



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 :
:
:
NANCY LAIFER, O.D. :
License No. OA 00400000 :
:
TO PRACTICE OPTOMETRY :
IN THE STATE OF NEW JERSEY :

Administrative Action

MODIFIED 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 the 30th day of June, 2005, the Board of Optometrists initiated a random audit of renewal applications for the 2005-2007 period, asking licensees to submit proof with regard to the satisfaction of continuing education requirements for the biennial renewal period, i.e., fifty (50) approved credit hours which included twenty-five (25) credits in general optometric education and twenty-five (25) credits in courses or programs classified as therapeutic pharmaceutical agents ("TPA").

3. Respondent failed to submit proof of having completed fifty (50) credit hours of continuing education, she submitted proof of completing 20 credits which is insufficient to satisfy the continuing education requirement because it falls short of the requisite fifty (50) approved credit hours pursuant to N.J.S.A.: 12-9.3 and N.J.A.C. 13:38-7.3.

CONCLUSIONS OF LAW

1. Respondent has not satisfied the requirements of N.J.S.A. 45:12-9.3 with regard to completion of the appropriate number of approved continuing education credit hours within the statutory time frame as she is short thirty (30) of the continuing education credits that she was required to obtain.

2. Respondent is subject to sanctions pursuant to N.J.S.A. 45:1-21(h), failure to comply with the provision of an act or regulation administered by the Board, which constitutes grounds for suspension or revocation of any certificate, registration or license, and grounds for sanction pursuant to N.J.S.A. 45:1-25.

3. Respondent attested to the completion of 50 continuing education credits by April 30, 2005 on the biennial renewal application but has submitted information indicating that she failed to obtain thirty (30) of the requisite continuing education credits required for renewal of her license to practice optometry. Therefore, respondent is subject to sanctions pursuant to N.J.S.A. 45: 1-21(b) has engaged in the use or employment of dishonesty, deception or misrepresentation, which constitutes grounds for the suspension or revocation of any certificate, registration or license, and grounds for sanctions pursuant to N.J.S.A. 45:1-25.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice Optometry in the State of New Jersey was entered on October 19, 2005 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. On October 31, 2005 the respondent submitted correspondence to the Board expressing her upsetment in receiving the provisional order which advised that she could not satisfy the entire 50 continuing education credits for preparation and presentation of continuing education lectures and ground round courses solely, as the Board's regulations only allowed a licensee to obtain a maximum of 20 continuing education credits in ground rounds. Respondent argued that she was truly sorry for not being aware of the changes to the N.J. law and regulations. Respondent also admitted that she was aware that ignorance of the law is not an excuse. Respondent expressed her intent to satisfy the remaining thirty (30) outstanding credits with classroom courses and submit the necessary paperwork to the Board. Respondent also stressed that it was not her intention to misrepresent the continuing education courses as she believed that "the many hours over the actual fifty would suffice the requirement." Further she admitted that she was mistaken and wrong. She requested that the Board reduce the \$3500 penalty and eliminate the charge for misrepresentation as she did not intentionally lie or misrepresent and will be certain to have the appropriate amount of courses in the future.

Upon a review of respondent's correspondence, the Board noted that the changes to the continuing education regulations became effective on April 1, 2002 and the Board sent the published regulations to all licensees at the address of record. Thus, the respondent had ample time to familiarize herself with the continuing education requirements in order to comply within the renewal period as required. The Board opined that it is the responsibility of the licensee to be knowledgeable of the statutes and regulations that apply to the practice of optometry.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The credits for continuing education must be obtained biennially by each holder of an active license during the period preceding the established license renewal date as required by N.J.S.A. 45:12-9.3. Thus, the respondent must have completed her fifty (50) credits by April 30, 2005. The Board determined that the respondent failed to submit proof of additional credits on a timely basis as the proofs presented indicated that respondent did not satisfy the total amount of continuing education credits within the preceding license renewal period as only 20 credits were obtained within the renewal period. Thus, the respondent must submit proof of satisfactory completion of the additional thirty (30) credits, solely in classroom courses. Accordingly, the Board also rejected Respondent's request to eliminate the violation of misrepresentation pursuant to N.J.S.A. 45: 1-21(b) on her application as she affirmed that she had completed all the necessary credits with the time period and the Board found that the reasons provided by the respondent were unacceptable.

On November 23, 2005 the Respondent submitted additional correspondence evidencing that she had obtained the thirty (30) outstanding credits. The Board accepted the credits submitted. Accordingly, the Board voted to affirm the penalty in the amount of \$3500 and the violations as set forth in the Provisional Order of Discipline and to permit the respondent sixty (60) days to complete the outstanding continuing education credits.

ACCORDINGLY, IT IS on this 15th day of February, 2006

ORDERED that:

1. Respondent's submitted written proofs of satisfaction of the thirty (30) credits in classroom courses required in continuing education for the 2005-2007 biennial registration on or about November 23, 2005. All credits submitted as a result of the Provisional Order are **NOT** to be used to renew respondent's license for the 2007-2009 renewal period. Thus, the Board will not suspend the license of the respondent and acknowledges that the respondent satisfied the fifty continuing education credits by November 23, 2005.

2. Respondent paid the civil penalty of three thousand five hundred dollars (\$3500.00) in January of 2006 in complete satisfaction of this order pursuant to N.J.S.A. 45:1-25, for violation of N.J.S.A. 45:12-9.3, N.J.A.C. 13:38-4.5 and N.J.S.A. 45:1-21(h) and N.J.S.A. 45:1-21(b).

NEW JERSEY STATE BOARD OF OPTOMETRISTS

By 
Mitchell Fink, O.D.
Board President