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DIVISION 1

PROCEDURAL RULES

852-001-0001
Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any permanent rule, the Board of Optometry shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360, at least twenty-one (21) days prior to the effective date of the rule;

(2) By mailing a copy of the notice to persons on the Board of Optometry's mailing list established pursuant to ORS 183.335(7) at least 28 days prior to 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; and

(4) By mailing a copy of the notice to the following organizations and publications:

- (a) Oregon Optometric Physicians Association;
- (b) Capitol Press Room.

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

852-001-0002
Definitions

As used in this division:

(1) "Board" means the Oregon Board of Optometry.

(2) "Board's Office" means the facility located at 3218 Pringle Rd. SE, Ste. 270, Salem, OR 97302-6306.

(3) "Board Administrator" means the administrator for the Oregon Board of Optometry.

(4) "Firms" means an individual or firm technically and financially qualified to perform certain types of work classified as personal services.

(5) "Lenses" means pieces of glass or other transparent substances that have two opposite surfaces either both curved or one curved and the other plane that are used singly or in combination to aid the human eye in focusing rays of light. These devices shall not

be confused with “contact lenses” which are designed to fit directly on the surface of the eye (cornea).

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

(7) “Appurtenances” means an accessory or auxiliary device to ophthalmic frames.

(8) “Prescription” means the signed written prescription which a doctor of optometry shall immediately release to the patient at the time he/she would provide spectacles or contact lenses without additional examination.

Stat. Auth.: ORS 182 & ORS 683

Stats. Implemented: ORS 182.466, ORS 683.010 & ORS 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

DIVISION 5

BOARD ADMINISTRATION

852-005-0005

Budget

The Oregon Board of Optometry hereby adopts by reference the Oregon Board of Optometry 2003-2005 Biennium Budget of \$481,520 covering the period from July 1, 2003 through June 30, 2005. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$481,520 for the effective operation of the Board. The Board will not exceed the approved 2003-2005 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 & ORS 182

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

852-005-0010

Purchasing

(1) The Oregon Board of Optometry temporarily adopts by reference the State of Oregon’s purchasing rules. These rules are contained in the Oregon Administrative Rules, chapter 125, division 30. The Board’s one exception to these rules will be with air travel. When travel by airplane is necessary for business of the Board, the traveler will purchase the ticket from the least expensive source that meets the travelers basic scheduling needs. In determining the least expensive source, the State of Oregon travel agent will be one of the sources checked.

(2) The Board intends to develop its own purchasing rules, but until those are developed and adopted these rules are controlling.

Stat. Auth.: ORS 670.350 & ORS 683

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

Hist.: OPT 5-1998, f. 6-29-98, cert. ef. 7-1-98

852-005-0030

Contracting

(1) The Oregon Board of Optometry temporarily 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.

(2) The Board intends to develop its own contracting rules, but until those are developed and adopted these rules are controlling.

Stat. Auth.: ORS 670.350 & ORS 683

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

Hist.: OPT 5-1998, f. 6-29-98, cert. ef. 7-1-98

852-005-0040

Personnel

(1) The Oregon Board of Optometry hereby adopts by reference the Oregon Board of Optometry’s Personnel Policies Manual. This Personnel Policies Manual contains all of the personnel 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 Personnel Policies Manual require action of the full Board.

(2) Copies of the Personnel Policies Manual are available for review at the Board’s office.

Stat. Auth.: ORS 670.350 & ORS 683

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

Hist.: OPT 5-1998, f. 6-29-98, cert. ef. 7-1-98

DIVISION 10

GENERAL

852-010-0005

Board Meeting

(1) The Board shall hold regular meetings at least once each year for the purpose of examination, at such time and place as the Board may designate. Notice of the time and place of regularly scheduled, special and emergency meetings shall be given by notification to the individuals on the Board’s mailing 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 emergency action between Board meetings on various actions, such as reactivation of licenses, interpretation of policy or procedure, or other such items, subject to ratification by the Board. However, in the case of actions significant enough to require a Board decision, the president shall first attempt to obtain authorization for such decisions by written or verbal communication with the members of the Board. All emergency actions of any kind shall be noted in the agenda for the next meeting of the Board and shall become the first order of business at that meeting.

(4) The vice-president of the Board shall carry out the functions of the president when the president is unable to perform the required duties.

Stat. Auth.: ORS 683.270(11)

Stats. Implemented: ORS 683.270

Hist.: OE 2, f. 12-5-57; OP 1-1987, f. & ef. 4-30-87; OP 1-1991, f. & cert. ef. 4-12-91

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) Each inquiry regarding application for licensure as a Doctor of Optometry must be directed to the office of the Board of Optometry.

(3) The application will be completed upon receipt by the Board of:

(a) An 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;

(e) Receipt by the Board’s office of the \$150 application fee; and

(f) Confirmation that a candidate for licensure has not been sanctioned for violating the laws, rules and standards of ethics of another jurisdiction if licensed therein.

(4) Any application received from an optometrist who has been sanctioned by revocation of license by another optometric licensing jurisdiction shall be reviewed on a case by case basis by the Board.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.140, ORS 683.270 & ORS 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

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 will be acceptable to the Board.

(2) The applicant for examination and licensure must provide confirmation from all states ever licensed regarding violation of laws, rules and standards of ethics while licensed in those states.

(3) The applicant for examination and licensure must pass a written examination relating to Oregon optometric law and administrative rules, and

(a) must score at least 75 on the written examination.

(b) must pass the written examination within the 12 months previous to date of Oregon licensure.

(c) Since the Administrative Rule and Law examination is not clinical in nature, any applicant who does not receive a passing score on the Administrative Rule and Law examination may retake the Administrative Rule and Law examination within 90 days of the reading of the results. The board will set a location, date and time for the administration. The examination fee for each administration of the Administrative Rule and Law examination by the Board is \$75.

(4) 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

Stats. Implemented: ORS 683.060 & ORS 683.270

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

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 will be accepted for examination and licensure.

(2) Each inquiry regarding application for licensure as a Doctor of Optometry must be directed to the office of the Oregon Board of Optometry.

(3) The application will be considered complete upon receipt by the Board of:

(a) An 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, that he/she is TPA certified by that state, and has not been sanctioned for violating the laws, rules and standards of ethics of any other jurisdiction licensed therein;

(c) Verification of the passage of the examination of the National Board of Examiners in Optometry (NBEO) or its equivalent;

(d) Documentation of continuing optometric education;

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

(4) Any application received from an optometrist who has been sanctioned by revocation of license by another optometric licensing jurisdiction shall be reviewed on a case by case basis by the Board.

Stat. Auth.: ORS 683 & ORS 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

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 shall 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 will be 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)(a) Provides confirmation from all states ever licensed regarding violation of laws, rules and standards of ethics while licensed in those states;

(b) The National Practitioner Data Bank, Healthcare Integrity and Protection Data Bank, and the Association of Regulatory Boards of Optometry's (ARBO) National Optometric Data Base (NODB) shall be queried for adverse actions on each person making an application for licensure by endorsement.

(6) Pays the licensure by endorsement application fee of \$250; and

(7) Passes a written examination relating to Oregon optometric law and administrative rules.

(a) Must score at least 75 on the written examination;

(b) Must pass the written examination within the 12 months previous to date of Oregon licensure.

(c) Since the Administrative Rule and Law examination is not clinical in nature, any applicant who does not receive a passing score on the Administrative Rule and Law examination may retake the Administrative Rule and Law examination within 90 days of the reading of the results. The board will set a location, date and time for the administration. The examination fee for each administration of the Administrative Rule and Law examination by the Board is \$75.

(8) 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 & ORS 182

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

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

852-010-0025

Disciplinary Action

(1) The Oregon Board of Optometry may:

(a) Suspend or revoke the license of any licensee;

(b) Impose probation on any licensee;

(c) Limit the practice of any licensee; or

(d) Impose a civil penalty not to exceed \$1,000 for each offense upon any licensee or any unlicensed persons.

(2) The Board may take these actions where appropriate for the following reasons:

(a) Conviction of a felony or misdemeanor where such an offense bears a demonstrable relationship to the duties of a doctor of optometry. The record of conviction, or a copy thereof certified by the clerk of the court or by the judge shall be 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, or gross ignorance or inefficiency in the practice of optometry;

(e) Failure to comply with the requirements of continuing education; or

(f) Any violation of the provisions of Chapter 883.

(3) The Board shall inform all other optometric licensing jurisdictions within the United States and Canada of any disciplinary action that results in license revocation.

(4) The Board shall levy an additional fee of \$35 for each active status license renewal to cover the cost of carrying out ORS 683.140.
 Stat. Auth.: ORS 683 & ORS 182
 Stats. Implemented: ORS 683.140, ORS 683.270 & ORS 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

852-010-0027

Definition of Unprofessional Conduct

Unprofessional conduct within the meaning of ORS 683.140(3) includes, but is not limited to:

- (1) Fraud, misrepresentation or dishonesty.
- (2) Advertising optometric services, treatments, or advice in which untruthful, improbable, misleading, deceiving or impossible statements are made.
- (3) Aiding an unlicensed person in the practice of optometry.
- (4) Failure to train and supervise any unlicensed person who performs any work covered in this chapter.
- (5) Permitting another person to use the licensee's certificate.
- (6) Excessive use of intoxicants.
- (7) Unlawful use of drugs or controlled substances.
- (8) 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.
- (9) The discharge of an employee based primarily on the employee's attempt to comply or aid in the compliance of the Board's rules.

(10) The use of threats, harassment, or any other conduct which 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.

(11) Willfully deceiving or attempting to deceive the Board, an employee of the Board, or an agent of the Board in reference to any matter under investigation by the Board including the alteration or destruction of any records in order to obstruct or delay an investigation by the Board.

(12) Failing to respond in writing to a Board request for information as required.

(13) Failing to appear before the Board at a time and place designated by the Board for such appearance.

(14) 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."

(15) Conduct which could be construed as moral turpitude; and
 (16) Any conduct or practice contrary to recognized standards of ethics of the optometric profession which includes:

(a) Sexual abuse — comprises conduct which constitutes a violation of any provision of ORS 163.305 through 163.465, 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 — Comprises 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.

(c) Sexual Impropriety — Comprises 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 (homosexual or heterosexual or bisexual), making comments about potential sexual performance during an examination or consultation, requesting the details of sexual history or sexual likes or dislikes; initiation by the professional of conversation regarding the sexual problems, preferences or fantasies of the professional or the patient; kissing of a sexual nature.

(17) Failing to make full payment to the Board of all Board assessed fees, fines and penalties.

(18) Failing to give written notification to the Board of any disciplinary action or sanction related to the practice of optometry by any state licensing agency.

(19) Failing to give written notification to the Board of any felony or misdemeanor convictions except minor traffic offenses.

(20) Failing to keep complete and accurate records for a patient.

(21) Failing to retain or make appropriate transfer of the care of patient records.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.140, ORS 683.270 & ORS 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

852-010-0028

Definition of Gross Ignorance or Inefficiency

In determining gross ignorance or inefficiency within the meaning of ORS 683.140(3) 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

Stats. Implemented: ORS 683.140 & ORS 683.270

Hist.: OP 1-1987, f. & ef. 4-30-87

852-010-0030

Advertising

(1) No advertisement of ophthalmic goods or services shall be inconsistent with the Oregon Unlawful Trade Practices Act, ORS 646.605 et seq.

(2) The licensee whose practice is being advertised shall be responsible for the contents of each advertisement, unless the licensee is an employee of another Doctor of Optometry or professional corporation, in which case the employer shall be 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 shall specify the type of lenses, limits of care, and any additional materials provided.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 646.605, ORS 683.140 & ORS 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

852-010-0035

Agreements, Understandings and Contracts

(1) No licensee shall 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 shall 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 Doctors of Optometry 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 shall 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 shall subject 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

852-010-0051

Records

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.140(3), ORS 683.270(1)(k) & ORS 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

852-010-0080

Schedule of Fees

(1) 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:

(a) Annual Renewal — Active License: \$185.

(b) Annual Renewal — Inactive License: \$90.

(c) Continuing Education Renewal Fee: \$20.

(d) Disciplinary Renewal Fee: \$35.

(e) Additional Office License: \$40.

(f) Multiple Office License: \$80.

(g) Application for Examination and Licensure: \$150.

(h) Application for Endorsement Examination and Licensure: \$250

(i) Application for TPA Certification: \$75.

(j) Law and Administrative Rule Examination: \$75.

(k) Reactivation of License: \$100.

(l) Reinstatement of License: \$100.

(m) Wall Display Certificate: \$20.

(n) License Verification: \$20.

(o) Law and Administrative Rules Booklet: \$25.

(p) List of Licensees: \$25 - \$50.

(q) Late Renewal application, payment, continuing optometric education: \$50 - \$200

(r) Failure to notify the Board of practice locations: \$50 - \$200.

(2) 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, etc. has not supplied the correct information is not considered an error.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.270 & ORS 182.466

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

DIVISION 20

STANDARDS OF OPTOMETRIC PRACTICE

852-020-0029

Prescription Content

(1) Prescription specifications shall be reasonably based on the patient's vision and eye health concerns and shall include all information required to insure that the patient receives the designated ophthalmic products.

(2) Spectacle prescriptions shall 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) Doctor's name, postal address, telephone number and facsimile telephone number;

(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;

(g) A reasonable and clinically-prudent expiration date.

(3) Contact lens prescriptions shall 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) Doctor's name, postal address, telephone number and facsimile telephone number;

(f) Sphere, Cylinder, Axis and/or ADD.;

(g) Lens base curve or series;

(h) Lens diameter;

- (i) Lens material and/or brand name;
- (j) 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;
- (k) The maximum number of refills;
- (l) Any limitations, including wearing schedule and follow-up care.

(4) Contact lens prescriptions shall 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 a contact lens manufactured by that company under another label.

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

Stat. Auth.: ORS 182 & 682

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

Hist.: OPT 1-2004, f. & cert. ef. 3-8-04

852-020-0031

Prescription Release

(1) A doctor of optometry shall immediately release the signed written prescription to the patient at the time he/she would provide spectacles or contact lenses without additional examination.

(2) Upon direct communication from the patient or anyone designated to act on behalf of the patient, a doctor of optometry shall release or verify the patient's prescription to a third party.

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

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

(5) A doctor of optometry 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.

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

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.010, 683.335 & 182.466

Hist.: OPT 1-2004, f. & cert. ef. 3-8-04

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 shall 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 & ORS 182

Stats. Implemented: ORS 683.010 & ORS 182.466

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

852-020-0060

Optometric Physician Responsibility, Supervision, and Delegation

(1) The optometric physician carries the sole responsibility for the patient's care.

(2) Direct supervision as used in 683.030 means that the optometric physician is monitoring the activities of all supervised individuals and has an appropriate intervention protocol in place.

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

(4) Tonometry may be delegated to well-trained and directly supervised ancillary personnel. An Oregon licensed optometric physician must personally perform tonometry on glaucoma patients.

(5) 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 182.466, 683.010(2) & ORS 683.030(3)

Hist.: OPT 3-2000, f. 6-26-00, cert. ef. 7-1-00; OPT 1-2004, f. & cert. ef. 3-8-04

852-020-0070

Optometric Physician Educational and Professional Standards

In order to meet the expanded optometric scope of practice and current standard of care in Oregon all Doctors of Optometry shall have demonstrated qualification and have obtained certification to use diagnostic and therapeutic pharmaceutical agents for the practice of optometry.

(1) Effective with year 2003 license renewal, beginning January 1, 2003, all active status licensees practicing optometry in Oregon shall have demonstrated qualification and have obtained certification to use "diagnostic pharmaceutical agents" as a condition of license renewal. Application must be made to the Board in accordance with division 80 for DPA Certification prior to using diagnostic pharmaceutical agents.

(2) Effective with year 2005 license renewal, beginning January 1, 2005, all active status licensees practicing optometry in Oregon shall have demonstrated qualification and have obtained certification to use "therapeutic pharmaceutical agents" as a condition of license renewal. Application must be made to the Board in accordance with division 80 for TPA Certification prior to using therapeutic pharmaceutical agents.

Stat. Auth.: ORS 683 & ORS 182

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

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

DIVISION 50

LICENSING

852-050-0001

License Required

(1) All persons practicing optometry in the state of Oregon must possess a valid, unrevoked, active license EXCEPT those licensees who are:

(a) Retired;

(b) Disabled; or

(c) Non-resident and not practicing in the state of Oregon.

(2) Retired, disabled, or non-resident licensees may hold an inactive license.

(3) Definitions of this rule:

(a) "Retired" means a licensee who is a resident of the state of Oregon, but is not practicing optometry.

(b) "Disabled" means a licensee who has ceased to practice, or is prevented from practicing, optometry by illness, disease or disability.

(c) "Non-resident" means a licensee who no longer resides in the state of Oregon or is on active duty with the uniformed services of the United States. (reference other residency).

(4) Those who have been granted an inactive license by the Board are exempt from ORS 683.270(g) and OAR 852-50-016 which require the licensee to report each place of business to the Board:

(a) Inactive licensees are still required to maintain a current mailing address with the Board.

(b) Inactive licensees failing to notify the Board in writing of address changes prior to moving may be subject to a fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure.

Stat. Auth.: ORS 683

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

Hist.: OP 3-1993, f. & cert. ef. 10-27-93; OPT 3-1998, f. 6-10-98, cert. ef. 7-1-98

852-050-0005

Certificate of Registration

(1) Upon the successful completion of the practical examination for licensure each licensee shall pay to the Oregon Board of Optometry a \$20 fee for the certificate of registration (wall certificate). Each licensee shall be required to pay a license renewal fee on or before the license renewal date established by the Board. The licensee will be given written notification of the license renewal period at the time of licensure. The license renewal period will remain the same for the licensee once established.

(2) If a licensee engages in practice in more than one office or place of business, the licensee shall post a current license conspicuously in each office or place of business. For such purpose, upon written application of the licensee to the Administrator, the Board shall issue such number of licenses upon receipt of \$40 for each license. The licensee must renew each practice location on an annual basis during the license renewal period.

(3) If a licensee engages in practice at multiple locations, the Board may issue upon written application to the Administrator and receipt of an additional \$80 fee, a license for practicing at multiple locations. This license shall be conspicuously displayed at each location prior to practicing there. It is the responsibility of the licensee to keep the Board informed of all practice locations.

(4) The licensee's status (active or inactive, DPA or TPA certified, etc.) shall be indicated directly upon the annual license form.

Stat. Auth.: ORS 683 & ORS 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

852-050-0006

Annual Renewal of Active License

(1) Active licensees shall annually renew their license to practice optometry for the license period established by the Board. License year renewal periods are established by the Board based upon birth dates of licensees in order that expiration dates fall due each month of the year.

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

(b) License renewals will cover 12-month license periods based upon birth dates.

(2) License renewal applications are due in the Board's office on the first day of the month of license expiration (month of licensee's birth 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) Check or money order for the correct license renewal fees;

(c) Documentation of completion of the required continuing optometric education.

(d) Documentation of current CPR certification, as required in OAR 852-080-0040(4)(F), if licensed to use Nontopical TPA's.

(4) The Board will, as a courtesy, send license year renewal forms to the licensees last address of record. The license renewal application is due and must be postmarked on or before the first day of the month of license expiration.

(5) A licensee who is not more than 30 days delinquent in renewing the license may renew the license upon payment to the Board of the required fee plus a delinquent fee. If a licensee is more than 30 days delinquent the license is automatically suspended upon 30 day notice given to the licensee.

(6) If a person is more than 60 days in renewing the license the person 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 when in its opinion it is in the best interest of the public to do so.

(7) The annual fee for the renewal of a license to practice optometry shall be \$185, plus an additional \$20 assessed for continuing education offerings and a \$35 disciplinary fee.

(8) Any licensee whose license renewal fee is postmarked after the first day of the month of license expiration shall be subject to a late payment fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure. This late payment fee must be received before the license will be issued.

Stat. Auth.: ORS 683 & ORS 182

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

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

852-050-0012

Inactive Status License

(1) Eligible licensees may be granted an inactive status license by petitioning the board by letter.

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

(2) Inactive licensees shall annually renew their license to practice optometry for the license period established by the Board. License year renewal periods are established by the Board based upon birth dates of licensees in order that expiration dates fall due each month of the year. License renewals will cover 12-month license periods based upon birth dates.

(3) License renewal applications are due in the Board's office on the first day of the month of license expiration (month of licensee's birth date).

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

- (a) A completed license renewal form signed by the licensee;
- (b) Check or money order for the correct license renewal fees;
- (5) The Board will, as a courtesy, send license year renewal forms to inactive status licensees last address of record. The license renewal application is due and must be postmarked on or before the first day of the month of license expiration.

(6) A licensee who is not more than 30 days delinquent in renewing the license may renew the license upon payment to the Board of the required fee plus a delinquent fee. If a licensee is more than 30 days delinquent the license is automatically suspended upon 30 day notice given to the licensee.

(7) If a person is more than 60 days delinquent in renewing the license the person 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 when in its opinion it is in the best interest of the public to do so.

(8) The renewal fee for inactive status licensees shall be \$90.

(9) Any licensee whose license renewal fee is postmarked after the first day of the month of license expiration shall be subject to a late payment fee of \$50 for the first failure; \$100 for the second failure;

ure; \$200 for each subsequent failure. This late payment fee must be received before the license will be issued.

(10) To reactivate a license to practice optometry in Oregon an inactive status licensee shall meet the following prior to the first day of practice in Oregon:

(a) Pay the difference between the inactive and active status license renewal fees;

(b) Submit continuing education hours equivalent to Oregon requirements for the previous license renewal period;

(c) submit documentation of current CPR certification, as required in OAR 852-080-0040(4)(F), if licensed to use Nontopical TPA's;

(d) Submit the inactive license certificate issued during the current license renewal period;

(e) Provide the Board's office with the current practice location in the State of Oregon;

(f) Submit written verification of good standing from state(s) licensed. This verification shall contain a statement to indicate the status of the licensee regarding past and/or present sanctioning or investigations for sanctioning; and

(g) Pass 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.

(h) If the request for reactivation occurs within one year from the date of being placed in inactive license status by the Board there will be a \$100 reactivation fee in addition to the other conditions in (a) through (f) above.

Stat. Auth.: ORS 683 & ORS 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

852-050-0013

Uniformed Services

(1) No fees will be assessed while any person holding a license to practice optometry in Oregon is on active duty with the Uniformed Services of the United States.

(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 doctor of optometry 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 shall be required to take an examination and pay the examination fee as required by ORS 683.060.

Stat. Auth.: ORS 683 & ORS 182

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

852-050-0014

Reinstatement of License

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

(a) voluntarily surrendered his/her license to the Board and at the time of so doing was in good standing and not under investigation, notice for proposed disciplinary action, or final order of the Board, or

(b) had his/her license suspended due to nonpayment of the license renewal fee or late fee and at the time of suspension was not under investigation, notice for proposed disciplinary action, or final order of the Board.

(2) To reinstate an Oregon optometry license a Doctor of Optometry shall meet the following:

(a) provide confirmation from all states ever licensed regarding violation of laws, rules and standards of ethics while licensed in those states;

(b) pay delinquent fees as determined by the Board;

(c) pay the reinstatement fee of \$100; and

(d) submit documentation of current CPR certification, as required in OAR 852-080-0040(4)(F), if licensed to use Nontopical TPA's.

(e) the requirements in (2)(a) and (2)(c) 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 shall require in addition to (2)(a)(b)(c)(d) above, 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 submission of continuing education hours equivalent to Oregon requirements for the previous license renewal period.

Stat. Auth.: ORS 683 & ORS 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

852-050-0016

Notice of Place of Practice

(1) In accordance with ORS 683.100, each Doctor of Optometry shall notify the board in writing of place or places of practice before engaging in practice at that location, and immediately upon termination of the practice at that location.

(2) Failure to notify the Board in writing of address change(s) in accordance with (1) above may subject the licensee to a fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure.

Stat. Auth.: ORS 683

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

852-050-0018

Official Address of Record

(1) In accordance with ORS 683.100, each Doctor of Optometry shall notify the board in writing of his/her practice location, which is automatically recorded as the licensee's official address of record for mailing purposes. The licensee may change the official address of record to a home address or another address by notifying the Board in writing of the new mailing address. All correspondence from the Board will be sent to the designated official address of record.

(2) Failure to notify the Board in writing of a change in the licensee's official address of record in accordance with (1) above may subject the licensee to a fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure.

Stat. Auth.: ORS 683 & ORS 182

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

Hist.: OPT 2-2002, f. & cert. ef. 12-18-02

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 - ORS 676.180

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

852-060-0060

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 shall be 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, ORS 683 & ORS 182
Stats. Implemented: ORS 183.341(2) & ORS 182.466
Hist.: OPT 2-2004, f. & cert. ef. 5-20-04

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 852-60-060, the notice to parties in contested cases shall include the statement that an answer to the assertions or charges will be required and listing 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, ORS 683 & ORS 182
Stats. Implemented: ORS 183.413 & ORS 182.466
Hist.: OPT 2-2004, f. & cert. ef. 5-20-04

852-060-0070

Hearing Requests, Answers, and Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Board by the party or his/her representative and an answer shall include the following:

- (a) An admission or denial of each factual matter alleged in the notice;
- (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 and not denied in the answer shall be 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) shall be presumed to be denied by the Board; and
- (d) Evidence shall not be taken on any issue not raised in the notice and answer.

Stat. Auth.: ORS 683 & ORS 182
Stats. Implemented: ORS 683.155 & ORS 182.466
Hist.: OPT 2-2004, f. & cert. ef. 5-20-04

852-060-0075

Discovery

An order requiring discovery will be limited to a list of witnesses to be called to testify by the parties in their case in chief and the documents that the parties intend to introduce as exhibits at the contested case hearing during the presentation of their case in chief. Contested case hearings are closed to members of the public.

Stat. Auth.: ORS 683 & ORS 182
Stats. Implemented: ORS 683.155 & ORS 182.466
Hist.: OPT 2-2004, f. & cert. ef. 5-20-04

DIVISION 70

CONTINUING OPTOMETRIC EDUCATION

852-070-0005

Definitions

"Hour" means clock hour of sixty minutes, plus or minus ten minutes.

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; OP 1-1987, f. & ef. 4-30-87; OPT 2-1998, f. 6-10-98, cert. ef. 6-15-98

852-070-0010

Requirement of Continuing Optometric Education

(1) Every active status licensed doctor of optometry shall complete not less than eighteen (18) hours of clinical optometric courses each license year as a condition of license renewal. Credit towards the required hours shall be allowed in a succeeding license year for

excess hours taken in the preceding license year. Continuing education hours will cover 12-month periods and be reported with license renewal applications.

(a) No less than nine (9) hours of the required hours per license year shall be in the area of diagnosis, treatment and management of ocular disease.

(b) Beginning with the 2005 license renewal year, no less than one (1) hour of the required hours every other license year shall be in the area of ethics or Oregon law and administrative rules.

(c) Credit will only be given for five (5) hours of live observation in a surgical facility per license year.

(d) Credit will only be given for up to one half of the required hours of coursework in internet, journal, or video courses.

(2) The required hours of courses and lectures per license year shall be of different course content. When the Board determines that a licensee has submitted a course or lecture essentially identical to another presentation submitted in the same license renewal period, credit will be given for only one.

Stat. Auth.: ORS 683 & ORS 182
Stats. Implemented: ORS 683.140, ORS 683.270, ORS 683.210 & ORS 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

852-070-0016

Continuing Optometric Education Not Required for Inactive Licenses

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

(2) If an inactive licensee petitions to change to active status, he or she 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

852-070-0020

Application for Credit

Each continuing education offering must be approved by the Board in order for a Doctor of Optometry 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 Doctors of Optometry 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; and

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

Stat. Auth.: ORS 683
Stats. Implemented: ORS 683.210 & ORS 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

852-070-0025

Credit for Conducting Course or Presenting Material

Any Doctor of Optometry who presents material or conducts a course eligible for credit under this rule shall be entitled to credit hereunder for two hours for each hour spent in presenting this course, in addition to the hour actually spent in such presentation. No credit shall 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

852-070-0030

Calculation of Credit

A Doctor of Optometry shall be required to meet the continuing optometric education requirement beginning with the second license year renewal period following the year of original licensure by the Board.

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; 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

852-070-0035

Responsibility to Notify Board

(1) It shall be the responsibility of each active licensee to notify the Board of Optometry in writing of completion of the required hours of approved continuing education credits as part of their license renewal.

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

(3) If sufficient proof of continuing education is not received by the Board by the license year renewal period, 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) It is the licensee's responsibility to assure that all continuing optometric education credits the licensee plans to submit have been approved by the Board prior to the license year renewal period deadline. Continuing optometric education credits which are not approved by the Board before the deadline will be considered late and may not be approved.

(5) Licensees relying on unapproved continuing optometric education program credits must submit sufficient program information to the Board for credit approval a minimum of one month previous to the license year renewal period in order to ensure consideration.

(6) Licensees must submit original certificates of attendance or other proof of attendance acceptable to the Board.

(7) 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 shall be subject to a late fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure.

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

852-070-0040

Fees

The Board shall assess a fee of \$20 for continuing education to each licensee upon application for renewal to carry out the provisions of ORS 683.210.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.210 & ORS 182.466

Hist.: OE 2-1984, f. & ef. 7-14-84; OP 1-1987, f. & ef. 4-30-87; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03

852-070-0045

Board Responsibility for Provision of Continuing Optometric Education

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

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.140 & ORS 683.210

Hist.: OP 1-1996, f. 6-27-96, cert. ef. 7-1-96

852-070-0050

Continuing Optometric Education Provided by the Board

The Board shall notify each active licensee of any continuing optometric education it provides at least 30 days before the activity commences.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.140 & ORS 683.210

Hist.: OP 1-1987, f. & ef. 4-30-87; OP 1-1996, f. 6-27-96, cert. ef. 7-1-96

852-070-0055

Continuing Optometric Education Provided by Others

(1) All continuing optometric education provided by other organizations shall be submitted to the Board for approval. Approval or denial of the continuing optometric education shall 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.

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

(3) Presenter(s) of continuing optometric education must provide the Board with a Curriculum Vitae and have an academic degree corresponding to the O.D. degree or a combination of academic achievement and special expertise.

(4) The minimum credit the Board will grant for continuing optometric education credit is one hour. Additional credits must be in half-hour or one-hour increments.

Stat. Auth.: ORS 683

Stats. Implemented: ORS 683.210 & ORS 683.270

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

852-070-0060

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 shall accept the course as meeting its continuing education requirements for license renewal excepting 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 (9) hours per license year requirement of continuing optometric education in the area of diagnosis, treatment and management of ocular disease.

(a) Category B. — Ocular Disease includes Glaucoma (GL), Peri-Operative Management of Ophthalmic Surgery (OS), Refractive Surgery Management (RS), Treatment and Management of Ocular Disease: Anterior Segment (TA), and Treatment and Management of Ocular Disease: Posterior Segment (TP).

(b) Category C. — Related Systemic Disease includes Neuro-Optometry (NO), Pharmacology (PH), Principles of Diagnosis (PD), and Systemic/Ocular Disease (SD).

(4) COPE course category D. which includes Practice Management (PM) and Jurisprudence (JP) are not approved by the Oregon Board of Optometry, unless it is an ethics course. Ethics courses are approved by the Board.

(5) It is the responsibility of the licensee to make sure that any continuing optometric education coursework submitted for credit has been approved by the Board or COPE.

(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 categories

ry definitions not acceptable to the Board will be identified to COPE and listed in the Board's administrative rules.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.140, ORS 683.210 & ORS 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

DIVISION 80

PHARMACEUTICAL AGENTS

852-080-0020

Designation of Topical Formulary

Pursuant to ORS 683.010(3) and 683.270(j), doctors of optometry 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 & ORS 683

Stats. Implemented: ORS 683.010, ORS 683.270 & ORS 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

852-080-0025

Adoption of Nontopical Formulary

Pursuant to ORS 683.010(3) doctors of optometry 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 — Anaesthetics;
- (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 & ORS 182

Stats. Implemented: ORS 683.240 & ORS 182.466

Hist.: OPT 1-2002, f. & cert. ef. 7-26-02

852-080-0030

Conditions of Formulary Application

The following conditions apply to the formulary of pharmaceutical agents in 852-080-020 and 852-080-0025:

(1) Diagnostic Pharmaceutical Agents (DPA) and Therapeutic Pharmaceutical Agents (TPA) certified doctors of optometry may use, administer, and prescribe any and all over-the-counter pharmaceutical agents.

(2) Doctors of optometry certified for DPA use only, may use and administer pharmaceutical agents in Categories 2 through 5 for diagnostic purposes only. They may use Miotics (Category 6) for emergencies only.

(3) Doctors of optometry certified for topical TPA use may use, administer and prescribe topical agents in Categories 1–16.

(4) Doctors of optometry certified for nontopical TPA use 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.

(5) Prior to instituting treatment with Anti-glaucoma medication, doctors of optometry shall consult with an ophthalmologist or other doctor of medicine or doctor of osteopathy licensed under ORS Chapter 677.

(6) Doctors of optometry certified for nontopical TPA shall consult with a doctor of medicine or doctor of osteopathy, licensed under chapter 677, prior to extending treatment with nontopical corticosteroids or Schedule III analgesics beyond 7 days. They should be diligent in preventing the diversion of drugs for illegitimate purposes.

(7) Doctors of optometry may not use, administer or prescribe agents classified principally as anti-neoplastics.

(8) Doctors of optometry may use or administer pharmaceutical agents in cases of emergency requiring immediate attention.

(9) Doctors of optometry certified for nontopical TPA use, may administer subcutaneous and subconjunctival injections. Sub-Tenon, retrobulbar, intraocular and botulinum toxin injections are excluded.

(10) Doctors of optometry certified for nontopical TPA use, may administer oral pre-medication for light sedation. Conscious sedation, deep sedation or general anesthesia are excluded.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.240, ORS 683.270 & ORS 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

852-080-0040

Certification to Use Pharmaceutical Agents

(1) DPA Certification — Prior to using diagnostic pharmaceutical agents as listed in this rule, any doctor of optometry licensed in Oregon must: Receive and prominently display a certificate from the Oregon Board of Optometry indicating “Certified to use Diagnostic Pharmaceutical Agents”

(2) Topical TPA Certification for active status licensee — Prior to using topical therapeutic pharmaceutical agents as listed in this rule, any doctor of optometry licensed in Oregon in active status must:

(a) Pass the National Board of Examiners in Optometry's “Treatment and Management of Ocular Disease” (TMOD) or have passed, within five years of application to the Board for topical TPA certification, a 100 hour TPA course approved by the Board,

(b) Pay a \$75 TPA examination and licensure fee for topical TPA certification, and

(c) Receive and prominently display a certificate from the Oregon Board of Optometry indicating “Certified to use Topical Therapeutic Pharmaceutical Agents”.

(3) Topical TPA Certification for inactive status licensee — Any doctor of optometry licensed in Oregon in inactive status 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 and have been continuously practicing using therapeutic pharmaceutical agents in another state or states without disciplinary incident,

(b) Pay a \$75 TPA examination and licensure fee for topical TPA certification, and

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

(4) Nontopical TPA Certification for active status licensee — Prior to using nontopical therapeutic pharmaceutical agents as listed in this rule, any doctor of optometry licensed in Oregon in active status must:

(a) Meet all criteria for Topical TPA Certification in OAR 852-80-040 (2),

(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) Pass a Nontopical TPA workshop of at least 7 hours approved by the Board or provide proof of equivalent training acceptable to the Board,

(d) Pay a \$75 TPA examination and licensure fee for nontopical TPA certification,

(e) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents", and

(f) Acquire and maintain CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This requirement shall be effective October 1, 2003 or upon the expiration of a current CPR certification held by a licensee already certified for nontopical certification by the Board.

(A) The Board, as a courtesy, will send a reminder to licensee's last address of record, 60 days prior to their CPR expiration, indicating that current CPR certification is required to maintain their Nontopical TPA certification. Failure to maintain current CPR certification will result in immediate automatic loss of Nontopical TPA certification. The Nontopical TPA certification will not be reinstated until the CPR certification deficiency has been corrected.

(B) Any licensee whose Nontopical TPA certification is lost due to expiration of their CPR certification shall be subject to a fee of \$50 to have the Nontopical TPA certification reinstated. The fee must be received before the Nontopical TPA certification will be reinstated.

(5) Nontopical TPA Certification for inactive status licensee - Any doctor of optometry licensed in Oregon in inactive status must:

(a) Meet all criteria for Topical TPA Certification in OAR 852-80-040(3),

(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) Pass a Nontopical TPA workshop of at least 7 hours approved by the Board or provide proof of equivalent training acceptable to the Board,

(d) Pay a \$75 TPA examination and licensure fee for nontopical TPA certification,

(e) Receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents", and

(f) Acquire and maintain CPR certification. The CPR certification shall be the American Heart Association's BLS Healthcare Providers Course or its equivalent, as determined by the Board. This requirement shall be effective October 1, 2003 or upon the expiration of a current CPR certification held by a licensee already certified for nontopical certification by the Board.

(A) The Board, as a courtesy, will send a reminder to licensee's last address of record, 60 days prior to their CPR expiration, indicating that current CPR certification is required to maintain their Nontopical TPA certification. Failure to maintain current CPR certification will result in immediate automatic loss of Nontopical TPA certification. The Nontopical TPA certification will not be reinstated until the CPR certification deficiency has been corrected.

(B) Any licensee whose Nontopical TPA certification is lost due to expiration of their CPR certification shall be subject to a fee of \$50 to have the Nontopical TPA certification reinstated. The fee must be received before the Nontopical TPA certification will be reinstated.

Stat. Auth.: ORS 683 & ORS 182

Stats. Implemented: ORS 683.270 & ORS 182.466