

# Oregon Board of Chiropractic Examiners (OBCE) Public Notice & E-Newsletter Update June 1, 2017

- President's Report
- Executive Director's Report
- Welcome New Staff Member
- Public Notice – Board Meeting and 2017 Meeting Schedule
- License Renewal and Continuing Education
- Peer Review Committee
- From Our Investigators

## President's Report



Greetings, Oregon Chiropractors! I'm writing this to you because we need your help to find a solution to a problem that we have had in the state for years now. We hear a lot of feedback about what a drag it is to have to perform mandatory continuing education about charting and recordkeeping. It seems like every other year or so this is a requirement. As a practicing doctor, I want you to know...I get it. I'm tired of it too.

However, I need to provide some insight as to why this keeps coming up. When we review patient records on a complaint, about 80% of the time we are finding moderate to severe deficiencies in the chart notes we are reviewing. I wish this was an exaggeration but it's not. This includes not putting appropriate patient identifiers on every page of a chart note, cloning electronic notes, missing X-ray reports, lack of subjective or objective findings, failure to document exam procedures or vitals, failure to chart AT ALL, and other deficiencies.

As a board, we don't want to just keep beating the same drum over and over again. It's clear that the mandated continuing education has not addressed this

issue we are having in Oregon. We don't know if this is really a pervasive problem for 80% of our doctors or if it is just a problem for the folks who we receive complaints about. Regardless of the cause, we have a responsibility to try to fix the situation. Why? Because patients deserve it.

We are very sensitive to the fact that when a doctor receives discipline, it jeopardizes their standing on insurance panels and limits other opportunities. Because of this, we rarely fine doctors for charting violations because we are hopeful that these problems can be easily fixed. Even a small fine of \$250 would put that doctor at risk of losing thousands of dollars of revenue each year. However, these bad actors have a financial impact on the doctors who are doing it the right way but have to keep taking the mandated continuing education to fix a problem that is not their own. Again, this model is neither fair nor effective.

We are now inclined to place responsibility for these issues squarely on the violators. Failure to meet minimum competency in documenting care for patients may cause you to incur a fine. A fine is discipline and public record. This public record may prevent you from being on insurance panels, holding certain jobs, or other opportunities. In other words, the stakes just became higher for satisfying this basic requirement of chiropractors in the state of Oregon.

If you want to know if your records meet the *minimal* standards, here is a link to the checklist of what we are evaluating for when we review patient records:

[https://www.oregon.gov/OBCE/eBlasts/Record\\_Keeping\\_Checklist\\_rev\\_072116.pdf](https://www.oregon.gov/OBCE/eBlasts/Record_Keeping_Checklist_rev_072116.pdf)

If you have further suggestions or insights, we invite your feedback.

Sincerely,

*Jason Young, DC, MSHNFM*

President, OBCE

## Executive Director's Report



### Public Interest

In order to provide more consistent communication between the Board and our licensees, we've created a publication schedule for our EBlast newsletters rather than the seemingly random times you've received these in the past. Expect our EBlast to come to your official email address on the 15<sup>th</sup> of April, August, and December every year from this point forward. Your feedback on this is greatly appreciated.

The Oregon Health Authority's Office of Equity and Inclusion is making available the first OHA-approved online cultural competency training. They are offering it at no cost until September, so check in with them sooner rather than later if you want to include "Cross Cultural Care: A Person-Centered Approach" within your annual CE classes. Pay close attention to the instructions, found here:

[http://www.oregon.gov/OBCE/pdfs/Free\\_CCCE\\_Resource\\_Instructions.pdf](http://www.oregon.gov/OBCE/pdfs/Free_CCCE_Resource_Instructions.pdf)

Remember: the Board is not mandating cultural competency CE at this time, however, we have seen a couple of cases in the last year or so where cultural competency training would have been exceptionally beneficial to the DC involved and to the DC's staff.

### Fiscal Responsibility and Accountability

Our budget for the 2017-19 biennium, which takes effect July 1, 2017, was signed into law on May 17, 2017, with a maximum limit for payment of expenses set at \$2,065,164. The budget included no policy packages that effected licensure fees or costs.

About that email address and accountability... **as of January, 2018**, the Board will require that all communications and notices be sent to licensees through email rather than USPS or hard paper copy. By saving the Board posting, supplies, and time, we are better able to provide more efficient services for you. Notices of license renewal and all other notices from the Board will be sent via email, so please make sure you update your email address with us and that you ensure that our email does not get sent to your "junk mail" or "quarantine" file. We are more than happy to assist you and your offices with this transition so don't hesitate to contact us.

### Due Process, Fairness, Transparent Governance

To provide better service to our licensees and public stakeholders, we are analyzing our IT needs and will be moving forward with revisions to our licensee database and website. We hope to have a more user friendly and accessible website by the end of this calendar year, depending on the bids we receive. We will keep you posted as to progress being made.

We have implemented an online Public Records Request form to ease in making requests and for us to more easily log and track our responses. It is found here:

[http://www.oregon.gov/OBCE/forms/Public\\_Records\\_Request.032317.pdf](http://www.oregon.gov/OBCE/forms/Public_Records_Request.032317.pdf)

As part of this public records policy, we are in the process of creating a Public Records Request Log that will be posted on our website, once details of the log itself are finalized.

If we can be of help to you or your staff in any way, please don't hesitate to contact us.

Take good care,

*Cassandra C. McLeod-Skinner, J.D.*

Executive Director, OBCE

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## WELCOME NEW STAFF MEMBER!



WELCOME MIRIAM LARA as our Office Specialist 1! Miriam comes to us by way of the Marion County Public Defender's Office where she was one of the office assistants, assisting a total of 10 attorneys in a fast-paced litigation office. Her attention to detail and ability to multi-task have already proven a great benefit to our office. Welcome!

## Public Notice - OBCE July Board Meeting and Schedule

The OBCE will hold its next regular business meeting on Thursday, July 20, 2017, at the Board's administrative office, in the Morrow Crane Building, 3218 Pringle Road SE, Salem, Oregon. The start time for public session is yet to be determined; however, a Public Notice will be posted on the OBCE's website ([www.oregon.gov/obce](http://www.oregon.gov/obce)) within 2-3 weeks of the July 20 date. The public is welcome to attend; and licensees are allowed two hours CE credit for at least that length of a stay.

The Board's Executive Session is also scheduled for Thursday, July 20, 2017, to review health professional license investigations (ORS 192.660(2)(j)), contested cases, personnel matters, and receive legal advice (ORS 192.660(2)(h)). The Board will vote in Public Session on "In the Matters Of."

The meeting schedule and locations for the rest of 2017 are as follows:

Sept. 21-22	Baker City
Nov. 16	Salem

**Background Check at Renewal**

Effective January 1, 2018, changes to OAR 811-010-0084 Fitness Determination, 811-010-0086 Annual Registration, and 811-010-0110 Chiropractic Assistants will become effective. These changes will require licensees to submit to a criminal background check at their annual license renewal. Licensees will not be required to submit to a new criminal background check, if one has been submitted to the Board in the last six years, unless under Board investigation, or for some other Board-determined purpose. Licensees will be responsible for all related fees. The frequency for CA background checks will be determined by the Board.

**Birth Month Renewal Changes for Chiropractic Assistants**

Also, effective January 1, 2018, the amended Chiropractic Assistant rule, 811-010-0110, goes into effect. These changes allow for the transition to a birth month renewal for CAs. The transition will occur during the 2018 June/July CA renewal.

Fees will be prorated; but continuing education will not be prorated. The following chart shows what Assistants can expect to pay for renewal, and the minimum number of CE hours to be completed.\*

Birth Month	2018-19 License Period	Fee Due *	CE	Months Licensed
January 2019	Aug 1, 2018 - Jan 31, 2019	\$25 6		6
February 2019	Aug 1, 2018 – Feb 28, 2019			7
March 2019	Aug 1, 2018 – March 31, 2019			8
April 2019	Aug 1, 2018 - April 30, 2019			9
May 2019	Aug 1, 2018 – May 31, 2019	\$50 6		10
June 2019	Aug 1, 2018 – June 30, 2019			11
July 2019	Aug 1, 2018 – July 31, 2019			12
August 2019	Aug 1, 2018 – Aug 31, 2019			13
September 2019	Aug 1, 2018 – Sept 30, 2019	\$75 6		14
October 2019	Aug 1, 2018 – Oct 31, 2019			15
November 2019	Aug 1, 2018 – Nov 30, 2019			16
December 2019	Aug 1, 2018 – Dec 31, 2019			17

**For Chiropractic Assistants**

Remember, your newest chiropractic assistant/s must complete two hours vitals training, and perform 20 hands-on exercises taking vitals for reporting this renewal period. There is a prescribed form to record those hands-on experiences located on the OBCE’s website under Forms and Publications called “Vitals Log.”

Note: If your CA completed two hours vitals training in addition to their initial 12 hours CA training (for application with the Board), those hours meet this requirement, and can be applied to the CA’s six hour CE credit at this coming renewal. The vitals training is a one-time requirement.

As an additional reminder, like DCs, Chiropractic Assistants must take the OHA Workforce Survey during their renewal process. Information is on the OBCE website.

**Continuing Education**

Of note also is that there is **no additional mandated CE for 2017** other than the CE required for your renewal.

*Kelly Beringer*

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## Peer Review Committee

We are currently recruiting to fill three positions (one full member and two alternate members) on the Peer Review Committee. If interested, please submit a letter requesting consideration and the reason you would like to serve on the committee along with a current CV to the OBCE.

### What is Peer Review?

The Peer Review Committee is an advisory body to the OBCE and is subject to public meetings laws under ORS 192.610(4). It is comprised of 7 chiropractic physicians that have been in practice 5 years or more. The PRC evaluates the efficiency and appropriateness of health care and services based on medically accepted standards. The records reviewed by PRC are confidential or privileged. The committee can go into executive session, under ORS 192.660(1)(f), to consider reports not subject to public disclosure. The records are not subject to public disclosure because of the exemption in the public records law (ORS 192.502(8)) for records which are confidential due to another state law; in the case of the OBCE, that law is our enabling statute, ORS 684.185(6).

ORS 684.185:

“...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.”

## From Our Investigators

As the Board encounters issues in the profession, we would like to bring some of these to the attention of our licensees statewide. Recently, the Board has encountered several individuals advertising their affiliation with the Pastoral Medical Association (PMA), an organization based in Texas. The PMA purports to offer “licensing” of health care practitioners, specifically:

“...the PMA license provides a legal path for qualified health practitioners to offer Pastoral Science & Medicine services to clients seeking natural means for addressing illness and maintaining vital health, while benefitting financially through meeting the high demand for these services.”

PMA’s website and literature suggest that their organization can authorize the offering of health services not offered through state licensure. The PMA also purports to confer degree or professional designation abbreviated as “PSc.D.” and “D.PSc” (“Pastoral Science Doctor” and “Doctor of Pastoral Science” respectively). The organization and its members have, however, been the focus of fines and scrutiny in Texas, and in the media.<sup>[i]</sup> Some utilizing the credential, and not licensed by a health regulatory board, have faced arrest.<sup>[ii][iii]</sup>

Most every profession has a separate professional organization, or even advanced educational opportunities, that confer specializations. The PMA, by comparison purports to grant licensure to practice a form of “health services.” The PMA also suggests that it is a religious organization, and that it is encouraging health services

from a religious perspective, thereby providing some level of protection from state oversight. It is important for Oregon licensees to carefully understand the services, modalities, and treatments they offer, and determine whether and to what degree those are proscribed by Oregon law. State agencies and regulatory boards are in place to both regulate health care professions and protect the public.

The Oregon Board of Chiropractic Examiners obtained an opinion from the Oregon Higher Education Coordinating Commission, Office of Degree Authorization, which noted that,

“The titles PSc.D and D.PSc referenced on the Pastoral Medical Associates website are not recognized as valid by the Higher Education Coordinating Commission (Office of Degree Authorization). Our counterparts at the Texas Higher Education Coordinating Board have also confirmed that the Pastoral Medical Association is not recognized as a degree-granting institution in Texas.”<sup>[iv]</sup>

Thus far, the cases we have encountered where someone utilized this credential, or professional designation, were individuals who were purporting to offer chiropractic services in Oregon who were not licensed in the state, or by individuals who lost their licenses due to misconduct then attempted to continue their practice by using this designation. The PMA website lists a number of individuals with a variety of educational background in practice in Oregon. If you are considering working with the PMA, or any similar organization, the Board would strongly encourage you to seek independent legal counsel, rather than rely on the representations of such an organization regarding the legality or scope of behavior that their organization may afford.

*George Finch*

OBCE Investigator

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### **Some Considerations when treating patients on blood thinners/anticoagulants**

When a complaint is submitted to the OBCE, the Board is compelled by law to investigate it. No matter how trivial the complaint may appear.

Part of the goal as the Healthcare Investigator for the OBCE is to identify patterns or issues that could potentially generate a complaint to the Board about one of its licensees. If there is a pattern that seems to be developing, we try to relay the issues to the providers in an attempt to enlighten them and to possibly avoid a complaint entirely.

I would like to address some practice habits, both clinical and clerical, that have resulted in consumer complaints that, in some cases, could have been totally avoided.

I would estimate that 25% of the cases I review, the doctor either has not taken a medical history (including medications and supplementation) or has not reviewed the medical history on the patient. Often, the medical history will consist of a check box questionnaire or fill in the blank form that was not reviewed by the staff or doctor. It is usually presented with the intake form, informed consent form, HIPAA, and office protocol forms, given to the patient in the waiting room and promptly filed – never to be revisited again.

Over the last year, we have received several complaints that have involved issues related to patients that are on blood thinners or anticoagulants, or supplementation that has blood thinning properties. These cases have run the gamut from bruising/discoloration of the skin, blood clots, and deep vein thrombosis following treatment by the DC and or their staff.

I know you are saying to yourself: “I have treated hundreds of patients that are on blood thinners and have never had any problems...” I am compelled to make the same statement myself. It is the same statement every doctor involved in the complaints that were filed made. I would have totally agreed but it only takes one case to not

only ruin your day, tie you up for a year awaiting the possible outcome of a medical malpractice case or complaint with the Board, but to also effect a patient's life for the worse.

If you generally breeze through a patient's medical history, looking for what might be related to the patient's presenting complaint and not for overall health history, that could be problematic. As you all know, we are required to take a health history on every new patient, which includes their surgical history, medications, and supplementations. We can't count on the fact that all patients know what medications they're on or why they take certain ones. When they list heart problems or surgery from several year back, inquire as to what surgeries, and to those surgeries require them being on blood thinners, or do they have any other conditions that require blood thinners/anticoagulants. Examples may include: valve replacements, stints, vascular grafts, angioplasty, coronary bypass surgery, history of stroke or DVT. These patients may just list heart medication, not knowing why they are taking them.

Three cases in question involved patients that suffered bruising or discoloration following massage therapy, the use of instrumental manipulation, or hot packs prior to massage therapy or manipulation. Two cases involved deep vein thrombosis, and one involved a blood clot. In all six cases, the doctors admitted that either they were unaware there was a contraindication absolute or relative to provide deep tissue work or manipulation to patients on Cumadin, Plavix, Pradaxa, Xarelto, Eliquis, Savayasa, or Aspirin. In one of the cases, the doctor admitted that he patient did tell him that they had had a heart valve replacement several years earlier but that the doctor failed to find out if they were on any anticoagulants.

It is not my intention to give the impression we should not treat patients on anticoagulants or blood thinners. However, when we perform our PARQ (Procedures, Alternatives, Risks, and Questions) prior to documenting that we have obtained a consent to exam and treat them, per OAR 811-035-0005 and OAR 811-015-0005, we include that there is a "relative contraindication" to treating patients on blood thinners and that there is the possibility of bruising, skin discoloration, or worse. That way, the patient can make an informed decision and consent to undergo the treatment you are recommending. This does not guarantee that you may not have a complaint filed against you, but it certainly is better for you in the event someone alleges injury during or post treatment.

I would also record and include any supplementation that may have blood thinning properties (example: turmeric). When you are performing your initial examination of the patient, note skin discoloration (bruising, spider veins, etc.). For patients on anticoagulants/blood thinners, note any extremity edema or discoloration, and, in addition to your documenting it in your records, inform the patient of your observations. Share these recommendations with your CAs and LMTs.

As always, these are suggestions and are intended to help inform anyone unaware of the possibilities of complications that can arise during the treatment of this special group of patients.

Sometimes, an ounce of prevention is worth a pound of cure.

*Frank Prideaux, D.C.*

OBCE Healthcare Investigator

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<sup>[i]</sup> Lauren Silverman, *Pastoral Medicine Credentials Raise Questions in Texas*, <http://www.npr.org/sections/health-shots/2016/04/25/475165193/pastoral-medicine-credentials-raise-questions-in-texas>, (April 25, 2016).

<sup>[ii]</sup> California Department of Consumer Affairs, Division of Investigation, *Chiropractor Arrested for Unlicensed Practice of Medicine*, <https://thedoipage.wordpress.com/2017/01/26/chiropractor-arrested-for-unlicensed-practice-of-medicine/>, (January 26, 2017).

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<sup>[iii]</sup> Kurtis Ming, *Call Kurtis Investigates: TV Doctor Arrested for Practicing Medicine Without a License*, <http://sacramento.cbslocal.com/2016/08/05/call-kurtis-investigates-tv-doctor-arrested-for-practicing-without-a-license/>, (August 5, 2016).

<sup>[iv]</sup> Letter to the Oregon Board of Chiropractic Examiners from the Director of Private Postsecondary Education & Interim Director of the Office of Student Access and Completion, February 24, 2017.