



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Optometrists
124 Halsey Street, 6th Floor, Newark, NJ 07102



ANNE MILGRAM
Attorney General

LAWRENCE DEMARZO
Acting Director

September 27, 2007

Mailing Address:
P.O. Box 45012
Newark, NJ 07101
(973) 504-6440

By Certified and Regular Mail

Richard Frankel, O.D.
343 Washington Road
Sayreville, N.J. 08872

Re: Continuing education credits
Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. Frankel:

This letter is to advise you that the New Jersey State Board of Optometrists (the "Board") has had an opportunity to review information concerning the continuing education credits that you obtained prior to the renewal of your license to practice optometry for the 2007 to 2009 licensure renewal period as required by N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-7.3.

On or about June 15, 2007 the Board initiated a random audit of renewal applications for the 2007 to 2009 period, asking licensees to submit proofs with regard to the satisfaction of the fifty (50) continuing education credits which included twenty five (25) credits in therapeutic pharmaceutical agents (TPA). The Board considered the correspondence you submitted and it appears that you are short seven (7) continuing education credits. You have included in your audit count the 10 hour refraction course that you took as part of remedial requirement in a settlement entered into with the Board. You are advised that these ten credits do not qualify as continuing education pursuant to N.J.A.C. 13:38-7.3 (e) which provides that "courses or programs directed by the Board to be taken by a licensee as all or part of disciplinary or remedial measure... shall not be eligible to fulfill the mandatory continuing professional optometric education requirements..." Additionally the documentation attached to the correspondence to the Board does not support that you completed the courses and is improper as it does not comply with the requirements in N.J.A.C. 13:38-7.6.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-7.3 in that you did not obtain all of the fifty (50) continuing education credits prior to or by April 30, 2007.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Cease and desist from failing to obtain the required amount of continuing education credits for the renewal of a license to practice optometry within the specified time frame.
2. Submit proofs that you successfully completed seven additional continuing education credits within thirty days of your receipt of this letter. These continuing education credits shall NOT be used to renew respondent's license for the 2009-2011 renewal period.
3. Pay a penalty in the amount of \$500.00 for failing to obtain a total of 50 continuing education credits on or before April 30, 2007 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter). Payment shall be remitted in full and shall be made payable to the Board of Optometrists by certified check or money order and forwarded to the attention of the Executive Director, P.O. Box 45012, 124 Halsey Street, Newark, New Jersey 07101.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest you contact Deputy Attorney General Carmen A. Rodriguez who may be reached at (973) 648- 3696.

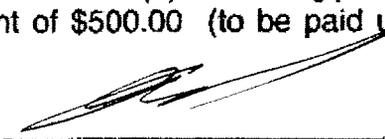
If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD OF
OPTOMETRISTS

By:


Mitchell Fink, O.D.
Board Vice President

ACKNOWLEDGMENT: I, Richard Frankel, O.D., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to submit proof of satisfactory completion of seven (7) continuing professional optometric credits and pay a penalty in the amount of \$500.00 (to be paid upon signing of this acknowledgment).



Richard Frankel, O.D.

Dated:

cc: Carmen A. Rodriguez, Deputy Attorney General