

Chapter 852 Board of Optometry

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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 mailing 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 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.

Stat. Auth.: ORS 182, 183 & 683

Stats. Implemented: ORS 183.341(4) & 182.466

Hist.: OE 24, f. 1-19-76, ef. 1-20-76; OE 3-1982, f. & ef. 3-25-82; OP 3-1994, f. & cert. ef. 10-11-94; OPT 1-2004, f. & cert. ef. 3-8-04; OPT 3-2007, f. & cert. ef. 12-7-08; OPT 1-2013, f. & cert. ef. 1-3-13

852-001-0002

Definitions

As used in this division:

(1) "Appurtenances" means an accessory or auxiliary device to ophthalmic frames.

(2) "Bandage contact lens" means a continuous-wear soft contact lens used as a therapeutic bandage.

(3) “Base of operations” is the practice location from which the optometric physician utilizes a mobile facility or a portable unit.

(4) “Board” means the Oregon Board of Optometry.

(5) “Contact lens” means a lens designed to fit over the cornea of the eye.

(6) “Firm” means an individual or firm technically and financially qualified to perform certain types of work classified as personal services.

(7) “Lapsed” means license is no longer valid because of failure to renew in a timely manner.

(8) “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).

(9) “Mobile facility” is a vehicle that is equipped to render optometric services where an optometric physician examines or treats patients inside the vehicle.

(10) “Ophthalmic contact lens” means a contact lens with or without refractive power, including a plano lens or a cosmetic lens.

(11) “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.”

(12) “Patient” means a person who receives optometric attention, care, or treatment by an optometric physician or an assistant under the direct supervision of an optometrist.

(13) “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.

(14) “Practice location” is a physical site or mobile facility where an optometric physician provides services.

(15) “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.

(16) “Spectacles” means ophthalmic frames and lenses.

(17) “Therapeutic contact lens” means a contact lens that contains a topical therapeutic pharmaceutical agent listed in Division 80.

Stat. Auth.: ORS 182 & 683

Stats. Implemented: ORS 182.466, 683.010 & 683.335

Hist.: OP 1-1987, f. & ef. 4-30-87; OP 1-1991, f. & cert. ef. 4-12-91; OP 1-1992(Temp), f. & cert. ef. 5-6-92; OP 2-1992, f. & cert. ef. 10-21-92; OP 4-1994, f. & cert. ef. 10-11-94; OPT 1-2004, f. & cert. ef. 3-8-04; OPT 3-2007, f. & cert. ef. 12-7-08; OPT 1-2008, f. 6-25-08, cert. ef. 7-1-08; OPT 1-2013, f. & cert. ef. 1-3-13

ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14,

DIVISION 5

BOARD ADMINISTRATION

852-005-0005

Budget

The Oregon Board of Optometry hereby adopts by reference the Oregon Board of Optometry 2015-17 Biennium Budget of \$697,331 covering the period from July 1, 2015 through June 30, 2017. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$697,331 for the effective operation of the Board. The Board will not exceed the approved 2015-2017 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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 182.462(1) & (2)

Hist.: OPT 1-1999, f. 6-4-99, cert. ef. 7-1-99; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 3-2005, f. 6-29-05, cert. ef. 7-1-05; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 1-2009, f. 6-10-09, cert. ef. 7-1-09; OPT 1-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert.

cert. ef. 1-1-15; OPT 1-2015, f. 6-25-15, cert. ef. 7-1-15

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.

Stat. Auth.: ORS 182 & 683

Stats. Implemented: ORS 182.460(4)

Hist.: OPT 5-1998, f. 6-29-98, cert. ef. 7-1-98; OPT 1-2005, f. & cert. ef. 2-23-05

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.

Stat. Auth.: ORS 292 & 182

Stats. Implemented: ORS 182.466(3) & 2009 OL Ch. 535 (HB 2058)

Hist.: OPT 2-2009, f. & cert. ef. 12-11-09; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2015, f. & cert. ef. 11-12-15

852-005-0030

Contracting

The Oregon Board of Optometry adopts by reference the State of Oregon's contracting policies. These rules are contained in the Oregon Administrative Rules, chapter 125, divisions 20, 300, 310, 320, 330, 360.

Stat. Auth.: ORS 670.350 & 683

Stats. Implemented: ORS 670.350 Sec. 3 (4)

Hist.: OPT 5-1998, f. 6-29-98, cert. ef. 7-1-98; OPT 1-2013, f. & cert. ef. 1-3-13

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 agency may charge fees reasonably calculated to reimburse the agency for costs of providing and conveying copies of public records. Fees shall not exceed the cost of locating, compiling, making available for inspection, preparing copies in paper, audio, or electronic format and delivering them to requestor. All estimated fees and charges must be paid before public records will be made available for inspection or copies provided. 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.

Stat. Auth.: ORS 683 & 192

Stats. Implemented: ORS 683.270, 192.001-192.505

Hist.: OPT 2-2015, f. & cert. ef. 11-12-15

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.

Stat. Auth.: ORS 683 & 676

Stats. Implemented: ORS 683.270 & 676.306

Hist.: OE 2, f. 12-5-57; OP 1-1987, f. & ef. 4-30-87; OP 1-1991, f. & cert. ef. 4-12-91; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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 form;

(b) A copy of the official final transcript from an accredited college of optometry indicating receipt of the doctor of optometry degree;

(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);

(e) Receipt by the Board's office of the application 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;

(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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.140, 683.060, 683.270 & 182.466

Hist.: OE 2, f. 12-5-57; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1989, f. 1-13-89, cert. ef. 1-16-89; OP 1-1991, f. & cert. ef. 4-12-91; OP 2-1992, f. & cert. ef. 10-21-92; OP 2-1993(Temp), f. & cert. ef. 5-17-93; OP 3-1993, f. & cert. ef. 10-27-93; OP 2-1994, f. & cert. ef. 7-22-94; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2005, f. & cert. ef. 2-23-05; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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. 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.

Stat. Auth.: ORS 182 & 683

Stats. Implemented: ORS 683.060, 683.270 & 182.466

Hist.: OE 2, f. 12-5-57; OE 8, f. 4-23-71, ef. 5-25-71; OE 2-1979, f. & ef. 10-29-79; OE 2-1984, f. & ef. 7-14-84; OE 1-1985, f. & ef. 7-9-85; OP 1-1987, f. & ef. 4-30-87; OP 12-1988(Temp), f. & cert. ef. 8-30-89; OP 1-1989, f. 1-13-89, cert. ef. 1-16-89; OP 1-1991, f. & cert. ef. 4-12-91; OP 2-1992, f. & cert. ef. 10-21-92; OP 2-1993(Temp), f. & cert. ef. 5-17-93; OP 3-1993, f. & cert. ef. 10-27-93; OPT 6-1998, f. 12-28-98, cert. ef. 1-1-99; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2005, f. & cert. ef. 2-23-05; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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;

(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;

(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).

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.040, 683.060, 683.220, 683.270 & 182.466

Hist.: OPT 2-2001, f. 12-13-01, cert. ef. 1-1-02; OPT 1-2013, f. & cert. ef. 1-3-13

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. 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 admin-

istrative 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) Receive 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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.220, 683.270 & 182.466

Hist.: OPT 2-2001, f. 12-13-01, cert. ef. 1-1-02; OPT 1-2005, f. & cert. ef. 2-23-05; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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 for up to 90 calendar days pending receipt of required good standing status confirmations, if the applicant:

(a) Meets all other requirements for licensure as stated in OAR 852-010-0015;

(b) Attests to 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;

(c) The Board's review of the other jurisdictions' licensing websites and the National Practitioner Data Bank confirm 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.

(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.

(3) A regular license will be issued upon receipt of required status confirmation(s).

Stat. Auth.: ORS 683.040, 683.060, 683.270 & HB 2037 (2013)

Stats. Implemented: ORS 683.040, 683.060, 683.270 & HB 2037 (2013)

Hist.: OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 646.605, 683.140 & 683.270

Hist.: OE 2, f. 12-5-57; OE 8, f. 4-23-71, ef. 5-25-71; OE 11, f. 5-19-72, ef. 6-1-72; OE 17(Temp), f. & ef. 1-21-74; OE 19, f. 3-14-74, ef. 4-11-74; OE 21, f. 7-24-74, ef. 8-25-74; OE 1-1983, f. & ef. 1-27-83; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OPT 1-2013, f. & cert. ef. 1-3-13

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.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.270

Hist.: OE 6, f. 5-11-64; OE 7, f. 2-3-69, ef. 2-25-69; OE 8, f. 4-23-71, ef. 5-25-71; OE 20, f. 7-24-74, ef. 8-25-74; OE 1-1983, f. & ef. 1-27-83; OE 2-84, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OPT 1-2013, f. & cert. ef. 1-3-13

852-010-0051

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 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) 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.

(5) 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.

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

(7) 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.

(8) 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

(9) 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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.140 & 683.270, 182.466

Hist.: OP 2-1992, f. & cert. ef. 10-21-92; OP 2-1995, f. 10-31-95, cert. ef. 11-1-95; OPT 2-2002, f. & cert. ef. 12-18-02; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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 charged by the Board:

(1) Active license:

(a) Annual renewal — \$323, of which \$298 is for the active optometry license and \$25 is the Prescription Drug Monitoring Fund fee collected by the licensing body on behalf of the Oregon Health Authority.

(b) Additional copy of Portable Multiple Practice Location license — \$25 each.

(c) Failure to meet renewal date: Late renewal fee — \$50 first failure, \$75 second failure, \$100 any subsequent failure in a seven-year period.

(d) Lapse in CPR certification during licensing period — \$50.

(e) Failure to notify the Board of practice locations or address or phone number of record — \$50 first failure, \$100 second failure, \$200 any subsequent failure(s) in a seven-year period.

(3) Inactive License:

(a) Annual renewal — \$98.

(b) Late renewal fee — \$15.

(c) Failure to notify the Board of address or phone number of record — \$50 first failure, \$100 second failure, \$200 subsequent failure(s) in any seven-year period.

(4) Application for Licensure:

(a) Application for Examination and Licensure — \$200.

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

(c) Application for TPA Certification — \$75.

(d) Law and Administrative Rule Examination administered by the Board — \$75.

(5) Other fees:

(a) Written official license verification — \$20.

(b) List of licensees (electronic or printed) — \$25 each Active/Inactive.

(c) Reactivation of license — \$100.

(d) Reinstatement of license — \$100.

(e) Law and Administrative Rules booklet — \$25 (available online at no charge).

(f) Decorative Wall Certificate of Registration (optional, personalized and signed by Board) — \$30.

(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.

Stat. Auth.: ORS 683, 182 & 431

Stats. Implemented: ORS 683.270, 182.466 & 431.972

Hist.: OPT 1-2001, f. 6-26-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 3-2005, f. 6-29-05, cert. ef. 7-1-05; OPT 3-2006, f. 3-20-06, cert. ef. 7-1-06; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 2-2009, f. & cert. ef. 12-11-09; OPT 2-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 1-2014, f. & cert. ef. 1-3-14; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15; OPT 2-2015, f. & cert. ef. 11-12-15

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.

Stat. Auth.: ORS 182 & 683

Stats. Implemented: ORS 182.466, 683.010(2), 683.030(3) & 683.335

Hist.: OPT 1-2004, f. & cert. ef. 3-8-04; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.010, 683.335 & 182.466

Hist.: OPT 1-2004, f. & cert. ef. 3-8-04; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.010(3), 683.240(2), 683.270(k), 182.466 & 689.225

Hist.: OPT 2-2005, f. & cert. ef. 4-8-05; OPT 2-2009, f. & cert. ef. 12-11-09; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-14; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15; OPT 2-2015, f. & cert. ef. 11-12-15

852-020-0045

Requirements for Business Entity Organization

The following provisions apply to licensed optometric physicians in Oregon organizing 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.

Stat. Auth.: ORS 58, 63, 683

Stats. Implemented: ORS 58.367, 63.074, 683.270(11)

Hist.: OPT 1-2010, f. & cert. ef. 9-20-10; OPT 3-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13

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?

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.010 & 182.466

Hist.: OPT 3-2000, f. 6-26-00, cert. ef. 7-1-00; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2013, f. & cert. ef. 1-3-13

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.

Stat. Auth.: ORS 182 & 683

Stats. Implemented: ORS 683.010(2), 683.030(3) & 182.466

Hist.: OPT 3-2000, f. 6-26-00, cert. ef. 7-1-00; OPT 1-2004, f. & cert. ef. 3-8-04; OPT 2-2009, f. & cert. ef. 12-11-09; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.210(1), 683.270(1)(k) & 182.466

Hist.: OPT 2-2001, f. 12-13-01, cert. ef. 1-1-02; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-14

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.

(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.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.070, 683.100, 683.120 & 683.270

Hist.: OP 3-1993, f. & cert. ef. 10-27-93; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

(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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270 & 182.466

Hist.: OE 11, f. 5-19-72, ef. 6-1-72; OE 14, f. 2-20-73, ef. 3-1-73; OE 2-1980, f. 12-23-80, ef. 12-29-80; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1991, f. & cert. ef. 4-12-91; OP 2-1992, f. & cert. ef. 10-21-92; OP 2-1994, f. & cert. ef. 7-22-94; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2002, f. & cert. ef. 12-18-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 4-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 1-2014, f. & cert. ef. 1-3-14; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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 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);

(c) Documentation of completion of the required continuing optometric education; and

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

(4) The Board, as a courtesy, mails license year renewal notices to the licensee's current reported 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 application, waive the examination requirement.

(7) Of 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 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.

Stat. Auth.: ORS 683, 182 & 431

Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270, 182.466 & 431.972

Hist.: OE 2-1982, f. & ef. 3-18-82; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1988, f. & cert. ef. 6-28-88; OP 1-1989, f. 1-13-89, cert. ef. 1-16-89; OP 2-1992, f. & cert. ef. 10-21-92; OP 3-1993, f. & cert. ef. 10-27-93; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 3-2005, f. 6-29-05, cert. ef. 7-1-05; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 3-2006, f. 3-20-06, cert. ef. 7-1-06; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 3-2007, f. & cert. ef. 12-7-08; OPT 2-2009, f. & cert. ef. 12-11-09; OPT 5-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

852-050-0012

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 form signed by the licensee; and

(b) Payment for the correct license renewal fee(s).

(5) As a courtesy, the Board sends a license year renewal notice to the inactive status licensee's current reported 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) An inactive status licensee whose license renewal fee is postmarked after the first day of the month of license expiration is subject to a late payment fee as listed in OAR 852-010-0080, which must be received before the license will be issued.

(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. In addition, the Board will query the National Practitioner Data Bank for adverse actions on each person making an application for licensure;

(h) Pass any required criminal background check; 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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270 & 182.466

Hist.: OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 2-1992, f. & cert. ef. 10-21-92; OP 3-1993, f. & cert. ef. 10-27-93; OP 2-1997, f. & cert. ef. 10-1-97; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 6-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 182, 408 & 683

Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270, 408.450 & 182.466

Hist.: OP 1-1987, f. & ef. 4-30-87; OP 2-1992, f. & cert. ef. 10-21-92; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 2-2001, f. 12-13-01, cert. ef. 1-1-02; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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

(c) Pass any required criminal background check;

(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) The requirements in (2)(b) and (2)(e) 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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.070, 683.120, 683.270 & 182.466

Hist.: OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2001, f. 12-13-01, cert. ef. 1-1-02; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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 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 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.

(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.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.070, 683.100, 683.120 & 683.270

Hist.: OP 2-1992, f. & cert. ef. 10-21-92; OP 3-1993, f. & cert. ef. 10-27-93; OP 1-1996, f. 6-27-96, cert. ef. 7-1-96; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 1-2014, f. & cert. ef. 1-3-14; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

852-050-0018

Official 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.

(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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270 & 182.466

Hist.: OPT 2-2002, f. & cert. ef. 12-18-02; OPT 1-2005, f. & cert. ef. 2-23-05; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

852-050-0021

Nonprofit Services

An actively 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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.010(3), 683.240(2), 683.270(k) & 182.466

Hist.: OPT 2-2005, f. & cert. ef. 4-8-05; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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 annual license renewal date, and annually 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.

Stat. Auth.: ORS 676, 683

Stats. Implemented: ORS 676.340, 676.345, 683.140 & 683.325

Hist.: OPT 1-2013, f. & cert. ef. 1-3-13

852-050-0025

State Criminal Records Check and Fitness Determination

(1) The purpose of these rules 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) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.

(3) The Board may require criminal history of applicants for an initial licensure or renewal, licensees applying to reinstate or reactivate a lapsed license, or licensees under investigation to determine the fitness of an applicant or licensee. This information must be provided upon request as prescribed by the Board. The Board will submit information to the Oregon Department of State Police Law Enforcement Data System to conduct an Oregon Criminal History Check, and to other sources deemed necessary to ensure public protection

(4) The Board determines whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If a licensee is determined to be unfit, the licensee's license may not be renewed, reactivated, or reinstated. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(5) Except as otherwise provided in section (2), in making the fitness determination the Board considers:

(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; and

(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 other information the Board deems relevant or necessary.

(6) All requested background checks include Oregon data. In some circumstances, national criminal data collection may be required.

(7) In order to conduct the Oregon Criminal History Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary such as but not limited to: proof of identity, residential history, names used while living at each residence, or additional criminal, judicial or other background information.

(8) 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).

(9) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and that is in compliance with ORS 670.280. The Board may also consider any arrests, court records, or other information that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(10) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.413-183.470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183. If an individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the FBI or other reporting agency, the Board will conduct a new criminal history check upon request from the applicant or licensee.

(11) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, the application is considered incomplete.

Stat. Auth.: ORS 683, 182, 181, 676

Stat. Implemented: ORS 683.140, 683.270, 182.466, 181.534 & 676.303

Hist.: OPT 7-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 676 & 683

Stats. Implemented: ORS 676.160 - 676.180

Hist.: OPT 6-1998, f. 12-28-98, cert. ef. 1-1-99; OPT 2-2004, f. & cert. ef. 5-20-04

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 had, 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.

(3) The Board must report all disciplinary action taken by the Board to the National Practitioner Data Bank.

Stat. Auth.: ORS 683, 182

Stats. Implemented: ORS 683.140, 683.180, 683.270, 683.990 & 182.466
 Hist.: OE 2, f. 12-5-57; OE 14, f. 2-20-73, ef. 3-1-73; OE 1-1979, f. & ef. 3-8-79; OE 2-1982, f. & ef. 3-18-82; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 2-1992, f. & cert. ef. 10-21-92; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; Renumbered from 852-010-0025, OPT 4-2005, f. & cert. ef. 12-8-05; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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) Conduct that could be construed as moral turpitude.

(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.

Stat. Auth.: ORS 683, 182 & 676

Stats. Implemented: ORS 683.140, 683.270, 676.150 & 182.466

Hist.: OP 1-1987, f. & ef. 4-30-87; OP 1-1991, f. & cert. ef. 4-12-91; OP 2-1992, f. & cert. ef. 10-21-92; OP 1-1993, f. & cert. ef. 2-10-93; OP 3-1993, f. & cert. ef. 10-27-93; OPT 2-2000, f. 4-28-00, cert. ef. 5-1-00; OPT 3-2000, f. 6-

26-00, cert. ef. 7-1-00; OPT 2-2002, f. & cert. ef. 12-18-02; OPT 1-2005, f. & cert. ef. 2-23-05; Renumbered from 852-010-0027, OPT 4-2005, f. & cert. ef. 12-8-05; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 683; ORS 182

Stats. Implemented: ORS 683.140, 683.270 & 182.466

Hist.: OP 1-1987, f. & ef. 4-30-87; Renumbered from 852-010-0028, OPT 4-2005, f. & cert. ef. 12-8-05

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.]

Stat. Auth.: ORS 183, 683 & 182

Stats. Implemented: ORS 183.341(2) & 182.466

Hist.: OPT 2-2004, f. & cert. ef. 5-20-04; OPT 1-2013, f. & cert. ef. 1-3-13

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.

Stat. Auth.: ORS 183, 683 & 182

Stats. Implemented: ORS 183.413 & 182.466

Hist.: OPT 2-2004, f. & cert. ef. 5-20-04; OPT 1-2013, f. & cert. ef. 1-3-13

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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.155 & 182.466

Hist.: OPT 2-2004, f. & cert. ef. 5-20-04; OPT 1-2013, f. & cert. ef. 1-3-13

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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.155 & 182.466

Hist.: OPT 2-2004, f. & cert. ef. 5-20-04; OPT 1-2006, f. & cert. ef. 3-8-06

DIVISION 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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.210 & 182.466

Hist.: OE 16, f. 2-11-74, ef. 3-11-74; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OPT 2-1998, f. 6-10-98, cert. ef. 6-15-98; OPT 1-2009, f. 6-10-09, cert. ef. 7-1-09; OPT 1-2013, f. & cert. ef. 1-3-13

852-070-0010

Requirement of Continuing Optometric Education (CE)

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).

(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.

(4) One hour of approved cultural competency continuing education may be used toward satisfying the required number of non-TMOD hours each license year.

(5) Credit will be given for no more than five hours of live observation in an approved surgical facility per license year.

(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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.140, 683.270, 683.210 & 182.466

Hist.: OE 16, f. 2-11-74, ef. 3-11-74; OE 1-1978, f. & ef. 1-25-78; OE 1-1984, f. & ef. 1-13-84; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 3-1993, f. & cert. ef. 10-27-93; OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OP 1-1996, f. 6-27-96, cert. ef. 7-1-96; OPT 2-1998, f. 6-10-98, cert. ef. 6-15-98; OPT 2-1999, f. 12-29-99, cert. ef. 1-1-00; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2003, f. 9-15-03, cert. ef. 1-1-04; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.210

Hist.: OP 3-1993, f. & cert. ef. 10-27-93; OPT 2-1998, f. 6-10-98, cert. ef. 6-15-98; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

(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.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.210 & 683.270

Hist.: OE 16, f. 2-11-74, ef. 3-11-74; OE 2-1979, f. & ef. 10-29-79; OE 2-1983, f. & ef. 2-22-83; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 1-1989, f. 1-13-89, cert. ef. 1-16-89; OPT 2-1998, f. 6-10-98, cert. ef. 6-15-98; OPT 2-1999, f. 12-29-99, cert. ef. 1-1-00; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.210

Hist.: OE 16, f. 2-11-74, ef. 3-11-74; OE 2-1984, f. & ef. 7-14-84; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

Stat. Auth.: ORS 182 & 683

Stats. Implemented: ORS 683.210 & 182.466

Hist.: OE 16, f. 2-11-74, ef. 3-11-74; OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OP 2-1994, f. & cert. ef. 7-22-94; OPT 2-1998, f. 6-10-98, cert. ef. 6-15-98; OPT 1-2005, f. & cert. ef. 2-23-05; OPT 1-2013, f. & cert. ef. 1-3-

13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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.

(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 original certificates of attendance or other proof of attendance acceptable to the Board.

(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.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.210

Hist.: OE 16, f. 2-11-74, ef. 3-11-74; OE 1-1984, f. & ef. 1-13-84; OP 1-1987, f. & ef. 4-30-87; OP 3-1993, f. & cert. ef. 10-27-93; OPT 2-1998, f. 6-10-98, cert. ef. 6-15-98; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.140 & 683.210

Hist.: OP 1-1996, f. 6-27-96, cert. ef. 7-1-96; OPT 1-2013, f. & cert. ef. 1-3-13

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), and Low Vision (LV).

(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 Public Health (PB), Practice Management (PM) and Ethics/Jurisprudence (EJ), are 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.

Stat. Auth.: ORS 683 & 182
 Stats. Implemented: ORS 683.140, 683.210 & 182.466
 Hist.: OP 1-1996, f. 6-27-96, cert. ef. 7-1-96; OP 2-1996, f. 10-30-96, cert. ef. 11-1-96; OPT 2-1999, f. 12-29-99, cert. ef. 1-1-00; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 2-2003, f. 9-15-03, cert. ef. 1-1-04; OPT 1-2009, f. 6-10-09, cert. ef. 7-1-09; Renumbered from 852-070-0060 by OPT 1-2013, f. & cert. ef. 1-3-13

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.

Stat. Auth.: ORS 683 & 182
 Stats. Implemented: ORS 683.140, 683.210 & 182.466
 Hist.: OP 1-1996, f. 6-27-96, cert. ef. 7-1-96; OPT 2-1999, f. 12-29-99, cert. ef. 1-1-00; OPT 1-2009, f. 6-10-09, cert. ef. 7-1-09; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15

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-louse 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.

Stat. Auth.: ORS 182 & 683
 Stats. Implemented: ORS 683.010, 683.270 & 182.466
 Hist.: OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OPT 1-2000, f. & cert. ef. 3-15-00; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2013, f. & cert. ef. 1-3-13

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.

Stat. Auth.: ORS 683 & 182
 Stats. Implemented: ORS 683.240 & 182.466
 Hist.: OPT 1-2002, f. & cert. ef. 7-26-02; OPT 1-2013, f. & cert. ef. 1-3-13

852-080-0030

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 use 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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.240, 683.270 & 182.466

Hist.: OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OPT 4-1998, f. 6-25-98, cert. ef. 7-1-98; OPT 1-2000, f. & cert. ef. 3-15-00; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 2-2007, f. 12-7-07 & cert. ef. 1-1-08; OPT 1-2008, f. 6-25-08, cert. ef. 7-1-08; OPT 1-2013, f. & cert. ef. 1-3-13

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) 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

(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.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.270 & 182.466

Hist.: OP 1-1994, f. 5-4-94, cert. ef. 5-9-94; OPT 2-1999, f.12-29-99, cert. ef.1-

1-00; OPT 1-2002, f. & cert. ef. 7-26-02; OPT 3-2003, f. 9-15-03, cert. ef. 10-1-

03; OPT 3-2004, f. 9-24-04, cert. ef. 10-1-04; OPT 2-2005, f. & cert. ef. 4-8-05;

OPT 2-2006, f. 3-20-06, cert. ef. 4-1-06; OPT 4-2006, f. & cert. ef. 8-2-06; OPT

1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-

2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15