



Administrative Rules Update

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Rules Changes...

Several changes have been made to the Board's administrative rules that will become effective April 5, 2009. Many of the changes are significant and affect every chiropractic physician licensed in Ohio. It is your responsibility to familiarize yourself with these new rules and comply with them accordingly.



Unaware that the Board was Considering Rules Changes?

Each time rules are changed, we are contacted by licensees who tell us they were unaware of any proposed rules changes and did not have the opportunity to voice their opinion. If you receive any document from the Board, it is important to thoroughly review the information contained in the communication.

The Board mails notice to each licensee whenever changes to our rules are considered and we include information on how to provide input into the proposed changes. The notification for the rules addressed in this Newsletter was mailed to each licensee in October 2008 with the 2009 license renewal information.

For those who may believe it may not be worth their time, the Board members do consider the input and testimony they receive regarding proposed rules changes and have many times modified their proposed changes based on input and testimony received.

Copies of Laws & Rules

The Board's laws and rules are available for download from our website at <http://www.chirobd.ohio.gov/laws.stm>

Other Rules Changes

The Board also amended the following rules that will also become effective April 5, 2009, please visit our website to review the full text of the rules:

Renewing Approval of Chiropractic Educational Institution or Programs (rescinded); Application for Licensure; Licensure by Endorsement; Preceptorships; Pre-chiropractic Educational Requirements; Application and Requirements for Approval of Acupuncture Continuing Education Programs.

CPT Code 97124



If you bill for massage via CPT Code 97124, unlicensed personnel should not be performing the massage. To bill for a massage utilizing CPT Code 97124, either a licensed chiropractic physician or a licensed massage therapist should perform the massage.

If You Have Questions... Please Ask!

In order for you to continue to be compliant with the Board's laws and rules, it is imperative that you review them thoroughly, paying particular attention to the new regulations outlined in this publication. Failure to abide by the Board's laws and rules could result in non-compliance and put your license at risk for disciplinary action.

If you have any questions about the Board's laws and rules, do not hesitate to contact the Board office at oscb.chirobd@chr.state.oh.us or (614) 644-7032.

Synopses of pertinent rules changes:

4734-8-04: Documentation and record keeping

This rule was amended to clarify that if a chiropractic physician is planning to close his or her practice, becomes incapacitated, dies, or is otherwise unable to practice, the doctor, executor, guardian, administrator, conservator, next of kin or other legal representative must endeavor to comply with the Board's Terminating the Doctor Patient Relationship Rule.

4734-8-07: Terminating the Doctor Patient Relationship

Clarification language was added to state that if a chiropractic physician is the employee of another chiropractic physician, the patient records belong to the employer and therefore the employee is not required to comply with the rule. It is the employer chiropractic physician's responsibility to maintain continuity of care, or to comply with this rule if patient care will be terminated upon an employee's leaving or terminating employment.

4734-9-07: Billing Practices

Language was added to this rule to:

- ❖ Prohibit waiving the payment of all or any part of a patient deductible or copayment. (See rule for full text and exceptions.)
- ❖ Prohibit offering cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee or an inducement to enter into or to continue care.
- ❖ Permit promotional items to be offered to patients and potential patients so long as the item is not more than \$10 in retail value. Promotional items may not total more than \$20 per year per patient. Professional services, product samples, literature, or refreshments served at events such as health fairs, open houses, educational lectures or health care orientations are not considered promotional items. Promotional items shall not be claimed directly or indirectly or otherwise shifted to any third party for reimbursement.
- ❖ Permit complimentary transportation directly to and from a chiropractic physician's office for the purpose of rendering care to a patient or potential patient who is unable to provide his or her own transportation. The cost of the transportation must be paid by the chiropractic physician directly to the transportation provider and shall not be claimed directly or indirectly or otherwise shifted to any third party for reimbursement. Transportation can not be via luxury transportation.

4734-9-02: Advertising and Solicitation

This rule affects every licensee and should be reviewed carefully. Highlights of the changes include:

- ❖ Disclaimers now apply to discounted services.
- ❖ Any service not included with a free or discounted offer shall not be rendered until the charge is disclosed in writing and acknowledged by signature of the patient.
- ❖ The term chiropractic, chiropractor, doctor of chiropractic or chiropractic physician must be included in all visual advertisements and solicitations in at least 10 point font or its equivalent.
- ❖ Prohibition against advertising waivers of the payment of all or any part of patient deductibles or copayments. (See rule for full text and exceptions.)
- ❖ All advertisements and solicitations that claim specific physical illnesses, ailments, conditions, or symptoms are alleviated by chiropractic care must be supported by clinical or scientific literature generally recognized by the chiropractic profession.
- ❖ Written solicitations must clearly state in at least 10 point font or its equivalent "This is an advertisement. Your name and information were acquired from public documents. You are under no obligation to respond to this communication," when the name and information of the recipient was acquired from public documents.

Adds the following acts that constitute abusive solicitation:

- ❖ Leaving a recorded message for the person contacted that does not comply with the advertising and solicitation rule.
- ❖ Failing to advise the person contacted how his or her name and information were acquired and that the person is under no obligation to respond to the offer made during the solicitation.
- ❖ Contacting a minor child under eighteen years of age.
- ❖ Offering cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee or as an inducement to enter into or to continue care or offering a promotional item that violates paragraph (l) of the Board's Billing Practices Rule (4734-9-07).

Full text of Board Rule 4734-9-02 Advertising and Solicitation:

- (A) This rule applies to all forms of chiropractic and acupuncture advertising and solicitation. All advertisements and solicitations shall comply with the provisions of this rule.
- (B) Advertising and solicitation means any communication disseminated by any means with the intent, either directly or indirectly, of offering or selling professional services, or offering to perform professional services, or inducing individuals to enter into any obligation relating to professional services or care or goods related thereto. Advertising includes business cards.
- (C) No chiropractic physician shall disseminate or cause to be disseminated any advertisement or solicitation that is in any way false, fraudulent, deceptive, or misleading.
- (D) Excluding a free consultation, any advertisement or solicitation which offers free or discounted goods or services shall include a disclaimer. The disclaimer shall clearly state specifically what goods or services are discounted or free and what goods or services are not included with the free or discounted services offered. If the advertisement is visual, the disclaimer shall be contained therein. If the advertisement is aural, the disclaimer shall be read. A copy of the disclaimer shall be provided to each patient who responds to an offer prior to the rendering of care and a copy shall be maintained in the patient's file. Additional goods or services that are subject to a charge that are rendered on the same date as free or discounted goods are offered shall not be rendered until such charges are disclosed in writing and acknowledged by signature of the patient. A copy of such signed disclosure shall be provided to the patient prior to rendering care and a copy shall be maintained in the patient's file.
- (E) All advertisements and solicitations shall include therein the first and last name of a designated chiropractic physician who holds a valid Ohio chiropractic license and who has reviewed and approved the content of the advertisement or solicitation.
- (F) All advertisements and solicitations shall clearly reveal that the advertisement and/or solicitation is being made on behalf of a chiropractic physician(s).
- (G) All advertisements and solicitations shall contain therein one of these exact terms: chiropractic, chiropractor, doctor of chiropractic or chiropractic physician and in at least 10 point font or its equivalent if the advertisement or solicitation is visual.
- (H) No chiropractic physician who holds a certificate to practice acupuncture issued under Chapter 4734 of the Revised Code may advertise or represent to the public that he or she is engaged in the practice of oriental medicine or utilize any of the titles listed in section 4762.08 of the Revised Code.
- (I) Any trade or fictitious names utilized in connection with the practice of chiropractic and/or acupuncture shall be duly registered with the Ohio secretary of state.
- (J) No chiropractic physician shall advertise that he or she will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay, unless the waiver is made:
- (1) In compliance with the health benefit plan that expressly allows a practice of that nature. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request, or;
 - (2) For professional services rendered to any other person licensed pursuant to this chapter, to the extent allowed by this chapter and the rules of the board.
- (K) All advertisements and solicitations that claim specific physical illnesses, ailments, conditions, or symptoms are alleviated by chiropractic care must be supported by clinical or scientific literature generally recognized by the chiropractic profession.
- (L) Chiropractic physicians who solicit via any telecommunication method or device shall maintain a record of the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use. Failure to maintain the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use constitutes a violation of this rule.

Advertising and Solicitation *continued*:

(M) Chiropractic physicians who solicit via any written medium, including but not limited to via the US mail, facsimile, or electronic mail, shall maintain a copy of the written solicitation and a record of the name, address, electronic mail address, or other location where the solicitation was sent, for six months from the last date of use. Failure to maintain a copy of the written solicitation and a record of the name, address, electronic mail address, or other location where the solicitation was sent for six months from the date of last use constitutes a violation of this rule. When the name and information are acquired from public documents, the written solicitation shall clearly state in at least ten point font or its equivalent "This is an advertisement. Your name and information were acquired from public documents. You are under no obligation to respond to this communication."

(N) Chiropractic physicians who solicit via in-person shall maintain a record of the names of the individuals contacted, including their address and telephone number for a period of six months. Failure to maintain a record of the names of the individuals contacted, including their address and telephone number for a period of six months constitutes a violation of this rule.

(O) Each of the following constitutes an act of abusive solicitation and is in violation of this rule:

- (1) Use of threats, intimidation, or profane or obscene language;
- (2) Contacting an individual repeatedly or continuously, or after being advised that there is no interest in receiving chiropractic and/or acupuncture services;
- (3) Contacting an individual when that person has previously stated that he or she does not wish to receive an outbound telephone call or in person solicitation made by or on behalf of the seller whose goods or services are being offered. Every chiropractic physician who solicits via telephone is to maintain a "do not call" list;
- (4) Contacting an individual at any time other than between eight a.m. and nine p.m. local time;
- (5) Requiring an immediate response from an individual to any offer made during the solicitation or making a one time only offer and/or not permitting the individual to consider the offer and reply at a later time;
- (6) Failure to disclose the solicitor's identity and the identity of the chiropractic physician and practice on whose behalf the solicitation is being made; the purpose of the solicitation; and a statement of the goods or services being offered;
- (7) Misrepresenting an affiliation with, or endorsement by, any government or third-party organization;
- (8) Communicating with an individual in a way that invades privacy of the individual, or interferes with an existing doctor/patient relationship;
- (9) Leaving a recorded message for the prospect that does not comply with this rule;
- (10) Failing to advise the prospect how his or her name and information were acquired and that the prospect is under no obligation to respond to the offer made during the solicitation;
- (11) Contacting a minor child under eighteen years of age;
- (12) Offering cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee or as an inducement to enter into or to continue care or offering a promotional item that violates paragraph (I) of rule 4734-9-07 of the Administrative Code.

(P) Chiropractic physicians are responsible for the solicitations made by others on his or her behalf.

(Q) A licensee may utilize testimonials if the patient giving the testimonial has given written consent as to the exact wording and proposed use of the testimonial. A copy of such consent and testimonial shall be retained by the chiropractic physician who holds a valid Ohio license for one year from the last date of publication. Testimonials shall be true and shall not be false, fraudulent, deceptive or misleading.

Effective: 4/5/09

Full text of Board Rule 4734-9-07 Billing Practices:

(A) Chiropractic physicians who function as owners, operators, members, partners, shareholders, officers, directors, and/or managers of a chiropractic clinic shall be responsible for the policies, procedures and billings generated by the clinic.

(B) Chiropractic physicians who function only as clinical staff without any management or financial responsibilities are required to familiarize themselves with the clinic's billing practices to ensure that the services rendered are accurately reflected in the billings generated.

(C) Chiropractic physicians have a right to review and correct all billings submitted under their name and/or identifying number(s). Signature stamps and/or automatically generated signatures shall be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by that individual.

(D) Chiropractic physicians shall accurately report the services rendered to a patient on all billing documents.

(E) Chiropractic physicians shall release copies of billing records upon a written request from a patient or a patient's authorized representative within thirty days of said request.

(F) Chiropractic physicians shall not knowingly:

- (1) Increase charges when a patient utilizes a third-party payment program;
- (2) Report incorrect dates or types of service on any billing documents;
- (3) Report charges for services not rendered;
- (4) Bill for services rendered which are not documented in a patient's file.

(G) No chiropractic physician shall waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that chiropractor, unless the waiver is made:

- (1) In compliance with the health benefit plan that expressly allows a practice of that nature. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request, or;
- (2) For professional services rendered to any other person licensed pursuant to this chapter, to the extent allowed by this chapter and the rules of the board.

(H) No chiropractic physician shall offer cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee or an inducement to enter into or to continue care.

(I) Promotional items shall not be more than \$10 in retail value and not total more than \$20 per year per patient. Professional services, product samples, literature, or refreshments served at events such as health fairs, open houses, educational lectures or health care orientations are not considered promotional items. Promotional items shall not be claimed directly or indirectly or otherwise shifted to any third party for reimbursement.

(J) A chiropractic physician may provide complimentary transportation directly to and from his or her office for the purpose of rendering care to a patient or potential patient who is unable to provide his or her own transportation. The cost of the transportation shall be paid by the chiropractic physician directly to the transportation provider and shall not be claimed directly or indirectly or otherwise shifted to any third party for reimbursement. Transportation shall not be via luxury transportation.

(K) Nothing in this rule shall prevent a chiropractic physician from providing a reasonable time of service discount.

Effective: 4/5/09