



State of Arizona

Board of Chiropractic Examiners

Fall 2006

Legal Updates and Newsletter

Mission Statement: *The mission of the Board of Chiropractic Examiners is to protect the health, welfare and safety of the public.*

Board of Chiropractic Examiners

Craig Seitz, D.C.
Chairperson

P. Dianne Haydon, D.C.
Vice Chairperson

S. Steven Baker, D.C.
Professional Member

Clell West
Public Member

Board Meetings

October 12, 2006
November 9, 2006
December 7, 2006

Board meetings scheduled for the 2nd Thursday of the month begin at 8:00am. Meetings scheduled for the 3rd Thursday of the month begin at 9:00 am. Meeting dates and times are subject to change.

Examinations

Jurisprudence – 1st Friday of the month, 10:00 am
Application deadline – 1 month prior to the exam

Need to Contact the Board?

Phone: (602) 864-5088
Fax: (602) 864-5099
Website: www.azchiroboard.com
E-mail: Refer to the website for a list of e-mail addresses.

Did you move or get a new telephone number?

Please remember that A.R.S. 32-923 (A) requires that every licensed person shall, within **30 days**, notify the Board **in writing** of any change in residence or office address and telephone number. Please note that if your mailing address is a post office box or personal mailbox, you must also provide a physical address. Failure to update your address and telephone number will result in a **\$50.00** civil penalty.

Don't Become a Statistic!

During the 2006 license renewal period, Board staff returned over 300 renewal applications as incomplete. This renewal season, we want to significantly reduce that number. For that reason, we have compiled a list of suggestions to help you avoid submitting an incomplete renewal.

1. Write legibly! If we cannot read your writing, we will return your renewal.
2. Make sure to provide a physical address.
3. Completely answer each question. Entering a check mark, an X or N/A **is not acceptable**.
4. Enter all required CE information including: the date completed, the subjects (topics) covered by the course, and the qualifying instructor or sponsor.
5. Sign your renewal form!
6. Make sure your check is for the proper amount.

We hope that this list will help you avoid errors on your license renewal application.



Coming to You Live from the Board Office: Legal Updates: The News *You* Need to Know!

- **Medical Record Protocol.** The statutory requirements for the maintenance and disposal of medical records changed with the passage of House Bill 2786. The bill added Arizona Revised Statute § 32-3210, which requires that a health professional prepare a written protocol for the secure storage, transfer and access of the medical records of the health professional's patients. The law also requires that a health professional indicate compliance with this requirement on their renewal application. As a result, your 2007 license renewal application will ask you to indicate your compliance. Your renewal application will not be accepted if you do not indicate that you have complied with A.R.S. § 32-3210.

A portion of House Bill 2786 follows:

32-3210. Medical records; protocol; unprofessional conduct; corrective action; exemption

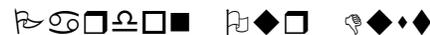
- A. A health professional must prepare a written protocol for the secure storage, transfer and access of the medical records of the health professional's patients. At a minimum the protocol must specify:
1. If the health professional terminates or sells the health professional's practice and the patient's medical records will not remain in the same physical location, the procedure by which the health professional shall notify each patient in a timely manner before the health professional terminates or sells the health professional's practice in order to inform the patient regarding the future location of the patient's medical records and how the patient can access those records.
 2. The procedure by which the health professional may dispose of unclaimed medical records after a specified period of time and after the health professional has made good faith efforts to contact the patient.
 3. How the health professional shall timely respond to requests from patients for copies of their medical records or to access their medical records.
- B. The protocol prescribed in subsection A of this section must comply with the relevant requirements of

title 12, chapter 13, article 7.1 regarding medical records.

- C. A health professional shall indicate compliance with the requirements of this section on the health professional's application for relicensure in a manner prescribed by the health professional's regulatory board.
- D. A health professional who does not comply with this section commits an act of unprofessional conduct.
- E. In addition to taking disciplinary action against a health professional who does not comply with this section, the health professional's regulatory board may take corrective action regarding the proper storage, transfer and access of the medical records of the health professional's patients. For the purposes of this subsection, corrective action does not include taking possession or management of the medical records.
- F. For the purposes of this section, health professional does not include a veterinarian.
- G. This section does not apply to a health professional who is employed by a health care institution as defined in section 36-401 that is responsible for the maintenance of the medical records.

- **Board Member Restrictions.** The makeup of the Board changed this year with the passage of House Bill 2371. The bill added the following statements to A.R.S. § 32-901 (B):

“A Board member shall not receive compensation as an agent or employee of or a contractor for an insurance company. This subsection does not prevent a Board member who is a licensed chiropractor from receiving compensation from an insurance company for patient care as provided for in a patient's insurance policy.”

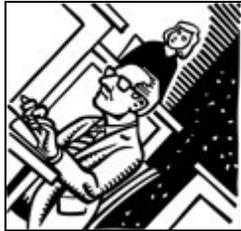


Board staff was busy this summer constructing a brand new license renewal form! What changes have been made? Well, to begin with you will notice that there are now two pages to the renewal form. The renewal will be double sided, so you will need to turn the renewal form over and complete the other side. **Staff will not accept your renewal if you do not complete both sides.**

Next, you will notice that there are two new “yes” or “no” questions. The first new question requires you to disclose if you have been arrested, charged with, indicted for, or are

under investigation for a misdemeanor or felony, requiring resolution in the courts. The second new question requires you to indicate your compliance with A.R.S. § 32-3210. (See Legal Updates above.) As you know, you must completely answer each question on your renewal form. These new questions are no exception.

If you have any questions concerning the new renewal form, please contact Board staff. But, please do not wait until December 29th to call!



Fact or Fiction? Here's How to Find Out!

By Patrice Pritzl, Executive Director

There have been a number of rumors circulated about the Board or Board members. The rumors generally reflect a lack of information, and lack of understanding of government systems and law. In some cases, they take advantage of the profession's lack of familiarity with governmental regulation or the role of the Board. Fortunately, the government is very attuned to these misunderstandings and has installed a number of laws to ensure the public can be informed through open meeting law and public records laws.

Here is how to find the facts:

1. **Board Orders:** The Board Order will tell you whether the licensee admitted to violations of the Chiropractic Act, whether the sanction resulted from a disciplinary proceeding, what the Board found (Findings of Fact) and which laws were violated (Conclusions of Law).

All Board Orders are available online at www.azchiroboard.com. You may also view them at the Board office or by making a written request for copies. (If you wish to view an Order, please make an appointment with Board staff. The Board charges 25¢ per page for copies.)

2. **Transcripts:** The Board cannot simply take action against a licensee. It must follow due process laws. Before a licensee can be sanctioned, the licensee must admit to violations through a consent agreement or a proceeding must be held in which the licensee has the opportunity to present testimony or evidence in their defense. In order to impose disciplinary action, the Board must find that the evidence and testimony demonstrates that it is more likely than not that the Chiropractic Act was violated. If the licensee has had a

Formal Interview or a Formal Hearing, a court reporter has been present at the proceedings and a transcript is available. In some cases, you may obtain a transcript through the Board office, in other cases, you will need to contact the court reporting service.

3. **Minutes:** The Board must conduct its business in an open meeting. By law, the Board must produce the minutes of each meeting. Meeting minutes are a brief summary of the actions taken by the Board and the reason they took that action. The minutes also record if a Board member leaves or enters a meeting while it is in session. As an example of separating fact from fiction, it has been alleged that a Board member has stormed out of Board meetings in anger. If you review the record, you will see that the Board member disclosed that they had knowledge or familiarity with a case that may be perceived as a conflict of interest. As per conflict of interest laws, that Board member recused himself and left the room while the rest of the Board continued with its review of the investigative record.

Remember – minutes are a summary. They are not intended to be a transcript or an in-depth record of a discussion.

4. **Board meeting recordings:** The Board became aware in early 2006 that some members of the profession wanted to be able to obtain recordings of Board meetings. The Board obtained a digital recording device and moved meetings to a room that provided a recording system. Recordings of Board meetings may now be obtained for \$5.00 on CD.

5. **The Laws:** There are laws that govern the activities of the Board, just as there are laws that govern the practice of chiropractic. The Board must follow these laws. The Board cannot enforce personal opinion as law, nor can they ignore enforcement of a law due to personal opinion.

6. **Office of the Ombudsman:** The Office of the Ombudsman is the body created to investigate complaints against State Agencies, including the health regulatory boards. If someone believes the Board has acted inappropriately, they should file a complaint with the Office of the Ombudsman at 3737 N. 7th Street, Suite 209, Phoenix, AZ 85014.

In the past ten years, the Office of the Ombudsman has only issued findings that the Board should change how they handle matters twice. The first was a finding that the Executive Director should have statutory authority to issue subpoenas, which was enacted. The second was that the Board should find a violation of law if a licensee fails to both use the designation for a doctor of chiropractic following their name and identify clinic services as chiropractic in any sign or media.

7. **Hearing Records:** If a Formal Administrative Hearing has been held, the record, including evidence and transcript, is a public record.

8. **Appeals:** By law, a licensee has the right to appeal a sanction of their license to the Maricopa County Superior Court if the sanction was imposed following a disciplinary proceeding. An action of the Board has not been overturned

by the Superior Court in the ten years that I have served as Executive Director.

9. **Call to the Public:** By law, the Board can only discuss something that has been noticed on a Board meeting agenda for at least 24 hours preceding the meeting. But, the Board can listen to concerns, issues or questions during the Call to the Public, which appears on every Board meeting agenda. The Board cannot respond at that time, but it can then consider if there is an issue or question that can be addressed or answered by staff or if it is an issue that should be placed on a future agenda.

10. **Brochures:** The Board has two brochures available on our website. One explains the mission of the Board of Chiropractic Examiners. The second explains what to expect if a complaint is filed against your license. Because there seems to be misinformation or misconceptions as to the purpose or authority of the Board, I sincerely hope that you will look at these brochures.

11. **Newsletters:** The Board publishes a newsletter at least annually. The Board uses the newsletters to keep you informed of any changes to the law, to warn you about actions or influences that got doctors of chiropractic on the wrong side of the law, and to provide instructions such as how to complete your license renewal application. You can view past newsletters on our website at www.azchiroboard.com.

12. **Professional Publications:** The Board's enforcement of the Chiropractic Act reflects the standards of the Chiropractic profession. Those standards appear in multiple publications. As an example, the CCE website outlines subjects that are required curriculum in colleges, the Department of Health and Human Services Medicare site provides considerable detail for record keeping and the American Chiropractic Association publishes articles on current standards.

The Board recognizes that you are trained and educated professionals. It invites you to use the many professional resources to become informed and to gather the information you need to separate fact from fiction.

Does the Board have your current address?

If the post office forwarded this newsletter to you, chances are that we do not have your current address. It is important to notify the Board of changes of address, especially at renewal time. A correct address can help you avoid paying address penalties and late fees!

If you are not sure whether your address is correct, check it on the Board's website, www.azchiroboard.com.

Insurance & Chiropractic: Sifting through the Rumors

By Patrice Pritzl, Executive Director

There have been rumors that the insurance industry has been filing complaints with the Board as a means of intimidating doctors of chiropractic and deterring them from filing insurance claims.

Over the past two years, the Board has communicated with the insurance industry and the Department of Insurance (DOI) to determine if there is an opportunity for mediation with the ultimate result of decreasing the number of complaints being filed.

The facts need to be separated from the fiction when approaching this issue. The following facts came forward during the contact between the Board and the insurance industry and DOI:

First, the great majority of complaints filed by insurance representatives are substantiated as valid by an investigation. Therefore, the assumption that the complaints are filed as a form of harassment is not valid.

Second, poor record keeping and unsupported billing are the primary substantiated violations found during the investigation of these complaints. In these cases, the record keeping falls below the standard set in law and below the standards of the profession. Inadequate documentation fails to support charges in the patient record and fails to support the necessity of diagnostic testing. This has a significant impact on patient care.

Third, insurance complaints frequently involve more than one complaint against a physician. The insurance investigation establishes that there is a pattern of possible violations before the complaint is filed. This results in numerous complaints filed against one licensee.

The Board staff has been contacting representatives from the insurance industry in attempt to resolve complaints before they are filed. This involves discussions as to when it is appropriate to file a complaint. It also involves encouraging the insurance investigators to contact the doctor of chiropractic to try to get their concerns addressed before they file a complaint.

For example, the Board's investigator has found that many complaints arise when a physician fails to send the full patient record to an insurance investigator. The investigator assumes that they have the full patient record and they note that there are a number of charges that are not documented. This leads them to file a complaint with the Board. In an attempt to remedy this situation, the Board's investigator is encouraging insurance investigators to contact the doctor to be certain that they have all of the records and obtain the doctor's assistance in locating the documentation to support the charges.

Let's work together to find a solution to this problem:

- The physician creates patient records that provide sufficient information for the continued care of the patient and to support the charges for services.
- The physician provides the full patient record when requested.
- The insurance investigator identifies concerns and contacts the physician to resolve the questions and concerns before filing a complaint.
- The physician takes the time to work with the insurance investigator to get the matter resolved. Both sides must put aside defensiveness and resentment and communicate professionally.
- If the issues are not successfully addressed through this communication, the insurance companies will file complaints.
- If multiple complaints are filed against the same physician within a short timeframe, the Board will begin consolidating them into one complaint for investigation.

The fact is that some doctors will violate the law. The Board cannot ignore a complaint simply because it was filed by an insurance representative. It is also a fact that complaints are filed due to misunderstandings, miscommunication, missing records and difficult to interpret documentation. These problems prompt the filing of a complaint. However, these complaints can be avoided if the physician complies with proper record keeping and if the insurance investigator and physician communicate.



Patient Records = Patient Safety & Proper Billing

By Patrice Pritzl, Executive Director

The Association of Chiropractic Colleges, the American Chiropractic Association, the Congress of Chiropractic State Associations and the Federation of Chiropractic Licensing Boards have issued a call to the profession to address a report from the U.S. Department of Health and Human Services, Office of the Inspector General, which concluded that 67% of reviewed chiropractic claims submitted to Medicare contained errors and omissions that OIG considers to be inappropriate reimbursement under Medicare.

Unfortunately, those findings appear to be a concern at the local level as well. The great majority of violations of the State of Arizona Chiropractic Act include failing to create and

maintain appropriate patient records for patient safety and continued patient care and billing for services that are not documented as having been provided. The Board has attempted to educate the profession as to the professional responsibility of record keeping in law and the nature of violations that have led to the sanction of practitioner's licenses.

1997: The Board sent a copy of all laws governing the practice of chiropractic to all licensed doctors of chiropractic. All new licensees receive a copy of the laws with the license application.

2000: The Board sent a newsletter to all licensees that addressed issued of record keeping violations.

2001: The Board sent a newsletter to all licensees that outlined the information that is required to be included in a patient record.

2004: The Board sent a newsletter to all licensees informing them that record keeping and billing violations constitute the most frequent violations of the Chiropractic Act and reminded licensees that they are required to comply with record keeping laws.

2005: The Board sent a newsletter to all licensees addressing the issue of record keeping practices.

Classes: The Board held two classes on the Chiropractic Act and record keeping.

Website: The Board provides a summary of the record keeping course and provides a checklist to help you determine if your patient records meet the standard for patient safety and billing on the website. You may obtain a copy of the entire record keeping presentation by sending a written request and a \$12.50 check or money order to the Board office.

Other Resources for Chiropractic Record Keeping:

1. The Council on Chiropractic Education website includes a link to the standards for Doctor of Chiropractic Programs, which may be found at www.cce-usa.org.
2. The U.S. Department of Health and Human Services website includes information on Medicare documentation, it may be found at www.cms.hhs.gov/manuals.
3. The American Chiropractic Association website, <http://www.amerchiro.org/>.
4. Your Chiropractic College.
5. The Board website and record keeping course materials.

If guidance for record keeping is needed, you may wish to approach your professional association with the request that it provide you with the record keeping guidelines that are available at these resource sites and through coursework offered by colleges and associations.

Report on the June 24, 2006 Stakeholder's Meeting

On June 24, 2006, the Board held a Stakeholder's Meeting that was open to any interested party. The meeting was called to open discussion on two issues:

1. A legislative proposal to restrict appointment to the Board of any person who receives compensation from an insurance company as an agent, employee or contractor.
2. The call to the profession from the national chiropractic organizations to proactively address problems with record keeping and billing in the profession.

Invitations were posted on the Board's website and sent to representatives of the profession and the public.

Item 1: The Board noted that the proposed legislation had been successfully passed by attaching it to the State's budget in a conference committee. The Board stated that it did not believe the legislation was in the best interest of the profession or the public, but noted that it would comply, as it does with all laws.

Item 2: The Board summarized the call to the profession to address weaknesses in record keeping and billing and noted that the same issues that were raised in a U.S. Department of Health and Human Services, Office of the Inspector General report had been apparent locally in violations of the State of Arizona Chiropractic Act. The Board asked the members of the profession who were present to take a proactive, professional stance in addressing the shortcomings in record keeping and billing.

Representatives of the profession responded that they felt the Board should require licensees who violate the record keeping laws to complete remediation without a sanction being levied against their license. The Board expressed its appreciation for the suggestion, but noted that it was a reactive rather than proactive approach. The intent of a pro-active approach is to instill a professional responsibility to create appropriate patient records and prevent violations from happening in the first place. It was emphasized that if the profession fails to correct the concerns, it is likely that the matter will be addressed through federal regulation.

Monte Hessler, D.C. then addressed the Board and suggested that it consider requiring licensees to complete a certain number of hours of continuing education in record keeping, as per the Call to the Profession.

Additional discussion was recognized in relation to the noticed agenda items as well.

Have you taken your continuing education yet?

You must complete your continuing education before you submit your license renewal application! Remember that your continuing education must meet the requirements of A.R.S. 32-931 and A.A.C. R4-7-801.

You must keep documentation of your compliance with the continuing education requirements for 5 years.



Records Are Not For Ransom!

By Charles Brown, Deputy Director

Record keeping has become an issue at the forefront of the chiropractic profession here in Arizona and throughout the country. This June, the Board held a Stakeholder's meeting to address several issues affecting chiropractors in Arizona. A significant portion of that meeting was spent discussing record keeping practices. On a national level, the Federation of Chiropractic Licensing Boards attempted to address issues stated in the Office of the Inspector General's 2005 Chiropractic Services in the Medicare Program: Payment Vulnerability Analysis report. However, I believe that one very important part of chiropractic record keeping is being missed. **RECORDS DO NOT DO PATIENTS ANY GOOD IF YOU DO NOT RELEASE THEM WHEN REQUESTED.**

In my time at the Board, I have not been able to understand the hesitation to release records. Especially when failing to do so is one of the quickest ways to prompt a Board complaint. Remember, the law (A.A.C. R4-7-902 (5)) requires you to release your records within 10 business days of a receiving a written request. This does not mean 10 days from the day your staff shows you the request, or ten days from the date you receive payment for copies of the record. It means 10 business days from the time that the fax comes across your machine, from the date that the postman delivers the letter, from the day the patient leaves the request in your office, or from the date that the Board subpoena arrives in your office. So, when you get a legal request for records- **PRODUCE THE RECORDS!**

Disciplinary Actions

You may now review disciplinary actions on our web site, www.azchiroboard.com. Licensees that have had a disciplinary action imposed by the Board from August 1, 2005 to August 2, 2006 include:

Kambiz Adjudani, D.C., 2006-003
Manfred H. Ahnen, D.C., 2006-010
Ilan S. Amar, D.C., 2005-105 & 2006-046
Sidney Apps, D.C., 2004-098
Randal S. Bouchard, D.C., 2005-009
Brett B. Brimhall, D.C., 2005-021
Thomas K. Bruns, D.C., 05F-097-CEA
Gary L. Burk, D.C., 2006-068
Craig T. Carrion, D.C., 2005-127
Dennis L. Cathcart, D.C., 2005-128
David J. Doperak, D.C., 2004-087
Jeffrey J. Ferber, D.C., 2005-082
Donald W. Foster, D.C., 2005-030
Andre C. Fournier, D.C., 2005-044
Paul E. Frame, D.C., 2005-099
Scott M. Gedye, D.C., 2006-055, 2004-051, 2004-084,
2005-006, 2005-037, 2005-052
Timothy Gerhart, D.C., 2005-013
Frederik E. Gerretzen, D.C., 05F-060-CEA
David S. Gibb, D.C., 2006-008, 2004-011
Daniel C. Graham, D.C., 2005-089
Robert W. Graham, D.C., 2006-067
Joseph L. Greer, D.C., 2005-081 & 2006-041
Evelyn T. Guilford, D.C., 2005-032
Walter D. Haggard, D.C., 2006-051 & 2006-070
Deena Y. Hakim, D.C., 2005-069
Terrese L. Hanson, D.C., 2005-020
Wayne Harmon, D.C., 2006-009
John W. Hawrylak, D.C., 2005-063
Michelle A. Hebert, D.C., 2005-095
Frank M. Hogle, D.C., 2005-087
Herbert E. Hoversen, D.C., 2005-100
Robert H. Iversen, D.C., 2005-090
Michael Kennedy, D.C., 2006-062
Kenneth D. Krieger, D.C., 2006-074
Alfred A. Lamanna, D.C., 2005-079 & 2005-091
Drew J. Lawrence, D.C., 2004-064
Murray J. Lawson, D.C., 2006-059
Steven L. Levine, D.C., 2005-034
Jason T. Lundgren, D.C., 2005-130
Thomas G. Maday, D.C., 2005-093
Chett L. Mallett, D.C., 2005-111
Timothy F. Martin, D.C., 2005-135
Hector F. Martinez, D.C., 2005-049
Shawn T. Medley, D.C., 2006-147, 2006-080
Mark A. Miller, D.C., 2006-061
Alejandro A. Mioni, D.C., 2005-035
Mathew D. Moore, D.C. 2006-086
N. Mike Moriearty, D.C., 2005-050
Jason C. Morris, D.C., 2006-005
Scott C. Morrison, D.C., 2005-088
Tiffany L. Naughton, D.C., 2005-085
Arnold A. Orbach, D.C., 2005-028
Roy A. Ottinger, D.C., 05F-061-CEA
John R. Parks, D.C., 2005-002

Jerry A. Paulson, D.C., 2006-060
L. Jon Proman, D.C., 2006-001
Paul W. Pratt, D.C., 2005-108
Randall C. Pruitt, D.C., 2005-047
Frank D. Reach, D.C., 2006-073
Jeffrey J. Rebarcak, D.C., 2004-105 & 2005-025
Kenneth C. Rich, D.C., 04F-020-CEA
Roger W. Roberts, D.C., 2005-103
Jeffrey L. Robinson, D.C., 2005-070
Miles A. Romney, D.C., 2006-071
Lucas A. Ruiz, D.C., 2005-039
Roderick R. Russell, D.C., 04F-021-CEA, 04F-062-CEA,
04-068-CEA
Mark D. Schillerstrom, D.C., 2005-033
Christopher W. Serafini, D.C., 2004-088
Fred G. Shay, D.C., 2005-086
Darl R. Shipley, D.C., 2005-023 & 2005-027
Michael S. Simmer, D.C., 2006-039
Charles E. St. George, D.C., 2004-111
Thomas A. Stark, D.C., 2005-101
David C. Swan, D.C., 2005-019 & 2005-102
Benjamin B. Tiede, D.C., 2005-065
Kenneth Torrens, D.C., 2004-097 & 2006-027
Goudarz Vassigh, D.C., 2005-129
Jeffry T. Vendsel, D.C., 2005-134
Wesley J. Warren, D.C., 2005-112
Michael A. Watts, D.C., 2004-095, 2005-016, 2005-022
A. Nick Williams, D.C., 2006-084

STATE of ARIZONA
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