

Chapter 683

1977 REPLACEMENT PART

Optometrists

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Note: Section 39, chapter 842, Oregon Laws 1977, is operative July 1, 1986, and provides:

Sec. 39. ORS 683.010, 683.020, 683.030, 683.035, 683.040, 683.050, 683.060, 683.070, 683.080, 683.100, 683.110, 683.120, 683.130, 683.140, 683.155, 683.170, 683.180, 683.190, 683.210, 683.250, 683.260, 683.270, 683.275, 683.280, 683.290 and 683.990 relating to optometrists are repealed.

GENERAL PROVISIONS

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

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

(2) "Practice of optometry" means the employment of any means other than the use of drugs, except diagnostic agents, topically applied, known generically as cycloplegics, mydriatics, topical anesthetics, dyes such as fluorescein, and, for emergency use only, miotics, 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.

(3) "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]

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 an 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.

[Amended by 1971 c.102 §2]

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.

683.035 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 by satisfactory evidence that he is of good moral character 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) Every person desiring to commence the practice of optometry after January 1, 1976, or employ the use of diagnostic agents shall in addition to the requirements of subsection (1) of this section have satisfactorily completed a course in pharmacology, as it applies to optometry, by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the National Commission on Accrediting or the United States Commissioner of Education, with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions, approved by the Oregon Board of Optometry.

[Amended by 1971 c.102 §3; 1975 c.175 §2]

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 \$50 to the secretary of the board. At the examinations the board shall examine applicants in the anatomy of the eye, in the use of diagnostic agents as used topically, 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 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; 1971 c.102 §4; 1975 c.175 §3; 1977 c. 243 §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 \$10 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 18 years of age.

[Amended by 1955 c.120 §2; 1971 c.102 §5; 1973 c.827 §71]

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 renew-

al, revocation and suspension the same as though it has been issued under this chapter.

683.090 [Repealed by 1971 c.102 §11]

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 Renewal fees; effect of failure to renew registration. (1) Each registered optometrist residing in the State of Oregon or who practices in said state shall annually on or before January 1 of each year pay to the Health Division a fee, not to exceed \$75, as determined by the board and approved by the Executive Department, for a renewal of his registration certificate and shall have such certificate conspicuously posted in his office or place of business at all times. Each registered optometrist who is a nonresident of the State of Oregon and who is not practicing optometry within said state shall annually on or before January 1 of each year pay to the Health Division a fee, not to exceed \$35, as determined by the board and approved by the Executive Department, for a renewal of his registration certificate.

(2) A person who is no more than 30 days delinquent in renewing his registration certifi-

icate may renew the certificate upon payment to the board of the required fee. If a person is more than 30 days but less than one year delinquent in renewing his registration certificate, the registration certificate is automatically suspended and may be restored upon payment to the board of the delinquent annual fee and an additional \$10 fee.

(3) If a person is more than one year delinquent in renewing his registration certificate, he shall be required to take an examination and pay the examination fee as required in ORS 683.060 before a certificate is issued him, plus the payment to the board of all unpaid annual fees and an additional \$10 for each unpaid annual fee. The board may, upon application, waive the examination requirement when in its opinion it is in the best interest of the public to do so.

[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]

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.

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

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

(6) 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 subsection.

(7) Habitual intemperance.

(8) Gross immorality.

(9) Permitting another to use his certificate.

(10) 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.

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

(12) 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.

(13) To advertise professional methods or professional superiority.

(14) Failure to comply with the requirements for continuing education.

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

[Amended by 1971 c.102 §7; 1973 c.69 §6]

683.150 [Repealed by 1971 c.734 §21]

683.155 Certificate denial procedure; review of board orders. (1) Where the board 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 revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.500.

[1971 c.734 §128]

683.160 [Repealed by 1971 c.734 §21]

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 without having at the time of so doing a valid unrevoked certificate of registration from the board.

(9) Advertise at a stipulated price or any variation of such a price or as being free, the furnishing at retail of spectacle lenses, contact lenses, eye glasses or the frames and fittings thereof, or use any statements such as "lowest prices in town," "reduced prices," or words of like import in any such advertising. Nothing

in this subsection shall affect the advertising of the merchandise described in ORS 683.030 under the conditions set forth therein, nor be construed to prohibit advertising concerning the allowance of credit, time payments, budget terms or the allowance of any other method of payment for a commodity or a service where the advertising contains no indication of cost, price, charge or fee.

[Amended by 1965 c.537 §1; 1971 c.102 §8]

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.

683.210 Continuing education requirement; fee; rules.

(1) All optometrists now or hereafter licensed in the State of Oregon are and shall be required to satisfactorily complete courses of study and satisfactorily continue their education by other means as determined by the board 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 but in no case shall it be less than the equivalent of 12 nor more than the equivalent of 30 hours in any two-year period.

(2) Attendance at any approved courses or other approved means of continued education are to be certified to the board upon a form provided by the board and shall be submitted by each registered optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. 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 educa-

tion 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 which 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 of up to \$10 for each license renewal to carry out the provisions of this section and ORS 683.140.

(4) 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]

683.220 Licensing by reciprocity or indorsement. (1) The board may grant to an applicant, by reciprocity or indorsement, a license for the practice of optometry in the State of Oregon if the applicant:

(a) Holds an original license obtained by examination in another state of the United States;

(b) Continuously engaged in the practice of optometry in the state where he is licensed for not less than five years immediately preceding his application to the board;

(c) 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;

(d) Has never failed a license examination given by the board;

(e) Passes a practical examination of his abilities sufficient to satisfy the board of his technical and professional proficiency;

(f) Is confirmed as to his character and professional ethics by a letter, mailed directly from its writer to the secretary of the board, from the licensing board of the state where the applicant is licensed or the president of the optometric association in that state; and

(g) Pays the fee for examination set under ORS 683.070.

(2) Any license granted by the board by

reciprocity or indorsement shall become void when its holder terminates his Oregon residency.

[1977 c.243 §3]

STATE BOARD

683.250 Oregon Board of Optometry; confirmation; qualification and terms of members. A board hereby is created to be known as the Oregon Board of Optometry in the Health Division. The board shall consist of three members appointed by the Governor subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570. 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.

[Amended by 1971 c.102 §9; 1971 c.650 §32; 1973 c.792 §38]

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.

(3) 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.

(4) 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.

(5) To keep an accurate record of all proceedings of the board and of all of its meetings, 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.

(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 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.

(8) 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.

(9) To designate diagnostic pharmaceutical agents for topical use in the practice of optometry from among the generic categories enumerated within subsection (2) of ORS 683.010. Said designation shall take place not later than January 1, 1976, and shall be with the advice and guidance of the Board of Medical Examiners for the State of Oregon.

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

(11) To make rules 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.

[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]

683.275 Compensation and expenses of members; fixing compensation of secretary. (1) Members are entitled to compensation and expenses as provided in ORS 292.495.

(2) The board may fix the compensation of the secretary subject to ORS 240.245. Such compensation shall not prohibit the secretary from receiving reimbursement for actual and necessary travel expenses incurred in going to and coming from the meetings of the board.

[1967 c.22 §4; 1969 c.314 §84]

683.280 Duties of secretary. The secretary of the board shall keep all records of the board and discharge such other duties as the board from time to time prescribes.

[Amended by 1973 c.829 §66]

683.290 Disposition of receipts. (1) All moneys received by the Health Division under this chapter shall be deposited into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of this chapter.

(2) All fines and forfeitures collected or received for violations of or in prosecutions under this chapter shall be paid one-half to the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are to be appropriated continuously and shall be used only for the administration and enforcement of this chapter and one-half to the school fund of the county where the prosecution is had.

(3) In addition to making expenditures for the administration and enforcement of this chapter, the board 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]

683.300 [Repealed by 1971 c.743 §432]

PENALTIES

683.990 Penalties. 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. [Amended by 1971 c.743 §408]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1977.

Thomas G. Clifford
Legislative Counsel

