

# Oregon Board of Chiropractic Examiners (OBCE)

## Public Notice & E-Newsletter Update

December 15, 2017

- President's Report
- Executive Director's Report
- Administrative Rules and Policy Changes
- From Our Investigators

### President's Report



#### OCPUG

In 1989, the Oregon Board of Chiropractic Examiners (OBCE) first published the Oregon Practice and Utilization Guidelines (OCPUG). The original effort was born of a collaboration between chiropractors of significant clinical experience and scholars from Western States Chiropractic College (now the University of Western States/UWS). The purpose of the document was to provide a tool to “[assure]... quality and competence” in the practice of chiropractic in the state of Oregon. It was written by Oregonians, for Oregonians.

The document, and the spirit in which it was produced, is worthy of a little pride. It represents incalculable hours of research, wordsmithing, healthy debate, and discussion. For practitioners, it has served as a valuable guide for ethical and responsible practice for almost 30 years. For our Oregon patients, it represents yet one more safeguard in place to help make the practice of chiropractic one of the most valuable strands in the tapestry of healthcare services available in our great state.

From its inception, the OCPUG was meant to be a living document, being built upon and edited as the times and circumstances demanded. It allowed for the implementation of emerging knowledge to inform decisions in clinical care. Most recently, the OBCE convened a new iteration of the OCPUG Committee to perform this exact task.

Drawing on the pattern established by our progenitors, under the direction of then OBCE President, Daniel Côté, DC, this committee was formed with a combination of scholars from the UWS and field doctors with decades of experience in chiropractic practice. Together, they considered and developed potential revisions and updates to the document, focusing on changes to Chapter IV. These proposed changes included updated definitions, references, a more robust

chiropractic management algorithm, a section outlining care guidelines for Whiplash Associated Disorders (WAD), even down to grammatical changes.

These proposed changes were submitted to the OBCE after months of development and revisions. The Board reviewed the proposals and adopted several changes as proposed and several others with modifications. There isn't enough room in this article to outline every change but in general the amended document includes updated definitions of terms (ie Wellness vs Supportive vs Acute care, etc.), an improved chiropractic management algorithm, removal of obsolete information, grammar, and other changes.

The Board voted not to include the section on WAD based on a consensus that the chiropractic management algorithm sufficiently provides guidance with regards to how this type of injury should be managed. The goal of the OCPUG is not to dictate treatment protocols or to allow a certain number of treatments or techniques. Instead, the goal of the document is to inform the ethical practice of chiropractic physicians in our state. We hope that all of our licensees will study and apply the algorithm. It is flexible enough that doctors should be able to operate autonomously and overlay a variety of different styles and protocols within the framework of ethical, evidence-informed chiropractic. The revised and adopted Ch. IV is found here: [http://www.oregon.gov/OBCE/publications/OCPUG\\_Ch\\_IV\\_Nov2017\\_Final.pdf](http://www.oregon.gov/OBCE/publications/OCPUG_Ch_IV_Nov2017_Final.pdf) The Board will be reviewing and updating the other chapters of the OCPUG in the year to come.

A special thank you to each participant in the most recent OCPUG committee of the OBCE:

Dr. Scott Abrahamson, Dr. Michael Burke, Dr. Kimberly DeAlto, Mr. Douglas Dick, Dr. David Duemling, Dr. Dominga Guerrero, Dr. Mitchell Haas, Dr. Lawrence Hanberg, Dr. Charles Hathaway, Dr. Allen Knecht, Dr. Anthony Marrone, Dr. Joyce McClure, Dr. Craig Morris, Dr. Daniel Miller, Dr. Joseph Pfeifer, Dr. Laverne Saboe, Dr. Michael Vissers, and Dr. John-Paul Whitmire.

### **Class IV Laser Use and Training**

Over the past year, the question of whether Class IV lasers could be used by Chiropractic Assistants (CA) has been raised and debated before the Oregon Board of Chiropractic Examiners. Class IV lasers had previously been considered outside of the scope of practice for a CA because of some additional potential safety risks when compared to other lasers and LED systems.

In reviewing this matter, the OBCE heard thorough testimony from several clinicians, representatives from the University of Western States as well as a manufacturer of Class IV lasers. Based on this information, a unanimous decision was reached to allow CAs who have been properly trained for safety (i.e. training provided by a manufacturer) to utilize this therapy in chiropractic clinics. All physiotherapies carry some level of risk whether it is therapeutic exercise or applying a hot pack. It was the opinion of the board that CAs can receive adequate training to ensure that patients are protected from harm.

Thank you to everyone who advocated and presented information in helping us reach this decision.

## **Communication**

It's not uncommon to find a notification in my e-mail inbox that I have become a topic of conversation in a social media discussion. Often, people in my area will post to community members looking for a recommendation for a chiropractor. A patient of mine, who also happens to be a friend from middle school, replied to one of these posts and recommended me with a nice endorsement. The original person who asked the question replied, "Is he a "cracker" or does he use that tool for adjusting? And how much does he charge?"

I'm sure you have all had a similar question before. As I read this, I took issue with the word *cracker*. Before I post my response, I should warn you that it contains some humor. Nobody gets offended (she didn't)! Here it is: "Am I a cracker? If you're asking if I'm white, then the answer is "No". I'm black. If you're asking about technique, I wouldn't classify what I do as "cracking", per se. It's skillful manipulation of joints in the spine and extremities, also known as manual (or diversified) adjustments. Just as a surgeon wouldn't call what they do "chopping" people, or a dentist wouldn't describe what they do as "yankin' teeth". At least, you wouldn't want to be treated by a doctor who described their skill set that way would you?"

I mostly do manual adjusting. However, I have a good percentage of my patients who prefer to have their adjustments done with a tool. I always want to do what's most comfortable for my patient..."

The rest of my response included my prices and a recommendation of another doctor in my area who practices Activator technique exclusively in case she truly was looking for somebody who did instrument adjusting.

I'm not sharing this for the humor though. I'm sharing this because there is an important line that I have chosen to draw with people with whom I discuss chiropractic. You may want to consider the point. When people refer to you as a "backbreaker" or a "bone crusher" or any of the other terms that people use in fun, what do you choose to do in response? Some of you may have cringed at the implied racial reference in my response. That's ok. When people use pejorative terms to describe what we do, is that equally cringe-worthy? Shouldn't it be? I'm not asking you to be offended. I'm suggesting that there are ways to address these comments (often made innocently) that can serve you and me and our patients well.

You don't need to have a confrontation with everybody who uses these terms. You don't even need to rock the boat. You simply need to do the primary job of a physician which is to educate. When I have a patient come in and ask if I could "pop" their back, I tell them that I wouldn't do that. They can get anybody off the street to make their back pop. I will, however, adjust their joints. When I am in an athletic training room, and football players say, "Here comes Dr. Young to break some necks!" (True story) I tell them that their job is to break them, I come to fix them. If somebody calls me a "bone crusher," I may joke with them and say that "bone-crushing" only requires an Associate's Degree, I have a Doctorate in Chiropractic.

This is all just food for thought. Is there wisdom in letting people talk about us and our services in such a casual or even derogatory manner? Is it different than a remark that might classify and generalize a person based on their race or religion? Do we let it go because we don't want conflict? If the tradeoff is that we don't receive the measure of respect we are due then is that a worthy exchange?

From a regulatory perspective, most of the complaints we investigate in the state of Oregon result in no discipline or finding of fault. However, a common theme in these complaints and others is a simple and avoidable factor: a lack of understanding. The way we choose to communicate with patients and the public has the potential to harm patients, your practice, and the profession as a whole. The way we choose to talk about ourselves becomes the way that we choose to think about ourselves. The natural extension is that we become these things. So, Doc, are you popping backs? Are you a neck breaker? Are you a "cracker"?

Me, neither.

Sincerely,

*Jason Young, DC, MSHNFM*  
President, OBCE

## Executive Director's Report



### Public Interest

At the Board's strategic planning retreat in April, the Board determined to implement email communication as its sole form of sending notices and other vital licensing information to Licensees.

**As of January 1, 2018**, notices and other vital licensing information will be sent via **email only** (not via USPS or other mail providers) so please make sure we have an accurate and current email address for you and your CA staff and that email from our office is not caught up in your junk or quarantine files. We will *not* be sending out paper mailed license renewal reminders. You are responsible for knowing when your and your staff renewals are due. However, you will still be receiving emailed reminders of those dates. It is in your best interest, and the best way to avoid late fees,

to stay on top of your email communications from the Board.

### Fiscal Responsibility and Accountability

In November of 2015, members of OHA's Workforce survey team presented to the Board the details of the survey, its statutory and mandatory nature, its roll out process, and details of the \$2

fee per licensee/completed survey that the OHA would charge the OBCE. Instead of passing along this \$2 fee per survey to the Licensees at the time of implementation, the Board determined to absorb the additional fee with the possibility of revisiting the fee absorption issue in the future. The future is here. This fee review will be part of our January 2018 public meeting agenda.

### **Due Process, Fairness, Transparent Governance**

The OBCE meets for its regular board meetings every odd numbered month throughout the year. In order to adequately prepare for the meetings and allow our Board members time to review all the material, we send out the board packets two weeks prior to the meetings. Any information received within that two week window may not be included within the agenda and reviewed by the Board at that next meeting. If you want expedient review, please have materials to the Board prior to the two week window. The Board and staff will greatly appreciate it and you'll have faster turnaround time on the issue you were submitting.

The OBCE meeting and location schedule for 2018 is as follows and can be found on our website ([www.oregon.gov/obce](http://www.oregon.gov/obce)):

January 25-26	Portland (OSBN building)
March 15	Salem (OBCE office)
May 24-25	Southern Oregon (TBD)
July 26	Salem (OBCE office)
September 27-28	North Coast (TBD)
November 15	Salem (OBCE office)

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, 503-373-1620, [cass.mcleod-skinner@oregon.gov](mailto:cass.mcleod-skinner@oregon.gov)

## **Administrative Rules and Policy Changes**

### **REMINDERS**

#### **Fingerprinting at DC Renewal**

Beginning January 2018, the OBCE will implement background checks for those chiropractors who have not provided to the OBCE a background check in the last six years. This requirement will occur every six years going forward.

The first email notice reminding you to renew your license, sent 45 days prior to your renewal, will have an attachment which will contain the instructions for fingerprinting. Fieldprint is the company that provides this service for the OBCE, this is the same process we use for DC and CA applicants and it works extremely well. You are required complete the fingerprinting on or before the last day of your renewal month.

Some things to consider:

1. The fingerprint process can take up to two weeks to return the results to the OBCE, waiting to complete your fingerprinting may delay the renewal of your license.
2. Do not get your fingerprints done prior to receiving the email with the instructions. You will need to use our codes for fingerprinting.
3. Once you receive the instructions, it is best to schedule your appointment through Fieldprint within one week. This will also ensure that the OBCE will receive the results prior to your expiration date.
4. The cost of fingerprinting is at your expense.

*Donna Dougan*

Administrative Assistant, DC Program

503-373-1579, [donna.dougan@oregon.gov](mailto:donna.dougan@oregon.gov)

### **Chiropractic Assistants**

1. When your clinic changes addresses, please notify the Board who the employed CAs are – their addresses need to be changed as well.
2. Many CAs mistakenly believe that their CA certificate “expires” when they leave one clinic. If your certificate says it is valid through a certain date, it is valid. However, you must notify the Board of their change in employment, and obtain a new certificate (without the old clinic’s information). A new certificate with either your home address or new practice address can be printed for \$5. Also, some of you may not realize that you may renew the CA certificate even if you are not employed in a clinic; however, you may not work until you are employed under a Doctor of Chiropractic.
3. Regarding your coming CA renewal in June/July 2018, make sure you have a valid email address on file with the Board; your Renewal Notice is going to be emailed to you pursuant to our new mandatory email communications policy.
4. And lastly, just some reminders about continuing education:
  - CAs are required to complete six (6) hours of CE annually. Education is available online and in live seminars. Other professional education (such as LMT hours) may apply to your CA CE. Resources can be found on the OBCE’s Continuing Education web page – [www.oregon.gov](http://www.oregon.gov).
  - All CAs should maintain their own proof of CE completion which shows their name, date/hours attended, subject and/or name of course, and the CE vendor/trainer.

- In-clinic training provided by their supervising DC *might be allowed* for CE credit if the chiropractor is providing a formal presentation with a set scheduled date and time apart from treatment hours/days, an agenda, sign-in and out sheet, and certificates of completion.
- Know the rule regulating CE found on the OBCE website: OAR 811-015-0025

5. Another reminder of upcoming changes to the CA renewal in June/July 2018:

- a. Your renewal notice will be e-mailed to you;
- b. You will renew online only (similar to how DCs do now);
- c. Your renewal fee will be prorated;
- d. When the OBCE issues your renewed CA certificate, the expiration date will be the last day of your 2019 birth month.

*Kelly Beringer*

Administrative Assistant, CA Program

503-373-1573, [kelly.beringer@oregon.gov](mailto:kelly.beringer@oregon.gov)

## From Our Investigators

As part of our duties as the Board's investigators, when we identify patterns in complaints, or a new or unique situation, we attempt to pass along to the profession any information that could help a licensee avoid a complaint.

In this article we will discuss exit strategies for doctors leaving practice, the Board requirement of obtaining a permanent custodian of patient records, and the requirement to inform the Board of who that custodian is.

The obvious situations will involve a doctor who is retiring, or one selling their practice, where the doctor assuming the practice will become the custodian of those records. The second scenario is a doctor that is just closing their practice with no one assuming their practice. They have the option of remaining custodian of those records and assume the responsibility of producing copies of those records for patients or to those producing legal record releases. These doctors need to inform the Board of where the records are available as well. In these situations, we recommend the exiting doctor call their malpractice carrier and obtain their suggestion on how best to inform their patients of their impending exit from practice.

These scenarios are rather obvious on the exit strategy. Recently, the OBCE has encountered a new twist to the custodian of record issue. We have had more than one of our licensees become incarcerated. Some will be incarcerated for an extended period of time. These situations have presented a new and unique problem in that their staff are left with no alternative but to lock the doors and go find other employment. In some of these situations, the clinics have liens put on them for lack of payment on equipment and back rent. In one scenario, the bank had to foreclose on the contents of the office that included file cabinets with paper records and computers with

electronic records. As the doctor is incarcerated and essentially cut off from the rest of the world, they are unable to secure an appropriate custodian of their records and likely have more pressing things to think about considering their situation. This can also apply to a doctor who dies or develops an illness serious enough to incapacitate them who is without any family or legal representative.

For these reasons, we thought it would be appropriate for the field in general to consider a thorough and well thought out exit strategy for any reason. If you are not aware, the OBCE does not have the ability to become the custodian of a licensee's records under any circumstance.

This is also a good time to review the Board's rules regarding disposition of records following the unavailability of the Chiropractor. The Board's rule, OAR 811-015-0005(7)(f), specifies that the chiropractor's next of kin is responsible for records, both to notify the Board of their location within 180 days, and to transfer of patient files to another chiropractor within one year.

Practically speaking, it would be good to inform your staff regarding succession planning. Create a written plan in the event of your unavailability. Consider what information your staff or primary point of contact would need in the event of your unavailability. Consider such things as: who should staff contact, who will have decision making authority, what are your wishes with regarding to decision making, will staff have access to financial resources to continue to operate the clinic in your absence, is there another doctor whom you would prefer they contact in your absence. Rather than returning and finding your clinic closed due to staff, family, or friend's inability or lack of knowledge regarding how to maintain the operation of the clinic, having a plan in place is critical. Give consideration to various time frames for unexpected absences. A prolonged illness could undermine a plan that anticipated only a week or month absence at most. Consider creating a plan that is simple to follow, which contains contact information, and detailed instructions. Ensure that staff or your designated responsible person know where this plan is and that you have reviewed it with them.

While we hope that if such a plan is ever used, it is because your return flight from paradise was delayed by excessive sunshine, we do learn of a variety of situations where the doctor, their staff, patients, and family would have benefited tremendously from the assistance of written instructions and critical resources.

*Frank Prideaux, D.C.*  
OBCE Healthcare Investigator  
503-373-1848, [frank.prideaux@oregon.gov](mailto:frank.prideaux@oregon.gov)

*George Finch*  
OBCE Investigator  
503-373-1615, [george.finch@oregon.gov](mailto:george.finch@oregon.gov)