



Oregon

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Oregon Board of Chiropractic Examiners (OBCE)

Public Notice & Newsletter Update

April 21, 2014

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PRESIDENT'S REPORT, DANIEL CÔTÉ DC

Doctors, all,

Well another year has begun and it is flying by already!

In the spirit of spring cleaning the Board has decided to do some rule revisions, please review all of them in this report. We are working to improve our administrative rules, first in the area of record keeping and CA scope of practice. Our intent is to clarify the requirements of minimal clinical levels and to work our way towards an expanded scope for the C.A.'s. We truly value and need your input along with the public comments we receive, it allows for very important insight that the Board cannot see otherwise.

The chiropractic profession continues to grow; we now have 1604 Active DCs, and up to 1,477 chiropractic assistants. We are very happy to announce that starting this month; we now have online DC license renewal available for your use. Also please note that if for some reason a CA misses the renewal deadline of July 31st, we now have a late penalty provision which allows for delayed renewal instead of having to start the application process all over again.

Members of the Board, the PRC and staff recently met with 50 newly licensed DCs, many of whom have practiced in other states. We also appreciated the Oregon Chiropractic Association's presentation to these new Oregon licensees to help explain their important role of advocacy for the profession and that the OBCE's primary mission is public protection.

Get ready to serve! Yes, note that we have several board committees: Administrative Rules Advisory

Committee, ETSDP (devices & procedures) as well as Peer Review that need new members. If you have an interest in participating, let us know.

Also I was just informed that the appointment of a replacement Board member will be delayed until September, it appears that the Governor's office had too many Board positions to fill and they had to separate the appointment process in two. We need one Chiropractic physician and also one public member. So if you feel you could help please apply; if you know a solid, intelligent, independent thinking person ask them to apply to the Board. If you have questions about the requirements and the work involved in serving on the Board please call me or email me.

This bring me to the good byes,

First, thank you to Dr. Christine Robinson for three solid years of service as a board member, thoughtful point of views and your sharp analysis of each situation is what we will miss. Second, thanks to Mr. Douglas Dick, a 6 year veteran of the Board as a public member, he has given us great insight from the consumer perspective and utilized his regulatory experience in construction business to the point. Both of you will be missed.

Last, Dave McTeague is retiring as our Executive Director, after almost eighteen years of dedicated service to the profession. He will leave big shoes to fill. Dave's knowledge and fervor towards Chiropractic goes far beyond the job description, so if you get a chance, thank him, it's a difficult job and he has made it look easy. We are currently in the recruiting and hiring process, which could go on for a while.

I think that covers it. Have a great spring and a warm summer

Daniel Côté DC
President OBCE

OBCE MAY 22ND BOARD MEETING & PUBLIC HEARING ON RULE AMENDMENTS.

The Board's May 22, 2014 meeting will be held in Hampton Hall conference room at the University of Western States, 2900 NE 132nd Avenue, Portland, Oregon. The Public meeting will begin at 1:00 p.m. or following Executive Session. This meeting will have a public hearing and possible final action on the two rules proposals listed below.

The Board's Executive Session will begin at 8:30 a.m. to review health professional license investigations (ORS 192.660(2)(j)), contested cases, personnel matters and receive legal advice (ORS 192.660(2)(h)). The Board will vote in Public Session on "In The Matters Of." The OBCE public agenda will be posted on the OBCE Web page two weeks prior to the meeting.

Public Rulemaking Hearing, 2:00 p.m., May 22, 2014 before the OBCE:

Record Keeping rule, OAR 811-015-0005. The OBCE has voted to enter into permanent rulemaking for the purpose of making the minimum requirements for clinical record keeping more explicit. The Nevada rule language and checklist provided a template which the Administrative Rules Advisory Committee and Board refined at their recent meetings. The checklist is not a formal part of the rule.

Chiropractic Assistants, OAR 811-010-0110. The current rule Draft 2 is focused on allowing CAs to take vitals, such as height, weight, blood pressure, temperature, pulse, respiration and/or body fat percentages.

The Notices of Proposed Rulemaking and rule drafts can be found on the OBCE's Home page at: <http://www.oregon.gov/OBCE>. Public comment may be sent to the Board's email address at oregon.obce@oregon.gov, faxed to (503) 362-1260, or mailed to the Board's address at 3218 Pringle Road SE, #150, Salem, Oregon 97302.

Further Discussion on the Chiropractic Assistant Rule. While the Board may adopt this limited amendment on May 22nd, they have also created an ad-hoc committee to discuss and possibly propose other changes to the CA rule that could require a minimum amount of training for those performing massage therapies, and/or propose a higher level of certification generally with an expanded scope requiring a higher level of initial training. A meeting is planned soon. Watch our Home page for the announcement.

Dry Needling Rule Repeal. The Oregon Court of Appeals invalidated OAR 811-015-0036. The Department of Justice Appellate Section declined to file an appeal and the other parties to the case did not file an appeal. The OBCE now needs to remove and repeal this rule and has filed a rules notice to do so at their May 22nd meeting. This notice is on the Home page.

JUDGE ISSUES PERMANENT INJUNCTION AGAINST UNLICENSED PRACTICE OF CHIROPRACTIC, ARREST MADE

Klamath Falls resident Christopher McCutcheon has again been told to stop practicing chiropractic health care by Klamath County Circuit Court. On March 23rd, the OBCE's legal counsel (from the Department of Justice's Trial Division) requested and was granted a permanent injunction against McCutcheon's unlicensed practice. The previous Friday, he he was arrested and arraigned on a Misdemeanor charge of unlicensed chiropractic practice in the City of Klamath Falls. His clinic appears to be closed at this time. McCutcheon had argued his business was a private health association exempt from professional licensure laws, a proposition rejected by the Court. http://www.heraldandnews.com/email_blast/article_d9f8e116-b3dd-11e3-a33a-001a4bcf887a.html

FUNCTIONAL CHIROPRACTIC NEUROLOGY

Following review by the OBCE's ETSDP Committee, the Board approved the following statement at their March 17th meeting:

“The Board recognizes functional chiropractic neurology procedures and protocols as “standard” as per the Board's ETSDP rule. All chiropractic physicians who advertise that they hold special certification or training must be able to support those advertising claims with credible evidence.”

The Board's March 17th meeting minutes summarize the discussion. http://www.oregon.gov/obce/pages/pub_mins.aspx
To read the Oregon Chiropractic Association's petition and request go to: <http://www.oregon.gov/OBCE/Pages/ETSDP.aspx>

PUBLIC PROTECTION REPORT UPDATE

The Board's report showing all recent and proposed board actions between February 19, 2013 to April 14, 2014 can be found at: <http://www.oregon.gov/OBCE>

TWO NEW ADMINISTRATIVE RULES

Clinic Ownership Responsibility:

Unprofessional Conduct in the Chiropractic Profession OAR 811-035-0015 (new section) (25) 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 supervision, management and training of ancillary staff or other persons including, but not limited to, chiropractic physicians, student interns, chiropractic assistants and/or others practicing under the licensee's supervision. Chiropractors with supervised staff may be held responsible, entirely or in part, for undue influence on staff or a restriction of a supervised chiropractic physician from using their own clinical judgment.

Clinic Ownership Responsibility Rule, Policy and Intent statement:

The purpose of OAR 811-035-0015 (25) is to hold chiropractic clinic owners broadly responsible for the overall conduct of their clinic or clinics. This responsibility is already inherent in ORS 684.100(1)(f)(A) & (B), but more explicitly defined with this rule and policy. For example if the licensee owner's clinics have engaged in a consistent pattern of excessive treatment, that licensee would be in violation of this and other rules. Clinics that have only 'on the job' training, no written policies or procedures, and no process for ensuring patient safety and continuity of care when multiple doctors treat the same patient would be indicators of inadequate supervision. To the extent the licensee owner has fulfilled his/her fiduciary responsibilities for supervising and training a multi clinic practice or an individual clinic, that is an affirmative defense in the event an individual employee commits a violation of law or rule. This rule does not apply to chiropractic colleges as they are not described in OAR 811-010-0120.

File Review Records Must Be Kept

Records OAR 811-015-0005(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....

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

ADMINISTRATIVE RULE AND LAW REMINDERS

Doctor's Title Act, ORS 676.110

This law and rule requires chiropractic and multidisciplinary clinics to indicate the health care profession on all advertising. A reference to chiropractic, chiropractor, or DC needs to be on all advertising and/or written materials. If a clinic's signs says "Back and Neck Center" immediately with or adjacent to it needs to be, "Joe Smith DC" or something that says chiropractic in letters no less than ¼ the size of the large letters in the sign, advertising and other written materials. For more explanation and a review of the

OBCE's laws, rules and policies concerning advertising, see Current Topics on the homepage at: <http://www.oregon.gov/OBCE>.

Patient Record Identifiers

The Board brings this rule to everyone's attention, as it is common to see patient files that are not adequately identified.

OAR 811-015-0005(1)(b) Records _

- 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.

For the full text of OAR Chapter 811 (Chiropractic) Division 15, Consumer Protection, go to: http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_811/811_015.html

Pre-Paid Treatment Plan rule

In 2013, the Board adopted amendments to the [Pre-paid and Contracted Treatment Plans](#) rule, effective as of August 2, 2013. The changes strengthen the requirement that the refund policy be more clearly explained and include a table that shows patients clearly what the refunds would be. Further explanation is under Current Topics on the Home page

OBCE'S NEW ONLINE DC RENEWAL SYSTEM

The Oregon Board of Chiropractic Examiners has gone LIVE with its Online License Renewal application!!

ONLY "eligible-to-renew" Doctors of Chiropractic are able to access the application. In other words, if you are 45 days or less from your Renewal Date (last day of your birth month), OR you are past due to renew, you are "eligible." Note: IF you have an address outside the United States, you will not be able to renew online.

The web application is user-friendly, provides all the instruction you need, and provides for secure payment processing.

Online renewal for Chiropractic Assistants is not available at this time, BUT it is in the works!

DCs: NO SPECIFIC MANDATED CE REQUIREMENT FOR 2014, USUAL HOURS REQUIRED

Given all the changes taking place, the Board decided not to mandate any specific continuing education topics for licensure renewal in calendar year 2014. The Board very much appreciated the high compliance and the quality of the programs offered for the record keeping CE required in 2013.

CA RENEWAL CHANGES *(Please CAs and clinics, renew your CAs early this year.)*

The Chiropractic Assistant renewal fee will be \$75 in 2014. Notices for CA renewals will go out by June 1. There is also now a 30 day grace period for chiropractic assistant renewal. However, when a CA's certificate expires on August 1, they can still legally practice for 30 more days, but to renew in that period they have to pay a \$75 renewal fee plus the \$25 delinquent fee. After that they must cease

practice. They can still renew and get their certificate reinstated with payment of their renewal fee plus a \$50 delinquent fee for up to one year post their July 31 renewal date. After that they must go through the application process from the beginning.

Benefits to the CAs is they can get their certificate reinstated easier and at less cost than having to reapply, retake the initial training course and retake the CA examination. Benefits to the OBCE is less processing of CA issues when certificates expire and less processing of initial CA applications.

(At this time we can't say for sure we'll have CA Online Renewal up and running, but if we do, we'll let everyone know!)

CURRENT LICENSE STATISTICS

First Year Initial DC Active Licensees	108
Senior Active DC Licensees	313
Regular Active DC Licensees	<u>1184</u>
Total Active DCs	1604
Inactive DC Licensees	335
Certified Chiropractic Assistants	1477

Active DCs have seen slow steady growth overall. Senior Active DCs have increased even more, as the baby boomer generation is reaching 60 years of age. We've had a significant increase in CAs, with 66 new CAs in just the last month. There is also a lot of turnover; as much as a third may not renew this summer.

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*For more information contact the OBCE at (503) 378-5816, email oregon.obce@oregon.gov,
Fax (503) 362-1260. The OBCE website is: <http://www.oregon.gov/OBCE/>*