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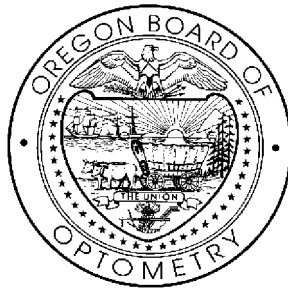
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**OREGON REVISED STATUTES - CHAPTER 683  
OREGON ADMINISTRATIVE RULES - CHAPTER 852**



**Laws and Rules in effect as of January 1, 2010**

# Chapter 683

2009 EDITION

## Optometrists; Opticians

<b>OPTOMETRISTS</b>		
	(Generally)	
683.010	Definitions for ORS 683.010 to 683.310	
683.020	License required to practice optometry	
683.030	Persons and practices not affected	
683.035	Discrimination against optometrists prohibited	
	(Licensing)	
683.040	Qualifications of applicants	
683.060	Examination of applicants; fee	
683.070	Issuance of certificates of licensure; fee	
683.080	Validity of certificates issued under former law	
683.100	Notice to board of place of practice; responsibility for advertisements; notice given by board	
683.110	Optometrist to give receipt when practicing away from regular place of business	
683.120	License renewal; fee; effect of failure to renew license	
683.130	Clinics and instructors connected with educational institutions	
683.140	Grounds for and nature of discipline; civil penalties	
683.155	Hearing	
683.165	Confidential information; liability of person providing information	
683.170	Sanction may be set aside by board	
683.180	Prohibited acts and practices	
683.190	Acceptance of lens for duplication by unlicensed person prohibited; exception	
683.200	Standards of liability; removal of foreign bodies from eye; treatment with antiglaucoma medication	
683.210	Continuing education requirement; fee; rules	
683.220	Licensing of applicant holding license in another state	
	(Optometric Nontopical Formulary)	
683.240	Council on Optometric Nontopical Formulary; membership; duties; formulary and protocols	
	(State Board)	
683.250	Oregon Board of Optometry; qualification and terms of members; quorum	
683.260	Persons ineligible for membership on board	
683.270	Powers and duties of board; rules	
683.278	Continuing authority of board upon lapse, suspension, revocation or voluntary surrender of license	
683.290	Disposition of receipts	
683.310	Professional corporation regulation not required	
	(Enforcement)	
683.325	Investigation of complaints and alleged violations; subpoenas	
683.330	Injunction for violation	
683.335	Report of suspected violation; confidentiality of complaints; liability of complainant	
683.340	Duty to report prohibited conduct	
	<b>OPTICIANS</b>	
683.510	Definitions for ORS 683.520 to 683.530	
683.520	Scope of practice of optician	
683.525	Acceptance of lens for duplication	
683.530	Discrimination against opticians prohibited	
	<b>PENALTIES</b>	
683.990	Penalties	

**OPTOMETRISTS**  
(Generally)

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

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

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

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

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

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

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

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

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

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

(4) To prohibit vision screening by employees of a school or of the Department of Transportation. [Amended by 1999 c.490 §1]

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

**(Licensing)**

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

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

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

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

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

**683.060 Examination of applicants; fee.**

(1) Any person who has signified to the Oregon Board of Optometry a desire to be examined by it and who has filed proof that the person is qualified under ORS 683.010 to 683.340 and the rules of the board to take the examination shall pay a fee to be determined by the board. The applicant shall be examined in the anatomy of the eye, in the use of pharmaceutical agents in optometry, in normal and abnormal refractive and accommodative and muscular conditions and coordination of the eye, in subjective and objective optometry, including the fitting of glasses, the principles of lens grinding and frame adjusting, and in such other subjects

as pertain to the science and practice of optometry, such subjects to be enumerated in a publication by the board.

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

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

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

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

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

**683.090** [Repealed by 1971 c.102 §11]

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

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

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

**683.110 Optometrist to give receipt when practicing away from regular place of business.** Any optometrist who temporarily practices optometry outside or away from the regular registered place of business shall deliver to each customer or person there fitted or supplied with glasses a receipt which shall contain the signature and show the permanent registered place of business and the number of the license of the optometrist, together with a specification of the lenses furnished and amount charged therefor. [Amended by 1987 c.443 §4]

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

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

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

**683.130 Clinics and instructors connected with educational institutions.** Any university or college of optometry in Oregon, which is recognized and approved by the Or-

egon Board of Optometry, may operate a clinic in conjunction therewith. Any optometrist licensed in another state, while a professor or instructor in such a college, may sign optometric prescriptions on behalf of the clinic, but not otherwise. Any optometrist licensed in Oregon may also sign optometric prescriptions on behalf of the clinic while a professor or instructor at such college.

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

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

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

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

(d) Obtaining any fee by fraud or misrepresentation.

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

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

(g) Impairment as defined in ORS 676.303.

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

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

(j) Advertising professional methods or professional superiority.

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

(L) Violating the federal Controlled Substances Act.

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

(n) Failing to report to the board any adverse action taken against the optometrist

or person by another licensing jurisdiction, health regulatory board, peer review body, health care institution, professional optometric society or association, governmental agency, law enforcement agency or court for acts similar to conduct that would constitute grounds for disciplinary action as described in this section.

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

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

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

(a) Deny an initial license;

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

(c) Place the optometrist on probation;

(d) Impose limitations on the optometrist; or

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

**683.150** [Repealed by 1971 c.734 §21]

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

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

**683.160** [Repealed by 1971 c.734 §21]

**683.165 Confidential information; liability of person providing information.**

(1) Any information that the Oregon Board of Optometry obtains under ORS 683.140 is confidential as provided under ORS 676.175.

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

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

**683.180 Prohibited acts and practices.**

A person may not:

(1) Sell or barter, or offer to sell or barter, any license issued by the board.

(2) Purchase or procure by barter any such license with intent to use it as evidence of the holder's qualification to practice optometry.

(3) Alter the license with fraudulent intent in any material regard.

(4) Use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license.

(5) Practice optometry under a false or assumed name.

(6) Willfully make any false statement in a material regard in an application for an examination before the board or for a license.

(7) Practice optometry in this state without having at the time of so doing a valid unrevoked license as an optometrist.

(8) Advertise or represent, by displaying a sign or otherwise, to be an optometrist without having at the time of so doing a valid unrevoked license from the board.

(9) Dispense or sell an ophthalmic contact lens without having obtained a valid, unexpired prescription from the person to whom the contact lens is dispensed or sold. As used in this subsection, "ophthalmic contact lens" means a contact lens with or without refractive power, including a plano lens or a cosmetic lens. [Amended by 1965 c.537 §1; 1971 c.102 §8; 1979 c.142 §4; 1987 c.443 §8; 2007 c.13 §1]

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

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

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

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

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

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

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

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

(C) A secondary glaucoma develops.

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

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

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

**683.210 Continuing education requirement; fee; rules.** (1) All optometrists licensed in the State of Oregon are and shall be required to satisfactorily complete courses of study and satisfactorily continue their ed-

ucation by other means as determined by the Oregon Board of Optometry in subjects relating to the practice of the profession of optometry. The study and continued education shall be for the purpose of maintaining and advancing the professional skills and abilities of such licensees and for the purpose of educating such licensees in the utilization and application of new techniques, scientific and clinical advances and the achievements of research so that expansive and comprehensive care to the public will be assured. The length, details and nature of such study and continued education shall be determined by the board.

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

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

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

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

(1) Holds a license for the practice of optometry obtained by examination in another state of the United States. Any discipline or sanction related to the practice of optometry imposed upon the applicant by any

state licensing agency must be disclosed on the application for licensure;

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

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

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

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

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

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

#### **(Optometric Nontopical Formulary)**

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

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

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

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

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

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

(F) One member who is a practicing optometrist appointed by the Oregon Board of Optometry after consideration of three quali-

fied nominees from the Oregon Optometric Physicians Association; and

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

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

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

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

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

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

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

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

#### (State Board)

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

board must be residents of this state. Of the members of the board:

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

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

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

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

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

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

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

(A) Geographic areas of this state; and

(B) Ethnic group.

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

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

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

(A) Is not a resident of this state;

(B) Has been absent from three consecutive board meetings, unless at least one absence is excused; or

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

(4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the

performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

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

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

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

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

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

(2) To adopt and use a common seal.

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

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

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

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

(7) To keep a register of optometrists which shall contain the names and addresses of all persons to whom licenses have been

issued in the State of Oregon, together with the date of the issuance of the license and the place or places of business in which each optometrist is engaged, and all renewals, revocations and suspensions thereof.

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

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

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

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

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

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

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

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

**683.290 Disposition of receipts.** (1) All moneys received by the Oregon Board of Optometry under ORS 683.010 to 683.340 shall be deposited into an account established by the board as provided under ORS 182.470. Moneys deposited into the account

hereby are appropriated continuously to the board and shall be used only for the administration and enforcement of ORS 182.456 to 182.472 and 683.010 to 683.340.

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

(3) All fines collected or received for violations of or in prosecutions under ORS 683.010 to 683.340 shall be paid to the Criminal Fine and Assessment Account.

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

**683.300** [Repealed by 1971 c.743 §432]

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

#### (Enforcement)

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

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

(a) Take evidence;

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

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

(d) Require answers to interrogatories; and

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

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

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

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

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

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

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

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

#### OPTICIANS

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

**683.520 Scope of practice of optician.** Any dispensing optician may fabricate any ophthalmic lens in conformity with the signed prescription, or oral instruction followed by a written prescription, of any optometrist or person duly licensed to practice medicine in this state. Any dispensing optician may supply any ophthalmic lens in con-

formity with the prescription and the specified expiration date thereof. [1991 c.904 §1]

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

**683.530 Discrimination against opticians prohibited.** No official, board, commission or other agency of this state or any political subdivision or municipality in the

state shall discriminate between dispensing opticians and any other persons authorized by law to render professional services that a dispensing optician may render, when such services are required. Such services shall be paid for in the same manner and under the same standards as are similar professional services. [1991 c.904 §2]

#### PENALTIES

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

# Chapter 676

2009 EDITION

## Health Professions Generally

### USE OF TITLES IMPORTING HEALTH CARE PROFESSION

- 676.110 Use of title “doctor”
- 676.120 Use of deceased licensee’s name
- 676.130 Enforcement of ORS 676.110 and 676.120

### REPORTING OBLIGATIONS

- 676.150 Duty to report prohibited or unprofessional conduct, arrests and convictions; investigation; confidentiality; immunity from liability

### PROCESSING OF COMPLAINTS AGAINST HEALTH PROFESSIONALS

- 676.160 Definitions for ORS 676.165 to 676.180
- 676.165 Complaint investigation
- 676.170 Immunity of information providers
- 676.175 Complaints and investigations confidential; Exceptions; fees
- 676.177 Disclosure of confidential information to another public entity; criteria
- 676.180 Notice prior to disclosure

### EFFECT OF EXPIRATION, LAPSE, SURRENDER, SUSPENSION OR REVOCAION OF LICENSE

- 676.205 Continuing jurisdiction of boards; effect of expiration, lapse, surrender, suspension or revocation of license
- 676.210 Practice of health care profession after suspension or revocation of license prohibited
- 676.220 Enjoining health care professional from practicing after suspension or revocation of license
- 676.230 Injunction as cumulative remedy

### MISCELLANEOUS

- 676.303 Purposes of health professional regulatory boards; authority of boards to require fingerprints
- 676.306 Executive directors; reports; rules

**OCCUPATIONS AND PROFESSIONS**  
**HEALTH PROFESSIONS GENERALLY**

**676.130**

**676.010** [Amended by 1967 c.470 §64; repealed by 1973 c.31 §5]

**676.020** [Amended by 1953 c.203 §1; 1957 c.212 §1; repealed by 1973 c.31 §5]

**676.030** [Amended by 1957 c.212 §2; 1967 c.470 §65; repealed by 1973 c.31 §5]

**676.035** [1967 c.184 §1; 1971 c.15 §1; repealed by 1973 c.31 §5]

**676.040** [Amended by 1957 c.212 §3; repealed by 1973 c.31 §5]

**676.050** [Amended by 1953 c.203 §2; 1957 c.212 §4; repealed by 1973 c.31 §5]

**676.060** [Repealed by 1973 c.31 §5]

**676.070** [Repealed by 1973 c.31 §5]

**676.080** [Repealed by 1973 c.31 §5]

**676.090** [Repealed by 1973 c.31 §5]

**USE OF TITLES IMPORTING  
HEALTH CARE PROFESSION**

**676.100** [Repealed by 2009 c.142 §6]

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

(a) Has earned a doctoral degree in the individual’s field of practice; and

(b)(A) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual’s doctoral degree was earned; or

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

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

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

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

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

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

(d) A podiatric physician licensed under ORS 677.805 to 677.840 from using the title “podiatric physician.” [Amended

by 1967 c.470 §66; 1983 c.169 §29; 1983 c.486 §1a; 1983 c.769 §1; 1991 c.314 §4; 1995 c.765 §1; 2007 c.418 §1; 2009 c.142 §1]

**676.120 Use of deceased licensee’s name.**

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

**676.130 Enforcement of ORS 676.110 and 676.120.**

Each health professional regulatory board as defined in ORS 676.160 shall notify the appropriate district attorney of any violation of ORS 676.110 and 676.120 which may be brought to the attention of such board. The district attorney of the county in which any violation of those sections takes place shall prosecute the violation upon being informed of the violation by any person or by one of such boards. [Amended by 1983 c.769 §3; 2009 c.142 §3] **676.140** [Repealed by 1967 c.470 §68]

**REPORTING OBLIGATIONS**

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

(a) “Board” means the:

(A) State Board of Examiners for Speech-Language Pathology and Audiology;

(B) State Board of Chiropractic Examiners;

(C) State Board of Licensed Social Workers;

(D) Oregon Board of Licensed Professional Counselors and Therapists;

(E) Oregon Board of Dentistry;

(F) Board of Examiners of Licensed Dietitians;

(G) State Board of Massage Therapists;

(H) Oregon Board of Naturopathic Medicine;

(I) Oregon State Board of Nursing;

(J) Nursing Home Administrators Board;

(K) Oregon Board of Optometry;

(L) State Board of Pharmacy;

(M) Oregon Medical Board;

(N) Occupational Therapy Licensing Board;

(O) Physical Therapist Licensing Board;

(P) State Board of Psychologist Examiners;

(Q) Board of Radiologic Technology;

(R) State Board of Direct Entry Midwifery;

(S) State Board of Denture Technology;

(T) Respiratory Therapist Licensing Board;

**OCCUPATIONS AND PROFESSIONS  
HEALTH PROFESSIONS GENERALLY**

**676.130**

(U) Department of Human Services, to the extent that the department certifies emergency medical technicians;

(V) Oregon State Veterinary Medical Examining Board;  
or

(W) State Mortuary and Cemetery Board.

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

(c) "Prohibited conduct" means conduct by a licensee that:

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

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

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

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

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

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

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

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

(7) Notwithstanding any other provision

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

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

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

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

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

**PROCESSING OF COMPLAINTS  
AGAINST HEALTH PROFESSIONALS**

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

(1) State Board of Examiners for Speech- Language Pathology and Audiology;

(2) State Board of Chiropractic Examiners;

(3) State Board of Licensed Social Workers;

(4) Oregon Board of Licensed Professional Counselors and Therapists;

(5) Oregon Board of Dentistry;

(6) Board of Examiners of Licensed Dietitians;

(7) State Board of Massage Therapists;

(8) State Mortuary and Cemetery Board;

(9) Oregon Board of Naturopathic Medicine;

(10) Oregon State Board of Nursing;

(11) Nursing Home Administrators Board;

(12) Oregon Board of Optometry;

(13) State Board of Pharmacy;

(14) Oregon Medical Board;

(15) Occupational Therapy Licensing Board;

(16) Physical Therapist Licensing Board;

(17) State Board of Psychologist Examiners;

(18) Board of Medical Imaging;

(19) Oregon State Veterinary Medical Examining Board; and

(20) Oregon Health Authority to the extent that the authority certifies emergency medical technicians. [1997 c.791 §1; 1999 c.537 §4; 2001 c.274 §4; 2009 c.43 §9; 2009 c.442 §44; 2009 c.595 §1051; 2009 c.768 §33; 2009 c.833 §25] **Note:** The amendments to

676.160 by section 25, chapter 833, Oregon Laws 2009, take effect July 1, 2010. See section 44, chapter 833, Oregon Laws 2009. The text that is effective until July 1, 2010, including amendments by section 9, chapter 43, Oregon Laws 2009, section 44, chapter 442, Oregon Laws 2009, section 1051, chapter 595, Oregon Laws 2009, and section 33, chapter 768, Oregon Laws 2009, is set forth for the user's convenience.

**676.160.** As used in ORS 676.165 to 676.180, "health professional regulatory board" means the:

- (1) State Board of Examiners for Speech-Language Pathology and Audiology;
- (2) State Board of Chiropractic Examiners;
- (3) State Board of Licensed Social Workers;
- (4) Oregon Board of Licensed Professional Counselors and Therapists;
- (5) Oregon Board of Dentistry;
- (6) Board of Examiners of Licensed Dietitians;
- (7) State Board of Massage Therapists;
- (8) State Mortuary and Cemetery Board;
- (9) Oregon Board of Naturopathic Medicine;
- (10) Oregon State Board of Nursing;
- (11) Nursing Home Administrators Board;
- (12) Oregon Board of Optometry;
- (13) State Board of Pharmacy;
- (14) Oregon Medical Board;
- (15) Occupational Therapy Licensing Board;
- (16) Physical Therapist Licensing Board;
- (17) State Board of Psychologist Examiners;
- (18) Board of Radiologic Technology;
- (19) Oregon State Veterinary Medical Examining Board; and
- (20) Oregon Health Authority to the extent that the authority certifies emergency medical technicians.

**676.165 Complaint investigation.** (1) When a health professional regulatory board or the Oregon Health Licensing Agency receives a complaint by any person against a licensee, applicant or other person alleged to be practicing in violation of law, the board or agency shall assign one or more persons to act as investigator of the complaint.

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

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

(4) The investigator shall make the report to the board

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

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

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

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

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

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

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

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

(3) If a health professional regulatory board votes to issue a notice of intent to impose a disciplinary sanction, upon written request by the licensee or applicant, the board

**OCCUPATIONS AND PROFESSIONS  
HEALTH PROFESSIONS GENERALLY**

**676.130**

shall disclose to the licensee or applicant all information obtained by the board in the investigation of the allegations in the notice except:

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

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

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

(d) Reports of expert witnesses.

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

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

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

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

(C) An emergency suspension order;

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

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

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

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

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

licensee or applicant as otherwise allowed by law.

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

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

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

**676.177 Disclosure of confidential information to another public entity; criteria.** (1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

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

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

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

(c) The Department of Justice;

(d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or

(e) A law enforcement agency of this state, another state or the federal government. [1999 c.751 §2]

**676.180 Notice prior to disclosure.** If a health professional regulatory board intends to disclose a record pursuant to ORS 676.175 (2), the board shall provide the licensee or applicant seven days' prior written notice by first class mail. The notice shall describe the record that the

board intends to disclose in sufficient detail to permit the licensee or applicant to know the contents of the record. In any subsequent action for injunctive or declaratory relief, the burden shall be on the person seeking disclosure to demonstrate by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. [1997 c.791 §3]

**EFFECT OF EXPIRATION, LAPSE,  
SURRENDER, SUSPENSION OR  
REVOCAION OF LICENSE**

**676.205 Continuing jurisdiction of boards; effect of expiration, lapse, surrender, suspension or revocation of license.**

(1) As used in this section:

(a) "Health professional regulatory board" means the agencies listed in ORS 676.160 and the Oregon Health Licensing Agency created in ORS 676.605.

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

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

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

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

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

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

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

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

**MISCELLANEOUS**

**676.303 Purposes of health professional regulatory boards; authority of boards to require fingerprints.** (1) As used in this section:

(a) "Health professional regulatory board" means the agencies listed in ORS 676.160 and the Oregon Health Licensing Agency created in ORS 676.605.

(b) "Impairment" means an inability to practice with reasonable competence and safety due to the habitual or excessive use of drugs or alcohol, other chemical dependency or a mental health condition.

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

(d) "Licensee" means a person licensed, registered, certified or otherwise authorized by a health professional regulatory board to engage in a profession.

(2) All health professional regulatory boards shall operate with the primary purposes of promoting the quality of health services provided, protecting the public health, safety and welfare by ensuring that licensees practice with professional skill and safety and addressing impairment among licensees.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, a health professional regulatory board may require the fingerprints of a licensee seeking renewal of a license, an applicant for a license, a board employee or volunteer or an applicant for employment with the board. [2009 c.756 §1]

**676.306 Executive directors; reports; rules.** (1) As used in this section, "health professional regulatory board"

**OCCUPATIONS AND PROFESSIONS  
HEALTH PROFESSIONS GENERALLY**

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**676.130**

means a health professional regulatory board described in ORS 676.160 other than the Department of Human Services with regard to the certification of emergency medical technicians.

(2) Subject to applicable provisions of the State Personnel Relations Law and the approval of the Governor, notwithstanding ORS 182.468, each health professional regulatory board shall appoint an executive director and prescribe the duties and fix the compensation of the executive director. The executive director shall serve at the pleasure of the Governor under the direct supervision of the appointing board. The board may request that the Governor remove the executive director.

(3) In addition to any other duties imposed by law or otherwise required of state agencies, the executive director shall keep all records of the board and discharge all duties prescribed by the board.

(4) The executive director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the board. The executive director shall submit the reports to the board and the Governor. The Oregon Department of Administrative Services, in consultation with the board, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the department. The rules shall require each board to undergo a peer review of board activities by a team of executive directors of other health professional regulatory boards and at least one public member. The department may assess the board for the cost of the peer review. [2009 c.756 §4]

# Chapter 182

2009 EDITION

## State Administrative Agencies Executive Branch Organization

### SEMI-INDEPENDENT STATE AGENCIES

(Listing of Semi-Independent  
State Agencies)

- 182.454 Semi-independent state agencies
- (General Provisions Relating to  
Semi-Independent State Agencies)
- 182.456 Definitions for ORS 182.456 to 182.472
- 182.460 Statutory provisions applicable to  
semi-independent state agencies
- 182.462 Budgets for semi-independent state agencies;  
annual financial statements; disposition of civil  
penalties; rules
- 182.464 Financial review by Secretary of State
- 182.466 Powers of semi-independent state agencies;  
fees; rules
- 182.468 Administrators
- 182.470 Depository accounts for moneys collected or  
received by semi-independent state agencies
- 182.472 Reports

**SEMI-INDEPENDENT  
STATE AGENCIES  
(Listing of Semi-Independent  
State Agencies)**

**182.451** [1999 c.1084 §1; 2001 c.409 §2; repealed by 2007 c.71 §58]

**182.452** [1999 c.1084 §2; repealed by 1999 c.1084 §56 and 2003 c.206 §3]

**182.454 Semi-independent state agencies.** The following semi-independent state agencies are subject to ORS 182.456 to 182.472:

- (1) The Appraiser Certification and Licensure Board.
- (2) The State Board of Architect Examiners.
- (3) The State Board of Examiners for Engineering and Land Surveying.
- (4) The State Board of Geologist Examiners.
- (5) The State Landscape Architect Board.
- (6) The Oregon Board of Optometry.
- (7) The Oregon Patient Safety Commission.
- (8) The Oregon Wine Board.
- (9) The State Board of Massage Therapists.
- (10) The Physical Therapist Licensing Board.
- (11) The State Landscape Contractors Board.

[1999 c.1084 §3; 2003 c.686 §13; 2003 c.797 §27; 2005 c.109 §2; 2007 c.71 §59]

**Note:** 182.454 to 182.472 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 182 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**(General Provisions Relating to  
Semi-Independent State Agencies)**

**182.456 Definitions for ORS 182.456 to 182.472.**

As used in ORS 182.456 to 182.472:

- (1) "Board" means a semi-independent state agency listed in ORS 182.454.
- (2) "License" includes licenses, registrations, certifications, permits or other forms of permission required by law to pursue an occupation or engage in a business regulated

by a board. [1999 c.1084 §§4,55; 2003 c.686 §§14,15; 2007 c.71 §60]

**Note:** See note under 182.454.

**182.460 Statutory provisions applicable to semi-independent state agencies.** (1) Except as otherwise provided by law, the provisions of ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to a board. A board is subject to all other statutes governing a state agency that do not conflict with ORS 182.456 to 182.472, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183, and a board's employees are included within the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, the following provisions shall apply to a board:

- (a) ORS 240.309 (1) to (6) and 240.321;
- (b) ORS 279A.250 to 279A.290;
- (c) ORS 282.210 to 282.230; and
- (d) ORS 293.240.

(3) In carrying out the duties, functions and powers of a board, the board may contract with any state agency for the performance of duties, functions and powers as the board considers appropriate. A state agency may not charge a board an amount that exceeds the actual cost of those services. ORS 182.456 to 182.472 do not require an agency to provide services to a board other than pursuant to a voluntary interagency agreement or contract.

(4) A board shall adopt personnel policies and contracting and purchasing procedures. The Oregon Department of Administrative Services shall review those policies and procedures for compliance with applicable state and federal laws and collective bargaining contracts.

(5) Except as otherwise provided by law, directors and employees of a board are eligible to receive the same benefits as state employees and are entitled to retain their State of Oregon hire dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer of all accumulated state agency leaves. [1999 c.1084 §5; 2003 c.794 §204; 2007 c.71 §61]

**Note:** See note under 182.454.

**182.462 Budgets for semi-independent state agencies; annual financial statements; disposition of civil penalties; rules.** (1) A board shall

adopt budgets on a biennial basis using classifications of expenditures and revenues required by ORS 291.206 (1), but the budget shall not be subject to review and approval by the Legislative Assembly or to future modification by the Emergency Board or the Legislative Assembly.

(2) The budget referred to in subsection (1) of this section shall be adopted in accordance with applicable provisions of ORS chapter 183. Except as provided in this subsection, a board shall adopt or modify a budget only after a public hearing thereon. A board must give notice of the hearing to all holders of licenses issued by the board.

(3) A board shall follow generally accepted accounting principles and keep financial and statistical information as necessary to completely and accurately disclose the financial condition and financial operations of the board as may be required by the Secretary of State.

(4) A board shall prepare an annual financial statement of board revenues and expenses and shall make the statement available for public review. The board shall provide a copy of the statement to the Oregon Department of Administrative Services not later than the 90th day after the end of the state fiscal year.

(5) A board may, by rule, elect to donate all or part of the revenue derived by the board from civil penalties to the General Fund of the State Treasury. [1999 c.1084 §6]

Note: See note under 182.454.

#### **182.464 Financial review by Secretary of State.**

The Secretary of State shall enter into agreements with each of the boards to set appropriate financial review schedules for those boards. The financial review schedules shall be set to allow board compliance with ORS 182.472. In lieu of conducting a financial review, the Secretary of State may elect to contract for the financial review with, or accept a financial review conducted by, an independent certified public accountant. [1999 c.1084 §7; 2007 c.218 §1]

Note: See note under 182.454.

**182.466 Powers of semi-independent state agencies; fees; rules.** In addition to other powers granted by ORS 182.456 to 182.472 and by the statutes specifically applicable to a board, a board may:

(1) Sue and be sued in its own name.

(2) Notwithstanding ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C, enter into contracts and acquire, hold, own, encumber, issue,

replace, deal in and with and dispose of real and personal property.

(3) Notwithstanding ORS 670.300, fix a per diem amount to be paid to board members for each day or portion thereof during which the member is actually engaged in the performance of official duties. Board members may also receive actual and necessary travel expenses or other expenses actually incurred in the performance of their duties. If an advisory council or peer review committee is established under the law that governs the board, the board may also fix and pay amounts and expenses for members thereof.

(4) Set the amount of any fee required by statute and establish by rule and collect other fees as determined by the board. Fees shall not exceed amounts necessary for the purpose of carrying out the functions of the board. Notwithstanding ORS 183.335 and except

as provided in this subsection, a board shall hold a public hearing prior to adopting or modifying any fee without regard to the number of requests received to hold a hearing. A board shall give notice to all licensees of the board prior to holding a hearing on the adoption or modification of any fee. A board may adopt fees in conjunction with the budget adoption process described in ORS 182.462.

(5) Subject to any other statutory provisions, adopt procedures and requirements governing the manner of making application for issuance, renewal, suspension, revocation, restoration and related activities concerning licenses that are under the jurisdiction of a board. [1999 c.1084 §8; 2001 c.104 §62; 2003 c.794 §205]

Note: See note under 182.454.

**182.468 Administrators.** (1) Notwithstanding ORS 670.306, a board may select and appoint an administrator. The board shall fix the qualifications and compensation for the position.

(2) An administrator of a board shall not be a voting member of that board.

(3) Notwithstanding ORS 670.306, an administrator of a board may employ persons as the board determines to be necessary for carrying out the business and responsibilities of the board. [1999 c.1084

§9(1),(2),(3)]

Note: See note under 182.454.

**182.470 Depository accounts for moneys collected or received by semi-independent state agencies.**

(1) Notwithstanding ORS 670.335, except where otherwise specifically provided by statute pursuant to ORS 182.462 (5), all moneys collected or received by a board, placed to the credit of that board and remaining unexpended and unobligated on the date that the board is established as a semi-independent state agency, and all moneys collected or received by a board after the date that the board is established as a semi-independent state agency, must be deposited into an account established by that board in a depository insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the chairperson, president or administrator of a board shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. All moneys in the account are continuously appropriated to the board making the deposit for the purpose of carrying out the functions of the board.

(2) Subject to the approval of the chairperson, president or administrator, a board may invest moneys collected or received by the board. Investments made by a board are:

(a) Limited to investments described in ORS 294.035;

(b) Subject to the investment maturity date limitations described in ORS 294.135; and

(c) Subject to the conduct prohibitions listed in ORS 294.145.

(3) Interest earned from any accounts invested under subsection (2) of this section shall be made available to a board in a manner consistent with the board's annual budget.

(4) Subject to the approval of the chairperson, president or administrator, all necessary board expenses shall be paid from the moneys collected or earned by a board.

(5) As used in this section, "depository" has the meaning given that term in ORS 295.001. [1999 c.1084 §10; 2001 c.409 §3; 2003 c.405 §3;

2007 c.871 §25]

Note: See note under 182.454.

**182.472 Reports.** Not later than January 1 of each even-numbered year, each board subject to ORS 182.456 to 182.472 shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer. The Legislative Fiscal Officer shall review the reports and shall prepare and submit a statement of findings and conclusions to the Joint Legislative Audit Committee. The report must include the following:

(1) A copy of the most recent audit or financial review of the board.

(2) A copy of the actual budget for the prior biennium and a copy of the board's adopted budget for the biennium in which the report is made. The budget documents must show:

(a) The beginning balance and ending balance for each of the two biennia;

(b) A description of material changes between the two biennia;

(c) A description of the public hearing process used to establish the budget adopted for the current biennium; and

(d) A description of current fees and proposed changes to fees, along with information supporting the amounts of the current fees and any proposed changes to the fees.

(3) A description of all temporary and permanent rules adopted by the board since the last report was submitted.

(4) A description of board actions promoting consumer protection that were taken since the last report was submitted.

(5) If the board issues licenses, a description of the board's licensing activities performed since the last report that is adequate to allow evaluation of the board's performance of its licensing responsibilities, including:

(a) The number of license applications;

(b) The number of licenses issued;

(c) The number of examinations conducted;

(d) The average time between application for and issuance of licenses;

(e) The number and types of complaints received

about persons holding licenses;

(f) The number and types of investigations conducted;

(g) The number and types of resolutions of complaints;

(h) The number and type of sanctions imposed; and

(i) The number of days between beginning an investigation and reaching a resolution.

(6) A description of all other actions taken since the last report in the performance of the board's statutory responsibilities that is adequate to allow evaluation of the board's performance. [1999 c.1084 §11; 2005 c.109 §1; 2007 c.218 §2]

**Note:** See note under 182.454.

# **OREGON BOARD OF OPTOMETRY**

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## **OREGON ADMINISTRATIVE RULES - CHAPTER 852**



**Laws and Rules in effect as of January 1, 2010**

**OREGON ADMINISTRATIVE RULES  
BOARD OF OPTOMETRY  
CHAPTER 852  
Index of Rules by Number and Title**

<p style="text-align: center;"><b>DIVISION 1</b></p> <p style="text-align: center;"><b>PROCEDURAL RULES</b></p> <p>852-01-001 Notice of Proposed Rule</p> <p>852-01-002 Definitions</p>	<p>852-20-035 Prescribing</p> <p>852-20-050 Scope of Practice</p> <p>852-20-060 Optometric Physician Responsibility, Supervision, and Delegation</p> <p>852-20-070 Optometric Physician Educational and Professional Standards</p>
<p style="text-align: center;"><b>DIVISION 5</b></p> <p style="text-align: center;"><b>BOARD ADMINISTRATION</b></p> <p>852-05-005 Budget</p> <p>852-05-010 Purchasing</p> <p>852-05-015 Board Member Compensation</p> <p>852-05-030 Contracting</p> <p>852-05-040 Personnel</p> <p style="text-align: center;"><b>DIVISION 10</b></p> <p style="text-align: center;"><b>GENERAL</b></p> <p>852-10-005 Board Meeting</p> <p>852-10-015 Application for Examination and Licensure</p> <p>852-10-020 Rules for Examination and Licensure</p> <p>852-10-022 Application for Endorsement Examination and Licensure</p> <p>852-10-023 Rules for Endorsement Examination and Licensure</p> <p>852-10-030 Advertising</p> <p>852-10-035 Agreements, Understandings and Contracts</p> <p>852-10-051 Records</p> <p>852-10-080 Schedule of Fees</p> <p style="text-align: center;"><b>DIVISION 20</b></p> <p style="text-align: center;"><b>STANDARDS OF OPTOMETRIC PRACTICE</b></p> <p>852-20-029 Prescription Content</p> <p>852-20-031 Prescription Release</p>	<p style="text-align: center;"><b>DIVISION 50</b></p> <p style="text-align: center;"><b>LICENSING</b></p> <p>852-50-001 License Required</p> <p>852-50-005 Certificate of Registration</p> <p>852-50-006 Annual Renewal of Active License</p> <p>852-50-012 Inactive Status License</p> <p>852-50-013 Uniformed Services</p> <p>852-50-014 Reinstatement of License</p> <p>852-50-016 Notice of Place of Practice</p> <p>852-50-018 Official Address of Record</p> <p>852-50-021 Nonprofit Services</p> <p style="text-align: center;"><b>DIVISION 60</b></p> <p style="text-align: center;"><b>COMPLAINTS AND ENFORCEMENT</b></p> <p>852-60-004 Processing of Complaints</p> <p>852-60-025 Disciplinary Action</p> <p>852-60-027 Definition of Unprofessional Conduct</p> <p>852-60-028 Definition of Gross Ignorance or Inefficiency</p> <p>852-60-060 Model Rules of Procedure</p> <p>852-60-065 Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases</p> <p>852-60-070 Hearing Requests, Answers, and Consequences of Failure to Answer</p> <p>852-60-075 Discovery</p> <p style="text-align: center;"><b>DIVISION 70</b></p>

**CONTINUING OPTOMETRIC  
EDUCATION**

- 852-70-005 Definitions
- 852-70-010 Requirement of Continuing  
Optometric Education
- 852-70-016 Continuing Optometric Education  
not Required for Inactive Licenses
- 852-70-020 Application for Credit
- 852-70-025 Credit for Conducting Course or  
Presenting Material
- 852-70-030 Calculation of Credit
- 852-70-035 Responsibility to Notify Board
- 852-70-040 Fees
- 852-70-045 Board Responsibility for Provision  
of Continuing Optometric  
Education
- 852-70-050 Continuing Optometric Education  
Provided by the Board
- 852-70-055 Continuing Optometric Education  
Provided by Others
- 852-70-060 COPE Approved Continuing  
Optometric Education Courses

**DIVISION 80**

**PHARMACEUTICAL AGENTS**

- 852-80-020 Designation of Topical Formulary
- 852-80-025 Adoption of Nontopical Formulary
- 852-80-030 Conditions of Formulary  
Application
- 852-80-040 Certification to Use  
Pharmaceutical Agents

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 1 - BOARD OF OPTOMETRY**

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**DIVISION 1**  
**PROCEDURAL RULES**

**Notice of Proposed Rule**

**852-01-001** 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.

(5) By posting the notice of rulemaking along with the proposed administrative rule text on the Board's website.

Stat. Auth.: ORS 183; ORS 683; ORS 182  
Stats. Implemented: ORS 183.341(4) &  
ORS 182.466

**Definitions**

**852-01-002** As used in this division:

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

(2) "Board's Office" means the facility located at 1900 Hines Street SE, P.O. Box 13967, Salem, OR 97309-1967.

(3) "Board Administrator" means the

Executive Director 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.

(9) "Contact Lens" means a lens designed to fit over the cornea of the eye.

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

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

(c) "Therapeutic contact lens" means a contact lens that contains a topical therapeutic pharmaceutical agent listed in Division 80.

Stat. Auth.: ORS 683; ORS 182  
Stats. Implemented: ORS 683.010, ORS 683.335 & ORS  
182.466

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 5 - BOARD OF OPTOMETRY**

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**DIVISION 5**  
**BOARD ADMINISTRATION**

**Budget**

**852-05-005** The Oregon Board of Optometry hereby adopts by reference the Oregon Board of Optometry 2009-2011 Biennium Budget of \$648,125 covering the period from July 1, 2009 through June 30, 2011. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$648,125 for the effective operation of the Board. The Board will not exceed the approved 2009-2011 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.

Statutory Authority: ORS 683; ORS 182  
Statutes Implemented: ORS 182.462(1)(2)

**Purchasing**

**852-05-010** (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.

Statutory Authority: ORS 683; ORS 182  
Statutes Implemented: ORS 182.460(4)

**Board Member Compensation**

**852-05-015** (1) Board members of the Oregon Board of Optometry, who are authorized by law to receive compensation for time spent in performance of their official duties, shall receive a payment of \$100 for each 8-hour day during

which the member is actually engaged in the performance of official duties. If the hours engaged in official duties is less or more than 8 hours, payment will be made at an hourly rate of \$12.50 per hour or fraction thereof. This compensation amount shall be 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 actually incurred in the performance of their official duties as determined by the Board. Mileage reimbursement will be provided at the rate established by the Internal Revenue Service for privately owned vehicles. (3) No Board member shall be required to accept compensation or reimbursement of travel expenses while performing their official duties as a Board member.

Statutory Authority: ORS292; ORS 182  
Statutes Implemented: ORS 182.466(3); HB 2058, Oregon Law Chapter 535 (2009 Laws)

**Contracting**

**852-05-030** (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.

Statutory Authority: ORS 683; ORS 182  
Statutes Implemented: ORS 182.460(4)

**Personnel**

**852-05-040** (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

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 5 - BOARD OF OPTOMETRY**

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Manual are available for review at the Board's office.

Statutory Authority: ORS 683; ORS 182  
Statutes Implemented: ORS 182460(4)

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 10---BOARD OF OPTOMETRY**

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**DIVISION 10**

**GENERAL**

**Board Meeting**

**852-10-005** (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 re-activation 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 683270(11); ORS Chapter 182  
Stats. Implemented: ORS 683.270

**Application for Examination and Licensure**

**852-10-015** (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 \$200 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.

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

(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, ORS 683.060, ORS 683.270 & ORS 182.466

**Rules for Examination and Licensure**

**852-10-020** (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:

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

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 10---BOARD OF OPTOMETRY**

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(b) submit documentation of continuing education hours as required in OAR 852-70.

(c) pass a written examination relating to Oregon optometric law and administrative rules, and

(i) score at least 75 on the written examination

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

(iii) 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.

(iv) 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 683.060, ORS 683.270 & ORS 182.466

**Application for Endorsement Examination and Licensure**

**852-10-022** (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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.040, ORS 683.060, ORS 683.220, ORS 683.270 & ORS 182.466

**Rules for Endorsement Examination and Licensure**

**852-10-023** 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

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 10---BOARD OF OPTOMETRY**

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the Board of continuing optometric education hours equivalent to the requirements established by OAR 852-70;

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

(a) The National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank 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 \$300; 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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.220, ORS 683.270 & ORS 182.466

### **Advertising**

**852-10-030** (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; ORS 182  
Stats. Implemented: ORS 683.140, ORS 683.270, ORS 646.605 & ORS 182.466

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

**852-10-035** (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 or a prepaid vision care plan and agree to any of the requirements thereof, provided said plan is

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 10--BOARD OF OPTOMETRY**

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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; ORS 182  
Stats. Implemented: ORS 683.270 & ORS 182.466

**Records**

**852-10-051** (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 Chapter 683; ORS 182  
Stats. Implemented: ORS 683.140(3), 683.270(1)(k) & ORS 182.466

**Schedule of Fees**

**852-10-080** (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. . . . \$243
- (b) Annual Renewal - Inactive License. . . . \$98
- (c) Continuing Education Renewal Fee. . . . \$20
- (d) Disciplinary Renewal Fee. . . . . \$35

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 10--BOARD OF OPTOMETRY**

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- (e) Additional Office License..... \$45
- (f) Multiple Office License. .... \$90
- (g) Application for Examination and Licensure  
..... \$200
- (h) Application for Endorsement Examination and  
Licensure. .... \$300
- (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. .... \$30
- (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
- (s) Electronic Prescription Monitoring Program  
..... \$25
- (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 Chapter 683;ORS 182  
Stats. Implemented: ORS 683.270 & ORS  
182.466

**DIVISION 20**

**STANDARDS OF OPTOMETRIC PRACTICE**

**Prescription Content**

**852-20-029** (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;

(1) 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.

**Prescription Release**

**852-20-031** (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.

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 20---BOARD OF OPTOMETRY**

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(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, ORS 683.335 & ORS 182.466

**Prescribing**

**852-20-035** (1) A Doctor of Optometry shall only use, prescribe, dispense or administer controlled substances in Schedules III - V to a person whom he/she has a bona fide physician/patient relationship.

(a) a Doctor of Optometry shall not use, prescribe, dispense or administer Schedule III - V controlled substances to himself/herself.

(b) a Doctor of Optometry shall not use, prescribe, dispense or administer Schedule III - V controlled substances to an immediate family member except in emergency situations.

(i) Immediate family member means spouse, children, siblings, parents or other individual for whom a Doctor of Optometry's personal or emotional involvement may render him/her unable to exercise detached professional judgement in reaching diagnostic and/or therapeutic decisions.

(2) It shall be considered unprofessional conduct for a Doctor of Optometry to use, prescribe, dispense or administer controlled substances in Schedules III - V outside the scope of practice of optometry or in a manner that impairs the health and safety of an individual.

(3) All drugs dispensed by an optometric physician shall 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 shall also contain the name of the manufacturer or distributor;

(e) Direction for use;  
(f) Required precautionary information regarding controlled substances;

(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 judgement, a shorter expiration date is warranted. Any drug bearing an expiration date shall not be dispensed beyond the said expiration date of the drug.

Stat. Auth.: ORS 683; ORS 182  
Stats. Implemented: ORS 683.010(3), ORS 683.240(2), ORS 683.270(k) & ORS 182.466. ORS 689.225; OAR 855-043-0001.

**Scope of Practice**

**852-20-050** (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

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

**852-20-060** (1) The optometric physician carries the sole responsibility for the patient's care.

(2) Direct supervision as used in 683.030 means a person employed by the optometric physician whose activities are being directly or indirectly supervised and there is 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 683; ORS 182

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

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

**852-20-070** 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 topical and nontopical therapeutic pharmaceutical agents for the practice of optometry.

(1) Effective with year 2009 license renewal, beginning January 1, 2009, all active status licensees practicing optometry in Oregon shall have demonstrated qualification and have obtained certification to use "topical and nontopical therapeutic pharmaceutical agents" as a condition of license renewal. Application must be made to the Board in accordance with Division 80 - Certification to use Pharmaceutical Agents prior to using topical and nontopical therapeutic pharmaceutical agents.

Stat. Auth.: ORS 683; ORS 182

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

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 50---BOARD OF OPTOMETRY**

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**DIVISION 50**

**LICENSING**

**License Required**

**852-50-001** (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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

**Certificate of Registration**

**852-50-005** (1) Upon the successful completion of the practical examination for

licensure each licensee shall pay to the Oregon Board of Optometry a \$30 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 acquire and post a current license conspicuously in each additional office or place of business. Upon written application of the licensee, the Board shall issue such number of licenses upon receipt of \$45 for each license. The licensee must renew each practice location on an annual basis during the license renewal period.

(3) In lieu of acquiring an additional office license for each practice location, any licensee who has acquired a license to practice optometry in Oregon may elect to acquire a multiple office license which allows the licensee to practice at an unlimited number of additional practice locations. Upon written application of the licensee and receipt of an additional \$90 fee, the Board shall issue 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. The licensee must renew this license to practice at multiple locations on an annual basis during the license renewal period.

(4) The licensee's status (active or inactive, T, AT or ATI certified, etc.) shall be indicated directly upon the annual license form.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

**Annual Renewal of Active License**

**852-50-006** (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

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 50---BOARD OF OPTOMETRY**

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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 852-80-040.

(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 \$243, plus an additional \$20 assessed for continuing education offerings and a \$35.00 disciplinary fee. In addition to the optometry renewal fees, the

Board is required by SB 355 (2009 Regular Session) to collect an annual \$25 fee from each optometry license renewal for the Electronic Prescription Monitoring Program in the Department of Human Services. The fees collected for the Electronic Prescription Monitoring Program will be remitted to the Department of Human Services as required by law.

(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.

(9) Any licensee whose CPR certification lapsed at any time during the license renewal period shall be subject to a fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure. This fee must be received before the license will be issued.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

### **Inactive Status License**

**852-50-012** (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:

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 50---BOARD OF OPTOMETRY**

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(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 \$98.

(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; \$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 852-80-040, 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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

### **Uniformed Services**

**852-50-013** (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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 50---BOARD OF OPTOMETRY**

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**Reinstatement of License**

**852-50-014** (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 852-80-040, 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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.120, ORS 683.270 & ORS 182.466

**Notice of Place of Practice**

**852-50-016** (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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

**Official Address of Record**

**852-50-018** (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.

(a) The official address of record must include a street address. Post office boxes are not acceptable unless a street address is included with it.

(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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

**Nonprofit Services**

**852-50-021** No fees will be assessed any licensed doctor of optometry for providing professional services to a charitable nonprofit corporation on a voluntary basis.

(1) Nonprofit corporation means a

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 50---BOARD OF OPTOMETRY**

---

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 optometric physicians 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 without payment for services.

(3) Any entity that owns or operates a nonprofit charitable clinic that provides eye care services must:

(a) Name an active licensed optometric physician as its vision service director who shall be subject to the provisions of ORS 683 and OAR 852. This director shall have responsibility for the

patient records on eye care services for the clinic.

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

(a) Obtain a license from the Oregon Board of Optometry to practice at this location. This license cannot be used for practicing optometry at any other location. There is no fee for obtaining this license from the Board.

(b) Comply with all other provisions of ORS 683 and OAR 852.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.070, ORS 683.100, ORS 683.120, ORS 683.270 & ORS 182.466

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 60---BOARD OF OPTOMETRY**

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**DIVISION 60**

**COMPLAINTS AND ENFORCEMENT**

**Processing of Complaints**

**852-60-004** The Board processes complaints in accordance with the requirements of ORS 676.160 to 676.180 and the provisions of ORS 683.278, ORS 683.325, ORS 683.335.

Stat. Auth.: ORS 676; ORS 683  
Stats. Implemented: ORS 676.160 - ORS 676.180

**Disciplinary Action**

**852-60-025** (1) When disciplining an optometrist 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; or
- (e) Take other disciplinary action as the Board in its discretion finds proper, including the assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed \$10,000 for each violation, or both.

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

- (a) Conviction of a felony or misdemeanor where such an offense bears a demonstrable relationship to the duties of an optometrist. The record of conviction, or a copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction;
- (b) 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) Failing to comply with the requirements of continuing education;
- (f) Obtaining any fee by fraud or

misrepresentation;

(g) Employing directly or indirectly any suspended or unlicensed optometrist to perform any work covered by ORS 683.010 to 683.335;

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

(i) Habitual, excessive or unlawful use of intoxicants, drugs or controlled substances;

(j) Permitting another person to use the optometrist's license;

(k) 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;

(l) Advertising professional methods or professional superiority;

(m) Violating the federal Controlled Substances Act;

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

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

(p) 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; or

(q) Any violation of the provisions of ORS 683.010 to 683.335.

(3) The Board shall report all disciplinary action taken by the Board to the National Practitioner Data Bank and the Healthcare

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 60---BOARD OF OPTOMETRY**

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Integrity and Protection Data Bank.

(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 683.180, ORS 683.270  
& ORS 182.466

**Definition of Unprofessional Conduct**

**852-60-027** Unprofessional conduct within the meaning of ORS 683.140(1)(c) includes, but is not limited to:

- (1) Fraud, misrepresentation or dishonesty.
- (2) Advertising optometric services, treatments, or advice in which untruthful, improbable, misleading or deceitful 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 optometrist's license.
- (6) Habitual, excessive or unlawful use of intoxicants, drugs or controlled substances.
- (7) 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.
- (8) The discharge of an employe based primarily on the employe's attempt to comply or aid in the compliance of the Board's rules.
- (9) 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.
- (10) Willfully deceiving or attempting to deceive the Board, an employe 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.
- (11) Failing to respond in writing to a Board request for information as required.

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

(13) 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."

(14) Conduct which could be construed as moral turpitude; and

(15) 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

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 60---BOARD OF OPTOMETRY**

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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.

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

(17) 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.

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

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

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

(21) Failing to comply with a Board order.

(22) Failing to use, prescribe or administer controlled substances in Schedules III - V within the scope of practice of optometry or in a manner that impairs the health and safety of an individual.

Stat. Auth.: ORS 683; ORS 182  
Stats. Implemented: ORS 683.140, ORS 683.270 & ORS 182.466

**Definition of Gross Ignorance or Inefficiency**

**852-60-028** 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, ORS 683.270 & ORS 182.466

**Model Rules of Procedure**

**852-60-060** 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 183; ORS 683; ORS 182  
Stats. Implemented: ORS 183.341(2) & ORS 182.466

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

**852-60-065** 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 852-60-070 with the notice.

Stat. Auth.: ORS 183; ORS 683 & ORS 182  
Stats. Implemented: ORS 183.413 & ORS 182.466

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

**852-60-070** (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:

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 60---BOARD OF OPTOMETRY**

---

(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

**Discovery**

**852-60-075** 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 & ORS 182  
Stats. Implemented: ORS 683.155 & ORS 182.466

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 70---BOARD OF OPTOMETRY**

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**DIVISION 70**

**CONTINUING OPTOMETRIC  
EDUCATION**

**Definitions**

**852-70-005** "Hour" means clock hour of sixty minutes of instruction time, plus or minus ten minutes. "Half-hour" means thirty minutes of instruction time, plus or minus five minutes.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.210 & ORS 182.466

**Requirement of Continuing Optometric Education**

**852-70-010** (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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.140, ORS 683.270, ORS 683.210 & ORS 182.466

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

**852-70-016** (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 852-70-010.

(2) If an inactive licensee petitions to change to active status, he or she must comply with OAR 852-70-010 for the continuing education license year previous to the year in which active status is granted by the Board.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.210 & ORS 182.466

**Application for Credit**

**852-70-020** 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.

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 70---BOARD OF OPTOMETRY**

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Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.210 & ORS 182.466

**Credit for Conducting Course or Presenting Material**

**852-70-025** 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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.210 & ORS 182.466

**Calculation of Credit**

**852-70-030** (1) 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.

(a) This applies only to graduates of optometry school not more than one year post graduation.

(b) All other Doctors of Optometry must meet the continuing optometric education requirements of Division 70.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.210 & ORS 182.466

**Responsibility to Notify Board**

**852-70-035** (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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.210 & ORS 182.466

**Fees**

**852-70-040** 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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.210 & ORS 182.466

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

**852-70-045** The Oregon Board of

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 70---BOARD OF OPTOMETRY**

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

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.140. ORS 683.210 & ORS 182.466

**Continuing Optometric Education Provided by the Board**

**852-70-050** 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 Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.140. ORS 683.210 & ORS 182.466

**Continuing Optometric Education Provided by Others**

**852-70-055** (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 half- hour. Additional credits must be in half-

hour increments.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.140, ORS 683.210 & ORS 182.466

**COPE Approved Continuing Optometric Education Courses**

**852-70-060** (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 (PO), Refractive Surgery Management (RS), Treatment and Management of Ocular Disease: Anterior Segment (AS), and Treatment and Management of Ocular Disease: Posterior Segment (PS).

(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 Ethics/Jurisprudence (EJ) are not approved by the Oregon Board of Optometry, unless it is an acceptable ethics course. Ethics courses are approved by the Board individually to

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 70---BOARD OF OPTOMETRY**

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determine whether it is an acceptable course.

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

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.140, ORS 683.210 & ORS 182.466

**DIVISION 80**

**PHARMACEUTICAL AGENTS**

**Designation of Topical Formulary**

**852-80-020** 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 852-80-030:

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

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.010, ORS 683.270 & ORS 182.466

**Adoption of Nontopical Formulary**

**852-80-025** 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 852-80-030:

- Category 17 - Anaesthetics
- Category 18 - Analgesics
- Category 19 - Dyes
- Category 20 - Anti-allergy Agents
- Category 21 - Anti-infectives (Antibiotics, Anti-virals, Anti-fungals)
- Category 22 - Anti-glaucoma and Ocular hypotensives
- Category 23 - Anti-inflammatory Agents
- Category 24 - Any combination of the above agents
- Category 25 - Emergency use agents

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.240 & ORS 182.466

**Conditions of Formulary Application**

**852-80-030** The following conditions apply to the formulary of pharmaceutical agents in 852-80-020 and 852-80-025:

(1) Doctors of optometry certified for Topical and Nontopical Therapeutic Pharmaceutical Agents may use, administer, and prescribe any and all over-the-counter pharmaceutical agents.

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

(3) 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.

(4) Doctors of Optometry treating a patient with antiglaucoma medication shall consult with an ophthalmologist if:

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

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

(c) A secondary glaucoma develops.

(A) Glaucoma shall be considered to be progressing if, in comparison to prior

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 80---BOARD OF OPTOMETRY**

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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.

(B) Glaucoma shall be considered to be under control if target eye pressure, individualized for each patient, is maintained with no abnormal glaucomatous progression.

(C) A combination medication that contains two pharmacologic agents shall be considered one medication.

(5) 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.

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

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

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

(9) 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.

(10) Doctors of optometry 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 852-80-020.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.240, 683.270 & ORS 182.466

**Certification to Use Pharmaceutical Agents**

**852-80-040 (1) Topical TPA Certification (T) 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".

(2) **Nontopical TPA Certification (AT) 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 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 a \$75 TPA examination and licensure fee for nontopical TPA certification,

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

(e) 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 CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification.

(i) After the initial CPR certification, the Board will accept a BLS Healthcare Providers Online Renewal course. A CPR certification card

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 80---BOARD OF OPTOMETRY**

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with an expiration date must be received from the CPR provider. A hands-on component is required for renewal CPR certification. An online CPR course that is not equivalent will not be approved by the Board.

(ii) The Board shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

(iii) Documentation of CPR certification is due with the licensee's annual renewal as indicated in OAR 852-050-006. 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.

(iv) 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.

(3) Nontopical TPA Certification (AT) 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 (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 \$75 TPA examination and licensure fee for nontopical TPA certification,

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

(e) Acquire 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 CPR course shall 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 shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

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

(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 7 hours approved by the Board or provide proof of equivalent training acceptable to the Board,

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

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

(e) 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 CPR course shall be a hands-on course; online CPR courses will not be approved by the Board for initial CPR certification.

(i) After the initial CPR certification, the Board will accept a BLS Healthcare Providers Online Renewal course. A CPR certification card with an expiration date must be received from the CPR provider. A hands-on component is required for renewal CPR certification. An online CPR course that is not equivalent will not be approved by the Board.

(ii) The Board shall consider the CPR expiration date to be the last day of the month that

**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 852, DIVISION 80---BOARD OF OPTOMETRY**

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the CPR instructor indicates that the certification expires.

(iii) Documentation of CPR certification is due with the licensee's annual renewal as indicated in OAR 852-050-006. 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.

(iv) 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.

(f) Effective April 1, 2006, all doctors of optometry that have been certified by the board as meeting the requirements for Nontopical TPA Certification and met the original certification requirements which included the injections workshop, will automatically have their licensure and certification changed to Nontopical TPA Certification with Injections.

(5) *Nontopical TPA Certification with Injections (ATI) for inactive status licensee* -Prior to using nontopical therapeutic pharmaceutical agents with injections as listed in this rule, any doctor of optometry licensed in Oregon in inactive status must:

(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 7 hours approved by the Board or provide proof of equivalent training acceptable to the Board,

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

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

(e) Acquire 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 CPR course shall 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 shall consider the CPR expiration date to be the last day of the month that the CPR instructor indicates that the certification expires.

(f) Effective April 1, 2006, all doctors of optometry that have been certified by the board as meeting the requirements for Nontopical TPA Certification and met the original certification requirements which included the injections workshop, will automatically have their licensure and certification changed to Nontopical TPA Certification with Injections.

Stat. Auth.: ORS Chapter 683; ORS Chapter 182  
Stats. Implemented: ORS 683.270 & ORS 182.466