

# OREGON BOARD OF OPTOMETRY

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DECEMBER, 2002

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## From the President

Joan Ploem Miller, O.D.

Approximately 50 Oregon Optometric physicians completed the first step towards certification for the use of nontopical pharmaceuticals by completing the practical laboratory emphasizing injections in November, 2002. Many more have registered for the repeat of this OOPA course in February 2003 when the 23 hour didactic

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portion of the course will also be given. After passage of that course, licensees seeking to use nontopical pharmaceuticals will need to apply to the Oregon Board for that privilege. They will also need to apply for and receive a DEA number prior to prescribing Schedule III pharmaceuticals.

If you haven't signed up for this education, I urge that you do so soon. Just as 2003 is the deadline for doctors to have DPA certification and TPA certification is required by 2005, there may come a time when this newest level of certification is required. If you wait until that time, you could face the same difficulties other doctors are facing now when their level of practice is out-of-date with their peers and the standard of care. Future courses are likely to involve fewer doctors and will thereby probably be much more expensive.

Regarding nontopical pharmaceutical use, the Board adopted very specific administrative rules. No doctor of optometry may use or prescribe oral or injectable pharmaceuticals until he or she completes the additional didactic education, the hands-on practical laboratory AND receives confirmation of advanced

pharmaceutical privileges from the Board. The pharmaceuticals that may then be used or prescribed MUST fall into one of the categories adopted in Division 80. If it is NOT an anesthetic, analgesic, dye, anti-allergy agent, anti-infective, anti-glaucoma, ocular hypotensive, anti-inflammatory agent or emergency use agent, then it may NOT be used by optometric physicians. In an effort to be totally clear the Board specifically excluded botulinum toxin. Since toxins are not included in any of the approved categories, this may be redundant, but we wanted there to be no doubt.

The use of these pharmaceuticals and the ability to prescribe them is an important privilege for optometrists and will benefit many patients in Oregon. The misuse of these agents, or the expansion of scope of practice beyond what is specifically allowed by statute and administrative rule, can result in grave consequences including disciplinary action as severe as license revocation as well as civil liability.

Optometry in Oregon has progressed to allow more adequate and efficient care for optometric patients. We fully expect that Oregon optometric physicians will use their expanded

privileges to benefit Oregonians. Optometrists are encouraged to contact the Board if they have any questions regarding this subject or any other scope or quality of practice issue.

## Nontopical TPA Update

With the passage of Senate Bill 45, the Board had authority to convene the Nontopical Formulary Council. The function of this Council was to develop and propose to the Board a systemic formulary. The Council was comprised of three doctors of optometry, three medical doctors, and one pharmacist. The Council held several meetings between February 1, 2002 and April 9, 2002, including a public hearing to consider testimony regarding the proposed formulary. The final product of their deliberations was recommended to the Board of Optometry for adoption.

The Board adopted the proposed formulary by Administrative Rule on July 24, 2002 and, in the same manner, determined criteria for certification to use the included agents. The pertinent changes are in OAR 852, chapters 20, 50 and 80.

## Important Administrative Rule Changes

The Board has recently adopted administrative rules which should be noted by licensees.

In order to implement changes to the scope of practice prompted by Senate Bill 45, the Board revised the criterion found in Division 20, subsection (2) of Chapter 853 which is the standard for determining whether a procedure is within the scope of optometric practice in Oregon. Some additions were made to the list of questions found in that division which must be answered in the affirmative for a procedure to be deemed within the scope of optometric practice.

The questions include the following: (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?

In Division 50, the Board established a requirement for doctors who are licensed to use the nontopical formulary to maintain a current CPR certification as a condition of annual license renewal. The course must be a health practitioners course, such as the course certified by either the American Red Cross or the American Heart Association.

The Board adopted the nontopical formulary in Division 80, Categories 17 through 25. The Board established conditions for the use of the therapeutic formulary. In addition to the conditions for the use of the topical formulary, the doctors who are certified to use, administer and prescribe the nontopical formulary must consult with an ophthalmologist or other doctor of medicine or doctor of osteopathy prior to treatment with anti-glaucoma medication and prior to extending treatment with nontopical corticosteroids or Schedule III analgesics beyond seven days. Doctors of optometry may not use, administer or prescribe agents classified principally as anti-neoplastics. Doctors of optometry who are certified for nontopical TPA use may administer subcutaneous and subconjunctival infections. Sub-Tenon, retrobulbar, intraocular and bolulinum toxin injections are excluded. 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.

Prior to using nontopical therapeutic pharmaceutical agents, any licensed doctor of optometry in Oregon must meet the criteria for topical TPA certification in Oregon, 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. In addition, they must pass a

nontopical ocular injection workshop of at least 7 hours which is approved by the Board or provide proof of equivalent training acceptable to the Board. They must pay a \$75.00 TPA examination and licensure fee, receive and prominently display a certificate from the Oregon Board of Optometry indicating "Certified to use Topical and Nontopical Therapeutic Pharmaceutical Agents" and acquire and maintain CPR certification based on a healthcare practitioners course.

The Board is implementing rule changes which will expand the definition of unprofessional conduct to include the failure to keep complete and accurate records for a patient and failure to retain or make appropriate transfer of the care of patient records. Division 10 contains this definition as well as conditions for notification of the Board of changes in custody of patient records resulting from changes in practice location. Failure to keep complete and accurate records for a patient is considered unprofessional conduct. Failure to retain or make appropriate transfer of the care of patient records is considered unprofessional conduct as well.

Changes to Division 50 clarify the requirement to notify the Board in writing of any changes in practice location, either additions or deletions, as well as changes to the address of record, and the penalties for failure to do so. All changes must be reported to the Board in writing. Failure to report additional practice locations, changes in practice locations, or changes in address of record will

result in a fee of \$50 for the first failure, \$100 for the second failure and \$200 for each subsequent failure.

## Nontopical TPA Certification

The Board of Optometry has adopted the nontopical formulary as recommended by the Nontopical Formulary Council and has established criteria by which optometric physicians in Oregon may be certified to use, administer and prescribe these agents. Oregon Optometric Physicians Association in conjunction with Pacific University, College of Optometry, is sponsoring a course which has been approved by the Board for this certification. The course is presented in two parts: an eight hour lab and a twenty three hour didactic session.

The Board and the sponsors encourage all licensees who wish to become certified to register for the course early on. As has been noted with the previous 100 hour course required for topical TPA certification, the availability of the courses is greatly reduced, as the number of interested participants have decreased. This has resulted in an increase in the cost to those who wish to participate at this late date. It would be judicious to register while the number of participants is greatest, thereby reducing the individual cost and more surely guaranteeing the availability of the classes.

## Optometry Standard of Care

In the course of investigating various consumer complaints the Board has taken note of a disparity with the standard of care with patients. As in the last newsletter, the Board of Optometry reminds all optometrists that dilated eye exams are the recognized standard of care for the diabetic patient. Good patient care would also include the reporting of the examination to the diabetic patient's primary care physician and/or endocrinologist. Dilated eye examination for all diabetic patients is the fourth highest health care priority in the state of Oregon. Diabetes is ranked as a major health concern in Oregon and across the United States.

Division 20 of the Administrative Rules requires that TPA certification will be a condition of renewal beginning in the year 2005. Those doctors who wish to obtain this certification may contact the following colleges of optometry as they have indicated that they may be hosting a qualified TPA course prior to the 2005 deadline:

Illinois College of Optometry - 120 hours.

University of Missouri, St. Lewis, College of Optometry - 100 hours.

Nova Southeastern University, College of Optometry - 100 hours.

Pennsylvania College of Optometry - 120 hours.

## Investigation Activities

During the first three quarters of 2002, the Board resolved and closed 11 complaint cases. One case resulted in discipline. The licensee was sanctioned for the following violations:

- < Tera S. Palmblad, O.D. - \$1000 Civil Penalty for unprofessional conduct: failure to respond to the Board in writing to a consumer complaint investigation.

## Records Retention

Recently the Board has investigated various cases in which the patient records were found to be substandard. In other cases, the custody of patient records was not maintained as required by Division 10 of the Administrative Rules.

Patient records must be thorough, documenting each procedure carefully and in detail. Patient records are the responsibility and property of the optometric physician. When an optometrist leaves a practice location, the patient records must remain in the doctor's possession unless the custody is transferred to another optometrist who is licensed in Oregon. It is not sufficient to leave the records in the possession of an optical company without making arrangements for the transfer of custody of the files. The transfer of the patient records must be reported in

writing immediately to the Board. Failure to maintain complete records or failure to transfer the care of patient records in accordance with the Administrative Rule shall be considered unprofessional conduct.

## From the Executive Director

**David Plunkett**

I want to call your attention to an area that has been of significant concern to the Board. The optometric profession has become very mobile and more practitioners are changing where they practice more often. There has been a loss of continuity of patient care as a result of this increased mobility. Many optometrists are simply moving to a new location without making any arrangements for custody of patient records and the continued care of those patients. Patients will then call the Board's office inquiring whether we know the location of the doctor or where their patient records are located. Unfortunately, many times we don't know where the patient records are located and some times even where the optometrist has gone because the Board wasn't notified as required by law and administrative rule.

The Board has recently revised the administrative rules concerning records. OAR 852-10-051 (3) states that "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".

I would encourage you to become familiar with the rules concerning records and changing practice locations. Also, there are many new or revised rules that are included in the latest Board publication dated January 2003 which is being distributed with this newsletter. Please read and become familiar with the new laws and rules that govern the optometry profession.

## REPORT OF BOARD ACTIVITIES

JANUARY 2002 through DECEMBER 2002

LICENSING ACTIVITIES:	
ACTIVE LICENSEES	656
ACTIVE TPA	630
ACTIVE DPA (ONLY)	21
ACTIVE NO TPA/DPA	5
INACTIVE/MILITARY LICENSEES	573
INACTIVE/MILITARY TPA	289
INACTIVE/MILITARY DPA (ONLY)	236
INACTIVE/MILITARY NO TPA/DPA	48
TOTAL LICENSEES	1229
OTHER ACTIVITIES:	
APPLICATIONS FOR LICENSE RECEIVED	56
NEW LICENSES ISSUED	51
REACTIVATIONS/REINSTATEMENTS OF LICENSE	17
TPA CERTIFICATIONS	6
ACTIVE LICENSEES	5
INACTIVE LICENSEES/MILITARY	1
LICENSE VERIFICATIONS COMPLETED	79
CE COURSES APPROVED/ENTERED	126
BOARD MEETING DAYS	7
COMPLAINTS:	
INFORMAL COMPLAINTS HANDLED BY STAFF	66
NEW FORMAL COMPLAINTS RECEIVED BY STAFF	30
FORMAL COMPLAINTS REVIEWED BY BOARD	131
NEW COMPLAINTS REVIEWED BY BOARD	29
COMPLAINTS RESOLVED AND CLOSED BY BOARD	41
DISCIPLINARY ACTION	1
NO DISCIPLINARY ACTION	41