

THE HEARTBEAT OSCA NEWSLETTER MAY 2024

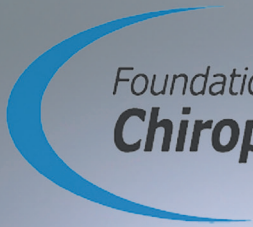


IN THIS ISSUE:

**FTC DECISION ON NON-COMPETE
CONTRACTS - DOES THIS IMPACT YOU?**

OSCA SITE UPDATE COMING

**FUNCTIONAL MEDICINE AND
CHIROPRACTORS**



Foundation for
Chiropractic Progress

GOLF COMMERCIAL AND MEMBER BENEFIT

Did you know that your OSCA membership makes you eligible for an F4CP membership. Did you know that F4CP provides access to marketing materials, social media graphics and more to help you promote your profession and practice?

F4CP's new 30 second consumer-focused golf commercial aired **17x last month during the Masters Tournament, on The Golf Channel reaching 1.5M+ households!**

CLICK HERE TO VIEW COMMERCIAL

As part of F4CP's new campaign, 'Made Possible by Chiropractic,' F4CP is producing two additional consumer-focused commercials launching during the major championships of pickleball and rodeo. The commercials, estimated to reach 100M+ households, will build public awareness regarding how athletes in each sport benefit from chiropractic care.

If you haven't yet set up your profile for F4CP, reach out to OSCA at 614-229-5290 and we can help you get started!



FEDERAL TRADE COMMISSION VOIDS NON-COMPETE AGREEMENTS NATIONWIDE

Bryan E. Meek, Esq. | Brennan, Manna & Diamond, LLC

On April 23, 2024, the U.S. Federal Trade Commission (“FTC”) issued its Final Rule containing regulations impacting non-compete agreements across the country for all employees. The Final Rule implements some of the most impactful changes to employment law during this century. The Final Rule will take effect 120 days from its publication in the Federal Register, which we expect to occur within the next few weeks.

WHAT DOES THIS MEAN FOR EMPLOYERS?

The FTC's final rule aims to protect workers' freedom to change jobs, increase innovation, and foster new business formation by eliminating noncompete clauses that restrict job mobility. In order to achieve these goals, the FTC's Final Rule requires the following:

1. **Ban of Existing Non-competes:** After the effective date (120 days from publication), all existing noncompete agreements nationwide will not be legally enforceable (with some exceptions, noted below), including agreements and provisions that have the effect of creating a restriction as to where an employee will be permitted to work following the end of employment.
2. **Ban of Future Non-Competes:** After the effective date (120 days from publication), employers will no longer be permitted to enter into non-competes with their employees. This also includes any agreement or provision that has the effect of creating a restriction as to where an employee will be permitted to work following the end of employment.
3. **Compliance Requirements:** Employers will be required to notify employees (before the effective date) who are bound by existing non-competes that their agreements will not be enforced moving forward. This notification also applies to former employees that are still within the restrictions of their non-competes. We have model language prepared for this notification that meets the requirements.
4. **Application to Contractors, Interns, and Volunteers:** The FTC's Final Rule applies to all “workers,” which the FTC defined broadly to include independent contractors, interns, volunteers, and sole proprietors.
5. **Exceptions for Senior Executives:** Non-competes for senior executives (workers earning more than \$151,164 annually in policy-making positions, particularly c-suite individuals) remain enforceable. However, new non-competes (those entered into on or after the effective date) for senior executives are prohibited and not legally enforceable.
6. **Exceptions for 501(c)(3) Entities:** The FTC stated in the Final Rule that valid, non-profit entities under 501(c)(3) typically do not fall within the jurisdiction of the FTC. Therefore, the Final Rule will not apply to these entities. However, the FTC implemented a strict interpretation to



interpretation to determine whether an entity is a valid, non-profit entity. For this reason, it is believed that many non-profit entities, including those in healthcare, may not apply.

7. Exceptions for the Sale of a Business: The FTC's Final Rule will not apply to non-competes entered into by a non-employee person pursuant to a bona fide sale of a business entity, the person's ownership interest in a business entity, or of all or substantially all of a business entity's operating assets. Therefore, the FTC's Final Rule on non-competes negotiated as part of the sale of a business will remain enforceable.

WHAT SHOULD EMPLOYERS DO NOW?

1. Employers should begin reviewing all agreements and policies relating to non-compete and other similar restrictions to ensure they comply with the FTC's Final Rule and other, applicable state law requirements. Many states are now issuing their own rules limiting the application of non-competes and non-solicitations. Therefore, we are advising that employers perform a complete review of all similar agreements/provisions.

2. Employers should contact their legal counsel to discuss enforceable alternatives to non-compete agreements to achieve some of the existing benefits of non-competes. Some of these agreements/provisions may include non-solicitation restrictions, confidentiality/trade secret governance, and additional terms of contracts to alleviate premature employee departure.

3. Employers should seek guidance from legal counsel before enforcing non-competes and similar restrictions. Although existing agreements remain enforceable until the effective date (120 days from publication), future enforcement will not be permitted without an exception applying. Employers will want to ensure compliance with the exceptions before seeking to enforce such agreements.

UPDATE REGARDING LEGAL ACTION

Following the issuance of the Final Rule, various entities filed different lawsuits seeking to delay or otherwise stop the implementation of the Final Rule for various legal reasons. Some of these cases included: (a) the US Chamber of Commerce and the Business Roundtable filed a lawsuit in the U.S. District Court for the Eastern District of Texas; (b) the business tax services firm Ryan filed similar litigation in the Northern District of Texas. We expect other cases to be filed over the next few weeks as well.

Currently, no court has issued an injunction on the implementation of the Final Rule. However, we expect that one or more courts will issue injunctions as the implementation date approaches. What remains to be seen is whether such courts will be permitted to issue "nationwide injunctions" or otherwise such stays on implementation will be only in the district issuing the decision.

We will update clients regarding the status of these cases as they continue to work through the courts.

As trusted legal advisors, BMD is here to provide personalized guidance tailored to your specific situations. Please do not hesitate to reach out if you have questions or need assistance with adapting to these regulatory changes. This update from the FTC underscores the importance of maintaining compliant employment practices while supporting a dynamic and competitive workforce. Together, we can navigate this transition effectively and ensure your business remains compliant.

To this end, BMD will also be scheduling webinars over the next few months as the implementation date approaches to address questions and concerns regarding this Final Rule. We will provide updates on these webinars as they approach.





STAY INFORMED WITH THE LATEST UPDATES FROM CHANGE HEALTHCARE

Change Healthcare continues to provide updates on its official website regarding the Cybersecurity breach experienced in February. As one of the nation's largest clearing houses servicing hospitals, nursing homes, healthcare facilities, pharmacies and providers, impacts have varied from a complete disruption of normal business for some and major inconveniences for others. They continue to provide frequent updates that include information for those concerned about their personal data being compromised, temporary financial support for impacted businesses, and information regarding the safe restoration of their services.

[Click here for the most up to date information.](#)

THE OSCA WILL BE TRANSITIONING TO A NEW PLATFORM TO BETTER SERVE OUR MEMBERS!

We wanted to make our members aware that we are in the process of transitioning to a new platform. We believe that this change will be more user friendly and will make our members' experience on the OSCA website more enjoyable. This change will impact all facets of OSCA's online presence including the website, member portal and online learning system.

What does this mean for you?

We believe that this platform will be more intuitive and user friendly, improving your overall experience while interacting with the OSCA online. At this time, we do not need you to take any action. However, once the platform is ready, we will notify you. It will be imperative at that time that each member use the step by step instructions to log on right away, update/complete their online profile, and ensure that all transferred data for your profile is complete. The transfer will be comprehensive, including things like your CE history.

For any office that has transitioned from one EMR to another, you know how large this project is. However, we are excited about the improvements that it will offer. **We expect the new system to be live July 1.** Stay tuned for updates!

**WE'RE
MOVING**

OSCA'S EXECUTIVE OFFICE WILL BE RELOCATING SOON

OSCA will remain in downtown Columbus, but effective June 3rd will be in a new location. OSCA will be located at 471 E. Broad St. Suite 1305, Columbus, Ohio 43215. If you mail any correspondence to our physical office, please update your records with this information. The move offers improved business amenities for the OSCA and its members, including the opportunity to offer meeting and CE space on site.



FUNCTIONAL MEDICINE

With functional medicine gaining popularity due to patients' increased demand for holistic care, chiropractors are beginning to ask questions about their ability to integrate functional medicine into their care and treatment of patients. Functional medicine is a patient-centered, science-based approach to healthcare that looks beyond symptom resolution to identify why illness occurs and address the root causes by treating the body as a whole to restore health. This article will analyze a chiropractor's scope of practice, address certification requirements for the practice of functional medicine, and illustrate different business models to implement functional medicine into a chiropractor's practice.



CHIROPRACTOR'S SCOPE OF PRACTICE IN OHIO

Deciding if a chiropractor can integrate functional medicine into their care and treatment of patients depends, in large part, on a chiropractor's scope of practice. In Ohio, a chiropractor may administer, sell, distribute, recommend, or provide advice regarding any of the following to restore or maintain the health of the chiropractor's patients: vitamins, minerals, phytonutrients, antioxidants, enzymes, glandular extracts, botanical substances, herbal therapies, homeopathic remedies, drugs that are available without a prescription, or durable and nondurable medical goods and devices other than home medical equipment, provided these products are prepackaged for use by consumers and labeled in accordance with state and federal law.¹ Ohio law makes clear that it is within a chiropractor's scope of practice to provide holistic care to their patients. To meet industry standards for the provision of functional medicine, a provider can attain special certification.

FUNCTIONAL MEDICINE CERTIFICATION

The Institute for Functional Medicine (IFM) provides a certification program for current licensed healthcare professionals to practice functional medicine, known as the Institute for Functional Medicine Certification Program (IFMCP).² To be eligible to become a certified functional medicine practitioner, an applicant must (1) hold at least a master's level degree in a health-related field from an accredited university and (2) hold an active permanent healthcare license to practice by the appropriate authority in the state, province, or country of the applicant's clinical practice.³ Commonly eligible degrees include Doctor of Chiropractic.⁴

Upon acceptance into the Institute of Functional Medicine (IFM), a candidate will complete the overview course, "Applying Functional Medicine in Clinical Practice," and six training modules focusing on the following topics: Gastrointestinal, Environmental Health, Immune, Hormone, Cardiometabolic, and Bioenergetics.⁵ Once the coursework is completed, a case report must be submitted and must receive a passing score.⁶ Additionally, candidates must successfully pass the IFMCP written examination.⁷ A candidate must complete the coursework, and pass the case report and written examination, within four years from their approved application to become a IFM-certified practitioner.⁸ To maintain IFM certification, practitioners must be a current IFM Member and hold an active healthcare license.⁹ To renew IFM Certification, practitioners must pass a written examination every tenth year and provide a copy of their current healthcare license.¹⁰

While functional medicine is not a standalone specialty clinical practice, functional medicine is reliant on standard medical education and licensure to be able to see and treat patients.¹¹ The IFMCP credential does not grant or expand any additional legal or specialty status. Rather, IFM-certified practitioners must incorporate functional medicine into their existing licensure.¹²

Chiropractors who obtain IFM certification make provide functional medicine services to their patients directly, or they may enter into a business relationship or partnership with a provider of functional medicine services. Ohio regulations make clear that a chiropractor may not share or split fees with another provider.¹³

¹ORC 4734.15(2)(a)-(b).

²The Institute for Functional Medicine, IFM's Functional Medicine Certification Program, at <https://www.ifm.org/certification-membership/certification-program/>.

³The Institute for Functional Medicine, IFMCP Eligibility Requirements, at <https://www.ifm.org/certification-membership/certification-program/eligibility/>.

⁴The Institute for Functional Medicine, IFMCP Eligibility Requirements.

⁵The Institute for Functional Medicine, IFMCP Certification Process & Requirements: Preparing Candidates To Be the Global Leaders in Functional Medicine, at <https://www.ifm.org/certification-membership/certification-program/certification-process-and-requirements/>.

⁶The Institute for Functional Medicine, IFMCP Certification Process & Requirements: Preparing Candidates To Be the Global Leaders in Functional Medicine.

⁷The Institute for Functional Medicine, IFMCP Certification Process & Requirements: Preparing Candidates To Be the Global Leaders in Functional Medicine.

⁸The Institute for Functional Medicine, IFMCP Certification Process & Requirements: Preparing Candidates To Be the Global Leaders in Functional Medicine.

⁹The Institute for Functional Medicine, IFMCP Certification Process & Requirements: Preparing Candidates To Be the Global Leaders in Functional Medicine.

¹⁰The Institute for Functional Medicine, IFMCP Certification Process & Requirements: Preparing Candidates To Be the Global Leaders in Functional Medicine.

¹¹The Institute for Functional Medicine, Case-Report-And-Written-Examination, at <https://www.ifm.org/faq/category/ifm-certification/>.

¹²The Institute for Functional Medicine, Case-Report-And-Written-Examination.

¹³OAC 4734-9-09.



STRATEGIC PLANNING RETREAT COMPLETED BY OSCA BOARD OF DIRECTORS

Thank you to the hundreds of members and non-members that completed the OSCA survey and shared your feedback . This information was utilized by the board during the April planning retreat. The retreat, led for the second time by John Ramstead, was a brainstorming, workshoping, and collaborative session focused on the challenges and opportunities faced by the Chiropractic profession in Ohio.

The weekend resulted in reinforcing the primary objectives of the current plan and identifying one year goals, strategies and action steps that will be worked by OSCA committees, board and staff throughout the year. The primary objectives of the plan continue to include Advocacy (Legislative, Third Party Payor, and Regulatory), Membership and Communication. Unlike strategic plans

of the past, the OSCA shifted to a dynamic document in 2022 that is updated quarterly. The strategic plan largely leads the efforts of the association and will be worked by committees, board members and staff throughout the year. Stay tuned for updates on the website.

THANK YOU TO OUR OUTING SPONSORS



Dr. Michael and Ericka Cafaro.
OSCA President

OSCA - District 2





OSCA'S CHIROPRACTIC KEEPS ME MOVING 5K RUN/WALK RETURNS FOR ITS 4TH YEAR!

How will you be participating?

Some districts have already planned a district-wide event! If you don't see yours below, talk with your district director about planning a local event? Or feel free to join a neighboring district or host the event for your office and patients.

The OSCA Chiropractic Keeps Me Moving 5k Run or Walk is a great way to encourage healthy activity for your patients, connect with your community and highlight the positive role that chiropractic plays in a healthy lifestyle.

The OSCA has created a turnkey toolkit. Once you select your date and location, just let us know and we will provide a customized flyer for your event date and location, as well as a direct link to registration. The toolkit also includes a social media graphic and press release to help promote the event in your community.

Each registration includes the 5k entry and a customized t-shirt to promote chiropractic! There are so many ways to participate, as an individual, small group, office, or district - commit to one today - you won't be sorry you did!

District events already on the calendar:

JUNE 8 - DISTRICT 4, CANFIELD FAIRGROUNDS, CANFIELD, OHIO 9AM

SEPTEMBER 7 - DISTRICT 12, SAVE THE DATE, MORE DETAILS TBA

Don't see your event on the calendar? Let us know your details - we'll customize your promotional materials and add it to the calendar.

All participants will register themselves via the website, regardless of how they choose to participate. To learn more about the event or to register, click here:



Now is a great time to share with your local art teachers and school administrators about OSCA's poster contest. Although entries are accepted in September, sharing the information with them now allows for planning ahead when school resumes in August to ensure the greatest participation.

Take a look at our Toolkit which includes a letter to teachers/administrators that can be used now, a flier with event details, and a press release that can be used in the fall to promote the event in your community.





UPCOMING 2024 OSCA EVENTS

MAY 29 OHIO CA CERTIFICATION PROGRAM - LEVEL 3

JUN 8 District 4 - 2024 OSCA Chiropractic Keeps Me Moving 5k

AUG 9 100 Hour Block Acupuncture Course Traditional Theory & Practical Procedures- 2024

SEPT 7 District 12 - 2024 OSCA Chiropractic Keeps Me Moving 5k

OCT 4-6 OSCA Annual Convention

[CLICK HERE TO VIEW ALL UPCOMING EVENTS!](#)



LUNCH & LEARN

WEDNESDAYS AT 1PM

JUNE 5, 2024
First Responder Skills
presented by Dr. Karen Konarski- Hart sponsored by NCMIC

AUGUST 7, 2024
Functional Medicine
presented by Dr. Georgia Nab sponsored by NCMIC

SEPTEMBER 4, 2024
PATIENT COMMUNICATION:
DURING THE DOCTOR-PATIENT
ENCOUNTER
presented by Dr. Thomas Ventimiglia. Sponsored by NCMIC

NOVEMBER 6, 2024
PREGNANCY AND FAMILY
CHIROPRACTIC
presented by Dr. Alan Smith. Sponsored by Foot Levelers

DECEMBER 4, 2024
SLEEP, COGNITION &
INTELLIGENCE
presented by Dr. Anish Bajaj. Sponsored by Foot Levelers



ACUPUNCTURE CLASSES STARTING SOON!

Exciting news from the Ohio State Chiropractic Association as they gear up to resume their diverse skill-level classes in acupuncture. The program promises a wealth of learning opportunities for practitioners at various stages of expertise. From beginners seeking foundational knowledge to seasoned professionals aiming to refine their techniques, these classes cater to all. Participants can anticipate immersive sessions delving into acupuncture's intricacies, blending theory with hands-on practice under expert guidance. This program not only fosters skill enhancement but also fosters a vibrant community of practitioners, exchanging insights and experiences.

**AUG
9**

Weekend 1 ONLY Acupuncture 100:
Introduction to Acupuncture
2024

**SEPT
13**

Weekend 2 ONLY Acupuncture 100:
MSK & Electro-acup, Meridians
II, & 8 Extraordinary Meridia
2024

**OCT
25**

Weekend 3 ONLY Acup 100:
Auriculotherapy, Intro to
Tongue, Face & Pulse DX, & Int.
Disorders 2024

**DEC
6**

Weekend 4 ONLY Acupuncture 100:
Comprehensive Review, Gua
Sha, Moxa & Cupping, Final
Exam 2024



Annual Convention

Join us this year as we welcome
our keynote speaker from New
Zealand, Dr. Heidi Haavik!

When

October 4-6, 2024

Where

Hilton Columbus | Polaris 8700
Lyra Drive Columbus, Ohio 43240

For more information, visit
ohiochirocon.org!