

# OHIO'S NEW CHIROPRACTIC RULE CHANGES

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*This is a brief newsletter to update the  
Chiropractic profession on new rules, laws,  
and trends from Ohio.\**

Recently, the Ohio Chiropractic Board has passed several changes to the Ohio Administrative Code affecting the practice of Chiropractic in Ohio.



Keith Karr, founding principal, attorney, and president of Karr and Sherman Co LPA lecturing to Chiropractic doctors on documentation in personal injury cases.

## **OAC 4734-9-02 Advertising and Solicitation**

If your clinic solicits personal injury patients, you must include several changes to your solicitation script.

First, phone solicitor must now disclose within the first sixty seconds of the solicitation (1) the solicitors identity, (2) the identity of the practice on whose behalf the solicitation is being made, (3) the identity of the chiropractic physician on whose behalf the solicitation is being made, (4) the purpose of the solicitation, and (5) a statement of the goods or services being offered. OAC 4734-9-02(O)(6).

Second, phone solicitor must now provide the practice telephone number of the chiropractic physician on whose behalf the solicitation is being made to each person called. OAC 4734-9-02(O)(7). It might be practical to tell the potential patient that if we get disconnected you can call the Clinic's phone number at (Phone Number).

Third, blocking or otherwise concealing or disguising the true identification of the origin of the solicitation is now an act of abusive solicitation and a violation of the rule. OAC 4734-9-02(O)(14).

Fourth, Chiropractic doctors, who solicit in person, must now keep copies of any documents or materials provided to an individual for a period of six months. OAC 4734-9-02(N).

**AMENDED RULES:** (effective 5/25/14)

### **OAC 4734-9-07 Billing Practices**

Promotional items may now be up to \$75 in “retail value” per year per patient. OAC 4734-9-07(I).

But, OAC 4734-9-07(H) still prohibits cash, gift cards, gift certificates, or cash equivalents.

Promotional items cannot be claimed or otherwise shifted to any party for reimbursement. OAC 4734-9-07(I).

The new rule does not define a promotional item, **BUT** it **can NOT** include cash gift cards or its equivalent. It might be beneficial for the chiropractic profession to request a formal definition of promotional item from the Ohio Chiropractic Board via the Ohio Attorney General.

### **OAC 4734-8-04 Documentation and Record Keeping**

Now, all diagnostic studies performed or ordered by a chiropractor must be documented in the patient’s chart, and a report must accompany each diagnostic procedure performed or ordered in the chart. OAC 4734-8-04(C).

Your records **MUST** be complete and detailed.

Now, patient charts must be maintained (1) 5 years from last date of service if the patient terminates or is dismissed; (2) 2 years beyond a minor’s 18<sup>th</sup> birthday or 5 years after last date of clinical encounter, whichever date is longer; and (3) 2 years past conclusion or legal proceedings or 5 years after last date of clinical encounter, whichever date is longer where there is information pertinent to contemplated or ongoing legal proceedings which the chiropractor has notice or knowledge of. OAC 4734-8-04(D)(1)-(3).

**“Your solicitation scripts must be changed to conform to the new rules”**

**NEW RULES:** (effective 5/25/14)

### **OAC 4734-8-01 Dismissing a Patient from a Chiropractic Practice**

When a doctor-physician relationship ends, a chiropractor now must send written notice to a patient that states (1) the doctor-patient relationship is terminated, (2) a statement that the

chiropractor will provide emergency treatment for up to 30 days from the date the letter was mailed to allow the patient the opportunity to secure care from another chiropractic doctor, and (3) an offer to transfer records to a new chiropractor upon receipt of a signed authorization. OAC 4734-8-01(A).

The notice must be sent by (1) certified mail, return receipt requested, to last known address (copy of the letter, certified mail receipt, and the mail delivery receipt must be maintained in the patient's chart), or (2) "an electronic message sent via a HIPPA compliant electronic medical record system or HIPPA compliant electronic health record system that provides a means of electronic communication to the patient and is capable of sending the patient a notification that a message is in the patient's portal and confirming the message was viewed by the patient" (if a notice sent via an electronic message is not viewed within ten days of having been sent, the notice must be sent via certified mail as indicated above. OAC 4734-8-01(A).

There are three exceptions to this rule: (1) the care provided was episodic or emergency and the patient has no reasonable expectation that services will be rendered in the future; (2) the chiropractor formally transferred the patient's care to another chiropractor who is not in the same group; or (3) the patient terminated the relationship, either verbally or in writing, or has transferred care to another chiropractic physician and the physician maintains documentation in the patient record of the patient's action terminating the relationship. OAC 4734-8-01(A).

## **OAC 4734-8-07 Notice of Leaving, Selling, or Retiring from Practice**

A chiropractic physician, who is an independent contractor or who has an ownership interest in a chiropractic practice, must provide notice when leaving, selling, or retiring from practice. OAC 4734-8-07(A).

Notification must be sent to all patients who received services from the chiropractor within 2 years preceding the chiropractor's last date of treating patients, and must be sent no later than 30 days prior to the chiropractor's last date of treating patients. 4734-8-07(A).

The notice must include (1) a statement that the chiropractic physician will no longer be practicing chiropractic at the practice; (2) the date on which the chiropractic physician will cease to provide services; and, (3) contact information that enables the patient to obtain the patient's records. OAC 4734-8-07(A).

The notice must be sent in (1) a letter sent via regular mail to the last address on record for the patient with the date of the mailing of the letter documented; or (2) "an electronic message sent via a HIPPA compliant electronic medical record system or HIPPA compliant electronic health record system that provides a means of electronic communication to the patient and is capable of sending the patient a notification that a message is in the patient's portal." OAC 4734-8-07(A).

A chiropractic physician who because of acute illness or unforeseen emergency is unable to provide notice thirty days prior to the last date of seeing patients shall provide the notice no

later than thirty days after it is determined that the physician will not be returning to practice. OAC 4734-8-07(B).

Chiropractors employed by non-Ohio licensed chiropractors must comply with the notice requirements. OAC 4734-8-07(C).

If a chiropractic doctor is the employee of another Ohio licensed chiropractor, the patient records belong to the employer and the employee chiropractor is not required to comply with the rule. It is the licensed Ohio chiropractor 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. OAC 4734-8-07(D).

If the chiropractor dies and there is no other chiropractor in the practice, the deceased chiropractor's executor shall endeavor to comply with the rule. The executor must notify the board of the location of patient files. OAC 4734-8-07(E).

**\*DISCLAIMER:**

This newsletter is for educational purposes only. This newsletter does not create an attorney client relationship and we recommend that you contact your attorney to have a detailed analysis of the issues in this brief newsletter.

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