



PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 811
BOARD OF CHIROPRACTIC EXAMINERS

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RULES:

811-010-0068, 811-010-0071, 811-015-0005, 811-015-0010, 811-035-0005, 811-035-0015

ADOPT: 811-010-0068

RULE TITLE: Temporary Chiropractic License for Spouses or Domestic Partners of Active Duty Armed Forces of the United States Stationed in Oregon

NOTICE FILED DATE: 11/22/2019

RULE SUMMARY: Created to comply with House Bill 3030 and SB 688 regarding military personnel and Oregon licensured

RULE TEXT:

- (1) A temporary license to practice chiropractic shall be issued to the spouse or domestic partner of an active duty armed forces personnel when the following requirements are met:
- (a) A completed application and payment of fee is received by the Board;
 - (b) Satisfactory evidence of having graduated from a school, college, institution, or university of chiropractic accredited by the Council on Chiropractic Education;
 - (c) Submission of a copy of the orders assigning the active duty member to an assignment in Oregon;
 - (d) The spouse or domestic partner holds a current license in another state to practice chiropractic at the level of application;
 - (e) The license is unencumbered and verified as active and current through processes defined by the Board; and
 - (f) Satisfactory evidence of successfully passing a clinical examination administered by any state, national testing agency, or other Board-recognized testing agency.
- (2) The temporary license shall expire on the following date, whichever occurs first:
- (a) Oregon is no longer the duty station of the active armed forces member;
 - (b) The license in the state used to obtain a temporary license expires; or
 - (c) 13 months after the issuance of the temporary license.
- (3) Temporary license holders are responsible to comply with ORS Chapter 684, OAR Chapter 811, and any other laws and rules governing the practice of chiropractic and chiropractic physicians.

(4) This temporary license is not renewable. If the dates in section (2) of this rule are exceeded and the spouse or domestic partner continues to practice in Oregon, the spouse or domestic partner must apply for an active Oregon license. This license must be obtained using the processes and fees established for permanent licensure. Continuing to work in Oregon when the temporary license has expired will be considered practicing without a valid license and is subject to Board action.

STATUTORY/OTHER AUTHORITY: ORS 684

STATUTES/OTHER IMPLEMENTED: HB 3030, SB 688

AMEND: 811-010-0071

RULE TITLE: Board Members

NOTICE FILED DATE: 11/22/2019

RULE SUMMARY: Amended to clarify activities eligible for per diem.

RULE TEXT:

(1) Members of the Oregon Board of Chiropractic Examiners shall maintain a position of strict neutrality and confidentiality.

(2) Board members shall receive a per diem of \$200 a day for board meetings, board subcommittee meetings, conference attendance, and presentations.

(3) Board members shall receive a per diem of \$200 a day for board meeting preparation or other assigned work of the Board, not to exceed a total of \$600.

STATUTORY/OTHER AUTHORITY: ORS 684

STATUTES/OTHER IMPLEMENTED: ORS 684.150

AMEND: 811-015-0005

RULE TITLE: Records

NOTICE FILED DATE: 11/22/2019

RULE SUMMARY: Clarifies the process for obtaining informed consent; custody and/or destruction of records

RULE TEXT:

(1) Failure to keep complete, 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, 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, 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 following a Procedures Alternatives Risks Questions (PARQ) 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. 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 payors 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 entire 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 entire records shall be with the chiropractic business entity or chiropractic physician that employs or contracts with the treating chiropractic physician.

(b) Chiropractic physicians providing file reviews, second opinion consultations, or independent medical examinations (IME) 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, 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 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 entire 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) A chiropractic physician shall establish a plan for custodianship of these records in the event they are incapacitated, become deceased, are or will become unable to maintain these records pursuant to paragraph (6)(b).

(b) 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 personal representative, guardian, administrator, conservator, next of kin, or other legal representative shall notify the 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.

(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 employer's responsibility to maintain continuity of care, or to comply with this rule, if patient care will be terminated upon an employee's leaving employment or retiring.

(8) Disposal of records shall be completed by a process that results in permanent destruction of the records and shall be compliant with all state and federal law.

STATUTORY/OTHER AUTHORITY: ORS 684

STATUTES/OTHER IMPLEMENTED: ORS 684.155

AMEND: 811-015-0010

RULE TITLE: Clinical Justification and Standard of Care

NOTICE FILED DATE: 11/22/2019

RULE SUMMARY: More clearly defines one standard of care, and clinical justification.

RULE TEXT:

An Oregon licensed chiropractic physician provides care for many conditions using a variety of therapeutic procedures, including but not limited to chiropractic adjustment and manipulation. There is one standard of care for all patients, irrespective of the condition, service, or advice provided. All chiropractic physicians licensed under ORS chapter 684 are subject to the following:

(1) Clinical justification, within accepted standards and understood by a group of peers, must be shown for all opinions, diagnostic, and therapeutic procedures. The singular accepted standard of care includes obtaining a history that informs the examination, conducting an examination that informs the diagnosis, and using the diagnosis to inform the management plan which includes relevant outcome markers.

(2) "Accepted standards" means skills and treatment which are recognized as being reasonable, prudent, and acceptable under similar conditions and circumstances.

(3) For neuro-musculoskeletal conditions, all initial and subsequent examinations performed by a chiropractic physician to determine the need for treatment shall include a functional chiropractic analysis. Some combination of at least two of the following PARTS exam constitutes a functional chiropractic analysis:

P — Location, quality, and intensity of pain or tenderness produced by palpation and pressure over specific structures and soft tissues;

A — Asymmetry of sectional or segmental components identified by static palpation;

R — The decrease or loss of specific movements (active, passive, and accessory);

T — Tone, texture, and temperature change in specific soft tissues identified through palpation;

S — Use of special tests or procedures.

(4) Chiropractic physicians shall treat their patients as often as necessary to allow for favorable progress. Evidence-based outcomes management shall determine whether the frequency and duration of curative chiropractic treatment is, has been, or continues to be necessary. Outcomes management shall include both subjective, or patient-driven, information as well as objective, provider-driven, information. In addition, treatment of neuro-musculoskeletal conditions outside of the Oregon Practices and Utilization Guidelines may be considered contrary to accepted standards. Chiropractic physicians treating outside of the Practices and Utilization Guidelines bear the burden of proof to show that the treatment, or lack thereof, is clinically justified.

(5) Copies of any independent examination report must be made available to the patient, the patient's attorney, the treating doctor, and the attending physician at the time the report is made available to the initial requesting party.

STATUTORY/OTHER AUTHORITY: ORS 684

STATUTES/OTHER IMPLEMENTED: ORS 684.155

AMEND: 811-035-0005

RULE TITLE: Duties and Obligations of Chiropractic Physicians to Their Patients

NOTICE FILED DATE: 11/22/2019

RULE SUMMARY: Clarifies the need for a PARQ conference and informed consent

RULE TEXT:

(1) The health and welfare of the patient shall always be the first priority of chiropractic physicians and expectation of remuneration shall not affect the quality of service to the patient.

(2)(a) The patient has the right to informed consent regarding examination, therapy and treatment procedures, alternatives and risks, and answers to questions (PARQ) in terms that they can reasonably understand.

P – Procedures: examination, diagnosis, therapy, and treatment procedures

A – Alternatives: alternative options to examination or chiropractic treatment

R – Risks: risks and benefits associated with examination and/or chiropractic treatment

Q – Questions: answer any questions patients have regarding the examination or treatment

(b) Chiropractic physicians shall perform and document a PARQ conference in order to obtain informed consent from the patient prior to examination and treatment. The PARQ conference and informed consent shall be noted within the patient record.

(3) Chiropractic physicians have the right to select their cases and patients. Once the chiropractic physician has agreed to treat the patient, the patient has the right to continuity of care. The chiropractic physician may terminate the patient-doctor relationship for any reason and when the patient has been given notice.

STATUTORY/OTHER AUTHORITY: ORS 684

STATUTES/OTHER IMPLEMENTED: ORS 684.150

AMEND: 811-035-0015

RULE TITLE: Unprofessional Conduct in the Chiropractic Profession

NOTICE FILED DATE: 11/22/2019

RULE SUMMARY: Added additional unprofessional conduct

RULE TEXT:

Unprofessional conduct means 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 practice; 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 physician:

- (1)(a) Engaging in any conduct or verbal behavior with or towards a patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).
- (b) A licensee 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 doctor-patient relationship.
- (c) "Sexual relations" means:
 - (A) Sexual intercourse; or
 - (B) 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 licensee for the purpose of arousing or gratifying the sexual desire of either licensee or patient.
- (d) In determining whether a patient is a current patient, the Board may consider the length of time of the doctor-patient contact, evidence of termination of the doctor-patient relationship, the nature of the doctor-patient relationship, and any other relevant information.
- (e) A patient's initiation of, or participation in, sexual behavior or involvement with a licensee does not change the nature of the conduct nor lift the prohibition.
- (2) Charging fees for unnecessary services;
- (3) Failing to teach and/or directly supervise persons to whom chiropractic services have been delegated;
- (4) Practicing outside the scope of the practice of chiropractic in Oregon;
- (5) Charging a patient for services not rendered;
- (6) Intentionally causing physical or emotional injury to a patient;
- (7) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;
- (8) Soliciting or borrowing money from patients;
- (9) 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;
- (10) Aiding, abetting, or assisting an individual to violate any law, rule, or regulation intended to guide the conduct of chiropractic physicians or other health care providers;
- (11) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;
- (12) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;
- (13) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of chiropractic;
- (14) Practicing chiropractic without a current Oregon license;
- (15) Allowing another person to use one's chiropractic license for any purpose;
- (16) Resorting to fraud, misrepresentation, or deceit in applying for or taking the licensure exam or obtaining a license or renewal thereof;
- (17) Impersonating any applicant or acting as a proxy for the applicant in any chiropractic licensure examination;
- (18) Disclosing the contents of the licensure examination or soliciting, accepting, distributing, or compiling information regarding the contents of the examination before, during, or after its administration; Notwithstanding this section, the Ethics and Jurisprudence Examination is open book and there is no restriction on applicants discussing answers to

individual questions between themselves or with others;

(19) Failing to keep complete, accurate, and minimally competent records on all patients;

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

(21) 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;

(22) 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 question asked by the Board;

(23) Failing to comply with state and federal laws regarding child and elderly abuse, and communicable diseases;

(24) Failing to provide and maintain a safe and sanitary treatment environment;

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

(26) Disobeying a final order of the Board;

(27) Splitting fees or giving or receiving compensation in the referral of patients for services;

(28) Making an agreement with a patient or person, or any person or entity representing patients or persons, or provide any form of consideration that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Board, to truthfully and fully answer any questions posed by an agent or representative of the Board regarding a board proceeding, or to participate as a witness in a Board proceeding;

(29) 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 OAR 811-010-0120; and

(30) Chiropractic physicians holding an ownership interest as described in OAR 811-010-0120 may be held responsible, entirely or in part, for staff who provide patient services. This includes a responsibility to render adequate supervision, management, and training of staff or other persons including, but not limited to, chiropractic physicians, student interns, chiropractic assistants and/or others practicing under the licensee's supervision. Chiropractic physicians with staff may be held responsible, entirely or in part, for undue influence on staff or a restriction of an associated chiropractic physician from using their own clinical judgment.

STATUTORY/OTHER AUTHORITY: ORS 684

STATUTES/OTHER IMPLEMENTED: ORS 684.155