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Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Optometrists
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Mailing Address:
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Newark, NJ 07101
(973) 504-6440

December 3, 2015

CERTIFIED MAIL
REGULAR MAIL

Jessica Marshall, O.D.
2128 State Rte 35
Holmdel, NJ 07733

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

Dear Dr. Marshall:

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 reinstatement of your license to practice optometry in the state of New Jersey that was received on or about September 15, 2015. Specifically, the information reviewed included in the reinstatement application indicated that the last renewal was due April 30, 2015 or within thirty (30) days of that date. You acknowledged in a sworn affidavit that you continued to work as an optometrist during the period the license was lapsed performing eye examinations and optometric services at 2128 State Rte 35, Holmdel, New Jersey. Your license to practice optometry was reinstated on October 10, 2015.

Additionally, the Board also reviewed the continuing education certificates submitted in support of your satisfaction of the continuing education requirements for renewal as set forth in N.J.A.C. 13:38-7.1 et. seq. The certificates reviewed supported completion of 44 credits, 34 of the credits were taken within the 2013-2015 biennial renewal period. The other 10 credits were taken after the biennial period and although considered to be taken untimely as they were completed after the appropriate time period, the credits will be accepted by the Board. The submissions demonstrated that you had only obtained 8 courses in oral therapeutic pharmaceutical agents (TPA) when 10 oral TPA credits are required by regulation. Upon review the Board found that you are short a total of 6 continuing education credits in which two of these credits must be oral TPA courses in order to satisfy the Board's continuing education requirements (See N.J.S.A. 13:38-7.3).

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. 45:1-7.1(b) and (c) in that you failed to renew your license within thirty days of the April 30, 2015 renewal period and you continued to practice with a suspended license for four months from June 1, 2015 through September 15, 2015. The Board also found that you failed to complete the 50 required continuing education credits in violation of N.J.A.C. 13:38-7.1 and 7.3.

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 in the future from continuing to practice optometry without a valid current license and to obtain all 50 of the mandatory continuing education credits in the two years proceeding the biennial license renewal period.

2. Pay a civil penalty in the total amount of \$1,000.00. This amount constitutes \$500.00 for continuing to engage in the practice of optometry while your license was suspended and \$500.00 for failing to obtain all 50 continuing education credits in the required period proceeding the biennial license renewal (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter) by sending a certified check or money order payable to the Board of Optometrists, attention Renee Clark, Executive Director, P.O. Box 45012, Newark, New Jersey 07101. The Board is willing to permit you to enter into installment payments to pay the total amount of \$1000.00 over a ten month period consisting of 10 equal payments of \$100.00. The first payment shall commence on **December 15, 2015** and the last payment shall be due on **September 15, 2016**. Should you wish to avail yourself of the installment payment plan contact Sonia Claudino at the time that you sign the acknowledgment at 973-504-6440.

3. The six outstanding continuing education credits are to be completed no later than 30 days from the signing of the acknowledgment below. Please be advised that the six credits (including 2 courses in oral TPA) submitted in response to this settlement offer will not be eligible to fulfill the mandatory continuing education requirements for the current biennial period which began on May 1, 2015 and continues through April 31, 2017 pursuant to N.J.A.C. 13:38-7.3(e).

4. Your failure to supply satisfactory proofs of the 6 outstanding credits within 30 days of your acceptance of this settlement offer will result in an immediate suspension of your license to practice optometry until the satisfactory proofs are received by the Board.

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 that you contact Deputy Attorney General, Carmen A. Rodriguez who may be reached at (973) 648-3696.

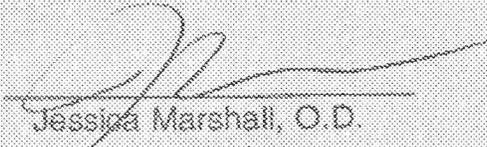
If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement 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: 

Renee Clark
Executive Director

ACKNOWLEDGMENT: I, Jessica Marshall, 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 pay a civil penalty in the amount of \$1000.00 (to be paid upon signing of this acknowledgment) or by the installment plan detailed above. I also agree to submit proofs of satisfactory completion of 6 continuing education credits to satisfy the outstanding continuing education requirements within the specified period. I understand that 2 of these six credits must be obtained from oral TPA courses.



Jessica Marshall, O.D.

Dated: 1/11/16

c: Carmen A. Rodriguez, Deputy Attorney General