

OREGON BOARD OF OPTOMETRY

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From the President

Joan Ploem Miller, O.D.

The Board continues to get complaints regarding contact lens prescription release. We would like to remind doctors that it is their responsibility to release a contact lens prescription at the time when the prescription is complete and you would normally supply lenses to the patient yourself. While some doctors prefer to prescribe a "private label" contact lens, the Board of Optometry considers it unprofessional to refuse to give

the patient the information they need to have a prescription filled. If you prescribe a private label lens and the patient wants to have that prescription filled elsewhere, it is in the patient's best interest and yours, to allow and facilitate substitution of product that is identical in all parameters, but has a different name.

In this time of consumer awareness an internet search for "private label contact lenses" reveals to our patients how self-serving private labeling is designed to be. The Board urges you to avoid the mistakes of other doctors who have tried to withhold information that is rightfully the patients. While the establishment of professional service fees is an individual practice management decision, our Board has found that doctors who do not depend on contact lens product markups have fewer problems with patients becoming consumers looking for the best deal on lens materials.

OAR 852-001-0002 (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.

Additionally, upon receipt of a patient's written, dated and signed request, a doctor of optometry shall release the patient's prescription to the third party requested by the patient. Specifications shall be reasonably based on the patient's vision and eye health concerns. Prescriptions shall include all information required to insure that the patient receives the designated ophthalmic products.

Record Keeping

Optometric physicians know they need to keep good examination records for the sake of their patients. But often times they do not realize that good record keeping is THEIR protection when licensing boards, insurance companies and patients [who may be more willing to ask to see their own records because of HIPAA] evaluate exam records. It is difficult for an OD to prove they have provided good care when the records are sloppy, incomplete, illegible or lacking pertinent information.

There are many paper and computer generated exam forms which allow a minimum amount of time for completion and yet provide the maximum amount of information. They allow the

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doctor and their staff to ensure that each exam record is complete and even whether it has been billed properly. Computerized records must be designed so that normal defaults must be individually inserted after testing is completed rather than pre-recorded prior to testing.. We want to avoid having a chart that defaults all testing to 'normal'. doctor inserts the refraction and electronic signature and everything looks like it was done when nothing was actually completed

The OBO recommends that every optometric physician carefully evaluate their exam forms and records to ensure that they meet the standard of care in documentation. Forms should have room for a complete case history, exam findings, assessment and plan. Additionally a thorough health history should be part of the exam record.

Nontopical TPA Update

The Board has now certified more than seventy optometrists to use, administer and prescribe agents on the nontopical pharmaceutical formulary. The application process has been efficient overall, with a quick turn around time. You should have your nontopical certification from the Board within a week of placing the required documentation in the mail to us.

For those doctors who have not yet been certified, the course

work is sponsored by the Oregon Optometric Physicians Association in conjunction with Pacific University School of Optometry. Please contact the OOPA office at 503/654-5036 to register for the classes.

Certification requirements include completion of a 23 hour didactic workshop, or a passing score on the 2002 or later TMOD and an injection lab of at least seven hours in length. In addition, doctors must complete a health care practitioners level CPR course, which must be kept current in order to renew the nontopical license.

Remember that Nontopical TPA certification does not happen automatically after completing the required course work. You must make application to the Board and provide the required documentation.

Contact Lens Complications Reporting Form

The Board has received numerous reports from optometrists who have had unsatisfactory experiences with contact lens dispensing companies such as 1-800-CONTACTS, and various other internet companies. These reports often describe calls made to obtain prescriptions after office hours or on weekend days when no one is available to provide a valid prescription. Contacts are then dispensed with the qualification that the doctor

"refused" to provide a prescription.

The Association of Regulatory Boards of Optometry (ARBO) has provided a form on their website for optometric physicians to report complications which have resulted from dispensing contact lenses without a valid prescription. You may access this form via a link on the Board's website at www.obo.state.or.us. Look under "Related Links".

New Website Information

The Board has recently updated our website to include information that we hope will be of interest to licensees and the public. The Board has published it's financial reports, budgets, and newsletters on our website along with applications for licensure, TPA and NTPA certification forms, all in PDF format. (A free Acrobat Reader download is available on the website.) Proposed changes to Administrative Rules are also posted in PDF format.

There are numerous links to related sites of interest to licensees, including the National Board of Examiners, OOPA, AOA, and Arbo. A link to online continuing education through Pacific University College of Optometry is provided and one to COPE to verify the approval of various COE courses.

Credentialing firms have made good use of the page listing all current licensees, which is

updated weekly. The Revised Statutes and Administrative Rules are linked to the page for those who are studying for the Board's law exam or just keeping abreast of changes.

The Board welcomes suggestions for additions or improvements to the webpage.

Important Administrative Rule Changes

The Board is proposing changes to administrative rules which should be noted by licensees.

The Board's proposed budget for the 2003-2005 biennium is referenced in OAR 852-05-005. The Board is a semi-independent agency, and as such is not subject to legislative budget approval. A budget is proposed by the Board and notice of hearing is sent to all active licensees. A hearing will be held on May 30, 2003 in the First Floor Board room of the Morrow Crane Building, which houses the Board office, at 1:30 p.m. Written comments will be taken up to the time of the hearing. All licensees are welcome to attend the hearing.

Various proposed changes in fees are reflected in Oar 852-10, 852-50 and 852-70. These changes are also subject to hearing on May 30, 2003.

Changes to OAR 852-50 and 852-80 will establish that doctors of optometry who wish to be certified to use, administer and prescribe the nontopical

formulary must acquire a Red Cross Healthcare Practitioners - Level III CPR certification or it's equivalent, and maintain that certification in order to renew their license.

Investigation Activities

During the first quarter of 2003, the Board reviewed 20 requests to investigate optometrists. They resolved and closed 6 complaint cases. No cases resulted in discipline.

Legislation

There are several bills in the Legislature now that would have a very negative impact upon the Board. These bills deal with contested case issues involving professional health-related boards, such as the OBO. Following is a list of bills that the Board is following along with a brief description of the bill:

HB 2526 - Repeals sunset on laws creating Hearing Officer Panel.

HB 237 - Provides that state agency has burden of proof on all disputed issues in certain contested case hearings.

SB 459 - Provides that hearing officer assigned from Hearing Officer Panel issues final order for agency conducting contested case hearing.

Other bills of interest to the Board include:

SB 893 - which would allow occupational licensing agency to

deny occupational or professional license or impose discipline based on conduct that occurs outside of scope of licensed activity but that is substantially related to fitness and ability of licensee to engage in licensed activity.

HB 3380 - Expands and clarifies the powers of a semi-independent state agency with regard to acquisition of property.

From the Executive Director

David Plunkett

Numerous optometric physicians discovered that their applications to DEA for approval to use Schedules III through V nontopical therapeutic pharmaceutical agents did not proceed smoothly.

The Drug Enforcement Administration reversed their position from last summer when the Board requested review of Oregon's nontopical formulary and Administrative Rules which regulate the certification to use, administer and prescribe the agents on the nontopical formulary. In July, 2002, the Board received a letter from the DEA indicating that Oregon optometrists were eligible to apply for DEA numbers. However, when applications began to arrive they were returned with the statement that the Oregon Statutes and Administrative Rules, which broadened the optometry scope of practice, had to be reviewed by the Office of the Chief Council for compliance with DEA regulations.

The Board has now been informed, again, by the Office of the Chief Council that the ORS and OAR which apply to the expanded formulary are in compliance with the DEA regulations.

The Board encourages NTPA certified physicians to apply for their DEA number. DEA numbers are only required if you prescribe any of the controlled substances in Schedules III through V. If you have any additional difficulties in this regard, please report them to the office of the Board.

From talking with many of the optometric physicians that have applied for DEA numbers and, therefore, had dealings with the DEA, I know that it has been a frustrating experience to say the least. I can assure you that it has been even more frustrating for the Board. Staff have been on the phone with the DEA office in Washington D.C. two-three times a week over the past 9 weeks (that is how long it took them to render a legal review of this issue). This matter has been a vivid reminder to us at the Board office of a bureaucratic organization that this office never wants to emulate. We, at the Board office, always try to be helpful as our staffing will allow us to be. (There are only three of us in the office - - - and not all of us every day). You will never encounter staff that are not courteous and attentive to your business with us. We are hopeful that all will go smoothly with the DEA from this point forward. The Board will continue to make this a priority.

REPORT OF BOARD ACTIVITIES

JANUARY 2003 through APRIL 2003

LICENSING ACTIVITIES:	
ACTIVE LICENSEES	652
ACTIVE A TPA	75
ACTIVE TPA	550
ACTIVE DPA (ONLY)	22
ACTIVE NO TPA/DPA	5
INACTIVE/MILITARY LICENSEES	576
INACTIVE/MILITARY TPA	294
INACTIVE/MILITARY DPA (ONLY)	235
INACTIVE/MILITARY NO TPA/DPA	47
TOTAL LICENSEES	1228
OTHER ACTIVITIES:	
APPLICATIONS FOR LICENSE RECEIVED	8
NEW LICENSES ISSUED	8
BY EXAMINATION	6
BY ENDORSEMENT	3
REACTIVATIONS/REINSTATEMENTS OF LICENSE	1
TPA CERTIFICATIONS	0
ACTIVE LICENSEES	0
INACTIVE LICENSEES/MILITARY	0
LICENSE VERIFICATIONS COMPLETED	29
CE COURSES APPROVED/ENTERED	47
BOARD MEETING DAYS	1
COMPLAINTS:	
INFORMAL COMPLAINTS HANDLED BY STAFF	24
NEW FORMAL COMPLAINTS RECEIVED BY STAFF	7
FORMAL COMPLAINTS REVIEWED BY BOARD	20
NEW COMPLAINTS REVIEWED BY BOARD	3
COMPLAINTS RESOLVED AND CLOSED BY BOARD	6
DISCIPLINARY ACTION	0
NO DISCIPLINARY ACTION	6