

## 2009-11 Biennium Recap

The two-year budget and legislative cycle ending June 30, 2011, saw significant changes for the Oregon Board of Optometry. Here's a brief recap:

### Faces:

New to the Board in this last year are members Jessica Lynch, OD, and Rose Thrush, JD. The Board's long-time Executive Director David Plunkett fully retired in September 2010, after more than 17 years of service. David's successor, Kelly Paige, left the Board in August. She is succeeded by Executive Director Nancy Sellers.

### Budget:

The Board's budget cycle finished with additional funds going into reserves. Revenues from all sources totaled \$647,112, against expenses of \$591,271, for a net revenue of \$55,840.

### New Business Entity Rules:

The Board adopted a new rule (OAR 852-020-0045) governing requirements for business entity organization. (Note: This is in addition to all other State of Oregon provisions governing professional corporations, LLCs and partnerships.)

In essence, the rule requires that a majority of the principals in an optometry practice must be Oregon-licensed optometrists. All officers must be doctors of optometry, except for the secretary and treasurer positions, if any.

If you have a multidisciplinary practice with two or more health-related licensed professionals, rules require that the majority ownership must be held by persons licensed in Oregon.

Business entities organized before the effective date of the rule have until January 1, 2012 to comply. Failure to comply with this rule may subject a license holder or owner to discipline pursuant to ORS 683.140. If you have questions, please go to the OBO website or call the Board's office.

### OBO Mailing Address

The Board's office was able to get delivery to its street address, so please send all correspondence to:

Oregon Board of Optometry  
1900 Hines Street, SE, Suite 290  
Salem, Oregon 97302 ■

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## We Need Your E-Mail Address!

*Future newsletters will come to you by e-mail and by posting on the Board's website.*

Please e-mail the Board at: board@oregonobo.org from your preferred address and include your name and license number in the subject line. We will add you to our distribution list, and subscribe you to the newsletter and updates.

## President's Message: Records Release Requirements

by Robert Mans, OD

We often get questions (and sometimes complaints) about the release of optometric prescriptions and patient records.

Oregon Revised Statute (ORS) 683.190(3) requires the release of a prescription for correcting refractive errors, if any, immediately upon completion of the visual examinations necessary to reach the prescription. Oregon Administrative Rule (OAR) 852-020-0031(5)(c) further defines the requirements for prescription release in accordance with Federal Trade Commission rules. Basically, it means that a doctor of optometry may not require a patient to sign a waiver in order to have their prescription released directly to them as the patient or to their legal guardian or legal representative. This specifically applies to the time the examination is completed and the prescription is confirmed by the doctor.

You also must provide the prescription to the patient again at a future date, if requested. The complaints we receive are often related to a failure by the physician to release the prescription to the patient.

We also get many questions about providing records to other doctors of optometry. Federal HIPAA regulations and Oregon law requires medical providers to protect patient information, and governs how that information can be released to a third party. Both clearly require that releases must be in writing and signed by the patient. ORS 192.519(5)(h) specifically lists the record release requirement as applying to optometrists. ORS 192.522 provides a sample authorization to release records. Nothing in the Oregon Board of Optometry's Administrative Rules changes this requirement.

Under OAR 852-010-0051(4), a doctor of optometry can release the prescription and medical records directly to the patient without a signed release, but may not convey them to a third party – even upon the verbal request of the patient – without a release. Although many optometrists respond much more quickly, the doctor does have up to 30 days to forward the requested information, and may estab-

lish a reasonable charge for copies of the records.

***An important exception to the signed release requirement is that the Oregon Board of Optometry, as the regulatory body for the profession, may request and require patient's records for its use without a signed release.*** If the Board requests patient records, you must provide them to us within the timeline given in the request. Failure to do so may result in significant sanctions.

I hope this helps you to understand your responsibilities in this important area. You can read the complete text of the Board's records rule on the next page. If you still have questions, please feel free to contact the Board's office. ■

### *Note:*

The Oregon Board of Optometry does not provide legal advice. Consult your own legal counsel for interpretations of Oregon law applicable to any given situation.

**Q.** I have a patient who has not paid her bill, despite repeated attempts to collect. Now she is requesting that her patient records be sent to a new optometrist. Can I make her pay her bill before I send them?

**A.** Despite your legitimate business dispute with this patient, you must release her records if you have received a request directly from her, or from someone who provides a signed release from her. You may not require her to pay her arrears account before the release. However, doctors of optometry may establish a reasonable charge to the patient for copies of their patient records and may establish a reasonable charge to the patient for faxing prescriptions by long distance or for any unusual mailing or handling costs.

*By the Rules...*

## Patient Records Rule

### **OAR 852-010-0051 - Records**

(1) Doctors of optometry shall keep complete and accurate records for each patient, including, but not limited to, case histories, examinations, diagnostic and therapeutic services, prescriptions, instructions for home therapies, referral recommendations and any other information required to make the record complete. Patient records shall be sufficiently detailed and legible so that an appropriate provider could continue care without detriment to the patient. It shall be considered unprofessional conduct to keep incomplete or inaccurate records for a patient.

(2) A patient's records shall be kept by the doctor of optometry for a minimum of seven years from the date of the last office visit or pertinent clinical notation on the record. If a patient is a minor, the records shall be kept seven years or until the patient is 21 years of age, whichever is longer.

(3) When changing practice locations, closing a practice or retiring, a doctor of optometry must retain patient records for the required amount of time or transfer the care of patient records to a doctor of optometry licensed and practicing optometry in Oregon. Transfer of patient records pursuant to this section of this rule shall be reported to the Board in writing immediately upon transfer, but not later than the effective date of the change in practice location, closure of the practice or retirement. It shall be considered unprofessional conduct for a doctor of optometry not to retain patient records or fail to transfer the care of patient records as required in this rule.

(4) Doctors of optometry shall provide copies of records or detailed summaries of records to patients, or persons designated by patients, upon the appropriate written and signed request of the patient. Requested records shall be forwarded within 30 days of the request.

(a) Optometric records do not include personal office notes of the doctor of optometry or personal communications between referring or consulting physicians.

(b) Doctors of optometry shall preserve a patient's records from unauthorized disclosure and shall release them only upon the written and signed request of the patient or the patient's legal guardian.

(c) Doctors of optometry may establish a reasonable charge to the patient for copies of his/her patient records.

(d) Doctors of optometry must release copies of patient prescriptions without additional charges. Doctors of optometry may establish a reasonable charge to the patient for faxing prescriptions by long distance phone services, or for any unusual mailing or handling costs.



## Executive Director's Update

*from Nancy Sellers*

Greetings! My first update to you finds me nearly four months into my role as your Executive Director at the Oregon Board of Optometry. It has been a fascinating time, learning the details of the profession of optometry, the history of the Board and the workings of the agency.

I was quickly impressed by the professionalism and expertise of the Board's staff, Cathy Boudreau and Debbie Hendricks. These two work diligently to keep everything relating to your licensing, renewals, and continuing education moving quickly and efficiently. I also have been singularly impressed by the high level of customer service they provide. Questions get answered quickly and accurately, usually on the spot.

I've had the pleasure of talking with some of you on the phone. Thank you for your patience as I learned the answers to appropriately respond to your questions. I still get stumped every once in a while, but it's getting better.

My background is more than 20 years in management and executive service for the State of Oregon. I worked for six years at the state's largest regulatory agency, the Department of Consumer and Business Services. I then spent 12 years in public and legislative affairs for the Oregon Department of Corrections before becoming the executive director for the Oregon Board of Parole and Post-Prison Supervision. During the last legislative session, I worked as senior policy analyst for the Oregon Health Licensing Agency, before joining OBO at the end of August.

My goals are to continue the excellent customer service and fair and equitable regulatory functions of the Board.

Working with President Robert Mans, OD, and the rest of the Board, we will provide you with timely information to help you in your work. We also will produce information to help your patients better understand the role of the Board in protecting public safety and health through fair, consistent regulation of the profession.

Over the next year, you can expect the Board's website to include new functionality, including online subscriptions to e-mail updates, newsletters and notices. You will find more information, organized for ease of use by both doctors of optometry and consumers. We also will post audio files of Board meeting public sessions, so you can listen to the work of the Board at your convenience (remember, you are always welcome to attend Board meetings in person).

To better protect public safety, by the first of the year, the Board will conduct criminal background checks on all active licensee applicants and renewals using the Law Enforcement Data System (LEDS) through Oregon State Police (See "Background Checks to Begin," Page 8).

Preparing for the 2013 legislative session, the Board is discussing potential legislative concepts, including requesting authority for the Board to assign executors in cases where an optometrist has abandoned patient records. A recent case involved the landlord of a rented office space having unrestricted access to abandoned

patient files. This change would allow the Board to ensure patient record security and confidentiality until the records are permanently transferred to a new owner.

Looking at administrative rule development, there is growing interest in clarifying the working relationships between doctors of optometry and the dispensing optical companies that sometimes co-locate in either a space lease or other contractual or employer relationship.

Rulemaking on these issues will be complex, and likely will elicit much input from doctors, consumers and optical companies.

As it begins the task sometime in 2012, the Board will appoint an Administrative Rules Advisory Committee to work through the policy issues and make recommendations to the full Board. While membership on the committee will be limited, we will call upon invited subject matter experts, and the meetings will be open to the public.

If you are interested in being involved, please contact me by e-mail at [nancy.sellers@oregonobo.org](mailto:nancy.sellers@oregonobo.org) or by phone at (503) 399-0662, ext. 23.

I look forward to working with you on these and other projects. If you have ideas for how the Board can better protect public safety and health, or for how we may improve our services to you as a licensee, please let me know. ■

# Non-Topical Formulary, Prescribing & Scope of Practice

By Vice President Donald Garris, OD

Oregon optometrists are required to be certified in order to use, administer and prescribe the nontopical pharmaceutical formulary. The formulary is categorical rather than itemized in order to avoid the frequent changes that would be necessary as new pharmaceutical agents are developed. The categories are broad in the sense that some of the agents may have many applications.

While these applications may be appropriate for the pharmaceutical agent, the prescribing of the agent may not be within the scope of practice for an optometrist simply because it falls within an approved category.

Use the following questions to help determine if a procedure — whether clinical, writing of a prescription, or any other practice — falls within the scope of optometry:

1. Does this procedure involve the eye or the scope of functions of the eye?
2. Can this procedure be done:
  - without invasive surgery?
  - without laser surgery?
  - without closure by suture?
  - either without pharmaceutical agents or with pharmaceutical agents categorized in Division 80?
  - without sub-Tenon, retrobulbar, intraocular or botulinum toxin injection?
  - without conscious sedation, deep sedation or general anesthesia?

If the answer to all of these questions is “Yes,” then the procedure is within the optometric scope of practice.

Know that prescriptions may not be written for conditions that do not yet exist. You should refer patients to their primary care physician for treatment of any condition that doesn’t directly involve the eye or function of the eye.

Please note that any prescription for pharmaceutical agents must result from a bona fide physician/patient relationship that is documented pursuant to OAR 852-010-0051, and must be written in accordance with the rules of the Board of Pharmacy, including the requirement that the prescription bear the original signature of the prescribing physician. ■

*All optometrists in Oregon are required to be certified in order to use the non-topical formulary.*

## Prescribing Latisse to Patients

The use of Latisse for hypotrichosis of eyelashes (a condition of abnormal loss or reduction of hair) was approved by the FDA in 2008. Latisse also was deemed as being within the optometric scope of practice by the Board at its March 13, 2009, meeting as being a pharmaceutical agent on the topical formulary for Oregon optometric physicians.

Latisse can be prescribed by optometric physicians and can be sold to their patients providing all of the labeling and dispensing requirements have been met.

Remember, however, that prescription drugs cannot be dispensed by an optometrist to anyone other than a patient with whom he or she has a bona fide physician/patient relationship. ■

### Short Takes...

## Delegation

The Board allows the delegation of some clinical procedures to well-trained employees of an optometric physician who are directly supervised by the doctor.

The rule regarding delegation, supervision and physician responsibility is OAR 852-020-0060.

There are some procedures that may **not** be delegated, including ophthalmoscopy, gonioscopy, final central nervous system assessment, final biomicroscopy, final refraction, and the final determination of any prescription or treatment plans. ■

# Oregon’s Prescription Drug Monitoring Program

By Legislation Chairperson Jeff Pelson, OD

According to the Oregon Health Authority, more than 1,300 Oregonians died from prescription drug poisonings between 1999 and 2008. The 2009 Legislature required a program be developed for monitoring and reporting prescription drugs dispensed by pharmacies in Oregon that are classified in Scheduled II through IV under the Federal Controlled Substance Act.

On September 1, 2011, The Oregon Prescription Drug Monitoring Program (PDMP) system went online. The program, run by the Oregon Health Authority, grants PDMP system accounts to Oregon-licensed healthcare providers and pharmacists so they may look up controlled substance information on their own patients over a secure site on the Internet.

PDMP is used to address prescription drug abuse, addiction and di-

version. It can serve several purposes, including:

- Supporting access to legitimate medical use of controlled substances;
- Identifying and preventing drug abuse;
- Facilitating and encouraging intervention and treatment of persons addicted to prescription drugs; and
- Informing public health initiatives by identifying use and abuse trends.

All actively licensed optometrists in Oregon have been paying into the PDMP system since 2010; this is the \$25 “EPMP” fee added to each renewal. However, to use the system, you must apply to PDMP for a user account to access information from the system.

The PPMP is accessible to practitioners and pharmacies 24 hours a day, seven days a week. Pharmacies are required to electronically report to the PDMP information on each prescription prescribed by a practitioner. As a licensed optometric physician you will have access to the system for your use in providing eye care to your patients.

PDMP has outreach specialists available to promote use of the system. They are available by phone and also are willing to speak to groups. You can reach them by e-mail to [pdmp.health@state.or.us](mailto:pdmp.health@state.or.us) or call 971-673-0741.

For more information online and to request an account, go online to: [www.orpdmp.com/health-care-provider](http://www.orpdmp.com/health-care-provider). ■

## When to Get a Second-Location License

Optometrists must acquire and display a certificate of licensure at each place of practice, whether the practice is temporary or permanent. Additional location certificates are \$45 per location per year.

If you work more than one additional location, an unlimited multiple office certificate is available for \$90 per year. You still must register with the Board for each

location at which it will be used before beginning work there, and you take and display the original certificate wherever you work. Copies of the certificate may not be used in lieu of the original.

You must report to the Board before you start practicing in a new location. Also, as soon as you finish working at that location, you must report immediately, including

details of the custody arrangements you have made for all of the patient records generated in that location.

Remember, patient records must remain in the custody of an Oregon licensed optometric physician, in accordance with OAR 852-010-0051. Please call the office of the Board with any questions. ■

## Moving Out of State? OK, But Your Records Stay Here

By Rules Chairperson Rose Thrush, JD

**Q.** I may move to another state soon. What is required of me if I leave the state regarding patient records? If I plan on retaining my Oregon license, will I still be able to retain custody of my current patient records? The majority of my records are electronic.

**A.** We understand that you would like to retain custody of your patient records after the move. However, that will not be possible.

Oregon law and Board rules require that the records remain in Oregon

with a licensed doctor of optometry. While a doctor may be able to maintain patient access from out of state, the Board has no subpoena authority outside of Oregon.

This means that those records would become inaccessible to the Board in investigative matters, and unavailable to patients if the doctor does not respond to records requests.

Upon your relocation, you will need to ensure that your patient records are transferred to a licensed Oregon op-

tometrists, and that they are in a format that is readily accessible and readable.

If your electronic records are in a proprietary format, it is your responsibility to ensure that the receiving doctor has the appropriate software and access for the entire record retention period. Another option is to convert your electronic records to a format that is certified for meaningful use, such as .pdf files or paper copies, before transferring the records to the new owner. ■

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## Not All COPE Categories are Approved for Oregon CE

By CE Chairperson Jessica Lynch, OD

One of my duties as a member of the Board is to review and approve continuing education courses. It is important to know that not all COPE categories are approved for CE credit in Oregon.

The Board accepts a COPE review and approval of continuing optometric education for courses categorized as “clinical.” The question is, how do you know whether a COPE course falls into a clinical category?

Each COPE-approved course is assigned a number, followed by a two-letter extension that shows the category to which that course has been assigned.

It is important to know that there are two categories that are **not** considered clinical: PM (practice management) and EJ (ethics/jurisprudence).

The Board does not give credit for any practice management courses, as they are related to your business activities and not related to the safety and health of patients. Most courses categorized as ethics/jurisprudence also are not approved for CE credit.

When choosing a course to complete the biannual Optometric Ethics/Oregon Optometry Law requirement, don’t rely on a class from the COPE EJ category. The Board must review and approve each course for the purpose of satisfying this requirement.

All of the remaining COPE categories are considered clinical. However, some courses are considered “general optometry” and count for continuing optometric education (COE) credit, but not as treatment and management of ocular disease (TMOD) credit.

They are: GO (general optometry); CL (contact lens); FV (functional vision); PV (pediatric vision); and LV (low vision).

All of the remaining COPE categories are accepted for CE credit **and** will satisfy the nine-hour TMOD requisite portion of the annual 18 hours required for active status license renewal.

**Note:** The required CPR certification courses aren’t eligible for CE credit.

Remember, if you have extra qualifying CE credits, they can be carried over to next year’s renewal.

If you still have questions about whether a course is approved, please contact the office of the Board. The staff will make sure your questions are answered! ■

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## Criminal Background Checks to Begin for 2012

By the first of the year, the Board expects to begin criminal background checks on all new license applicants and active renewals through the Oregon State Police Law Enforcement Data System. In some circumstances, fingerprints for national criminal data collection may be required.

Because this is an area of growing importance in the public safety responsibilities of health-related licensing boards, we will be asking two new questions for renewals over the next year:

“Have you ever been arrested for or convicted of a misdemeanor or felony that you have not previously reported to the Oregon Board of Optometry?”

“Are you now, or have you ever been, the subject of any active or inactive disciplinary action or voluntary resignation of a certificate, license, permit or registration imposed by any licensing or regulatory authority in this or any other state? (Disciplinary action includes, but is not limited to, probation, suspension, civil penalty, or any other sanction limiting, in any way, a license, certificate, registration or permit.)”

If the answer to either question is “Yes,” the Executive Director of the Board will contact you directly for more information, which will be kept in a separate investiga-

tion file. As with any investigation, that file is confidential until and unless a final order is made that discloses the details of the Board’s action.

Please take these questions seriously. Past failure to disclose – whether accidental or intentional – would be compounded by making a false statement to the Board today.

In making any fitness determination, the Board considers the nature of the crime, the facts that support the conviction or pending indictment or that indicate the making of the false statement; the relevancy, if any, of the crime or the false statement to the specific requirements of the applicant’s or licensee’s present or proposed license; and intervening circumstances relevant to the responsibilities and circumstances of the license.

Intervening circumstances may include the amount of time since the commission of the crime, the age of the person when the crime was committed, the likelihood of a repetition of offenses or of the commission of another crime, the subsequent commission of another relevant crime, and whether the conviction was set aside and the legal effect of setting aside the conviction.

If you have questions, please contact Board Executive Director Nancy Sellers at (503) 399-0662, ext. 23. ■

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## Keep Your CPR Certification Current

All active status licensees must keep their BLS Healthcare Provider or equivalent CPR certifications current. This is an important requirement in protecting the safety and health of your patients.

For example, “Basic Life Support for Healthcare Providers” offered by the American Heart Association is a classroom-based course where healthcare professionals learn to recognize several life-threatening emergencies, provide CPR to victims of all ages, use and AED, and relieve choking in a safe, timely and effective manner.

Busy healthcare professionals who need a flexible training option can choose to take the first part of the course online, and then meet with an AHA instructor for the hands-on practice and testing portion.

Certifications are good for two years; remember that you don’t have to wait ... you can retake the class well in advance of your current card’s expiration date.

When you renew, Board staff will verify whether your CPR certification has remained current during the entire previous renewal period. If it has lapsed (even for one day) you’ll be charged a \$50 fee. ■

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## First-Time Licenses and Birth Date Renewals

The Board tied renewals to the birth month of licensees in January 1999. Birth month renewals are recommended by the Oregon Legislature to even out revenues for licensing boards across the biennium, and they make workloads more predictable. This means your annual renewal must be postmarked to the Board by the first day of the month in which you were born, and your license expires at the end of that month.

We get questions regarding initial licensure, and how that first renewal works if the applicant’s birth month is less than a year from the date the applicant obtained their Oregon license.

The initial application fee for examination and licensure is \$200. The initial application fee for endorsement examination and licensure is \$300.

These application fees cover the review and verification of application materials, establishing records, conducting background checks, and Board review. There is no “licensing fee” for that first license, and there is no prorating of the application fees.

Your initial licensure is good until your next birth month. This means that first-time licensees get a break on up-front costs. However, the value that an individual receives depends on how long it is between the initial licensure and his or her next birthday.

For example, if you were born in June and are initially licensed in July, you get nearly a year of licensure without paying for renewal. However, if you were born in August and are initially licensed in July, your first renewal is less than a month away. ■

| <b>Board Activities Report - November 2011</b> |              |
|--|--------------|
| Active Licensees                               | 743          |
| - Active ATI                                   | 563          |
| - Active AT                                    | 180          |
| Inactive/Military Licensees                    | 485          |
| - Inactive/Military ATI                        | 60           |
| - Inactive/Military AT                         | 40           |
| - Inactive/Military T                          | 231          |
| - Inactive/Military DPA (only)                 | 135          |
| - Inactive/Military No DPA                     | 19           |
| <b>Total Licensees</b>                         | <b>1,228</b> |
| FY 2011-12 Applications for License Received   | 15           |
| FY 2011-12 New Licenses Issued by Examination  | 24           |
| FY 2011-12 Reactivations/Reinstatements        | 6            |
| FY 2011-12 AT Certifications                   | 2            |
| FY 2011-12 ATI Certifications                  | 2            |
| FY 2011-12 Lapsed Licenses                     | 13           |
| FY 2011-12 Voluntary Terminations              | 5            |

### *Parting Glance:*

## **Don't Wait to Renew!**

While the notation on your license renewal says it must be postmarked by the first day of your birth month, there is a good reason to renew earlier:

Board staff review each renewal to ensure it meets the requirements for continuing education hours, current CPR certificate, answers to the questions about criminal history, and to ensure your check is for the proper amount. If there is any problem, OBO staff will work to resolve it with you by phone, fax, e-mail or US mail.

The board sends renewals out approximately six weeks before they are due. By getting your renewal in early, you can ensure that all your materials are received and approved before your renewal date, and avoid a late fee. ■

## OBO Disciplinary Actions

*From July 1, 2008 through November 4, 2011, the Board reviewed a total of 212 complaint cases. In that period of time, the Board resolved and closed 91 cases, of which 15 resulted in discipline, as follows:*

**Lena Barghouti-Afranji, OD – 12/22/2008: Stipulated Final Order** ■ Reprimand for employing an unlicensed person in the practice of optometry in violation of ORS 683.140(1)(e).

**William Dunn, Jr, OD – 7/12/2010: Final Order on Default** ■ Reprimand. Civil Penalty \$1,000 (\$500 for prescribing medication not on the non-topical formulary and \$500 for exceeding the scope of optometry by prescribing the medication) pursuant to ORS 683.140(1)(c), ORS 683.010(3), OAR 852-080-0025, and OAR 852-080-0030.

**Kenneth Garchow – 6/05/2009: Final Order of Discipline** ■ Practicing optometry without a valid license as an optometrist pursuant to ORS 683.180(7). Advertising or representing to be an optometrist without a valid license pursuant to ORS 683.180(8). Civil penalties assessed \$4,000 and hearing costs of \$2,914.99 pursuant to ORS 683.140(2)(e).

**Wayne Gerig, OD - 7/14/2008: Stipulated Final Order** ■ Reprimand for employing an unlicensed person in the practice of optometry in violation of ORS 683.140(1)(e).

**Jeremy Graziano, OD – 6/5/2009: Final Order on Default** ■ Reprimand to Licensee's license and assessed licensee a \$7,500 civil penalty for violations of ORS 683.020 (no person shall engage in the practice of optometry or purport in any way to be an optometrist without having first obtained a license from the Oregon Board of Optometry), ORS 683.140(1)(p) (any violation of the provisions of ORS 683.010 to 683.335), ORS 683.180(7) (practicing optometry in this state without having at the time of so doing a valid, unrevoked license as an optometrist) and OAR 852-60-025(2)(b) (practicing optometry without a license).

**Gen X Clothing #80 – 2/13/2010: Stipulated Final Order, Civil Penalty** ■ Cease and desist sales of contact lens without a valid prescription pursuant to ORS 683.180(9); \$5,000 civil penalty.

**Hub Optix - 6/5/2009: Final Order of Discipline** ■ Employing an unlicensed optometrist to perform work covered by ORS 683.010 to 683.335, in violation of ORS 683.140(1)(e). Aiding an unlicensed person in the practice of optometry in violation of OAR 852-060-0027(3). Civil penalty \$10,000 and hearing costs of \$1,774.59 pursuant to ORS 683.140(2)(e).

**Anna Moran, OD -11/18/2008: Stipulated Final Order** ■ Reprimand for employing an unlicensed person in the practice of optometry in violation of ORS 683.140(1)(e).

**Omar Noles, Jr, OD – 6/5/2009: Final Order of Discipline** ■ Employed unlicensed optometrist to perform work covered by ORS 683.010 to 683.335, in violation of ORS 683.140(1)(e). Engaged in unprofessional conduct, gross ignorance, or inefficiency in the profession, in violation of ORS 683.140(1)(c). Permitted another person to use license, in violation of ORS 683.140(1)(h). Engaged in unprofessional conduct in aiding unlicensed person in the practice of optometry, in violation of OAR 852-060-0027(3). Reprimand and Civil Penalty of \$5,000 and hearing costs of \$3,444.61 pursuant to ORS 683.140(2)(e).

**Marie Pearson, OD – 12/17/2008: Stipulated Final Order** ■ Reprimand for employing an unlicensed person in the practice of optometry in violation of ORS 683.140(1)(e). Assessed hearing costs of \$1,000 pursuant to ORS 683.140(2)(e).

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# OBO Disciplinary Actions, continued...

**Richard Roth, OD – 8/26/11: Final Order of Discipline (five cases)** ■ Immediate revocation of license for the following acts and conduct:

- ORS 683.140(1)(c) - Unprofessional conduct or for gross ignorance or inefficiency in the profession;
- ORS 683.140(1) (p) - Violation of the provisions of ORS 683.010 to 683.335;
- OAR 852-010-0051(1) and 852-060-0027(19) - Failure to keep complete and accurate records for each patient;
- OAR 852-010-0051(2) - Failure to keep all patient records for a minimum of seven years from the date of the last office visit;
- OAR 852-060-0027(1) - Fraud, misrepresentation or dishonesty;
- OAR 852-060-0027(10) - Willfully deceiving or attempting to deceive the Board, or an employee of the Board in reference to any matter under investigation by the Board;
- OAR 852-060-027(11) - Failure to respond in writing to the Board request for information as required;
- OAR 852-060-027 (20) - Failing to retain or make appropriate transfer of the care of patient records;
- OAR 852-050-018(1) - Failure to notify the Board in writing of the practice location;
- OAR 852-050-018 (2) - Failure to notify the Board in writing of the change in the Licensee’s official address;
- OAR 852-010-051(3) - Failure to retain records or transfer them to a practicing optometrist when closing a practice or changing practice locations;
- OAR 852-010-051 (4) - Failure to provide copies of records to a patient when requested; and
- OAR 852-050-016(1) failure to notify the Board in writing of the termination of a practice location.

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## About the Board...

The Oregon Board of Optometry (OBO) is a semi-independent state agency that licenses more than 1,200 doctors of optometry. The Board was established by the Oregon Legislature in 1905. It is composed of four doctors of optometry licensed to practice in Oregon and one public member representing consumers.

OBO regulates the practice of optometry in Oregon to ensure the health and safety of its citizens through setting standards for the examination of candidates, licensure, certification standards, continuing optometric education, and enforcement of the laws and rules governing optometry.

The Board is active in ensuring that Oregon’s laws and administrative rules reflect the current and highest standard of care practice standards. OBO’s budget is supported by licensing fees and any civil penalties levied for violations of optometric laws and rules, and receives no General Fund taxpayer dollars. ■

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# Oregon Board of Optometry

1900 Hines St. SE, Suite 290

Salem, OR 97302



## Oregon Board of Optometry



The mission of the Oregon Board of Optometry is to protect the people of the state of Oregon from the dangers of unqualified and improper practice of optometry.

[www.oregonobo.org](http://www.oregonobo.org)

### Members:

**Robert A. Mans, OD**, President, Personnel Chair (Florence)

**Donald R. Garris, OD**, Vice-President, Budget Chair (Portland)

**Jeffrey S. Pelson, OD**, Legislative Chair (Grants Pass)

**Jessica Lynch, OD**, Continuing Education Chair (Forest Grove)

**Rose L. Thrush, JD**, Administrative Rules Chair (Portland)

### Staff:

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