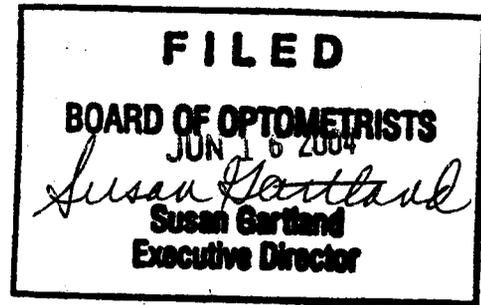


PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
124 Halsey Street
P.O. Box 450029
Newark, New Jersey 07102
Attorney for the Board of Optometrists



By: Carmen A. Rodriguez
Deputy Attorney General
(973) 648-3696

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

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

Administrative Action

ANDREW BALYSKY, O.D.
License No. 27OA004667

CONSENT ORDER

TO PRACTICE OPTOMETRY
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Optometrists (hereinafter "the Board") upon receipt of information in a medical malpractice report from an insurance carrier that a settlement payment was made on behalf of Dr. Balysky, Respondent, for his failure to diagnose retinal detachment resulting in visual loss to N.B. On July 16, 2003, respondent appeared with counsel, James Schragger, Esq., at an investigative inquiry into the matter held by the Board. Respondent testified that he performed an eye examination on patient, N.B., on April 1, 1997 and found that her eyes without a correction were 20/60 in the right eye and 20/20 in the left eye. N.B. was 18 years old at the time of this

examination. On April 10, 1998 he again examined N.B. and his findings without corrections were 20/100 in the right eye and 20/20 in the left eye. Dr. Balysky testified that "he diagnosed the patient with amblyopia and he stressed that the patient use her eyeglasses and return in six month." Patient was re-examined on May 27, 1999. Upon further questioning at the inquiry respondent acknowledged that amblyopia is not known to develop at the age of 18 due to a mixed astigmatism, once it is previously corrected to 20/20.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, it appears to the Board that respondent mis-diagnosed this patient. The findings in the record did not support refractive amblyopia. Refractive amblyopia cannot develop in one year's time at this patient's age (18-19 years old).

These facts establish basis for disciplinary action pursuant to N.J.S.A. 45:1-21 (d) for repeated acts of negligence and incompetence in that respondent's actions in making an inappropriate diagnosis of refractive amblyopia, failing to perform other standard tests such as automated visual fields and Amsler Grid and for failing to refer the patient for consultation with a retinal specialist or neuro-ophthalmologist based on the findings in his patient record demonstrated a gross deviation from the standards of care of optometric practice. It appearing that respondent desires to resolve this matter without admissions and without recourse to formal proceedings and for good cause shown:

IT IS ON THIS DAY OF MAY, 2004

HEREBY ORDERED AND AGREED THAT:

1. Respondent shall be formally reprimanded for his failure to properly diagnose and failure to refer patient N.B.

2. Respondent shall successfully complete a twenty (20) hour retinal course and a 20 hour course in differential diagnosis. Both of these courses are to be completed within six months of the entry of the within Consent Order. Further, these courses, which are in addition to the regularly required continuing education hours, shall be approved by the Board in writing prior to attendance.

2. Respondent is hereby assessed civil penalties, pursuant to N.J.S.A.45:1-22 in the amount of \$10,000. Said penalty shall be suspended if satisfactory proof is submitted in writing by the respondent that he successfully completed both courses within six (6) months of the date of entry of the within order. Should respondent fail to complete the courses within the specified time period as required, the full amount of the penalty shall be due and owing immediately upon expiration of six months from the entry of the filing of the within consent order. Payment shall be submitted by certified check or money order made payable to the State of New Jersey and shall be sent to Susan Gartland, Executive Director, at 124 Halsey Street, P.O. Box 45012, Newark, New Jersey 07101.

3. Respondent is hereby assessed the costs of the investigation to the State in this matter in the amount of \$973.50 Payment for the costs shall be submitted to the Board no later than twenty one days from the entry of this Consent Order. Payment shall be sent to the address described in paragraph #2.

4. Failure to remit any payments required by this Order will result in the filing of a certificate of debt.

NEW JERSEY STATE BOARD OF OPTOMETRISTS

By: 

Mitchell Fink
Board President

I have read and understand the
within Consent Order and agree
to be bound by its terms. Consent

is hereby given to the Board to
enter this Order.



Andrew Balysky, O.D.

Consent as to the form of the order
is hereby given.



James Schragger, Esquire