



# NEWSLETTER

June 2011

77 South High Street, 16<sup>th</sup> Floor, Columbus, OH 43215

website: [www.chirobd.ohio.gov](http://www.chirobd.ohio.gov) ♦ e-mail: [OSCB.ChiroBD@chr.state.oh.us](mailto:OSCB.ChiroBD@chr.state.oh.us)



## COMPLIANCE

You'll read a lot about compliance in this Newsletter. While the Board's mission is public protection and our primary customers are your patients and potential patients, we are also here to work with you to ensure your compliance

with the laws and rules governing the practice of chiropractic in Ohio. Please take a few moments to review our Newsletter - doing so can ensure your continued compliance, or identify a concern that we can help you resolve.

## NEW WEBSITE DESIGN

The Board is currently testing a new website that is designed to be more informative and user friendly. The new design will include drop down lists specifically for licensees, consumers, CE sponsors, applicants and credentialers. We anticipate this new design to go live later this summer.



## MEMBERS OF THE BOARD

- Mark A. Korchok, D.C., President
- Ronald J. Farabaugh, D.C., Vice-President
- Norman J. Gloekler, D.C.
- Gregory P. Palkowski, D.C.
- John P. Kennedy, Esq. Public Member



## CONTINUING EDUCATION

The time period to earn CE for your next license renewal is from April 1, 2010 to March 31, 2012. Information regarding CE requirements is posted on the Board's website at [www.chirobd.ohio.gov](http://www.chirobd.ohio.gov).



## HAVE YOU MOVED?

Any change of home or office address must be filed in writing with the Board office within thirty days of the change. This includes additional practice locations.

Address changes must be filed in writing and may be submitted via mail, email or facsimile. To ensure you are reporting the necessary information, please download our Address Change Form from our website at [www.chirobd.ohio.gov](http://www.chirobd.ohio.gov) under "Forms."

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# CODING CLARIFICATION

The Board concurs with the opinion of the American Chiropractic Association Coding and Reimbursement Committee that it is not appropriate to bill CPT code 97022 (whirlpool) when using hydro-beds, dry hydro-beds, aqua-beds, etc., nor is it appropriate to bill CPT code 97124 (massage) when using an electrical massager. CPT Code 97124, should either be performed by a licensed chiropractic physician or a licensed massage therapist and should be done using direct hands on skin contact.

Hydro-beds, dry hydro-beds, aqua-beds and massages performed with an electrical massager should be billed using CPT code 97039 (unlisted modality).



## Modifier -52 (Reduced Services)

Any timed service that is not performed for the required 15 minutes should be reported with a -52 modifier to indicate that a reduced service was performed.

## Time of Service Discounts

Time of service discounts should only apply if the discount is actually provided at the time of service and should be commiserate with the service(s) provided.

# SCOPE

The Board continues to encounter doctors performing the following procedures that are not within the scope of practice at this time:

Hyperbaric Chambers  
Hyperbaric Oxygen Therapy  
Oxygen Concentrators  
Ear Stapling

Cosmetic procedures such as laser cellulite reduction, laser liposuction, endermology and hair removal

**Performing these procedures could subject you to disciplinary action as well as possible criminal prosecution.**



Advertising and solicitation violations are increasing significantly, particularly with new opportunities such as texting, Facebook, Twitter and coupon sites such as Groupon. It is important to remember that the Board's advertising and solicitation rule applies to **ALL** forms of advertising.

The Board staff is happy to assist you in maintaining compliance by answering your questions or even reviewing your advertisements before you place them. Below is a brief list of advertising requirements:

- Include one of these terms in your ad: chiropractic, chiropractor, chiropractic physician or doctor of chiropractic;
- Include your first and last name;
- When offering free OR discounted services you must include a disclaimer that states what goods and/or services are free or discounted AND what goods and/or services are not included in the free or discounted offer;
- Be prepared to substantiate any claims or study statistics you reference in your advertisement.

## Staff Members Taking X-Rays?

The Ohio Department of Health requires any individual who performs radiologic procedures on humans to hold a valid Ohio radiologic license.



(Licensed chiropractic physicians are exempt.)

For more information, please contact the Dept. of Health at:

**Telephone:** (614) 752-4319

**Fax:** (614) 466-0381

**E-mail:** [BRadiation@odh.ohio.gov](mailto:BRadiation@odh.ohio.gov)

## § LEGISLATIVE UPDATE §

The Board continually tracks and monitors legislation that impacts our licensees and the public that we serve and protect. Below is a brief synopsis of current legislation of interest to the Board. If you would like to view the legislation in its entirety or find contact information for your State Representative or State Senator, please visit [www.legislature.state.oh.us](http://www.legislature.state.oh.us). The Ohio State Chiropractic Association also tracks and monitors these bills and has provided input and testimony on HB 143 and SB 141.

HB 143, introduced on March 8, 2011 by Reps. Stinziano and O'Brien, pertains to head injuries and concussions in youth sports. Currently the bill excludes chiropractic physicians from clearing concussed athletes to return to play. Director Caudill testified before the Health & Aging Committee on June 1, 2011 and requested the inclusion of chiropractic physicians due to the fact that it is within the scope of chiropractic to treat, manage and clear concussed athletes to return to play.

SB 141, introduced on April 5, 2011 by Senator Gillmor, would permit out of state medical doctors to travel with athletic teams to treat their athletes and individuals who accompany the athletes without obtaining an Ohio license. Director Caudill testified before the Health, Human Services and Aging Committee on May 25, 2011 to request that chiropractic physicians be included in the bill. An amendment to include chiropractic physicians was introduced on June 15, 2011.

HB 251, introduced June 1, 2011 by Rep. Schuring, proposes to regulate the practice of oriental medicine. The bill will permit chiropractic physicians to refer patients to oriental medicine practitioners in the same manner as they do acupuncturists.

## Compliance Inspections

Many of you have experienced one of the Board's Enforcement Investigators appearing at your office for a compliance inspection. These voluntary inspections serve as a way to ensure your compliance with the Board's laws and rules and provide you with an opportunity to ask clarifying questions. Any violations noted during the inspection are addressed either verbally by the investigator and/or in a follow up communication from the Board office. If you have any questions or concerns regarding an inspection, or if you wish to schedule an inspection to determine your level of compliance, please contact the Board office at [oscb.chirobd@chr.state.oh.us](mailto:oscb.chirobd@chr.state.oh.us).

### DO NOT CALL

#### Are you complying with the law?

If you solicit new patients via outbound telephone calls, you must comply with two federal statutes containing similar do not call restrictions: the FTC's Telemarketing Sales Rule and the FCC's Telephone Consumer Protection Act. Both statutes require you to register with the FTC and download the Do Not Call Registry for area codes in which you are soliciting. The FCC, the FTC and the Ohio Attorney General actively enforce the Do Not Call laws.

If you are soliciting new patients by placing calls to telephone numbers found on police reports of traffic accidents, you should consult the DNC Registry to be certain the numbers you are calling are not listed on the Registry. You need to download the DNC Registry at least every 31 days to avoid making calls in violation of the restrictions. Also, you should be maintaining an in-house do not call list to record any requests from residential subscribers who may not be listed on the DNC Registry but have made a specific request to you to not be called again. *The Do Not Call restrictions also apply to cellular telephone numbers.*

You may register to download the Do Not Call Registry and find out further information about both federal laws at:

<https://telemarketing.donotcall.gov>

## FY 2011 Disciplinary Actions

*Below is a synopsis of the Board's disciplinary actions for fiscal year 2011 and does not include full details of conduct and discipline. You may contact the Board office to request a copy of any disciplinary document at:*

[oscb.chirobd@chr.state.oh.us](mailto:oscb.chirobd@chr.state.oh.us)

**Conduct:** 11 counts of advertising and solicitation violations. **Discipline:** 30 day suspension, 18 month probation, \$1,500 fine.

**Conduct:** Doctor convicted of felony Health Care Fraud. **Discipline:** 2 year suspension, 18 month probation.

**Conduct:** Doctor convicted of 5<sup>th</sup> degree felony Theft. **Discipline:** 2 year suspension; 5 year probation; \$2,500 fine.

**Conduct:** Advertising violations and failure to submit CE documentation in response to Board audit. **Discipline:** 60 day suspension; 25.5 CE hours and 2 year probation.

**Conduct:** Misleading advertising. **Discipline:** \$1,500 fine.

**Conduct:** Doctor's license disciplined by Kentucky Chiropractic Board for advertising violation and incorrectly billing insurance carriers. **Discipline:** 2 year probation; \$1,000 fine; 12 Ethics and/or Professionalism CE hours.

**Conduct:** Doctor's license disciplined by Iowa Chiropractic Board for failure to file taxes for 2009. **Discipline:** 15 month probation.

**Conduct:** Doctor's license disciplined by Kentucky Chiropractic Board for advertising violation and incorrectly billing insurance carriers. **Discipline:** 2 year probation; \$1,000 fine.

**Conduct:** Doctor engaged in a sexual relationship with a patient. **Discipline:** 18 month probation; \$2,500 fine; NBCE E & B Exam; 12 CE hours.

**Conduct:** Doctor made a false statement on her 2010 renewal application and failed to earn 12 hours of category 1/2 CE. **Discipline:** \$1,000 fine.

**Conduct:** Doctor convicted of 4<sup>th</sup> degree felony BWC Fraud. **Discipline:** 30 day suspension; 1 year probation.

**Conduct:** Doctor failed to adhere to proper examination procedures and failed to meet radiological safety standards for a patient and failed to adhere to proper examination procedures and inappropriately placed EMS pads on a second patient. Doctor failed to maintain proper documentation of care for both patients. **Discipline:** 2 year probation; NBCE E & B Exam; 12 CE hours.

**Conduct:** Doctor convicted of felony Attempt to Possess with Intent to Distribute 2 Kilograms of Cocaine. **Discipline:** Revocation for not less than 4 years.

**Conduct:** Doctor engaged in a sexual relationship with a patient and failed to maintain proper documentation of his care for that patient. The doctor admitted that similar documentation issues would exist should a review of additional patient records be conducted. **Discipline:** 18 month probation; \$2,500 fine; NBCE E & B Exam; 12 CE hours and compliance monitoring.

**QUESTIONS?**

**CONTACT US AT:**

[oscb.chirobd@chr.state.oh.us](mailto:oscb.chirobd@chr.state.oh.us)

**Visit us on the Web!**  
[www.chirobd.ohio.gov](http://www.chirobd.ohio.gov)