

**OREGON BOARD of  
CHIROPRACTIC EXAMINERS**

**REGULATIONS FOR CHIROPRACTORS and  
CHIROPRACTIC ASSISTANTS**



**OREGON REVISED STATUTES**

**&**

**OREGON ADMINISTRATIVE RULE**

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April 2016 printing

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## GENERAL PROVISIONS

**684.010 Definitions.** As used in this chapter:

(1) “Active senior” means a person who:

- (a) Is licensed under ORS 684.054;
- (b) Is at least 60 years of age; and
- (c) Has been in practice for 25 years or more.

(2) “Chiropractic” is defined as:

(a) That system of adjusting with the hands the articulations of the bony framework of the human body, and the employment and practice of physiotherapy, electrotherapy, hydrotherapy and minor surgery.

(b) The chiropractic diagnosis, treatment and prevention of body dysfunction; correction, maintenance of the structural and functional integrity of the neuro-musculoskeletal system and the effects thereof or interferences therewith by the utilization of all recognized and accepted chiropractic diagnostic procedures and the employment of all rational therapeutic measures as taught in approved chiropractic colleges.

(3) “Chiropractic physician” means a person licensed by ORS 677.060, 684.025, 684.100, 684.155 or 688.010 to 688.201 and this section as an attending physician.

(4) “Drugs” means all medicines and preparations and all substances, except over-the-counter nonprescription substances, food, water and nutritional supplements taken orally, used or intended to be used for the diagnosis, cure, treatment, mitigation or prevention of diseases or abnormalities of humans, which are recognized in the latest editions of the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia, official National Formulary, or any supplement to any of them, or otherwise established as drugs.

(5) “Minor surgery” means the use of electrical or other methods for the surgical repair and care incident thereto of superficial lacerations and abrasions, benign superficial lesions, and the removal of foreign bodies located in the superficial structures; and the use of antiseptics and local anesthetics in connection therewith. [Amended by 1953 c.541 §2; 1975 c.492 §1; 1987 c.726 §1; 1995 c.493 §1; 1997 c.264 §4; 2005 c.627 §17; 2007 c.618 §1; 2009 c.697 §9; 2009 c.756 §49]

**684.015 Prohibited practices.** (1) Without first complying with the provisions of this chapter, no person shall:

(a) Practice or attempt to practice chiropractic.

(b) Buy, sell or fraudulently obtain a diploma or license to practice chiropractic, whether recorded or not.

(c) Use the title “Chiropractic,” “D.C.,” “Chiropractor,” “Chiropractic D.C.,” or “Ph.C.,” or any word or title to induce belief that the person is engaged in the practice of chiropractic.

(d) Place upon any door a sign for the purpose of displaying any of the titles mentioned in paragraph (c) of this subsection.

(2) The display of such titles or any of them fraudulently obtained is prima facie evidence that such person is fraudulently engaged in the practice of chiropractic and subject to this chapter.

(3) No person practicing under this chapter shall administer or write prescriptions for, or dispense drugs, practice optometry or naturopathic medicine or do major surgery. [Formerly 684.110]

**684.020 License required to practice chiropractic; exceptions.** (1) Except as provided in ORS 684.107, it is unlawful for any person to practice chiropractic in this state unless the person first obtains and maintains an active license, as provided in this chapter.

(2) Subsection (1) of this section shall not apply to a student of chiropractic engaging in clinical studies during the period of the student’s enrollment in an institution authorized to confer a doctoral degree in chiropractic. The clinical studies may take place on the premises of the educational institution

or in a clinical setting located off the premises of the institution if the facility, the institution staff and the course of study to be pursued off the premises of the educational institution meet minimum requirements for supervision and patient care prescribed by the rules of the State Board of Chiropractic Examiners and the clinical study is performed under the direct supervision of a member of the faculty of the institution. [Amended by 1991 c.892 §1; 1995 c.493 §2; 1995 c.499 §3; 2001 c.598 §1]

**684.025 Application of chapter; rules.** (1) This chapter does not prevent a person licensed under ORS 684.054 from the administration of the anesthetics or antiseptics authorized in ORS 684.010 or the use of radiopaque substances administered by mouth or rectum necessary for Roentgen diagnostic purposes.

(2) Neither this section nor ORS 684.010 authorizes the administration of any substance by the penetration of the skin or mucous membrane of the human body for a therapeutic purpose.

(3) This chapter does not prohibit a person licensed under ORS 684.054 from accepting a referral from a practitioner licensed under ORS chapter 686. The care rendered as a result of the referral must be in writing and in accordance with ORS 686.040 (4) and only as prescribed and diagnosed by a licensee under ORS chapter 686. The applicable standard of care is established under ORS chapter 686.

(4)(a) This chapter does not prevent a person licensed under ORS 684.054 from providing emergency first aid, including administering emergency oxygen.

(b) A person may not administer emergency oxygen unless the person has received training in the administration of oxygen. The State Board of Chiropractic Examiners shall adopt rules that establish training requirements.

(c) As used in this subsection, “emergency oxygen” means oxygen delivered at a minimum flow rate for a specified period of time as determined and regulated by the United States Food and Drug Administration. [Formerly 684.115; 1987 c.726 §4; 1997 c.264 §5; 2007 c.618 §2]

**684.030 Application of public health laws.** Chiropractic physicians shall observe and be subject to all state and municipal regulations relating to the control of contagious and infectious diseases, sign reports of live birth and death, and report all matters pertaining to public health to the proper health officers the same as other practitioners. [Amended by 2013 c.366 §78]

**684.035 Chapter not applicable to other methods of healing.** Nothing in this chapter shall be construed to interfere with any other method or science of healing in this state. [Formerly 684.120]

## LICENSING

**684.040 Application for license; qualifications; fees; rules.** (1) A person applying for a license to practice chiropractic in this state shall apply to the State Board of Chiropractic Examiners on a form and in the manner prescribed by the board. The application must be accompanied by the following nonrefundable fees:

(a) An application fee in an amount established by the board by rule; and

(b) The fee for a criminal records check in the amount established by the board by rule under ORS 181A.195.

(2) Each applicant shall furnish to the board:

(a) Evidence satisfactory to the board of the applicant’s good moral character.

(b) A certificate of proficiency in the fundamental sciences (Part I, taken subsequent to January 1, 1971) issued to the applicant by the National Board of Chiropractic Examiners.

(c) Evidence of successful completion of at least two years of liberal arts and sciences study, in any college or university accredited by either the Northwest Commission on Colleges and Universities or its successor, or a like regional association, or in any college or university in Oregon approved for granting degrees by the Higher Education Coordinating Commission.

(d) A diploma and transcript, certified by the registrar, or other documents satisfactory to the State Board of Chiropractic Examiners evidencing graduation from a chiropractic school or college approved

by the board under the board's academic standards, or from a school accredited by the Council on Chiropractic Education or its successor agency, under standards that are accepted and adopted biennially by the board in the version applied to that school by the accrediting agency.

(e) A statement of any other health care provider license in this state held by the applicant, with identifying information required by the State Board of Chiropractic Examiners.

(3) An applicant meets the requirements of subsection (2)(c) or (d) of this section if the applicant provides the State Board of Chiropractic Examiners with documentation of military training or experience that the board determines is substantially equivalent to the education required by subsection (2)(c) or (d) of this section.

(4) The State Board of Chiropractic Examiners may waive the requirements of subsection (2)(c) of this section for any applicant for a license to practice chiropractic if the applicant is licensed in another state and practiced chiropractic in that state, but the applicant must pass the examination authorized by ORS 684.050 or by ORS 684.052. [Amended by 1953 c.432 §2; 1969 c.191 §1; 1973 c.31 §4; 1975 c.492 §2; 1985 c.354 §4; 1987 c.376 §1; 1989 c.805 §1; 1991 c.300 §1; 1991 c.892 §2; 1995 c.493 §3; 1997 c.264 §6; 1997 c.652 §41; 2005 c.730 §84; 2011 c.637 §286; 2012 c.43 §14; 2013 c.1 §87; 2013 c.514 §1; 2013 c.747 §174]

**684.050 Examination; reexamination fee; rules.** (1) The State Board of Chiropractic Examiners shall conduct examinations for a license to practice chiropractic in this state according to the method deemed to be the most practicable to test the applicant's qualifications.

(2) The board shall give an examination on subjects described in subsection (3) of this section. The board shall determine the passing score. The board shall give an applicant credit for all sections passed. The board may authorize an applicant to retake all or part of an examination upon payment of a fee established by the board by rule.

(3) The schedule of minimum educational requirements to enable a person to practice chiropractic in this state includes:

(a) The basic science subjects of anatomy, physiology, chemistry, pathology and public health and hygiene;

(b) The clinical subjects of physical diagnosis, differential diagnosis, laboratory diagnosis, theory and practice of chiropractic, nutrition and dietetics, physiotherapy, electrotherapy, hydrotherapy, chiropractic orthopedics, written and practical roentgenology, eye-ear-nose-throat, proctology, obstetrics and gynecology, minor surgery, jurisprudence, psychology and office procedure; and

(c) Other subjects that the board may, from time to time, require, except internal medicine and major surgery.

(4) The minimum number of academic hours in an approved chiropractic college may not be less than 4,200 or the equivalent requirement in semester or quarter credits.

(5) The board may recognize a national chiropractic testing agency for grades received in both basic science and clinical subjects. [Amended by 1975 c.492 §3; 1987 c.376 §2; 1991 c.300 §2; 1995 c.493 §4; 1997 c.264 §7; 2007 c.618 §3; 2013 c.514 §2]

**684.052 Use of nationally administered test.** In lieu of an examination in any or all required subjects, the State Board of Chiropractic Examiners may accept a passing grade on a test administered by a national testing agency approved by the board if the test is no less strict than a test administered under ORS 684.050. [1969 c.191 §7]

**684.054 Issuing license; chiropractic assistant; fees; rules; notification of address change required.** (1) Upon complying with ORS 684.040, and earning a passing grade on the examination authorized by ORS 684.050 or 684.052, an applicant shall be licensed as a chiropractic physician upon payment of a fee established by the State Board of Chiropractic Examiners by rule, unless the board refuses to grant the license on grounds specified in ORS 684.100.

(2) A chiropractic physician shall promptly notify the board of any change in the professional address of the chiropractic physician.

(3) After meeting the standards of the board for a chiropractic assistant under ORS 684.155, a person shall be certified as a chiropractic assistant upon payment of an application fee, examination fee and initial certificate fee established by the board by rule. The certificate may be renewed annually upon payment of a fee established by the board by rule. [1969 c.191 §3; 1989 c.805 §2; 1991 c.300 §3; 2013 c.514 §3]

**684.060 Reciprocity; fee; rules.** (1) A person licensed to practice chiropractic under the laws of another state who demonstrates to the satisfaction of the State Board of Chiropractic Examiners that the person possesses qualifications at least equal to those required of persons eligible for licensing under this chapter and who meets the requirements of ORS 684.040 may be issued a license to practice chiropractic in this state without examination upon payment of a fee established by the board by rule.

(2) The board may fix the minimum number of years of practice under the laws of another state required to qualify for a license under this section. [Amended by 1969 c.191 §4; 1991 c.300 §4; 1991 c.892 §5; 2013 c.514 §4]

**684.090 Annual registration; fees; rules; failure to renew license.** (1) In addition to meeting the requirements of ORS 684.092, a person practicing chiropractic in this state shall, on or before the renewal date of each year after a license is issued to the person, pay to the State Board of Chiropractic Examiners an annual registration fee in an amount established by the board by rule and approved by the Oregon Department of Administrative Services.

(2) The maximum annual registration fee for an active senior may not exceed 75 percent of the annual registration fee.

(3) The board, at least 30 days prior to the renewal date, shall mail to the last-known professional address of each licensee a notice of the requirements of ORS 684.092 and that the annual registration fee will be due on or before the renewal date next following.

(4) The annual registration fee is payable only by personal, corporate or certified check, money order, credit card or other electronic method.

(5) If a person holding a license or certificate to practice under this chapter fails to pay the annual registration fee and to show compliance with or exemption from the requirement of ORS 684.092 before the renewal date, the license or certificate expires 30 days after the renewal date.

(6)(a) A license or certificate that is not renewed on time may not be renewed except:

(A) Upon written application and payment to the board of a fee established by the board by rule for the late renewal of the license or certificate; and

(B) Upon compliance with or exemption from the requirements of ORS 684.092.

(b) A licensee who pays the annual renewal fee and shows compliance or exemption within 12 months of the expiration date of the license may not be required to submit to an examination for the reissuance of a license. [Amended by 1957 c.40 §1; 1969 c.191 §8; 1971 c.14 §2; 1974 c.48 §1; 1975 c.492 §4; 1989 c.805 §3; 1991 c.300 §5; 1991 c.892 §6; 1995 c.493 §5; 1997 c.264 §8; 2001 c.598 §2; 2001 c.745 §1; 2007 c.618 §4; 2013 c.514 §5]

**684.092 Completion of continuing education and pain management program required; exemptions.** (1) Except as provided in subsection (3) of this section, a chiropractic physician submitting a fee under ORS 684.090 shall, at the same time, verify with satisfactory evidence the successful completion of approved continuing chiropractic education during the preceding 12-month period as provided in subsection (2) of this section and completion, or documentation of previous completion, of:

(a) A pain management education program approved by the State Board of Chiropractic Examiners and developed in conjunction with the Pain Management Commission established under ORS 413.570; or

(b) An equivalent pain management education program, as determined by the board.

(2) A chiropractic physician submitting a fee under ORS 684.090 shall verify completion during the previous 12-month period of:

(a) At least 20 hours of approved continuing chiropractic education, for a person actively practicing chiropractic.

(b) At least six hours of approved continuing chiropractic education, for an active senior.

(3) The State Board of Chiropractic Examiners may exempt a chiropractic physician from the requirements of subsection (1) of this section upon an application by the chiropractic physician showing by evidence satisfactory to the board that the chiropractic physician is unable to comply with the requirements because of unusual or extenuating circumstances or because no program has been approved by the board. [1969 c.191 §5; 1995 c.79 §345; 1995 c.493 §6; 1997 c.264 §9; 2001 c.987 §16; 2007 c.618 §5]

**684.094 Procedure for approving continuing education courses.** (1) The State Board of Chiropractic Examiners shall require a person seeking approval of a program of continuing chiropractic education to submit proof that the course complies with the continuing education requirements established by the board.

(2) The board may approve any program covering new, review, experimental, research or specialty subjects in the field of chiropractic to be presented by persons reasonably qualified to do so.

(3) Approval granted to a program under subsection (2) of this section shall be reviewed periodically and approval shall be withdrawn from a program that fails to meet the requirements of the board. [1969 c.191 §6; 1991 c.892 §15; 1995 c.493 §7; 1997 c.264 §10]

**684.100 Grounds for discipline of licensee or refusal to license; restoration; suspension; competency examinations; confidential information.** (1) The State Board of Chiropractic Examiners may refuse to grant a license to any applicant or may discipline a person upon any of the following grounds:

(a) Fraud or misrepresentation.

(b) The practice of chiropractic under a false or assumed name.

(c) The impersonation of another practitioner of like or different name.

(d) A conviction of a felony or misdemeanor involving moral turpitude. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, is conclusive evidence of the conviction.

(e) Impairment as defined in ORS 676.303.

(f) Unprofessional or dishonorable conduct, including but not limited to:

(A) Any conduct or practice contrary to recognized standard of ethics of the chiropractic profession or any conduct or practice that does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition that does or might adversely affect a physician's ability safely and skillfully to practice chiropractic.

(B) Willful ordering or performance of unnecessary laboratory tests or studies; administration of unnecessary treatment; failure to obtain consultations or perform referrals when failing to do so is not consistent with the standard of care; or otherwise ordering or performing any chiropractic service, X-ray or treatment that is contrary to recognized standards of practice of the chiropractic profession.

(C) Gross malpractice or repeated malpractice.

(g) Failing to notify the board of a change in location of practice as provided in ORS 684.054.

(h) Representing to a patient that a manifestly incurable condition of sickness, disease or injury can be permanently cured.

(i) The use of any advertising making untruthful, improper, misleading or deceptive statements.

(j) The advertising of techniques or modalities to infer or imply superiority of treatment or diagnosis by the use thereof that cannot be conclusively proven to the satisfaction of the board.

(k) Knowingly permitting or allowing any person to use the license of the person in the practice of any system or mode of treating the sick.

(L) Advertising either in the name of the person or under the name of another person, clinic or concern, actual or pretended, in any newspaper, pamphlet, circular or other written or printed paper or document, professing superiority to or a greater skill than that possessed by other chiropractic physicians that cannot be conclusively proven to the satisfaction of the board.

(m) Aiding or abetting the practice of any of the healing arts by an unlicensed person.

(n) The use of the name of the person under the designation, "Doctor," "Dr.," "D.C.," "Chiropractor," "Chiropractic D.C.," "Chiropractic Physician," or "Ph.C.," or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise.

(o) The advertising or holding oneself out to treat diseases or other abnormal conditions of the human body by any secret formula, method, treatment or procedure.

(p) Violation of any provision of this chapter or any rule adopted thereunder.

(q) Gross incompetency or gross negligence.

(r) The suspension or revocation by another state of a license to practice chiropractic, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of suspension or revocation of the state making the suspension or revocation is conclusive evidence thereof.

(s) Failing to give prior notice to patients of the permanent or temporary closure of the physician's practice or failing to give reasonable access to the records and files of the physician's patients at any time.

(t) The suspension or revocation by another licensing board in the state of a license to practice as another type of health care provider.

(u) An act or conduct that results in a judgment of wrongdoing by a court of competent jurisdiction in any state or a finding of wrongdoing in an administrative proceeding in any state. The act or conduct must be rationally connected to the ability to practice chiropractic or chiropractic assisting.

(2) The board may, at any time two years or more after the refusal, revocation or cancellation of registration under this section, by a majority vote, issue a license restoring to or conferring on the person all the rights and privileges of the practice of chiropractic as defined and regulated by this chapter. Any person to whom those rights have been restored shall pay to the board the annual registration fee for the license category plus one-half thereof.

(3) If the board determines that a chiropractic physician's continuation in practice would constitute a serious danger to the public, the board may suspend the license of the chiropractic physician without a hearing. Simultaneously with the order of suspension, the board must institute proceedings for a hearing provided under this section and the suspension may continue unless injunctive relief is obtained from a court of competent jurisdiction showing just cause or undue burden under the circumstances existing.

(4) If a physician refuses a written request for an informal interview with the board, the board shall have grounds to suspend or revoke the license of a physician pursuant to this section.

(5) Prior to or following an informal interview as described in this section, the board may request any Oregon licensed chiropractic physician in good standing to assist the board in preparing for or conducting any professional competency examination as the board may deem appropriate.

(6) Notwithstanding any other provisions of ORS 684.010, 684.040, 684.050, 684.090, 684.100, 684.112, 684.130, 684.150 and 684.155, the board may at any time direct and order a professional competency examination limited to the area of practice out of which a specific complaint has arisen and make an investigation, including the taking of depositions or otherwise in order to fully inform itself with respect to the performance or conduct of a physician licensed under ORS 684.010, 684.040, 684.050, 684.090, 684.100, 684.112, 684.130, 684.150 and 684.155.

(7) If the board has reasonable cause to believe that any:

(a) Chiropractic physician is or may be unable to practice with reasonable skill and safety to patients, the board may:

(A) Cause a competency examination of the physician for purposes of determining the physician's fitness to practice chiropractic with reasonable skill and safety to patients; or

(B) Require the fingerprints and relevant personal history data of the physician for the purpose of requesting a state or nationwide criminal records check under ORS 181A.195.

(b) Person certified to provide physiotherapy, electrotherapy or hydrotherapy pursuant to ORS 684.155 (1)(c) is or may be unable to provide the therapies with reasonable skill and safety to patients, the board may:

(A) Cause a competency examination of the person for purposes of determining the person's fitness to provide the therapies with reasonable skill and safety to patients; or

(B) Require the fingerprints and relevant personal history data of the person for the purpose of requesting a state or nationwide criminal records check under ORS 181A.195.

(8) Refusal by any person to take or appear for a competency examination scheduled by the board or to submit fingerprints and relevant personal history data as required by the board under subsection (7) of this section shall constitute grounds for disciplinary action.

(9) In disciplining a person as authorized by subsection (1) of this section, the board may use any or all of the following methods:

(a) Suspend judgment.

(b) Place the person on probation.

(c) Suspend the license of the person to practice chiropractic in this state.

(d) Revoke the license of the person to practice chiropractic in this state.

(e) Place limitations on the license of the person to practice chiropractic in this state.

(f) Impose a civil penalty not to exceed \$10,000.

(g) Take other disciplinary action as the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings.

(10)(a) Any information that the board obtains pursuant to ORS 684.100, 684.112 and 684.155 (9) is confidential as provided under ORS 676.175.

(b) Any person who reports or provides information to the board under ORS 684.090, 684.100, 684.112, 684.150 and 684.155 and who provides information in good faith shall not be subject to an action for civil damages as a result thereof. [Amended by 1953 c.556 §2; 1971 c.734 §129; 1973 c.265 §1; 1975 c.492 §5; 1979 c.744 §56; 1985 c.354 §5; 1987 c.376 §3; 1987 c.726 §3; 1989 c.224 §135; 1989 c.565 §1; 1991 c.892 §7; 1997 c.791 §36; 2005 c.730 §§45,84b; 2007 c.618 §6; 2009 c.756 §50]

**684.105 Discipline procedure; review of board orders.** (1) Where the State Board of Chiropractic Examiners proposes to refuse to issue a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under subsection (1) of this section shall be in accordance with ORS chapter 183. [1971 c.734 §131]

**684.107 Exemption from licensure requirement for person licensed in another state.** A person licensed to practice chiropractic under the laws of another state is exempt from the licensure requirement in ORS 684.020 if that person:

(1) Is practicing in Oregon on a single, temporary assignment for a specific sporting, performing arts or educational event not to exceed 15 days; and

(2) Is actively engaged in the practice of chiropractic in the state in which the person is licensed. [1995 c.499 §2]

**684.112 Records of chiropractor also licensed to practice other healing art; submission to board.** A person licensed under this chapter, who is also licensed to practice any other healing art, shall maintain in-office and patient records and files, the services provided to the patient, diagnostic and therapeutic procedures employed, the nature of such procedures and services and whether such procedures and services were rendered as a chiropractor. Such records pertaining to a specific complaint shall be submitted to the State Board of Chiropractic Examiners for inspection at its request. [1975 c.492 §8]

## STATE BOARD

**684.130 State Board of Chiropractic Examiners.** (1) There is established the State Board of Chiropractic Examiners. The board consists of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Five must be chiropractors; and

(b) Two must be members of the public who are not chiropractors or a spouse, domestic partner, child, parent or sibling of a chiropractor.

(2)(a) Board members required to be chiropractors may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by any professional organization representing chiropractors.

(b) The chiropractor members must have practiced chiropractic in this state for five years prior to appointment.

(c) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) Annually, upon the expiration of the term of any member of the board, the Governor shall appoint one or more qualified persons to the board to serve for a period of three years. A member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. If a vacancy occurs in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.

(b) A board member shall be removed immediately from the board if, during the member's term, the member:

(A) Is not a resident of this state;

(B) Has been absent from three consecutive board meetings, unless at least one absence is excused;

or

(C) Is not a licensed chiropractor or a retired chiropractor who was a licensed chiropractor in good standing at the time of retirement, if the board member was appointed to serve on the board as a chiropractor. [Amended by 1971 c.650 §33; 1973 c.792 §39; 1975 c.492 §10; 1991 c.892 §8; 1997 c.264 §11; 2007 c.618 §7; 2009 c.535 §19; 2009 c.756 §52]

**684.140 Officers of board.** The State Board of Chiropractic Examiners shall annually elect a president, a vice president and a secretary-treasurer from its membership. The executive director of the board shall keep a record of the proceedings of the board which shall be open to public inspection at all times during business hours. [Amended by 1991 c.892 §9; 2009 c.756 §53]

**684.150 Powers and duties of board; rules.** (1) The State Board of Chiropractic Examiners shall adopt a seal which shall be affixed to all licenses issued by it. The board shall from time to time adopt such rules as it deems proper and necessary for the administration of this chapter and the performance of its work. Upon receipt of a complaint, the board has authority to make investigations, administer oaths, take affidavits, summon witnesses, and require the production of evidence, documents and records pertaining to the complaint. The board may also take testimony as to matters pertaining to its duties and for the administration of this chapter. A majority of the board constitutes a quorum.

(2) The board shall meet as a board of examiners during the months of January and July each year on such days and at such times and places as may be found necessary for the performance of its duties.

(3) The board shall adopt a schedule of minimum educational requirements, which shall be without prejudice or discrimination as to the different colleges teaching chiropractic. [Amended by 1975 c.492 §6; 1987 c.376 §4; 2001 c.598 §2a]

**684.155 Additional powers of board; rules.** In addition to any other powers granted by this chapter, the State Board of Chiropractic Examiners may:

(1) Adopt necessary and proper rules:

(a) To establish standards and tests to determine the moral, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses to practice in this state.

(b) To enforce the provisions of this chapter and to exercise general supervision over the practice of chiropractic within this state.

(c) To establish standards and procedures for certifying chiropractic assistants as qualified to provide physiotherapy, electrotherapy or hydrotherapy under the direction of a chiropractic physician, and to establish continuing education requirements as a condition of maintaining such certification.

(d) To establish standards for the use of ancillary personnel. As used in this paragraph, “ancillary personnel” means a chiropractic physician’s personnel who are directed or designated, by spoken or written words or other means, to follow and carry out the chiropractic physician’s orders or directions.

(2) Issue, deny, suspend and revoke licenses and limited licenses, assess costs of proceedings and place persons on probation as provided in this chapter.

(3) Without the necessity of prior administrative proceedings or hearing and entry of an order or at any time during such proceedings if they have been commenced, institute proceedings to enjoin the practice of any person operating in violation of this chapter.

(4) Make its personnel and facilities available to other regulatory agencies of this state, or other bodies interested in the development and improvement of the practice of chiropractic in this state, upon such terms and conditions for reimbursement as are agreed to by the board and the other agency or body.

(5) Determine the chiropractic schools, colleges and institutions and the training acceptable in connection with licensing under this chapter and approve residency, internship and other training programs carried on by chiropractic schools, colleges or institutions or chiropractic facilities.

(6) Prescribe the time, place, method, manner, scope and subjects of examinations under this chapter.

(7) Prescribe all forms that it considers appropriate for the purposes of this chapter, and require the submission of photographs and relevant personal history data by applicants for licenses to practice chiropractic in this state.

(8) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195 require each applicant for a license or certification, or renewal of a license or certification, to be fingerprinted.

(9) Subject to ORS 684.150, administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out its duties under this chapter.

(10) Establish specialty certificate requirements within the practice of chiropractic, adopt rules applicable to specialty certification and require specialty certification for chiropractic physicians engaging in practices identified by the board as requiring specialty certification. [1975 c.492 §9; 1987 c.726 §11; 1989 c.805 §4; 1991 c.892 §10; 1995 c.493 §8; 1997 c.264 §12; 2001 c.598 §2b; 2005 c.730 §46; 2013 c.514 §6]

**684.156 Continuing authority of board upon lapse, suspension, revocation or voluntary surrender of license.** The lapse, suspension or revocation of a license issued under ORS chapter 684 by the operation of law or by order of the State Board of Chiropractic Examiners or by the decision of a court of law, or the voluntary surrender of a license by a licensee, shall not deprive the board of jurisdiction to proceed with any investigation of or any action or disciplinary proceeding against the licensee or to revise or render null and void an order of disciplinary action against the licensee. [2001 c.598 §5]

**Note:** 684.156 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 684 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**684.160 Compensation and expenses of board members; rules.** (1) A member of the State Board of Chiropractic Examiners is entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

(2) Such per diem and mileage, and other incidental expenses necessarily connected with the board shall be paid out of the account of the State Board of Chiropractic Examiners and not otherwise. [Amended by 1967 c.10 §2; 1969 c.314 §85; 2009 c.535 §20]

**684.171 State Board of Chiropractic Examiners Account.** All moneys received by the State Board of Chiropractic Examiners under this chapter shall be paid into the General Fund in the State Treasury and placed to the credit of the State Board of Chiropractic Examiners Account which is hereby established and such moneys are appropriated continuously and shall be used only for the administration and enforcement of this chapter. [1973 c.427 §26 (enacted in lieu of 684.710); 1991 c.892 §11]

**Note:** The amendments to 684.171 by section 13, chapter 240, Oregon Laws 2013, become operative January 1, 2017. See section 20, chapter 240, Oregon Laws 2013. The text that is operative on and after January 1, 2017, is set forth for the user's convenience.

**684.171.** All moneys received by the State Board of Chiropractic Examiners under this chapter shall be paid into the General Fund in the State Treasury and placed to the credit of the State Board of Chiropractic Examiners Account which is hereby established and such moneys are appropriated continuously and shall be used only for the administration and enforcement of this chapter and ORS 676.850.

**684.185 Peer review committees; duties; appointment; confidentiality of information.** (1) The State Board of Chiropractic Examiners shall appoint and form peer review committees. The peer review committee shall evaluate complaints against chiropractic physicians that are referred to it by the board and report to the board regarding those complaints.

(2) The members of a peer review committee shall be appointed from among those in the profession who are in active practice with five or more years of practice representing various geographic areas in this state. Members shall be representative of affiliated and nonaffiliated chiropractic physicians and representative of various aspects of the practice of chiropractic. To be appointed a member must receive at least four votes from members of the state board. Members shall serve three-year terms. No member may serve more than two consecutive terms.

(3) The peer review process shall be governed by rules of the state board adopted pursuant to ORS chapter 183. The state board shall provide appropriate training for members of peer review committees.

(4) Members of a peer review committee acting pursuant to this section are agents of the state board and are subject to provisions of ORS 30.260 to 30.300.

(5) Peer review shall not be used to replace independent medical examinations.

(6) Upon receipt of a complaint under this chapter, the peer review committee shall conduct an investigation as described under ORS 676.165.

(7) Any information provided to a peer review committee in the performance of its duties is confidential and shall not be subject to public disclosure or admissible as evidence in any judicial proceeding, except that as a part of a peer review report, this information may be disclosed to the state board and the person being reviewed who may then use the information in any disciplinary or court proceeding brought by the board. Peer review committee information that becomes part of the record of a board investigation into licensee or applicant conduct or part of a contested case proceeding, consent

order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175.

(8) Any person who reports or provides information to a peer review committee in the performance of its duties and who provides information in good faith shall not be subject to an action for civil damages as a result thereof. [1987 c.376 §5; 1991 c.892 §12; 1997 c.264 §13; 1997 c.791 §37; 2001 c.598 §3]

**Note:** 684.185 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 684 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## ENFORCEMENT

**684.190 Enforcement of chapter.** (1) The district attorneys shall prosecute all persons charged with violation of any of the provisions of this chapter. The executive director of the State Board of Chiropractic Examiners, under the direction of the board, shall aid the district attorneys in the enforcement of this chapter.

(2) The justice courts of the several counties have concurrent jurisdiction with the circuit courts in the enforcement of this chapter. [Amended by 1991 c.892 §13; 1995 c.658 §113]

**684.200 Report of suspected violation; confidentiality of information; liability of supplier.** (1)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any licensee licensed by the State Board of Chiropractic Examiners shall report any suspected violation of this chapter or any prohibited conduct as defined in ORS 676.150 in the manner provided in ORS 676.150.

(b) Any person may report to the board any suspected violation of this chapter.

(2) Information pertaining to a report required by subsection (1) of this section shall remain confidential and is not subject to public disclosure except as considered necessary by the board in the enforcement of this chapter.

(3) Any person who reports or provides information to the board under this section in good faith is not subject to an action for civil damages as a result thereof. [1985 c.354 §7; 1991 c.892 §14; 2009 c.536 §3]

## PENALTIES

**684.990 Penalties.** Violation of ORS 684.020 (1) is a Class A misdemeanor. [Amended by 2001 c.598 §4]  
§4]

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## **CHAPTER 676 DOCTORS TITLE ACT - 2015**

### **Use Of Titles Importing Health Care Profession**

**676.110 Use of title “doctor.”** (1) An individual practicing a health care profession may not use the title “doctor” in connection with the profession, unless the individual:

(a) Has earned a doctoral degree in the individual’s field of practice; and

(b)(A) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s doctoral degree was earned; or

(B) Is working under a board-approved residency contract and is practicing under the license of a supervisor who is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s doctoral degree was earned.

(2) If an individual uses the title “doctor” in connection with a health care profession at any time, the individual must designate the health care profession in which the individual’s doctoral degree was earned on all written or printed matter, advertising, billboards, signs or professional notices used in connection with the health care profession, regardless of whether the individual’s name or the title “doctor” appears on the written or printed matter, advertising, billboard, sign or professional notice. The designation must be in letters or print at least one-fourth the size of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice.

(3) Subsection (1) of this section does not prohibit:

(a) A chiropractic physician licensed under ORS chapter 684 from using the title “chiropractic physician”;

(b) A naturopathic physician licensed under ORS chapter 685 from using the title “naturopathic physician”;

(c) A person licensed to practice optometry under ORS chapter 683 from using the title “doctor of optometry” or “optometric physician”; or

(d) A physician licensed under ORS 677.805 to 677.840 from using the title “podiatric physician.”

[Amended by 1967 c.470 §66; 1983 c.169 §29; 1983 c.486 §1a; 1983 c.769 §1; 1991 c.314 §4; 1995 c.765 §1; 2007 c.418 §1; 2009 c.142 §1; 2011 c.108 §1; 2013 c.129 §35]

**676.115 Use of title “nurse.”** An individual may not use the title “nurse” unless the individual:

(1) Has earned a nursing degree or a nursing certificate from an accredited nursing program; and

(2) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s nursing degree or nursing certificate was earned. [2015 c.345 §2]

**676.120 Use of deceased licensee’s name.** Notwithstanding ORS 676.110 or 676.115, upon the death of any person duly licensed by a health professional regulatory board as defined in ORS 676.160, the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent’s name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner. [Amended by 1953 c.137 §2; 1983 c.769 §2; 1991 c.314 §5; 2009 c.142 §2; 2015 c.345 §3]

**676.130 Enforcement of ORS 676.110, 676.115 and 676.120.** Each health professional regulatory board as defined in ORS 676.160 shall notify the appropriate district attorney of any violation of ORS 676.110, 676.115 and 676.120 which may be brought to the attention of such board. The district attorney of the county in which any violation of those sections takes place shall prosecute the violation upon being informed of the violation by any person or by one of such boards. [Amended by 1983 c.769 §3; 2009 c.142 §3; 2015 c.345 §4]

## **REPORTING OBLIGATIONS (Duty to Report) - 2015**

**676.150 Duty to report prohibited or unprofessional conduct, arrests and convictions; investigation; confidentiality; immunity from liability.** (1) As used in this section:

(a) "Board" means the:

(A) State Board of Examiners for Speech-Language Pathology and Audiology;

(B) State Board of Chiropractic Examiners;

(C) State Board of Licensed Social Workers;

(D) Oregon Board of Licensed Professional Counselors and Therapists;

(E) Oregon Board of Dentistry;

(F) Board of Licensed Dietitians;

(G) State Board of Massage Therapists;

(H) Oregon Board of Naturopathic Medicine;

(I) Oregon State Board of Nursing;

(J) Nursing Home Administrators Board;

(K) Oregon Board of Optometry;

(L) State Board of Pharmacy;

(M) Oregon Medical Board;

(N) Occupational Therapy Licensing Board;

(O) Physical Therapist Licensing Board;

(P) State Board of Psychologist Examiners;

(Q) Board of Medical Imaging;

(R) State Board of Direct Entry Midwifery;

(S) State Board of Denture Technology;

(T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;

(V) Oregon State Veterinary Medical Examining Board; or

(W) State Mortuary and Cemetery Board.

(b) "Licensee" means a health professional licensed or certified by or registered with a board.

(c) "Prohibited conduct" means conduct by a licensee that:

(A) Constitutes a criminal act against a patient or client; or

(B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board's rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10

working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section. [2009 c.536 §1; 2011 c.630 §21; 2011 c.703 §44; 2011 c.715 §19; 2011 c.720 §213]

# Chapter 413 – PAIN MANAGEMENT COMMISSION - 2015

## PAIN MANAGEMENT EDUCATION REQUIREMENT

**413.590 Pain management education required of certain licensed health care professionals; duties of Oregon Medical Board; rules.** (1) A physician assistant licensed under ORS chapter 677, a nurse licensed under ORS chapter 678, a psychologist licensed under ORS 675.010 to 675.150, a chiropractic physician licensed under ORS chapter 684, a naturopath licensed under ORS chapter 685, an acupuncturist licensed under ORS 677.759, a pharmacist licensed under ORS chapter 689, a dentist licensed under ORS chapter 679, an occupational therapist licensed under ORS 675.210 to 675.340 and a physical therapist licensed under ORS 688.010 to 688.201 must complete one pain management education program described under ORS 413.572.

(2) The Oregon Medical Board, in consultation with the Pain Management Commission, shall identify by rule physicians licensed under ORS chapter 677 who, on an ongoing basis, treat patients in chronic or terminal pain and who must complete one pain management education program established under ORS 413.572. The board may identify by rule circumstances under which the requirement under this section may be waived. [Formerly 409.560]

**413.592** [Formerly 409.565; repealed by 2015 c.70 §11]

~~— **409.565 Completion of pain management education program.** A person required to complete one pain management education program established under ORS 409.510 shall complete the program:~~

~~— (1) Within 24 months of January 2, 2006;~~

~~— (2) Within 24 months of the first renewal of the person's license after January 2, 2006; or~~

~~— (3) For a physician assistant for whom an application under ORS 677.510 (1) has been approved before January 2, 2006, within 24 months after January 2, 2006. [2001 c.987 §11; 2001 c.987 §11a]~~

~~— **Note:** 409.565 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 409 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.~~

**413.599 Rules.** In accordance with applicable provisions of ORS chapter 183, the Pain Management Commission may adopt rules necessary to implement ORS 413.570 to 413.599. [Formerly 409.570]

## **Chapter 419B REPORTING OF CHILD ABUSE**

### REPORTING OF CHILD ABUSE

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### REPORTING OF CHILD ABUSE

**419B.005 Definitions.** As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) “Abuse” means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child’s mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child’s health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child’s health or safety.

(b) “Abuse” does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) “Child” means an unmarried person who is under 18 years of age.

(3) “Higher education institution” means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.

(4) “Law enforcement agency” means:

(a) A city or municipal police department.

(b) A county sheriff’s office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.121 or 353.125.

(e) A county juvenile department.

(5) “Public or private official” means:

(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.

(b) Dentist.

- (c) School employee, including an employee of a higher education institution.
- (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
- (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.
- (f) Peace officer.
- (g) Psychologist.
- (h) Member of the clergy.
- (i) Regulated social worker.
- (j) Optometrist.
- (k) Chiropractor.
- (L) Certified provider of foster care, or an employee thereof.
- (m) Attorney.
- (n) Licensed professional counselor.
- (o) Licensed marriage and family therapist.
- (p) Firefighter or emergency medical services provider.
- (q) A court appointed special advocate, as defined in ORS 419A.004.
- (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- (s) Member of the Legislative Assembly.
- (t) Physical, speech or occupational therapist.
- (u) Audiologist.
- (v) Speech-language pathologist.
- (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
- (x) Pharmacist.
- (y) An operator of a preschool recorded program under ORS 329A.255.
- (z) An operator of a school-age recorded program under ORS 329A.257.
- (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
- (bb) Employee of a public or private organization providing child-related services or activities:
  - (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
  - (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
- (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
- (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.
- (ee) Home care worker, as defined in ORS 410.600. [1993 c.546 §12; 1993 c.622 §1a; 1995 c.278 §50; 1995 c.766 §1; 1997 c.127 §1; 1997 c.561 §3; 1997 c.703 §3; 1997 c.873 §30; 1999 c.743 §22; 1999 c.954 §4; 2001 c.104 §148; 2003 c.191 §1; 2005 c.562 §26; 2005 c.708 §4; 2009 c.199 §1; 2009 c.442 §36; 2009 c.518 §1; 2009 c.570 §6; 2009 c.595 §364; 2009 c.633 §10; 2009 c.708 §3; 2010 c.60 §§4,5; 2011 c.151 §12; 2011 c.506 §38; 2011 c.703 §34; 2012 c.37 §60; 2012 c.92 §1; 2013 c.129 §26; 2013 c.180 §40; 2013 c.623 §17; 2013 c.624 §82; 2013 c.720 §11; 2015 c.98 §7; 2015 c.179 §1; 2015 c.736 §65]

**419B.007 Policy.** The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports. [1993 c.546 §13]

**419B.010 Duty of officials to report child abuse; exceptions; penalty.** (1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) The duty to report under this section is personal to the public or private official alone, regardless of whether the official is employed by, a volunteer of or a representative or agent for any type of entity or organization that employs persons or uses persons as volunteers who are public or private officials in its operations.

(4) The duty to report under this section exists regardless of whether the entity or organization that employs the public or private official or uses the official as a volunteer has its own procedures or policies for reporting abuse internally within the entity or organization.

(5) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense. [1993 c.546 §14; 1999 c.1051 §180; 2001 c.104 §149; 2001 c.904 §15; 2005 c.450 §7; 2012 c.92 §11]

**419B.015 Report form and content; notice.** (1)(a) A person making a report of child abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the local office of the department within the county where the report was made.

(2) When a report of child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of this section according to rules adopted by the department under ORS 419B.017.

(3)(a) When a report alleging that a child or ward in substitute care may have been subjected to abuse is received by the department, the department shall notify the attorney for the child or ward, the child's or ward's court appointed special advocate, the parents of the child or ward and any attorney representing a parent of the child or ward that a report has been received.

(b) The name and address of and other identifying information about the person who made the report may not be disclosed under this subsection. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection.

(c) The department shall make the notification required by this subsection within three business days of receiving the report of abuse.

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent's attorney that a report of abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child's or ward's safety. [1993 c.546 §15; 1993 c.734 §1a; 2005 c.250 §1; 2007 c.237 §1]

**419B.016 Offense of false report of child abuse.** (1) A person commits the offense of making a false report of child abuse if, with the intent to influence a custody, parenting time, visitation or child support decision, the person:

(a) Makes a false report of child abuse to the Department of Human Services or a law enforcement agency, knowing that the report is false; or

(b) With the intent that a public or private official make a report of child abuse to the Department of Human Services or a law enforcement agency, makes a false report of child abuse to the public or private official, knowing that the report is false.

(2) Making a false report of child abuse is a Class A violation. [2011 c.606 §2]

**Note:** 419B.016 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**419B.017 Time limits for notification between law enforcement agencies and Department of Human Services; rules.** (1) The Department of Human Services shall adopt rules establishing:

(a) The time within which the notification required by ORS 419B.015 (1)(a) must be made. At a minimum, the rules shall:

(A) Establish which reports of child abuse require notification within 24 hours after receipt;

(B) Provide that all other reports of child abuse require notification within 10 days after receipt; and

(C) Establish criteria that enable the department, the designee of the department or a law enforcement agency to quickly and easily identify reports that require notification within 24 hours after receipt.

(b) How the notification is to be made.

(2) The department shall appoint an advisory committee to advise the department in adopting rules required by this section. The department shall include as members of the advisory committee representatives of law enforcement agencies and multidisciplinary teams formed pursuant to ORS 418.747 and other interested parties.

(3) In adopting rules required by this section, the department shall balance the need for providing other entities with the information contained in a report received under ORS 419B.015 with the resources required to make the notification.

(4) The department may recommend practices and procedures to local law enforcement agencies to meet the requirements of rules adopted under this section. [2005 c.250 §3]

**Note:** 419B.017 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**419B.020 Duty of department or law enforcement agency receiving report; investigation; notice to parents; physical examination; child's consent; notice at conclusion of investigation.** (1) If the Department of Human Services or a law enforcement agency receives a report of child abuse, the department or the agency shall immediately:

(a) Cause an investigation to be made to determine the nature and cause of the abuse of the child; and

(b) Notify the Office of Child Care if the alleged child abuse occurred in a child care facility as defined in ORS 329A.250.

(2) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child care facility:

(a) The department and the law enforcement agency shall jointly determine the roles and responsibilities of the department and the agency in their respective investigations; and

(b) The department and the agency shall each report the outcomes of their investigations to the Office of Child Care.

(3) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify by oral report followed by written report the local office of the department. The department shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.

(4) If a child is taken into protective custody by the department, the department shall promptly make reasonable efforts to ascertain the name and address of the child's parents or guardian.

(5)(a) If a child is taken into protective custody by the department or a law enforcement official, the department or law enforcement official shall, if possible, make reasonable efforts to advise the parents or guardian immediately, regardless of the time of day, that the child has been taken into custody, the reasons the child has been taken into custody and general information about the child's placement, and the telephone number of the local office of the department and any after-hours telephone numbers.

(b) Notice may be given by any means reasonably certain of notifying the parents or guardian, including but not limited to written, telephonic or in-person oral notification. If the initial notification is not in writing, the information required by paragraph (a) of this subsection also shall be provided to the parents or guardian in writing as soon as possible.

(c) The department also shall make a reasonable effort to notify the noncustodial parent of the information required by paragraph (a) of this subsection in a timely manner.

(d) If a child is taken into custody while under the care and supervision of a person or organization other than the parent, the department, if possible, shall immediately notify the person or organization that the child has been taken into protective custody.

(6) If a law enforcement officer or the department, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the department to consent to physical examinations of the child at other times.

(7) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection (6) of this section. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

(8) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose

information under this subsection if the department determines that disclosure is not permitted under ORS 419B.035. [1993 c.546 §16; 1993 c.622 §7a; 1997 c.130 §13; 1997 c.703 §1; 1997 c.873 §33; 2007 c.501 §4; 2007 c.781 §1; 2013 c.624 §83; 2014 c.45 §41]

**419B.021 Degree requirements for persons conducting investigation or making determination regarding child.**

(1) Except as provided in subsection (2) of this section, the following persons must possess a bachelor's, master's or doctoral degree from an accredited institution of higher education:

(a) A person who conducts an investigation under ORS 419B.020; and

(b) A person who makes the following determinations:

(A) That a child must be taken into protective custody under ORS 419B.150; and

(B) That the child should not be released to the child's parent or other responsible person under ORS 419B.165 (2).

(2) Subsection (1) of this section does not apply to:

(a) A person who was employed or otherwise engaged by the Department of Human Services for the purpose of conducting investigations or making determinations before January 1, 2012, provided the person's employment or engagement for these purposes has been continuous and uninterrupted.

(b) A law enforcement official as that term is defined in ORS 147.005. [2011 c.431 §1]

**Note:** 419B.021 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**419B.022 Short title.** ORS 419B.023 and 419B.024 shall be known and may be cited as "Karly's Law." [2007 c.674 §1]

**Note:** 419B.022 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**419B.023 Duties of person conducting investigation under ORS 419B.020.** (1) As used in this section:

(a) "Designated medical professional" means the person described in ORS 418.747 (9) or the person's designee.

(b) "Suspicious physical injury" includes, but is not limited to:

(A) Burns or scalds;

(B) Extensive bruising or abrasions on any part of the body;

(C) Bruising, swelling or abrasions on the head, neck or face;

(D) Fractures of any bone in a child under the age of three;

(E) Multiple fractures in a child of any age;

(F) Dislocations, soft tissue swelling or moderate to severe cuts;

(G) Loss of the ability to walk or move normally according to the child's developmental ability;

(H) Unconsciousness or difficulty maintaining consciousness;

(I) Multiple injuries of different types;

(J) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or

(K) Any other injury that threatens the physical well-being of the child.

(2) If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person shall, in accordance with the protocols and procedures of the county multidisciplinary child abuse team described in ORS 418.747:

(a) Immediately photograph or cause to have photographed the suspicious physical injuries in accordance with ORS 419B.028; and

(b) Ensure that a designated medical professional conducts a medical assessment within 48 hours, or sooner if dictated by the child's medical needs.

(3) The requirement of subsection (2) of this section shall apply:

(a) Each time suspicious physical injury is observed by Department of Human Services or law enforcement personnel:

(A) During the investigation of a new allegation of abuse; or

(B) If the injury was not previously observed by a person conducting an investigation under ORS 419B.020; and

(b) Regardless of whether the child has previously been photographed or assessed during an investigation of an allegation of abuse.

(4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a designated medical professional. If after reasonable efforts a designated medical professional is not available to conduct a medical assessment within 48 hours, the child shall be evaluated by an available physician, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390.

(b) If the child is evaluated by a health care provider as defined in ORS 127.505 other than a designated medical professional, the health care provider shall make photographs, clinical notes, diagnostic and testing results and any other relevant materials available to the designated medical professional for consultation within 72 hours following evaluation of the child.

(c) The person conducting the medical assessment may consult with and obtain records from the child's health care provider under ORS 419B.050.

(5) Nothing in this section prevents a person conducting a child abuse investigation from seeking immediate medical treatment from a hospital emergency room or other medical provider for a child who is physically injured or otherwise in need of immediate medical care.

(6) If the child described in subsection (2) of this section is less than five years of age, the designated medical professional may, within 14 days, refer the child for a screening for early intervention services or early childhood special education, as those terms are defined in ORS 343.035. The referral may not indicate the child is subject to a child abuse investigation unless written consent is obtained from the child's parent authorizing such disclosure. If the child is already receiving those services, or is enrolled in the Head Start program, a person involved in the delivery of those services to the child shall be invited to participate in the county multidisciplinary child abuse team's review of the case and shall be provided with paid time to do so by the person's employer.

(7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability of a minor to refuse to consent to the medical assessment described in this section. [2007 c.674 §3; 2009 c.296 §1; 2014 c.45 §42]

**Note:** 419B.023 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**419B.024 Critical Incident Response Team for child fatality; rules.** (1) The Department of Human Services shall assign a Critical Incident Response Team within 24 hours after the department determines that a child fatality was likely the result of child abuse or neglect if:

(a) The child was in the custody of the department at the time of death; or

(b) The child was the subject of a child protective services assessment by the department within the 12 months preceding the fatality.

(2) During the course of its review of the case, the Critical Incident Response Team may include or consult with the district attorney from the county in which the incident resulting in the fatality occurred.

(3) The department shall adopt rules necessary to carry out the provisions of this section. The rules adopted by the department shall substantially conform with the department's child welfare protocol regarding Notification and Review of Critical Incidents. [2007 c.674 §4]

**Note:** 419B.024 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**419B.025 Immunity of person making report in good faith.** Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [1993 c.546 §17]

**419B.028 Photographing child during investigation; photographs as records.** (1) In carrying out its duties under ORS 419B.020, any law enforcement agency or the Department of Human Services may photograph or cause to have photographed any child subject of the investigation for purposes of preserving evidence of the child's condition at the time of the investigation. Photographs of the anal or genital region may be taken only by medical personnel.

(2) When a child is photographed pursuant to ORS 419B.023, the person taking the photographs or causing to have the photographs taken shall, within 48 hours or by the end of the next regular business day, whichever occurs later:

(a) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional described in ORS 418.747 (9); and

(b) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in any relevant files pertaining to the child maintained by the law enforcement agency or the department.

(3) For purposes of ORS 419B.035, photographs taken under authority of this section shall be considered records. [1993 c.546 §18; 2007 c.674 §5]

**419B.030 Central registry of reports.** (1) A central state registry shall be established and maintained by the Department of Human Services. The local offices of the department shall report to the state registry in writing when an investigation has shown reasonable cause to believe that a child's condition was the result of abuse even if the cause remains unknown. Each registry shall contain current information from reports cataloged both as to the name of the child and the name of the family.

(2) When the department provides specific case information from the central state registry, the department shall include a notice that the information does not necessarily reflect any subsequent proceedings that are not within the jurisdiction of the department. [1993 c.546 §19]

**419B.035 Confidentiality of records; when available to others.** (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse practitioner or coming before the physician, physician assistant or nurse practitioner for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;  
(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Office of Child Care for certifying, registering or otherwise regulating child care facilities;

(g) The Office of Children's Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 involving any child or any student in grade 12 or below;

(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.410 to 192.505; and

(j) The Office of Child Care for purposes of ORS 329A.030 (8)(g).

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician, physician assistant or nurse practitioner in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board, physician, physician assistant or nurse practitioner. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) A person may disclose records made available to the person under subsection (1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) An officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, “law enforcement agency” has the meaning given that term in ORS 181A.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation. [1993 c.546 §§20,20a; 1995 c.278 §51; 1997 c.328 §8; 1999 c.1051 §181; 2003 c.14 §224; 2003 c.412 §1; 2003 c.591 §8; 2005 c.317 §1; 2005 c.659 §2; 2009 c.348 §§3,4; 2009 c.393 §1; 2012 c.3 §2; 2013 c.624 §84; 2014 c.45 §43]

**419B.040 Certain privileges not grounds for excluding evidence in court proceedings on child abuse.** (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to regulated social workers and the spousal privilege, shall not be a ground for excluding evidence regarding a child’s abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other. [1993 c.546 §21; 2009 c.442 §37; 2015 c.629 §49]

**419B.045 Investigation conducted on public school premises; notification; role of school personnel.** If an investigation of a report of child abuse is conducted on public school premises, the school administrator shall first be notified that the investigation is to take place, unless the school administrator is a subject of the investigation. The school administrator or a school staff member designated by the administrator may, at the investigator’s discretion, be present to facilitate the investigation. The Department of Human Services or the law enforcement agency making the investigation shall be advised of the child’s disabling conditions, if any, prior to any interview with the affected child. A school administrator or staff member is not authorized to reveal anything that transpires during an investigation in which the administrator or staff member participates nor shall the information become part of the child’s school records. The school administrator or staff member may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial. [1993 c.546 §22; 2003 c.14 §225]

**419B.050 Authority of health care provider to disclose information; immunity from liability.** (1) Upon notice by a law enforcement agency, the Department of Human Services, a member agency of a county multidisciplinary child abuse team or a member of a county multidisciplinary child

abuse team that a child abuse investigation is being conducted under ORS 419B.020, a health care provider must permit the law enforcement agency, the department, the member agency of the county multidisciplinary child abuse team or the member of the county multidisciplinary child abuse team to inspect and copy medical records, including, but not limited to, prenatal and birth records, of the child involved in the investigation without the consent of the child, or the parent or guardian of the child. A health care provider who in good faith disclosed medical records under this section is not civilly or criminally liable for the disclosure.

(2) As used in this section, “health care provider” has the meaning given that term in ORS 192.556. [1997 c.873 §27; 1999 c.537 §3; 2001 c.104 §150; 2005 c.562 §27]

**419B.055 Action by Attorney General for protective order on behalf of department employee; written request; eligible employees.** (1) The Attorney General may bring an action in a circuit court for a citation or a stalking protective order under ORS 30.866 or 163.730 to 163.750 on behalf of an employee of the Department of Human Services who, because of being involved in the conduct described in subsection (3) of this section, is the subject of repeated and unwanted contact by another person that causes alarm or coercion to the employee. The Attorney General’s responsibility under this subsection is limited to circumstances in which an employee of the department submits a written request to the Attorney General that:

- (a) Has been approved in writing by the Director of Human Services or the director’s designee;
- (b) Sets forth sufficient facts and evidence, the truth of which has been affirmed by the employee;

and

- (c) Based solely upon the opinion of the Attorney General, is an action that is likely to succeed.

(2) The action brought under this section may not include a request for:

- (a) Special and general damages, including damages for emotional distress;
- (b) Economic or noneconomic damages;
- (c) Punitive damages; or
- (d) Attorney fees and costs.

(3) Departmental employees on whose behalf the citation or stalking protective order may be obtained under subsection (1) of this section include employees who:

- (a) Conduct a child abuse investigation under ORS 419B.020;
- (b) Make a determination that a child must be taken into protective custody under ORS 419B.150;
- (c) Make a determination that a child should not be released to the child’s parent or other responsible person under ORS 419B.165 (2); and

(d) Are involved in developing a case plan or making a placement decision for a child in the legal custody of the department. [2015 c.653 §1]

**Note:** 419B.055 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

# Chapter 124 REPORTING OF ABUSE OF ELDERLY PERSONS

## Elderly Persons & Persons With Disabilities Abuse Prevention Act

### REPORTING OF ABUSE

- 124.050 Definitions for ORS 124.050 to 124.095
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### REPORTING OF ABUSE

**124.050 Definitions for ORS 124.050 to 124.095.** As used in ORS 124.050 to 124.095:

(1) "Abuse" means one or more of the following:

(a) Any physical injury to an elderly person caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(b) Neglect.

(c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.

(d) Willful infliction of physical pain or injury upon an elderly person.

(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.

(f) Verbal abuse.

(g) Financial exploitation.

(h) Sexual abuse.

(i) Involuntary seclusion of an elderly person for the convenience of a caregiver or to discipline the person.

(j) A wrongful use of a physical or chemical restraint of an elderly person, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(2) "Elderly person" means any person 65 years of age or older who is not subject to the provisions of ORS 441.640 to 441.665.

(3) "Facility" means:

(a) A long term care facility as that term is defined in ORS 442.015.

(b) A residential facility as that term is defined in ORS 443.400, including but not limited to an assisted living facility.

(c) An adult foster home as that term is defined in ORS 443.705.

(4) "Financial exploitation" means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an elderly person or a person with a disability.

(b) Alarming an elderly person or a person with a disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an elderly person or a person with a disability.

(d) Failing to use the income or assets of an elderly person or a person with a disability effectively for the support and maintenance of the person.

(5) "Intimidation" means compelling or deterring conduct by threat.

(6) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) Any district attorney.

(e) A police department established by a university under ORS 352.121 or 353.125.

(7) "Neglect" means failure to provide basic care or services that are necessary to maintain the health or safety of an elderly person.

(8) "Person with a disability" means a person described in:

(a) ORS 410.040 (7); or

(b) ORS 410.715.

(9) "Public or private official" means:

(a) Physician or physician assistant licensed under ORS chapter 677, naturopathic physician or chiropractor, including any intern or resident.

(b) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(c) Employee of the Department of Human Services or community developmental disabilities program.

(d) Employee of the Oregon Health Authority, local health department or community mental health program.

(e) Peace officer.

(f) Member of the clergy.

(g) Regulated social worker.

- (h) Physical, speech or occupational therapist.
  - (i) Senior center employee.
  - (j) Information and referral or outreach worker.
  - (k) Licensed professional counselor or licensed marriage and family therapist.
  - (L) Member of the Legislative Assembly.
  - (m) Firefighter or emergency medical services provider.
  - (n) Psychologist.
  - (o) Provider of adult foster care or an employee of the provider.
  - (p) Audiologist.
  - (q) Speech-language pathologist.
  - (r) Attorney.
  - (s) Dentist.
  - (t) Optometrist.
  - (u) Chiropractor.
  - (v) Personal support worker, as defined by rule adopted by the Home Care Commission.
  - (w) Home care worker, as defined in ORS 410.600.
- (10) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an elderly person.
- (11)(a) "Sexual abuse" means:
- (A) Sexual contact with an elderly person who does not consent or is considered incapable of consenting to a sexual act under ORS 163.315;
  - (B) Verbal or physical harassment of a sexual nature, including but not limited to severe or pervasive exposure to sexually explicit material or language;
  - (C) Sexual exploitation;
  - (D) Any sexual contact between an employee of a facility or paid caregiver and an elderly person served by the facility or caregiver; or
  - (E) Any sexual contact that is achieved through force, trickery, threat or coercion.
- (b) "Sexual abuse" does not mean consensual sexual contact between an elderly person and:
- (A) An employee of a facility who is also the spouse of the elderly person; or
  - (B) A paid caregiver.
- (12) "Sexual contact" has the meaning given that term in ORS 163.305.
- (13) "Verbal abuse" means to threaten significant physical or emotional harm to an elderly person or a person with a disability through the use of:
- (a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or
  - (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments. [Formerly 410.610; 1999 c.463 §6; 2001 c.104 §36; 2005 c.671 §4; 2007 c.70 §29; 2009 c.442 §33; 2009 c.595 §84; 2009 c.708 §1; 2009 c.837 §9; 2011 c.36 §3; 2011 c.506 §5; 2011 c.703 §23; 2013 c.129 §23; 2013 c.180 §7; 2013 c.352 §5; 2014 c.104 §9; 2015 c.179 §2; 2015 c.416 §1; 2015 c.736 §49]

**124.055 Policy.** The Legislative Assembly finds that for the purpose of preventing abuse, safeguarding and enhancing the welfare of elderly persons, it is necessary and in the public interest to require mandatory reports and investigations of allegedly abused elderly persons. [Formerly 410.620]

**124.060 Duty of officials to report; exception.** Any public or private official having reasonable cause to believe that any person 65 years of age or older with whom the official comes in contact has suffered abuse, or that any person with whom the official comes in contact has abused a person 65 years of age or older, shall report or cause a report to be made in the manner required in ORS 124.065. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy or attorney is not required to report such

information communicated by a person if the communication is privileged under ORS 40.225 to 40.295. An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client. [Formerly 410.630; 2009 c.708 §2; 2013 c.352 §6]

**124.065 Method of reporting; content; notice to law enforcement agency and to department.** (1) When a report is required under ORS 124.060, an oral report shall be made immediately by telephone or otherwise to the local office of the Department of Human Services or to a law enforcement agency within the county where the person making the report is at the time of contact. If known, such reports shall contain the names and addresses of the elderly person and any persons responsible for the care of the elderly person, the nature and the extent of the abuse (including any evidence of previous abuse), the explanation given for the abuse and any other information which the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(2) When a report of a possible crime is received by the department under ORS 124.060, the department or the designee of the department shall notify the law enforcement agency having jurisdiction within the county where the report was made. If the department or the designee of the department is unable to gain access to the allegedly abused elderly person, the department or the designee of the department may contact the law enforcement agency for assistance and the agency shall provide assistance.

(3) If the department or the designee of the department determines that there is reason to believe a crime has been committed, the department or the designee of the department shall immediately notify the law enforcement agency having jurisdiction within the county where the report was made. The law enforcement agency shall confirm to the department or the designee of the department its receipt of the notification.

(4) When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the local office of the department in the county where the report was made. [Formerly 410.640; 2009 c.837 §§10,11]

**124.070 Duty to investigate; notice to law enforcement agency and department; written findings; review by district attorney.** (1) Upon receipt of the report required under ORS 124.060, the Department of Human Services or the law enforcement agency shall cause an investigation to be commenced promptly to determine the nature and cause of the abuse. The investigation shall include a visit to the named elderly person and communication with those individuals having knowledge of the facts of the particular case. If the alleged abuse occurs in a residential facility, the department shall conduct an investigation regardless of whether the suspected abuser continues to be employed by the facility.

(2) If the department finds reasonable cause to believe that a crime has occurred, the department shall notify in writing the appropriate law enforcement agency. If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the agency shall notify the department in writing. Upon completion of the evaluation of each case, the department shall prepare written findings that include recommended action and a determination of whether protective services are needed.

(3) After receiving notification from the department that there is reasonable cause to believe that a crime has occurred, a law enforcement agency shall notify the department:

- (a) That there will be no criminal investigation, including an explanation of why there will be no criminal investigation;
- (b) That the investigative findings have been given to the district attorney for review; or
- (c) That a criminal investigation will take place.

(4) If a law enforcement agency gives the findings of the department to the district attorney for review, the district attorney shall notify the department that the district attorney has received the findings and shall inform the department whether the findings have been received for review or for filing charges. A district attorney shall make the determination of whether to file charges within six months of receiving the findings of the department.

(5) If a district attorney files charges stemming from the findings of the department and the district attorney makes a determination not to proceed to trial, the district attorney shall notify the department of the determination and shall include information explaining the basis for the determination. [Formerly 410.650; 2009 c.837 §§12,13]

**124.071 Deadline to complete abuse investigation; exception; written report required. (1)**

Investigations commenced by the Department of Human Services pursuant to ORS 124.070 must be completed by the department on or before 120 days after receipt of the report of abuse made under ORS 124.060, unless there is an ongoing concurrent criminal investigation, in which case the department may take a reasonable amount of additional time in which to complete the investigation.

(2) Upon completion of an investigation in accordance with subsection (1) of this section, a written report shall be prepared that includes information as required by rule adopted by the department, including but not limited to the following:

- (a) The date and location of the report of abuse and of the incident of abuse that was reported;
- (b) The dates that the investigation was commenced and completed and by what entity;
- (c) A description of documents and records reviewed during the investigation;
- (d) An identification of any witness statements that were obtained during the investigation; and
- (e) A statement of the factual basis for any findings and a summary of the findings made as a result of the investigation. [2014 c.104 §2]

**124.072 Required disclosure of protected health information to law enforcement agency; liability for disclosure. (1)** Upon notice by a law enforcement agency that an investigation into abuse is being conducted under ORS 124.070, and without the consent of the named elderly person or of the named elderly person's caretaker, fiduciary or other legal representative, a health care provider must:

- (a) Permit the law enforcement agency to inspect and copy, or otherwise obtain, protected health information of the named elderly person; and
- (b) Upon request of the law enforcement agency, consult with the agency about the protected health information.

(2) A health care provider who in good faith discloses protected health information under this section is not civilly or criminally liable under state law for the disclosure.

(3) For purposes of this section:

- (a) "Health care provider" has the meaning given that term in ORS 192.556.
- (b) "Protected health information" has the meaning given that term in ORS 192.556. [2012 c.70 §6]

**124.073 Training for abuse investigators. (1)** The Department of Human Services shall:

(a) Using new or existing materials, develop and implement a training and continuing education curriculum for persons other than law enforcement officers required by law to investigate allegations of abuse under ORS 124.070 or 441.650. The curriculum shall address the areas of training and education necessary to facilitate the skills required to investigate reports of abuse, including, but not limited to, risk assessment, investigatory technique, evidence gathering and report writing.

(b) Using new or existing materials, develop and implement training for persons that provide care to vulnerable persons to facilitate awareness of the dynamics of abuse, abuse prevention strategies and early detection of abuse.

(2) For purposes of this section, "vulnerable person" means a person 65 years of age or older. [2012 c.70 §21]

**Note:** 124.073 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 124 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**124.075 Immunity of person making report in good faith; identity confidential.** (1) Anyone participating in good faith in the making of a report of elder abuse and who has reasonable grounds for making the report shall have immunity from any criminal or civil liability that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

(2) The identity of the person making the report shall be treated as confidential information and shall be disclosed only with the consent of that person or by judicial process, or as required to perform the functions under ORS 124.070. [Formerly 410.660; 2005 c.671 §5; 2015 c.179 §5]

**124.077 Immunity for disclosure to prospective employer.** A person who has personal knowledge that an employee or former employee of the person was found by the Department of Human Services, a law enforcement agency or a court to have committed abuse under ORS 124.005 to 124.040, 124.050 to 124.095 or 124.100 to 124.140, is immune from civil liability for the disclosure to a prospective employer of the employee or former employee of known facts concerning the abuse. [2009 c.837 §14]

**Note:** 124.077 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 124 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**124.080 Photographing of victim; photograph as record.** (1) In carrying out its duties under ORS 124.070 a law enforcement agency or the Department of Human Services may photograph or cause to have photographed any victim who is the subject of the investigation for purposes of preserving evidence of the condition of the victim at the time of the investigation.

(2) For purposes of ORS 124.090, photographs taken under authority of subsection (1) of this section shall be considered records. [Formerly 410.670]

**124.085 Catalog of abuse records; confidentiality.** A proper record of complaints made under ORS 124.060 and 124.065 shall be maintained by the Department of Human Services. The department shall prepare reports in writing when investigation has shown that the condition of the elderly person was the result of abuse even if the cause remains unknown. The complaints and investigative reports shall be cataloged under the name of the victim but shall be treated as confidential information subject to ORS 124.090, and shall be disclosed only with the consent of that person or by judicial process. [Formerly 410.680; 2012 c.70 §11]

**124.087 Policies and guidelines to plan for development and standardization of certain resources and technologies.** The Department of Human Services shall adopt policies and guidelines to plan for the development and standardization of resources and technologies to:

(1) Create a database, registry or other electronic record of reports of abuse made under ORS 124.060 and 441.640 and investigations of abuse conducted pursuant to ORS 124.070 and 441.650 with information including, but not limited to:

- (a) The date and location of the report of abuse and the incident of abuse that was reported;
- (b) If applicable, the date that the initial status report required under ORS 441.650 was completed and a summary of the information required to be contained in the initial status report as set forth in ORS 441.650;
- (c) The date that the investigation was commenced and by what entity;

(d) Any actions taken during the course of the investigation, including but not limited to the actions required under ORS 441.650 (6);

(e) The date that a written report, including but not limited to the written report required under ORS 124.071 and 441.650 (6), was completed and a summary of the information contained in the written report; and

(f) The disposition of the report of abuse or the investigation of the report, including but not limited to the date and time that the investigation, if applicable, was completed and the date that a letter of determination under ORS 441.677 was prepared;

(2) Standardize procedures and protocols for making and responding to reports of abuse made under ORS 124.060 and 441.640;

(3) Standardize procedures and protocols for investigations of reports of abuse conducted pursuant to ORS 124.070 and 441.650; and

(4) Promote and coordinate communication and information sharing with law enforcement agencies regarding reports and investigations of abuse under ORS 124.060, 124.070, 441.640 and 441.650. [2014 c.104 §4]

**Note:** 124.087 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 124 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**124.090 Confidentiality of records; exceptions.** (1) Notwithstanding the provisions of ORS 192.410 to 192.505, the names of the public or private official or any other person who made the complaint, the witnesses and the elderly persons, and the reports and records compiled under the provisions of ORS 124.050 to 124.095, are confidential and are not accessible for public inspection.

(2) Notwithstanding subsection (1) of this section, the Department of Human Services or the department's designee may, if appropriate, make the names of the witnesses and the elderly persons, and the reports and records compiled under ORS 124.050 to 124.095, available to:

(a) A law enforcement agency;

(b) A public agency that licenses or certifies residential facilities or licenses or certifies the persons practicing in the facilities;

(c) A public agency or private nonprofit agency or organization providing protective services for the elderly person;

(d) The Long Term Care Ombudsman;

(e) A public agency that licenses or certifies a person that has abused or is alleged to have abused an elderly person;

(f) A court pursuant to a court order or as provided in ORS 125.012; and

(g) An administrative law judge in an administrative proceeding when necessary to provide protective services as defined in ORS 410.040 to an elderly person, when in the best interests of the elderly person or when necessary to investigate, prevent or treat abuse of an elderly person.

(3) Information made available under subsection (2) of this section, and the recipient of the information, are otherwise subject to the confidentiality provisions of ORS 124.050 to 124.095. [Formerly 410.690; 2001 c.900 §21; 2012 c.70 §12]

**124.095 Spiritual treatment not abuse.** An elderly person who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, not be considered subjected to abuse by reason of neglect under ORS 124.050 to 124.095. [Formerly 410.700]

# Chapter 305 REVENUE AND TAXATION

## Administration Of Revenue And Tax Laws; Appeals

(License Lists)

305.380 Definitions for ORS 305.385

305.385 Agencies to supply licensee and contractor lists; contents; effect of department determination on taxpayer status of licensee or contractor; rules

**305.380 Definitions for ORS 305.385.** As used in ORS 305.385:

(1) “Agency” means any department, board, commission, division or authority of the State of Oregon, or any political subdivision of this state which imposes a local tax administered by the Department of Revenue under ORS 305.620.

(2) “License” means any written authority required by law or ordinance as a prerequisite to the conduct of a business, trade or profession.

(3) “Provider” means any person who contracts to supply goods, services or real estate space to an agency.

(4) “Tax” means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and local taxes administered by the Department of Revenue under ORS 305.620. [1987 c.843 §6; 1997 c.99 §35; 1997 c.170 §16; 2005 c.94 §21; 2015 c.348 §10]

**305.385 Agencies to supply licensee and contractor lists; contents; effect of department determination on taxpayer status of licensee or contractor; rules.** (1) Upon request of the Department of Revenue, an agency issuing or renewing a license to conduct a business, trade or profession shall annually, on or before March 1, supply the department with a list of specified licenses issued or renewed by the agency during the preceding calendar year.

(2) Upon request of the department, an agency shall annually, on or before March 1, supply the department with a list of specified persons contracting with the agency to provide goods, services or real estate space to the agency during the preceding calendar year.

(3) The lists required by subsections (1) and (2) of this section shall contain the name, address, Social Security or federal employer identification number of each licensee or provider or such other information as the department may by rule require.

(4)(a) If the department determines that any licensee or provider has neglected or refused to file any return or to pay any tax and that such person has not filed in good faith a petition before the department contesting the tax, and the department has been unable to obtain payment of the tax through other methods of collection, the Director of the Department of Revenue may, notwithstanding ORS 118.525, 314.835 or 314.840 or any similar provision of law, notify the agency and the person in writing.

(b) Upon receipt of such notice, the agency shall refuse to reissue, renew or extend any license, contract or agreement until the agency receives a certificate issued by the department that the person is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(c) Upon the written request of the director and after a hearing and notice to the licensee as required under any applicable provision of law, the agency shall suspend the person’s license if the agency finds that the returns and taxes have not been filed or paid and that the licensee has not filed in good faith a petition before the department contesting the tax and the department has been unable to obtain payment of the tax through other methods of collection. For the purpose of the agency’s findings, the written

representation to that effect by the department to the agency shall constitute prima facie evidence of the person's failure to file returns or pay the tax. The department shall have the right to intervene in any license suspension proceeding.

(d) Any license suspended under this subsection shall not be reissued or renewed until the agency receives a certificate issued by the department that the licensee is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(5) The department may enter into an installment payment agreement with a licensee or provider with respect to any unpaid tax, penalty and interest. The agreement shall provide for interest on the outstanding amount at the rate prescribed by ORS 305.220. The department may issue a provisional certificate of good standing pursuant to subsection (4)(b) and (d) of this section which shall remain in effect so long as the licensee or provider fully complies with the terms of the installment agreement. Failure by the licensee or provider to fully comply with the terms of the installment agreement shall render the agreement and the provisional certificate of good standing null and void, unless the department determines that the failure was due to reasonable cause. If the department determines that the failure was not due to reasonable cause, the total amount of the tax, penalty and interest shall be immediately due and payable, and the department shall notify any affected agency that the licensee or provider is not in good standing. The agency shall then take appropriate action under subsection (4)(b) and (d) of this section.

(6) No contract or other agreement for the purpose of providing goods, services or real estate space to any agency shall be entered into, renewed or extended with any person, unless the person certifies in writing, under penalty of perjury, that the person is, to the best of the person's knowledge, not in violation of any tax laws described in ORS 305.380 (4).

(7) The certification under subsection (6) of this section shall be required for each contract and renewal or extension of a contract or may be provided on an annual basis. A certification shall not be required for a contract if the consideration for the goods, services or real estate space provided under the contract is no more than \$1,000.

(8)(a) The requirements of the certification under subsection (6) of this section shall be subject to the rules adopted by the department in accordance with this section.

(b) The department may by rule exempt certain contracts from the requirements of subsection (6) of this section. [1987 c.843 §7; 1989 c.656 §1; 1997 c.99 §36]

# OREGON ADMINISTRATIVE RULES

## Chapter 811

### Summary of Recent Rule Changes (Adopt/Amend/Repeal)

Adopted March 17, and to become effective **May 2, 2016**, the board amended OAR 811-010-0085 to reflect changes to offering the Oregon exams through a national provider

Effective **July 1, 2015**, the board amended the following OARs; fees were amended as follows:

- 811-010-0066 Reciprocity Initial License fee \$150
- 811-010-0085 Application and Examination of Applicants Initial License fee \$150
- 811-010-0086 Annual Registration Active fee increased to \$425; Senior Active to \$315, Inactive to \$225, and the late renew penalty to \$125/week

Effective **April 10, 2015**, the Board amended OAR 811-015-0005. This amendment establishes guidelines for maintenance of patient records when licensees are planning to leave, or unexpectedly leave, practice.

Effective **March 20, 2015**, the Board amended OAR 811-010-0085. The amendment removed the actual fee for the applicant's background check and inserted "current fee" language to accommodate changes the Oregon State Police may make in their statutes and rules (*they set the fee*).

# OREGON ADMINISTRATIVE RULES

## CHAPTER 811

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# DIVISION 1 - RULES OF PROCEDURE

## Notice of Proposed Rule

**811-001-0001** Prior to the adoption, amendment or repeal of any administrative rule, the Board shall give notice of the proposed adoption, amendment or repeal:

(1) By mailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(7) at least 28 days prior to the effective date.

(2) By mailing a copy of the notice to the following persons, organizations and publications at least 28 days prior to the effective date:

- (a) All Chiropractic Associations,
- (b) Associated Press.

*Statutory Auth.: ORS 183*

*Stats. Implemented: ORS 183.341*

*Adopted Eff. 8-23-00*

## Model Rules of Procedure

**811-001-0005** Pursuant to the provisions of ORS 183.341, the Board of Chiropractic Examiners adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act January 2012, these rules shall be controlling except as otherwise required by statute or rule.

*Statutory Auth.: ORS 183*

*Stats. Implemented: ORS 183.341*

*Adopted Eff. 10-15-12*

## 811-001-0010 Rules of Procedure in Contested Cases

(1) In sexual boundary and unprofessional conduct cases, the Board requires an answer to charges as part of notices to parties in contested cases. In addition to the requirements of the Attorney General's Model Rules of Procedure adopted by the Board, the notice to parties in contested cases may include a statement that an answer to the assertions or charges will be requested and, if so, the consequences of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of section (2) of this rule with the notice.

(2) In sexual boundary and unprofessional conduct cases, hearing requests and answers: Consequences of failure to answer:

(a) A hearing request, and answer when requested, shall be made in writing to the Board by the party or his attorney and an answer shall include the following:

- (A) An admission or denial of each factual matter alleged in the notice;
- (B) A short and plain statement of each relevant affirmative defense the party may have.

(b) Except for good cause:

(A) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;

(B) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

(C) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and

(D) Evidence shall not be taken on any issue not raised in the notice and answer.

*Statutory Auth.: ORS 183*

*Stats. Implemented: ORS 183.413 - 470*

*Adopted Eff. 10/15/12*

## **Purchase of Board-Provided Materials**

**811-001-0060** For the following materials and services available to the public and licensees the Board of Chiropractic Examiners may charge as follows:

- (1) Lists or labels of current licensees: \$50.00 for entire list; \$25.00 for only active licensees or inactive licensees; or partial by city/zip code, \$2.00 per page.
- (2) Complete or partial list or labels of Certified Chiropractic Assistants: \$15.00.
- (3) Duplicating requests requiring records search: Labor - \$15.00 per hour or partial hour and 15 cents per page.
- (4) Duplicate sealed License (Wall Certificate): \$5.00.
- (5) Duplicate Certificate of Registration: \$5.00.
- (6) The Board may charge for pamphlets and/or forms developed by the agency. Costs will be determined by using the actual costs of printing and handling incurred by the Board.

*Statutory Auth.: ORS 684, 183, 192*

*Stats. Implemented: ORS 684.155(4); 192.440*

*Adopted Eff. 5-29-98*

## **Mediation Communications**

**811-001-0070** (1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromised negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6) through (10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential; or

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) and (d), (j) through (l) or (o) and (p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in

sections (8) and (9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or non-discoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties' agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an "agreement to mediate." [Form included at end of document.]

(9) Exceptions to confidentiality and inadmissibility:

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding;

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law;

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person;

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report;

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law;

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree;

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation;

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure;

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation

communications or agreements to persons other than the parties to the agreement;

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements;

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute;

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Board determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 17.095 or state or federal law.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility. [ED. NOTE: The form referenced in this rule is found at the end of this OAR Compilation.]

*Stat. Auth.: ORS 684.155(1)(b), ORS 36.220, 36.224, 36.245*

*Stats. Implemented: ORS 36.220 & ORS 36.245*

*Adopted Eff. 10-15-01*

# DIVISION 10 GENERAL RULES AND LICENSING

## Definitions

**811-010-0005** As used in OAR Chapter 811 unless otherwise required by context:

(1) "Chiropractic Physician" means a physician licensed to practice Chiropractic under the provisions of ORS 684.040.

(2) "Advertising" means any form of promotional (educational) information.

(3) "Food" means nutritive material taken into an organism for the growth, work, or repair and for maintaining the vital processes; anything that nourishes or sustains.

(4) "Patient" means any person who is examined, treated, or otherwise provided chiropractic services whether or not the person has entered into a physician/patient relationship or has agreed to pay a fee for services.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.150*

*Adopted Eff. 9-29-92*

## Filing Addresses

**811-010-0015** Each person holding a license to practice Chiropractic in the State of Oregon under the laws administered by this Board shall file their proper and current business address or their mailing address if they are not currently in practice, with the Board at its office. Each individual shall immediately notify this Board in writing at its office address of any change in mailing or business address, giving both the old and the new address.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.054*

*Adopted Eff. 5-17-90*

## Procedure in Disciplinary Proceedings

**811-010-0020** All proceedings relating to the refusal to grant, suspension, or revocation of a license to practice Chiropractic or for the re-issuance or reinstatement of a license which has been suspended or revoked or for the disciplining of licensing in any manner shall be conducted in accordance with the provisions of the Rules of Administrative Procedure, which are filed with the Secretary of State in accordance with the Chiropractic Act of the State of Oregon (OAR 811-001-0005).

*Statutory Auth.: ORS 183; 684*

*Stats. Implemented: ORS 183.341; 684.155(8)*

*Adopted Eff. 7-1-78*

## Display of License

**811-010-0025** Each person holding a license to practice Chiropractic in the State of Oregon under laws administered by this Board shall display the license in a conspicuous place in his principal office, place of business, or place of employment. The yearly certification should be on display with the license certificate.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155*

*Adopted Eff. 8-23-00*

## **Duty to Report**

**811-010-0040** (1) It shall be the duty of every licensee to notify the Board's administrative office or any member of this Board of any violation of the Act or of these rules in order that the Board may take appropriate investigative and corrective or disciplinary action.

(2) Any person who reports or provides factual information to the Board under this rule and who provides such information in good faith shall not be subject to suit for civil damages as a result thereof.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.200*

*Adopted Eff. 4-1-93*

## **Chiropractic Students**

**811-010-0045** (1) Senior interns at a chiropractic college, may obtain clinic instruction hours at a licensee's office while under the immediate on-site supervision of a licensed Chiropractic Physician, upon the written notification by the college's clinic administrator to the Board.

(2) Interns shall wear name badges identifying them as senior interns and shall not use the title "Doctor."

(3) A student who has completed a course in Physiological Therapeutics from an approved college may be employed in the office of a licensed Chiropractor to work as a certified Ancillary Personnel without the necessity of first having to complete the training program as outlined in OAR 811-010-0110(2)(a). Students employed as Ancillary Personnel must comply with OAR 811-010-0110(1)-(18).

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.020; 648.150*

*Adopted Eff. 5-29-02*

## **Reciprocity**

**811-010-0066** A person licensed to practice Chiropractic under the laws of another state or states for at least five years may apply for reciprocity with the Oregon Board of Chiropractic Examiners for a chiropractic license in Oregon. An application and \$250 fee shall be submitted and must be accompanied by all items required by ORS 684.040 (2)(a)(b)(c)(d) and (e), and the following:

(1) The applicant will present a certified transcript from the Board of Chiropractic Examiners in the state(s) where licensed equivalent to the Oregon Clinical Proficiency Examination (Oral/Practical and X-ray) or the National Board of Chiropractic Examiners Part IV, including a state or national examination in physiotherapy

(2) The Board may also require a written and/or oral examination listed in section (1) in which there is no official transcript available.

(3) The applicant will have furnished a certified statement from the Board of Chiropractic Examiners in the state(s) where licensed, that the applicant is not guilty of unprofessional or unethical practices or the subject of any pending disciplinary actions in that state.

(4) Any applicant for reciprocity, licensed in another state prior to July 1, 1992, is not required to have passed the Part III examination given by the National Board of Chiropractic Examiners.

(5) Upon qualification for licensure, the applicant will submit the \$150 initial license fee.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.040; 684.060*

*Adopted Eff. 7/1/2015*

## **Board Members**

**811-010-0071** (1) Members of the State Board of Examiners during their terms as such shall maintain a position of strict neutrality.

(2) Board members shall receive a per diem of \$155 a day for board meetings, conference attendance and presentations.

*Statutory Auth.: ORS 684*  
*Stats. Implemented: ORS 684.150*  
*Adopted Eff. 12/222009*

### **Attendance at Board Meetings**

**811-010-0080** Board meetings are public meetings and are open for attendance by any person wishing to be present.

(1) The Board is composed of seven members appointed by the Governor of the State of Oregon.

(2) Four members present at any meeting shall constitute a quorum and therefore the regular or special business of the Board may be conducted.

*Statutory Auth.: ORS 684*  
*Stats. Implemented: ORS 684.130; 684.140*  
*Adopted Eff. 11-03-97*

### **Fitness Determinations for Licensure; State and Nationwide Criminal Background Checks**

**811-010-0084** (1) Purpose. The purpose of this rule is to provide for the reasonable screening of subject individuals in order to determine if they have a history of criminal behavior such that they are not fit to be granted a license or certificate, registration, permit in occupations, or professions covered by Oregon Laws 2005, chapter 730.

(2) These rules are to be applied when evaluating the criminal history of a subject individual and conducting fitness determinations based upon such history. The fact that a subject individual is approved does not guarantee the granting of a license, certification, registration, or permit.

(3) "Subject individual" means a person from whom the Board may require fingerprints for the purpose of enabling the Board of Chiropractic Examiners to request a state or nationwide criminal records check. Under this chapter, subject individual means applicants for doctor of chiropractic license and any licensee under investigation as ordered by the Board.

(4) The Board may request that the Department of State Police conduct a Criminal History Check and a National Criminal History Check, using fingerprint identification, of subject individuals. The Board may conduct criminal records checks on subject individuals and any licensee/certificate holder under investigation through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police. Criminal history information obtained from the Law Enforcement Data System must be handled in accordance with applicable Oregon State Police requirements in ORS chapter 181 and OAR Chapter 257, Division 15.

(5) Additional Information Required. In order to conduct an Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the subject individual as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial, or other background information.

(6) The Board shall determine whether an applicant is fit to be granted a license or certification, based on the criminal records background check, on any false statements made by the individual regarding the criminal history of the individual, on any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If a subject individual is determined to be unfit, then the individual may not be granted a license or certification. The Board may make a fitness determination conditional upon applicant's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(7) Except as otherwise provided in section 6 in making the fitness determination the Board shall consider:

- (a) The nature of the crime;
- (b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;
- (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and
- (d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit. Intervening circumstances include but are not limited to:
  - (A) The passage of time since the commission of the crime;
  - (B) The age of the subject individual at the time of the crime;
  - (C) The likelihood of a repetition of offenses or of the commission of another crime;
  - (D) The subsequent commission of another relevant crime;
  - (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
  - (F) A recommendation of an employer.
- (8) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.
- (9) Criminal offender information is confidential. Dissemination of information received under ORS (HB 2157) is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant, licensee and certificate holder and as such is confidential pursuant to ORS 676.175(1). All original fingerprint cards will be destroyed per ORS (HB 2157)
- (10) The Board will permit the subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.
- (11) The Board may consider any felony or misdemeanor conviction involving moral turpitude.
- (12) If an applicant, licensee or certificate holder is determined not to be fit for a license and/or certificate, they are entitled to a contested case process pursuant to ORS 183.413-470. Challenges to the accuracy or completeness of information provided by the Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process pursuant to ORS 183.
- (13) Request for Re-Evaluation Following Correction. If the subject individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation or other agency reporting information to the Board, the Board will conduct a new criminal history check and re-evaluate the criminal history upon submission of a new criminal history request form.
- (14) If the subject individual discontinues the application or fails to cooperate with the criminal history check process then the application is considered incomplete.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.100, ORS 183*

*Adopted Eff: 6-20-06*

### **Application and Examination of Applicants**

- 811-010-0085** (1) Applicants shall be examined according to ORS 684.050 or 684.052.
- (2) The Board shall provide a Candidate's Guide, which contains all necessary examination information.
- (3) Fee and application requirements include the following:

(a) A \$100 application and examination fee for chiropractic exams must be received by the Board prior to applicant receiving approval to sit for the examinations.

(b) Re-examinations:

(A) Request for re-examination of the Ethics and Jurisprudence exam must be made to the Board, submitted in writing with a \$100 re-examination fee.

(B) Request for re-examination of the Minor Surgery/Proctology and/or the Obstetrics/Gynecology examinations must be submitted directly to the national testing agency.

(c) A complete set of fingerprints or LiveScan Transmittal Verification form and the criminal background check results obtained from any state or local law enforcement agency, or from any other agency approved by the Board. Applicants shall use forms or methods prescribed by the Board.

(d) Applicant must pay to the Board the current actual cost of conducting the state and federal background check

(4) Documents to be submitted prior to approval to take the Oregon Specifics Examinations:

(a) A completed official application including a recent photograph and fingerprints or LiveScan Transmittal Verification form;

(b) Social Security Number Authorization form;

(c) Evidence of the applicant's good moral character on the letterhead stationary of a chiropractic physician;

(d) A signed affidavit attesting to successful completion of at least two years of liberal arts and sciences study in an accredited college. Original transcripts must be provided if requested by the Board; and

(e) A transcript certified by the registrar, from an approved chiropractic college, including transcripts of coursework as required by OAR 811-020-0006 (minimum Educational Requirements for physiotherapy and minor surgery/ proctology). A transcript of grades is necessary from each chiropractic college attended; and

(f) An official transcript of passing grades from the National Board of Chiropractic Examiners on Part I, II and III and physiotherapy.

(5) Documents and fee to be submitted prior to licensure include:

(a) A \$150 initial license fee;

(b) A diploma or other evidence of graduation certified by the registrar from an approved chiropractic college; and

(c) An official transcript of passing grades from the National Board of Chiropractic Examiners Part IV.

(6) All applicants must take and pass the Oregon Specifics Examination consisting of written examination in ethics and jurisprudence, obstetrics and gynecology, minor surgery and proctology. Applicants who have previously taken and passed obstetrics and gynecology, and/or minor surgery and proctology within the last five years from the date of application as received by the Board are not required to retake these tests, however, all applicants must take and pass the Ethics and Jurisprudence examination.

(7) Oregon Specifics Examination Grades:

(a) The Board shall determine the passing scores. All examinations are designed to test minimal competency to protect the public health and safety.

(8) Regrades:

(a) Any request for regrade of the Ethics and Jurisprudence examination must be submitted in writing to the Board. A regrade involves a manual tally of points.

(b) Any regrade of the Minor Surgery/Proctology and /or the Obstetrics/Gynecology examination(s) requires contact to be made directly to the national testing agency and the regrade procedures are determined by them.

(9) An applicant failing to achieve a passing grade, as determined by the Board for the Ethics and Jurisprudence examination, may make application to the Board for a re-examination of the failed

section. An applicant failing to achieve a passing grade as determined by the Board for the Minor Surgery/Proctology, and /or the Obstetrics/Gynecology examination(s), must contact the national testing agency for re-examination of the failed section(s).

(10) An applicant must take at least one of the failed section(s) within 13 months following the date when the applicant took the entire examination. If the applicant fails to re-test on at least one failed section within 13 months of the last examination, the file shall become inactive and the applicant must re-apply and take the entire examination.

(11) An applicant attempting to give aid or accepting aid from another while examinations are in progress shall fail the examination and will not be allowed to take the examination for a period of five (5) years.

(12) Refunds:

(a) The application fee is non-refundable; and

(b) The re-examination fee for the Ethics and Jurisprudence exam may be refundable upon request prior to testing.

(c) The criminal background check fee is non-refundable.

(13) The Board may reject applications for good cause, including evidence of unprofessional behavior.

(14) Effective June 1, 2001 applicants who have completed all requirements for licensure, including passage of all required examinations, must submit the initial license fee to obtain license within one year from the date they completed all the requirements. An applicant's initial license will be valid for a minimum of 180 days. However, if the applicant's next birth date is within the 180 days, the initial license will be valid for an additional 12 months beyond the applicant's birth date.

*Stat. Auth.: ORS 684*

*Stats. Implem: ORS 684.050; 684.052*

*Adopt/Eff 5/2/16*

## **Annual Registration**

**811-010-0086** The license period for chiropractic physicians in Oregon is a period equal to 12 months, expiring on the last day of the licensee's birth date month.

(1) At least 30 days prior to the renewal due date the board shall mail to the last-known professional address of each licensed chiropractor a notice of the requirements of ORS 684.090 and 684.092.

(2) Active licensees must meet the requirements of ORS 684.092 during the 12 months prior to the expiration of the Certificate of Registration and pay to the board the annual \$425 registration fee.

(3) Licensees may apply for a \$315 senior active license within 45 days prior to the expiration of the Certificate of Registration if the licensee meets all of the following requirements:

(a) Is 60 years of age or older; and

(b) Has held an active chiropractic license for at least 25 years.

(4) Senior active licensees shall fulfill the requirements of ORS 684.090, 684.092 and 684.094 except that continuing chiropractic education shall not be less than 6 hours per year.

(5) Senior active licensees shall show proof at the time of license renewal that the criteria of subsection (3)(a) and (b) of this rule have been met.

(6) Active licensees may apply for a \$225 inactive license within 45 days prior to the expiration of the Certificate of Registration if the licensee qualifies because of one of the following:

(a) Military service;

(b) Peace Corps or VISTA service;

(c) Retirement; or

(d) Licensee is not engaged in the practice of chiropractic in Oregon.

(7) Inactive licensees do not have to fulfill the requirements of ORS 684.092.

(8) Inactive licensees who want to reinstate their active license during the same fiscal year shall pay the full active annual registration fee and provide proof of compliance with ORS 684.092.

(9) Inactive licensees who apply for reinstatement after five or more years after the date of transfer to inactive license, or who cannot demonstrate to the satisfaction of the Board they have been in active practice during the preceding five years, may be required to establish their competency in the practice of chiropractic by

(a) Receiving a passing grade on all or part of an examination required by the Board; or

(b) Submitting a letter showing proof of active practice and any disciplinary actions from the state boards where licensure is maintained.

(10) A license that is not renewed on time may not be renewed except:

(a) Upon written application and payment to the board of the fee for the license category plus a delinquent fee of \$125 for each week or portion thereof, not to exceed \$500.

(b) Upon compliance with or exemption from the requirements of ORS 684.092.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.090; 684.092*

*Adopted Eff. 7-1-2015*

### **Competency Examination**

**811-010-0089** The Board may at any time direct and order a mental, physical or professional competency examination or any combination thereof, and make such investigations in order to fully inform itself with respect to the performance or conduct of a licensee pursuant to ORS 684.100, sections (5), (6) and (7).

(1) The professional competency examination shall be administered as a written or oral examination. The Board may elect to administer one or both examinations or may elect to use a nationally recognized competency examination such as the National Board of Chiropractic Examiners (NBCE) Part IV or Special Purposes Examination for Competency (SPEC). The Board may elect to use other methods of competency examination, including but not limited to psychological examinations conducted by a licensed psychologist or psychiatrist.

(a) The written examination shall be determined by the Board according to ORS 684.100(5), (6) and (7);

(b) The Board shall make a determination of the passing grade. When the Board elects to use either the NBCE Part IV or SPEC examination, the passing grade suggested by the NBCE shall be adopted.

(c) Appointment of an Examination Panel is required only when administering an oral examination.

(2) The examinee shall be given no less than two weeks' notice of the date, time and place of any examination administered.

(3) Failure to achieve a passing grade on any competency examination shall constitute grounds for suspension or revocation of examinee's license by the Board.

(4) Any licensee by practicing Chiropractic shall be deemed to have given consent to submit to any competency examination including a mental or physical examination when so directed by the Board and, further, to have waived all objection to the admissibility of information derived from such mental or physical or professional competency examination on the grounds of statutory privileged communications.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.100(6)*

*Adopted Eff. 8-23-00*

### **Food and Drugs**

**811-010-0090** (1) The Chiropractic Physician is prohibited by law from the administration or dispensation of prescription drugs or the writing of prescription therefor.

(2) The Chiropractic Physician is specifically authorized to issue orders for, or procure anesthetics, and antiseptics; also opaque media for X-ray diagnosis as authorized by section (1) of ORS 684.025; also such other items that may fall within the provisions of the Chiropractic Act.

(3) A person has received training in the administration of emergency use of oxygen if the person

has completed a course in emergency medical procedures that includes the use of emergency oxygen at a chiropractic college or otherwise can demonstrate familiarity with the protocols for emergency oxygen use.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.015; 684.025*

*Adopted Eff. 11-30-07*

### **Guide to Policy and Practice Questions**

**811-010-0093** The Board's Guide to Policy and Practice Questions, originally dated January 14, 1998, and last amended May 23, 2013, is hereby adopted.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.010; 684.155*

*Adopted Eff. 06/06/13*

### **Peer Review**

**811-010-0095** (1) The Board of Chiropractic Examiners shall appoint and form committees for Peer Review in accordance with ORS 684.185.

(2) Definitions:

(a) "Peer Review" means the evaluation of the efficacy and appropriateness of health care and services provided to a patient based on those standards of care, skill and treatment which are recognized as being reasonable, prudent and acceptable under similar conditions and circumstances by Oregon chiropractors;

(b) The Board's Practice and Utilization Guidelines (NMS) as published in 1991, may be used as a guide to assist the Board and Peer Review Committee.

(c) "Peer Review Committee" means a committee of seven Chiropractic physicians, licensed under ORS Chapter 684, who qualify under ORS 684.185(2). Each Peer Review Committee may include two observation members appointed by the Board. Four members present at any meeting shall constitute a quorum, and allow the Peer Review Committee to carry out its business.

(3) Peer Review will occur upon submission of a request for review by a patient, the patient's representative, insurer or health care provider, made in writing to the Board and submitted with sufficient information so that the Board would find the case to be appropriate for a Peer Review investigation. Such information would include, where available, chart notes and written reports of the physician, bills, invoices, and insurance claim forms, statements of witnesses and complainants, and any previous correspondence between the physician and any other relevant person.

(4) The Peer Review Committee may request an informal interview with any person, including the physician being reviewed and, when appropriate, may request the opinion of other health care providers for reviews involving a particular area of practice.

(5) Any member of the Peer Review Committee shall withdraw from any investigation which concerns a close personal and/or professional involvement or association with the physician under review, patient, patient's representative, or insurer; lack of impartiality; or if the member is in professional competition in the community with the reviewed doctor. The doctor being reviewed may protest being reviewed by a specific Peer Review member and may be accompanied by legal counsel.

(6) Peer Review Committee shall consider all information submitted to it by the Board. The Committee shall also consider any written and/or oral comments made by the physician being reviewed, and the involved patient. The committee shall meet, complete the review, and submit a written report to the Board. This report should be adopted by a majority of the committee members at the Peer Review Committee meeting, or by circulating draft reports to the members for their written approval. The report shall include a brief statement of the facts of the case, any violation of rules or statutes pertaining to the practice of Chiropractic and/or any deviation from accepted standards, along with any additional comments which might assist the board in taking appropriate action.

(7) The members of the Peer Review Committee shall be paid mileage and per diem at the state rate while performing official functions.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.185*

*Adopted Eff. 12-11-03*

## **Chiropractic Assistants**

**811-010-0110** (1) The certification period for Chiropractic Assistants begins on August 1 and ends on July 31. A 30 day grace period will follow whereupon the Chiropractic Assistant may continue to practice. Any Chiropractic Assistant who has not renewed by September 1 must cease practice.

(2) Chiropractic Assistants may be certified upon compliance with the following standards and procedures:

(a) The Chiropractic Assistant applicant shall successfully complete a Board approved training course offered by an association, college or otherwise approved person. The initial training course shall be at least twelve hours in length, of which eight hours shall be didactic training and four hours shall be practical training.

(A) The practical training must be in physiotherapy, electrotherapy and hydrotherapy administered by a health care provider licensed to independently provide those therapies.

(B) A chiropractic physician may perform the initial practical training provided this is direct contact time.

(C) The initial training must have been completed within 60 days preceding the application submission date;

(b) The applicant shall complete an application form and an open book examination supplied by the Board;

(c) If an applicant has a certificate or license from another state and adequate documentation of training, the Board may waive the requirement for the initial training course; and

(d) A person initially certified between March 1st and May 31st is exempt from the continuing education requirement for renewal.

(3) The training course verification form, completed application form, completed examination, and fees in the following amounts shall be submitted to the Board:

(a) A non-refundable application fee - \$50;

(b) A non-refundable examination fee - \$35; and

(c) An initial certification fee - \$50. A refund of the certification fee will only be allowed when requested within 60 days of the initial application.

(d) In circumstances beyond the applicant's control (e.g. board review of criminal history) the Board may determine to refund the fees or portion thereof.

(e) In the event the Board requires the NBCE chiropractic assistant examination in lieu of the Board's examination, the fee in subsection (b) will be waived.

(4) The Board shall maintain an incomplete application file for six months from the date the application was received; afterward, applicants will need to re-apply.

(5) The applicant shall be at least 18 years of age.

(6) The Chiropractic Assistant shall not perform electrotherapy, hydrotherapy, or physiotherapy until he or she receives a certificate from the Board.

(7) A Chiropractic Assistant shall be directly supervised by the Chiropractor at all times. The supervising Chiropractor must be on the premises.

(8) The Chiropractic Assistant scope of practice

(a) includes physiotherapy, electrotherapy and hydrotherapy, taking vitals such as height, weight, blood pressure, temperature, pulse, respiration and/or body fat percentages and other duties as described by the Board, and

(b) does not otherwise include performing physical examinations, taking initial histories, taking X-rays (unless properly licensed), interpretation of postural screening, doing manual muscle testing, or performing osseous adjustments or manipulations or other tasks as authorized by the Board.

(9) Chiropractic Assistants shall report to the Board, in writing, his/her mailing address and place of employment. Notification of a change of mailing address or place of employment must be made within 10 days of the change.

(10) On or before each June 1, the Board of Examiners shall send the renewal notice to the Chiropractic Assistant at the last known mailing address.

(11) On or before each July 31 the Chiropractic Assistant shall mail to the Board of Examiners the renewal form with a renewal fee of \$75. A certificate that is not renewed on time may not be renewed except:

(a) Upon written application and payment to the board of the renewal fee plus a delinquent fee of \$25 for renewals submitted between August 1 and August 31 of each year; or

(b) Upon written application and payment to the board of the renewal fee plus a delinquent fee of \$50 for renewals submitted on September 1 or later; and

(c) Upon submission of proof of compliance with or exemption from the requirements of ORS 684.092.

(12) A Chiropractic Assistant has up to one year following their July 31 renewal date to renew and reinstate their certificate upon meeting the provisions of (11)(a) through (c) above. After 12 months a person must restart the application process.

(13) Continuing education programs may be comprised of subjects that are pertinent to clinical practices of chiropractic. Continuing education must meet the criteria outlined in OAR 811-015-0025 sections (8), (9) and (10). No continuing education hours may be carried over into the next renewal year. Evidence of successful completion of six hours of continuing education during the 12 months preceding the renewal must be submitted upon request by the board.

(14) The Chiropractic Assistant's certificate shall be displayed at all times in the Chiropractic Physician's office during the Chiropractic Assistant's employment.

(15) The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate, or may impose upon an applicant for certification or Chiropractic Assistant a civil penalty not to exceed \$1,000 upon finding of any of the following:

(a) Cause, which is defined as, but not limited to, failure to follow directions, unprofessional or dishonorable conduct, injuring a patient, or unlawful disclosure of patient information. The supervising Chiropractic Physician is required to notify the Board, in writing, of any dismissal of a Chiropractic Assistant for cause within ten days. The Board shall determine if there is cause for action and shall be governed by the rules of the Board adopted pursuant to ORS Chapter 183;

(b) Conviction of a misdemeanor involving moral turpitude or a felony; or

(c) Failure to notify the Board of a change of location of employment as required by these rules.

(16) Unprofessional or dishonorable conduct is defined as: any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or failure to conform to, the minimal standards of acceptable Chiropractic Assistant practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic Assistant:

(a) Engaging in any conduct or verbal behavior with or towards a current patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).

(b) A certificate holder shall not engage in sexual relations or have a romantic relationship with a current patient unless a consensual sexual relationship or a romantic relationship existed between them before the commencement of the Chiropractic Assistant-patient relationship.

(A) "Sexual relations" means:

(i) Sexual intercourse; or

(ii) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the Chiropractic Assistant for the purpose of arousing or gratifying the sexual desire of either Chiropractic Assistant or patient.

(B) A patient's consent to, initiation of or participation in sexual behavior or involvement with a Chiropractic Assistant does not change the nature of the conduct nor lift the prohibition.

(C) In determining whether a patient is a current patient, the Board may consider the length of time of the Chiropractic Assistant-patient contact, evidence of termination of the Chiropractic Assistant-patient relationship, the nature of the Chiropractic Assistant-patient relationship, and any other relevant information.

(c) Use of protected or privileged information obtained from the patient to the detriment of the patient.

(d) Practicing outside the scope of the practice of a Chiropractic Assistant in Oregon;

(e) Charging a patient for services not rendered;

(f) Intentionally causing physical or emotional injury to a patient;

(g) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;

(h) Soliciting or borrowing money from patients;

(i) Possessing, obtaining, attempting to obtain, furnishing, or prescribing controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; illegally using or dispensing controlled drugs;

(j) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of Chiropractic Assistants or other health care providers; or

(k) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;

(l) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;

(m) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of a Chiropractic Assistant;

(n) Practicing as a Chiropractic Assistant without a current Oregon certificate;

(o) Allowing another person to use one's Chiropractic Assistant certification for any purpose;

(p) Resorting to fraud, misrepresentation, or deceit in applying for or taking the certificate examination or obtaining a certificate or renewal thereof;

(q) Impersonating any applicant or acting as a proxy for the applicant in any Chiropractic Assistant certificate examination;

(r) Disclosing the contents of the certificate examination or soliciting, accepting, or compiling information regarding the contents of the examination before, during, or after its administration;

(s) Failing to provide the Board with any documents requested by the Board;

(t) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege;

(u) Claiming any academic degree not actually conferred or awarded;

(v) Disobeying a final order of the Board; and

(w) Splitting fees or giving or receiving a commission in the referral of patients for services.

(x) Receiving a suspension or revocation of a certificate for a Chiropractic Assistant, or other license or certificate by another state based upon acts by the Chiropractic Assistant or applicant that describes acts similar to this section. A certified copy of the record of suspension or revocation of the state making that is conclusive evidence thereof.

(17) The service of the Chiropractic Assistant is the direct responsibility of the licensed Chiropractic Physician. Violations may be grounds for disciplinary action against the Chiropractic Physician under ORS 684.100(9).

*Statutory Auth.: ORS 684.155*

*Stats. Implemented: ORS 684.054 & 684.155(c)(A)*

### **Chiropractic Professional Corporation And Business Entity Majority Ownership**

**811-010-0120** (1) Definitions. As used in this rule, unless the context requires otherwise:

(a) "Business entity" means:

(A) A professional corporation organized under ORS chapter 58, predecessor law or comparable law of another jurisdiction;

(B) A limited liability company organized under ORS chapter 63 or comparable law of another jurisdiction;

(C) A partnership organized in Oregon after January 1, 1998, or that is registered as a limited liability partnership, or that has elected to be governed by ORS chapter 67 or comparable law of another jurisdiction; or

(D) A limited partnership organized under ORS chapter 70, predecessor law or comparable law of another jurisdiction.

(b) "Majority ownership interest" means more than 50 percent of:

(A) The issued voting stock of a professional corporation;

(B) The members of a limited liability company; or

(C) Participation in the profits of a partnership.

(c) "Organizational document" means:

(A) The articles of incorporation of a professional corporation, or comparable document of another jurisdiction;

(B) The articles of organization of a limited liability company, or comparable document of another jurisdiction;

(C) The partnership agreement and, for a limited liability partnership, its registration, or comparable document(s) of another jurisdiction; or

(D) A certificate of limited partnership, or comparable document of another jurisdiction.

(d) "Owner" means a voting shareholder of a professional corporation, member of a limited liability company, or partner of a partnership.

(e) "Principal" means a person who is a director of a professional corporation, manager of a limited liability company, or general partner of a limited partnership.

(2) Requirements for business entities organized to practice chiropractic. The purpose of this rule is to protect the public by ensuring that business entities are organized for the purpose of providing chiropractic health care by majority owned and controlled Oregon licensed chiropractic physicians and/or chiropractic health care in a multi-disciplinary setting which are majority owned and controlled by Oregon licensed health care professionals.

(a) In a business entity organized for the purpose of practicing chiropractic:

(A) The majority ownership interest shall be held by chiropractic physicians licensed in this state to practice chiropractic.

(B) A majority of the principals shall be chiropractic physicians who are licensed in this state to practice chiropractic.

(C) All officers except the secretary and treasurer, if any, must be chiropractic physicians who are licensed in this state to practice chiropractic. Any two or more offices may be held by the same person.

(b) A professional corporation may be a shareholder of a professional corporation organized for the purpose of practicing chiropractic solely for the purpose of effecting a reorganization as defined in the Internal Revenue Code.

(c) Business entities organized before August 15, 2001 that are not in compliance with the provisions of this rule have until August 15, 2002 to come into compliance.

(d) The Board of Chiropractic Examiners has the discretion to allow business entities to apply for a waiver of the majority ownership requirement provided full disclosure of clinic ownership is provided to the Board of Chiropractic Examiners, a plan and timetable is presented for a transition to meet the

requirements of this rule, and the Board finds that the health and welfare of the patient is the first priority of the Chiropractic physicians and business entity.

(e) Upon a finding that a holder or owner of a chiropractic practice has failed to comply with the provisions of this rule or the regulations prescribed by the Board pursuant to the practice of chiropractic, the Board of Chiropractic Examiners may consider the failure to comply with this rule as a violation of this rule which may subject a holder or owner to discipline pursuant to ORS 684.100.

(3) Powers of professional corporations organized to practice chiropractic.

(a) A professional corporation organized for the purpose of practicing chiropractic has the powers enumerated in ORS 60.077 and 60.081, except as provided otherwise by the Board of Chiropractic Examiners.

(b) A general corporation under the provisions of ORS Chapter 60 may not be organized to practice chiropractic.

(4) Proxies.

(a) A proxy to exercise voting rights in a business entity organized for the purpose of practicing chiropractic may be given under the following conditions:

(A) If the voting rights belong to a chiropractic physician licensed in this state to practice chiropractic, the proxy may be given only to an owner of the same business entity who is also a chiropractic physician licensed in this state to practice chiropractic, or to an attorney licensed in this state to practice law.

(B) If the voting rights do not belong to a chiropractic physician licensed in this state to practice chiropractic, the proxy may be given only to another owner of the same business entity whether or not the other owner is a chiropractic physician licensed in this state to practice chiropractic, or to an attorney licensed in this state to practice law.

(b) No voting trust may be created to exercise the voting rights of one or more owners of a business entity organized for the purpose of practicing chiropractic.

(c) Two or more persons with voting rights in a business entity organized for the purpose of practicing chiropractic may enter into a voting agreement provided that the voting agreement does not transfer voting rights from an individual who is a chiropractic physician licensed in this state to practice chiropractic to an individual who is not so licensed. Notwithstanding any provision of this subsection, voting rights may be transferred to an attorney licensed in this state to practice law.

(5) Acquisition and disposition of ownership interest.

(a) Persons with an ownership interest in a business entity organized for the purpose of practicing chiropractic may acquire, transfer, assign or dispose of such ownership interest only in a manner that leaves the business entity in compliance with the provisions of this rule.

(b) If the majority ownership interest of a business entity organized for the purpose of practicing chiropractic is no longer held by chiropractic physician(s) licensed in this state to practice chiropractic due to such ownership interest being held by an administrator, executor, personal representative, guardian, conservator or receiver of the estate of a former owner, or by a transferee who receives such ownership interest by operation of law or court decree, such administrator, executor, personal representative, guardian, conservator, receiver or transferee may act in the same ownership capacity as the former owner, including acting in the former owner's capacity as principal or officer, until the ownership requirements are in compliance with the provisions of this rule, but not to exceed six months following receipt or transfer of such ownership interest.

(c) Subject to subsection (a) of this section, the organizational document, bylaws or agreements among owners of a business entity organized for the purpose of practicing chiropractic may provide limitations on the ability to acquire, transfer, assign or dispose of an ownership interest in the business entity.

(d) Subject to subsection (a) of this section, the articles of incorporation, bylaws or agreements among shareholders of a professional corporation may provide for the purchase or redemption of shares by the corporation.

(6) Disqualification of chiropractic physician; disposition of ownership interest.

(a) If a chiropractic physician practicing chiropractic on behalf of a business entity is disqualified from practicing chiropractic for more than six months or assumes a public office, the duties of which prohibit practicing chiropractic for more than six months under the rules of the Board of Chiropractic Examiners or other law, within 60 days after the disqualification or prohibition, the chiropractic physician's ownership interest shall be disposed of in accordance with Section (5), or

(A) In the case of a professional corporation, the corporation shall have the right to redeem the shares of the chiropractic physician.

(B) In the case of a limited liability company, the chiropractic physician shall cease to be a member by withdrawal or expulsion.

(C) In the case of a partnership, the chiropractic physician shall cease to be a partner by withdrawal, dissociation or expulsion

(b) If the disposition of ownership interest under subsection (a) of this section results in less than majority ownership of the business entity by chiropractic physicians licensed in this state to practice chiropractic, the business entity shall have six months from the date of disqualification or prohibition to come into compliance with the majority ownership provisions of this rule.

(c) If a chiropractic physician practicing chiropractic on behalf of a business entity is disqualified from practicing chiropractic for six months or less or assumes a public office, the duties of which prohibit practicing chiropractic for six months or less under the rules of the Board of Chiropractic Examiners or other law, the chiropractic physician may retain interest in the business entity and may remain a principal of the business entity during the period of disqualification or prohibition, unless otherwise prohibited under the rules of the Board of Chiropractic Examiners or by law.

(7) Disposition of ownership interest upon death of owner.

(a) A business entity organized for the purpose of practicing chiropractic may provide for the disposition of the ownership interest of a deceased owner in the organizational document, in the bylaws, by agreement between owners or between the business entity and its owners, providing such disposition leaves the business entity in compliance with the provisions of this rule.

(b) If there is no provision for the disposition of a deceased owner's interest as described in subsection (a) of this section, the ownership interest shall be disposed of in any manner that leaves the business entity in compliance with the provisions of this rule and the laws of this state.

(c) If the ownership interest of a deceased owner is not disposed of within twelve months after the owner's death, a special meeting of the remaining owners shall be called within fourteen months after the owner's death to decide by vote of the remaining owners whether the business entity shall dispose of such ownership interest in accordance with the provisions of this rule, or whether the business entity shall be voluntarily dissolved. The action determined to be taken by the remaining owners shall be completed within eighteen months after the owner's death. The Board may grant an extension of this time period upon request.

(d) If the deceased owner of a business entity organized for the purpose of practicing chiropractic was the sole owner of the business entity at the time of death:

(A) The business entity shall cease the practice of chiropractic as of the date of the owner's death unless it has retained the services of another chiropractic physician licensed in this state to practice chiropractic.

(B) Notwithstanding Section (2) (c) of this rule, within twelve months after the date of the owner's death, the business entity shall be dissolved unless the ownership interest of the deceased owner has been sold or assigned to one or more chiropractic physicians who are licensed in this state to practice chiropractic.

(8) Multidisciplinary Provisions. A business entity may be organized for the purpose of rendering professional services within two or more health-related licensed professions, provided the majority ownership interest is held by persons licensed in this state in a health-related licensed profession and such licensees are acting only within their license scope of practice and code of

professional conduct and are subject to the disciplinary authority of their respective licensing board.

*Statutory Auth.: ORS 58; ORS 684*

*Stats. Implemented: ORS 58.367; ORS 684.155 (1)(b)*

*Adopted Eff. 9-19-02*

### **Other Licensed Health Care Providers**

**811-010-0130(1)** A chiropractic business entity or chiropractic physician, in accordance with decades long accepted scope of practice, may employ or contract for the services of other health care providers as part of their chiropractic practice for the purpose of providing care to patients, to the extent this does not conflict with other applicable state or federal laws. Other health care providers may include, but are not limited to, licensed massage therapists, physical therapists, athletic trainers, nurses, acupuncturists, naturopathic physicians and physicians licensed under ORS 677.

*Statutory Auth.: ORS 684.155 (1)(b)*

*Stats. Implemented: ORS 684.155 (1)(b)*

*Adopted Eff. 02-09-06*

## DIVISION 15 CONSUMER PROTECTION

### Fees

**811-015-0000** (1) The usual and customary fee that a Doctor of Chiropractic charges for services is a personal privilege.

(2) Each licensee shall maintain a schedule of fees charged for common services and the schedule of fees shall be available to patients upon request. The billing procedure must be fully explained to the patient orally and in writing. Licensees shall make certain that each patient is informed about the charging and billing procedures of the licensee's office prior to any charges being incurred.

(3) If licensees agree to bill third party payors on behalf of their patients, licensees must bill third party payors at the same rate the patient was billed and the bill must accurately reflect any discount that was given to the patient.

(4) It is not unethical for licensees to charge interest on time payments or past due accounts, if the billing procedure is fully explained to the patient orally and in writing and complies with other applicable laws. The monthly rate of interest must be printed on the statement.

(5) Licensees may offer free or reduced cost services to any patient of their choice. However, it is the licensees' responsibility to comply with other applicable federal and state laws regarding billing practices.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155(b)*

*Adopted Eff. 10-21-91*

### Pre-Paid and Contracted Treatment Plans

**811-015-0002** A Pre-Paid Plan is a package of services and/or products that are purchased by patients at a reduced or discounted cost than if the services were purchased individually.

(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) "Insurance" is defined as a contract whereby one undertakes to indemnify another or pay or allow a specified or ascertainable amount or benefit upon determinable risk contingencies (ORS 731.102).

(b) Chiropractic physicians or clinics who are certified by the Oregon Department of Insurance as Medical Retainer Plans are exempted from this section.

(c) These plans must not be in violation of OAR 811-015-0000 (Fees).

(2) Pre-Paid and Contracted Treatment Plans must include the following, in writing:

(a) The total costs/fees that the patient will incur and the method and timing of payment(s).

(b) Description of what services and products are included and excluded - 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.

(c) Description of the time frame which the plan covers.

(d) How special circumstances, such as extended absences, new injury or illness are handled.

(e) Statement that there is no claim or representation of a guarantee of results, outcome, or the cure of a particular condition.

(3) Early Termination of Care:

(a) 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, or condition. The written explanation must be clearly labeled "Refund Policy" 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.

(b) The patient may have the right to terminate the Pre-Pay Plan at any time: In event of early termination of a pre-paid treatment plan by the patient, the maximum fee charged cannot exceed the chiropractor's usual and customary fee cash pay (including any time of service discount) for the services rendered.

(c) The chiropractic physician may terminate the Pre-Pay Plan at any time, for good and sufficient cause, except licensee must ensure that patient abandonment does not occur. In event of early termination of a pre-paid treatment 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.

(4) Pre-Pay Plans must be in compliance with all other applicable State or Federal Laws.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155(b)*

*Adopted Eff. 8-2-13*

## **Records**

**811-015-0005** (1) Failure to keep complete and accurate records on all patients shall be considered unprofessional conduct

(a) Each patient shall have exclusive records which shall be clear, legible, complete and accurate; 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 one other unique identifier (date of birth, medical record number, etc.), 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) Clear, legible, complete and accurate records contain the following:

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

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

(C) 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.

(D) Relevant information concerning the patient such as height, weight, and blood pressure.

(E) Documentation of informed consent for examination and treatment.

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

(d) A chiropractic physician shall maintain billing records for services performed for which payment is received from or billed to the patient, an insurance company, or another person or entity who has assumed the financial responsibility for the payment of services performed to the patient. Such records will be maintained for same amount of time as other patient records. As a minimum, a billing record will include the date of the patient encounter or financial entry, a notation of the services

performed either by description or code, common codes such as the AMA Current Procedural Terminology (CPT) codes may be used without additional explanation or legend, and the fee charged for the services billed. If third party payers are billed, the billing instrument (CMS 1500 form or its successor) should be retrievable. Such information may be maintained on a handwritten or printed ledger, with the assistance of a computer or other device either by direct entry or with a particular program or application, or by an alternative method. To the extent billing records do not contain patient health care records not kept elsewhere, they are not consider part of the clinical record.

(e) Such information as described in section (d) must be readily available upon request of the patient, an agent of the patient, an insurance carrier or entity responsible for the payment of the services, or by the Board or other entity with a legal right to review such information.

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

(3) A patient's original health care and billing records shall be kept by the chiropractic physician a minimum of seven years from the date of last treatment. However, if a patient is a minor, the records must be maintained at least seven years from the time they turn 18 years of age.

(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.

(6) A chiropractic physician shall establish a plan for custodianship of these records in the event they are incapacitated, deceased or otherwise unable to maintain these records pursuant to paragraph (7).

(7) Except as provided for in paragraph (7)(e) of this rule, a chiropractic physician who is an independent contractor or who has an ownership interest in a chiropractic practice shall provide notice when leaving, selling, or retiring from the chiropractic office where the chiropractic physician has provided chiropractic services.

(a) Notification shall be sent to all patients who received services from the chiropractic physician during the two years immediately preceding the chiropractic physician's last date for seeing patients. This notification shall be sent no later than thirty days prior to the last date the chiropractic physician will see patients.

(b) The notice shall include all of the following:

(A) A statement that the chiropractic physician will no longer be providing chiropractic services at the practice;

(B) The date on which the chiropractic physician will cease to provide services;

(C) Contact information that enables the patient to obtain the patient's records.

(c) The notice shall be sent in one of the following ways:

(A) A letter sent through the US Postal Service to the last known address of the patient with the date of the mailing of the letter documented, or

(B) A secure electronic message.

(d) In the event of an illness, unforeseen emergency, incarceration, or other unanticipated incident, a chiropractic physician is unable to provide a thirty day notice as required by paragraph (7)(a)

of this rule the chiropractic physician shall provide such notice within thirty days after it is determined that the physician will not be returning to practice.

(e) Paragraph (7) of this rule does not apply to the chiropractic physician who is departing as an employee of another Oregon licensed chiropractic physician. It is the licensed Oregon chiropractic physician employer's responsibility to maintain continuity of care, or to comply with this rule if patient care will be terminated upon a chiropractic physician employee's leaving employment or retiring.

(f) In the event a chiropractic physician dies or becomes incapacitated and unable to practice, and there is no other chiropractic physician associated with the practice, the deceased, incapacitated, or unavailable chiropractic physician's executor, guardian, administrator, conservator, next of kin, or other legal representative shall notify the board in writing of the management arrangement for the custody and transfer of patient files and records. This individual shall ensure the security of, and access to, patient files and records by the patient or other authorized party, and must report plans or arrangements for permanent custody of patient files and records to the Board in writing within 180 days. Transfer of patient files and records must occur within one year of the death of the chiropractic physician.

*Stat. Auth.: ORS 684*

*Stats. Implemented: ORS 684.155*

*Adopted Eff. 4/10/2015*

### **Disclosure of Records**

**811-015-0006** (1) A Chiropractic physician shall make available within a reasonable time to a patient or a third party upon the patient's written request, copies or summaries of medical records and originals or copies of the patient's X-rays.

(a) The medical records do not necessarily include the personal office notes of the Chiropractic physician or personal communications between a referring and consulting physician relating to the patient.

(b) 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.

(2) 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.

(3) Whenever the OBCE asks a Chiropractic physician for a response to a complaint or an investigation,

(a) The Chiropractic physician shall make available to the OBCE all requested patient file information, such as, but not limited to chart notes, billing records, x-rays, correspondence, reports and any and all relevant information.

(b) The requested patient file information shall be made available within 14 days of receipt of the OBCE's request unless the OBCE or the OBCE's representative determines by memo to the OBCE's investigative file that immediate availability of the requested records is necessary for the OBCE's investigation. Additional response time may be granted by the OBCE or its representative upon a reasonable request.

(c) The Chiropractic physician must certify that all the requested records have been provided unless clear and compelling reasons are presented for failure to do so. Any documents not provided within the specified time must be identified along with the reasons. Failure to provide records to the OBCE within the time period specified by this rule for the purpose of responding to a complaint or an investigation is a violation of OAR 811-035-0015 (19).

*Statutory Auth.: ORS 684; 791*

*Stats. Implemented: ORS 684.155; 791 (SB 235)*

*Adopted Eff. 2-1-01*

## **Clinical Justification**

**811-015-0010** (1) Clinical rationale, within accepted standards and understood by a group of peers, must be shown for all opinions, diagnostic and therapeutic procedures.

(2) Accepted standards mean skills and treatment which are recognized as being reasonable, prudent and acceptable under similar conditions and circumstances.

(3) All initial examinations and subsequent re-examinations performed by a chiropractor to determine the need for chiropractic treatment of neuro-musculoskeletal conditions shall include a functional chiropractic analysis. Some combination of the following PARTS exam constitutes a functional chiropractic analysis:

- P Location, quality, and intensity of pain or tenderness produced by palpation and pressure over specific structures and soft tissues;
- A Asymmetry of sectional or segmental components identified by static palpation;
- R The decrease or loss of specific movements (active, passive, and accessory);
- T Tone, texture, and temperature change in specific soft tissues identified through palpation;
- S Use of special tests or procedures.

(4) Chiropractic physicians shall treat their patients as often as necessary to insure favorable progress. Evidence based outcomes management shall determine whether the frequency and duration of curative chiropractic treatment is, has been, or continues to be necessary. Outcomes management shall include both subjective or patient-driven information as well as objective provider-driven information. In addition, treatment of neuro-musculoskeletal conditions outside of the Oregon Practices and Utilization Guidelines - NMS Volume I, Chapter 5, may be considered contrary to accepted standards. Chiropractic physicians treating outside of the Practices and Utilization Guidelines – NMS Volume I, Chapter 5, bear the burden of proof to show that the treatment, or lack thereof, is clinically justified.

(5) Copies of any independent examination report must be made available to the patient, the patient's attorney, the treating doctor and the attending physician at the time the report is made available to the initial requesting party.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155*

*Adopted Eff. 11-30-07*

## **Continuing Chiropractic Education**

**811-015-0025** (1) The purpose of continuing chiropractic education (CE) licensure credit is to assist in assuring the competence and skills of Oregon Chiropractic physicians, and to help assure the Oregon public of the continued competence of these physicians within the statutory scope of practice.

(2) In order to renew an active license, each licensee shall submit a signed affidavit on a form provided by the OBCE attesting to successful completion of 20 or more hours of chiropractic continuing education course or activity hours completed during the preceding licensure period. Each licensee shall maintain records as required in section (10) to support the hours reported in the signed affidavit.

(3) Courses or activities determined by licensees to meet the criteria of sections (8) and (9) are presumed to be approved until or unless specifically disapproved by the OBCE. Licensees will be informed of any disapproved courses in a timely manner. The Board will not retroactively disapprove course credits. The Board will maintain a list of disapproved courses available for review by licensees.

(4) The Board may require specific courses as part of a chiropractic physician's annual relicensure hours for an upcoming licensure period.

(5) Any Chiropractic physician who is also licensed as a naturopath, osteopath, medical doctor, nurse or nurse practitioner is exempt from the over-the-counter non-prescriptive substances

requirements of sections (6) and (7).

(6) Any Chiropractic physician holding an initial license is exempt from continuing education for the first year of licensure, except for four (4) hours relating to over-the-counter non-prescriptive substances and any specific courses required by the Board.

(7) Anyone changing license status from inactive to active or senior active license shall take four (4) hours of the required hours relating to over-the-counter non-prescriptive substances prior to changing license status and any specific courses required by the Board.

(8) Approved continuing chiropractic education shall be obtained from courses or activities which meet the following criteria:

(a) They do not misrepresent or mislead;

(b) They are presented by a Chiropractic physician, licensed here or in another state, other appropriate health care provider, or other qualified person;

(c) They exclude practice-building subjects and the principle purpose of the program may not be to sell or promote a commercial product. However the mere mention of practice building concepts shall not disqualify a program's eligibility for CE credit.

(d) The material covered shall pertain to the practice of chiropractic in Oregon or be related to the doctor's practice;

(e) Continuing education hours for Board activities must assist in assuring the competence and skills of the chiropractic physician, and

(f) Shall be quality courses or activities adequately supported by evidence or rationale as determined by the Board.

(9) The Board may accept credit hours from courses, seminars or other activities. Completion of other activities is chiropractic continuing education defined as follows:

(a) Continuing Medical Education(CME);

(b) video or audio taped Continuing Education courses or seminars;

(c) long distance learning courses;

(d) being an original author of an article, published in a peer reviewed journal, given in the year of publication;

(e) participation in a formal protocol writing process associated with an accredited health care institution or state or government health care agency;

(f) participation on an OBCE committee and assisting with a National Board of Chiropractic Examiners (NBCE) examination or NBCE test writing committee;

(g) participation in a research project, approved by the Board, related to chiropractic health care directed by an educational institution or other qualified chiropractic organization;

(h) teaching courses at an accredited health care institution;

(i) teaching chiropractic continuing education courses;

(j) CPR courses; and

(k) instruction related to OAR 811-015-0030, minor surgery/proctology rotation;

(l) and any other course or activity specifically authorized by the OBCE.

(10) All licensees are required to keep full, accurate and complete records:

(a) A verification of attendance for all CE courses or activities showing hours claimed for relicensure credit, and or proof of completion signed by the sponsor and licensee.

(b) Video taped or audio taped courses shall be supported through record keeping with a letter, memo or on a form provided by the Board, that includes the dates and times, vendor's or presenter's name/s, total hours claimed for each course, location, and includes the following statement, "I swear or affirm that I viewed or listened to these continuing education courses in their entirety on the dates and times specified in this report."

(c) A copy of a published article including the date of publication;

(d) A written record of hours in clinical protocol development and research projects. The record shall include the names and addresses of the institutions involved, name of supervisors, and their signatures

verifying hours.

(e) For licensees claiming CE hours under the provisions of (9) (h), a record of employment by health care institutions, signed by their supervisor, a copy of the course syllabus if applicable, and verification of hours.

(f) For licensees claiming CE hours under the provisions of (9) (i), licensee shall obtain and keep verification of the course taught including, the dates of the course, a syllabus and the sponsoring organization.

(g) For licensees claiming CE hours under the provisions of (9)(f), for participation on an OBCE committee and assisting with a National Board of Chiropractic Examiners; (NBCE) examination or NBCE test writing committee, certification from the OBCE or NBCE.

(h) For licensees claiming CE hours under the provisions of (9)(k), a record of the dates, topics/procedures, and hours.

(11) At each renewal the OBCE will generate a random computer list of a minimum of 10% or up to 100% of renewing licensees, who will then have their CE records reviewed to ensure compliance with this rule. Licensees shall respond to this request within 30 days by supplying the OBCE with verification of their CE courses or activities as provided in section 10.

(12) Any licensee who has submitted inadequate, insufficient, or deficient CE records or who otherwise appears to be in noncompliance with the requirements of this rule will be given written notice by the OBCE and will have 30 days from the date of notice to submit additional documentation, information or written explanation to the OBCE establishing the licensee's compliance with this rule.

(13) At its discretion, the Board may audit by attendance the content of any program in order to verify the content thereof. Denial of an audit is grounds for disapproval.

(14) Any chiropractic physician seeking a hardship waiver from their continuing education requirements shall apply to the Board, in writing, as soon as possible after the hardship is identified and prior to the close of licensure for that year. Specific details of the hardship must be included. The Board must make a finding that a hardship exists.

(15) The Board shall maintain and make available through its WEB page and mailings to licensees a list of disapproved courses, if any. The Board may disapprove a course or CE activity after giving the sponsor and/or licensees the opportunity to provide additional information of compliance with the criteria contained in this rule, and opportunity for contested case hearing under the provisions of ORS 183.341 if requested. Any CE sponsor or licensee may request the Board to review any previously disapproved course at any time.

*Statutory Auth.: ORS 684.155*

*Stats. Implemented ORS 684.092*

*Adopted Eff.: 12-22-08*

### **Chiropractic Obstetrics, Minor Surgery, And Proctology**

**811-015-0030** (1) A Minor Surgery/ Proctology Review Committee will be appointed by the Board of Examiners. Members will serve at the pleasure of the Board. The committee may review the applications and rotation plans. The committee will review the results of the rotation and make a

recommendation to the Board regarding the certification. The committee may advise the Board on all issues related to minor surgery and proctology.

(2) A chiropractic physician licensed in Oregon who wishes to practice minor surgery and/or proctology must apply to, and receive from, the Board a certification of special competency in minor surgery and/or proctology. To receive and maintain certification, the applicant must fulfill the following requirements:

(a) Give written application to the Board of Chiropractic Examiners to practice minor surgery and/or proctology, provide evidence of completion of 36 hours of undergraduate or postgraduate coursework in minor surgery/proctology, and propose a plan to complete a rotation for practical

experience in not less than 25 minor surgery/proctology cases. The purpose of the rotation is to learn and demonstrate competencies, as determined by the Minor Surgery/Proctology Review Committee, under the guidance of one or more supervising licensed physicians. The numbers of procedures required in each of these areas will be determined by this committee.

(A) The rotation must include no less than five cases where all aspects of the cases are performed solely by the chiropractic physician, and observed by the supervising licensed physician.

(B) The remainder of the rotation not covered in paragraph (A) shall consist of cases where the chiropractic physician observes and/or assists.

(C) Adequate documentation of the Chiropractic physician's participation in all cases is required on forms provided by the Board, and signed by the supervising licensed physician. It is recommended the rotation be completed within one year.

(b) 12 hours of continuing education (seminar, course or instruction) related to minor surgery/proctology every three years. Optionally, in lieu of eight hours of the continuing education requirement, a chiropractic physician may document performance or observation of twelve minor surgery/proctology procedures every three years. Reasonable documentation of the procedure or observation is a copy of the patient schedule and/or patient billing/ or other patient record with the patient name redacted which indicates the type of procedure and date performed.

(3) A chiropractic physician who is also licensed in Oregon as a doctor of naturopathy may make written application to practice minor surgery and proctology. The application may be approved by the Board if the chiropractic physician can demonstrate his naturopathic training and experience is equivalent to that required under section (2).

(4) A chiropractic physician licensed in Oregon who wishes to practice natural childbirth must apply to and receive from the Board a certification of special competency in natural childbirth. To receive and maintain certification, the applicant must fulfill the following requirements:

(a) Successfully complete at least 200 hours of direct instruction hours at an approved chiropractic, naturopathic, medical, osteopathic college or hospital in obstetrics and furnish a signed log showing evidence that subsections (b) and (c) of this section have been completed under the direct supervision of a licensed practitioner with specialty training in obstetrics and/or natural childbirth;

(b) Take part in the care of 50 women in both the prenatal (including obstetrics intakes) and postnatal periods;

(c) Observe and assist in the intrapartum care and delivery of 50 natural childbirths in a hospital or alternative birth setting. These births must be under the supervision of a licensed practitioner with specialty training in obstetrics and/or natural childbirth. A labor and delivery that starts under the care of someone licensed to assist in childbirth and includes hospitalization shall count as a birth.

(d) Pass a certification exam in obstetrics given by or approved by the Board.

(e) Submit annually, at the time certificate holders submit their general continuing education hours, 15 hours of Board approved continuing education in obstetrics. Seven of the 15 hours in obstetrics may be used to satisfy OAR 811-015-0025(4). Every other year an approved class in neonatal resuscitation shall be part of this continuing education requirement.

(5) Licensing action by the Board under ORS 684 shall be deemed to have an equal effect upon a certificate of special competency issued the practitioner, unless specifically provided otherwise in the Board action.

(a) When the subject of a disciplinary proceeding relates specifically to the practice of minor surgery, proctology, or natural childbirth by a licensee who possesses a certificate of special competency, the license action may in lieu of affecting the entire scope of the licensee's practice, suspend, revoke, or curtail only the practitioner's authority under the certificate of special competency.

(b) To address emergency or other circumstances which indicate the use of substances or procedures not authorized for use by chiropractic physicians, a plan to access these must be developed in a timely fashion and entered in the patient's chart.

(6) Notwithstanding section (4), a Chiropractic physician may obtain a license as a direct entry

midwife from the Board of Direct Entry Midwifery. Any chiropractic physician licensed as a naturopathic physician and certified in natural childbirth by the Oregon Board of Naturopathic Examiners, may also practice natural childbirth/obstetrics as a chiropractic physician to the extent allowed by ORS 684.

*Stat. Auth.: ORS 684*

*Stats. Implemented: ORS 684.155*

*Eff. 1-29-09*

### **Advertising**

**811-015-0045** (1) A Chiropractic physician shall not use or participate in the use of improper advertising. Improper advertising is any advertising which:

(a) States any fact which would result in the communication being untruthful, misleading or deceptive;

(b) Contains statistical or other assertions of predicted rates of success of treatment; or

(c) Claims a specialty, degree or diplomate not possessed or that does not exist;

(2) A chiropractor shall not practice under a name that is misleading as to the identity of the chiropractor or chiropractors practicing under such name or under a firm name which is misleading.

(3) A Chiropractic physician shall adhere to the Doctors' Title Act, ORS 676.110(2).

(4) A Chiropractic physician may use a professional card and/or letterhead identifying the Chiropractic physician's name, profession, address, telephone number, name of the chiropractic office and educational degrees. It may also include names of licensed associates.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155*

*Adopted Eff. 11-23-01*

### **Scope Of Practice Regarding Examinations, Tests, Substances, Devices And Procedures**

**811-015-0070** (1) The Board may examine any diagnostic and/or therapeutic examination, test, substance, device or procedure, herein after referred to as ETSDP, to determine its acceptability for patient care. The Board may require a Chiropractic physician to provide information on any ETSDP for determination of its status. The Board may take into account all relevant factors and practices, including but not limited to, the practices generally and currently followed and accepted by persons licensed to practice chiropractic in the state, the teachings at chiropractic schools accredited by the Council on Chiropractic Education or its successor at any time since 1974, relevant technical reports published in recognized journals and the desirability of reasonable experimentation in the furtherance of the chiropractic arts.

(2) A Chiropractic physician may use any diagnostic and/or therapeutic ETSDP which is considered standard. A standard diagnostic and/or therapeutic ETSDP is one in which one or more of the following criteria have been satisfied:

(a) is taught or has been taught by a chiropractic school accredited by the Council on Chiropractic Education or its successor at any time since 1974, or health professions' courses taught by regionally accredited colleges with subject matter that is within the scope of chiropractic practice and has not been disapproved by the Board; or

(b) has been approved by the Board through the petition process.

(A) The petition requires a formalized agreement of ten percent (10%) or more of the Chiropractic physicians, holding an active chiropractic license in Oregon, attesting to the safety and efficacy of a particular ETSDP. The petition shall be submitted in writing to the Board by any party wishing to establish any ETSDP as standard. It is the responsibility of the petitioner to gather the required evidence and supporting statements. It is the sole responsibility and discretion of the Board to review the sufficiency of the evidence in the petition and to make a determination whether to concur and

affirm the ETSDP as standard or to deny the petition. The Board may, but is not required to, hold a public hearing on any petition. The Board shall make its determination and reply to the petitioner within 180 days of receipt of the petition unless the Board and the petitioner mutually agree to extend the deadline.

(B) The petition shall specifically address the following issues:

(i) The kind of ETSDP that is the subject of the petition, i.e., whether it is an examination, a test, a substance, a device, a procedure, or a combination thereof;

(ii) A detailed description of the proposed ETSDP;

(iii) The clinical rationale for the ETSDP;

(iv) A method for determination of appropriate termination of care and/or consultation to other providers with special skills/knowledge for the welfare of the patient;

(v) Whether the proposed ETSDP is to be used by itself or used in addition to any other generally accepted or standard ETSDP;

(vi) A description of known or anticipated contraindications; risks, and benefits;

(vii) A description of any subpopulations for which greater risk or benefit is expected;

(viii) A description of any standard ETSDP for the equivalent condition together with its relative risks and benefits; and

(ix) An assessment of the expected consequences of withholding the proposed ETSDP.

(c) is supported by adequate evidence of clinical efficacy as determined by the Board. In determining adequacy the Board may consider whether the ETSDP:

(A) has clinical rationale;

(B) has valid outcome assessment measures;

(C) is supported in peer reviewed literature;

(D) is consistent with generally recognized contraindications to chiropractic procedures; and

(E) the potential benefit outweighs the potential risk to the patient.

(3) A Chiropractic physician may use any diagnostic and/or therapeutic ETSDP that has not met the criteria of subsections (2)(a) or (b) or (c) of this rule as investigational. It must show potential merit for effectiveness and be of acceptable risk. Documentation requirements are based on potential risk to the patient. All investigational diagnostic ETSDP's must include or be accompanied by standard diagnostic procedures until full Board approval is attained under the criteria cited in subsections (2)(a) or (b) or (c) of this rule. Nothing in this section is intended to interfere with the right of any patient to refuse standard or investigational ETSDP's. In determining risk, the Board may use the following criteria:

(a) For minimal risk procedures, defined as those which when properly or improperly performed on the general population would have a slight chance of a slight injury and when properly performed on select populations have an extremely remote chance of serious injury,

(A) informed consent is suggested but not required; and

(B) the Chiropractic physician is recommended, but not required, to participate in or conduct a formal investigation of the procedure.

(b) For low risk procedures, defined as those which when properly performed on the general population have a slight chance of mild injury, when improperly performed on the general public have a mild chance of mild to moderate injury, and when properly performed in select populations have a remote chance of serious injury,

(A) informed consent is required; and

(B) the Chiropractic physician is recommended but not required to participate or conduct a formal investigation of the procedure.

(c) For moderate risk procedures, defined as those which when properly performed on the general public have a significant chance of mild injury and a mild chance of moderate injury, when improperly performed on the general population have a slight chance of severe injury, and when properly performed in select populations have a slight chance of serious injury,

(A) written informed consent is required; and

(B) the Chiropractic physician is recommended but not required to participate or conduct a formal investigation of the procedure.

(d) For high risk procedures, those which when properly performed on the general population have a significant chance of moderate injury and a slight chance of serious injury, when improperly performed on the general population have a significant chance of serious injury, and when properly performed in select populations have a significant chance of serious injury,

(A) written informed consent is required; and

(B) the Chiropractic physician is required to participate in or conduct a formal investigation of the procedure under the auspices of, or in conjunction with, any other health care professionals knowledgeable and competent in the care and treatment of potential serious injuries.

(e) Board approval is required of all moderate or high risk procedures.

(4) The Board shall maintain a list of ETSDP's which have been reviewed by the Board and have been determined to be unacceptable or approved as investigational.

(5) A Chiropractic physician may not use any diagnostic and/or therapeutic ETSDP's which have been determined by the Board to be unacceptable.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155*

*Adopted Eff. 12-19-95*

### **License Suspension and Probation**

**811-015-0080** (1) Chiropractic physicians and Chiropractic Assistants who are placed on suspension may not provide chiropractic treatment or services to any patient and are not to be in the clinic during business hours.

(2) The suspended chiropractic physicians shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, member of the public, or other person as to the nature of and reason for the suspension. It shall be prohibited to portray themselves to patients in any way as potentially practicing. Suspended chiropractic physicians may not perform intake functions and greeting patients. Suspended chiropractors and assistants should not be visible to patients as that could induce the belief they are practicing.

(3) Suspended chiropractic physicians shall prominently post in their clinic a suspension notice provided by the Board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual suspension. The Board may waive this for good cause.

(4) Chiropractic physicians and assistants are prohibited from misrepresenting the status of licensure to any patients.

(5) Chiropractic physicians will be prohibited from using any student interns during the period of suspension or probation.

(6) Suspended chiropractic physicians may not provide any therapies as a CA. They may not personally sell or provide supplements or other products to clinic patients or persons coming in to the clinic. They may not perform adjustments on family or friends while they are suspended as this is the practice of chiropractic. They may not take films or perform any diagnostic procedures.

(7) Suspended chiropractic physicians may not engage in marketing which leads clients, consumers or patients to believe they are a practicing chiropractic physician at the time they are suspended. They may not place new advertising which indicates in any way the suspended chiropractic physician is practicing chiropractic during the suspension period.

(8) The list of prohibitions in this rule is not all inclusive and if the Board determines that a chiropractor was practicing chiropractic during the term of suspension it may result in disciplinary action. Violations of this rule may result in further discipline pursuant to ORS 684.100.

(9) A limited exception includes providing expert testimony at hearing or deposition, information to legal counsel in regards to a patient's case that is in legal process of resolution

regarding care provided prior to the suspension. Suspended chiropractic physicians are not prohibited from performing such business functions such as billing and attending tasks not related to patient scheduling, care, treatment or evaluation; but, it must be done outside of regular business hours.

*Statutory Auth.: ORS 684.100*

*Stats. Implemented: ORS 684.155(b)*

*Adopted Eff.: 11-28-12*

# **DIVISION 20 APPROVAL OF SCHOOLS RULES GOVERNING APPROVAL OF SCHOOLS AND MINIMUM EDUCATIONAL REQUIREMENTS**

## **Statement of Purpose**

**811-020-0006** It is the purpose of this Board to approve only those schools teaching the schedule of minimum educational requirements as defined by the Council on Chiropractic Education (CCE) Standards. These schools will also be evaluated for minimum educational requirements in minor surgery, proctology and physiotherapy (ORS 684.050(4)), subjects which are not required by CCE standards. This Board may also approve those programs that are mutually recognized and endorsed by CCE through membership in the Councils on Chiropractic Education International, on a case-by-case basis.

(1) 120 hours is required in physiotherapy. Any chiropractic physician also licensed as a physical therapist is exempt from this requirement.

(2) 36 hours (survey course) is required in minor surgery/ proctology (in addition to the standard courses of physical examination, emergency/first aid, histology etc.).

(3) Applicants for licensure in Oregon who have graduated from schools which do not meet the requirements for physiotherapy, minor surgery, or proctology must provide evidence of sufficient hours in these subjects from any approved CCE school (undergraduate or post-graduate educational program).

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.050(4); 684.155(5)*

*Adopted Eff.: 11-08-11*

## **List of Approved Schools**

**811-020-0011** The list of approved programs shall be made available as published by the Council on Chiropractic Education and approved by the board, along with any other educational programs that are recognized and endorsed by CCE and approved by this Board

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155(5)*

*Adopted Eff. 11-08-11*

# **DIVISION 21 EDUCATIONAL STANDARDS FOR CHIROPRACTIC SCHOOLS**

## **Educational Standards for Chiropractic Colleges**

**811-021-0005** The educational standards for Chiropractic colleges published by the Council on Chiropractic Education or their equivalent, current as of September 22, 2011, is hereby adopted and prescribed.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155(5)*

*Adopted Eff. 11-08-11*

## **DIVISION 30 X-RAY**

### **Staff Employees**

#### **X-rays**

**811-030-0011** Staff employees of a Doctor of Chiropractic may be directed to take X-rays of a patient if they are in possession of a permit issued by the State Board of Radiologic Technology, but this permit is limited only to the taking of X-rays.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155*

*Adopted Eff. 7-1-86*

#### **Scope of Radiography in the Chiropractic Practice**

**811-030-0020** (1) The radiographic diagnostic aspect of Chiropractic practice shall include all standard radiographic procedures that do not conflict with ORS 684.025.

(2) All radiographs shall be of diagnostic quality. Radiographic films are subject to review by the Board to determine quality. Poor quality radiographs may result in disciplinary action.

(3) X-ray is not to be used for therapeutic purposes.

(4) Fluoroscopy shall not be used as a substitute for an initial radiographic study and shall be used only with documented clinical justification.

(5) Chiropractic physicians may order or refer patients for any diagnostic imaging study, including contrast studies using radio-opaque substances. Use of radio-opaque substances for diagnostic X-ray, other than by mouth or rectum, is not permitted.

(6) Pregnant females shall not be radiographed unless the patient's symptoms are of such significance that the proper treatment of the patient might be jeopardized without the use of such radiographs.

(7) All critical parts, i.e. fetus, eyes, thyroid gland and gonads, beyond the area of primary examination shall be shielded.

*Statutory Auth.: 684*

*Stats. Implemented: 684.155*

*Adopted Eff. 5-15-08*

#### **X-ray Departments, Equipment and Procedures**

**811-030-0030** (1) All X-ray departments, equipment and procedures including fluoroscopy shall be in compliance with the current rules and regulations of the Oregon State Health Division Radiation Control Section, including but not limited to, the physical design of the department, occupational exposure, collimation, shielding and exposure charts.

(2) In addition:

(a) The patient shall be an adequate candidate for the radiographic or fluoroscopic procedure employed;

(b) The radiographic field shall be restricted to the area of clinical interest;

(c) Specialized views shall be used any time the area of clinical interest is not clearly visualized on a standard film;

(d) Every exposure, including post-treatment exposures, and scanograms, shall have clinical justification with adequate documentation consistent with the patient's case history;

(e) The operator shall maintain a record on each exposure of each patient containing the patient's name, the date, the operator's name or initials, the type of exposure and the radiation factors of time, mA, kVp and target film distance, including those exposures resulting in the necessity of repeat exposure for better diagnostic information such as patient motion or poor technical factors. For computerized and

automated systems the recording of technique factors is not necessary as long as the equipment is calibrated and maintained. OAR 333-106-045 requires the facility to determine the typical patient exposure for their most common radiographic examinations, i.e. technique chart.

(f) Each film shall be properly identified by date of exposure, location of X-ray department, patient's name or number, patient's age, right or left marker and postural position marker and indication of the position of the patient;

(g) The patient with tremors must be immobilized;

(h) The radiographs of a patient with an antalgic posture may be taken in an upright position only if the patient is adequately supported and immobilized to insure diagnostic quality. Otherwise, the recumbent position shall be used;

(i) Upright or postural views shall not be used for any patient whose size exceeds the capacity of the X-ray equipment. Penetration must be adequate on all films;

(j) Sectional views shall be taken in preference to a single 14 x 36 inch film if the patient's size or height prevents diagnostic quality on a single 14 x 36 inch film;

(k) If two exposures are made on a single film, the area of exposure shall be critically collimated to avoid double exposure of the overlapping area;

(l) All views shall employ graduated filtration or adequate devices to attenuate the primary beam for the purpose of reducing unnecessary radiation and to improve film quality. Split screens, gradient or graded screens, paper light barriers inside the cassette, or any other attenuating device in the beam between the patient and the film shall not be permitted, other than the grid controlling scattered radiation.

(m) A record of radiographic findings on every set of radiographs reviewed shall be included in the patient's permanent file;

(n) Radiographs shall be kept and available for review for a minimum of seven years or until a minor becomes 18 years of age, whichever is longer.

*Statutory Authority: ORS 441; 684*

*Stats. Implemented: ORS 684.025; 684.150; 684.155; 441.059*

*Adopted Eff. 11-18-04*

## DIVISION 35 CODE OF ETHICS

### Definitions

**811-035-0001** (1) “Direct supervision”: means that the licensed Chiropractic physician is physically present in the clinic, is monitoring the activities of the supervisee in the clinic and is available to intervene, if necessary.

(2) “Supervisee”: one under direct supervision by a licensee.

(3) “Diagnosis”: as defined in the Practices and Utilization Guidelines means the art of distinguishing one disease from another.

(4) “Prognosis”: as defined in the Practices and Utilization Guidelines means a forecast as to the probable outcome of an attack of disease; the prospect as to recovery from a disease as indicated by the nature and symptoms of the case.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.150*

*Adopted Eff. 10-30-95*

### Duties and Obligations of Chiropractic Physicians to Their Patients

**811-035-0005** (1) The health and welfare of the patient shall always be the first priority of Chiropractic physicians and expectation of remuneration shall not affect the quality of service to the patient.

(2) The patient has the right to informed consent regarding examination, therapy and treatment procedures, risks and alternatives, and answers to questions with respect to the examination, therapy and treatment procedures, in terms that they can be reasonably expected to understand.

(a) Chiropractic physicians shall inform the patient of the diagnosis, plan of management, and prognosis in order to obtain a fully informed consent of the patient during the early course of treatment.

(b) In order to obtain the informed consent of a patient, the chiropractic physician shall explain the following:

(A) In general terms, the examination procedure or treatment to be undertaken;

(B) That there may be alternative examination procedures or methods of treatment, if any; and

(C) That there are risks, if any, to the examination procedure or treatment

(3) Chiropractic physicians have the right to select their cases and patients. The patient has the right to continuity of care once the doctor has agreed to treat the patient. The chiropractor may terminate the patient-doctor relationship only when the patient has been given reasonable notice. It is permissible for the doctor to terminate the patient-doctor relationship when the patient fails to cooperate.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.150*

*Adopted Eff. 12/22/2009*

### Unprofessional Conduct in the Chiropractic Profession

**811-035-0015** Unprofessional conduct means any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or failure to conform to, the minimal standards of acceptable chiropractic practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic physician:

(1)(a) Engaging in any conduct or verbal behavior with or towards a patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).

(b) A licensee shall not engage in sexual relations or have a romantic relationship with a current patient unless a consensual sexual relationship or a romantic relationship existed between them before the commencement of the doctor-patient relationship.

(c) "Sexual relations" means:

(A) sexual intercourse; or

(B) any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the licensee for the purpose of arousing or gratifying the sexual desire of either licensee or patient.

(d) In determining whether a patient is a current patient, the Board may consider the length of time of the doctor-patient contact, evidence of termination of the doctor-patient relationship, the nature of the doctor-patient relationship, and any other relevant information.

(e) A patient's consent to, initiation of or participation in sexual behavior or involvement with a licensee does not change the nature of the conduct nor lift the prohibition.

(2) Charging fees for unnecessary services;

(3) Failing to teach and/or directly supervise persons to whom chiropractic services have been delegated;

(4) Practicing outside the scope of the practice of chiropractic in Oregon;

(5) Charging a patient for services not rendered;

(6) Intentionally causing physical or emotional injury to a patient;

(7) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;

(8) Soliciting or borrowing money from patients;

(9) Possessing, obtaining, attempting to obtain, furnishing, or prescribing controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; illegally using or dispensing controlled drugs;

(10) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of Chiropractic physicians or other health care providers; or

(11) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;

(12) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;

(13) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of chiropractic;

(14) Practicing chiropractic without a current Oregon license;

(15) Allowing another person to use one's chiropractic license for any purpose;

(16) Resorting to fraud, misrepresentation, or deceit in applying for or taking the licensure exam or obtaining a license or renewal thereof;

(17) Impersonating any applicant or acting as a proxy for the applicant in any chiropractic licensure examination;

(18) Disclosing the contents of the licensure examination or soliciting, accepting, distributing, or compiling information regarding the contents of the examination before, during, or after its administration; Notwithstanding this section, the Ethics and Jurisprudence Examination is open book and there is no restriction on applicants discussing answers to individual questions between themselves or with others

(19) Failing to provide the Board with any documents requested by the Board;

(20) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege;

(21) Failing to comply with State and Federal laws regarding child and elderly abuse, and communicable diseases;

(22) Claiming any academic degree not actually conferred or awarded;

(23) Disobeying a final order of the Board; and

(24) Splitting fees or giving or receiving a commission in the referral of patients for services.

(25) Making an agreement with a patient or person, or any person or entity representing patients or persons, or provide any form of consideration that would prohibit, restrict, discourage or otherwise

limit a person's ability to file a complaint with the Board, to truthfully and fully answer any questions posed by an agent or representative of the Board regarding a board proceeding, or to participate as a witness in a Board proceeding; and

(26) 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.

*Statutory Auth.: ORS 684*

*Stats. Implemented: ORS 684.155*

*Adopted Eff. 10-29-14*

### **Methods of Discipline**

**811-035-0025** In addition to the methods enumerated in ORS 684.100(9) in disciplining, imposing probation, or limiting the license of a person as authorized under ORS 684.100(1), the Board may do any or all of the following:

- a) issue an order to cease and desist;
- b) issue a censure;
- c) issue letters or a reprimand
- d) impose any reasonable conditions or limitations for the purpose of protecting the public, rehabilitating the licensee, or ensuring licensee's compliance with the statutes and rules governing the practice of chiropractic.

*Statutory Auth: ORS 684.155(1)(b)*

*Stats. Implemented: ORS 684.100(9)(g)*

*Adopted Eff. 5-4-00*

### **Board Action**

**811-035-0035** The Board shall consider the standards for disciplinary action under ORS 684.100(1) when taking action on a preliminary investigation of a licensee or applicant. The Board may take action to:

- a) dismiss the complaint;
- b) issue a letter of concern;
- c) pursue disciplinary action.

*Statutory Auth: ORS 684.155(1)(b)*

*Stats. Implemented: ORS 684.*

*Adopted Eff. 2-3-00*