

## Ohio State Chiropractic Board



# NEWSLETTER

August 2019

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### **Car Accident/Crime Victim Telemarketing PROHIBITED Effective October 17, 2019**

Ohio's recent budget bill, [Am. Sub. HB 166](#), (see pages 340-341) included language that prohibits chiropractors from directly contacting any party, or paying or giving, or offering to pay or give, money or anything of value to another party, to contact in person, by telephone, or by electronic means, any party or witness to a motor vehicle accident or any victim or witness of a crime until 30 days after the date of the incident. ***Any communication must be sent via the U.S. Postal Service.***

Regulation and enforcement of these requirements are under the purview of the Ohio Attorney General's [Consumer Protection Section](#), not the Board.

To accommodate this new law, the Board must make changes to the [Advertising and Solicitation](#) rule. You will receive an email regarding your opportunity to comment on the proposed changes the Board must make.

### **HEMP/CBD OIL**

A recent update to Ohio law ([SB 57](#)) changed the definition of marijuana. Hemp, hemp products, and hemp-derived CBD (cannabidiol) with a THC content of no more than three-tenths of a percent are no longer prohibited and can now be sold outside of a licensed medical marijuana dispensary.



**The Board does not regulate or interpret the laws pertaining to medical marijuana, hemp, CBD, etc.**

### **Hemp is defined as:**

"The plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis."

**If you have questions about Hemp, Hemp Products, CBD, etc., please contact the [Ohio Medical Marijuana Control Program](#)**



### **CE AUDITS**

The Board will soon conduct CE audits for the CE you earned to renew your license last year. If you are selected for audit, you will receive an email from the [eLicense](#) system. You will have 30 days to upload proof of earning the CE you earned to your [eLicense](#) profile.

### **Unclaimed Funds Reporting**

If your business is located and/or operated in the State of Ohio, or you hold funds due to Ohio residents, you are required to file an Annual Report of Unclaimed Funds.

If you have funds such as balances payable, unclaimed wages, etc. and there is no activity in an account for a period of time and you cannot reach the account owner, the funds must be reported to the Ohio Department of Commerce, [Division of Unclaimed Funds](#).

Toll Free (877) 644-6823

Phone (614) 466-4433

E-Mail [UnfdClaims.UnfdClaims@com.state.oh.us](mailto:UnfdClaims.UnfdClaims@com.state.oh.us)

## Don't Forget to Earn CE for 2020 Renewal!

The current CE earning period is April 1, 2018 to March 31, 2020.

### Looking for a List of Board-Approved CE?

**[PACE](#) approved programs meet the Board's CE requirements!\***

Visit the [PACE](#) website to search nearly 2,000 programs by date, topic, region, instructor or format. **No need to worry about keeping CE certificates – [PACE](#) will maintain a transcript of your hours for you!**

Keep in mind that billing and coding ARE acceptable CE topics, so long as the programs are not teaching upcoding or enhanced billing techniques.

\*Risk management is not an approved CE topic.



### KEEP YOUR CONTACT INFORMATION UP TO DATE

Please keep your contact information current (email, home and business addresses(es), telephone numbers, etc.) *It is a violation of the Board's laws and rules if you do not notify the Board of any change in contact information within 30 days of the change.*

To view/update your contact information, log into your [eLicense.ohio.gov](http://eLicense.ohio.gov) profile using your email address and password and click Change Address on the Options Button.

#### Treating Staff Members?

If you treat your staff, please keep in mind the laws and rules that apply to treating patients apply to your staff members too! Maintain good documentation and make sure you treat your staff according to the same standard of care as your patients.

### Rules Changes

You are no longer required to provide emergency treatment for 30 days to patients you dismiss if the patient, or patient's representative, has displayed disruptive or threatening behavior toward you, your staff, or your patients. See Board Rule [4734-8-01](#).

\*If you leave, sell, or retire from practice, you are now only required to notify patients who received care within the past 6 months of your last date of practice. See Board Rule [4734-8-07](#).

\*If you are the employee of another Ohio licensed chiropractor and patient records belong to your employer, you are not required to notify your patients. It is your employer's responsibility to maintain continuity of care, or to comply with the notification requirements, if patient care will be terminated upon your leaving, selling or retiring from practice.

### Professional Boundaries

NCMIC publishes an online resource titled "[Professional Boundaries](#)."

**EVERY LICENSEE AND THEIR STAFF SHOULD READ THIS DOCUMENT IN ITS ENTIRETY!**

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#### Professional Boundaries with Social and Electronic Communication

Many doctors are using social and electronic media as a way to communicate with patients and to market their practices. But what innocuous information might be misconstrued? What snap judgments could be made about your practice and/or personal life? Many doctors don't think about how the information they share might be perceived later by a chiropractic board of examiners or a judge or jury in a malpractice case.

## **Social media**

In this digital age, social media usage is extremely common. A 2015 study concluded that 65 percent of the total population uses social media and that 90% of young adults (ages 18-29) use social media. In fact, a 2017 survey determined that 81 percent of the U.S. population utilized some form of social media. As such, many chiropractors consider utilizing social media as a marketing tool for their business. Similarly patients are often curious about their doctor and may use social media to attempt to learn more information about their doctor. If you are going to utilize social media, you should have two separate pages—one personal and one professional. It is important to maintain adequate privacy settings for your personal pages and frequently revisit the privacy policies of the platform as they may change over time.

If you are going to participate in social media, create and maintain a separate page for your practice. If you choose to have personal social media profiles you need to set adequate privacy settings to preclude patients from gaining access to personal information, which could lead to boundary violations. If you receive a friend request from a current patient, it may be a good idea to develop a standard response in this area. For example, tell patients that you make it your policy not to friend current or former patients on social networking sites out of respect for the doctor/patient relationship and to safeguard patient confidentiality. Some doctors also develop a social media policy that addresses the professional use of all types of social media by the doctor and practice staff. This policy could be incorporated into the practice's new patient information packet so patients are aware of the policy upfront and are not offended by not being "friended" on social media.

The American College of Physicians and the Federation of State Medical Boards publish ethical guidelines regarding online medical professionalism and maintaining appropriate relationships and perceptions with patients and the public. The guidelines emphasize that standards for

professional interactions should be consistent across all forms of communication between doctors and patients, whether in person or online. There is greater danger for misconception in online patient interactions because of the ambiguity with written communication and lack of body language. Additionally, people, including doctors, tend to be far more casual behind a computer screen than they might be in a face-to-face interaction.

Society expects a certain level of professionalism from doctors. In the context of civil litigation, jurors often have strong reactions when they learn that a doctor interacted with a patient in a casual manner. Jurors, especially older jurors, will question the appropriateness of a doctor having social interactions with patients, which may in turn cause them to be skeptical about the care that doctor provided. Furthermore, while patients may have participated and engaged in the informal "banter" during the doctor/patient relationship, they will often change their story in the context of a lawsuit and try to say that it made them uncomfortable, but they went along with it because that is the way the doctor wanted to communicate with them.

## **Electronic media (texting)**

According to The Pew Research Center, 73 percent of Americans text regularly. In fact, many people prefer the convenience of text messaging to having an actual conversation. The question is whether it is ever appropriate for a doctor to exchange text messages with patients. The answer is that it depends on the circumstances and the nature of the communication. While patients and doctors alike may appreciate the convenience of texting regarding simple tasks like scheduling, the more frequent the communication the more likely it is that a boundary will be crossed. While the conversation may begin being strictly related to scheduling, it can easily evolve into something else entirely. A casual "thank you" or "hope you are having a good day" can quickly cross the line into a more personal and perhaps inappropriate interaction.

Even if the patient is the one to initiate the informal banter, the doctor, as the professional, must be the one to establish the communication boundaries.

Absent unusual circumstances, a doctor should not provide treatment recommendations or possible diagnoses to patients via text messaging. Patients should instead be encouraged to make an appointment or to present to the emergency department if it is an urgent situation.

You must also consider how the text messages might be used in the future should the patient experience a bad outcome and file a board complaint or a lawsuit. In the moment and in context, a text message that might not be interpreted as offensive can be twisted and placed in a different light once the patient is an adversary. For instance, if you are friendly with a patient who experiences what is believed to be an adjustment-related complication and, in the moment, you joke about adjusting them again, it might seem funny. Nevertheless, this comment could later put you in a bad light with a jury.

In addition to boundary issues, text communication with patients can also cause privacy/HIPAA violations. Pursuant to HIPAA regulations, doctors must follow appropriate security protocols for the storage and transfer of patient information. Nearly

everyone has inadvertently sent a text message to an unintended recipient, which can be embarrassing. However, in the context of the provision of healthcare, it can have much more serious consequences. If a doctor unintentionally communicates patient identifying information to someone other than the patient, it could be a privacy violation. There are several secure text messaging applications available for doctors to use for substantive conversations about patient care.

Lastly, text message communication with patients can create recordkeeping issues. Patient

interactions are supposed to be part of the chart and, in some states, they could be deemed to include text messages. If you are not uniform in which messages you keep and which you delete, it could also give rise to an argument that certain messages were intentionally deleted.



### Social Media Tips

- Maintain separate practice and personal social media profiles
- Maintain adequate privacy settings on your personal profile to avoid unwanted access to your personal information
- Do not initiate or accept "friend" requests from patients
- If you interact with patients via your practice's social media profile, maintain the utmost professionalism

**View the Board's Sexual  
Misconduct Rule  
[here](#)**

Visit our website at:  
[www.chirobd.ohio.gov](http://www.chirobd.ohio.gov)

Log into your profile at:  
[www.elicense.ohio.gov](http://www.elicense.ohio.gov)

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