

FILED

BOARD OF OPTOMETRISTS
 APR 28 2003

Susan Garitland
 Susan Garitland
 Executive Director

STATE OF NEW JERSEY
 DEPARTMENT OF LAW & PUBLIC SAFETY
 DIVISION OF CONSUMER AFFAIRS
 BOARD OF OPTOMETRISTS

IN THE MATTER OF THE SUSPENSION :
 OR REVOCATION OF THE LICENSE OF :
 :
 :
 :
 ROSANNA LOVECCHIO :
 License No. 27 OA 00504500 :
 :
 :
 TO PRACTICE OPTOMETRY :
 IN THE STATE OF NEW JERSEY :

Administrative Action

FINAL ORDER
 OF DISCIPLINE

This matter was opened to the New Jersey State Board of Optometrists upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. Respondent is an optometrist in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On February 20, 2002 respondent was the subject of a Final Order of Discipline entered by the licensing authority in the State of New Jersey which found that the respondent was sent a written license application in February 2001 for the renewal period beginning April 30, 2001 through April 2003 to her last known address on file with the Board: Byram Plaza, 90-150 Route 206 North, Stanhope, New Jersey. A renewal of license and the corresponding renewal fee was not received prior to or after the April 30, 2001 expiration date. On August 8, 2001 written

notification regarding the failure to renew was mailed to the respondent at the last known address by certified and regular mail and neither notification was returned to the Board. A Provisional Order of Discipline suspending respondent's license to practice was entered November 9, 2001 and a copy served upon respondent. This order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent submitted a modification or dismissal of the stated Findings of Fact or the Conclusions of Law in writing. No response was received by the Board to the Provisional Order of Discipline.

3. The Board issued a Final Order of Discipline on February 20th, 2002 suspending respondent's license to practice optometry in this State and ordering that the respondent not engage in the practice of optometry in this State. The order allowed the respondent to reinstate the license to practice optometry upon submission of an application for reinstatement and payment of all past delinquent renewal fees, payment of a reinstatement fee; submission of an affidavit of employment listing each job held during the period of suspension and prior to resuming practice, demonstrating by written submissions that she had maintained proficiency by providing proof that she completed the continuing education credits for renewal of an active license as required pursuant to N.J.S.A. 45:12-9.3 and 45:12-9.4.

4. On July 15, 2002 the respondent submitted a letter to the Board indicating that she was aware that her license had "expired" since April 30, 2001. This letter was addressed to the Board at 1207 Raymond Blvd., Newark, NJ. and informed the Board that the "noncompliance with regard to licencing was purely the result of failures of communications." Respondent alleges that she never received her renewal application. She acknowledges receipt of the August 10, 2001 letter from the Board advising her that her renewal had not been received. She also alleged that she sent correspondence with the application fee to the Board but received no response. She also confirmed receipt of the Final Order of Discipline on February 24, 2002 suspending her license

for failure to renew. Dr. Lovecchio further stated that she sent a letter to the Board on February 24, 2002 advising the Board about the previous letter that was sent with the application fee and that she had completed only 40 out of the 60 continuing education credits necessary for renewal. This letter was also addressed to the Board at 1207 Raymond Blvd., Newark, NJ. According to the respondent, on July 9, 2002 she received a fax license verification from the Board which indicated that her license was suspended. After communicating with the Board staff and learning that the check that she alleged to have sent in November 2001 was never cashed, the respondent mailed a letter dated July 15, 2002 requesting guidance from the Board on how to proceed to reinstate her license and including submission of proof of an additional 20 credits toward her continuing education credits.

5. On July 21, 2002 the Board sent Dr. Lovecchio a letter enclosing the reinstatement application with instructions and further advising that she must submit proof that she completed the remaining 22 credit hours of continuing education to satisfy the 60 hour continuing education requirement for the 1999-2001 biennial renewal period. The instructions for reinstatement also required submission of a notarized statement indicating whether the respondent was engaged in the practice of optometry during the period of suspension.

6. On October 23, 2002 the Board sent Dr. Lovecchio an invoice indicating that the delinquent renewal fees and a reinstatement fee totaled \$660. 00.

7. Upon review of the respondent's submissions the Board reinstated the license to practice Optometry of Dr. Lovecchio on October 31, 2002. The continuing education submissions provided by Dr. Lovecchio on August 29, 2002 demonstrated that the respondent completed the remaining 22 continued education credits in March and August 2002.

8. The Board reviewed the notarized affidavit submitted by Dr. Lovecchio as part of the reinstatement application and noted that she continued to practice Optometry from May 2001 to

the present during the period of suspension pursuant to the February 20, 2002 Final Order of Discipline.

CONCLUSIONS OF LAW

1. The above facts provide grounds for disciplinary action pursuant to N.J.S.A 45:1-21(h) in that the respondent continued to engage in the practice of optometry from May 2001 to October 30, 2002 without renewing the license as required by N.J.S.A. 45:1-7.2(c).

2. Respondent's submission demonstrate that the 60 continuing education credits which were to be obtained by April 30, 2001 were not completed until March and August 2002, thus constituting a violation of N.J.S.A. 45:12-9.3.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline indicating that the respondent's license to practice Optometry in the State of New Jersey remained active as of October 31, 2002 was entered on January 15, 2003 and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor. The respondent submitted a letter dated February 10, 2003 for Board consideration. The letter indicated that respondent agreed to remit payment of the \$5000 penalty in three installments consisting of a payment of \$1700 in February, 2003, a payment of \$1700 by March 10, 2003 and a payment of \$1600 by April 10, 2003. Enclosed with respondent's letter was the first payment in the amount of \$1700. On April

11, 2003 the Board received additional correspondence from Dr. Lovecchio requesting that the installment payments be re-structured due to financial difficulties. The respondent has a balance of \$3,300. which she proposed to repay in regular monthly installments of \$220.00 for 15 months. The first payment is to commence on May 1, 2003.

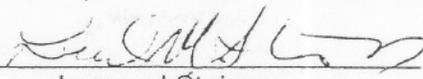
Respondent's submissions were reviewed by the Board, and the Board determined to amend the Provisional Order of Discipline to allow for the payment of the balance of the \$3300 in monthly installments commencing May 1, 2003. The Board also determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as respondent did not dispute the Findings of Fact or Conclusions of Law.

ACCORDINGLY, IT IS on this 28th day of April, 2003,

ORDERED that:

1. The status of Respondent's license to practice optometry in the State of New Jersey remains active.
2. The Board agrees to accept the payment of the \$5000 penalty in installments as follows. Payment of \$1700 was received in February 2003. The remaining balance of \$3300. is payable in monthly installments of \$220. commencing May 1, 2003 and payable thereafter on the first of each month for a total of 15 months. The first payment has been made. The second installment is due on or about May 1, 2003 and the finally payment is due and owing on July 1, 2004. In the event that the respondent fails to make any of the remaining payments the Board will seek to entry a judgment against the respondent in the Superior Court of New Jersey pursuant to N.J.S.A. 45:1-24.

NEW JERSEY STATE BOARD OF OPTOMETRISTS

By 
Leonard Steiner
Board President

Dated: April 28, 2003