

# OREGON BOARD OF OPTOMETRY

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## From the President

Joan Ploem Miller, OD

The Oregon Board of Optometry is the state agency responsible for the licensure of optometric physicians and the enforcement of the statutes and administrative rules governing the practice of optometry in Oregon. It was established by the Oregon Legislature in 1905 and currently consists of four doctors of optometry licensed to practice in Oregon and one public member. The mission of the Oregon Board of

of the State of Oregon from the dangers of unqualified and improper practice of optometry. This list includes some of the more prevalent or serious problems the Board of Optometry addresses.

**1. Practice in a location without registering that address with the Board.** The Board protects the public and both the Board and the public need to know where you are practicing at all times. You must register every place you practice prior to practicing there. You must report each physical address, even if you are working for the same business at different locations. This is true even if you only practice there one day. You must notify the Board in writing before practicing in a new location, and pay the appropriate fee. A certificate will be issued that must be posted prominently for the patients to see. You must notify the Board immediately when you are no longer practicing at a location. In addition, you must inform the Board of the arrangements you have made for your patient records in accordance with OAR 852-10-051. **Warning!** Failure to report your current practice location or changes in practice locations **will result in a**

**fine** of \$50.00 for the first failure, \$100.00 for the second failure and \$200.00 for each subsequent failure.

**2. Late license/CE renewal.** License renewal is due on the first day of the month of your birth. Proof of attendance at Board approved continuing education is a condition of your renewal every year. You are required to complete 15 hours of clinical continuing education annually. Five of those hours must be in the area of ocular disease. You may carry forward excess hours to the next year. Do not assume that since a major conference or school offers a course that it meets Oregon's requirements. The Board does not approve courses in practice management or jurisprudence. When in doubt, contact the Board office. If you are late, you are subject to a fine. After a thirty-day grace period, you are without a license. If you practice without a license, you are subject to up to a \$1000 civil penalty for each offense.

**3. Perform inadequate or inappropriate examinations.** Incompetence, skipping important tests, or failure to detect and follow

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Optometry is to protect the people	

up on signs and symptoms of ocular disease are cause for discipline. The Board must protect the public. The Board feels that every licensed optometrist should provide their patients with the current standard of care. If you are practicing optometry the way it was decades ago, you are almost certainly falling below the standard of care. If you are not DPA licensed you must refer anyone who could benefit from dilation or applanation tonometry to another doctor. If you are not TPA licensed, you must refer all patients who need treatment with pharmaceuticals. You must examine thoroughly and either refer pathology to another doctor or provide appropriate management and follow up. If you have an assistant do fields, you must look at the results and respond to the findings with an appropriate plan. It is NOT acceptable for all the tests to be done, but to not follow up on something like an IOP of 24 mm or an IOP asymmetry of 5mm. The Board believes that dilation of high myopes and diabetics is critical in optometric care. Additionally patients who have cataracts, glaucoma, macular degeneration, or those who might have other eye diseases should be dilated regularly in the absence of well documented contraindications. Failure to dilate these patients without referral to another optometrist or to an ophthalmologist for completion of the eye health examination can put the patient at risk. While dilation is an important part of optometric care, it is also important to minimize

potential sequela by checking risk factors for potential angle closure glaucoma (including evaluating the anterior chamber angle before dilation and measuring pre and post dilation IOP's when indicated). To examine a diabetic and find significant hemorrhages or neovascularization and simply tell them to return in a year can lead to their blindness, your liability, and sanction by this Board. If you find that you are not finishing chart notes and treatment plans or that you forgot to follow up by referring or having the patient back, you need to redesign your schedule and procedures to make sure these problems do not lead to visual complications for the patient and serious legal and/or licensing problems for you. Any time an optometric physician puts a patient at risk or takes any action that a reasonable doctor would not, that physician is risking reprimand, license suspension or revocation.

**4. Inadequate doctor-patient communications that lead to misunderstandings.** The majority of complaints probably arise from this area. Maintaining composure even when you think someone is being unreasonable is a key to finding common ground. Trying to see the patient's point of view can go a long way toward finding a compromise. If the same issues come up repeatedly, look for ways to better communicate to patients what your office policies are before any services are rendered. Contact lens examination and fee policies should be thoroughly

explained to patients prior to examination. When dilating, patients should be provided with post-mydriatic sunglasses and be given the option to bring someone along to drive them home.

**5. Failure to release a prescription.** You are required to release a prescription for spectacles at the conclusion of your examination. Contact lens prescriptions may be withheld until a reasonable trial period is completed. If you would fill a prescription or replace a lens at your own office without additional testing, you must also release that same prescription for the patient to have filled elsewhere. Since office policies and fees for contact lens exams vary greatly, problems can be avoided if patients are informed of fees and options prior to the examination.

**6. Failure to maintain thorough and legible documentation of all appropriate testing.** If you fail to record a clinical finding, the Board can conclude that the testing was not done. If you write illegibly this can also invalidate a chart entry. Your records need to be such that if another doctor suddenly needed to fill in for you, that patient care would not be adversely affected due to the condition of the chart notes. Standard abbreviations are acceptable. Non-standard abbreviations are discouraged. If you insist on using notations not

well accepted in the profession, you must make available a list for interpretation. You cannot charge for a contact lens exam or fitting if your chart has no notation regarding the appropriateness of the fit, the lens parameters prescribed and a slit lamp evaluation of the cornea and ocular adnexa. Also, if your chart indicates you did a thorough examination of ocular health, but all patients have the same cup/disc ratio and NO patients EVER have increased pressure, field defects or any ocular anomalies, it leads us to conclude that you are either incompetent or did not actually perform thorough eye health examinations. There are comprehensive courses designed to bring your clinical skills to an acceptable level. There are also courses that can assist you in bringing your ability to chart what you do to responsible level. These can also save you a lot of money and problems if Medicare or insurance companies audit you.

**7. Failure to keep patient records for 7 years or until patient turns 21.** You must keep all patient records for whichever of the above periods is longer. If you sell or leave a practice location you must notify the board as to where and how records may be accessed. If you leave them in another doctor's control and that doctor does not take good care of them, YOU could be found in violation of this part of our statute.

**8. False or misleading advertising.** You cannot call your office "ABC Laser Clinic", "Eye & Laser World", "Laser Surgery Center" or anything else that would imply services which you may not render as a doctor of optometry in Oregon. ORS 676.110 requires you to identify yourself as an optometric physician, doctor of optometry or optometrist. You are responsible for any advertisement regarding services rendered at your practice location(s). Repeated violations in this area can lead to sanctions by the Board.

**9. Habitual or excessive use of intoxicants, drugs or controlled substances.** If you have reason to think that you might have a substance abuse problem, you need to get professional help before this jeopardizes your license.

**10. Failure to report a colleague for illegal actions.** Under ORS 683.335(3), any licensed optometrist shall report suspected violations by optometrists to the Board. The Board will thoroughly investigate and appropriately address violations if need be. It is important for the public to be able to expect an appropriate standard of care, and accountability from their health care providers. The profession of optometry can only benefit, as well, from upholding the standard.

**The Complaint Process**

Next to a letter from the IRS, a letter from the Board of Optometry requesting information is probably

one of the least favorite occurrences in what might have been a great day. Don't panic. While the Board members are sworn to protect the public, we do understand optometric practice and the breakdown of communication and other factors that lead to most complaints. We usually request all records for a specific patient. While recent changes in Oregon law do not allow us to disclose who complained and only the general nature of what the complaint is about, most of the time you will know from your interaction with the patient what their concerns might be.

Most doctors resolve the minor problems that occur when dealing with patients. When a person is dissatisfied and complains to the Board, we must investigate. Please be as thorough and as prompt as possible in responding to the Board. If a doctor makes a mistake and is honest with the Board, the end result is much better when he or she simply and honestly explains what happened. If, in the course of an investigation for a relatively minor infraction, the Board finds that a doctor has altered records, forged documents, committed fraud or has been untruthful, the consequences are likely to be severe. This is exactly the kind of mistake that can lead to serious reprimand and even license suspension or revocation for what might have started as a minor issue. You may write us a letter of things

you feel are important for us to understand, but changing a record is unprofessional conduct and is tantamount to lying to the Board.

Unfortunately, now you may have to wait. The Board meets every two to three months and often we need to either investigate further or wait for more information from other sources. The greater your cooperation, the faster we can resolve the issue.

Finally, you will be informed of our ruling. We may find that there is no optometric error. You will receive a letter to that effect, and we will tell the patient, as well. On the other hand, we may request that you do something specific to alleviate the patient's concerns. We may request that you take an appropriate course. We may send you a formal Notice of Intent to Invoke Disciplinary Action. This can be anything from telling you that we may fine you or even suspend or revoke your license. The proposed sanction may be more severe than the final result. We will issue a Notice to you for the highest possible penalty that we think might be appropriate. If we propose to fine you, you may simply pay the fine. If you really don't think we are being fair or you want us to consider additional information you must request a hearing within the specified amount of days. At the conclusion, a Final Order will be issued in which will be noted the allegations, findings of fact and the decision of the Board with regard to discipline.

Our Board staff is good about explaining options to you. Generally it is better to not try to discuss your case with an individual board member. Such conversations must be disclosed and could lead to an appearance of impropriety.

## Contact Lens: Fittings and Fees

Many of the inquiries and complaints that the Board reviews are a result of some misunderstanding with regard to fees associated with contact lens fittings. Often, the patient does not clearly realize that there may be a fee assessed separate from the basic exam fee for the purpose of contact lens fittings. The perception then of the patient is that the doctor is taking advantage of them. In order to alleviate these misunderstandings, the Board recommends that Oregon optometric physicians offer their patients a complete disclosure of their fees prior to offering services. Clarifying your fee schedule should help eliminate "surprises" for your patients, and give them an opportunity to choose or refuse services.

## Renewals and COE

The Board has now completed the transition period for converting license renewals and reporting of continuing education to a monthly system based on the birth month of licensees. The reporting of attendance at the required number

of Board approved continuing education hours is a condition of renewal. When submitting your renewal documents, you must submit your signed renewal application with the original attendance certificates for your continuing education. Send only the hours required for the current renewal period. Hold back any hours that you wish to use in the next renewal period and send them to the Board office with the next renewal. If you wish to have your original certificates returned, please indicate that in writing and the certificates will be returned.

## Administrative Rule Changes

The Board has adopted several rule changes this year which should be of interest to licensees.

Beginning with the 2001 renewal period, **all licensees** will be required to complete 5 hours of their annual 15 hours of continuing optometric education in the area of treatment and management of ocular disease. Previously, only those doctors who are TPA certified were required to attend such classes. In addition, the Board clarified the criteria for acceptance of courses for approval by the Board.

In Division 80 of Chapter 852 of the Oregon Administrative Rules, which address pharmaceutical agents, the Board added category 8 to the

formulary, to include caustic agents.

In response to action by the 1999 Legislature, the Board adopted new rules, and amended others to bring the OAR's up-to-date. Under the definition of unprofessional conduct, failure to train and supervise any unlicensed person who performs any work covered in chapter 852 of the Oregon Administrative Rules, is considered to be unprofessional conduct. Failure to give written notification to the Board of any disciplinary action or sanction related to the practice of optometry by any state licensing agency, and failure to give written notification to the Board of any felony or misdemeanor convictions except for minor traffic offenses is considered to be unprofessional conduct any may result in disciplinary action by the Board.

The Board adopted Division 20 of OAR chapter 852, which established standards of optometric practice, including guidelines to determine scope of practice, and to establish the optometric physician's responsibility for supervision and delegation within the optometric practice.

Please review the administrative rules to familiarize yourself with the many changes. The Board staff will be happy to assist you if any need clarification.

### Board Information

The Board can be reached at 3218 Pringle Rd. SE, Ste 270 Salem, OR. 97302, or at the following numbers-  
Office phone: (503)373-7721  
Office fax: (503)378-3616  
website: www.obo.state.or.us  
E-mail: office: obo@state.or.us  
david.PLUNKETT@state.or.us  
kathleen.HANSON@state.or.us  
catherineb.BOUDREAU@state.or.us

### On The Web

The Board has been working to improve its webpage, including information and links that may be useful to licensees, candidates for licensure and the public.

Recently, a link was added to provide information for third party credentialing inquiries. The Board regularly receives calls and written requests for verification of license status for Oregon licensees. In order to free up phone lines and staff time, this public information is now available at the Board's website.

Continuing optometric education is accessible through the Board's webpage. A link is provided to Pacific University's online continuing education and to COPE.

The Oregon revised statutes and administrative rules may be accessed through the OBO webpage. A link is provided to the state sites where the most current documentation is archived. You may print the

information or save it as a document which you can read or print later.

The Board welcomes suggestions for ideas to improve the webpage. Please send your ideas to the Board office.

### Mandatory Reporting of Child Abuse

If you think a child is being abused, you must report it to the State Office for Services to Children and Families (SCF) or a law enforcement agency. Each year in Oregon, about 25,000 reports of child abuse are made and nearly 15 children die from abuse. More than half the children seen by SCF are referred by mandatory reporters. You may be their best hope.

You must report any "reasonable suspicion" of child abuse, according to Oregon law. SCF will assess the information you give and take further action, if necessary. Your name will be kept confidential. Only a court of law can order a reporter's name released.

Oregon law recognizes these types of abuse:

- # Physical injury; bruises, burns cuts, broken bones, sprains, bites, etc.
- # Neglect; failure to provide food, shelter, medicine, etc. to such a degree that a

child's health and safety are endangered.

# Sexual abuse and sexual exploitation.

# Threat of harm; any action, statement, written or non-verbal message which is serious enough to make a child believe he/she is in danger of being abused.

# Mental injury; a continuing pattern of rejecting, terrorizing, ignoring isolating or corrupting a child, resulting in serious damage to the child.

# Child selling; buying selling or trading for legal or physical custody of a child.

Assistance is available from child protective services staff personnel. To find out the location of the nearest office of SCF you may call (503)945-5651.

## Investigation Activities

During the calendar year of 1998, the Board resolved and closed 36 complaint cases. Of these, 5 resulted in discipline. During the calendar year of 1999, the Board resolved and closed 39 complaint cases. Of those, 4 resulted in discipline. In the year 2000, the Board resolved and closed 30 complaint cases. Of those, 3 resulted in discipline. Licensees were sanctioned for the following violations:

< Michael P. Johansen, OD -

On 6/6/98 the Board issued a Stipulated Final Order, Reprimand, and Imposition of Civil Penalties: \$2,000; Refusal to Renew License pending completion of 40 hours of COE in charting and 40 hours of COE in anterior and posterior pathology.

< Theron G. Karrick, OD - On 8/28/98 the Board issued a Final Order of Reprimand & Civil Penalty, \$1,000 for unprofessional conduct and untruthful, deceptive or misleading advertising; obtaining a fee by fraud or mis-representation and not providing an appropriate written prescription to the patient following an examination.

< Joyce Staples, OD - On 11/13/98, the Board issued a License Suspension and Civil Penalty, \$250 for failure to complete continuing optometric education in a timely manner.

< Gary Crowell, OD - On 8/16/99 the Board entered into a Stipulated Final Order, discontinue solicitation of prospective business associates during patient visits.

< Norman Reiss, OD - On 12/10/99 the Board issued a

Final Order, Revocation of License for dishonesty, willingly attempting to deceive the Board, and moral turpitude.

< Helene Nguyen, OD - On 7/14/00 the Board issued a Final Order by Default, Revocation, Refusal to Renew License and Imposition of Civil Penalty for failure to complete continuing education in a timely manner, failure to renew in a timely manner, and failure to respond to the Board.

< Tera Palmblad, OD - On 8/9/00 the Board entered into a Stipulated Final Order, Suspension of License and Imposition of Civil Penalties, \$6,000, for failure to renew in a timely manner, failure to complete continuing education in a timely manner and practicing optometry while under a suspended license.

< Binyons, Master Eye Associates - on 10/27/00 the Board entered into a Stipulated Final Order, Civil Penalty, \$2,000 for changing a prescription.

# 1998 Board Activities Report

JANUARY 1998 through DECEMBER 1998

LICENSING ACTIVITIES:	
ACTIVE LICENSEES	592
ACTIVE TPA	538
ACTIVE DPA (ONLY)	45
ACTIVE NO TPA/DPA	9
INACTIVE/MILITARY LICENSEES	742
INACTIVE/MILITARY TPA	309
INACTIVE/MILITARY DPA (ONLY)	350
INACTIVE/MILITARY NO TPA/DPA	83
TOTAL LICENSEES	1333
OTHER ACTIVITIES:	
APPLICATIONS FOR LICENSE RECEIVED	53
NEW LICENSES ISSUED	53
REACTIVATIONS/REINSTATEMENTS OF LICENSE	17
TPA CERTIFICATIONS	11
ACTIVE LICENSEES	2
INACTIVE LICENSEES/MILITARY	9
LICENSE VERIFICATIONS COMPLETED	888
CE COURSES APPROVED/ENTERED	184
BOARD MEETING DAYS	7
COMPLAINTS:	
INFORMAL COMPLAINTS HANDLED BY STAFF	59
NEW FORMAL COMPLAINTS RECEIVED BY STAFF	41
FORMAL COMPLAINTS REVIEWED BY BOARD	88
NEW COMPLAINTS REVIEWED BY BOARD	39
COMPLAINTS RESOLVED AND CLOSED BY BOARD	36
DISCIPLINARY ACTION	5
NO DISCIPLINARY ACTION	31

# 1999 Board Activities Report

JANUARY 1999 through DECEMBER 1999

LICENSING ACTIVITIES:	
ACTIVE LICENSEES	625
ACTIVE TPA	573
ACTIVE DPA (ONLY)	41
ACTIVE NO TPA/DPA	11
INACTIVE/MILITARY LICENSEES	678
INACTIVE/MILITARY TPA	307
INACTIVE/MILITARY DPA (ONLY)	303
INACTIVE/MILITARY NO TPA/DPA	68
TOTAL LICENSEES	1303
OTHER ACTIVITIES:	
APPLICATIONS FOR LICENSE RECEIVED	49
NEW LICENSES ISSUED	56
REACTIVATIONS/REINSTATEMENTS OF LICENSE	20
TPA CERTIFICATIONS	10
ACTIVE LICENSEES	4
INACTIVE LICENSEES/MILITARY	6
LICENSE VERIFICATIONS COMPLETED	1183
CE COURSES APPROVED/ENTERED	139
BOARD MEETING DAYS	5
COMPLAINTS:	
INFORMAL COMPLAINTS HANDLED BY STAFF	47
NEW FORMAL COMPLAINTS RECEIVED BY STAFF	29
FORMAL COMPLAINTS REVIEWED BY BOARD	73
NEW COMPLAINTS REVIEWED BY BOARD	35
COMPLAINTS RESOLVED AND CLOSED BY BOARD	39
DISCIPLINARY ACTION	4
NO DISCIPLINARY ACTION	35

## 2000 Board Activities Report

JANUARY 2000 through DECEMBER 2000

LICENSING ACTIVITIES:	
ACTIVE LICENSEES	620
ACTIVE TPA	579
ACTIVE DPA (ONLY)	33
ACTIVE NO TPA/DPA	8
INACTIVE/MILITARY LICENSEES	623
INACTIVE/MILITARY TPA	295
INACTIVE/MILITARY DPA (ONLY)	266
INACTIVE/MILITARY NO TPA/DPA	62
TOTAL LICENSEES	1243
OTHER ACTIVITIES:	
APPLICATIONS FOR LICENSE RECEIVED	52
NEW LICENSES ISSUED	47
REACTIVATIONS/REINSTATEMENTS OF LICENSE	14
TPA CERTIFICATIONS	5
ACTIVE LICENSEES	2
INACTIVE LICENSEES/MILITARY	3
LICENSE VERIFICATIONS COMPLETED	666
CE COURSES APPROVED/ENTERED	173
BOARD MEETING DAYS	7
COMPLAINTS:	
INFORMAL COMPLAINTS HANDLED BY STAFF	66
NEW FORMAL COMPLAINTS RECEIVED BY STAFF	44
FORMAL COMPLAINTS REVIEWED BY BOARD	72
NEW COMPLAINTS REVIEWED BY BOARD	31
COMPLAINTS RESOLVED AND CLOSED BY BOARD	30
DISCIPLINARY ACTION	3
NO DISCIPLINARY ACTION	27