



PERMANENT ADMINISTRATIVE ORDER

BCE 12-2019
CHAPTER 811
BOARD OF CHIROPRACTIC EXAMINERS

FILED
10/10/2019 4:30 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: General rule review Divisions 10 and 15

EFFECTIVE DATE: 10/10/2019

AGENCY APPROVED DATE: 09/24/2019

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RULES:

811-010-0005, 811-010-0084, 811-010-0085, 811-010-0086, 811-010-0089, 811-010-0090, 811-010-0093, 811-010-0095, 811-010-0110, 811-010-0120, 811-010-0130, 811-015-0002, 811-015-0005, 811-015-0006, 811-015-0025, 811-015-0080

AMEND: 811-010-0005

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Clarified terms; general clean up, alphabetizing,

CHANGES TO RULE:

811-010-0005
Definitions ¶¶

As used in OAR Chapter 811 unless otherwise required by context:¶¶

(1) "Advertising" means any form of information intended for promotion.¶¶

(2) "Applicant" or "Subject Individual":¶¶

(a) "Applicant" means a person applying for a license to practice chiropractic in this state, or applying for certification as a chiropractic assistant in this state.¶¶

(b) "Subject individual" means a person from whom the Board may require fingerprints for the purpose of enabling the Board of Chiropractic Examiners to request a state or nationwide criminal records check. Under this chapter, subject individual means applicants for doctor of chiropractic license, chiropractic assistant certification, and any licensee or certificate holder under investigation as ordered by the Board.¶¶

(23) "Chiropractic Physician" means a physician licensed to practice chiropractic under the provisions of ORS 684.040.¶¶

(3) "Patient" means any person who is examined, treated, or otherwise provided chiropractic services whether or not the person has entered into a physician/patient relationship or has agreed to pay a fee for services.¶¶

(4) "Advertising" means any form of promotional (educational) information.¶¶

(554.¶¶

(4) "Food" means nutritive material taken into an organism for the growth, work, or repair and for maintaining the

vital processes; anything that nourishes or sustains it.¶

(65) "Good moral character" means an applicant or subject individual who has ~~not~~¶

(a) ~~Not~~ committed an offense or crime involving moral turpitude;¶

(b) ~~Commit~~ Not engaged in an act or crime behavior involving dishonesty, fraud, deception, misrepresentation, gross negligence, or incompetence;¶

(c) ~~Has~~ Answered truthfully and completely any question asked by the Board on an application for licensure or certification, or during the course of an investigation, or any other question asked by the Board.¶

(d) ~~Not had~~ a professional license revoked or suspended by this state, a political subdivision of this state, or a regulatory board in another jurisdiction in or outside the United States, or voluntarily surrendered a professional license in lieu of disciplinary action;¶

(~~e~~) ~~Not~~ displayed evidence of an existing and untreated drug, alcohol, or mind-altering substance abuse or dependency;¶

(~~f~~) ~~Not~~ been subject to academic probation (not GPA related), expulsion, and/or disciplinary action for conduct in an academic setting.¶

(6) "Licensee" or "certificate holder" means a chiropractic physician or a certified chiropractic assistant. Licensee is used throughout these rules to refer to both types of regulated individuals.¶

(7) "Nutritional Supplement" means vitamins, minerals, herbs, meal supplements, sports nutrition products, natural food supplements, and other related products used to boost the nutritional content of the diet.¶

(8) "Over-the-counter" and "Nonprescription drugs" means substances which may be sold without a prescription ~~and~~, which are prepackaged for use by the consumer, and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.¶

(9) "Patient" means any person who is examined, treated, or otherwise provided chiropractic services whether or not the person has entered into a physician/patient relationship or has agreed to pay a fee for services.¶

(10) "Prescription drug" or "legend drug" means a drug which is:¶

(a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of the following statements:¶

(A) "Caution: Federal law prohibits dispensing without prescription"; or¶

(B) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or¶

(b) Required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by appropriately licensed practitioners only.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.150

AMEND: 811-010-0084

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Remove reference to LEDS system , update archaic terms, and add certificate holders and certification

CHANGES TO RULE:

811-010-0084

Fitness Determinations for Licensure; State and Nationwide Criminal Background Checks ¶

(1) The purpose of this rule is to provide for the reasonable screening of subject individuals in order to determine if they have a history of criminal behavior such that they are not fit to be granted a license or certificate, registration, permit in occupations, or professions covered by Oregon Laws 2005, chapter 730.¶

(2) These rules are to be applied when evaluating the criminal history of a subject individual and conducting fitness determinations based upon such history. The fact that a subject individual is approved does not guarantee the granting of a license, certification, registration, or permit.¶

(3) "Subject individual" means a person from whom the Board may require fingerprints for the purpose of enabling the Board of Chiropractic Examiners to request a state or nationwide criminal records check. Under this chapter, subject individual means applicants for doctor of chiropractic license, applicants for chiropractic assistant certification, renewing licensees or certificate holders; and licensees under investigation as ordered by the Board.¶

(4) The Board may request that the ~~Department of Oregon~~ State Police conduct a ~~Criminal H~~istory ~~C~~heck and a ~~N~~ational ~~C~~riminal ~~H~~istory ~~C~~heck, using fingerprint identification, of subject individuals. ~~The Board may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police. Criminal history information obtained from the Law Enforcement Data System must be handled in accordance with applicable Oregon State Police requirements in ORS Chapter 181 and OAR Chapter 257, Division 15.~~¶

(5) In order to conduct an ~~Oregon state~~ and ~~N~~ational ~~C~~riminal ~~H~~istory ~~C~~heck and fitness determination, the Board may require additional information from the subject individual as necessary, such as, but not limited to: proof of identity, residential history, names used while living at each residence, or additional criminal, judicial, or other background information.¶

(6) The Board shall determine whether a subject individual is fit to be granted or renewed a license or certification, based on the criminal records background check, on any false statements made by the individual regarding their criminal history ~~of the individual~~, on any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If a subject individual is determined to be unfit, then the individual may not be granted a license or certification. The Board may make a fitness determination conditional upon the subject individual's acceptance of probation, conditions, limitations, or other restrictions upon licensure, certification, or renewal.¶

(7) Except as otherwise provided in section 6 in making the fitness determination, the Board shall consider:¶

(a) The nature of the crime;¶

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;¶

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and¶

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit. Intervening circumstances include but are not limited to:¶

(A) The passage of time since the commission of the crime;¶

- (B) The age of the subject individual at the time of the crime;¶
- (C) The likelihood of a repetition of offenses or of the commission of another crime;¶
- (D) The subsequent commission of another relevant crime;¶
- (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and¶
- (F) A recommendation of an employer.¶
- (G) Self-disclosure during application or renewal.¶
- (8) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.¶
- (9) Criminal offender information is confidential.-Dissemination of information received under ORS 181A.195 is only to people with a demonstrated and legitimate need to know the information.-The information is part of the investigation of an applicant, licensee, and certificate holder and as such is confidential pursuant to ORS 676.175(1). All original fingerprint cards will be destroyed per ORS 181A.195.¶
- (10) The Board will permit the subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.¶
- (11)-The Board may consider any felony or misdemeanor conviction involving moral turpitude.¶
- (12) If an applicant, licensee, or certificate holder is determined not to be fit for a license and/or certificate, they are entitled to a contested case process pursuant to ORS 183.413-470.-Challenges to the accuracy or completeness of information provided by the ~~Department of Oregon~~ State Police, Federal Bureau of Investigation, and agencies reporting information must be made through the ~~Department of Oregon~~ State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.¶
- (13) If the subject individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation, or other agency reporting information to the Board, the Board will conduct a new criminal history check and re-evaluate the criminal history upon submission of a new criminal history request form.¶
- (14) If the subject individual discontinues the application or renewal, or fails to cooperate with the criminal history check process, then the application or renewal is considered incomplete.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.100, 183

AMEND: 811-010-0085

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Minor grammatical edits, add "university"

CHANGES TO RULE:

811-010-0085

Application and Examination of Applicants ¶¶

- (1) Applicants shall be examined according to ORS 684.050 or 684.052.¶¶
- (2) The Board shall provide a Candidate's Guide, which contains all necessary examination information.¶¶
- (3) Fee and application requirements include the following:¶¶
 - (a) ~~A~~The \$100 application fee must be received by the Board prior to applicant receiving approval to sit for the examinations.¶¶
 - (b) Request for re-examination of the Ethics/Jurisprudence, Minor Surgery/Proctology and/or the Obstetrics/Gynecology examinations must be submitted directly to the national testing agency.¶¶
 - (c) A complete set of fingerprints or LiveScan Transmittal Verification form and the criminal background check results obtained from any state or local law enforcement agency, or from any other agency approved by the Board. Applicants shall use forms or methods prescribed by the Board.¶¶
 - (d) Applicant must pay to the Board the current actual cost of conducting the state and federal background check.¶¶
- (4) Documents to be submitted prior to approval to take the Oregon Specifics Examinations:¶¶
 - (a) A completed official application including a recent photograph and fingerprints or LiveScan Transmittal Verification form;¶¶
 - (b) Social Security Number Authorization form;¶¶
 - (c) Evidence of the applicant's good moral character on the letterhead stationary of, and signed by, a chiropractic physician;¶¶
 - (d) A signed affidavit attesting to successful completion of at least two years of liberal arts and sciences study in an accredited college or university. Original transcripts must be provided if requested by the Board; ~~and~~¶¶
 - (e) A transcript certified by the registrar, from an approved chiropractic college or university, including transcripts of coursework as required by OAR 811-020-0006 (~~minimum Educational Requirements for physiotherapy and minor surgery/proctology~~). A transcript of grades is necessary from each chiropractic college or university attended; and¶¶
 - (f) An official transcript of passing grades from the National Board of Chiropractic Examiners on Part I, II, and III, and physiotherapy.¶¶
- (5) Documents and fee to be submitted prior to licensure include:¶¶
 - (a) ~~A~~The \$150 initial license fee;¶¶
 - (b) A diploma or other evidence of graduation certified by the registrar from an approved chiropractic college or university; and¶¶
 - (c) An official transcript of passing grades from the National Board of Chiropractic Examiners Part IV.¶¶
- (6) All applicants must take and pass the Oregon Specifics Examination consisting of written examination in ethics and jurisprudence, obstetrics and gynecology, minor surgery and proctology. Applicants who have previously taken and passed obstetrics and gynecology, and/or minor surgery and proctology within the last five years from the date of application as received by the Board are not required to retake these tests; ~~h~~. However, all applicants must take and pass the Ethics/Jurisprudence examination.¶¶
- (7) Oregon Specifics Examination Grades: The Board shall determine the passing scores. All examinations are designed to test minimal competency to protect the public ~~health and safety~~.¶¶
- (8) An applicant failing to achieve a passing grade as determined by the Board for the Ethics/Jurisprudence, Minor Surgery/Proctology, and/or the Obstetrics/Gynecology examination(s), must contact the national testing agency for re-examination of the failed section(s).¶¶

- (9) If the applicant fails to re-test on at least one failed section within 13 months of the last examination, the file shall become inactive and the applicant must re-apply and take the entire examination.¶
- (10) An applicant attempting to give aid or accepting aid from another while examinations are in progress shall fail the examination and will not be allowed to take the examination for a period of five (5) years.¶
- (11) Refunds:¶
- (a) The application fee is non-refundable; and¶
- (b) The criminal background check fee is non-refundable.¶
- (12) The Board may reject applications for good cause, including evidence of unprofessional ~~behavior~~ conduct.¶
- (13) Applicants who have completed all requirements for licensure, including passage of all required examinations, must submit the initial license fee to obtain license within one year from the date they completed all the requirements. An applicant's initial license will be valid for a minimum of 180 days. However, if the applicant's next birth date is within the 180 days, the initial license will be valid for an additional 12 months beyond the applicant's birth date.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.050, 684.052

AMEND: 811-010-0086

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Update language to match actual application of rule.

CHANGES TO RULE:

811-010-0086

Annual Registration ¶

The license period for chiropractic physicians in Oregon is a period equal to 12 months, expiring on the last day of the licensee's birth date month. Licensees must comply with ORS 684.090, 684.092, and 684.094 as it applies to their license status.¶

(1) At least 30 days prior to the renewal due date, the Board shall provide, by mail or electronic mail to the address on record, a notice of the requirements of ORS 684.090; and ORS 684.092.¶

(2) Active licensees must pay to the Board the annual \$425 registration fee and meet the requirements of ORS 684.092 during the 12 months prior to the expiration of the Certificate of Registration.¶

(3) Licensees may apply for a \$315 senior active license if the licensee meets and provides proof of the following requirements:¶

(a) Is 60 years of age or older; and¶

(b) Has held an active chiropractic license for at least 25 years.¶

(4) Senior active licensees shall fulfill the requirements of ORS 684.092 except that continuing chiropractic education shall not be less than 6 hours per year.¶

(5) Active licensees may apply for a \$225 inactive license, if the licensee ~~meets and provides proof of one of the following:~~¶

~~(a) Military service;¶~~

~~(b) Peace Corps or VISTA service;¶~~

~~(c) Retirement; or¶~~

~~(d) Licensee is not engaged in the practice of chiropractic in Oregon.¶~~

(6) Inactive licensees do not have to fulfill the requirements of ORS 684.092.¶

(7) Inactive licensees who want to reinstate their active license during the same license year shall pay the full active annual registration fee and provide proof of compliance with ORS 684.092.¶

(8) Inactive licensees who apply for reinstatement after five or more years after the date of transfer to inactive license, or who cannot demonstrate to the satisfaction of the Board they have been in active practice during the preceding five years, may be required to establish their competency in the practice of chiropractic by:¶

(a) Receiving a passing grade on all or part of an examination required by the Board; or¶

(b) Submitting a letter license verification showing proof of active chiropractic practice and any disciplinary actions from ~~the all~~ state boards where licensure is maintained; or¶

(c) Petition the Board to show proof licensee has been actively involved in a health profession in another capacity for a minimum of at least one year of the last five.¶

(9) A license that is not renewed on time may not be renewed except:¶

(a) Upon written application and payment to the Board of the fee for the license category plus a delinquent fee of \$125 for each week or portion thereof, not to exceed \$500.¶

(b) Upon compliance with or exemption from the requirements of ORS 684.092.¶

(10) All licensees shall submit to a criminal background check during renewal at an interval to be determined by the Board.¶

(a) 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.

Licensee shall provide a complete set of fingerprints or LiveScan Transmittal Verification form, and the criminal background check results obtained from any state or local law enforcement agency, or from any other agency approved by the Board. Licensees shall use forms or methods prescribed by the Board.¶

(b) Licensees must pay to the Board the current actual cost of conducting the state and federal background check.¶

(c) The criminal background check fee will be in addition to the renewal fee and payable by the licensee.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.090, 684.092

AMEND: 811-010-0089

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Add reference to certificate holders; minor grammatical edits

CHANGES TO RULE:

811-010-0089

Competency Examination ¶¶

The Board may at any time direct and order a mental, physical, or professional competency examination or any combination thereof, and make such investigations in order to fully inform itself with respect to the performance or conduct of a licensee or certificate holder pursuant to ORS 684.100(5), (6) and (7):¶¶

(1) The professional competency examination shall be administered as a written or oral examination. The Board may elect to administer one or both examinations or may elect to use a nationally recognized competency examination such as the National Board of Chiropractic Examiners (NBCE) Part IV or Special Purposes Examination for Competency (SPEC). The Board may elect to use other methods of competency examination, including, but not limited to, psychological examinations conducted by a board-approved licensed psychologist or psychiatrist.¶¶

(a) The written examination shall be determined by the Board according to ORS 684.100(5), (6) and (7);¶¶

(b) The Board shall make a determination of the passing grade. When the Board elects to use either the NBCE Part IV or SPEC examination, the passing grade suggested by the NBCE shall be adopted.¶¶

(2) The examinee shall be given no less than two weeks' notice of the date, time, and place of any examination administered.¶¶

(3) Failure to achieve a passing grade on any competency examination shall constitute grounds for suspension or revocation of examinee's license or certificate by the Board.¶¶

(4) Any licensee or certificate holder, by practicing ~~€~~chiropractic or acting as a certified chiropractic assistant, shall be deemed to have given consent to submit to any competency examination including a mental or physical examination when so directed by the Board and, ~~further~~, to have waived all objection to the admissibility of information derived from such mental or physical or professional competency examination on the grounds of statutory privileged communications.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.100(6)

AMEND: 811-010-0090

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Add reference to chiropractic assistants, and clean up language.

CHANGES TO RULE:

811-010-0090

Food and Drugs ¶

~~(1) The Chiropractic physician is and certified chiropractic assistants are prohibited by law from the administration or ordering, dispensation, or prescription of prescription drugs or the writing of a prescription therefor pursuant to state or federal law unless licensed to do so under another health regulatory licensing body. ¶~~

~~(2) The Chiropractic physician is specifically are authorized to issue orders for, or procure, anesthetics, and antiseptics; also, opaque media for X-ray diagnosis as authorized by section (1) of ORS 684.025; also such and other items that may fall within the provisions of the Chiropractic Act. ¶~~

(3) A person has received training in the administration of emergency use of oxygen if the person has completed a course in emergency medical procedures that includes the use of emergency oxygen at a chiropractic college (or a qualified post graduate education provider), or otherwise can demonstrate familiarity with the protocols for emergency oxygen use.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.015, 684.025

AMEND: 811-010-0093

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Update "last amended" date

CHANGES TO RULE:

811-010-0093

Guide to Policy and Practice Questions ¶¶

The Board's Guide to Policy and Practice Questions, originally dated January 14, 1998, and last amended ~~October 2018~~ revised September 4²⁰, 2018⁹, is hereby adopted.¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.150, 684.155

AMEND: 811-010-0095

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Clean up, minor edits

CHANGES TO RULE:

811-010-0095

Peer Review Committee ¶

(1) ~~The Board of Chiropractic Examiners shall appoint and form committees for Peer Review~~ shall appoint and form its Peer Review Committee (PRC) in accordance with ORS 684.185. ¶

(2) Definitions: ¶

(a) "Peer review" means the evaluation of the efficacy and appropriateness of healthcare services provided to a patient based on: standards of care, and skill and treatment which are recognized as being reasonable, prudent, and acceptable under similar conditions and circumstances by Oregon chiropractors; ~~(b) The current Oregon Practice and Utilization Guidelines may be used as a resource to assist the Board and peer review committee;~~ physicians. ¶

~~(c) A peer review committee~~ The PRC is a committee of seven chiropractic physicians, licensed under ORS Chapter 684, who qualify under ORS 684.185(2). ~~Each peer review committee~~ The PRC may include non-voting alternate members appointed by the Board. Alternate members may participate in all capacities except for voting. The committee chair may appoint an alternate to temporarily replace an absent voting member. Four voting members present at any meeting shall constitute a quorum, and allow the ~~peer review committee~~ PRC to carry out its business. ¶

~~(3) Peer review~~ Review by the PRC will occur upon submission of a request for review by the Board. ¶

~~(4) The peer review committee~~ PRC may request an interview with any person, including the chiropractic physician being reviewed and, when appropriate, may request the opinion of other healthcare providers for reviews involving a particular area of practice, or specialty. ¶

(5)(a) Any member of the ~~peer review committee~~ PRC may withdraw from any review which presents a perceived or actual conflict of interest for that member. Any member who cannot be impartial may be withdrawn from participation by the committee chair or the Board. ¶

(b) The chiropractic physician being reviewed may protest the involvement of a specific committee member, or members, based on actual conflict(s) of interest as determined by the committee chair or the Board. This protest shall be included in the committee's report. ¶

(c) The chiropractic physician being reviewed may be accompanied by legal counsel. ¶

(d) Failure to cooperate with, or appear before, the committee shall be reviewed by the Board and may result in disciplinary action. ¶

(6) ~~The peer review committee~~ PRC shall consider all information submitted to it by the Board. The committee shall also consider any written and/or oral comments made by the chiropractic physician being reviewed, the involved patient, or other witnesses. The committee shall meet, complete the review, and submit a written report to the Board. This report should be adopted by a majority of the voting committee members. The report shall include a brief statement of the facts of the case, any violation of rules or statutes pertaining to the practice of chiropractic and/or any deviation from accepted standards, along with any additional comments which might assist the Board in taking appropriate action. ¶

~~(7) The members of the peer review committee~~ PRC shall be paid mileage and per diem ~~at the state rates~~ determined by the Board while performing their official duties.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.185

AMEND: 811-010-0110

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Update language since transition to birth month has occurred; replace "practice" with perform.

CHANGES TO RULE:

811-010-0110

Chiropractic Assistants ¶

(1) The certification period for chiropractic assistants in Oregon is a period equal to 12 months, expiring on the last day of the chiropractic assistant's birth month/renewal date. ¶

~~(a) Exception: during the transition from an annual renewal to a birth month renewal, the certification period will be from August 1 of the year of transition to the last day of the assistant's birth month/renewal date of the following year. ¶~~

~~(b) During the 30 days immediately following the renewal date the chiropractic assistant may continue to practice but must meet the requirements of (14)(a) and (b) below. Any chiropractic assistant who has not renewed within that 30 day grace period must cease practice until the requirements of (15) below are met. ¶~~

~~(c) Continuing education: ¶~~

~~(A) During the transition from an annual renewal to a birth month renewal, all chiropractic assistants shall attest to completing six hours of continuing education. ¶~~

~~(B) Allowable continuing education shall be completed between August 1 of year of transition and the last day of the chiropractic assistant's birth month the following year. This may be more or less than 12 months. ¶~~

(2) Chiropractic assistants may be certified upon compliance with the following: ¶

(a) The chiropractic assistant applicant shall successfully complete a Board approved training course. The initial training course shall be at least twelve hours in length, of which eight hours shall be didactic training and four hours shall be practical training. ¶

(A) The practical training must be in physiotherapy, electrotherapy and hydrotherapy administered by a health care provider licensed to independently provide those therapies. ¶

(B) A chiropractic physician may perform the initial practical training provided this is direct contact time. ¶

(C) The initial training must have been completed within 60 days preceding the application submission date. ¶

(b) The applicant shall complete an application packet, and an open book examination administered by a national testing agency. ¶

(c) If an applicant has a certificate or license from another state and adequate documentation of training, the Board may waive the requirement for the initial training course. ¶

(3) Prior to initial certification, the training course verification form, completed application packet, passing examination results, and fees ~~in the following amounts~~ shall be submitted to the Board: ¶

(a) A non-refundable application fee - \$50; ¶

(b) A non-refundable examination fee \$35; and ¶

(c) An initial certification fee - \$50. A refund of the certification fee will only be allowed when requested within 60 days of the initial application. ¶

~~(d) In circumstances beyond the applicant's control (e.g. Board review of criminal history) the Board may determine to refund the fees or portion thereof. ¶~~

(e) In the event the Board requires the NBCE chiropractic assistant examination in lieu of the Board's examination, the fee in subsection (b) will be waived. ¶

(4) The Board shall maintain an incomplete application file for six months from the date the application was received; afterward, applicants will need to re-apply. ¶

(5) The applicant shall be at least 18 years of age. ¶

(6) The chiropractic assistant shall not perform electrotherapy, hydrotherapy, or physiotherapy until they receive a certificate from the Board. ¶

(7) A chiropractic assistant shall be directly supervised by the licensed chiropractic physician at all times. The

supervising licensed chiropractic physician must be on the premises. ¶

(8) ~~The Only under the direct supervision of the licensed chiropractic assistant scope of practice~~ ¶

~~(a) include physician the chiropractic assistant~~ ¶

~~(a) may perform or provides~~ physiotherapy, electrotherapy and hydrotherapy, ~~the~~ taking of vitals such as height, weight, blood pressure, temperature, pulse, respiration and/or body fat percentages, and other duties as described by the Board; and ¶

~~(b) does may not include performing~~ ~~perform or provide~~ physical examinations, taking initial histories, taking X-rays (unless properly licensed), interpretation of postural screening, performing manual muscle testing, or osseous adjustments or manipulations, or other tasks as prohibited by the Board. ¶

(9) Chiropractic assistants shall report to the Board, in writing, their mailing address and place of employment.

Notification of a change of mailing address or place of employment must be made within 10 days of the change. ¶

(10) At least 30 days prior to the renewal date, the Board shall send the renewal notice to the chiropractic assistant at the last known mailing address, and/or email address. ¶

~~(11) For the transition to a birth month renewal, renewal fees shall be prorated as follows:~~ ¶

~~(a) Assistants with birthdays January through April – \$25;~~ ¶

~~(b) Assistants with birthdays May through August – \$50;~~ ¶

~~(c) Assistants with birthdays September through December – \$75;~~ ¶

~~(12) During transition to a birth month renewal, all certificates will be valid August 1 of the transition year through last day of birth month the following year.~~ ¶

~~(13) After the full transition to a birth month system, and on or before the last day of the birth month, the chiropractic assistant shall submit to the Board the following:~~ ¶

~~(a) A completed renewal application and renewal fee of \$75;~~ ¶

~~(A) The renewal application may include a request for fingerprinting and a criminal background check with fees to be paid by the chiropractic assistant.~~ ¶

~~(B) Frequency of fingerprinting and criminal background checks will be determined by the Board.~~ ¶

~~(b) An attestation that the six hours of continuing education has been completed within the immediate 12 months prior to renewal date; and~~ ¶

~~(c) A completed OHA Healthcare Workforce Questionnaire.~~ ¶

~~(142) A certificate During the 30 days grace period immediately following the renewal date, that is not renewed a chiropractic assistant may continue may not be renewed except:~~ ¶

~~(a) Upon submission of the fee to perform assigned duties, but must meet the following requirements:~~ ¶

~~(a) Submit a completed renewal application, proof of continuing education, and payment of the renewal fee plus a delinquent fee of \$25 for renewals submitted during the 30 day grace period; or~~ ¶

~~(b) Upon submission of the renewal application, proof of continuing education, and payment to the Board of the renewal fee plus a delinquent fee of \$50 for renewals submitted after the 30 day grace period.~~ ¶

~~(153) A chiropractic assistant has up to one year following their renewal date to renew and reinstate their certificate upon meeting the provisions of (142)(a) and (b) above. After 12 months a person must restart the application process.~~ ¶

~~(164) Continuing education programs may be comprised of subjects that are pertinent to clinical practices of chiropractic. Continuing education must meet the criteria outlined in OAR 811-015-0025 sections (8), (9) and (10). No continuing education hours may be carried over into the next renewal year. Evidence of successful completion of six hours of continuing education during the 12 months preceding the renewal must be submitted upon request by the Board.~~ ¶

~~(175) The chiropractic assistant's certificate shall be displayed at all times in the chiropractic physician's office during the chiropractic assistant's employment.~~ ¶

~~(186) The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate, or may impose upon an applicant for certification or chiropractic assistant a civil penalty not to exceed \$1,000 upon finding of any of the following:~~ ¶

~~(a) Cause, which is defined as, but not limited to, failure to follow directions, unprofessional or dishonorable~~

conduct, injuring a patient, or unlawful disclosure of patient information. The supervising chiropractic physician is required to notify the Board, in writing, of any dismissal of a chiropractic assistant for cause within ten days. The Board shall determine if there is cause for action and shall be governed by the rules of the Board adopted pursuant to ORS Chapter 183; ¶

(b) Conviction of a misdemeanor involving moral turpitude or a felony; ¶

(c) Non-disclosure of misdemeanor or felony convictions; or ¶

(d) Failure to notify the Board of a change of location of employment as required by these rules. ¶

(197) Unprofessional or dishonorable conduct is defined as: 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 assistant practice performance; 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 assistant: ¶

(a) Engaging in any conduct or verbal behavior with or towards a current patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100). ¶

(b) A certificate holder 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 chiropractic assistant-patient relationship. ¶

(A) "Sexual relations" means: ¶

(i) Sexual intercourse; or ¶

(ii) 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 chiropractic assistant for the purpose of arousing or gratifying the sexual desire of either chiropractic assistant or patient. ¶

(B) A patient's initiation of, or participation in, sexual behavior or involvement with a chiropractic assistant does not change the nature of the conduct nor lift the prohibition. ¶

(C) In determining whether a patient is a current patient, the Board may consider the length of time of the chiropractic assistant-patient contact, evidence of termination of the chiropractic assistant-patient relationship, the nature of the chiropractic assistant-patient relationship, and any other relevant information. ¶

(c) Use of protected or privileged information obtained from the patient to the detriment of the patient. ¶

(d) ~~Practicing outside the scope of the practice of a chiropractic assistant in Oregon~~ Violating section (8) of this rule; ¶

(e) Charging a patient for services not rendered; ¶

(f) Intentionally causing physical or emotional injury to a patient; ¶

(g) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques; ¶

(h) Soliciting or borrowing money from patients; ¶

(i) 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; ¶

(j) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of chiropractic assistants or other health care providers; ¶

(k) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information; ¶

(l) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic; ¶

(m) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice assigned duties of a chiropractic assistant; ¶

(n) ~~Practice~~ Acting as a chiropractic assistant without a current Oregon certificate; ¶

(o) Allowing another person to use one's chiropractic assistant certification for any purpose; ¶

(p) Resorting to fraud, misrepresentation, or deceit in applying for or taking the certificate examination or obtaining a certificate or renewal thereof; ¶

(q) Impersonating any applicant or acting as a proxy for the applicant in any chiropractic assistant certificate

examination; ¶

(r) Disclosing the contents of the certificate examination or soliciting, accepting, or compiling information regarding the contents of the examination before, during, or after its administration; ¶

(s) Failing to provide the Board with any documents requested by the Board; ¶

(t) 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; ¶

(u) Failing to answer truthfully and completely any question asked by the Board on an application for licensure or certification, or during the course of an investigation, or any other questions asked by the Board; ¶

(v) Claiming any academic degree, or certification, not actually conferred or awarded; ¶

(w) Disobeying a final order of the Board; and ¶

(x) Splitting fees or giving or receiving a commission in the referral of patients for services. ¶

(y) Receiving a suspension or revocation of a certificate for a chiropractic assistant, or other license or certificate by another state based upon acts by the chiropractic assistant or applicant that describes acts similar to this section. A certified copy of the record of suspension or revocation of the state making that is conclusive evidence thereof. ¶

~~(20) The service of the chiropractic assistant is the direct responsibility of the supervising licensed chiropractic physician.~~ 18) Violations may be grounds for disciplinary action against the supervising chiropractic physician under ORS 684.100(9).

Statutory/Other Authority: ORS 684.155

Statutes/Other Implemented: ORS 684.054, 684.155(c)(A)

AMEND: 811-010-0120

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Minor grammatical changes

CHANGES TO RULE:

811-010-0120

Chiropractic Professional Corporation and Business Entity Majority Ownership ¶¶

(1) Definitions. As used in this rule, unless the context requires otherwise:¶¶

(a) "Business entity" means:¶¶

(A) A professional corporation organized under ORS Chapter 58, predecessor law, or comparable law of another jurisdiction;¶¶

(B) A limited liability company organized under ORS Chapter 63 or comparable law of another jurisdiction;¶¶

(C) A partnership organized in Oregon after January 1, 1998, or that is registered as a limited liability partnership, or that has elected to be governed by ORS Chapter 67 or comparable law of another jurisdiction; or¶¶

(D) A limited partnership organized under ORS Chapter 70, predecessor law, or comparable law of another jurisdiction.¶¶

(b) "Majority ownership interest" means more than 50 percent of:¶¶

(A) The issued voting stock of a professional corporation;¶¶

(B) The members of a limited liability company; or¶¶

(C) Participation in the profits of a partnership.¶¶

(c) "Organizational document" means:¶¶

(A) The articles of incorporation of a professional corporation, or comparable document of another jurisdiction;¶¶

(B) The articles of organization of a limited liability company, or comparable document of another jurisdiction;¶¶

(C) The partnership agreement and, for a limited liability partnership, its registration, or comparable document(s) of another jurisdiction; or¶¶

(D) A certificate of limited partnership, or comparable document of another jurisdiction.¶¶

(d) "Owner" means a voting shareholder of a professional corporation, member of a limited liability company, or partner of a partnership.¶¶

(e) "Principal" means a person who is a director of a professional corporation, manager of a limited liability company, or general partner of a limited partnership.¶¶

(f) "Surrogate" means a person appointed to act for another; deputy.¶¶

(2) ~~Requirements for business entities organized to practice chiropractic.~~ The purpose of this rule is to protect the public by ensuring that business entities are organized for the purpose of providing chiropractic health care by majority owned and controlled Oregon licensed chiropractic physicians and/or chiropractic health care in a multi-disciplinary setting which are majority owned and controlled by Oregon licensed health care professionals.¶¶

(a) In a business entity organized for the purpose of practicing chiropractic:¶¶

(A) The majority ownership interest shall be held by chiropractic physicians licensed in this state to practice chiropractic.¶¶

(B) A majority of the principals shall be chiropractic physicians who are licensed in this state to practice chiropractic.¶¶

(C) All officers except the secretary and treasurer, if any, must be chiropractic physicians who are licensed in this state to practice chiropractic. Any two or more offices may be held by the same person.¶¶

(b) A professional corporation may be a shareholder of a professional corporation organized for the purpose of practicing chiropractic solely for the purpose of effecting a reorganization as defined in the Internal Revenue Code.¶¶

~~(c) Business entities organized before August 15, 2001 that are not in compliance with the provisions of this rule have until August 15, 2002 to come into compliance.¶¶~~

~~(d) The Board of Chiropractic Examiners~~ The Board has the discretion to allow business entities to apply for a

waiver of the majority ownership requirement provided full disclosure of clinic ownership is provided to the Board of Chiropractic Examiners, a plan and timetable is presented for a transition to meet the requirements of this rule, and the Board finds that the health and welfare of the patient is the first priority of the ~~Chiropractic~~ physicians and business entity.¶

(ed) Upon a finding that a holder or owner of a chiropractic practice has failed to comply with the provisions of this rule or the regulations prescribed by the Board pursuant to the practice of chiropractic, the Board of Chiropractic Examiners may consider the failure to comply with this rule as a violation of this rule a violation which may subject a holder or owner to discipline pursuant to ORS 684.100.¶

(3) 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 this rule.¶

(4) Powers of professional corporations organized to practice chiropractic.¶

(a) A professional corporation organized for the purpose of practicing chiropractic has the powers enumerated in ORS 60.077 and 60.081, except as provided otherwise by the Board of Chiropractic Examiners.¶

(b) A general corporation under the provisions of ORS Chapter 60 may not be organized to practice chiropractic.¶

(5) Proxies.¶

(a) A proxy to exercise voting rights in a business entity organized for the purpose of practicing chiropractic may be given under the following conditions:¶

(A) If the voting rights belong to a chiropractic physician licensed in this state to practice chiropractic, the proxy may be given only to an owner of the same business entity who is also a chiropractic physician licensed in this state to practice chiropractic, or to an attorney licensed in this state to practice law.¶

(B) If the voting rights do not belong to a chiropractic physician licensed in this state to practice chiropractic, the proxy may be given only to another owner of the same business entity whether or not the other owner is a chiropractic physician licensed in this state to practice chiropractic, or to an attorney licensed in this state to practice law.¶

(b) No voting trust may be created to exercise the voting rights of one or more owners of a business entity organized for the purpose of practicing chiropractic.¶

(c) Two or more persons with voting rights in a business entity organized for the purpose of practicing chiropractic may enter into a voting agreement provided that the voting agreement does not transfer voting rights from an individual who is a chiropractic physician licensed in this state to practice chiropractic to an individual who is not so licensed. Notwithstanding any provision of this subsection, voting rights may be transferred to an attorney licensed in this state to practice law.¶

(6) Acquisition and disposition of ownership interest.¶

(a) Persons with an ownership interest in a business entity organized for the purpose of practicing chiropractic may acquire, transfer, assign, or dispose of such ownership interest only in a manner that leaves the business entity in compliance with the provisions of this rule.¶

(b) If the majority ownership interest of a business entity organized for the purpose of practicing chiropractic is no longer held by chiropractic physician(s) licensed in this state to practice chiropractic due to such ownership interest being held by an administrator, executor, personal representative, guardian, conservator, or receiver of the estate of a former owner, or by a transferee who receives such ownership interest by operation of law or court decree, such administrator, executor, personal representative, guardian, conservator, receiver, or transferee may act in the same ownership capacity as the former owner, including acting in the former owner's capacity as principal or officer, until the ownership requirements are in compliance with the provisions of this rule, but not to exceed six months following receipt or transfer of such ownership interest.¶

(c) Subject to subsection (a) of this section, the organizational document, bylaws, or agreements among owners of a business entity organized for the purpose of practicing chiropractic may provide limitations on the ability to acquire, transfer, assign or dispose of an ownership interest in the business entity.¶

(d) Subject to subsection (a) of this section, the articles of incorporation, bylaws, or agreements among shareholders of a professional corporation may provide for the purchase or redemption of shares by the

corporation.¶

(7) Disqualification of chiropractic physician; disposition of ownership interest.¶

(a) If a chiropractic physician practicing chiropractic on behalf of a business entity is disqualified from practicing chiropractic for more than six months or assumes a public office, the duties of which prohibit practicing chiropractic for more than six months under the rules of the Board of Chiropractic Examiners or other law, within 60 days after the disqualification or prohibition, the chiropractic physician's ownership interest shall be disposed of in accordance with section (56); or¶

(A) In the case of a professional corporation, the corporation shall have the right to redeem the shares of the chiropractic physician;¶

(B) In the case of a limited liability company, the chiropractic physician shall cease to be a member by withdrawal or expulsion;¶

(C) In the case of a partnership, the chiropractic physician shall cease to be a partner by withdrawal, dissociation or expulsion.¶

(b) If the disposition of ownership interest under subsection (a) of this section results in less than majority ownership of the business entity by chiropractic physicians licensed in this state to practice chiropractic, the business entity shall have six months from the date of disqualification or prohibition to come into compliance with the majority ownership provisions of this rule.¶

(c) If a chiropractic physician practicing chiropractic on behalf of a business entity is disqualified from practicing chiropractic for six months or less or assumes a public office, the duties of which prohibit practicing chiropractic for six months or less under the rules of the Board of Chiropractic Examiners or other law, the chiropractic physician may retain interest in the business entity and may remain a principal of the business entity during the period of disqualification or prohibition, unless otherwise prohibited under the rules of the Board of Chiropractic Examiners or by law.¶

(8) Disposition of ownership interest upon death of owner.¶

(a) A business entity organized for the purpose of practicing chiropractic may provide for the disposition of the ownership interest of a deceased owner in the organizational document, in the bylaws, by agreement between owners or between the business entity and its owners, providing such disposition leaves the business entity in compliance with the provisions of this rule.¶

(b) If there is no provision for the disposition of a deceased owner's interest as described in subsection (a) of this section, the ownership interest shall be disposed of in any manner that leaves the business entity in compliance with the provisions of this rule and the laws of this state.¶

(c) If the ownership interest of a deceased owner is not disposed of within twelve months after the owner's death, a special meeting of the remaining owners shall be called within fourteen months after the owner's death to decide by vote of the remaining owners whether the business entity shall dispose of such ownership interest in accordance with the provisions of this rule, or whether the business entity shall be voluntarily dissolved. The action determined to be taken by the remaining owners shall be completed within eighteen months after the owner's death. The Board may grant an extension of this time period upon request.¶

(d) If the deceased owner of a business entity organized for the purpose of practicing chiropractic was the sole owner of the business entity at the time of death:¶

(A) The business entity shall cease the practice of chiropractic as of the date of the owner's death unless it has retained the services of another chiropractic physician licensed in this state to practice chiropractic.¶

(B) Notwithstanding section (2)(c) of this rule, within twelve months after the date of the owner's death, the business entity shall be dissolved unless the ownership interest of the deceased owner has been sold or assigned to one or more chiropractic physicians who are licensed in this state to practice chiropractic.¶

~~(9) Multidisciplinary Provisions. A business entity may be organized for the purpose of rendering professional services within two or more health-related licensed professions, provided the majority ownership interest is held by persons licensed in this state in a health-related licensed profession and such licensees are acting only within their license scope of practice and code of professional conduct and are subject to the disciplinary authority of their respective licensing board.~~

Statutory/Other Authority: ORS 58, 684

Statutes/Other Implemented: ORS 58.367, 684.155(1)(b)

AMEND: 811-010-0130

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Added section (2) which was moved from OAR 811-010-0120

CHANGES TO RULE:

811-010-0130

Other Licensed Health Care Providers ¶

(1) A chiropractic business entity or chiropractic physician, in accordance with decades long accepted scope of practice, may employ or contract for the services of other health care providers as part of their chiropractic practice for the purpose of providing care to patients, to the extent this does not conflict with other applicable state or federal laws. Other health care providers may include, but are not limited to, licensed massage therapists, physical therapists, athletic trainers, nurses, acupuncturists, naturopathic physicians, and physicians licensed under ORS 677.¶

(2) Multidisciplinary practices. A business entity may be organized for the purpose of rendering professional services within two or more health-related licensed professions, provided the majority ownership interest is held by persons licensed in this state in a health-related licensed profession and such licensees are acting only within their license scope of practice and code of professional conduct and are subject to the disciplinary authority of their respective licensing board.

Statutory/Other Authority: ORS 684.155(1)(b)

Statutes/Other Implemented:

AMEND: 811-015-0002

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Grammatical changes, a few terms updated.

CHANGES TO RULE:

811-015-0002

Pre-Paid and Contracted Treatment Plans ¶

A ~~P~~pre-~~P~~paid ~~P~~plan is a package of services and/or products that are purchased by patients at a reduced or discounted cost than if the services were purchased individually.¶

(1) Chiropractic physicians may accept pre-payment for services planned but not yet delivered only if they do so in such a way that it does not constitute the practice of insurance.¶

(a) "Insurance" is defined as a contract whereby one undertakes to indemnify another or pay or allow a specified or ascertainable amount or benefit upon determinable risk contingencies, pursuant to (ORS 731.102).¶

(b) Chiropractic physicians or clinics who are certified by the Oregon Department of Insurance as Medical Retainer Plans are exempted from this section.¶

(c) These plans must not be in violation of OAR 811-015-0000-~~(Fees)~~.¶

(2) Pre-~~P~~paid and ~~C~~contracted ~~T~~treatment ~~P~~plans must include the following, in writing:¶

(a) The total costs/fees that the patient will incur and the method and timing of payment(s);¶

(b) Description of what services and products are included and excluded - If nutritional products or other ~~hard~~ ~~good~~ types of products including braces, supports, or patient aids are to be used during the proposed treatment plan, the patient's documents must state whether these items are included in the gross treatment costs or if they constitute a separate and distinct service and fee. Any additional fees must be explained to the patient in advance and noted in the chart notes;¶

(c) Description of the time frame which the plan covers;¶

(d) How special circumstances, such as extended absences, new injury, or illness are handled; and¶

(e) Statement that there is no claim or representation of a guarantee of results, outcome, or the cure of a particular condition.¶

(3) Early Termination of Care:¶

(a) The pre-payment plan must include a written explanation on how the unused portion of funds are calculated or prorated should the patient complete care early or discontinue care due to the patient's choice, doctor's choice, moving, ~~or~~ new injury, or condition. The written explanation must be clearly labeled "Refund Policy" ~~and explained~~ in plain language that is understood by the patient. The explanation must include a table of calculations that illustrates the amount of refunds or amount owed in the event of the pre-paid plan's early termination.¶

(b) The patient may have the right to terminate the ~~P~~pre-~~P~~ay ~~P~~paid plan at any time; In the event of early termination of a pre-paid ~~treatment~~ plan by the patient, the maximum fee charged cannot exceed the ~~chiropractor~~ ic physician's usual and customary fee cash pay (including any time of service discount) for the services rendered.¶

(c) The chiropractic physician or clinic may terminate the ~~P~~pre-~~P~~ay ~~P~~paid plan at any time, for good and sufficient cause, except licensee must ensure that patient abandonment does not occur. In the event of early termination of a pre-paid ~~treatment~~ plan by the chiropractic physician or clinic, the maximum fee charged cannot exceed prorated fees as agreed upon in the pre-paid ~~treatment~~ plan.¶

(4) Pre-~~P~~ay ~~P~~paid plans must ~~be in compliance~~ with all other applicable ~~S~~state or ~~F~~federal ~~L~~laws.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented:

AMEND: 811-015-0005

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Grammatical edits made.

CHANGES TO RULE:

811-015-0005

Records

- (1) Failure to keep complete ~~and~~, accurate, and minimally competent records on all patients shall be considered unprofessional conduct.¶
- (a) Each patient shall have exclusive records which shall be clear, legible, complete, and accurate; as to allow any other ~~€~~chiropractic physician to understand the nature of that patient's case and to be able to follow up with the care of that patient, if necessary.¶
- (b) Every page of chart notes will identify the patient by name and one other unique identifier (date of birth, medical record number, etc.), and the clinic of origin by name and address. Each entry will be identified by day, month, year, provider of service, and author of the record.¶
- (c) Clear, legible, complete, ~~and~~ accurate, and minimally competent records shall contain the following:¶
- (A) A description of the chief complaint or primary reason the patient sought treatment from the licensee.¶
- (B) Documentation of any significant event that affects the chief complaint of the patient or the general history of the health of the patient.¶
- (C) An accurate record of the diagnostic and therapeutic procedures that the licensee has employed in providing chiropractic services to the patient, including, but not limited to:¶
- (i) Height, weight, blood pressure, and pulse upon examination, and subsequent visits, as clinically indicated;¶
- (ii) Examinations and the results of those examinations;¶
- (iii) Diagnoses;¶
- (iv) Treatment plan, ~~and~~ any subsequent changes to the treatment plan, and the clinical reasoning for those changes;¶
- (v) Dates on which the licensee provided clinical services to the patient, as well as the services performed, and clinical indications for those services;¶
- (vi) Areas of the patient's body where the licensee has provided care;¶
- (vii) Patient's response to treatment;¶
- (viii) Therapeutic procedures must be clearly described including information such as providers involved, timing, setting, and tools used, as appropriate.¶
- (D) Documentation of informed consent for examination and treatment.¶
- (E) Other clinically relevant correspondence, including, but not limited to: telephonic or other patient communications, referrals to other practitioners, and expert reports.¶
- (d) A chiropractic physician shall maintain billing records for services performed for which payment is received from or billed to the patient, an insurance company, or another person or entity who has assumed the financial responsibility for the payment of services performed to the patient. Such records will be maintained for the same amount of time as other patient records. ~~As~~ at a minimum, a billing record will include the date of the patient encounter or financial entry, a notation of the services performed either by description or code, common codes such as the AMA Current Procedural Terminology (CPT) codes may be used without additional explanation or legend, and the fee charged for the services billed. If third party payeors are billed, the billing instrument (CMS 1500 form or its successor) should be retrievable. Such information may be maintained on a handwritten or printed ledger, with the assistance of a computer or other device either by direct entry or with a particular program or application, or by an alternative method. To the extent billing records do not contain patient health care records not kept elsewhere, they are not considered part of the clinical record.¶
- (e) Such information as described in section (d) must be readily available upon request of the patient, an agent of the patient, an insurance carrier or entity responsible for the payment of the services, or by the Board or other entity with a legal right to review such information.¶

- (2) Practitioners with dual licenses shall indicate on each patient's records under which license the services were rendered.¶
- (3) A patient's original health care and billing records shall be kept by the chiropractic physician a minimum of seven years from the date of last treatment. However, if a patient is a minor, the records must be maintained at least seven years from the time they turn 18 years of age.¶
- (a) If the treating chiropractic physician is an employee or associate, the duty to maintain original records shall be with the chiropractic business entity or chiropractic physician that employs or contracts with the treating chiropractic physician.¶
- (b) Chiropractic physicians shall be responsible for keeping an available copy of all authored reports for seven years from the date authored.¶
- (4) If a chiropractic physician releases original radiographic films to a patient or another party, upon the patient's written request, ~~he/she~~ they should create an expectation that the films will be returned, and a notation shall be made in the patient's file or in an office log where the films are located (either permanently or temporarily). If a chiropractic physician has radiographic films stored outside ~~his/hers~~ their clinic, a notation shall be made in the patient's file or in an office log where the films are located and the chiropractic physician must ensure those films are available for release, if requested by the patient.¶
- (5) The responsibility for maintaining original patient records may be transferred to another chiropractic business entity or to another chiropractic physician as part of a business ownership transfer transaction.¶
- (6) A chiropractic physician shall establish a plan for custodianship of these records in the event they are incapacitated, become ~~become~~ deceased ~~or otherwise, are or will become~~ unable to maintain these records pursuant to paragraph (7).¶
- (7) Except as provided for in paragraph (7)(e) of this rule, a chiropractic physician who is an independent contractor or who has an ownership interest in a chiropractic practice shall provide notice when leaving, selling, or retiring from the chiropractic office where the chiropractic physician has provided chiropractic services.¶
- (a) Notification shall be sent to all patients who received services from the chiropractic physician during the two years immediately preceding the chiropractic physician's last date for seeing patients. This notification shall be sent no later than thirty days prior to the last date the chiropractic physician will see patients.¶
- (b) The notice shall include all of the following:¶
- (A) A statement that the chiropractic physician will no longer be providing chiropractic services at the practice;¶
- (B) The date on which the chiropractic physician will cease to provide services; and¶
- (C) Contact information that enables the patient to obtain the patient's records.¶
- (c) The notice shall be sent in one of the following ways:¶
- (A) A letter sent through the US Postal Service to the last known address of the patient with the date of the mailing of the letter documented, or¶
- (B) A secure electronic message.¶
- (d) In the event of an illness, unforeseen emergency, incarceration, or other unanticipated incident, a chiropractic physician is unable to provide a thirty day notice as required by paragraph (7)(a) of this rule, the chiropractic physician shall provide such notice within thirty days after it is determined that the physician will not be returning to practice.¶
- (e) Paragraph (7) of this rule does not apply to the chiropractic physician who is departing as an employee of another Oregon licensed chiropractic physician. It is the ~~licensed Oregon chiropractic physician~~ employer's responsibility to maintain continuity of care, or to comply with this rule, if patient care will be terminated upon a ~~chiropractic physician~~ employee's leaving employment or retiring.¶
- (f) In the event a chiropractic physician dies or becomes incapacitated and unable to practice, and there is no other chiropractic physician associated with the practice, the deceased, incapacitated, or unavailable chiropractic physician's executor, guardian, administrator, conservator, next of kin, or other legal representative shall notify the ~~Board~~ Board in writing of the management arrangement for the custody and transfer of patient files and records. This individual shall ensure the security of, and access to, patient files and records by the patient or other authorized party, and must report plans or arrangements for permanent custody of patient files and records to the

Board in writing within 180 days. Transfer of patient files and records must occur within one year of the death of the chiropractic physician.

Statutory/Other Authority: ORS 684

Statutes/Other Implemented: ORS 684.155

AMEND: 811-015-0006

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Insert "not to exceed 30 days;" Grammatical edits

CHANGES TO RULE:

811-015-0006

Disclosure ~~O~~of Records ¶

(1) A ~~C~~chiropractic physician shall make available, within a reasonable time not to exceed 30 days, to a patient or a third party upon the patient's written request, copies or summaries of medical records and originals or copies of the patient's X-rays.¶

(a) The medical records do not necessarily include the personal office notes of the ~~C~~chiropractic physician or personal communications between a referring and consulting physician relating to the patient.¶

(b) The ~~C~~chiropractic physician shall preserve a patient's medical records from disclosure and will release them only on a patient's written consent stating to whom the records are being released or as required by ~~S~~state or ~~F~~federal law.¶

(2) The ~~C~~chiropractic physician or clinic may establish a reasonable charge to the patient for the costs incurred in providing the patient with copies of any portion of the medical records. A patient shall not be denied summaries or copies of ~~his/het~~their medical records or X-rays because of inability to pay or financial indebtedness to the ~~C~~chiropractic physician or clinic.¶

(3) Whenever the ~~O~~BCEBoard asks a ~~C~~chiropractic physician for a response to a complaint or an investigation:¶

(a) The ~~C~~chiropractic physician shall make available to the ~~O~~BCEBoard all requested patient file information, ~~such as, including~~ but not limited to: chart notes, billing records, ~~x~~X-rays, correspondence, reports, and any and all relevant information.¶

(b) The requested patient file information shall be made available within 14 days of receipt of the ~~O~~BCEBoard's request unless the ~~O~~BCEBoard or the ~~O~~BCEBoard's representative determines ~~by memo to the OBCE's investigative file~~ that immediate availability of the requested records is necessary for the ~~O~~BCEBoard's investigation. Additional response time may be granted by the ~~O~~BCEBoard or its representative upon a reasonable request.¶

(c) The ~~C~~chiropractic physician must certify that all of the requested records have been provided unless clear and compelling reasons are presented for failure to do so. Any documents not provided within the specified time must be identified along with the reasons. Failure to provide records to the ~~O~~BCEBoard within the time period specified by this rule for the purpose of responding to a complaint or an investigation is a violation of OAR 811-035-0015(19).

Statutory/Other Authority: ORS 684, ~~791~~

Statutes/Other Implemented: ORS 684.155, 791 (SB 235)

AMEND: 811-015-0025

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Change "OBCE" to "Board", clarify CE requirements for all licensees not just chiropractic physicians, grammatical edits.

CHANGES TO RULE:

811-015-0025

Continuing Chiropractic Education ¶¶

(1) ~~The purpose of e~~Continuing chiropractic education (CE) ~~licensure credit is to assist in assuring~~ is to improve the competence and skills of Oregon chiropractic ~~physician~~ licensees, and to help assure the Oregon public of the continued competence of these ~~physician~~ licensees within the statutory scope of practice.¶¶

(2) In order to renew an active ~~licens~~ license or certificate, each licensee shall ~~submit a signed affidavit on a form provided by the OBCE attesting to successful completion of 20 or more~~ complete an affidavit attesting to successful completion of education per their license or certificate status:¶¶

(a) Chiropractic physician active status - 20 hours;¶¶

(b) Chiropractic physician senior active status - 6 hours; of e¶¶

(c) Chiropractic eassistant - 6 hours.¶¶

(3) Continuing education course or activity hours must be completed during the preceding licensure period or certification period. A licensee may not claim more than 20 hours of continuing education completed in one 24 hour period. Courses shall not be taken simultaneously. Each licensee shall maintain records as required in section (101) to support the ~~hours reported in the signed affidavit~~ attestation of completed hours.¶¶

(34) Courses or activities determined by licensees to meet the criteria of sections (89) and (910) are presumed to be approved until or unless specifically disapproved by the ~~OBCE~~ Board. Licensees will be informed of any disapproved courses in a timely manner. The Board will not retroactively disapprove course credits. The Board will maintain a list of disapproved courses available for review by licensees.¶¶

(45) The Board may require specific courses as part of a ~~chiropractic physician~~ licensee's annual relicensure hours for an upcoming ~~licensur~~ e or certificate period.¶¶

(56) Any chiropractic physician who is also actively licensed in a healthcare profession with prescriptive rights is exempt from the over-the-counter, non-prescriptive substances requirements of sections (6) and (7).¶¶

(67) Any chiropractic physician holding an initial license is exempt from continuing education for the first year of licensure, except for four (4) hours relating to over-the-counter, non-prescriptive substances and any specific courses required by the Board.¶¶

(78) ~~Anyone~~ chiropractic physician changing license status from inactive to active or senior active ~~license~~ shall take four (4) hours of the required hours relating to over-the-counter, non-prescriptive substances prior to changing license status and any specific courses required by the Board.¶¶

(89) Approved continuing chiropractic education shall be obtained from courses or activities which meet the following criteria:¶¶

(a) They do not misrepresent or mislead;¶¶

(b) They are presented by a chiropractic physician, licensed here or in another state, other appropriate health care provider, or other qualified person;¶¶

(c) They exclude practice-building subjects and the principle purpose of the program may not be to sell or promote a commercial product. However, the mere mention of practice-building concepts shall not disqualify a program's eligibility for CE credit.¶¶

(d) The material covered shall pertain to the practice of chiropractic in Oregon or be related to the ~~doctor's~~ licensee's specific practice;¶¶

(e) Continuing education hours for Board activities must assist in assuring the competence and skills of the ~~chiropractic physician~~ licensee; and¶¶

(f) Shall be quality courses or activities adequately supported by evidence or rationale as determined by the Board.¶

(910) The Board may accept credit hours from courses, seminars or other activities. Completion of other activities ~~is~~ chiropractic continuing education ~~is~~ defined as follows:¶

(a) Continuing ~~M~~medical ~~E~~education (CME);¶

(b) Video or audio-taped ~~C~~continuing ~~E~~education courses or seminars;¶

~~(c) Long distance learning, unless specifically required by the Board to be taken in person;¶~~

~~(c) Online courses;¶~~

(d) Being an original author of an article, published in a peer reviewed journal, given in the year of publication;¶

(e) Participation in a formal protocol writing process associated with an accredited health care institution or state or government health care agency;¶

~~(f) Participation on an OBCE Board committee and, or assisting with a National Board of Chiropractic Examiners' (NBCE) examination or NBCE test writing committee;¶~~

(g) Participation in a research project, approved by the Board, related to chiropractic health care directed by an educational institution or other qualified chiropractic organization;¶

(h) Teaching courses at an accredited health care institution;¶

(i) Teaching chiropractic continuing education courses;¶

(j) CPR courses; and¶

(k) Instruction related to OAR 811-015-0030, minor surgery/proctology rotation; and¶

~~(l) And any other course or activity specifically authorized by the OBCE Board.¶~~

(101) All licensees are required to keep full, accurate, and complete records:¶

(a) A verification of attendance for all CE courses or activities showing hours claimed for relicensure credit, and or proof of completion signed by the sponsor and licensee.¶

~~(b) Videotaped or audio-taped courses shall be supported through record-keeping with a letter, memo, or on a form provided by the Board, that includes the dates and times, vendor's or presenter's name/s, total hours claimed for each course, location, and includes the following statement: "I swear or affirm that I viewed or listened to these continuing education courses in their entirety on the dates and times specified in this report."¶~~

(c) A copy of a published article including the date of publication;¶

(d) A written record of hours in clinical protocol development and research projects. The record shall include the names and addresses of the institutions involved, name of supervisors, and their signatures verifying hours.¶

~~(e) For licensees claiming CE hours under the provisions of (910)(f), for participation on a Board committee, or assisting with a National Board of Chiropractic Examiners' (NBCE) examination or NBCE test writing committee, certification from the Board or NBCE.¶~~

~~(f) For licensees claiming CE hours under the provisions of (10)(h), a record of employment by health care institutions, signed by their supervisor, a copy of the course syllabus if applicable, and verification of hours.¶~~

~~(fg) For licensees claiming CE hours under the provisions of (9-10)(i), licensee shall obtain and keep verification of the course taught including, the dates of the course, a syllabus and the sponsoring organization.¶~~

~~(g) For licensees claiming CE hours under the provisions of (9)(f), for participation on an OBCE committee and assisting with a National Board of Chiropractic Examiners; (NBCE) examination or NBCE test writing committee, certification from the OBCE or NBCE.¶~~

~~(h) For licensees claiming CE hours under the provisions of (910)(k), a record of the dates, topics/procedures, and hours.¶~~

~~(112) At each renewal the OBCE The Board will generate a random computer list of a minimum of 10% or up to 100% of renewing licensees, who will then have their CE records audited and reviewed to ensure compliance with this rule. Licensees shall respond to this request within 30 days by supplying the OBCE Board with verification of their CE courses or activities as provided in section 10(11).¶~~

~~(123) Any licensee who has submitted inadequate, insufficient, or deficient CE records or who otherwise appears to be in noncompliance with the requirements of this rule will be given written notice by the OBCE Board and will have 30 days from the date of notice to submit additional documentation, information or written explanation to~~

the ~~OBCE~~Board establishing the licensee's compliance with this rule. The Board may issue civil citations for noncompliance of this rule.¶

(134) At its discretion, the Board may audit, by attendance, the content of any program in order to verify the content thereof. Denial of an audit is grounds for disapproval.¶

(145) Any ~~chiropractic physician~~ licensee seeking a hardship waiver from their continuing education requirements shall apply to the Board, in writing, as soon as possible after the hardship is identified and prior to the close of licensure for that year. Specific details of the hardship must be included. The Board must make a finding. In order to approve an application for a hardship waiver, the Board, within its discretion, must find that a such hardship exists.¶

(156) The Board shall maintain and make available, through its web page and ~~mailing~~ electronic communications to licensees, a list of disapproved courses, if any. The Board may disapprove a course or CE activity after giving the sponsor and/or licensees the opportunity to provide additional information of compliance with the criteria contained in this rule, and opportunity for contested case hearing under the provisions of ORS 183.341, if requested. Any CE sponsor or licensee may request the Board to review any previously disapproved course at any time.

Statutory/Other Authority: ORS 684.155

Statutes/Other Implemented: ORS 684.092

AMEND: 811-015-0080

NOTICE FILED DATE: 08/15/2019

RULE SUMMARY: Adds chiropractic assistants, removes archaic language, grammatical edits.

CHANGES TO RULE:

811-015-0080

License Suspension and Probation ¶¶

(1) Chiropractic physicians and ~~C~~certified chiropractic Assistants who are placed on suspension may not provide chiropractic treatment or services to any patient and are not to be in the clinic during business hours.¶¶

(2) The suspended chiropractic physicians shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead, or is likely to have the effect of misleading any patient, member of the public, or other person as to the nature of and reason for the suspension. It shall be prohibited to portray themselves to patients in any way as potentially practicing. Suspended chiropractic physicians may not perform intake functions ~~and/or greeting~~ patients. Suspended ~~chiropractors and~~ chiropractic assistants should not be visible to patients as that could induce the belief they are practicing.¶¶

(3) Suspended chiropractic physicians shall prominently post in their clinic a suspension notice provided by the Board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual suspension. The Board may waive this for good cause.¶¶

(4) Chiropractic physicians and certified chiropractic assistants are prohibited from misrepresenting the status of licensure to any patients.¶¶

(5) Chiropractic physicians will be prohibited from using any student interns during the period of suspension or probation.¶¶

(6) Suspended chiropractic physicians may not provide any therapies as a ~~C~~certified chiropractic assistant. They may not personally sell or provide supplements or other products to clinic patients or persons coming in to the clinic. They may not perform adjustments on family or friends while they are suspended ~~as this is the practice of chiropractic~~. They may not take X-ray films or perform any diagnostic procedures.¶¶

(7) Suspended chiropractic physicians may not engage in marketing which leads clients, consumers, or patients to believe they are a practicing chiropractic physician at the time they are suspended. They may not place new advertising which indicates in any way the suspended chiropractic physician is practicing chiropractic during the suspension period.¶¶

(8) The list of prohibitions in this rule is not all inclusive and if the Board determines that a ~~chiropractor~~suspended chiropractic physician was practicing chiropractic during the term of suspension, it may result in further disciplinary action. ~~Violations of this rule may result in further discipline,~~ pursuant to ORS 684.100.¶¶

(9) A limited exception includes providing expert testimony at hearing or deposition, information to legal counsel in regards to a patient's case that is in legal process of resolution regarding care provided prior to the suspension. Suspended chiropractic physicians are not prohibited from performing such business functions such as billing and attending tasks not related to patient scheduling, care, treatment or evaluation; ~~but, it~~such action must be done outside of regular business hours.

Statutory/Other Authority: ORS 183.684, 684.100

Statutes/Other Implemented: ORS 684.155(b)