



# Compliance Actions

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## OREGON BOARD OF OPTOMETRY

### **What Licensees Should Know**

The Oregon Board of Optometry is required by state law to uphold regulations meant to protect the health, safety and rights of consumers. The Board has the responsibility and authority to conduct investigations and to discipline optometrists and others who violate the Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OARs) governing the practice of optometry in Oregon.

Board investigations must be opened for each and every complaint received. The Board may also open investigations on its own motion when it has concerns that optometry's governing laws or rules have been violated. Most investigations do not result in formal disciplinary action, and many are closed as unfounded.

If you are notified that a complaint has been filed against you, know your rights and understand how the disciplinary process works. When you are notified of an investigation, you must cooperate fully with the Board's requests. The Board will work with you to ensure you understand your rights and responsibilities as it strives to resolve the complaint.

### **Confidentiality of Complaints**

Complaints filed with the Board are confidential and not subject to public disclosure. ORS 676.165 and 676.175 specify that the information gathered during the investigation and the investigative report are confidential and not subject to public disclosure except that the Board may provide sufficient summary to the complainant to explain the action the Board took in the matter.

The fact that a complaint has been filed against any licensee is not public information. The Board is required by law to keep confidential, to the greatest extent possible, the identity of the complainant and the respondent (licensee) involved. Every effort is made to abide by this requirement, while at the same time conducting a fair and thorough investigation.

### **Investigative Process**

Complaints are investigated by trained board staff, and an initial summary of the issues involved is usually presented to the Board for its next scheduled meeting. The Board reviews the complaints and any supporting information and records, and discusses its responsibilities and options for further action in Executive Session, not open to the public. Actual votes on proposed actions are made in Public Session.

Because the Board typically meets once each calendar quarter, it may take several months to work an investigation through to resolution. Disposition of cases can result in finding of no violation, letter of concern, or a determination that disciplinary action is warranted. The Board is ready to work with licensees to reach a fair and satisfactory resolution to each disciplinary case.

## **Guarantee of Due Process**

The Oregon Board of Optometry strictly follows the Oregon Attorney General's "Model Rules of Procedure." The Administrative Procedures Act (APA) requires all state agencies to adopt rules of procedure for use in rulemaking, contested cases and other administrative proceedings. You will receive due process during all disciplinary proceedings.

## **Notice of Disciplinary Action**

Disciplinary actions begin with a "Notice of Proposed Discipline and Rights," which states the alleged violation(s), proposed penalty and the rights of the licensee. Once issued, these notices are public information and are posted on the Board's website.

For major violations, disciplinary actions may include fines up to \$10,000 per violation, and suspension or revocation of an optometrist's license. By law, final orders for disciplinary actions are posted on the Board's website, summarized in the agency newsletter, and are reported to the national practitioner databank.

## **Responding to a Notice**

If you receive a disciplinary notice, you must respond within the time designated on the notice if you wish to contest the allegations or negotiate a settlement.

Proposed discipline is just that: what the Board proposes as discipline to address alleged violations based on the evidence and the specific related state law and administrative rules.

Failure to respond to a disciplinary notice is considered a default of your rights, and the Board may proceed with disciplinary action. A disciplinary notice issued as a "Proposed Order" automatically becomes a "Final Order" if you fail to respond within the designated time.

## **Disputing an OBO Action**

Even while negotiations are taking place, a licensee facing disciplinary action retains the right to a hearing before an impartial hearing officer and to representation by an attorney.

If you wish to dispute an action taken against you by the Oregon Board of Optometry or any other state agency, you may request a hearing before an independent administrative law judge through the Office of Administrative Hearings. Final orders may be appealed in the Oregon Court of Appeals and the Oregon Supreme Court.

Full APA reference information is available online at:  
[www.doj.state.or.us/help/explain\\_ag\\_model\\_rules.shtml](http://www.doj.state.or.us/help/explain_ag_model_rules.shtml).

## **Questions?**

The Board's staff can answer many of your questions. Please contact us if we can help you to better understand your rights and responsibilities, or respond to a Board's request for information.

Phone: 503-399-0662

Fax: 503-399-0705

E-mail: [optometry.board@oregon.gov](mailto:optometry.board@oregon.gov)

Mail: Oregon Board of Optometry, 1500 Liberty Street SE, Suite 210, Salem, Oregon 97302

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