

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

|   |                                     |
|---|-------------------------------------|
| <u>Board of Chiropractic Examiners</u>  | 811                                 |
| Agency and Division   | Administrative Rules Chapter Number |
| <u>Donna Dougan</u>   | (503) 373-1579                      |
| Rules Coordinator   | Telephone                           |
| <u>Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302</u> |                                     |
| Address   |                                     |

**RULE CAPTION**

Pre-Paid Treatment Plan amendments

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

| Hearing Date | Time       | Location  | Hearings Officer |
|--------------|------------|---|------------------|
| 3-21-13      | 10:00 a.m. | OBCE Administrative Offices, 3218 Pringle Rd. SE. Ste 150, Salem OR | Dave McTeague    |

**RULEMAKING ACTION**

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

**ADOPT:**

**AMEND:**

OAR 811-015-0002

**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:**

ORS 684.100

**Statutes Implemented:**

ORS 684.155 (1)(b)

**RULE SUMMARY**

Pre-Paid Treatment Plan amendments

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.

|  |                        |                                 |
|--|------------------------|---------------------------------|
| <u>03-21-2013 10:00 a.m.</u>                       | <u>Donna Dougan</u>    | <u>Donna.Dougan@state.or.us</u> |
| Last Day (m/d/yyyy) and Time<br>for public comment | Rules Coordinator Name | Email Address                   |

|   |
|---|
| <b>FILED</b>                            |
| 2-8-13 11:37 AM                         |
| ARCHIVES DIVISION<br>SECRETARY OF STATE |

\*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 when Notice forms are accepted until 5:00pm on the preceding workday.  
ARC 923-2003

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

Board of Chiropractic Examiners  
Agency and Division

811  
Administrative Rules Chapter Number

Pre-Paid Treatment Plan amendments

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

In the Matter of:

Amend: OAR 811-015-0002 (Pre-Paid Treatment Plan amendments)

**Statutory Authority:**

ORS 684

**Other Authority:**

ORS 684.100

**Statutes Implemented:**

ORS 684.155 (1)(b)

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

Amend: OAR 811-015-0002 (Pre-Paid Treatment Plan amendments)

This is a new rule. Practical experience with these types of cases has informed the OBCE that more explicit rules are needed regarding the refund provisions of this rule

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

public comment from the Administrative Rules Advisory Committee and other public comment.

**Fiscal and Economic Impact:**

Chiropractic physicians using pre-paid treatment plans will have clearer guidelines regarding refunds to patients who have their plans terminated early.

**Statement of Cost of Compliance:**

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

n/a

**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:**

Approximately 1400, Active Chiropractic physicians

**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?**

A public notice will be 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?: Yes**

**If not, why?:**

|  |              |                          |
|--|--------------|--------------------------|
| 03-21-2013 10:00 a.m.                              | Donna Dougan | Donna.Dougan@state.or.us |
| Last Day (m/d/yyyy) and Time<br>for public comment | Printed Name | Email Address            |

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|--|
| <b>FILED</b><br>2-8-13 11:37 AM<br>ARCHIVES DIVISION<br>SECRETARY OF STATE |
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Oregon Board of Chiropractic Examiners

DIVISION 15  
CONSUMER PROTECTION

Proposed amendments are **BOLDED**.

**811-015-0002 Pre-Paid Treatment Plans** **DRAFT 2**

1) Chiropractic physicians may accept pre-payment for services planned but not yet delivered only if they do so in such a way that it does not constitute the practice of insurance.

a) **Chiropractic physicians or clinics who are certified by the Oregon Department of Insurance as Medical Retainer Plans are exempted from this provision.**

b) **Chiropractic physicians are prohibited from submitting billings to third-party payers for services covered by their pre-paid treatment plans. This does not prohibit the patient from submitting their payments for reimbursement.**

2) The patient's file must contain: the proposed treatment plan, the diagnosis or condition being treated, and the duration of the pre-payment plan.

3) 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.

4) The pre-payment plan must include a written explanation on how the unused portion of funds are calculated or prorated should the patient complete care early or discontinue care due to the patient's choice, doctor's choice, moving, or new injury. **The written explanation must be clearly labeled "Refund Provisions" and explained in plain language that is understood by the patient. The explanation must include a table of calculations that illustrates the amount of refunds or amount owed in the event of the pre-paid plan's early termination.**

a) **In event of early termination of a prepayment discount plan by the patient, the maximum fee charged cannot exceed the chiropractor's usual and customary fee for the services rendered.**

b) **In event of early termination of a prepayment discount plan by the chiropractic physician or clinic, the maximum fee charged cannot exceed pro-rated fees as agreed upon in the pre-paid treatment plan.**