



Oregon

Kate Brown, Governor

Oregon Board of Chiropractic Examiners

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Oregon Board of Chiropractic Examiners (OBCE)

Public Notice & E-Newsletter Update

May 2019

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President's Report



One issue that keeps coming up within the records we review is that of appropriately recording and billing for timed services and time spent on exercise. The OBCE does not maintain any rules about how much chiropractors should charge. There are some specific rules for records¹ which pertain to how to chart services provided as well as how billing inappropriately could be seen as unprofessional conduct.²

Commonly, we are seeing exercises being documented for a total of 5-7 minutes and then another timed service performed, such as deep tissue, for 5-7 minutes, or ultrasound for 5 minutes. When the billing is looked at side by side of the visit, there are full units being billed for the exercise, deep tissue, and ultrasound. None of the above codes crossed the minimum threshold of 8 minutes to bill for all of these units separately.

According to the ACA³ and NCCI⁴ edits, there are specific parameters that need to be kept in mind when billing for multiple timed units. In order to bill for timed units, the timeframes listed below need to be followed:

1 unit = 8-22 minutes

2 units = 23-37 minutes

3 units = 38- 52 minutes

4 units = 53- 67 minutes

5 units = 68-82 minutes

6 units = 83-98 minutes

These timed units all stack as well. Let's use an example with 7 minutes of exercise, 5 minutes of deep tissue and 5 minutes of ultrasound, the total time is 17 minutes. This means only one unit of services is billable and not 3. Typically, the office is able to bill for the service that had the most time, so one unit of exercise could be billed.

This is helpful to keep in mind not only to protect your office from investigation and possibly having to refund for overpayment, but it is also fair to the patient. Think about it from the perspective of the patient. Often times, they do not know the ins and outs of the billing world and do not understand each service they receive could be billed out individually. If I only received 17 minutes of services but was billed for three separate services that should be provided for at least 38 minutes, I would want to make sure I had received all of that time. None of us would want to pay for a half hour massage, for example, only to have it cut off early.

It is also helpful to be familiar with each insurance company contract as some limit PT modalities to only one or two services per day and others bundle in all care under a per diem. It is up to you, as the doctor, to give the patient the care they need as well as bill appropriately for the services provided.

Sincerely,

Francesca Vermillion, DC
President, OBCE

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- 1) OAR 811-015-0005 (1)(A)(vi) and (viii).
https://secure.sos.state.or.us/oard/viewSingleRule.action;JSESSIONID_OARD=OW5Q6vR90j5KKSK2HzLnu9yPgTpSozDI7JJDJizAMmENMpaHDjlc!-1969788327?ruleVrsnRsn=251103
 - 2) OAR 811-035-0015(2) and (5).
https://secure.sos.state.or.us/oard/viewSingleRule.action;JSESSIONID_OARD=OW5Q6vR90j5KKSK2HzLnu9yPgTpSozDI7JJDJizAMmENMpaHDjlc!-1969788327?ruleVrsnRsn=252776
 - 3) <https://www.acatoday.org/LinkClick.aspx?fileticket=yIS2yNQrlU8=&portalid=60>
 - 4) <https://www.cms.gov/Medicare/Coding/NationalCorrectCodInitEd/index.html>

Executive Director's Report



Board Membership

A huge thank you to Dr. Lisa Kouzes for her dedication and service during her 6 years as an OBCE board member. We will miss your perspective and humor. As Dr. Kouzes' term comes to an end, we are fortunate enough to welcome Dr. Seth Alley. Dr. Alley's term begins June 1, 2019. WELCOME, Dr. Alley!

There will be another opening for a professional (DC) member for the Board as of September 19, 2020. For DCs outside of the Willamette Valley, especially those in Southern, Central, or Eastern Oregon, please strongly consider applying to become a member of the OBCE. We desire and welcome a full range of geographic, ethnic, and practice-type diversity on the board. For more information on Executive Appointments and the embedded interest

form: https://www.oregon.gov/gov/admin/pages/how_to_apply.aspx

There will be an opening for a public member for the Board as of September 19, 2020, as well. Please pass this along to those you may know who might be interested in volunteering with us.

Recordkeeping/Chart Note Template Resource

At its March board meeting, the Board finalized its recordkeeping templates as an additional resource for you to use to organize your patient records and fulfill your recordkeeping duties. You can find the templates here:

https://www.oregon.gov/OBCE/forms/OBCE_Chart_Note_Guide_and_Templates.pdf

Fiscal Responsibility and Accountability

Our budget bill for the 2019-2021 biennium, HB 5007, was signed by Governor Brown and provides a budget of \$2,301,011 in Other Funds. This total amount may change with an anticipated end-of-session bill that usually recalculates DAS administrative charges and Attorney General fees.

Due Process, Fairness, Transparent Governance

At its May board meeting, the Board voted to enter rulemaking on our Certified Chiropractic Assistant rule, OAR 811-010-0110, with the hearing to be held during its July meeting. Public comment is now open to allow input on this rule. Additional rules will also be reviewed per our public notice. We look forward to a lively discussion.

The OBCE meeting and location schedule for the remainder of 2019 is as follows and can be found on our website (www.oregon.gov/obce):

July 25	Salem (OBCE office)
September 19-20	Klamath Falls TBD
November 14	Salem (OBCE office)

If we can be of help to you or your staff in any way, please don't hesitate to contact us.

Cassandra C. McLeod-Skinner, J.D.

Executive Director, OBCE, 503-373-1620, cass.mcleod-skinner@oregon.gov

Rules Updates and Policy Changes REMINDERS **Address Changes**

Doctors, and chiropractic assistants, keeping the Board informed of your practice location, and/or official mailing address, is required by law and rule (ORS 684.054(2), OAR 811-010-0015, and 811-010-0110(9)). All change notices are to be made within 30 days of the change.

Note, the Board is moving away from paper address change notices. Everyone should be logging into our online renewal application (it's not for renewals only!). Bookmark this page - https://www.oregon.gov/OBCE/Pages/DC_Renewal.aspx. This link is the same for doctors and chiropractic assistants. Licensees can change their home, mailing, practice, or email address from this website.

Failure to notify the Board in a timely manner of any change may result in a citation being issued. Citation authority was adopted by administrative rule (OAR 811-035-0036) in March

2018. Citations are issued for minor violations but significant to the practice of chiropractic, or patient care. Examples of what may qualify:

- Failing to maintain current email, business, and mailing addresses with the Board;
- Failing to pay any fines or fees owed to the Board;
- Failing to comply with continuing education requirements;
- Failing to attend the Introduction to the Board meeting when required by the Board;
- Failing to notify the Board within 10 days when licensee is convicted of a misdemeanor or felony, or who is arrested for a felony crime;
- Failing to release patient records upon written request within 30 days;
- Failing to provide notice when leaving, selling, or retiring from the chiropractic office

OBCE Website Redesign

The OBCE is actively working to overhaul and improve its website. It's a very exciting process as we work to make the site more user-friendly. Change can be difficult, but we believe you will appreciate the changes. We hope to launch the new site sometime in June 2019.

Also, a few weeks ago, we surveyed a number of licensees to provide feedback in regards to searching the website, and we greatly appreciate your participation! It was extremely useful, and I hope you find that we incorporated some of your suggested changes.

Kelly Beringer

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From Our Investigators

MULTI-DISCIPLINARY CLINICS

Multi-disciplinary clinics are defined as a group of healthcare professionals who have cognitive and procedural expertise in different areas of care delivery and can effectively manage complex medical conditions. In the State of Oregon, owners of multi-disciplinary clinics can include chiropractic physicians, medical doctors, osteopathic physicians, naturopathic physicians, nurse practitioners, podiatrists, psychologists, and massage therapists. The ability for various provider types to be able to collaborate on the care of a patient is of obvious advantage to both the patient and the providers. Theoretically, it would facilitate a multi-disciplinary evaluation pertaining to all aspect of the patient condition, a broader multi-disciplinary approach to therapeutic options and case management. It would allow the providers to expedite thorough rehabilitation of the patient. One stop medical shopping, so to speak. Sounds too good to be true right?

Over the last couple of years, we have seen a steady increase in multi-disciplinary clinics in Oregon. Unfortunately, we usually hear about these medical ventures when it involves someone regulated by the OBCE, a chiropractic physician or certified chiropractic assistant, involved in a complaint to the Board. We have had an interesting combination of scenarios, involving DCs as owners, employees, associates, and the old tried and true independent contractor. We thought it might be of benefit to the field if we shared some of what we have encountered. Hopefully, provide some insight to both the advantages and pitfalls of these associations.

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Clinic Ownership

Chiropractic clinics must be majority owned by Oregon licensed chiropractic physicians.¹ Multi-disciplinary clinics have similar ownership requirements. Professional corporations organized to practice medicine must also be majority owned by physicians licensed in Oregon.² Practitioners of the various subdivisions of medicine owe the same ethical standards, and duty of trust and maintaining the trust of patients, and, as such “the public has as much need to be protected” from the “distracting influence which may adversely affect [their] loyalty to the interests of [the] patient.”³ The specific distracting influence of the interest of the corporation in making profit has to be separated from the physician’s vital and fiduciary duty to the patient.⁴

Scope of Practice/Direction of Care

One of the benefits of having multiple practitioners in a single facility is the ability to refer patients among the providers within the clinic to bring a broader set of skills to address a patient’s condition. The Board often receives questions from patients and practitioners alike regarding such arrangements. Practitioners may refer patients among themselves, and even make inquiries to other providers whether the patient would be a candidate for a particular therapy, treatment, or modality. Each provider must exercise their independent medical judgment when attending the patient. No medical professional can expand the scope of their practice by virtue of working in a multi-disciplinary practice. A patient, however, can experience the benefit of having multiple medical professionals in one clinic. The clinic owner, while potentially making employment and business decisions, cannot dictate patient care outside the scope of their license. As noted above, the medical practitioners must place the interests of the patients ahead of the interests of the corporation.

Example Questions/Cases

The Board has received questions concerning chiropractic physicians owning multi-disciplinary clinics who employ medical doctors. Staff, patients, and fellow medical practitioners have questioned the legality of such arrangement, primarily because the majority owning medical provider has referred patients for specific care or treatment in a manner which left the employee medical practitioner feeling the referral was an order, rather than a suggestion or concern whether the patient would be a suitable candidate for some treatment. It is advisable to be clear with patients, staff, and other practitioners that each medical practitioner must exercise their independent judgment. A referral is a request to another medical provider that they examine the patient to make a determination of whether the care circumscribed by their expertise and scope would be of benefit to the patient. It should also be made clear to patients that a multi-disciplinary approach will be taken with their care, and that they have the option to seek care from providers outside of your facility.

The Board has received inquiries from chiropractic physicians regarding hiring medical doctors to work in multidisciplinary clinics. Such hires are permissible. Many of these questions relate to emerging areas of medicine. Such chiropractic physician’s clinic owners should do their due diligence to ensure the area of medicine they may expand into is legal, and scientifically valid.

¹ OAR 811-010-0120

² ORS 58.375(1)(a) & (1)(b)

³ State Ex. Rel. Sisemore v. Standard Optical Company, 189 P. (2d) 309, 460 (1947)

⁴ *Id.* at 463

Many of these emerging areas are not yet legal, and the substances utilized may not actually be obtainable, despite marketing companies that will promise access to them.

Finally, such clinics raise the potential of a host of different regulatory schemes. The Board recommends that the clinic owning chiropractic physician know the education and check the licensure of those they will employ. The employing chiropractic physician is encouraged to obtain advice regarding the scope of practice of their employees, and understand the appropriate ownership, storage, and acquisition of such substances, and of prescription medications. The Board has been in contact with owner physicians, and attendant staff, who discovered too late that employees were not appropriately licensed, or prescription medications were not appropriately stored or transferred. Needless to say, this can result in contacts from numerous health regulatory agencies as well as insurance billing and documentation issues that are best avoided.

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