



PERMANENT ADMINISTRATIVE ORDER

BCE 14-2018
CHAPTER 811
BOARD OF CHIROPRACTIC EXAMINERS

FILED
11/21/2018 9:53 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amends rules regarding employment and surrogate ownership of clinics

EFFECTIVE DATE: 11/22/2018

AGENCY APPROVED DATE: 11/21/2018

CONTACT: Kelly Beringer 530 Center St NE, Suite 620
503-373-1573 Salem, OR 97301
kelly.beringer@oregon.gov

Filed By:
Kelly Beringer
Rules Coordinator

AMEND: 811-035-0015

NOTICE FILED DATE: 10/09/2018

RULE SUMMARY: Incorporates language regarding surrogate ownership of a chiropractic clinic

CHANGES TO RULE:

811-035-0015

Unprofessional Conduct in the Chiropractic Profession ¶

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;¶
- (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;¶
- (26) It shall be considered unprofessional conduct for a licensee to own or operate a clinic or practice as a surrogate for, or be employed by, an individual or entity who could otherwise not own and/or operate a chiropractic clinic under OAR 811-010-0120; 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/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.155