

## **Duty to Report Law for Chiropractic Physicians and Assistants**

**See below: ORS 684.200, OAR 811-010-0040, ORS 676.150, BackTalk article, Fall 2009**

### **ORS 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]

### **OAR 811-010-0040, Duty to Report**

(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.

### **REPORTING OBLIGATIONS**

**ORS 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]

## **New Duty to Report Law**

A new Duty to Report law passed the 2009 Legislature requiring licensees to report “prohibited or unprofessional conduct” of other health licensees to their professional licensing boards without undue delay, but within 10 days.

Under these provisions a chiropractic physician who has reasonable cause to believe a medical doctor, licensed massage therapist or a physical therapist (for example) were violating that profession’s laws or rules, would be required to make a report directly to that health regulatory board (or visa versa). You can find a listing of all health regulatory boards on the OBCE web page ([www.oregon.gov/obce](http://www.oregon.gov/obce)) under Links.

The new law requires reporting of “prohibited conduct” a 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;

And the new law requires reporting of “Unprofessional conduct” which 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.

In the rare situation where the other health professional is the chiropractic physician’s patient, the HIPAA implications should be considered before any reporting.

### **Self Report Criminal Convictions**

The new law also requires a licensee (DC or CCA) must report to the OBCE within 10 days any arrest for, or conviction of, a felony offense. A licensee who is convicted of misdemeanor offense must report this to the OBCE within 10 days.

The OBCE will continue to ask on all renewal forms whether any criminal convictions or arrests have occurred. Any failure to promptly report could result in disciplinary action.

These new Duty to Report provisions join the existing chiropractic Duty to Report requirements of ORS 684.200 and OAR 811-010-0040.

There is no prescribed format for reporting. A telephone call, fax, email or letter are all effective methods to communicate to the intended health regulatory board. What is important is that the information be sufficiently detailed and well founded for the agency’s review and response.