

Chapter 683

1959 REPLACEMENT PART

Optometrists

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683.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Oregon State Board of Examiners in Optometry.

(2) "Practice of optometry" means the employment of any means other than the use of drugs 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.

(3) "Trial frames" or "test lenses" means any frame or lens used in testing the eye which is not sold and not for sale to customers.

683.020 Certificate of registration required to practice optometry. No person shall engage in the practice of optometry or display a sign or in any other way advertise or hold himself out as a refracting optician or optometrist without having first obtained a certificate of registration from the board as provided for in this chapter. 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.

683.030 Persons and practices not affected. This chapter shall not be construed to prevent any person duly licensed to practice medicine and surgery from treating or fitting glasses to the human eye, nor 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 this chapter by any person not holding himself out as competent to examine and prescribe for the human eye.

683.040 Qualifications of applicants for examination. (1) Every person desiring to commence the practice of optometry in this state must show by satisfactory evidence, certified by oath, that he is of good moral character, a citizen of the United States, has a preliminary education equivalent to a four-year high school course, Oregon standard, and has graduated from a school of optometry which is recognized and approved by the board and which maintains a standard of four school years of at least nine months each.

(2) Any applicant who is unable to furnish satisfactory documentary evidence of

his graduation from a high school of the standard designated in subsection (1) of this section shall be entitled to an examination for the purpose of establishing proof of his qualifications, which examination shall be conducted by a regularly employed high school instructor within the State of Oregon. The instructor shall be selected by the board at a cost to the applicant not to exceed \$5.

683.050 Persons licensed in another state. In lieu of the educational requirements of ORS 683.040, it shall be deemed equivalent if an applicant submits satisfactory proof to the board that he:

(1) Has passed an examination in optometry before a state board of examiners in another state of the United States and that the certificate granted in token thereof is then in force; and

(2) Was actually engaged in the practice of optometry in such state for the full period of three years subsequent thereto

683.060 Examination of applicants; fee.

(1) Any person who has signified to the board his desire to be examined by it and who has filed proof that he is qualified under this chapter and the rules of the board to take such examination shall appear before the board at such time and place as the board may designate, and before beginning the examination the applicant shall pay \$25 to the secretary of the board. At the examinations the board shall examine applicants in the anatomy of the eye, 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, accept 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 written examination in such areas.

(3) If an applicant shall fail 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. [Amended by 1955 c.120 §1]

683.070 Registration and issuance of certificates; fee; age limitation. All applicants, without discrimination, who satisfactorily pass the examination shall thereupon be registered in the board's register of optometrists and a certificate of registration issued to them, under the seal and signature of the members of the board upon payment of the fee of \$5 to the secretary of the board. The certificate shall continue in force until January 1 in the year next succeeding. A certificate shall not be issued to an applicant unless at the time of its issuance the applicant is at least 21 years of age. [Amended by 1955 c.120 §2]

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 this chapter and such certificate shall be subject to renewal, revocation and suspension the same as though it has been issued under this chapter.

683.090 Recording certificates. All recipients of a certificate of registration shall present it for filing to the clerk of the county in which they reside, and shall pay a fee of 50 cents to the clerk for its recording. The clerk shall record the certificate in a book provided by him for that purpose. Any person so licensed shall, before engaging in the practice of optometry in any other county in the state, obtain a certified copy of the certificate of registration from the clerk of the county in which it is recorded, and shall, before commencing practice in such county, file the same for record with the clerk of that county, and pay the clerk for recording the same a fee of 50 cents. Any failure, neglect or refusal on the part of any person holding such certificate of registration or certified copy to record it as provided in this section within six months after the issuance of the certificate of registration or from the date of removal of residence shall ipso facto work the forfeiture of his certificate of registration, and it shall not be restored except upon the payment of \$25 to the secretary of the board.

683.100 Notice to board of place of practice; advertisements regarding services; notice, how given by board. (1) Before engaging in the practice of optometry each registered optometrist shall notify the board

in writing of the address of the place or places where he is to engage or intends to engage in the practice of optometry and he also shall notify the board of any change in his place of practice. Each registered 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 registered optometrist.

(3) Any notice required to be given by the board to any registered optometrist may be given by mailing it to the optometrist at his last registered address through the United States mail postpaid.

683.110 Optometrist to give receipt when practicing away from regular place of business. Any registered optometrist who temporarily practices optometry outside or away from his regular registered place of business shall deliver to each customer or person there fitted or supplied with glasses a receipt which shall contain his signature and show his permanent registered place of business and the number of his certificate, together with a specification of the lenses furnished and amount charged therefor.

683.120 Annual renewal of registration; effect of failure to renew registration. Each registered optometrist shall annually, on or before January 1 of each year, pay to the secretary of the board a fee of \$25, for a renewal of his registration certificate and shall keep such certificate conspicuously posted in his office or place of business at all times. A 30-day grace period shall be allowed after January 1, during which registration certificates may be renewed on payment to the secretary of the board of the fee of \$30. Failure on the part of any person holding a registration certificate to renew it prior to the expiration of the 30 days of grace shall ipso facto work the forfeiture of the certificate and it shall not be restored except upon a written application therefor and the payment to the board of \$40, in addition to all delinquent annual license fees. No such person shall be required to submit to any examination. [Amended by 1953 c.235 §2; 1959 c.88 §1]

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

board, 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 suspension and revocation of certificates of registration. Any person registered under this chapter may have his certificate of registration revoked or suspended for a fixed period by the board for any of the following causes:

(1) His conviction of a felony or misdemeanor involving moral turpitude. 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.

(2) When his certificate of registration has been secured by fraud or deceit practiced upon the board.

(3) For unprofessional conduct, or for gross ignorance or inefficiency in his profession. Unprofessional conduct means:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) Employing directly or indirectly any suspended or unlicensed refracting optician or optometrist to perform any work covered by this chapter.

(c) The advertising of optometric services or treatment or advice in which untruthful, improbable, misleading, deceiving or impossible statements are made. Statements such as "lowest prices in town," "reduced prices," and words of like import are included under this paragraph.

(d) Habitual intemperance

(e) Gross immorality.

(f) Permitting another to use his certificate.

(4) Who sends a solicitor from house to house, or who solicits from house to house, or who uses or employs "cappers" or "steerers" to aid in securing patients.

(5) When the holder is suffering from a contagious or infectious disease.

(6) The advertising by means of newspapers, radio, billboard, direct mail or window or any other direct display or other publication, of any definite or fixed prices

of optometric services or materials. Nothing in this subsection shall be construed as price or prices where they relate specifically to terms of payment. Advertisements must contain the name of the optometrist practicing at the location.

(7) To advertise professional methods or professional superiority.

(8) For any violation of the provisions of this chapter.

683.150 Revocation or suspension of certificate by board. (1) Before any certificate granted under this chapter is revoked or suspended, written charges against the holder of the certificate shall be filed with the board and presented to the board for its consideration.

(2) If the board, or majority thereof, considers the charges sufficient to warrant a hearing they shall set the time for hearing not less than 14 days in advance and shall notify the holder of the certificate of the date of hearing and accompany the notice by a notice of the charges against him. The notice shall require the holder of the certificate to appear at the hearing and make his defense or his certificate will thereupon be revoked or suspended according to the discretion of the board.

(3) The hearing shall be public and the accused shall have an opportunity to produce testimony in his favor and to confront and cross-examine the witnesses against him.

(4) Subpenas for witnesses for any such hearing shall be issued by the secretary of the board under the board seal and shall require the witness to appear at the time and place therein mentioned to give testimony in the hearing. The subpenas have the same force and effect as a subpoena issued out of a court of justice under the laws of this state.

(5) Before a witness is permitted to testify he shall be sworn by the presiding officer at the hearing in the same manner as a witness is sworn at a trial in a court of justice in this state. Any witness who wilfully and corruptly gives false testimony in the hearing is guilty of perjury and shall be punished as provided in the general laws of the state for the punishment of perjury committed in a court of justice.

(6) The board may, at its discretion, employ a competent shorthand reporter to report the proceedings in any hearing, and

if it fails to do so the accused may at his option have the same privilege.

683.160 Appeal from decision of board. At any time within 20 days after the board has made an order refusing to issue a certificate or license, or revoking a certificate or license, the applicant or licensee may appeal to the circuit court of the State of Oregon for the county in which the applicant resides or the licensee has his place of practice. The circuit court shall summarily hear and determine the question of the right of the applicant or licensee to practice optometry in this state. The court upon such hearing and determination shall make and enter such decree as may be proper in the premises.

683.170 Revocation or suspension may be set aside by board. The revocation or suspension of any license revoked or suspended for any of the causes listed in ORS 683.140, except those specified in subsections (1) and (2) of ORS 683.140, may be set aside upon application of the person whose license has been revoked at any time within six months from the date of such revocation upon proof being made to the satisfaction of the board that the cause of the revocation no longer exists and that the applicant has been sufficiently punished. Before setting aside the revocation of any certificate the board may, in its discretion, require the applicant to pass the regular examination given for applicants for certificates of registration.

683.180 Prohibited acts and practices. No person shall:

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

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

(3) Alter with fraudulent intent in any material regard such certificate of registration.

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

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

(6) Wilfully make any false statement

in a material regard in an application for an examination before the board or for a certificate of registration.

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

(8) Advertise by displaying a sign or otherwise or hold himself out to be an optometrist or refracting optician without having at the time of so doing a valid unrevoked certificate of registration from the board.

683.190 Acceptance of lens for duplication by unregistered person prohibited. No person other than a registered 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. However, any manufacturing, dispensing or surfacing optician may grind or supply any such lens in conformity with the prescription or instruction of any optometrist duly licensed to practice in this state.

683.200 to 683.240 [Reserved for expansion]

683.250 Oregon State Board of Examiners in Optometry; number, qualification and terms of members. A board hereby is created to be known as the Oregon State Board of Examiners in Optometry. The board shall consist of three members appointed by the Governor. Each member of the board shall qualify by taking and subscribing the oath of office required by the Constitution, which shall be filed in the office of the Secretary of State. No person is eligible for appointment who is not a registered optometrist in this state and actually engaged in the practice of optometry at the time of his appointment. Each of the members shall hold office for a term of three years or until his successor is appointed and qualified and shall be so classified that one member of the board retires each year.

683.260 Persons ineligible for membership on board. No person is eligible to membership on the board who 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 or who is financially interested, directly or indirectly, in any concern manufacturing or dealing in optical supplies at wholesale. No member of the board shall

be financially interested in any purchase or contract in which the board is interested. No member of the board shall be financially interested in the sale of any property or optical supplies to any prospective candidate for examination before the board.

683.270 Powers and duties of board. The powers and duties of the board are as follows:

(1) To organize and elect from its membership a president and secretary 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 and establish a permanent office.

(3) To authorize all necessary disbursements to carry out the provisions of this chapter, including:

(a) Payment for the bond of the secretary of the board.

(b) Payment for stationery supplies.

(c) Necessary optical instruments to be used in the conduct of examinations, which shall be the property of the state.

(d) The printing and circulating to all optometrists in the state, once a year, of a yearbook, containing the names and addresses of all optometrists in this state.

(e) A per diem of \$10 for each member of the board for each day actually spent in the performance of his duties as such, and, subject to the limitations otherwise imposed by law, reimbursement to each member for actual and necessary traveling expenses incurred in going to and coming from the meetings of the board, in full compensation for all services. However, per diems shall not exceed one for any calendar day, and shall not exceed two in any one calendar month, except that in months when examinations are being held per diems may be allowed for not to exceed six days in any such month. Additional compensation may be allowed the secretary not to exceed \$100 per year.

(4) To employ agents, attorneys and inspectors to secure evidence of, report on, and prosecute 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 this chapter. No state officer shall be eligible to employment by the board.

(5) To hold regular meetings at least once a year at which an examination of applicants for certificates of registration 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.

(6) To keep an accurate record of all proceedings of the board and of all of its meetings, of all receipts and authorized disbursements with duplicate vouchers for all disbursements, of all prosecutions for violations of this chapter, and of all examinations held for applicants for certificates of registration, 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.

(7) 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.

(8) To keep a register of optometrists which shall contain the names and addresses of all persons to whom certificates of registration have been issued in the State of Oregon, together with the date of the issuance of such certificate and the place or places of business in which each optometrist is engaged, and all renewals, revocations and suspensions thereof.

(9) To grant or refuse to grant certificates of registration as provided in this chapter and to revoke the certificate of registration of any optometrists for any of the causes specified in ORS 683.140.

(10) To administer oaths and take testimony upon granting and revoking or suspending any certificate of registration.

(11) To make rules and regulations not inconsistent with the laws of this state as are deemed necessary or proper to carry out the lawful powers and duties of the board as may be necessary or proper to determine the qualifications of applicants for a certificate to practice optometry in this state, and to establish educational, moral 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.

(12) To report to the Governor annually on the first Monday in January of each year, giving an accurate account of the work of the board during the preceding year with a statement of all moneys received and paid out pursuant to this chapter. [Amended by 1953 c.599 §2; 1955 c.120 §3]

683.280 Duties of secretary. The secretary of the board before entering the discharge of his duties shall execute a good and sufficient bond running to the State of Oregon in the sum of \$1,000 conditioned upon the faithful performance of his duties as secretary. The bond shall, after examination and approval by the Attorney General, be filed in the office of the Secretary of State. The secretary of the board shall receive all fees and moneys paid to the board, keep all records of the board and discharge such other duties as the board from time to time prescribes.

683.290 Disposition of receipts; State Board of Optometry Account. (1) Within 10 days after the beginning of each month, the secretary of the board shall pay into the State Treasury all fees, charges, fines, costs and other sums received by him under this chapter during the preceding calendar month, and the State Treasurer shall place the same to the credit of the State Board of Optometry Account, which account hereby is established in the General Fund. The moneys in the State Board of Optometry Account hereby are appropriated continuously to the board for the purpose of carrying out the provisions of this chapter. All expenses of whatsoever nature, including the services and expenses of the members of the board, incurred in carrying out the provisions of this chapter shall be audited by the Secretary of State in the same manner as other claims against the state and paid out of the State Board of Optometry Account upon the presentation of duly verified claims therefor, after approval by the board.

(2) All fines and forfeitures collected or

received for violations of or in prosecutions under this chapter shall be paid one-half to the secretary of the board for deposit to the credit of the State Board of Optometry Account, and one-half to the school fund of the county where the prosecution is had.

(3) From each annual renewal license fee an amount not exceeding \$5 may be used not only for the purposes specified in subsection (1) of this section but also for educational purposes in such manner and at such times as the board may consider proper. The Secretary of State shall keep one account for the State Board of Optometry Account and the board shall keep records indicating the moneys in the account that are available for educational purposes [Amended by 1959 c 88 §2]

683.300 Misappropriation of funds by board member. No member of the board shall appropriate, retain or use for his own private use any of the funds of the board.

683.310 to 683.980 [Reserved for expansion]

683.990 Penalties. (1) Violation of any of the provisions of this chapter is punishable, upon conviction, by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not less than one month nor more than three months for the first offense, and for the second offense by a fine of not less than \$500 nor more than \$1,000, or by imprisonment in the county jail for not less than six months nor more than one year.

(2) Violation of ORS 683 300 is a felony and is punishable, upon conviction, as provided by ORS 165.015 for larceny of public money.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on November 1, 1959

Sam R. Haley
Legislative Counsel