers shall be made when warranted.

5) 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.