

Chapter 683

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Optometrists

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OCCUPATIONS AND PROFESSIONS

GENERAL PROVISIONS

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

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

(2) "Dispensing optician" means a person who prepares and dispenses lenses, spectacles and appurtenances thereto to the intended wearers thereof on written prescriptions from physicians or optometrists and, in accordance with such prescriptions, measures, adapts, adjusts and fabricates such lenses, spectacles and appurtenances to the human face.

(3) "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.

(4) "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; 1989 c.443 §1]

683.020 License required to practice optometry. No person shall engage in the practice of optometry or purport in any way to be an optometrist or an expert in the field of optometry without having first obtained a license 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; 1987 c.443 §1]

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 purporting to be 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 ser-

vices 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 satisfactory evidence of graduation 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; 1985 c.103 §3]

683.050 [Repealed by 1977 c.842 §39 and 1983 c.241 §1]

683.060 Examination of applicants; fee.

(1) Any person who has signified to the board a desire to be examined by it and who has filed proof that the person 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 Issuance of certificates of licensure; fee. Each applicant, without discrimination, who satisfactorily passes the examination and who pays the \$10 fee to the Health Division shall be issued a certificate, under the seal and signature of the members of the board. The certificate of licensure shall continue in force until January 1 in the year next succeeding. [Amended by 1955 c.120 §2, 1971 c.102 §5; 1973 c.827 §71; 1985 c.103 §4; 1987 c.443 §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 [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 optometrist shall notify the board in writing of the address of the place or places where the optometrist is to engage or intends to engage in the practice of optometry and the optometrist also shall notify the board of any change in place of practice. Each 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 optometrist.

(3) Any notice required to be given by the board to any optometrist may be given by mailing it to the optometrist at the last registered address of the optometrist through the United States mail postpaid. [Amended by 1987 c.443 §3]

683.110 Optometrist to give receipt when practicing away from regular place of business. Any optometrist who temporarily practices optometry outside or away from the regular registered place of business shall deliver to each customer or person there fitted or supplied with glasses a receipt which shall contain the signature and show the permanent registered place of business and the number of the license of the optometrist, together with a specification of the lenses furnished and amount charged therefor. [Amended by 1987 c.443 §4]

683.120 Renewal fees; effect of failure to renew license. (1) Each optometrist who practices in this state shall annually on or before January 1 of each year pay to the Health Division a fee, as determined by the board and approved by the Executive Department, for a renewal of the license of the optometrist and shall have such license conspicuously posted in the office of the optometrist or place of business at all times. Each optometrist who is retired, disabled or a nonresident of the State of Oregon and who is not practicing optometry within this state shall annually on or before January 1 of each year pay to the Health Division a fee, as determined by the board and approved by the Executive Department, for a renewal of the license of the optometrist.

(2) A person who is no more than 30 days delinquent in renewing the license may renew the license upon payment to the board of the required fee plus a delinquent fee. If a person is more than 30 days delinquent in renewing the license, the license is automatically suspended by the board upon 30-day notice given to the licensee. A certified letter addressed to the last-known address of the licensee failing to comply with the requirements is sufficient notice.

(3) A person who is more than 60 days delinquent in renewing the license may be required to take an examination and pay the examination fee as required in ORS 683.060 before a license is issued. The board may, upon application, waive the examination requirement.

(4) Subject to the review of the Executive Department and the prior approval of the appropriate legislative review agency, the fees and charges established under ORS 683.210 and this section shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the board's budget, as modified by the Emergency Board or future sessions of the Legislative Assembly. [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, 1981 c.642 §1; 1987 c.443 §5]

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 discipline. The board may suspend or revoke the license of any optometrist, impose probation, limit the practice of any optometrist, or impose a civil penalty not to exceed \$1,000 for each offense upon any optometrist or person, where appropriate, for the following causes:

(1) Conviction of a felony or misdemeanor where such an offense bears a demonstrable relationship to the duties of an optometrist. 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) Securing a license by practicing fraud or deceit upon the board.

(3) Unprofessional conduct, or for gross ignorance or inefficiency in the profession.

(4) Obtaining 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) Advertising optometric services or treatment or advice in which untruthful, improbable, misleading, deceiving or impossible statements are made.

(7) Habitual or excessive use of intoxicants, drugs or controlled substances.

(8) Permitting another to use the license.

(9) Using advertisements that do not indicate that a licensed optometrist is practicing at the advertised location or locations or advertise optometric services without having a licensed optometrist at the location or locations.

(10) Advertising professional methods or professional superiority.

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

(12) Any violation of the provisions of this chapter. [Amended by 1971 c.102 §7; 1973 c.69 §6; 1979 c.142 §3; 1985 c.103 §5; 1987 c.443 §6]

683.150 [Repealed by 1971 c.734 §21]

683.155 Discipline hearing. (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 impose any disciplinary sanction or civil penalty under ORS 683.140, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.550. [1971 c.734 §128; 1985 c.103 §6]

683.160 [Repealed by 1971 c.734 §21]

683.165 Confidential information; liability of person providing information.

(1) Any information provided to the Oregon Board of Optometry under ORS 683.140 is confidential and shall not be subject to public disclosure or admissible in evidence in any judicial proceeding.

(2) Any person who in good faith provides information to the board shall not be subject to an action for civil damages as a result thereof. [1989 c.438 §4]

683.170 Sanction may be set aside by board. Any disciplinary sanction, other than civil penalty, imposed for any of the causes listed in ORS 683.140, except those specified in ORS 683.140 (1) and (2), may be set aside upon application of the affected person at any time within six months from the date of such sanction upon proof being made to the satisfaction of the board that the cause no longer exists and that the applicant has been sufficiently punished. However, before setting aside the revocation of any license the board may, in its discretion, require the applicant to pass the regular examination given for applicants. [Amended by 1985 c.103 §7; 1987 c.443 §7]

683.180 Prohibited acts and practices. No person shall:

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

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

(3) Alter the license with fraudulent intent in any material regard.

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

(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 license.

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

(8) Advertise or represent, by displaying a sign or otherwise, to be an optometrist without having at the time of so doing a valid unrevoked license from the board. [Amended by 1965 c.537 §1; 1971 c.102 §8; 1979 c.142 §4; 1987 c.443 §8]

683.190 Acceptance of lens for duplication by unlicensed person prohibited; exception. (1) No person other than a licensed 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.

(2) Notwithstanding subsection (1) of this section, any manufacturing, surfacing or dispensing optician may grind any such lens in conformity with the signed prescription or instruction, followed by a written prescription, of any optometrist duly licensed to practice in this state and any dispensing optician may supply any such lens in conformity with the prescription and the specified expiration date thereof.

(3) Upon completion of the visual examination performed by a licensed optometrist and immediately after payment for the visual examination by the patient, the optometrist shall provide the patient with a written prescription for correcting refractive errors, if any, in the eyesight of the patient. [Amended by 1987 c.443 §9; 1989 c.530 §1]

683.210 Continuing education requirement; fee; rules. (1) All optometrists 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 continuing education are to be certified to the board upon a form provided by the board and shall be submitted by each optometrist at the time designated by the board but in any case no less frequently than once every two years. 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 education 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 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, 1987 c.443 §10]

683.220 Licensing of person from other state. (1) The board may grant to an applicant 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 licensed for not less than five years immediately preceding the 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 successfully passed the National Board of Examiners in Optometry examination;

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

(f) Is confirmed as having adhered to professional ethics in any other state in which the applicant has been a licensed practitioner. A letter confirming such shall be mailed directly to the administrator of the board from the licensing body of the state where the applicant is licensed. Any letter from the licensing board of the state where the applicant is reported to have engaged in unethical conduct of any kind must set forth the particulars of the adverse situation; and

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

(2) Any license so granted by the board shall become void when its holder terminates Oregon residency. [1977 c.243 §3; 1985 c.103 §8, 1987 c.443 §11]

STATE BOARD

683.250 Oregon Board of Optometry; confirmation; qualification and terms of members; quorum. A board is created to be known as the Oregon Board of Optometry in the Health Division. The board shall consist of five members appointed by the Governor subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. 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. Four of the members of this board shall be Doctors of Optometry licensed and in practice in Oregon and the fifth member shall be a public member representing health consumers. Each of the members shall hold office for a term of three years or until a successor is appointed and qualified and shall be so classified that at least one optometrist member of the board retires each year. A majority of the members constitute a quorum for the transaction of business. [Amended by 1971 c.102 §9; 1971 c.650 §32; 1973 c.792 §38; 1981 c.203 §1; 1987 c.443 §12]

683.260 Persons ineligible for membership on board. (1) 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. The person appointed to represent health consumers and any person in the immediate family of the person shall not have any direct or indirect relationships to health care professionals, to the health care industry or to the ophthalmic optical industry.

(2) 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. [Amended by 1981 c.203 §2; 1983 c.243 §1]

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 vice president 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 and inspectors to secure evidence of and report on 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 licenses 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 licenses, 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 licenses have been issued in the State of Oregon, together with the date of the issuance of the license 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 licenses as provided in this chapter and to impose any of the sanctions 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 ORS 683.010 (3). The designation 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.

(11) To make rules not inconsistent with the laws of this state as are 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 license and of licensees to practice optometry in this state, and to establish educational 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; 1983 c.389 §4; 1985 c.103 §9; 1987 c.443 §13; 1989 c.443 §2]

683.275 Compensation and expenses of members; fixing compensation of administrator. (1) Members are entitled to com-

pensation and expenses as provided in ORS 292.495.

(2) The board may fix the compensation of the board's administrator subject to ORS 240.245. Such compensation shall not prohibit the administrator 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; 1985 c.103 §10]

683.280 Duties of administrator. The administrator 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, 1985 c.103 §11]

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]

683.310 Professional corporation regulation not required. ORS 58.345 does not apply to professional corporations engaged in the practice of optometry. [1985 c.103 §16]

ENFORCEMENT

683.325 Investigation of complaints and alleged violations; subpoenas. (1) Upon the complaint of any citizen of this state, or upon its own motion, the Oregon Board of Optometry may investigate any alleged violation of ORS chapter 683.

(2) In the conduct of investigations, the board may:

(a) Take evidence;

(b) Take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases;

(c) Compel the appearance of witnesses, including the person charged, before the board in person the same as in civil cases;

(d) Require answers to interrogatories; and

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(3) In exercising its authority under subsection (2) of this section, the board may issue subpoenas over the signature of the board chairperson and the seal of the board in the name of the State of Oregon. [1989 c.843 §6]

683.335 Report of suspected violation; confidentiality of complaints; liability of complainant. (1) Any health care facility required to be licensed under ORS 441.015 and any licensed optometrist shall and any other person may report suspected violations of ORS 683.010 to 683.155 and 683.170 to 683.290 by optometrists.

(2) Any information provided to the board pursuant to this section is confidential and shall not be subject to public disclosure.

(3) Any health facility or optometrist who reports to the board as required by subsection (1) of this section in good faith shall not be subject to an action for civil damages as a result thereof. [1985 c.103 §13; 1987 c.443 §14]

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]