

Oregon Board of Chiropractic Examiners (OBCE)

Public Notice & E-Newsletter Update

September 5, 2018

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President's Report



Greetings!

From time to time, the Oregon Board of Chiropractic Examiners (OBCE) will experience turn-over among its members. In the next 12 months, we will enter one of those periods where several of our long-time board members' terms will be up and replacements will need to be found. This includes my seat on the board... Yes, my reign of terror is coming to an end. In this article, I will give readers some insight into what it means to be a member of the OBCE in hopes that it will inspire some of you to step up and become the next generation of chiropractic regulation in the state of Oregon.

My first experience with the Board came before I was even a licensed chiropractor in the state. I was very active in student government and with the trustee board at the University of Western States (then Western States Chiropractic College). Dave McTeague, the former Executive Director of the OBCE, told me that when I had been in practice for five years, that he was going to approach me about applying to be on the Board. If you don't know what an Executive Director is, that is the individual who runs the day-to-day operations of the OBCE and manages all the staff who work for the Board and its licensees. The Executive Director is not a voting member of the Board, rather their job is to implement decisions and policies the Board makes. Our current Executive Director is Cass McLeod-Skinner. To be the Executive Director, one doesn't necessarily need to be a chiropractor or have experience with the field of chiropractic. For example, Ms. McLeod-Skinner is an attorney by training. Also, your last name doesn't need to start with the letters "Mc", we have just been lucky to have this be the case for our last two.

So, you may be wondering about why Mr. McTeague would wait for five years before having me apply for the position. The reason is that according to ORS 684.130, a chiropractor must have practiced in the state for at least five years. Also, professional members must reside in the state

and have a license in good standing or have retired with a license in good standing. The Board has five professional chiropractic members. There are also two public members of the Board who are not chiropractors, or a spouse, domestic partner, child, sibling, or parent of a chiropractor. These positions are nominated by the Governor by choosing from a list of three to five nominees for each vacancy. In selecting Board members, the Governor strives to balance the Board in terms of geographic and other types of diversity when possible. The nominees then get reviewed by the Oregon State Senate and voted upon for appointment.

The Board meets every two months for a public meeting and an executive session. The public meeting is open to anyone who would like to observe how the Board works. There is also the opportunity for members of the public to make formal comments in the meeting on topics not listed on the agenda (comments relating to agenda topics are made during that section of the meeting). For example, if a recent policy affects you as a stakeholder, you can attend one of these meetings in person or on the phone and ask to make a comment during the meeting during the designated time for public comment. Executive sessions are for the discussion of confidential matters such as the particulars of a specific complaint or investigation against a doctor. These sessions are closed to protect the reputation and privacy of both the person, or people, who have made the complaint as well as the doctor who the complaint is directed toward. Why protect the reputations of these doctors? Because many complaints are found to be either baseless or lacking sufficient evidence for any kind of discipline. The executive sessions are closed to the public. Certain actions can only be done in a public session. Any vote that the Board makes must be done in public such as when we are adopting a new rule or policy. Disciplinary matters are also voted on in public session by case number to protect anonymity.

As a Board member, preparation for these meetings is a process that takes a couple of weeks. Two weeks prior to each Board meeting, we receive our Board packet with the details of complaints that have been investigated so that we can read all of the relevant information and come to an executive session ready for discussion. Often this represents hundreds to thousands of pages of reading and reviewing transcripts of interviews, correspondence, patient records, etc. If there is a rulemaking hearing coming up for a proposed rule, Board members also take this two week period to prepare to discuss those matters. For my first meeting, I probably spent about 15 hours reading and preparing for the meeting. Now that I have more practice with it, I'm closer to about 10 hours per meeting.

Board members also lead committees of the Board. As a board member, you may be delegated to be the liaison or chair for a committee (Peer Review, Rules Advisory, or ETSDP). These committees will typically meet between board meetings to do work at the request of the Board. Many of you have participated in these committees and I can't tell you how much we appreciate your work and cooperation! It is really inspiring to see people coming together to accomplish the Board's mission of public protection and ethical practice.

Oh, I didn't mention the Board's mission before? Yes, our main objective is the protection of the public as it relates to the practice of chiropractic in Oregon. We do this through responding to complaints of potential ethical, legal, and clinical violations, in addition to drafting and implementing policies. It is a unique position because often people have an inaccurate

perception that the OBCE is working to promote chiropractic. That is actually the purpose of the state association: The Oregon Chiropractic Association. We view all of our decision-making through the lens of, “Is this going to protect and help the public citizens of Oregon?”

There are opportunities to participate in other events as well. Twice a year, the Board leads a meeting for doctors who are new to practice in Oregon. Two Board members volunteer to do this presentation. There are meetings of the Federation of Chiropractic Licensing Board each year. This is an opportunity to interface and share best practices and training with chiropractic regulatory boards from other states. This year our meetings were in Dallas, TX, and Palm Springs, CA. Also, the Board will send nominees to Greeley, CO to help select questions for the National Board of Chiropractic Examiners. I, personally, have done this for parts III and IV.

As I reflect on my, almost, six years of service on the Board, I feel extremely blessed for the opportunity. I have gotten to meet and work beside some of the people who I have come to respect most in this world. It has been an excellent education, both clinically and in human nature. I have had the opportunity to witness some beautiful acts of compassion and empathy. I have been able to help stand against injustice and, I would even go as far as to say, evil. It has been a sacrifice for my family because of the time and attention it takes from them as well as my practice and patients. I’m grateful to my family, staff, and patients for allowing me the opportunity to do this. At the same time, it has been a great boon to my family as the things I have learned make me a better father and husband and doctor.

Should you apply? I don’t know. It certainly isn’t for everyone. The timing needs to be right. But if any of that sounds good to you, then I would encourage you to find out how you can be a part of the magic that is the OBCE. It doesn’t have to be as a Board member. After I got licensed, I spent a few years on a Rules Advisory Committee. But if you have questions I can answer, I’m happy to help. (So is our Executive McDirector).

Sincerely,

Jason Young, DC, MSHNFM
President, OBCE

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Executive Director's Report



Public Interest

Marijuana Information. We have provided this information within our previous newsletter but I think it needs repeating as our calls are increasing, asking about the ability of DCs to provide, prescribe, or use marijuana and its derivatives to and for patient care. The Oregon Liquor Control Commission (OLCC) regulates recreational marijuana and the Oregon Medical Marijuana Program (OMMP) through the Oregon Health Authority (OHA) regulates medical marijuana. **The OBCE does not regulate any type of marijuana nor does it have related policies.** Before calling, please refer to the OLCC or OMMP webpages linked below.

According to the OLCC, "...if the product is at an OLCC retailer or OHA dispensary, it should not be used. This is because the product is likely a 'marijuana item' and it is unlawful to provide a marijuana item for consideration without a license. In the case of a massage therapist or chiropractor, the consideration is the cost of the service."

For responses to other frequently asked questions regarding marijuana and the OLCC, click here: <http://www.oregon.gov/olcc/marijuana/Pages/Frequently-Asked-Questions.aspx>

For the medical marijuana program, OMMP states: "Our program's role is to register patients, caregivers, growers, dispensaries, and processors. We also have authority over the testing of cannabis. The Oregon Medical Marijuana Act and our rules do not authorize Chiropractors to recommend the use of medical marijuana. A chiropractor would not be able to use marijuana on a patient. They would not be able to give or sell marijuana to a patient unless they became a licensed dispensary or retail shop. Products derived from hemp may be sold and used though."

You can find more information on the OHA OMMP program here:

<http://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/MEDICALMARIJUANAPROGRAM/Pages/physicians.aspx>

Fiscal Responsibility and Accountability

Our budget preparation for the 2019-2021 biennium is underway with no anticipated increase in licensee fees.

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Due Process, Fairness, Transparent Governance

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

October 4-5 Cannon Beach
November 15 Salem (OBCE office)

Our 2019 location and meeting schedule will be determined at our November meeting.

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

Rules Updates and Policy Changes

REMINDERS

Permanent Rule adopted

July 26, 2018 – The Board adopted the following rule (effective August 8, 2018):

- Telehealth OAR [811-015-0066](#)

Rulemaking hearings

October 4-5, 2018 – Public comment will be taken on the following rules:

- OAR [811-010-0093](#) - Guide to Policy and Practice Questions
- OAR [811-010-0120](#) - Chiropractic Professional Corporation and Business Entity Majority Ownership
- OAR [811-035-0015](#) - Unprofessional Conduct in the Chiropractic Profession
- OAR [811-015-0005](#) - Records (regarding relevant information)

Chiropractic Assistant Renewal Update

Overall, we had a very successful transition to the online renewal system. There were a few programming glitches in the beginning, but those were worked out promptly.

Please advise your certified chiropractic assistants to add our email addresses to their email contacts, so future renewal notice emails are NOT moved to a spam/junk folder. Please add Oregon.obce@oregon.gov and kelly.beringer@oregon.gov

Also, some clinics expressed concerns with the switch to a birth month/online renewal system. That paper notice we used to send out was a red flag that “it’s time.” Email is less noticeable. For those clinics with a large number of CAs, it will be challenging to know who is due to renew; who is getting the message and who isn’t. The Board has agreed to allow a second email address to be added to the CA’s database record to insert a “backup” email. Please feel free to email your preferred second email to me (address above).

CAs and Fingerprinting

We’ve mentioned this before, but January 2019 (the start of CA fingerprinting) will come around quick. If your CAs have birth dates in January and February (2019) they will be notified (mid-December 2018) that they are due to be fingerprinted. BUT! If they have been fingerprinted through the OBCE’s CA application process – within the past six (6) years - they will NOT need to be printed in 2019. Here’s how you will know - If your CA gets the email with instructions to be printed, they need to be printed.

Kelly Beringer

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From Our Investigators

Amending Medical Records

Recently we have had many inquiries on whether a licensee can amend or change medical records, how to do it, and if there is time frame in which it must be done.

First, the OBCE does not have an official policy on amendment of medical records or adding addendums to medical records that we require licensees to adhere to. We do routinely get questions on what to do when erroneous information is recorded and how to correct it without getting in trouble. As the Board’s Investigators, we would like to offer some simple suggestions and answer some common questions we get on this topic. Hopefully, it will help you avoid any unsavory encounters with not only the Board but other legal entities.

First and foremost, falsification or tampering of medical records is not only a violation of OBCE rules, it could potentially count as the crime of forgery.

That said, there are several legitimate reasons to change the content of a patient’s medical record. Appropriate changes can include corrections, such as dates of onset, or dates of previous encounters with other providers, information that was recorded incorrectly, or to add to a file relevant information not available at the time the original notes were authored. This can appropriately be accomplished with an amendment or addendum to the record.

Amendment: Making minor changes to a legal document (chart notes) for purpose of correction of erroneous entries. Example: entering the incorrect onset date or date of previous injury, or

incorrect dates a patient consulted previous providers or incorrect conditions listed in the patient history, etc.

Addendum: The addition of supplemental/additional information not available at the time the original document was authored, signed and closed. Example: relevant medical information not initially available, radiology reports other provider's medical information, etc.

Process:

Paper records: Simply draw one clean line through the portion of the notes that is to be amended (do not white it out or felt pen through it), leave it legible. Then, in available space above/below or in the margin, make your amendment, date, and sign it.

Electronic records: The process depends on your records software - they vary vastly, many allow easy amendments or addendums so just follow the prompts and protocols. If your system does not allow Amendments/Addendums, open a new document (Tx DOS), record and note that the purpose of that document is to amend whatever DOS you wish to add to or what addendum you are creating. Identify the reason for the edits and clearly identify the original content you are amending, the date, author of the original document, and amended document. If necessary, contact your technical support and get advice on the correct way to accomplish the amendments or addendums. This should be a new record that does not alter the original.

Frequently Asked Questions:

- 1- Can a patient request I change the content of my chart notes because they do not agree with my notes?

Answer: A patient has the right to review their medical records and can request to amend their medical records. The Provider/Author of records can make a determination if the records should be amended, and is required to record the patient's requested amendment, change, or addition. The patient cannot order you to alter your records just because they do not agree with your findings, or are requesting you alter your records to benefit them in any way. (Patient request to change records to effect employment or litigation are the most frequent change requests.)

- 2- I have just purchased a practice from a retiring doctor, or acquired records for a deceased doctor's family. I have noted several errors in these documents. Can I, as the new owner of those records, change those records?

Answer: The same rules apply for this scenario - you are allowed to amend or add addendums with the same process. Generally, this would be accomplished either through an amendment, or the creation of a proper record of your next DOS with that patient, conducting whatever examinations, testing, or observations are needed to cure the fault of the older records.

- 3- I had a fire or flood in my office and a large portion of my medical records were destroyed. Should I attempt to back track and rewrite the medical records?

Answer: No. Record in the remaining records the event responsible for the loss of the records and note somewhere the date of that occurrence and any reference to the date of destruction. Example: notification to the Board, malpractice carrier, or your indemnity insurance complaint for loss of property. Do not try to reconstruct the records, it could be construed that you are attempting to alter the records. It is simply an act of God.

- 4- Can another provider, insurance company, or attorney alter or change my records?

Answer: Same rules apply for everyone. No, they cannot alter your records. As a matter of fact, always review all records, even copies of your own records (included in document packages) when reviewing cases for court, depositions, settlement hearings, etc. and make sure the chart notes the other side has is identical to your original records (diligence always recommended).

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