

**OREGON REVISED STATUTES - CHAPTER 683 & 676  
OREGON ADMINISTRATIVE RULES - CHAPTER 852**



**Laws and Rules in effect as of November 2020**

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**OREGON REVISED STATUTES  
OCCUPATIONS AND PROFESSIONS**

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## Chapter 683 — Optometrists; Opticians

### 2019 EDITION

#### OPTOMETRISTS; OPTICIANS OCCUPATIONS AND PROFESSIONS OPTOMETRISTS

##### (Generally)

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## PENALTIES

- 683.990 Penalties

## OPTOMETRISTS

(Generally)

683.010 Definitions for ORS 683.010 to 683.310. As used in ORS 683.010 to 683.310, unless the context requires otherwise:

(1) "Licensed optometrist" means an optometrist licensed under ORS 683.010 to 683.340.

(2) "Optometric nontopical formulary" means the list of nontopical pharmaceutical agents for the treatment of diseases of the human eye and the protocols for their usage adopted by the Council on Optometric Nontopical Formulary under ORS 683.240 (2).

(3) "Practice of optometry" means the use of any means other than invasive or laser surgery, or the prescription of Schedule I and II drugs or pharmaceutical agents that are not on the optometric nontopical formulary, for diagnosis and treatment in the human eye, for the measurement or assistance of the powers or range of human vision or the determination of the accommodative and refractive states of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the aid thereof, subject to the limitations of ORS 683.040. "Practice of optometry" includes the prescription of Schedule II hydrocodone-combination drugs for the purposes listed in this subsection and the use of telemedicine as defined in ORS 683.230.

(4) "Trial frames" or "test lenses" means any frame or lens that is used in testing the eye and that is not sold and not for sale. [Amended by 1971 c.102 §1; 1975 c.175 §1; 1989 c.443 §1; 1991 c.904 §4; 1991 c.967 §1; 2001 c.632 §1; 2015 c.18 §1; 2019 c.234 §3]

683.020 License required to practice optometry. No person shall engage in the practice of optometry or purport in any way to be an optometrist or an expert in the field of optometry without having first obtained a license from the Oregon Board of Optometry as provided for in ORS 683.010 to 683.340. In any prosecution for the violation of this section, the use of test cards, test lenses or of trial frames is prima facie evidence of the practice of optometry. [Amended by 1971 c.102 §2; 1987 c.443 §1]

683.030 Persons and practices not affected. ORS 683.010 to 683.340 may not be construed:

(1) To prevent any person duly licensed to practice medicine and surgery from treating or fitting glasses to the human eye;

(2) To prohibit the sale of complete ready-to-wear eye glasses as merchandise from a permanent place of business in good faith and not in evasion of ORS 683.010 to 683.340 by any person not purporting to be competent to examine and prescribe for the human eye;

(3) To prohibit vision or eye care practices by persons working under the direct supervision of an optometrist authorized to practice in this state; or

(4) To prohibit vision screening by:

(a) Employees of a school or an education provider as defined in ORS 336.211;

(b) Persons or nonprofit entities designated by the Department of Education to provide vision screening to students for the purpose of ORS 336.211; or

(c) Employees of the Department of Transportation. [Amended by 1999 c.490 §1; 2013 c.585 §5; 2017 c.640 §2]

683.035 Discrimination against optometrists prohibited. No official, board, commission or other agency of the state or of any of its political subdivisions or municipalities shall discriminate between duly licensed optometrists and any other person authorized by law to render professional services which a duly licensed optometrist may render, when such services are required. Such services shall be paid for in the same manner and under the same standards as similar professional services. [1963 c.121 §1]

(Licensing)

683.040 Qualifications of applicants. (1) Every person desiring to commence the practice of optometry in this state must show satisfactory evidence of graduation from a school of optometry that is approved by the Oregon Board of Optometry and that maintains a standard of four school years of at least nine months each.

(2) Every person desiring to commence the practice of optometry or employ the use of pharmaceutical agents shall in addition to the requirements of subsection (1) of this section:

(a) Have satisfactorily completed a course in pharmacology, as it applies to optometry, by an institution accredited by a regional or professional accreditation organization that is approved by the board with particular emphasis on the application of pharmaceutical agents for the purpose of diagnosis and treatment in the human eye, approved by the board; and

(b) Demonstrate to the satisfaction of the board clinical competency in the prescription of pharmaceutical agents listed on the optometric nontopical formulary. [Amended by 1971 c.102 §3; 1975 c.175 §2; 1985 c.103 §3; 1991 c.967 §2; 1993 c.27 §1; 2001 c.632 §2]

683.050 [Repealed by 1977 c.842 §39 and 1983 c.241 §1]

683.060 Examination of applicants; fee. (1) Any person who has signified to the Oregon Board of Optometry a desire to be examined by it and who has filed proof that the person is qualified under ORS 683.010 to 683.340 and the rules of the board to take the examination shall pay a fee to be determined by the board. The applicant shall be examined in the anatomy of the eye, in the use of pharmaceutical agents in optometry, in normal and abnormal refractive and accommodative and

muscular conditions and coordination of the eye, in subjective and objective optometry, including the fitting of glasses, the principles of lens grinding and frame adjusting, and in such other subjects as pertain to the science and practice of optometry, such subjects to be enumerated in a publication by the board.

(2) The board may, in its discretion, require the certificate of successful examination of the National Board of Examiners in Optometry in one or more areas of the examination in lieu of its examination in such areas.

(3) If an applicant fails to pass a second examination, the board may permit additional examinations upon compliance by the applicant with the law and the rules of the board.

(4) Any person who petitions the board to prescribe and administer pharmaceutical agents who has not previously been examined by the board on such use shall pass an examination on the use and potential side effect of such agents as used in optometry and shall demonstrate to the satisfaction of the board clinical competency in the prescription of pharmaceutical agents listed on the optometric nontopical formulary and pharmaceutical agents approved by the board for topical use. [Amended by 1955 c.120 §1; 1971 c.102 §4; 1975 c.175 §3; 1977 c.243 §1; 1991 c.967 §3; 1993 c.28 §1; 1997 c.643 §27; 2001 c.632 §3]

683.070 Issuance of certificates of licensure; fee. Each applicant, without discrimination, who meets the requirements for examination and licensure and who pays the fee shall be issued a certificate of licensure. The certificate of licensure shall continue in force for the period established by the Oregon Board of Optometry. [Amended by 1955 c.120 §2; 1971 c.102 §5; 1973 c.827 §71; 1985 c.103 §4; 1987 c.443 §2; 1997 c.630 §1; 1997 c.643 §28a]

683.080 Validity of certificates issued under former law. Any person holding an unrevoked certificate issued under chapter 139, Oregon Laws 1905, as amended, shall be entitled to continue the practice of optometry as though it were issued under ORS 683.010 to 683.340 and such certificate shall be subject to renewal, revocation and suspension the same as though it has been issued under ORS 683.010 to 683.340.

683.090 [Repealed by 1971 c.102 §11]

683.100 Notice to board of place of practice; responsibility for advertisements; notice given by board. (1) Before engaging in the practice of optometry each optometrist shall notify the Oregon Board of Optometry in writing of the address of the place or places where the optometrist is to engage or intends to engage in the practice of optometry and the optometrist also shall notify the board of any change in place of practice. Each optometrist is responsible for any advertisement regarding services rendered at such location.

(2) The board shall keep a record showing the registered address of each optometrist.

(3) Any notice required to be given by the board to any optometrist may be given by mailing it to the optometrist at the last registered address of the optometrist through the United States mail postpaid. [Amended by 1987 c.443 §3]

683.110 Optometrist to give receipt when practicing away from regular place of business. Any optometrist who temporarily practices optometry outside or away from the regular registered place of



business shall deliver to each customer or person there fitted or supplied with glasses a receipt which shall contain the signature and show the permanent registered place of business and the number of the license of the optometrist, together with a specification of the lenses furnished and amount charged therefor. [Amended by 1987 c.443 §4]

683.120 License renewal; fee; effect of failure to renew license. (1) Each optometrist who practices in this state shall on the date established by the Oregon Board of Optometry pay a license fee, as determined by the board, for a renewal of the license of the optometrist and shall have such license conspicuously posted in the office of the optometrist or place of business at all times. Each optometrist who is retired, has a disability or is a nonresident of the State of Oregon and who is not practicing optometry within this state shall on the date established by the board pay a license fee, as determined by the board, for a renewal of the license of the optometrist.

(2) A person who is no more than 30 days delinquent in renewing the license may renew the license upon payment to the board of the required fee plus a delinquent fee. If a person is more than 30 days delinquent in renewing the license, the license is automatically suspended by the board upon 30-day notice given to the licensee. A certified letter addressed to the last-known address of the licensee failing to comply with the requirements is sufficient notice.

(3) A person who is more than 60 days delinquent in renewing the license may be required to take an examination and pay the examination fee as required in ORS 683.060 before a license is issued. The board may, upon application, waive the examination requirement. [Amended by 1953 c.235 §2; 1959 c.88 §1; 1963 c.79 §1; 1967 c.22 §5; 1971 c.102 §6; 1973 c.182 §4; 1981 c.642 §1; 1987 c.443 §5; 1991 c.703 §27; 1997 c.630 §2; 1997 c.643 §29; 2007 c.70 §312]

683.130 Clinics and instructors connected with educational institutions. Any university or college of optometry in Oregon, which is recognized and approved by the Oregon Board of Optometry, may operate a clinic in conjunction therewith. Any optometrist licensed in another state, while a professor or instructor in such a college, may sign optometric prescriptions on behalf of the clinic, but not otherwise. Any optometrist licensed in Oregon may also sign optometric prescriptions on behalf of the clinic while a professor or instructor at such college.

683.140 Grounds for and nature of discipline; civil penalties. (1) The Oregon Board of Optometry may discipline as provided in this section any optometrist or person, where appropriate, for the following causes:

(a) Conviction of a felony or misdemeanor where such an offense bears a demonstrable relationship to the duties of an optometrist. The record of conviction, or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction.

(b) Securing a license by practicing fraud or deceit upon the board.

(c) Unprofessional conduct, or for gross ignorance or inefficiency in the profession.

(d) Obtaining any fee by fraud or misrepresentation.

(e) Employing directly or indirectly any suspended or unlicensed optometrist to perform any work covered by ORS 683.010 to 683.340.

(f) Advertising optometric services or treatment or advice in which untruthful, improbable, misleading or deceitful statements are made.

(g) Impairment as defined in ORS 676.303.

(h) Permitting another person to use the optometrist's license.

(i) Using advertisements that do not indicate that a licensed optometrist is practicing at the advertised location or locations or advertising optometric services without having a licensed optometrist at the location or locations.

(j) Advertising professional methods or professional superiority.

(k) Failing to comply with the requirements for continuing education.

(L) Violating the federal Controlled Substances Act.

(m) Prescribing controlled substances without a legitimate optometric purpose, or without following accepted procedures for examination of patients or for record keeping.

(n) Failing to report to the board any adverse action taken against the optometrist or person by another licensing jurisdiction, health regulatory board, peer review body, health care institution, professional optometric society or association, governmental agency, law enforcement agency or court for acts similar to conduct that would constitute grounds for disciplinary action as described in this section.

(o) Having been disciplined by any health regulatory board of another state based on acts similar to acts described in this section. A certified copy of the record of disciplinary action of the health regulatory board taking the disciplinary action is considered conclusive evidence of the action.

(p) Any violation of the provisions of ORS 683.010 to 683.340.

(2) When disciplining an optometrist or other person as authorized by subsection (1) of this section, the Oregon Board of Optometry may do any or all of the following:

(a) Deny an initial license;

(b) Revoke, suspend or refuse to renew a license;

(c) Place the optometrist on probation;

(d) Impose limitations on the optometrist; or

(e) Take other disciplinary action as the board in its discretion finds proper, including the assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed \$10,000 for each violation, or both. [Amended by 1971 c.102 §7; 1973 c.69 §6; 1979 c.142 §3; 1985 c.103 §5; 1987 c.443 §6; 2005 c.379 §3; 2009 c.756 §46]

683.150 [Repealed by 1971 c.734 §21]

683.155 Hearing. (1) Where the Oregon Board of Optometry proposes to refuse to issue a license, or proposes, where written charges have been filed with the board which the board considers sufficient to warrant a hearing, to impose any disciplinary sanction or civil penalty under ORS 683.140, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS chapter 183. [1971 c.734 §128; 1985 c.103 §6]

683.160 [Repealed by 1971 c.734 §21]

683.165 Confidential information; liability of person providing information. (1) Any information that the Oregon Board of Optometry obtains under ORS 683.140 is confidential as provided under ORS 676.175.

(2) Any person who in good faith provides information to the board shall not be subject to an action for civil damages as a result thereof. [1989 c.438 §4; 1997 c.791 §34]

683.170 Sanction may be set aside by board. Any disciplinary sanction, other than civil penalty, imposed for any of the causes listed in ORS 683.140, except those specified in ORS 683.140 (1)(a) and (b), may be set aside upon application of the affected person at any time within six months from the date of such sanction upon proof being made to the satisfaction of the Oregon Board of Optometry that the cause no longer exists and that the applicant has been sufficiently punished. However, before setting aside the revocation of any license the board may, in its discretion, require the applicant to pass the regular examination given for applicants. [Amended by 1985 c.103 §7; 1987 c.443 §7; 2005 c.379 §4]

683.180 Prohibited acts and practices. A person may not:

- (1) Sell or barter, or offer to sell or barter, any license issued by the Oregon Board of Optometry.
- (2) Purchase or procure by barter any such license with intent to use it as evidence of the holder's qualification to practice optometry.
- (3) Alter the license with fraudulent intent in any material regard.
- (4) Use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license.
- (5) Practice optometry under a false or assumed name.
- (6) Willfully make any false statement in a material regard in an application for an examination before the board or for a license.
- (7) Practice optometry in this state without having at the time of so doing a valid unrevoked license as an optometrist.
- (8) Advertise or represent, by displaying a sign or otherwise, to be an optometrist without having at the time of so doing a valid unrevoked license from the board.
- (9) Dispense or sell an ophthalmic contact lens without having obtained a valid, unexpired prescription from the person to whom the contact lens is dispensed or sold. As used in this subsection, "ophthalmic contact lens" means a contact lens with or without refractive power, including a plano lens or a cosmetic lens. [Amended by 1965 c.537 §1; 1971 c.102 §8; 1979 c.142 §4; 1987 c.443 §8; 2007 c.13 §1; 2019 c.234 §4]

683.190 Acceptance of lens for duplication by unlicensed person prohibited; exception. (1) No person other than a licensed optometrist shall accept or offer to accept for purposes of duplication any ophthalmic lens ordinarily used before the human eye for corrective purposes or for assisting vision.

(2) Notwithstanding subsection (1) of this section, any manufacturing, surfacing or dispensing optician may grind any such lens in conformity with the signed prescription or instruction, followed by a written prescription, of any optometrist duly licensed to practice in this state and any dispensing optician may supply any such lens in conformity with the prescription.

(3) Immediately upon completion of the necessary visual examination or examinations performed by a licensed optometrist, the optometrist shall provide the patient with the appropriate written prescription for correcting refractive errors, if any, in the eyesight of the patient. [Amended by 1987 c.443 §9; 1989 c.530 §1; 1993 c.727 §1]

683.200 Standards of liability; removal of foreign bodies from eye; treatment with antiglaucoma medication. (1) Optometrists utilizing pharmaceutical agents shall be held to the same standards of liability as persons licensed as physicians to practice medicine and surgery by the Oregon Medical Board under ORS chapter 677.

(2) Notwithstanding ORS 683.010 (3), an optometrist may remove superficial foreign bodies from the eye and its appendages.

(3)(a) An optometrist treating a patient with antiglaucoma medication shall consult with an ophthalmologist if:

(A) The glaucoma progresses despite the use of two glaucoma medications;

(B) More than two medications are required to control the glaucoma; or

(C) A secondary glaucoma develops.

(b) Glaucoma shall be considered to be progressing if, in comparison to prior examinations, there is a reproducible worsening of the patient's visual field as measured by standard threshold testing or if there is a worsening of the patient's optic nerve as measured by direct observation or standard imaging technology or by rising eye pressure despite the use of medication. Glaucoma shall be considered to be under control if target eye pressure, individualized for each patient, is maintained with no abnormal glaucomatous progression.

(c) For purposes of this subsection, a combination medication that contains two pharmacologic agents shall be considered one medication. [2007 c.818 §2]

Note: 683.200 was added to and made a part of 683.010 to 683.310 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

683.210 Continuing education requirement; fee; rules. (1) All optometrists licensed in the State of Oregon are and shall be required to satisfactorily complete courses of study and satisfactorily continue their education by other means as determined by the Oregon Board of Optometry in subjects relating to the practice of the profession of optometry. The study and continued education shall be for the purpose of maintaining and advancing the professional skills and abilities of such licensees and for the purpose of educating such licensees in the utilization and application of new techniques, scientific and clinical advances and the achievements of research so that expansive and comprehensive care to the public will be assured. The length, details and nature of such study and continued education shall be determined by the board.

(2) Attendance at any approved courses or other approved means of continuing education are to be certified to the board upon a form provided by the board and shall be submitted by each optometrist at the time designated by the board but in any case no less frequently than once every two years. In addition to other means of providing such courses and education facilities, the board is authorized to contract for the providing of educational programs to fulfill the requirements of this section and ORS 683.140. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the board require a greater number of hours of study than it provides or approves in the State of Oregon and that are available on the same basis to all licensed optometrists. The board shall

be allowed to waive the requirements of this section and ORS 683.140 in cases of illness, undue hardship or other similar appropriate reasons.

(3) The board may levy an additional fee for each license renewal to carry out the provisions of this section and ORS 683.140.

(4) After giving written notice to all licensees and holding a public hearing, the board shall promulgate rules and regulations necessary to carry out the provisions of this section and ORS 683.140. [1973 c.69 §§2,4,5; 1987 c.443 §10; 1997 c.506 §1; 1997 c.643 §30]

683.220 Licensing of applicant holding license in another state. The Oregon Board of Optometry may grant to an applicant a license by endorsement for the practice of optometry in the State of Oregon if the applicant:

(1) Holds a license for the practice of optometry obtained by examination in another state of the United States. Any discipline or sanction related to the practice of optometry imposed upon the applicant by any state licensing agency must be disclosed on the application for licensure;

(2) Continuously engaged in the practice of optometry for not less than two years immediately preceding the application to the board;

(3) Has educational qualifications the board considers equivalent to the educational requirements necessary for licensing by the board at the time the applicant commenced the practice of optometry. The educational requirements shall include passing the National Board of Examiners in Optometry examination or its equivalent, as determined by the board;

(4) Meets the requirements for Therapeutic Pharmaceutical Agent certification established by rule by the board;

(5) Passes a written examination approved by the board on Oregon optometric law and administrative rules;

(6) Submits documentation satisfactory to the board of continuing optometric education hours equivalent to the requirements established by ORS 683.210; and

(7) Pays the application fee set by the board. [1977 c.243 §3; 1985 c.103 §8; 1987 c.443 §11; 1991 c.67 §184; 2001 c.458 §1]

(Telemedicine)

683.230 Practice of telemedicine; requirements; rules. (1) As used in this section:

(a) "Eye examination" means an assessment of a patient's ocular health and visual status, including but not limited to objective refractive data or information generated by an automated testing device, such as an autorefractor, that is used to establish a medical diagnosis or to determine a refractive error.

(b) "Optometric clinical health care services" includes, but is not limited to, assessment, consultation, diagnosis, patient education and care management by a licensed optometrist.

(c) "Store and forward" means the transmission of patient information between a licensed optometrist and a patient, whether or not in real time.

(d)(A) "Telehealth" means the use of electronic and telecommunications technologies, including remote patient monitoring devices and store and forward technology, to support delivery of optometric clinical health care services.

(B) "Telehealth" does not include electronic mail communication, facsimile transmission or audio-only telephone communication between a licensed optometrist and a patient, or the use of an automated computer program or managed website to diagnose or treat ocular or refractive conditions.

(e) "Telemedicine" means the delivery of optometric clinical health care services to a patient by a licensed optometrist through telehealth.

(2) A licensed optometrist may engage in the practice of telemedicine if:

(a) The licensed optometrist provides notice to the patient that the licensed optometrist intends to practice telemedicine prior to engaging in the practice of telemedicine with the patient;

(b) The patient is physically located in this state during the practice of telemedicine;

(c) The technology used in the practice of telemedicine complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Health Insurance Portability and Availability Act privacy regulations, 45 C.F.R. parts 160 and 164; and

(d) The licensed optometrist will provide the patient with an initial prescription for corrective glasses or contact lenses, and the licensed optometrist has an established patient-provider relationship with the patient that includes an in-person eye examination prior to engaging in the practice of telemedicine with the patient.

(3) If the licensed optometrist is employed by or contracts with an entity that operates exclusively through an online platform to provide corrective glasses and contact lenses, the licensed optometrist may engage in the practice of telemedicine with a patient if:

(a) The practice of telemedicine described in this subsection is not for an initial prescription for corrective glasses or contact lenses; and

(b) The patient is at least 18 years of age.

(4) The Oregon Board of Optometry may adopt rules related to the practice of telemedicine by licensed optometrists. [2019 c.234 §2]

Note: 683.230 was added to and made a part of 683.010 to 683.310 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

#### (Optometric Nontopical Formulary)

683.240 Council on Optometric Nontopical Formulary; membership; duties; formulary and protocols. (1)(a) The Council on Optometric Nontopical Formulary is established and shall consist of seven members appointed as follows:

(A) One member of the Oregon Board of Optometry appointed by the Oregon Board of Optometry;

(B) One member who is a pharmacist licensed by the State Board of Pharmacy or a person with an advanced degree in pharmacology or pharmacognosy appointed by the State Board of Pharmacy;

(C) One member of the Oregon Medical Board appointed by the Oregon Medical Board;

(D) One member of the faculty of the Oregon Health and Science University School of Medicine appointed by the Oregon Medical Board;

(E) One member who is a physician licensed under ORS chapter 677 appointed by the Oregon Medical Board after consideration of three qualified nominees provided by the Oregon Academy of Ophthalmology;

(F) One member who is a practicing optometrist appointed by the Oregon Board of Optometry after consideration of three qualified nominees from the Oregon Optometric Physicians Association; and

(G) One member with a degree in optometry or ophthalmology who is a member of the faculty at a college of optometry appointed by the Oregon Board of Optometry.

(b)(A) The chair of the council shall be elected by a majority of the members.

(B) The term of office of each member of the council shall be two years. A member shall serve until a successor is appointed. If a vacancy occurs, it shall be filled for the unexpired term by a person with the same qualifications as the vacating member.

(C) Any member of the council who fails to attend two consecutive meetings of the council, whether regular or special, shall forfeit office unless the council member is prevented from attending by serious illness of the member or of a member of the council member's family.

(D) Meetings of the council shall be called at the request of the chair or at the request of two or more members of the council.

(E) Members of the council shall serve without compensation.

(2) After public hearings, the council shall determine the substances to be included in the optometric nontopical formulary that may be used by an optometrist under ORS 683.010 (3). The council shall review the formulary periodically. Immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the Oregon Board of Optometry. The board shall adopt the formulary or a portion of the formulary. If the council approves protocols for the use of a nontopical pharmaceutical agent and the board adopts the portion of the formulary listing that agent, the board must also adopt those protocols. The board may not expand or add to the formulary submitted for adoption in any manner. [2001 c.632 §7]

Note: 683.240 was added to and made a part of 683.010 to 683.310 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(State Board)

683.250 Oregon Board of Optometry; qualification and terms of members; quorum. (1) The Oregon Board of Optometry operates as a semi-independent state agency subject to ORS 182.456 to 182.472, for the purpose of carrying out this chapter. The board consists of five members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Four must be doctors of optometry licensed and in practice in Oregon; and

(b) One member must be a member of the public who represents health consumers and who:

(A) Is not otherwise eligible for appointment to the board;

(B) Is not the spouse, domestic partner, child, parent or sibling of a doctor of optometry; and

(C) Does not have a direct or indirect relationship to health care professionals, to the health care industry or to the ophthalmic optical industry.

(2)(a) Board members required to be a doctor of optometry may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a professional organization representing doctors of optometry.

(b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

- (A) Geographic areas of this state; and
- (B) Ethnic group.

(3)(a) The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than two terms end each year. A member is eligible for reappointment. If a vacancy occurs in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.

(b) Each member of the board shall qualify by taking and subscribing the oath of office required by the Oregon Constitution, which shall be filed in the office of the Secretary of State.

(c) A board member shall be removed immediately from the board if, during the member's term, the member:

- (A) Is not a resident of this state;
  - (B) Has been absent from three consecutive board meetings, unless at least one absence is excused;
- or

(C) Is not a licensed doctor of optometry or a retired doctor of optometry who was a licensed doctor of optometry in good standing at the time of retirement, if the board member was appointed to serve on the board as a doctor of optometry.

(4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

(5) A majority of the members constitutes a quorum for the transaction of business. [Amended by 1971 c.102 §9; 1971 c.650 §32; 1973 c.792 §38; 1981 c.203 §1; 1987 c.443 §12; 1997 c.643 §31; 1999 c.1084 §65; 2009 c.535 §18; 2009 c.756 §96]

683.260 Persons ineligible for membership on board. (1) A person may not be a member of the Oregon Board of Optometry if the person is a stockholder in, or owner of, or a member of the faculty of or of the board of trustees of any school of optometry.

(2) A member of the board may not be financially interested in any purchase or contract in which the board is interested. A member of the board may not be financially interested in the sale of any property or optical supplies to any prospective candidate for examination before the board. [Amended by 1981 c.203 §2; 1983 c.243 §1; 2009 c.756 §48]

683.270 Powers and duties of board; rules. The powers and duties of the Oregon Board of Optometry are as follows:

(1) To organize and elect from its membership a president and vice president of the board, each of whom shall hold office for one year, or until the election and qualification of a successor.

(2) To adopt and use a common seal.

(3) To employ agents and inspectors to secure evidence of and report on all violations of this chapter and to employ other necessary assistance in the carrying out of the provisions of this chapter, and to pay the same from the funds provided in ORS 683.010 to 683.340.

(4) To hold regular meetings at least once a year at which an examination of applicants for licenses shall be held at such places as the board shall from time to time designate, and special meetings upon request of a majority of the members of the board or upon the call of the president.



(5) To keep an accurate record of all proceedings of the board and of all of its meetings, of all prosecutions for violations of ORS 683.010 to 683.340, and of all examinations held for applicants for licenses, with the names and addresses of all persons taking examinations and their success or failure to pass such examinations. All the records of the board shall be public and shall be kept in the office of the board.

(6) To keep an accurate inventory of all property of the board and of the state in the possession of the board and to obtain a receipt therefor from its successor.

(7) To keep a register of optometrists which shall contain the names and addresses of all persons to whom licenses have been issued in the State of Oregon, together with the date of the issuance of the license and the place or places of business in which each optometrist is engaged, and all renewals, revocations and suspensions thereof.

(8) To grant or refuse to grant licenses as provided in ORS 683.010 to 683.340 and to impose any of the sanctions for any of the causes specified in ORS 683.140.

(9) To administer oaths and take testimony upon granting and revoking or suspending any certificate of registration or any other certificate established by the board for the protection of the public.

(10) To designate pharmaceutical agents for topical use in the practice of optometry with the advice and guidance of the Oregon Medical Board.

(11) To adopt rules not inconsistent with the laws of this state as are necessary or proper to carry out the lawful powers and duties of the board, as may be necessary or proper to establish license fees and license terms or duration, to determine the qualifications of applicants for a license and of licensees to practice optometry in this state, and to establish educational and professional standards for such applicants, subject to the laws of this state. If an applicant fails to pass a second examination the board may adopt rules which may provide the required courses of study before further examination. [Amended by 1953 c.599 §2; 1955 c.120 §3; 1963 c.78 §1; 1967 c.22 §2; 1973 c.829 §65; 1975 c.175 §4; 1983 c.389 §4; 1985 c.103 §9; 1987 c.443 §13; 1989 c.443 §2; 1991 c.904 §5; 1991 c.967 §4; 1993 c.816 §1; 1997 c.630 §3; 2001 c.632 §4; 2007 c.818 §3]

683.275 [1967 c.22 §4; 1969 c.314 §84; 1985 c.103 §10; repealed by 1997 c.643 §34]

683.278 Continuing authority of board upon lapse, suspension, revocation or voluntary surrender of license. The lapse, suspension or revocation of a license by operation of law, by order of the Oregon Board of Optometry or by decision of a court of law, or the voluntary surrender of a license by a licensee, shall not deprive the board of jurisdiction to proceed with any investigation of or any action or disciplinary proceeding against the licensee, or to revise or render null and void an order suspending or revoking the license. [2001 c.456 §2]

Note: 683.278 was added to and made a part of ORS chapter 683 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

683.280 [Amended by 1973 c.829 §66; 1985 c.103 §11; repealed by 1997 c.643 §34]

683.290 Disposition of receipts. (1) All moneys received by the Oregon Board of Optometry under ORS 683.010 to 683.340 shall be deposited into an account established by the board as provided under

ORS 182.470. Moneys deposited into the account hereby are appropriated continuously to the board and shall be used only for the administration and enforcement of ORS 182.456 to 182.472, 676.850 and 683.010 to 683.340.

(2) Notwithstanding subsection (1) of this section and ORS 182.470, all civil penalties collected or received for violations of or in prosecutions under ORS 683.010 to 683.340 shall be paid to the account described under subsection (1) of this section.

(3) In addition to making expenditures for the administration and enforcement of ORS 683.010 to 683.340, the Oregon Board of Optometry may make expenditures for educational purposes out of funds available. [Amended by 1959 c.88 §2; 1963 c.77 §1; 1971 c.102 §10; 1973 c.427 §24; 1991 c.460 §8; 1997 c.630 §4; 1997 c.643 §33; 1999 c.1084 §66; 2011 c.597 §141; 2013 c.240 §12]

683.300 [Repealed by 1971 c.743 §432]

683.310 Professional corporation regulation not required. ORS 58.345 does not apply to professional corporations engaged in the practice of optometry. [1985 c.103 §16]

(Enforcement)

683.325 Investigation of complaints and alleged violations; subpoenas. (1) Upon the complaint of any citizen of this state, or upon its own motion, the Oregon Board of Optometry may investigate any alleged violation of ORS 683.010 to 683.340.

(2) In the conduct of investigations, the board may:

(a) Take evidence;

(b) Take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases;

(c) Compel the appearance of witnesses, including the person charged, before the board in person the same as in civil cases;

(d) Require answers to interrogatories; and

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas over the signature of the board chairperson and the seal of the board in the name of the State of Oregon.

(4) Upon receipt of a complaint under ORS 683.010 to 683.340, the board shall conduct an investigation as described under ORS 676.165. [1989 c.843 §6; 1997 c.791 §35]

683.330 Injunction for violation. The Attorney General, the prosecuting attorney of any county or the Oregon Board of Optometry, in its own name, may maintain an action for an injunction against any person violating any provision of ORS 683.020, 683.180 or 683.190. An injunction may be issued without proof of actual damage sustained by any person. An injunction does not relieve a person from criminal prosecution for violation of any provision of ORS 683.020, 683.180 or 683.190 or from any other civil, criminal or disciplinary remedy. [2005 c.379 §1]

683.335 Report of suspected violation; confidentiality of complaints; liability of complainant. (1) Any health care facility required to be licensed under ORS 441.015 and any licensed optometrist shall and any other person may report suspected violations of ORS 683.010 to 683.155 and 683.170 to 683.290 by optometrists.

(2) Any information provided to the board pursuant to this section is confidential and shall not be subject to public disclosure.

(3) Any health facility or optometrist who reports to the board as required by subsection (1) of this section in good faith shall not be subject to an action for civil damages as a result thereof. [1985 c.103 §13; 1987 c.443 §14]

683.340 Duty to report prohibited conduct. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, an optometrist who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150. [2009 c.536 §17]

## OPTICIANS

683.510 Definitions for ORS 683.520 to 683.530. As used in ORS 683.520 to 683.530, “dispensing optician” means a person who prepares and dispenses lenses, eyeglasses and appurtenances thereto to the intended wearers thereof on written prescriptions from a physician licensed under ORS chapter 677 or an optometrist and, in accordance with such prescriptions, measures, adapts, adjusts and fabricates such lenses, eyeglasses and appurtenances for the aid or correction of visual or ocular anomalies of the human eye. [1991 c.904 §3; 1995 c.79 §344]

683.520 Scope of practice of optician. Any dispensing optician may fabricate any ophthalmic lens in conformity with the signed prescription, or oral instruction followed by a written prescription, of any optometrist or person duly licensed to practice medicine in this state. Any dispensing optician may supply any ophthalmic lens in conformity with the prescription and the specified expiration date thereof. [1991 c.904 §1]

683.525 Acceptance of lens for duplication. Notwithstanding ORS 683.190, a dispensing optician may accept or offer to accept for purposes of duplication any ophthalmic lens, excluding any contact lens, when the optician is presented with a whole lens by the person requesting the duplicate lens. [1993 c.516 §2]

683.530 Discrimination against opticians prohibited. No official, board, commission or other agency of this state or any political subdivision or municipality in the state shall discriminate between dispensing opticians and any other persons authorized by law to render professional services that a dispensing optician may render, when such services are required. Such services shall be paid for in the same manner and under the same standards as are similar professional services. [1991 c.904 §2]

## PENALTIES

683.990 Penalties. Violation of any of the provisions of ORS 683.010 to 683.340 is a Class A misdemeanor. [Amended by 1971 c.743 §408; 2005 c.379 §5]

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## PENALTIES

**683.990 Penalties.** Violation of any of the provisions of ORS 683.010 to 683.340 is a Class A misdemeanor. [Amended by 1971 c.743 §408; 2005 c.379 §5]

**676.110 Use of title “doctor.”** (1) An individual practicing a health care profession may not use the title “doctor” in connection with the profession, unless the individual:

- (a) Has earned a doctoral degree in the individual’s field of practice; and
- (b)(A) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s doctoral degree was earned; or
- (B) Is working under a board-approved residency contract and is practicing under the license of a supervisor who is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s doctoral degree was earned.

(2) If an individual uses the title “doctor” in connection with a health care profession at any time, the individual must designate the health care profession in which the individual’s doctoral degree was earned on all written or printed matter, advertising, billboards, signs or professional notices used in connection with the health care profession, regardless of whether the individual’s name or the title “doctor” appears on the written or printed matter, advertising, billboard, sign or professional notice. The designation must be in letters or print at least one-fourth the size of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice.

(3) Subsection (1) of this section does not prohibit:

(a) A chiropractic physician licensed under ORS chapter 684 from using the title “chiropractic physician”;

(b) A naturopathic physician licensed under ORS chapter 685 from using the title “naturopathic physician”;

(c) A person licensed to practice optometry under ORS chapter 683 from using the title “doctor of optometry” or “optometric physician”; or

(d) A physician licensed under ORS 677.805 to 677.840 from using the title “podiatric physician.” [Amended by 1967 c.470 §66; 1983 c.169 §29; 1983 c.486 §1a; 1983 c.769 §1; 1991 c.314 §4; 1995 c.765 §1; 2007 c.418 §1; 2009 c.142 §1; 2011 c.108 §1; 2013 c.129 §35]

**676.120 Use of deceased licensee’s name.** Notwithstanding ORS 676.110 or 676.115, upon the death of any person duly licensed by a health professional regulatory board as defined in ORS 676.160, the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent’s name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner. [Amended by 1953 c.137 §2; 1983 c.769 §2; 1991 c.314 §5; 2009 c.142 §2; 2015 c.345 §3]

**676.130 Enforcement of ORS 676.110, 676.115 and 676.120.** Each health professional regulatory board as defined in ORS 676.160 shall notify the appropriate district attorney of any violation of ORS 676.110, 676.115 and 676.120 which may be brought to the attention of such board. The district attorney of the county in which any violation of those sections takes place shall prosecute the violation upon being informed of the violation by any person or by one of such boards. [Amended by 1983 c.769 §3; 2009 c.142 §3; 2015 c.345 §4]

## **REPORTING OBLIGATIONS**

**676.150 Duty to report prohibited or unprofessional conduct, arrests and convictions; investigation; confidentiality; immunity from liability.** (1) As used in this section:

(a) “Board” means the:

(K) Oregon Board of Optometry;

(b) “Licensee” means a health professional licensed or certified by or registered with a board.

(c) “Prohibited conduct” means conduct by a licensee that:

(A) Constitutes a criminal act against a patient or client; or

(B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee’s profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee’s board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board’s rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee’s conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee’s criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section. [2009 c.536 §1; 2011 c.630 §21; 2011 c.703 §44; 2011 c.715 §19; 2011 c.720 §213]

#### PROCESSING OF COMPLAINTS AGAINST HEALTH PROFESSIONALS

**676.160 Definitions for ORS 676.165 to 676.180.** As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

(12) Oregon Board of Optometry;

**676.165 Complaint investigation.** (1) When a health professional regulatory board or the Health Licensing Office receives a complaint by any person against a licensee, applicant or other person

alleged to be practicing in violation of law, the board or office shall assign one or more persons to act as investigator of the complaint.

(2) The investigator shall collect evidence and interview witnesses and shall make a report to the board or office. The investigator shall have all investigatory powers possessed by the board or office.

(3) The report to the board or office shall describe the evidence gathered, the results of witness interviews and any other information considered in preparing the report of the investigator. The investigator shall consider, and include in the report, any disciplinary history with the board or office of the licensee, applicant or other person alleged to be practicing in violation of law.

(4) The investigator shall make the report to the board or office not later than 120 days after the board or office receives the complaint. However, the board or office may extend the time for making the report by up to 30 days for just cause. The board or office may grant more than one extension of time.

(5) Investigatory information obtained by an investigator and the report issued by the investigator shall be exempt from public disclosure.

(6) When a health professional regulatory board reviews the investigatory information and report, the public members of the board must be actively involved. [1997 c.791 §5; 2009 c.756 §5; 2013 c.568 §18]

**676.170 Immunity of information providers.** A person who reports or supplies information in good faith to a health professional regulatory board or to a committee reporting to a health professional regulatory board shall be immune from an action for civil damages as a result thereof. [1997 c.791 §4]

**676.175 Complaints and investigations confidential; exceptions; fees.** (1) A health professional regulatory board shall keep confidential and not disclose to the public any information obtained by the board as part of an investigation of a licensee or applicant, including complaints concerning licensee or applicant conduct and information permitting the identification of complainants, licensees or applicants. However, the board may disclose information obtained in the course of an investigation of a licensee or applicant to the extent necessary to conduct a full and proper investigation.

(2) Notwithstanding subsection (1) of this section, if a health professional regulatory board votes not to issue a notice of intent to impose a disciplinary sanction:

(a) The board shall disclose information obtained as part of an investigation of an applicant or licensee if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.

(b) The board may disclose to a complainant a written summary of information obtained as part of an investigation of an applicant or licensee resulting from the complaint to the extent the board determines necessary to explain the reasons for the board's decision. An applicant or licensee may review and obtain a copy of any written summary of information disclosed to a complainant by the board after the board has deleted any information that could reasonably be used to identify the complainant.

(3) If a health professional regulatory board votes to issue a notice of intent to impose a disciplinary sanction, upon written request by the licensee or applicant, the board shall disclose to the licensee or applicant all information obtained by the board in the investigation of the allegations in the notice except:

(a) Information that is privileged or confidential under a law other than this section.

(b) Information that would permit the identification of any person who provided information that led to the filing of the notice and who will not provide testimony at a hearing arising out of the investigation.

(c) Information that would permit the identification of any person as a person who made a complaint to the board about a licensee or applicant.

(d) Reports of expert witnesses.

(4) Information disclosed to a licensee or applicant under subsection (3) of this section may be further disclosed by the licensee or applicant only to the extent necessary to prepare for a hearing on the notice of intent to impose a disciplinary sanction.

(5)(a) A health professional regulatory board shall disclose:

(A) A notice of intent to impose a disciplinary sanction against a licensee or applicant that has been issued by vote of the board;

(B) A final order that results from the board's notice of intent to impose a disciplinary sanction;

(C) An emergency suspension order;

(D) A consent order or stipulated agreement that involves licensee or applicant conduct; and

(E) Information to further an investigation into board conduct under ORS 192.685.

(b) A health professional regulatory board may make the information required to be disclosed under paragraph (a)(A) to (D) of this subsection available in electronic form, accessible by use of a personal computer or similar technology that provides direct electronic access to the information.

(6) If a notice of intent to impose a disciplinary sanction has been issued by vote of a health professional regulatory board, a final order that results from the board's notice of intent to impose a disciplinary sanction, an emergency suspension order or a consent order or stipulated agreement that involves licensee or applicant conduct shall summarize the factual basis for the board's disposition of the matter.

(7) A health professional regulatory board record or order, or any part thereof, obtained as part of or resulting from an investigation, contested case proceeding, consent order or stipulated agreement, is not admissible as evidence and may not preclude an issue or claim in any civil proceeding except in a proceeding between the board and the licensee or applicant as otherwise allowed by law.

(8)(a) Notwithstanding subsection (1) of this section, it is not disclosure to the public for a board to permit other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions shall not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, "public official" means a member or member-elect, or any member of the staff or an employee, of a public entity as defined by ORS 676.177.

(9) A health professional regulatory board may establish fees reasonably calculated to reimburse the actual cost of disclosing information to licensees or applicants as required by subsection (3) of this section. [1997 c.791 §2; 1999 c.751 §3; 2005 c.801 §1]

**676.177 Disclosure of confidential information to another public entity; criteria. (1)**

Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that



reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, "public entity" means:

- (a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;
- (b) A district attorney;
- (c) The Department of Justice;
- (d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or
- (e) A law enforcement agency of this state, another state or the federal government. [1999 c.751 §2]

**676.180 Notice prior to disclosure.** If a health professional regulatory board intends to disclose a record pursuant to ORS 676.175 (2), the board shall provide the licensee or applicant seven days' prior written notice by first class mail. The notice shall describe the record that the board intends to disclose in sufficient detail to permit the licensee or applicant to know the contents of the record. In any subsequent action for injunctive or declaratory relief, the burden shall be on the person seeking disclosure to demonstrate by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. [1997 c.791 §3]

#### **EFFECT OF EXPIRATION, LAPSE, SURRENDER, SUSPENSION OR REVOCATION OF LICENSE**

**676.205 Continuing jurisdiction of boards; effect of expiration, lapse, surrender, suspension or revocation of license.** (1) As used in this section:

(a) "Health professional regulatory board" means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.575.

(b) "License" means a license, registration, certification or other authorization to engage in a profession.

(2) A health professional regulatory board continues to have jurisdiction for licensing, regulatory and disciplinary purposes related to acts and omissions that occur while a person is licensed or required to be licensed, regardless of any changes in the licensing status of the person.

(3) A person who obtains, but is not required to obtain, a license to engage in a profession regulated by a health professional regulatory board, and whose license expires, lapses or is voluntarily surrendered while the person is under investigation by the board, or whose license is suspended or revoked, may not engage in that profession unless the person again obtains a license from the relevant health professional regulatory board to engage in the profession.

(4) Nothing in this section limits the jurisdictional, investigatory or other authority otherwise provided by law to a health professional regulatory board. [2009 c.756 §2; 2013 c.568 §20]

**676.210 Practice of health care profession after suspension or revocation of license prohibited.**

No person whose license has been revoked or suspended by any board authorized by the statutes of the State of Oregon to issue licenses to practice a health care profession shall continue the practice of this profession after the order or decision of the board suspending or revoking the license of the person has been made. The license shall remain suspended or revoked until a final determination of an appeal from the decision or order of the board has been made by the court. [1953 c.592 §1; 1983 c.769 §4]

**676.220 Enjoining health care professional from practicing after suspension or revocation of license.** (1) If at any time the board suspending or revoking the license of any licentiate of a health care profession determines that such licentiate is continuing to practice the health care profession notwithstanding, the board shall in its own name bring an action to enjoin such licentiate.

(2) If the court shall find that the licentiate has been or is continuing the practice of the health care profession for which the license has been revoked or suspended it shall issue an injunction restraining the licentiate. The commission of a single act constituting the practice of the respective health care profession shall be prima facie evidence warranting the issuance of such injunction. [1953 c.592 §2; 1979 c.284 §191; 1983 c.769 §5]

**676.230 Injunction as cumulative remedy.** The remedy herein provided is cumulative and shall be without prejudice to any other civil or criminal remedy. [1953 c.592 §3]

**Oregon Administrative Rules  
BOARD OF OPTOMETRY  
DIVISION 1--PROCEDURAL RULES**

**852-001-0001**

**Notice of Proposed Rule**

Before the adoption, amendment, or repeal of any permanent rule, the Board of Optometry must give notice of the proposed adoption, amendment, or repeal in the following ways:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360, at least 21 days before the effective date of the rule.
- (2) By e-mailing or mailing a copy of the notice to persons on the Board of Optometry's distribution list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule.
- (3) By emailing a copy of the notice to the legislators specified on ORS 183.335(15) at least 49 days before the effective date of the rule.
- (4) By emailing or mailing a copy of the notice to:
  - (a) Oregon Optometric Physicians Association; and
  - (b) Capitol Press Room.
- (5) By posting the notice of rulemaking along with the proposed administrative rule text on the Board's website.

**852-001-0002**

**Definitions**

As used in this division:

- (1) "Active licensee" means an active or telehealth licensee.
- (2) "Appurtenances" means an accessory or auxiliary device to ophthalmic frames.
- (3) "Bandage contact lens" means a continuous-wear soft contact lens used as a therapeutic bandage.
- (4) "Base of operations" is the practice location from which the optometric physician utilizes a mobile facility or a portable unit.
- (5) "Board" means the Oregon Board of Optometry.
- (6) "Contact lens" means a lens designed to fit over the cornea of the eye.
- (7) "Distant site" is the location of the provider of health care services outside of Oregon.
- (8) "Firm" means an individual or firm technically and financially qualified to perform certain types of work classified as personal services.
- (9) Initial prescription is a prescription for spectacles or contact lenses issued within the past 5 years.
- (10) "Lapsed" means license is no longer valid because of failure to renew in a timely manner.
- (11) "Lenses" means pieces of glass or other transparent substances that have two opposite surfaces that are used singly or in combination to aid the human eye in focusing rays of light. These devices are not "contact lenses," which are designed to fit directly on the surface of the eye (cornea).
- (12) "Mobile facility" is a vehicle that is equipped to render optometric services where an optometric physician examines or treats patients inside the vehicle.
- (13) "Online platform" means any group of technologies that are used for applications, processes or technologies to deliver telehealth optometry care.

- (14) "Ophthalmic contact lens" means a contact lens with or without refractive power, including a plano lens or a cosmetic lens.
- (15) "Optometric physician" means a person who is licensed to practice optometry in the state of Oregon, and is synonymous with "doctor of optometry" and "optometrist."
- (16) "Originating site" is the location in Oregon of the health care patient or consumer.
- (17) "Patient" means a person in Oregon who receives optometric attention, care, or treatment by an optometric physician or an assistant under the direct supervision of an optometrist. For telehealth the patient must be at least 18 years of age.
- (18) "Portable unit" means optometric equipment the optometric physician transports to a fixed location (e.g., nursing home, assisted living facility, private residence) to render services to the patient.
- (19) "Practice location" is a physical site or mobile facility where an optometric physician provides services.
- (20) "Prescription" means the written prescription, which an optometric physician must immediately release to the patient at the time the doctor would provide spectacles or contact lenses without additional examination.
- (21) "Spectacles" means ophthalmic frames and lenses.
- (22) "Telehealth" is the electronic delivery of optometry care across state lines that complies with the requirements of ORS 683.010 through 683.990 and OAR Chapter 853. Telehealth may include phone applications, online systems, remote patient monitoring devices, 2 way audio, visual or other telecommunications or electronic communications.
- (23) "Telehealth patient notice" means verbal and written notice given to the patient at the time of care that they are receiving telehealth services. Patients receiving refraction only services must receive that notification as well.
- (24) "Telehealth prescription" may only be issued on an initial spectacle or contact lens prescription only after conducting an in-person eye exam prior to delivering telemedicine.
- (25) "Therapeutic contact lens" means a contact lens that contains a topical therapeutic pharmaceutical agent listed in Division 80.

## **Division 5--BOARD ADMINISTRATION**

### **852-005-0005**

#### **Budget**

The Oregon Board of Optometry hereby adopts by reference the Oregon Board of Optometry 2019-21 Biennium Budget of \$786,000 in revenues and \$839,561 in expenses covering the period from July 1, 2019 through June 30, 2021. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget for the effective operation of the Board. The Board will not exceed the approved Biennium budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1) & (2). Copies of the budget are available from the Board's office and are also posted on the Board's website.

### **852-005-0010**

#### **Purchasing**

(1) The Oregon Board of Optometry adopts by reference the Oregon Board of Optometry's Purchasing Policies and Procedures. These Purchasing Policies and Procedures contain all of the purchasing related provisions applicable to the Oregon Board of Optometry and are controlling except as otherwise required by statute or rule. Any additions or revisions to the Oregon Board of Optometry's Purchasing Policies and Procedures require action of the full Board.

(2) Copies of the Purchasing Policies and Procedures are available for review at the Board's office.

### **852-005-0015**

#### **Board Member Compensation**

(1) Board members of the Oregon Board of Optometry are authorized by law to receive compensation for time spent in performance of their official duties. Compensation rates are: \$100 per day when attending a Board meeting in person or \$12.50 per hour for attending via conference call or other means. Board members will be paid \$12.50 per hour when performing any other approved board business. Board work must be pre-approved by the Board Chair or Executive Director to be eligible for compensation. Board members reviewing continuing education are compensated at a rate of \$12.50 per hour for 10% of the total number of CE hours reviewed. This compensation amount is in addition to any eligible reimbursement of travel expenses.

(2) Board members and employees of the Board are authorized to receive actual and necessary travel or other expenses incurred in the performance of their official duties as determined by the Board. Mileage reimbursement is at the rate established by the Internal Revenue Service for privately owned vehicles.

(3) No Board member is required to accept compensation or reimbursement of travel or other expenses while performing official duties as a Board member.

### **852-005-0030**

#### **Contracting**

The Oregon Board of Optometry adopts by reference portions of the State of Oregon's contracting policies. These rules are contained in the Oregon Administrative Rules, chapter 125, divisions 20, 300. The Board's financial policies will govern any other contracting activities.

### **852-005-0035**

#### **Public Records**

(1) All requests for copies or inspection of public records shall be submitted in writing via U.S. mail, fax or email on the form provided by the agency. Requests are subject to disclosure according to the Public Records Law, ORS 192.410 to 192.505.

(2) The Board follow DAS Policy 107-001-030 or subsequent revisions regarding public records processing fees. Fees for public records are included in OAR 852-010-0080.

(3) The agency shall notify requestor of the estimated costs of making records available for inspection or providing copies of records to the requestor. If the estimated costs exceed \$25, the agency shall

provide written notice and shall not act further to respond to the request unless and until the requestor confirms that the requestor wants the agency to proceed with making the public records available.

(4) Charges to the general public shall be payable by check, cashier's check, money order or credit card. Cash will not be accepted as payment.

(5) Staff will not reduce the copy size or otherwise manipulate records to fit additional records on a page, unless staff concludes it will be the most effective use of their time. Consistent with ORS 192.240, all copies will be double-sided. A double-sided copy will be charged as two single pages.

(6) The agency will not permit individuals to provide disks, thumb drives or other means to copy electronic records, due to the threat of computer viruses.

(7) Personal inspection of records must be arranged by appointment with the Executive Director. Inspection must occur during normal office hours. Board staff must be present while records are reviewed.

## Division 10--GENERAL

### 852-010-0005

#### **Board Meeting**

- (1) The Board must hold regular meetings at least once each year at such time and place as the Board may designate. Notice of the time and place of regularly scheduled, special and emergency meetings will be given to the individuals on the Board's distribution list.
- (2) A majority of the total number of the Board constitutes a quorum for the transaction of business. However, an affirmative vote of the majority of the total number of Board members is necessary to make a Board decision.
- (3) The President is authorized to take action between Board meetings, such as reactivation of licenses, interpretation of policy or procedure, or other such items, subject to ratification by the Board. The Board may delegate such authority to the Executive Director. All such actions must be noted in the agenda for the next meeting of the Board and be presented for ratification in the order of business at that meeting.
- (4) The Vice-President of the Board may carry out the functions of the president when the president is unable to perform the required duties.
- (5) The Board shall elect from its membership the President and Vice-President annually at its first regularly scheduled meeting of the calendar year.

### 852-010-0015

#### **Application for Examination and Licensure**

- (1) Each applicant must meet educational qualifications and must comply with the requirements of ORS 683.040 before the applicant will be accepted for examination and licensure.
- (2) Applications for licensure as an optometric physician in Oregon must be directed to the office of the Board.
- (3) The application is complete upon receipt by the Board of:
  - (a) A signed application;
  - (b) A mailed official final transcript from an Accreditation Council on Optometric Education (ACOE) accredited college of optometry indicating receipt of the doctor of optometry degree mailed directly to the Board from the college or university;
  - (c) A copy of the record establishing satisfactory completion of a course in pharmacology as it applies to optometry from an institution approved under ORS 683.040(2) when applicable;
  - (d) Verification of the passage of the examination of the National Board of Examiners in Optometry (NBEO) sent directly from NBEO to the Board;
  - (e) Receipt by the Board's office of the application fee and criminal background check fee as listed in OAR 852-010-0080;
  - (f) Written confirmation sent directly from the licensing entity of each other state in which the candidate has ever been licensed that the candidate for licensure has not been sanctioned for violating the laws, rules and standards of ethics of that jurisdiction. The Board will accept electronic license verifications if that is the only mechanism the verifying state uses for license verifications;
  - (g) Documentation of completion of the required continuing optometric education;
  - (h) Documentation of current CPR certification, as required in OAR 852-080-0040;

- (i) Proof of meeting the requirements of OAR 852 division 80 – Pharmaceutical Agents, for licensure with the non-topical certification (AT) or non-topical certification with injections (ATI);
  - (j) Proof of passage of the Oregon optometric law and administrative rules examination; and
  - (k) Satisfactory results of a criminal records background check as defined in OAR 852-050-0025.
- (4) Any application received from an optometrist who has been sanctioned by another optometric licensing jurisdiction is individually reviewed and considered by the Board at their next regularly scheduled meeting. Any applicant with a felony conviction will be individually reviewed and considered by the Board at their next regularly scheduled meeting.

#### 852-010-0020

##### **Rules for Examination and Licensure**

- (1) Pursuant to ORS 683.060(2), the Board will require a passing score on Parts I, II, III, (PAM and Clinical Skills) and TMOD (Treatment and Management of Ocular Disease) of the National Board of Examiners in Optometry (NBEO) examination. NBEO standards for passing the NBEO examination are acceptable to the Board.
- (2) The applicant for examination and licensure must:
- (a) Provide written confirmation sent directly from the licensing entity of each other state in which the applicant has ever been licensed that the applicant for licensure has not been sanctioned for violating the laws, rules or standards of ethics of that jurisdiction. The Board will accept electronic license verifications if that is the only mechanism the verifying state uses for license verifications. In addition, the Board will query the National Practitioner Data Bank for adverse actions on each person making an application for licensure;
  - (b) Submit documentation of continuing education hours as required in OAR 852 division 70;
  - (c) Pass, by a score of 80 or better, a Board-approved written examination relating to Oregon optometric law and administrative rules within the 12 months before date of Oregon licensure. Because the Administrative Rule and Law examination is not clinical in nature, there is no waiting period before an examination retake. If the examination is not available through the National Board of Examiners in Optometry, the Board will set location(s), date(s) time(s) and fees for administration of the examination.
- (3) Any applicant whose conduct constitutes cheating or subverting of the process of the evaluation of professional competency by the Board or by an examiner may be dismissed from the examination and denied licensure.
- (4) Designate if they are a telehealth only licensee.

#### 852-010-0022

##### **Application for Endorsement Examination and Licensure**

- (1) Each applicant must meet educational qualifications and must comply with the requirements of ORS 683.040 before the applicant is accepted for examination and licensure.
- (2) Applications for licensure as an optometric physician in Oregon must be directed to the office of the Board.
- (3) The application is complete upon receipt by the Board of:
- (a) A signed application form;



- (b) Confirmation that the applicant holds a license for the practice of optometry obtained by examination in another state in the United States, and the applicant is TPA certified by that state;
  - (c) Written confirmation sent directly from the licensing entity of each other state in which the applicant has ever been licensed that the applicant for licensure has not been sanctioned for violating the laws, rules or standards of ethics of that jurisdiction. The Board will accept electronic license verifications if that is the only mechanism the verifying state uses for license verifications.
  - (d) Verification of the passage of the examination of the National Board of Examiners in Optometry (NBEO) or its equivalent;
  - (e) Documentation of continuing optometric education as required in OAR 852 division 70;
  - (f) Receipt by the Board's office of the application fee;
  - (g) Proof of meeting the requirements of OAR 852 Division 80 — Pharmaceutical Agents, for licensure with the non-topical certification (AT) or non-topical certification with injections (ATI); and
  - (h) Satisfactory results of a criminal records background check as defined in OAR 852-050-0025.
- (4) Any application received from an optometrist who has been sanctioned by revocation of license by another optometric licensing jurisdiction is individually reviewed and considered by the Board.
- NOTE: Because of the unique scope of practice for Oregon optometric physicians, Oregon does not have reciprocity licensing agreements with any other state(s).

#### 852-010-0023

##### **Rules for Endorsement Examination and Licensure**

Pursuant to ORS 683.220 the Board may grant to an applicant a license by endorsement for the practice of optometry if the applicant:

- (1) Holds a license for the practice of optometry obtained by examination in another state in the United States;
- (2) Has been continuously engaged in the practice of optometry for not less than two years immediately preceding the application to the Board;
- (3) Has educational qualifications the Board considers equivalent to the educational requirements necessary for licensing by the Board at the time the applicant commenced the practice of optometry. The educational requirements include a passing score on Parts I, II, III, (PAM and Clinical Skills) and TMOD (Treatment and Management of Ocular Disease) of the National Board of Examiners in Optometry (NBEO) examination or its equivalent, as determined by the Board. NBEO standards for passing the NBEO examination are acceptable to the Board;
- (4) Submits documentation satisfactory to the Board of continuing optometric education hours equivalent to the requirements established by OAR 852-070;
- (5) Provides written confirmation sent directly from the licensing entity of each other state in which the applicant has ever been licensed that the applicant for licensure has not been sanctioned for violating the laws, rules or standards of ethics of that jurisdiction. The Board will accept electronic license verifications if that is the only mechanism the verifying state uses for license verifications. In addition, the Board will query the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank for adverse actions on each person making an application for licensure by endorsement;
- (6) Pays the licensure by endorsement application fee as listed in OAR 852-010-0080; and

- (7) Passes, by a score of 80 or better, a Board-approved written examination relating to Oregon optometric law and administrative rules within the 12 months previous to date of Oregon licensure. Because the Administrative Rule and Law examination is not clinical in nature, there is no waiting period before an examination retake. If the examination is not available through the National Board of Examiners in Optometry, the Board will set location(s), date(s) time(s) and fees for administration of the examination;
- (8) Provides proof of meeting the requirements of OAR 852 division 80 — Pharmaceutical Agents, for licensure with the non-topical certification (AT) or non-topical certification with injections (ATI);
- (9) Receives satisfactory results of a criminal records background check as defined in OAR 852-050-0025;
- (10) Any applicant whose conduct constitutes cheating or subverting of the process of the evaluation of professional competency by the Board or by an examiner may be dismissed from the examination and denied licensure.
- (11) Designate if they are a telehealth only licensee.

#### 852-010-0024

##### **Military Spouse and Domestic Partner Licensure**

- (1) Regardless of pathway to licensure, if the applicant is the spouse or legal domestic partner of an active service military member who is the subject of a military transfer to Oregon, the Board may issue a temporary license, if the applicant:
  - (a) Meets all other requirements for licensure as stated in OAR 852-010-0015;
  - (b) Provides verification of being in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has ever been licensed and has an active status license in another state or province;
  - (c) The Board's review of the National Practitioner Data Bank confirms no disciplinary action; and
  - (d) The military spouse or domestic partner submits a copy of the marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States and proof of assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration,
  - (e) Receipt by the Board's office of the application fee and criminal background check fee as listed in OAR 852-010-0080;
  - (f) Documentation of completion of the required continuing optometric education;
  - (g) Documentation of current CPR certification, as required in OAR 852-080-0040;
  - (h) Proof of passage of the Oregon optometric law and administrative rules examination; and
  - (i) Satisfactory results of a criminal records background check as defined in OAR 852-050-0025.
- (2) Failure of the applicant to provide confirmation(s) required within 90 days results in automatic expiration of the temporary license. Applicant may not be reissued a temporary license. The temporary license is valid until the earliest of the following:
  - (a) Two years from issuance,
  - (b) When the spouse's term of service in Oregon expires, or

(c) The expiration date of the other jurisdiction's license that was used to qualify for the Oregon temporary license.

(3) A regular license will be issued upon meeting the requirements in 852-010-0015.

#### 852-010-0030

##### **Advertising**

(1) All advertisement of ophthalmic goods or services must comply with the Oregon Unlawful Trade Practices Act, ORS 646.605 et seq., and 676.110 — Use of Titles Importing Health Care Profession.

(2) The licensee whose practice is being advertised is responsible for the contents of each advertisement. If the licensee is an employee of another Oregon-licensed optometric physician or allowed professional corporation, the employer also may be held responsible.

(3) In any advertised price a licensee must include:

(a) The type of lenses being offered, whether single vision, multifocal, or other;

(b) Whether the price includes frames and lenses;

(c) Whether the price includes an eye examination; and

(d) Whether the price includes all dispensing fees.

(4) In the case of contact lenses, any statement of price must specify the type of lenses, limits of care, and any additional materials provided.

#### 852-010-0035

##### **Agreements, Understandings and Contracts**

(1) No optometric physician may enter into or continue any agreement, understanding, or contract of any kind with any person or group of persons or pursue any course of conduct whereby said licensee:

(a) Expressly or impliedly agrees to refer said patient back to such person so referring for any service or purchase of materials; or

(b) Expressly or impliedly agrees that if patients are referred by said person, the licensee will not supply optometric materials to patients similar to the optometric material supplied by said referring person;

or

(c) Expressly or impliedly agrees to give anything of value to said person or a person designated by the licensee as consideration for said referral.

(2) Nothing in this rule or ORS Chapter 683 may be construed to affect the right of a licensee to become a member of a panel of a prepaid vision care plan and agree to any of the requirements thereof, provided said plan is organized on an actuarial basis and is lawfully organized and operated according to the appropriate statutes of the State of Oregon, and further provided that such plan permits all optometric physicians licensed to practice in the state to become a member of such panel subject to the same or equivalent conditions.

(3) Nothing in this rule may be construed to prohibit or affect referrals between persons authorized to practice medicine or optometry in the state of Oregon.

(4) The violation of this rule subjects the violator to all of the penalties provided by the provisions of ORS 683.140.

**Records**

(1) Optometric physicians must 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 must be sufficiently detailed and legible so that an appropriate provider could continue care without requiring additional information and without detriment to the patient. It is unprofessional conduct to keep incomplete or inaccurate records for a patient.

(2) Retention Schedule: A patient's records must be kept in an accessible print or electronic format. The records must be controlled by an Oregon-licensed optometric physician and kept 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 must be kept seven years or until the patient is 21 years of age, whichever is longer.

(3) When changing practice locations, closing a practice location, selling a practice or retiring, an optometric physician must retain patient records for the required amount of time or transfer the custody 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 must be reported to the Board in writing within 14 days of transfer, but not later than the effective date of the change in practice location, closure of the practice location or retirement. It is unprofessional conduct for a doctor of optometry not to retain and release patient records or fail to transfer the custody of patient records as required in this rule.

(4) Telehealth patient records must be transferred to an Oregon licensed optometrist at the time the telehealth provider stops providing patient care in Oregon.

(5) Upon the death or permanent disability of an optometric physician, the administrator, executor, personal representative, guardian, conservator or receiver of the former optometrist must notify the Board in writing of the management arrangement for the custody and transfer of patient records. This individual must ensure the security of and access to patient records by the patient or other authorized party, and must report arrangements for permanent custody of patient records to the Board in writing within 90 days. Transfer of patient records to another Oregon-licensed optometric physician must occur within one year of the death or permanent disability of the optometric physician.

(6) Optometric physicians must provide copies of records or detailed summaries of records within 14 calendar days of the written request of the patient or by a person holding a valid release from the patient (a recommended sample release form is provided in ORS 192.566). The patient may request all or part of the record. A summary may substitute for the actual record only if the patient agrees to the substitution.

(7) Optometric records do not include personal office notes of the optometric physician or personal communications between referring or consulting physicians.

(8) Optometric physicians must preserve a patient's records from unauthorized disclosure and may release them only as authorized by federal and state laws and rules.

(9) Optometric physicians may establish reasonable charges to patients for copies of their records and for faxing prescriptions by long distance phone services, or for any unusual mailing or handling costs per ORS 192.521

(10) Optometric physicians must release copies of patient prescriptions without additional charges and may not withhold release of patient records or additional copies of prescriptions for lack of payment for prior services or goods.

#### 852-010-0080

##### **Schedule of Fees**

The following fee schedule is established by the Oregon Board of Optometry to set forth in one place all of the fees and specified civil penalties charged by the Board:

(1) Active license:

(a) Annual renewal —\$375, of which \$348 is for the active optometry license, \$25 is the Prescription Drug Monitoring Fund fee collected by the licensing body on behalf of the Oregon Health Authority and \$2 for the OHA Survey fee.

(b) Additional copy of Portable Multiple Practice Location license —\$40 each.

(c) Failure to meet renewal date: Late renewal fee —\$75 first failure, \$100 second failure, \$200 any subsequent failure in a seven-year period.

(d) Lapse in CPR certification during licensing period —\$75 first lapse, \$100 second lapse, \$200 any subsequent lapse in a seven-year period.

(e) Failure to notify the Board of practice locations or address or phone number of record —\$75 first failure, \$100 second failure, \$200 any subsequent failure(s) in a seven-year period. Failure to notify the Board of the commencement or termination of a multiple practice location organization will be assessed a fee of \$200 per occurrence.

(f) Failure to notify the Board of patient records transfer or change in business ownership per OAR 852-010-0051(3)--\$100 or the Board may take disciplinary action.

(2) The agency assesses civil penalties for violations of ORS 683.010 to 683.310 and 676.110 to 676.220 and OAR chapter 852, some of which may be settled per the terms of a settlement agreement, consent order or stipulated order. Penalties not listed here will be assessed by the Board on a per case basis.

(a) Failure to respond to a Continuing Education audit within 21 days — \$250.

(b) Failure to complete or document meeting Continuing Education requirements by the due date — \$500 plus license suspension if overdue 60 days or more.

(3) Inactive License:

(a) Annual renewal —\$125 which includes \$2 for the OHA Survey fee.

(b) Late renewal fee — \$20.

(c) Failure to notify the Board of address or phone number of record —\$75 first failure, \$100 second failure, \$200 subsequent failure(s) in any seven-year period.

(4) Application for Licensure:

(a) Application for Examination and Licensure —\$300.

(b) Application for Endorsement Examination and Licensure — \$300.

(c) Application for TPA Certification —\$100.

(5) Other fees:

(a) Written official license verification —\$30.

(b) List of licensees (electronic or printed) —\$30 each Active/Inactive.

(c) Reactivation of license —\$150.

(d) Reinstatement of license — \$150.

(e) Decorative Wall Certificate of Registration (optional, personalized and signed by Board) —\$40.

- (f) Applicant or licensee must pay to the Board the cost of conducting the state and federal background check. The cost is \$45 and due with the application fee or when requested by the Board.
- (g) Return check fees or other costs associated with a returned payment to the agency will be reimbursed by the licensee, as well as a \$25 agency processing fee.
- (6) Public Records Fees: The Board will assess Public Records fees per DAS Policy 107-001-030 or any subsequent policy number.
- (7) The Board will not refund any fee unless there has been an error by the Board in the charging of the fee. Information not known by the Board because the licensee, applicant, or other person or entity has not supplied the correct information is not considered an error.

## DIVISION 20--STANDARDS OF OPTOMETRIC PRACTICE

852-020-0029

### Prescription Content

- (1) Prescription specifications must be reasonably based on the patient's vision and eye health concerns and must include all information required to ensure the patient receives the designated ophthalmic products.
- (2) Spectacle prescriptions must include the following information:
  - (a) Patient's name;
  - (b) Examination date;
  - (c) Prescription issuance date (the date on which the patient receives a copy of the prescription);
  - (d) Optometric physician's name, license number, practice location address, telephone number and facsimile (fax) number and handwritten, stamped or electronic signature. If using another doctor's printed or electronic prescription form, the prescribing doctor must legibly print his or her own name and license number on prescription form before signing;
  - (e) Sphere, Cylinder, Axis and/or ADD;
  - (f) Any special features, which may include but are not limited to: type of bifocal, trifocal or progressive lens style, prism, material, tints, coatings or edge polish; and
  - (g) A reasonable and clinically-prudent expiration date.
- (3) Contact lens prescriptions must include the following information:
  - (a) Patient's name;
  - (b) Examination date;
  - (c) Prescription issuance date (the date on which the patient receives a copy of the prescription);
  - (d) A reasonable and clinically-prudent expiration date;
  - (e) Optometric physician's name, license number, practice location address, telephone number and facsimile (fax) number, and handwritten, stamped or electronic signature. If using another doctor's printed or electronic prescription form, the prescribing doctor must legibly print his or her own name and license number on prescription form before signing;
  - (f) Sphere, Cylinder, Axis and/or ADD;
  - (g) Lens base curve or series;
  - (h) Lens diameter, if applicable;
  - (i) Lens material and/or brand name;
  - (j) Any special features that may include but are not limited to: type of bifocal, trifocal or progressive lens style, prism, material, tints, coatings or edge polish;
  - (k) The maximum number of refills, if specified by the optometric physician. If specified, the contact lens prescription becomes invalid upon the patient's ordering of the maximum number of refills, unless extended by the optometrist. The quantity of lenses or refills specified in the prescription must be sufficient to last through the prescription's expiration date. If a lesser quantity of lenses or refills is specified in the prescription, the prescriber must have a legitimate medical reason for doing so, and the Federal Trade Commission requirements on writing a prescription for less than one year must be met; and
  - (l) Any limitations, including wearing schedule and follow-up care.
- (4) Contact lens prescriptions must be written in a manner that allows the patient to have the prescription filled by an office or outlet of their choice.

(5) A seller may not alter a contact lens prescription. Notwithstanding the preceding sentence, if the same contact lens is manufactured by the same company and sold under multiple labels to individual providers, the seller may fill the prescription with an equivalent contact lens manufactured by that company under another label.

(6) Therapeutic pharmaceutical prescriptions must conform to the administrative rules of the Oregon Board of Pharmacy regarding prescription format.

#### 852-020-0031

##### **Prescription Release**

(1) An optometric physician must immediately give the signed written prescription to the patient at the time the doctor would provide spectacles or contact lenses without additional examination, even if the patient does not request the prescription.

(2) Upon direct communication from the patient or anyone designated to act on behalf of the patient, an optometric physician must release or verify the patient's prescription to a third party.

(3) The prescription is deemed to be officially signed when first issued to the patient. If the examining optometric physician wishes to delegate signature authority for subsequent copies of a valid spectacle or contact lens prescription, exact copies may be dispensed by a designee following the doctor's written policy for ensuring prescription validity. Under no circumstances may an optometric physician delegate authority to alter the prescription, its expiration date or the number of refills for contact lenses.

(4) If a patient has not completed a contact lens fitting, the prescription released need only meet the spectacle prescription requirements.

(5) As used in this section, the term "direct communication" includes communication in person, by telephone, facsimile (fax), mail or electronic mail.

(6) An optometric physician may not:

(a) Require purchase of contact lenses or spectacles from any party as a condition of providing a copy of the prescription or verification of the prescription;

(b) Require payment in addition to or as a part of the fee for an eye examination, fitting, and evaluation as a condition of providing a copy of a prescription or verification of a prescription; or

(c) Require the patient to sign a waiver or release as a condition of releasing or verifying a prescription.

#### 852-020-0035

##### **Prescribing**

(1) An optometric physician may use, prescribe, dispense or administer controlled substances in Schedules III-V and Schedule II hydrocodone-combination drugs only to a person with whom the doctor has a bona fide physician-patient relationship.

(2) An optometric physician may not use, prescribe, dispense or administer Schedule III-V controlled substances or Schedule II hydrocodone-combination drugs to himself/herself.

(3) An optometric physician may not use, prescribe, dispense or administer Schedule III-V controlled substances or Schedule II hydrocodone-combination drugs to an immediate family member except in emergency situations. "Immediate family member" means spouse, domestic partner, child, stepchild, sibling, parent, in-law or other individual for whom an optometric physician's personal or emotional involvement may render the doctor unable to exercise detached professional judgment in reaching diagnostic or therapeutic decisions.



(4) It is unprofessional conduct for an optometric physician to use, prescribe, dispense or administer controlled substances in Schedules III-V or Schedule II hydrocodone-combination drugs outside the scope of practice of optometry or in a manner that impairs the health and safety of an individual.

(5) All drugs dispensed by an optometric physician must follow all applicable Oregon Board of Pharmacy rules governing dispensing. All dispensed drugs must be labeled with the following information:

(a) Name, address and telephone number of the optometric physician;

(b) Date;

(c) Name of patient for which the drug is dispensed;

(d) Name of the drug, strength, the quantity dispensed. When a generic name is used, the label must also contain the name of the manufacturer or distributor;

(e) Direction for use;

(f) Required precautionary information;

(g) Such other and further accessory cautionary information as required for patient safety; and

(h) An expiration date after which the patient should not use the drug. Expiration dates on drugs dispensed must be the same as that on the original container unless, in the optometric physician's professional judgment, a shorter expiration date is warranted. Any drug bearing an expiration date may not be dispensed beyond the said expiration date of the drug.

#### [852-020-0045](#)

#### **Requirements for Business Entity Organization**

The following provisions apply to Oregon optometry practices, as defined in ORS 683.010, organizing or operating as a business entity and are in addition to the provisions for a professional corporation, limited liability company and partnership outlined in ORS Chapters 58, 63, 67, and 70.

(1) Definitions. As used in these administrative rules, unless the context requires otherwise:

(a) "Business entity" means:

(A) A professional corporation organized under ORS Chapter 58, predecessor law or comparable law of another jurisdiction;

(B) A limited liability company organized under ORS Chapter 63 or comparable law of another jurisdiction;

(C) A partnership organized in Oregon after January 1, 1998, or that is registered as a limited liability partnership, or that has elected to be governed by ORS Chapter 67 or comparable law of another jurisdiction; or

(D) A limited partnership organized under ORS Chapter 70, predecessor law or comparable law of another jurisdiction.

(b) "Majority ownership interest" means more than 50 percent of:

(A) The issued voting stock of a professional corporation;

(B) The members of a limited liability company; or

(C) Participation in the profits of a partnership.

(c) "Organizational document" means:

(A) The articles of incorporation of a professional corporation, or comparable document of another jurisdiction;

(B) The articles of organization of a limited liability company, or comparable document of another jurisdiction;

- (C) The partnership agreement and, for a limited liability partnership, its registration, or comparable document(s) of another jurisdiction; or
- (D) A certificate of limited partnership, or comparable document of another jurisdiction.
- (d) "Owner" means a voting shareholder of a professional corporation, member of a limited liability company, or partner of a partnership.
- (e) "Principal" means a person who is a director of a professional corporation, manager of a limited liability company, or general partner of a limited partnership.
- (2) Requirements for business entities organized to practice optometry:
  - (a) The majority ownership interest must be held by optometric physicians licensed in this state to practice optometry:
    - (A) A majority of the principals must be optometric physicians who are licensed in this state to practice optometry;
    - (B) All officers except the secretary and treasurer, if any, must be optometric physicians who are licensed in this state to practice optometry. Any two or more offices may be held by the same person;
  - (b) A professional corporation may be a shareholder of a professional corporation organized for the purpose of practicing optometry solely for the purpose of effecting a reorganization as defined in the Internal Revenue Code;
  - (c) The Oregon Board of Optometry has the discretion to allow business entities to apply for a waiver of the majority ownership requirement provided full disclosure of business ownership is provided to the Board, a plan and timetable is presented for a transition to meet the requirements of this rule, and the Board finds that the health and welfare of the patient is the first priority of the optometric physicians and business entity; and
  - (d) Upon a finding that a holder or owner of an optometric practice has failed to comply with the provisions of this rule or the regulations prescribed by the Board pursuant to the practice of optometry, the Oregon Board of Optometry may consider the failure to comply with this rule as a violation of this rule which may subject a holder or owner to discipline pursuant to ORS 683.140.

#### 852-020-0050

##### **Scope of Practice**

- (1) Optometric physicians in Oregon may perform procedures to diagnose or treat the eye. They may not perform invasive or laser surgery, sub-Tenon, retrobulbar, intraocular or botulinum toxin injection, or administer intravenous or general anesthesia. Nothing in these rules may be construed to prohibit an optometric physician from co-managing invasive surgery or laser surgery. Co-management is defined as the sharing of peri-operative responsibilities between the medical and optometric physician.
- (2) The Oregon Board of Optometry considers procedures to be within the scope of optometric practice, as defined in ORS Chapter 683, when all of the following questions can be answered in the affirmative. Any procedure that meets these qualifications is considered within the scope of optometric practice in Oregon:
  - (a) Does this procedure involve the eye or the scope of functions of the eye?
  - (b) Can this procedure be done without invasive surgery?
  - (c) Can this procedure be done without laser surgery?
  - (d) Can this procedure be done without closure by suture?
  - (e) Can this procedure be done either without pharmaceutical agents or with pharmaceutical agents categorized in Division 80?

(f) Can this procedure be done without sub-Tenon, retrobulbar, intraocular or botulinum toxin injection?

(g) Can this procedure be done without conscious sedation, deep sedation or general anesthesia?

(3)(a) Telehealth optometrists are subject to all of the provisions of the Oregon optometry law and rules and must meet the same standard of care.

(b) Telehealth prescriptions may only be issued on an initial spectacle or contact lens prescription only after conducting an in-person eye exam prior to delivering telemedicine services.

(4) The practice of optometry includes the prescription or utilization of lenses, prisms, filters, occlusion or other devices, ocular exercises, visual therapy, orthoptic therapy, visual rehabilitation and low vision rehabilitation for the correction, relief, or aid of the visual functions and for the improvement in activities of daily living.

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#### [852-020-0060](#)

##### **Optometric Physician Responsibility, Supervision, and Delegation**

(1) The optometric physician carries the sole responsibility for the patient's care. Delegation of duties does not discharge an optometric physician's responsibility for the accuracy and completeness of the work delegated.

(2) An optometric physician may delegate tasks that are not prohibited to well-trained technicians who are under the direct supervision of an optometric physician or medical doctor actively practicing at that location.

(3) No optometric physician may enter into a contract, lease agreement or other agreement that requires the optometric physician to delegate the allowed tasks of an optometrist to a technician who is not under direct supervision.

(4) Direct supervision as used in ORS 683.030 means the technician's activities are overseen and approved by an optometric physician or medical doctor at the practice site who retains the responsibility for patient care and with an appropriate intervention protocol in place. The delegating optometrist must have authority to remove that technician from patient contact at any time.

(5) An optometric physician may not delegate ophthalmoscopy, gonioscopy, final central nervous system assessment, final biomicroscopy, final refraction, or final determination of any prescription or treatment plans.

(6) An optometric physician may not delegate final tonometry for a patient who has glaucoma.

(7) Therapeutic procedures involving pharmaceutical agents may not be delegated other than to instill medication or provide educational information as instructed by the optometric physician.

#### [852-020-0070](#)

##### **Optometric Physician Educational and Professional Standards**

To meet the expanded optometric scope of practice and current standard of care in Oregon, all optometric physicians must have demonstrated qualification and have obtained certification to use topical and nontopical therapeutic pharmaceutical agents for the practice of optometry.

## DIVISION 50--LICENSING

### 852-050-0001

#### **License Required**

(1) Unless otherwise exempted by Oregon law, all persons practicing optometry in the state of Oregon must possess a valid, unrevoked, active status Oregon license.

(a) Optometry school graduates who have not been granted an Oregon optometry license are prohibited from the practice of optometry. When working in optometry prior to licensure, graduates may perform the work of unlicensed technicians under the supervision of a licensed optometrist, but cannot be referred to in any terms that imply being a doctor.

(2) Doctors of optometry who are not practicing in Oregon may hold an inactive status license.

(3) Those granted an inactive status license by the Board are exempt from ORS 683.100 and OAR 852-50-0016, which require the licensee to report each Oregon practice location to the Board:

(a) Inactive licensees are required to maintain a current mailing address and phone number of record with the Board. Upon written request, the Board will hold the phone number of record of an inactive licensee confidential if it is a personal number not associated with a business entity; and

(b) Inactive licensees failing to notify the Board in writing of any changes to their address or phone number of record before the change are subject to the fee listed in OAR 852-010-0080.

### 852-050-0005

#### **License and Certificate of Registration**

(1) Upon becoming authorized to practice Optometry in Oregon, the licensee will receive:

(a) One original license, printed with and valid only at the address of the reported primary practice location. This current original license must be displayed in plain sight at the primary practice location where it can be viewed by any patient; and

(b) One Portable Multiple Practice Location license, printed with the reported primary practice location address, which may be used to practice at an unlimited number of additional reported practice locations. A Board-issued Portable Multiple Practice Location license must be displayed in plain sight at each non-primary practice location in an area where it can be viewed by any patient. Optometric physicians who wish not to transport this portable license among locations may purchase additional copies of the Portable Multiple Practice Location license from the Board.

(2) The licensee's status (active or inactive, and pharmaceutical certification) is printed by the Board on each license.

(3) The licensee must notify the Board of each practice location before commencing work at that location.

(4) While practicing at any location, a current license must be displayed in plain sight at all times in an area where it can be viewed by any patient.

(5) Photocopies of licenses are void and may not be displayed.

(6) The original license and all Portable Multiple Practice Location licenses expire and must be renewed during the annual license renewal period. Current licenses must be displayed per 808-005-0005(4).

(7) Any optometric physician actively licensed to practice in Oregon may purchase an optional decorative wall certificate of registration personalized and signed by the Board.

(8) Licensees must be licensed under their legal name. Any names changes require a written notification to the Board accompanied with the legal documentation of the name change. The licensee will be required to purchase a new license copy at the time of a legal name change. Acceptable documentation includes: marriage certificate, divorce decree, driver's license, birth certificate or other Board acceptable documentation. A licensee's legal name is their first name, middle initial and last name. A license can be printed with the licensee's full legal name upon written request.

#### 852-050-0006

##### **Annual Renewal of Active License**

(1) Active licensees must annually renew their license to practice optometry:

(a) Annual license-year renewal periods are established by the Board based upon birth dates of licensees;

(b) If the licensee's date of birth is not available to the Board, a license renewal period will be established for the licensee.

(2) Complete license renewal applications are due on the first day of the month of license expiration (month of licensee's birth date) and must be received in the Board's office or be postmarked to the Board's mailing address or successfully submitted via the Board's online system, on or before the due date.

(3) The license renewal application must include the following to be considered complete:

(a) A completed license renewal form signed by the licensee;

(b) Payment for the correct license renewal fee(s) and any late fee(s);

(c) Accurate completion of the required continuing optometric education reporting form and attestation of meeting the continuing education requirements; and

(d) Attestation of continuous CPR certification, as required in OAR 852-80-0040.

(4) The Board, as a courtesy, mails or emails annual license renewal notices to the licensee's current reported address or email address of record. However, it is the licensee's responsibility to ensure timely renewal; failure to receive notice does not relieve the licensee of the responsibility to timely renew

(5) A licensee who is not more than 30 days late in renewing the license may renew upon payment to the Board of the required late fee. If a licensee is more than 30 days late, the license is automatically suspended upon 30-day notice sent to the licensee via certified mail, as required by ORS 683.120(2).

(6) If a licensee is more than 60 days late in renewing the license, the licensee may be required to take an examination and pay the examination fee as required in ORS 683.060. The Board may, upon written request, waive the examination requirement.

(7) In addition to the annual license renewal fee listed in OAR 852-010-0080, the Board is required by ORS 431.972 to collect an additional annual fee from each active status optometry licensee for the Electronic Prescription Drug Monitoring Fund, which is remitted to the Oregon Health Authority.

(8) In any seven-year period, any licensee whose complete license renewal and fee is not received or postmarked by the first day of the month of license expiration is subject to a late payment fee listed in OAR 852-010-0080, which must be received before the license will be issued.

(9) Any licensee whose Board-required CPR certification lapsed at any time during the licensing period is subject to a lapsed CPR fee as listed in OAR 852-010-0080, which must be received before the license will be issued.

**Inactive Status License**

- (1) Eligible licensees may be granted an inactive status license upon signed written request. If renewal is not due, the license will be converted from active to inactive at no charge. If renewal is due, the licensee will pay the inactive renewal fee.
- (2) To remain in inactive status, a licensee must renew annually. Annual license-year renewal periods are established by the Board based upon birth dates of licensees.
- (3) Complete license renewal applications are due on the first day of the month of license expiration (month of licensee's birth date) and must be received in the Board's office or be postmarked to the Board's mailing address on or before the due date.
- (4) The license renewal application must include the following to be considered complete:
  - (a) A completed license renewal signed by the licensee; and
  - (b) Payment for the correct license renewal fee(s) and any late fee(s).
- (5) As a courtesy, the Board sends a license year renewal notice to the inactive status licensee's current reported email address or address of record. However, it is the licensee's responsibility to ensure timely renewal; failure to receive notice does not relieve the licensee of the responsibility to timely renew.
- (6) A licensee who is not more than 30 days late in renewing the license may renew the license upon payment to the Board of the required fee plus a late fee. If a licensee is more than 30 days late, the license is automatically suspended upon 30-day notice sent to the licensee by first-class mail.
- (7) A licensee who is more than 60 days late in renewing the license may be required to take an examination and pay the examination fee as required in ORS 683.060. The Board may, upon written application, waive the examination requirement.
- (8) Complete license renewal applications are due on the first day of the month of license expiration (month of licensee's birth date) and must be received in the Board's office or be postmarked to the Board's mailing address or successfully submitted via the Board's online system, on or before the due date.
- (9) Reactivation: To reactivate a license to practice optometry in Oregon, an inactive status licensee must complete the following requirements:
  - (a) Submit a signed Reactivation Request form;
  - (b) Pay the reactivation fee listed in OAR 852-010-0080 and the difference between the inactive and active status license renewal fees;
  - (c) Submit proof of continuing education hours equivalent to Oregon requirements for the previous licensing period;
  - (d) Submit documentation of current CPR certification, as required in OAR 852-80-0040;
  - (e) Submit proof of meeting the requirements of OAR 852 Division 80 – Pharmaceutical Agents, for licensure with the non-topical certification (AT) or non-topical certification with injections (ATI), unless this information has been previously provided to the Board;
  - (f) Provide the Board's office with the address of the intended primary practice location in the state of Oregon, if known, or the mailing address to be printed on the license;
  - (g) Provide written confirmation sent directly from the licensing entity of each other state in which the applicant has ever been licensed that the applicant for licensure has not been sanctioned for violating the laws, rules or standards of ethics of that jurisdiction. The Board will accept electronic license verifications if that is the only mechanism the verifying state uses for license verifications. In addition,

the Board will query the National Practitioner Data Bank for adverse actions on each person making an application for licensure;

(h) If inactive for two years or more, pass any required criminal background checks; and

(i) Pass the Oregon optometric law and administrative rules examination if the applicant last held an active status license in Oregon more than two years before the date the Board confirms receipt of the completed application.

#### 852-050-0013

##### **Uniformed Services**

(1) No license renewal fees will be assessed while the licensee is on active duty with the Uniformed Services of the United States:

(a) As a courtesy, the Board will send annual renewal notices to the licensee's current reported address of record. To avoid being placed into lapsed license status, the licensee must return a completed and signed renewal form with proof of active duty status to the Board within stated timelines;

(b) Licensees under this rule who are moved into lapsed status by the Board may be reinstated at no cost by meeting the requirements of this rule; and

(c) Nothing in this rule may be construed to waive any other reinstatement or reactivation requirements for Oregon licensure.

(2) Written notification to the Board is required within 60 days of the date of discharge in order to change the license to its former status without fee or penalty. If notification is received by the Board more than 60 days from the date of discharge, but within the license renewal period in which the discharge becomes effective, the license may be changed to its former status by paying all fees and penalties appropriate for a license of that status.

(3) If a licensed optometric physician fails to notify the Board in writing of the change of status within 60 days from the date of discharge, or within the license renewal period in which the discharge becomes effective, whichever is the longer period of time, that person must take an examination and pay the examination fee as required by ORS 683.060.

(4) Licensees eligible for the military fee waiver may waive the right to waive fees by notifying the Board of their uniformed service and affirmation of waiver.

#### 852-050-0014

##### **Reinstatement of License**

(1) A person who has been previously licensed by the Board may have the license reinstated to its former status if the person:

(a) Voluntarily surrendered the license to the Board and, at the time of surrender, was in good standing and not surrendering in lieu of discipline or under notice for proposed disciplinary action, or subject to a final order of the Board, or

(b) The license was suspended due to nonpayment of the license renewal fee or late fee and, at the time of suspension, the licensee was not surrendering in lieu of discipline or under notice for proposed disciplinary action, or subject to a final order of the Board.

(2) To reinstate an Oregon Optometry license an optometric physician must:

(a) Submit a signed written request;

(b) Provide written confirmation sent directly from the licensing entity of each other state in which the applicant has ever been licensed that the applicant for licensure has not been sanctioned for violating

the laws, rules or standards of ethics of that jurisdiction. The Board will accept electronic license verifications if that is the only mechanism the state uses for license verifications. In addition, the Board will query the National Practitioner Data Bank for adverse actions on each person making an application for licensure;

(c) If unlicensed for two years or more, pass any required criminal background checks;

(d) Pay delinquent fees as determined by the Board;

(e) Pay the reinstatement fee as listed in OAR 852-010-0080; and

(f) Submit documentation of current CPR certification, as required in OAR 852-80-0040;

(g) Submit a complete set of fingerprints obtained from any state or local law enforcement agency, or from any other agency approved by the Board. Applicants shall use forms prescribed by the Board and pay any required fees.

(h) The requirements in (2)(b), (2)(c), (2)(e), and (2)(g) above may be waived by the Board if the license is not more than 60 days expired.

(3) Reinstatement of a license to active status also requires:

(a) Submission of a completed Reactivation Application form;

(b) Passage of the Oregon optometric law and administrative rules examination if it has been more than two years since the person held an active status license in Oregon; and

(c) Submission of proof of continuing education equivalent to Oregon requirements for the previous license renewal period.

#### [852-050-0016](#)

##### **Notice of Place of Practice**

(1) Each active licensee must notify the Board in writing of each place of practice before engaging in practice at that location. If the licensee is practicing in a mobile facility or with a portable unit, the licensee must report the Base of Operations and specific locations of such practice to the Board in compliance with this rule.

(a) Within 14 days of termination, but no later than the effective date, of practice at any location, licensee must notify the Board in writing, including information on the custody of any patient records generated by the licensee at that location.

(b) Written notification from a licensee to the Board must be signed, and may be made through the online system or by mail, fax or scanned e-mail attachment. Standard e-mail notification from the licensee's professional or personal e-mail will be accepted with an electronic signature that is composed of the licensee's full legal name and optometry license number, followed by the last four digits of the licensee's Social Security number.

(c) Reporting of a multiple practice location organization with multiple practice sites and a centralized patient records system is treated as one practice location for reporting.

(2) Failure to notify the Board in writing of practice location(s) and any address change(s) in accordance with (1) above subjects the licensee to fees listed in OAR 852-010-0080.

#### [852-050-0018](#)

##### **Official Address, Email Address and Telephone Number of Record**

(1) Each actively licensed optometric physician must notify the Board in writing of the licensee's primary practice location, which is recorded by the Board as the official address of record. All correspondence from the Board will be sent to the official address of record unless the licensee



requests in writing that an alternate mailing address be used. Active licensees who do not have a primary practice location may provide the Board with a mailing address.

(2) Each inactive licensee must notify the Board in writing of a mailing address.

(3) Post office boxes are not acceptable as a mailing address unless a street address is included with it and it is able to receive certified mail and return receipts.

(4) Each licensee (active or inactive) must provide a telephone number of record to the Board, which by default is disclosable to the public. Upon written request, the Board will hold the telephone number of record of a licensee confidential if it is a personal number not associated with a business.

(5) Failure to notify the Board in writing of a change in the licensee's official address or telephone phone number of record may subject the licensee to disciplinary action and a fee as listed in OAR 852-010-0080.

(6) Licensees are requested to submit an official email address for Board communications. Licensees have the ability to opt out of email communications with the agency and continue to receive written information via U.S. mail.

#### [852-050-0021](#)

##### **Nonprofit Services**

An active or telehealth licensed doctor of optometry in Oregon who volunteers to provide professional services to a charitable nonprofit corporation may request the additional practice location license required for that location from the Board at no charge.

(1) Nonprofit corporation means a charitable corporation as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Optometry as providing optometric services by volunteer licensed doctors of optometry to populations with limited access to eye care at no charge or at a substantially reduced charge.

(2) "Voluntary basis" means working of one's own free will and without payment for services.

(3) Any entity that owns or operates a nonprofit charitable clinic that provides eye care services must name an actively licensed Oregon optometric physician as its vision services director who is subject to the provisions of ORS 683 and OAR 852. This director is responsible for the patient records on eye care services for the clinic.

(4) Any licensed optometric physician who works at a nonprofit clinic described in (1) above must:

(a) Display a portable multiple practice location license, and

(b) Comply with all other provisions of ORS 683 and OAR 852, including reporting start and end dates of providing services at any practice location.

#### [852-050-0022](#)

##### **Liability Limitations for Volunteers**

(1) An active status licensee may register with the Board at no additional charge to qualify for the provisions of ORS 676.340, which provides registrants with specific exemptions from liability for the provision of optometric services to defined charitable organizations without compensation under the terms of the law.

(2) Registration requires submission of a signed form provided by the Board in accordance with ORS 676.345(2).

(3) Initial registration will expire at the licensee's next biennial license renewal date, and biannually thereafter. It is the licensee's responsibility to ensure his or her active registration in this program; no notice will be sent regarding expiration of licensee's registration.

(4) Nothing in this section relieves licensee from the responsibility to comply with all other provisions of ORS 683 and OAR 852, including reporting start and end dates of providing services at any practice location.

(5) Patients treated under the provisions of ORS 676.340 and 676.345 in no way waive their rights to file complaints against the doctor of optometry with the Board, and the Board retains all rights and responsibilities under OAR 852 Division 60.

#### 852-050-0025

##### **State Criminal Records Check and Fitness Determination**

(1) The purpose of this rule is to provide for the reasonable screening of applicants and licensees to determine if they have a history of criminal behavior such that they are not fit to be granted or to hold a license that has been issued by the Board.

(2) The Board may require legible fingerprints for the purpose of a criminal records check and fitness determination of all applicants and licensees including:

- (a) Applicants for a license;
- (b) Licensees applying to reactivate a license;
- (c) Licensees applying to reinstate a license,
- (d) Licensees applying to renew a license
- (e) Licensees renewing a license; and
- (f) Licensees under investigation.

(3) Criminal records checks and fitness determinations are conducted according to ORS 181A.170 to 181A.215, 670.280 and OAR 125-007-0200 to 127-007-0310.

(a) The Board will request the Oregon Department of State Police to conduct state and nationwide criminal records checks. Any original fingerprint cards will subsequently be destroyed.

(b) All background checks must include available state and national data, unless obtaining one or the other is an acceptable alternative to the Board.

(c) The applicant or licensee must disclose all arrests, charges, and convictions regardless of the outcome or date of occurrence. Disclosure includes any military or set aside criminal records.

(d) The Board may require additional information from the applicant or licensee, such as, but not limited to, proof of identity, previous names, residential history or additional criminal, judicial or other background information.

(4) If the applicant or licensee has potentially disqualifying criminal offender information, the Board will consider the following factors in making the fitness determination:

- (a) The nature of the crime;
- (b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;
- (c) 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;
- (d) Intervening circumstances relevant to the responsibilities and circumstances of the license.

Intervening circumstances include but are not limited to:

- (A) The passage of time since the commission of the crime;

- (B) The age of the applicant or licensee at the time of the crime;
  - (C) The likelihood of a repetition of offenses or of the commission of another crime;
  - (D) The subsequent commission of another relevant crime; and
  - (E) Whether the conviction was set aside and the legal effect of setting aside the conviction.
  - (F) Any recommendation of an employer;
  - (e) Any false statements or omissions made by the applicant or licensee; and
  - (f) Any other pertinent information obtained as part of an investigation.
- (5) The Board will make a fitness determination consistent with the outcomes provided in OAR 125-007-0260.
- (a) A fitness determination approval does not guarantee the granting or renewal of a license.
  - (b) A restricted or conditional approval may necessitate probation, conditions, limitation, or other restrictions on licensure.
  - (c) A denial prohibits the applicant from being granted a license or prohibits the licensee from holding a license.
  - (d) An incomplete fitness determination results if the applicant or licensee refuses to consent to the criminal history check, refuses to be fingerprinted or respond to written correspondence, or discontinues the criminal records process for any reason. Incomplete fitness determinations may not be appealed.
- (6) Criminal offender information is confidential. Dissemination of information received under ORS 181.534 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to 676.175(1).
- (7) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.
- (8) An applicant or licensee may appeal a final fitness determination pursuant to OAR 125-007-0300. Challenges to the accuracy or completeness of criminal history information must be made in accordance with OAR 125-007-0300(7).
- (9) The applicant or licensee must pay a criminal records check fee for the cost of acquiring and furnishing the criminal offender information per OAR 852-010-0080(5)(g).

## DIVISION 60--PROCEDURES FOR HANDLING COMPLAINTS

### 852-060-0004

#### **Processing of Complaints**

The Board processes complaints in accordance with the requirements of ORS 676.160 to 676.180 and the provisions of ORS 683.278, 683.325, 683.335.

### 852-060-0025

#### **Disciplinary Action**

(1) When disciplining an optometric physician or any other person, the Oregon Board of Optometry may do any of the following:

- (a) Deny an initial license;
- (b) Suspend, refuse to renew or revoke a license;
- (c) Impose probation on any licensee;
- (d) Limit the practice of any licensee; and
- (e) Take other disciplinary action as the Board in its discretion finds proper, including the assessment of the costs of the disciplinary proceedings as a civil penalty, the assessment of a civil penalty not to exceed \$10,000 for each violation, or both.

(2) The Board may discipline any optometric physician or person, where appropriate, for the following causes:

- (a) Conviction of a felony or misdemeanor where such an offense bears a demonstrable relationship to the duties of an optometric physician. The record of conviction, or a copy thereof certified by the clerk of the court or by the judge in whose court the conviction is held, is conclusive evidence of such conviction;
- (b) Practicing optometry without a license;
- (c) Securing a license by practicing fraud or deceit upon the Board;
- (d) Unprofessional conduct;
- (e) Gross ignorance or inefficiency in the practice of optometry;
- (f) Failing to comply with the requirements of continuing education;
- (g) Obtaining any fee by fraud or misrepresentation;
- (h) Employing directly or indirectly any suspended or unlicensed optometrist to perform any work covered by ORS 683.010 to 683.335;
- (i) Advertising optometric services or treatment or advice in which untruthful, improbable, misleading or deceitful statements are made;
- (j) Habitual, excessive or unlawful use of intoxicants, drugs or controlled substances;
- (k) Permitting another person to use the optometrist's license;
- (l) Using advertisements that do not indicate that a licensed optometrist is practicing at the advertised location or locations or advertising optometric services without having a licensed optometrist at the location or locations;
- (m) Advertising professional methods or professional superiority;
- (n) Violating the federal Controlled Substances Act;
- (o) Prescribing controlled substances without a legitimate optometric purpose, or without following accepted procedures for examination of patients or for record keeping;

- (p) Failing to report to the Board within 10 calendar days any adverse action taken against the optometrist or person by another licensing jurisdiction, health regulatory board, peer review body, health care institution, professional optometric society or association, governmental agency, law enforcement agency or court for acts similar to conduct that would constitute grounds for disciplinary action as described in this section;
  - (q) Having been disciplined by any health regulatory board of another state based on acts similar to acts described in this section. A certified copy of the record of disciplinary action is considered conclusive evidence of the action;
  - (r) Any violation of the provisions of ORS 683.010 to 683.335; or
  - (s) Practicing optometry in a location not reported to the Board.
  - (t) Failing to report the suspected prohibited or unprofessional conduct of another health care licensee to the appropriate board within 10 working days as required in ORS 676.150 and 683.340.
  - (u) Operating a business that violates the requirements of OAR 852-020-0045.
- (3) The Board must report all disciplinary action taken by the Board to the National Practitioner Data Bank.

#### 852-060-0027

#### **Definition of Unprofessional Conduct**

Unprofessional conduct within the meaning of ORS 683.140(1)(c) includes, but is not limited to:

- (1) Any conduct or practice contrary to recognized standards of ethics of the optometric profession.
- (2) Fraud, misrepresentation or dishonesty, including but not limited to:
  - (a) Advertising optometric services, treatments, or advice in which untruthful, improbable, misleading or deceitful statements are made.
  - (b) Misrepresenting any facts to a patient concerning treatments or fees.
  - (c) Making a false statement to the Board or to an agent of the Board.
  - (d) Willfully deceiving or attempting to deceive the Board, an employee of the Board, or an agent of the Board in any application or renewal, or in reference to any matter under investigation by the Board. This includes but is not limited to the omission, alteration or destruction of any records in order to obstruct or delay an investigation by the Board, or to omit, alter or falsify any information in patient or business records to avoid potential disciplinary action.
  - (3) Advertising professional methods or professional superiority, including using the term “board certified” without defining which board has provided the certification.

NOTE: As a licensing and regulatory agency, the Oregon Board of Optometry does not “board certify” optometric physicians.

- (4) Violations of ORS 676.110(5) (use of titles), which states, in part, that any person practicing optometry who uses the title “doctor,” or any contraction thereof, “clinic,” “institute,” “specialist,” or any other assumed name or title in connection with the profession, in all advertisements, professional notices, or any written or printed matter must add the word “optometrist” or the words “doctor of optometry” or “optometric physician.”
- (5) Aiding an unlicensed person in the practice of optometry.
- (6) Permitting another person to use the optometrist’s license
- (7) Failure to train and directly supervise persons to whom optometric services have been appropriately delegated.

- (8) Prescribing, dispensing or administering controlled substances outside the scope of practice of optometry or in a manner that impairs the health and safety of an individual.
- (9) Habitual, excessive or unlawful use of intoxicants, drugs or controlled or mind-altering substances.
- (10) Failing to keep complete and accurate records for a patient.
- (11) Failing to retain patient records in an accessible print or electronic format.
- (12) Failing to immediately give the prescription to the patient at the time the doctor would provide spectacles or contact lenses without additional examination.
- (13) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose information.
- (14) Failing make appropriate transfer of the custody of patient records.
- (15) Obstruction and harassment, including but not limited to:
  - (a) The use of threats or harassment or to delay or to obstruct any person in providing evidence in any investigation, disciplinary action, or other legal action instituted by the Board.
  - (b) Conduct determined by the Board to be harassment of any complainant by the licensee or any member of the licensee's staff or practice, regardless of complaint case closure status.
  - (c) The use of threats, harassment, or any other conduct that obstructs or delays a member of the Board, a member of the Board's staff or a duly appointed agent of the Board in carrying out their functions under the Board's rules.
  - (d) The discharge of an employee based primarily on the employee's attempt to comply with or aid in the compliance of the Board's rules, or with the Board's enforcement activities.
- (16) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to waiver of confidentiality privileges except attorney-client privilege.
- (17) Making an agreement with a patient or person, or any person or entity representing patients or persons, or providing any form of consideration that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Oregon Board of Optometry; to truthfully and fully answer any questions posed by an agent or representative of the Board; or to participate as a witness in a Board proceeding.
- (18) Failing to respond in writing to a Board request for information as required.
- (19) Failing to provide the Board with requested patient records.
- (20) Failing to appear before the Board at a time and place designated by the Board for such appearance.
- (21) Failing to comply with a Board order.
- (22) Failing to make full payment to the Board of all Board assessed fees, fines and penalties.
- (23) Failing to give timely written notification to the Board of any disciplinary action or sanction related to the practice of optometry by any licensing agency of any state.
- (24) Failing to give written notification to the Board of any felony or misdemeanor convictions within 10 days of the conviction.
- (25) Failure to timely report own or other licensee's suspected prohibited or unprofessional conduct, arrests or convictions as required by ORS 676.150, 683.335, and 683.340.
- (26) Conduct that could be construed as moral turpitude.
- (27) Any conduct unbecoming a licensee, or detrimental to the best interests of public, including failure to fully comply with Executive Orders issued by the Governor during a declared disaster or emergency.
- (28) Sexual misconduct, including but not limited to:

- (a) Sexual abuse: Includes conduct that constitutes a violation of any provision of ORS 163.305 through 163.479, Criminal Sexual Offenses, if proven by at least a preponderance of the evidence in any criminal, civil or administrative litigation, or admitted or stipulated by the professional;
- (b) Sexual Violation: Includes professional-patient sex, whether initiated by the patient or not, and engaging in any conduct with a patient that is sexual, or may be reasonably interpreted as sexual, including, but not limited to: sexual intercourse; genital-to-genital contact; oral-to-genital contact; oral-to-anal contact; oral-to-oral contact except CPR; touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination or treatment or where the patient has refused or has withdrawn consent; encouraging the patient to masturbate in the presence of the professional or masturbation by the professional while the patient is present; and
- (c) Sexual Impropriety: Includes any behavior, gestures, or expressions that are seductive or sexually demeaning to a patient of normal sensibilities; inappropriate procedures, including, but not limited to, disrobing or draping practices that reflect a lack of respect for the patient's privacy; inappropriate comments about or to the patient, including, but not limited to, making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, inappropriate comments on the patient's or professional's sexual orientation, making comments about potential sexual performance during an examination or consultation; requesting the details of sexual history unless medically necessary; questioning or discussing sexual likes or dislikes; initiation by the professional of conversation regarding the sexual problems, preferences or fantasies of the professional or the patient; or kissing of a sexual nature.

#### [852-060-0028](#)

##### **Definition of Gross Ignorance or Inefficiency**

In determining gross ignorance or inefficiency within the meaning of ORS 683.140(1)(c) the Board may take into account relevant factors and practices, including but not limited to the standard of practice generally and currently followed and accepted by persons licensed to practice optometry in this state, the current teachings at accredited optometry schools, relevant technical reports published in recognized optometry journals, and the desirability of reasonable experimentation in the furtherance of the practice of optometry.

#### [852-060-0060](#)

##### **Model Rules of Procedure**

Pursuant to the provisions of ORS 183.341, the Oregon Board of Optometry adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act current edition; these rules of procedure are controlling except as otherwise required by statute or rule.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Optometry.]

#### [852-060-0065](#)

##### **Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases**

In addition to the notice requirements under the Attorney General's Model Rules of Procedure adopted by OAR 852-60-0060, the notice to parties in contested cases must include the statement that an answer to any assertions or charges of unprofessional conduct, sexual abuse, sexual violation or sexual impropriety will be required and will list the consequences of failure to answer. A statement of

the consequences of failure to answer may be satisfied by enclosing a copy of OAR 852-060-0070 with the notice.

#### [852-060-0070](#)

##### **Hearing Requests, Answers, and Consequences of Failure to Answer**

(1) A hearing request and answer when required by OAR 852-060-0065 must be made in writing to the Board by the party or his or her representative. Any required answer must include the following:

- (a) An admission or denial of each factual matter alleged in the notice that requires an answer; and
- (b) A short and plain statement of each relevant affirmative defense the party may have.

(2) Except for good cause:

- (a) Factual matters alleged in the notice that require an answer and which are not denied in the answer are presumed admitted;
- (b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;
- (c) New matters alleged in the answer (affirmative defenses) are presumed to be denied by the Board; and
- (d) Evidence may not be taken on any issue not raised in the notice and answer.

#### [852-060-0075](#)

##### **Discovery**

An order requiring discovery will be responded to pursuant to OAR 137-003-0025 included in the Uniform and Model Rules of Procedure under the Administrative Procedures Act and ORS 676.175. In addition, ORS 676.175 provides that contested case hearings are closed to members of the public.



## DIVISON 70--CONTINUING OPTOMETRIC EDUCATION

852-070-0005

### Definitions

“Hour” means clock hour of 60 minutes of instruction time, plus or minus 10 minutes. “Half-hour” means 30 minutes of instruction time, plus or minus five minutes.

852-070-0010

### Requirement of Continuing Optometric Education

852-070-0010

### Requirement of Continuing Optometric Education

The Oregon Board of Optometry is committed to ensuring the continuing education of its licensees for the protection, safety and wellbeing of the public. Continuing education is required to maintain and advance the professional skills and abilities of licensees and to educate optometric physicians in the application and use of new techniques, scientific and clinical advances and the achievements of research to ensure expansive and comprehensive care to the public.

- (1) Every active status licensed optometric physician must complete at least 18 hours of clinical optometric courses each license year as a condition of license renewal. Continuing education hours cover 12-month periods and must be reported with license renewal applications. Upon written request, the licensee may carry forward approved excess CE hours completed in the prior license year to the current license year.
- (2) Of the required 18 hours, at least nine hours each license year must be in the area of diagnosis, treatment and management of ocular disease (TMOD). The licensee must be the first or second author of the article or paper and the paper must have been published in the CE reporting period.
- (3) Optometric physicians must complete one hour of approved credit for an optometric ethics or Oregon law course every other license year, regardless of credits carried forward under (1) of this section. Licensees may receive one hour of optometric ethics/Oregon law credit per year for verified attendance of at least one hour at an official meeting of the Oregon Board of Optometry. One hour of law/ethics credit is granted for passing the Oregon law exam.
- (4) One hour of Board approved or Oregon Health Authority approved cultural competency continuing education may be used toward satisfying the required number of non-TMOD hours each license year. All licensees must complete at least 1 hour of cultural competency education for every other license renewal. The first reporting is due with renewals due after June 30, 2021.
- (5) Credit will be given for no more than five hours of clinical or surgical observation per license year. No credit will be granted for observation in the licensee’s primary practice or in any practice locations affiliated with the licensee.
- (6) The required hours of continuing education used to meet the CE requirement each license year must be of different course content. When the Board determines that a licensee has submitted a course or lecture essentially identical to another presentation submitted for credit in the same license renewal period, credit will be given for only one.
- (7) Credit will be given for no more than 2 hours for each publication of a qualifying article or paper.

(8) New Licensees are required to complete the Oregon Pain Management 1 hour training offered by the Oregon Health Authority and report at their first license renewal. Existing licensees must complete the course and report on their first renewal after January 1, 2020.

(9) Of the 18 required hours, licensees can report up to five hours of in-person, U.S. based CME courses per license renewal. Acceptable courses must be ACCME accredited, be in AMA PRA Category 1 and be acceptable in the TMOD category per OAR 852-070-0010(2).

#### 852-070-0016

##### **Continuing Optometric Education Not Required for Inactive Licenses**

(1) Those licensees who have been granted inactive status by the Board are not required to complete the continuing optometric education requirement in OAR 852-070-0010.

(2) If an inactive licensee applies to change to active status, the licensee must comply with OAR 852-070-0010 for the continuing education license year previous to the year in which active status is granted by the Board.

#### 852-070-0020

##### **Application for Credit**

Each continuing education offering must be approved by the Board in order for an optometric physician to obtain credit. Upon application the Board may:

(1) Grant credit, to the extent determined by it, for any course, or individual or group study deemed suitable to carry out the purposes of ORS 683.210. To be granted credit, any course offering must be open to all optometric physicians licensed in Oregon.

(2) Grant credit, to the extent determined by it, for publication of articles and papers of scientific and educational interest published in recognized scientific publications. The licensee must be the first or second author to earn credit and the paper must have been published in the licensee's CE reporting period.

(3) Grant credit, to the extent determined by it, for courses that relate to the maintenance or advancement of professional skills and abilities. Courses that relate primarily to practice management or jurisprudence will not be granted credit.

(4) Teaching courses at an accredited health care institution or accredited optometric school or university and meet the requirements of 852-070-0010.

#### 852-070-0025

##### **Credit for Conducting Course or Presenting Material**

Any optometric physician who prepares and presents a continuing education course approved for credit by the Board is entitled to three hours of continuing education credit for each credit hour of the initial presentation of the course. No credit will be given for repeat presentations unless application for credit has been filed in advance with the Board and appropriate evidence submitted that additional study or research was necessary for such additional presentation. The Board may then grant, to the extent deemed suitable by it, credit for the additional presentation.

#### 852-070-0030

##### **CE Requirements for Applicants and First-Time Renewals**

(1) Applicants must meet the requirements for continuing education for initial licensure based on when they graduated from optometry school:

(a) Applicants who submit completed applications and are licensed less than one year after graduation from optometry school are not required to submit continuing education for initial licensure.

(b) Applicants receiving initial licensure one year or more after graduation from optometry school must submit required continuing education to receive initial licensure.

(2) All active status licensees must submit continuing education for their first license renewal that falls one year or more after graduation from optometry school.

#### 852-070-0035

##### **Responsibility to Notify Board**

(1) Each active licensee must notify the Board of Optometry in writing of completion of the required hours of approved continuing education credits as part of the license renewal per OAR 852-050-0006.

(2) Notification for at least the total number of required hours must be submitted at one time.

(3) If sufficient proof of continuing education is not received by the Board by the license year renewal period deadline, the license will not be renewed until the continuing education deficiency is made up in a manner acceptable to and approved by the Board.

(4) Licensees must submit certificates of attendance or other proof of attendance acceptable to the Board when selected for audit or required to submit to renew a lapsed or late license.

(5) Any licensee who has completed the required continuing optometric education course work by the license year renewal period but fails to meet the submission deadline is subject to a late fee as listed in OAR 852-010-0080.

(6) The Board will not refund any fee unless there has been an error by the Board in the charging of the fee. Information not known by the Board because the licensee, applicant, or other person or entity has not supplied the correct information is not considered an error.

#### 852-070-0037

##### **Continuing Education Reporting and Audit**

(1) Optometric Physicians seeking to renew their active status license shall submit with their renewal application a completed form provided by the Board certifying that they have met the CE and CPR certification requirements set forth in these rules. Any optometric physician renewing a license more than 30 days after their due date, or restoring a lapsed license, will provide original documentation verifying that they have met the continuing education requirement per 852-050-0006, in addition to the form.

(2) The licensee is responsible for ensuring that all reported CE hours have been pre-approved by the Board before attesting to their completion. A licensee may not submit CE credit that has not been pre-approved by the Board.

(a) All requests for course approval must be received by the Board at least 30 days before the license renewal due date for consideration for credit for the current renewal period.

(b) If the Board does not approve the course(s) within the due date, the licensee must submit additional acceptable credits by the renewal due date or the renewal will be considered incomplete and late.

(3) The licensee is responsible for obtaining a completion certificate from the course sponsor for renewal and audit.

(4) Optometric Physicians must maintain accurate documentation and records of any claimed continuing education hours and CPR certification for no less than three years from the date of submission to the Board. Licensees must provide documentation of CE and CPR certification when requested by the Board per OAR 852-070-0020.

(5) The Board may audit licensees for compliance with CE and CPR certification by generating a random computer list of a Board determined percentage of renewing licensees on a regular basis. The Board may also include non-random individuals in the audit sample.

(a) Licensees selected for audit will have 21 days from notification to supply the agency with verification of their CE hours or CPR certification dates. Those selected for audit will be notified by first class mail to their address of record. Failure to comply or misrepresentation of compliance is grounds for disciplinary action for unprofessional conduct.

(b) Licensees who fail to respond with the requested documentation within 21 days will be assessed a civil penalty.

(c) If the licensee does not comply within 60 days of the date of the audit letter, the licensee will be sent a notice of license suspension for a minimum of 90 days.

(6) The Board may, in individual cases involving physical disability, illness or undue hardship, grant waivers of the minimum continuing education and CPR certification requirements or extensions of time within which to fulfill the same or make the required reports. Applications for waiver shall be made to the Board in writing at least two months prior to license renewal date.

#### [852-070-0045](#)

##### **Board Responsibility for Provision of Continuing Optometric Education**

The Oregon Board of Optometry must provide or approve education programs to fulfill the requirements of this section

#### [852-070-0047](#)

##### **Continuing Education Approval**

(1) Licensees or course providers can submit appropriate courses for Board approval. In order to grant approval, a written request may be submitted up to 60 days in advance of the course. Courses must be submitted for Board approval within 30 days of the course completion date. The request process must be completed within 60 days of initial information submission.

(a) A completed agency request form, which may include:

(b) Name and contact information of the course sponsor

(c) Date and location of the course or program, or a website with the course information

(d) Brief learning objectives

(e) The number of clock hours for the presentation. 1 hour is no less than 50 minutes of presentation time; 30 minutes is no less than 25 minutes of presentation time. The CE type being requested.

(f) Curriculum Vitae of the presenters or surgeons

(g) Powerpoint slides or an itemized course outline. If submitting an outline, the general expectation is 1 page of information per course hour of CE credit.

(h) A sample certificate of completion

(2) Surgical clinics applying for surgical clinic observation CE time can submit a written request for CE approval by submitting the applicable information from (1) above and:

(a) Name and address of the locations where observations may be performed

- (b) A brief description of the procedures that will be offered for observation
  - (c) Curriculum Vitae of the physicians who will be performing the procedures and observing the attendee
  - (d) The protocol established for monitoring and verifying the attendance of optometric physicians who observe procedures in the surgery facility
- (3) All submissions are reviewed by a licensed member of the Oregon Board of Optometry, who will make the final determination of approval, denial and allowable CE hours and CE type.
- (4) Requestors will be notified of the approval or denial of their request in writing. Any denials will include the reason for denial.
- (5) CE requests for presentations or publications will provide:
- (a) A completed agency request form, which may include:
  - (b) Name and contact information of the requestor
  - (c) Date and location of the course or publication, or a website with the information
  - (d) The number of CE hours requested per 852-070-0025.
  - (e) Curriculum Vitae of the requestor.
- (6) Requestors must follow the Board submittal process for course review.
- (7) Eye care clinics applying for clinical observation CE time can submit a written request for CE approval by submitting the applicable information from (1) above and:
- (a) Name and address of the locations where observations may be performed
  - (b) A clear description of the procedures or types of exams that will be offered for observation—requestors need to be specific as to what types of clinical cases and follow up care the attendees will observe.
  - (c) Curriculum Vitae of the physicians who will be performing the procedures or observed.
  - (d) The protocol established for monitoring and verifying the attendance of optometric physicians who observe in the facility.

#### 852-070-0054

#### **COPE Approved Continuing Optometric Education Courses**

- (1) The Oregon Board of Optometry accepts courses related to the maintenance or advancement of professional skills and clinical abilities approved by COPE (Council on Optometric Practitioner Education). If such a course has been COPE approved, the Board will accept the course as meeting its continuing education requirements for license renewal except for courses in Category D as indicated in (4) below.
- (2) COPE course category A: Clinical Optometry which includes Contact Lenses (CL), Functional Vision/Pediatrics (FV), General Optometry (GO), Low Vision (LV), and Public Health (PB).
- (3) COPE course categories B: Ocular Disease and C: Related Systemic Disease are approved as meeting the Board's nine hours per license year requirement of continuing optometric education in the area of diagnosis, treatment and management of ocular disease:
- (a) Ocular Disease includes Glaucoma (GL), Injection Skills (IS), Laser Procedures (LP), Peri-Operative Management of Ophthalmic Surgery (PO), Refractive Surgery Management (RS), Surgery Procedures (SP), Treatment and Management of Ocular Disease: Anterior Segment (AS), and Treatment and Management of Ocular Disease: Posterior Segment (PS); and
  - (b) Related Systemic Disease includes Neuro-Optometry (NO), Oral Pharmaceuticals (OP), Pharmacology (PH), Principles of Diagnosis (PD), and Systemic/Ocular Disease (SD).

(4) COPE course category D, which includes Practice Management (PM) and Ethics/Jurisprudence (EJ), is not approved by the Oregon Board of Optometry, unless it is an optometric ethics course that has been individually evaluated and approved by the Board.

(5) It is the responsibility of the licensee to ensure that any continuing optometric education coursework submitted for credit meets the criteria of this rule.

(6) The Oregon Board of Optometry will review the COPE criteria for course category definitions to determine if the process and categories are within the standards it has set. Those COPE category definitions not acceptable to the Board will be identified to COPE and listed in the Board's administrative rules.

#### 852-070-0055

##### **Continuing Optometric Education Provided by Outside Entities**

(1) All continuing optometric education provided by other organizations (non-COPE) must be submitted to the Board for approval before credit will be granted. Persons submitting courses for credit review must allow at least 30 days for the review. Renewing active status licensees may not count a course toward meeting the continuing education requirement before it is approved by the Board.

(2) Approval or denial of the continuing optometric education will be based on course:

(a) Relevance to modern optometric practice;

(b) Provision of skills or information which can translate to improved patient care;

(c) Content being recognized and accepted as sound scientific thought;

(d) Provision of heightened content standards needed by optometric physicians; and

(e) Presenter(s) credentials, as evidenced by a submitted curriculum vitae and an academic degree or combination of academic achievement and special expertise acceptable to the Board.

(3) The Board may accept continuing optometric education courses that have been approved by other organizations. This acceptance will be in accordance with the standards set by the Board.

(4) Courses acceptable to the Board for continuing education credit must be at least one half-hour in length, must be proctored for attendance, and the sponsor must provide original source documentation of successful completion to the attendee. Additional credits must be in half-hour increments.

## DIVISION 80--PHARMACEUTICAL AGENTS

### 852-080-0020

#### **Designation of Topical Formulary**

Pursuant to ORS 683.010(3) and 683.270(j), optometric physicians are qualified to use, administer, and prescribe topical pharmaceutical agents as designated by the Oregon Board of Optometry. The following formulary of pharmaceutical agents for topical use in the practice of optometry are designated, subject to the conditions in 852-080-0030:

- (1) Category 1 — Ocular lubricants, artificial tears, and irrigating solutions;
- (2) Category 2 — Mydriatics;
- (3) Category 3 — Cycloplegics;
- (4) Category 4 — Anesthetics;
- (5) Category 5 — Dyes;
- (6) Category 6 — Miotics;
- (7) Category 7 — Astringents and antiseptics;
- (8) Category 8 — Caustic agents;
- (9) Category 9 — Antihistamines and decongestants;
- (10) Category 10 — Anti-lice agents;
- (11) Category 11 — Hyperosmotics;
- (12) Category 12 — Anti-infectives (antibiotics, anti-virals, anti-fungals);
- (13) Category 13 — Anti-glaucoma and ocular hypotensives;
- (14) Category 14 — Anti-inflammatories;
- (15) Category 15 — Any combination of the above agents;
- (16) Category 16 — Other agents as approved by the Board.

### 852-080-0025

#### **Adoption of Nontopical Formulary**

Pursuant to ORS 683.010(3) optometric physicians are qualified to use, administer, and prescribe nontopical pharmaceutical agents adopted by the Council on Optometric Nontopical Formulary under ORS 683.240(2) and approved by the Board. The Oregon Board of Optometry adopts the following nontopical formulary subject to the conditions in 852-080-0030:

- (1) Category 17 — Anesthetics;
- (2) Category 18 — Analgesics;
- (3) Category 19 — Dyes;
- (4) Category 20 — Anti-allergy agents;
- (5) Category 21 — Anti-infectives (antibiotics, anti-virals, anti-fungals);
- (6) Category 22 — Anti-glaucoma and ocular hypotensives;
- (7) Category 23 — Anti-inflammatory agents;
- (8) Category 24 — Any combination of the above agents;
- (9) Category 25 — Emergency use agents.

**Conditions of Formulary Application**

The following conditions apply to the formulary of pharmaceutical agents in 852-080-0020 and 852-080-0025:

- (1) Optometric physicians certified for Topical Therapeutic Pharmaceutical Agents (TPA), Nontopical Therapeutic Pharmaceutical Agents (AT) or Nontopical Therapeutic Pharmaceutical Agents with Injections (ATI) may use, administer, and prescribe any and all over-the-counter pharmaceutical agents.
- (2) Optometric physicians certified for topical TPA use may use, administer and prescribe topical agents in Categories 1-16.
- (3) Optometric physicians certified for nontopical TPA use have the designation “AT” or “ATI” printed on their licenses, and may use, administer and prescribe topical and nontopical agents in Categories 1-24 as indicated for procedures that are permitted under OAR Chapter 852, Division 20 Standards of Optometric Practice.
- (4) Glaucoma Treatment:
  - (a) Optometric physicians treating a patient with antiglaucoma medication must consult with an ophthalmologist if:
    - (A) The glaucoma progresses despite the use of two glaucoma medications;
    - (B) More than two medications are required to control the glaucoma; or
    - (C) A secondary glaucoma develops;
  - (b) Glaucoma is considered to be progressing if, in comparison to prior examinations, there is a reproducible worsening of the patient’s visual field as measured by standard threshold testing or if there is a worsening of the patient’s optic nerve as measured by direct observation or standard imaging technology or by rising eye pressure despite the use of two or more medications;
  - (c) Glaucoma is considered to be under control if target eye pressure, individualized for each patient, is maintained with no abnormal glaucomatous progression; and
  - (d) A combination medication that contains two pharmacologic agents is considered one medication.
- (5) Optometric physicians certified for nontopical TPA must consult with a doctor of medicine or doctor of osteopathy, licensed under ORS Chapter 677, before extending treatment with nontopical corticosteroids or Schedule III analgesics beyond seven days.
- (6) Optometric physicians should be diligent in preventing the diversion of drugs for illegitimate purposes. Upon application, active status licensees are granted access to the Oregon Prescription Drug Monitoring Program of the Oregon Health Authority to research controlled substance information on their patients; under ORS Chapter 431, fees for the program are required to be collected at the time of annual active license renewal by the Board and allow doctors to register and use the program at no additional charge.
- (7) Optometric physicians may not use, administer or prescribe agents classified principally as anti-neoplastics.
- (8) Optometric physicians may use or administer pharmaceutical agents in cases of emergency requiring immediate attention.
- (9) Optometric physicians certified for nontopical TPA with injections (ATI) use may administer subcutaneous and subconjunctival injections. Sub-Tenon, retrobulbar, intraocular and botulinum toxin injections are excluded.



(10) Optometric physicians certified for nontopical TPA use, may administer oral pre-medication for light sedation. Conscious sedation, deep sedation and general anesthesia are excluded.

(11) Optometric physicians certified for topical or nontopical TPA use may prescribe and dispense therapeutic contact lenses that include pharmaceutical agents listed on the topical formulary in OAR 852-80-0020.

#### 852-080-0040

##### **Certification to Use Pharmaceutical Agents**

(1) Inactive Status Topical TPA Certification (T): Any inactive status optometric physician licensed in Oregon who seeks TPA certification must:

(a) Pass the National Board of Examiners in Optometry’s “Treatment and Management of Ocular Disease” (TMOD) on or after January 1, 2002 or have passed a 100-hour TPA course approved by the Board;

(b) Pay the TPA examination and licensure fee as listed in OAR 852-010-0080 for topical TPA certification and submit the Board request form; and

(c) Obtain a license from the Oregon Board of Optometry indicating “Certified to use Topical Therapeutic Pharmaceutical Agents.”

(2) Active Status Nontopical TPA Certification (AT): Before using nontopical therapeutic pharmaceutical agents as listed in this rule, any active status optometric physician in Oregon seeking AT certification must submit a completed application and:

(a) Meet Topical TPA Certification;

(b) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry’s “Treatment and Management of Ocular Disease” (TMOD), year 2002 or subsequent examination;

(c) Pay the TPA examination and licensure fee as listed in OAR 852-010-0080 for nontopical TPA certification;

(d) Obtain a license from the Oregon Board of Optometry indicating “Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents”; and

(e) Acquire and maintain Board-approved CPR certification designed for professional health care providers. The CPR certification standard is the American Heart Association’s BLS Healthcare Providers Course or its equivalent, as determined by the Board. This initial CPR course must be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification:

(A) After the initial CPR certification, the Board will accept a Board-approved BLS Healthcare Providers Online Renewal course for license renewal. A CPR certification card with an expiration date must be received from the CPR provider as documentation of CPR certification. The Board considers the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires;

(B) Documentation of CPR certification is due with the licensee’s annual license renewal as required in OAR 852-050-0006; and

(C) Any licensee whose CPR certification lapses at any time in the licensing year is subject to a late CPR fee as listed in OAR 852-010-0080.

(3) Inactive Status Nontopical TPA Certification (AT): Any inactive status optometric physician licensed in Oregon who seeks AT certification must submit a completed application and:

(a) Meet all criteria for Topical TPA Certification in OAR 852-080-0040(1);

- (b) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry’s “Treatment and Management of Ocular Disease” (TMOD) year 2002 or subsequent examination;
  - (c) Pay a the TPA examination and licensure fee as listed in OAR 852-010-0080 for nontopical TPA certification;
  - (d) Obtain a license from the Oregon Board of Optometry indicating “Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents”; and
  - (e) Acquire Board-approved CPR certification designed for professional healthcare providers. The CPR certification standard is the American Heart Association’s BLS Healthcare Providers Course or its equivalent, as determined by the Board. This initial CPR course must be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification. A CPR certification card with an expiration date must be received from the CPR provider. The Board considers the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.
- (4) Active Status Nontopical TPA Certification with Injections (ATI): Before using nontopical therapeutic pharmaceutical agents as listed in this rule, any active status optometric physician in Oregon seeking ATI certification must submit an application and:
- (a) Pass a Board-approved Nontopical TPA course of at least 23 hours or pass the National Board of Examiners in Optometry’s “Treatment and Management of Ocular Disease” (TMOD) year 2002 or subsequent examination;
  - (b) Pass a Nontopical TPA injection workshop of at least seven hours approved by the Board or provide proof of equivalent training acceptable to the Board;
  - (c) Pay the TPA examination and licensure fee as listed in OAR 852-010-0080 for nontopical TPA certification;
  - (d) Obtain a license from the Oregon Board of Optometry indicating “Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents with Injections”; and
  - (e) Acquire and maintain Board-approved CPR certification designed for professional health care providers. The CPR certification standard is the American Heart Association’s BLS Healthcare Providers Course or its equivalent, as determined by the Board. This initial CPR course must be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification;
- (A) After the initial CPR certification, the Board will accept a Board-approved BLS Healthcare Providers Online Renewal course for license renewal. A CPR certification card with an expiration date must be received from the CPR provider as documentation of CPR certification. The Board considers the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires;
- (B) Documentation of CPR certification is due with the licensee’s annual license renewal as indicated in OAR 852-050-0006;
- (C) Any licensee whose CPR certification lapses at any time in the licensing year is subject to a late CPR fee as listed in OAR 852-010-0080.
- (5) Inactive Status Nontopical TPA Certification with Injections (ATI): Any inactive status optometric physician licensed in Oregon who seeks ATI certification must submit an application and:
- (a) Pass a didactic Nontopical TPA course of at least 23 hours approved by the Board or pass the National Board of Examiners in Optometry’s “Treatment and Management of Ocular Disease” (TMOD) year 2002 or subsequent examination;

- (b) Pass a Nontopical TPA injection workshop of at least seven hours approved by the Board or provide proof of equivalent training acceptable to the Board;
- (c) Pay the TPA examination and licensure fee as listed in OAR 852-010-0080 for nontopical TPA certification;
- (d) Obtain a license from the Oregon Board of Optometry indicating “Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents with Injections”; and
- (e) Acquire Board-Approved CPR certification designed for professional healthcare providers. The CPR certification must be the American Heart Association’s BLS Healthcare Providers Course or its equivalent, as determined by the Board. This initial certification must be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification. A CPR certification card with an expiration date must be received from the CPR provider as documentation of CPR certification. The Board considers the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires. Inactive status licensees are not required to maintain CPR certification after initial TPA certification