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FILED
BOARD OF OPTOMETRISTS
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RB Clark

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

IN THE MATTER OF
ROBERT TANDLER, O.D.
LICENSE NO.27OA0036600
TO PRACTICE OPTOMETRY
IN THE STATE OF NEW JERSEY

Administrative Action

Consent Order

This matter was opened to the New Jersey State Board of Optometrists (hereinafter "the Board") upon receipt of information concerning a legal action against Dr. Tandler ("the Respondent") for his alleged failure to timely treat or refer for treatment the amblyopia in patient C.L.'s left eye resulting in C.L.'s claims of permanent poor eye vision.

On October 15, 2014, Respondent appeared with counsel John Mullahy, Esquire at an investigative inquiry. Respondent

testified that he provided eye examinations on a yearly basis commencing in March 2001 when CL was 5 years old through February of 2010. Dr. Tandler testified that he diagnosed CL with amblyopia in his left eye when CL was in Kindergarten although his patient record for the 2001 eye care visit does not contain this diagnosis. CL's right eye vision was 20/20 and the best corrected vision in the left eye was 20/60. Respondent did not prescribe eyeglasses at the 2001 visit because he claimed that the difference between the two eyes was too great and he believed that CL would not wear the glasses due to his young age. A review of the 2001 patient record demonstrated that Respondent did not perform a complete minimum examination as required by N.J.S.A. 13:38-2.1(a)10 and 11 as the record lacked findings for visual fields screening and tonometry. The patient record also failed to include a treatment plan to address the child's amblyopia as required by N.J.A.C. 13:38-2.3(b)7 and 9. Dr. Tandler testified that he never discussed the diagnosis or available treatment for CL's amblyoplia with the child's parents. He also did not perform any patching of the left eye or consider prescribing vision therapy for CL during the course of the patient's examination. His plan was for the minor to return in one year for a follow up eye examination.

The April 2002 patient record documented an eye examination performed on CL but did not contain a notation that tonometry was performed, nor were visual fields tested as required by N.J.A.C. 13:38-2.1(a)7 and 10. Respondent confirmed that he did not consult with the parents and admitted that was an error. He did not recommend vision training for the child at this visit. He recorded the diagnosis of amblyopia in the 2002 patient record but the documented treatment plan was for CL to return in one year. Respondent testified that he did not prescribe eyeglasses at this visit.

At the April 19, 2003 visit Respondent testified that CL indicated that he played baseball and was in good health. It was Dr. Tandler's testimony that in retrospect he should have seen this patient more often. The patient record lacked findings for visual acuities, tonometry readings; the keratometry reading did not indicate it was for both eyes, failed to contain an objective refraction and included only a subjective refraction for the left eye and not for both eyes as required by the minimum eye examination regulation at N.J.A.C. 13:38-2.1(a)2,6,and 7. Respondent testified that he did not perform a dilated fundus examination on CL. He again failed to discuss amblyopia and the available course of treatment of this disorder with CL's parents at the 2003 visit.

CL's patient record for 2004 demonstrated that Respondent failed to list tonometry readings and did not document the subjective refraction for the left eye, as required by N.J.A.C. 13:38-2.1(a) 3 and 7. In 2005 the patient record demonstrated that the acuities were not documented, subjective refraction for the left eye was not performed or documented, external findings were not listed and tonometry was not performed as required by N.J.A.C. 13:38-2.1(a)2,3,7, and 10. Respondent again testified that he never referred this child to a pediatric ophthalmologist for an evaluation of the amblyopia.

CL's patient record for 2006 should have included acuities, ocular motor assessment, fields, tonometry, objective and subjective refractive findings, color vision and a complete examination of the external eye as required by N.J.A.C. 13:38-2.1(a)2,3,6,7,9,10, 11.

The 2008 and 2009 patient records for CL indicated that the Respondent should have documented the entry acuities, a complete examination of the external eye, subjective and objective refractive findings, stereopsis, color and tonometry readings as required by N.J.A.C. 13:38-2.1(a)2,3,6, 8,9, 10 and 11. Finally the 2010 patient record for CL should have included documentation for findings of entry acuities, stereopsis, color, fields and tonometry as required by N.J.A.C. 13:38-2.1(a)2,8,9, and 11.

In 2010 Respondent fit this patient with contact lenses for the right eye. CL's patient record did not contain a proper assessment of the contact lens fit or performance on the eye pursuant to N.J.A.C. 13:38-2.11(d) 2-7 as Respondent testified that he evaluated a contact lens fit by examining the contact lens on the patient's eye the next day. He should have evaluated the fit several days to a week after the patient has been wearing the contact lenses.

Respondent's submission of required continuing education (CE) credits for the 2009-2011 biennial renewal period indicated Respondent was missing a total of 33 CE credits (8 TPA, 5 Oral TPA and 10 general CE) and for the biennial renewal period 2011 through 2013 respondent was missing a total of 34 continuing education credits (9 TPA, 5 oral TPA and 20 general CE credits).

Respondent's repeated failure to discuss with CL's parents the amblyopia diagnosis, and his failure to provide the standard treatment for this condition or to recommend a referral to a specialist over the course of 10 years resulting in CL never improving vision in his left eye constituted violations of N.J.S.A. 45:1-21(d). Dr. Tandler's patient records for CL over a 10 year period lacked numerous procedures required by the minimum examination regulation and at times failed to list a diagnosis or assessment plan to appropriately manage the amblyopia in the left eye in violation of N.J.A.C. 13:38-2.1 and

2.3. Additionally, the Respondent failed to obtain the required number of continuing education credits for the 2009 - 2011 biennial renewal period and the 2011 - 2013 biennial period required by N.J.A.C.13:38-7.3

Respondent being desirous of resolving this matter without resort to formal proceedings; Respondent having waived any right to a hearing; and the Board having determined that this Order is sufficiently protective of the public safety, health and welfare, and for good cause shown,

IT IS ON THIS 2nd day of February, 2016,

HEREBY ORDERED AND AGREED THAT:

1. Respondent, Robert Tandler, O.D.'s license to practice as an optometrist shall be suspended for one year, entirely stayed and served as a period of probation on the condition that the Respondent satisfy the terms set forth below.

2. Respondent shall cease and desist failing to perform and document performance of required portions of the minimum eye examination and cease and desist failing to provide a diagnosis and treatment options to patients, etc.

3. Respondent shall pay a civil penalty in the amount of $12,500. $10,000 of the civil penalty shall be stayed based on financial hardship and contingent upon Respondent's complete satisfaction of all the terms and conditions of this order. Respondent shall pay the remaining balance of $2,500.00

including $1,000 for violations of N.J.S.A. 45:1-21(d) for repeatedly failing to advise the parents of the diagnosis and treatment options available to address the child's diagnosis of amblyopia; $1,000 for repeatedly failing to meet various requirements of the minimum examination rule and the record keeping regulation; and $500.00 for failure to complete required continuing education credits for two biennial renewal periods. Payment shall be made in 18 monthly installments commencing on February 15, 2016 each in the amount of $138.89 with a final payment of $138.87 to be made on July 15, 2017. All payments shall be made by no later than the 15th of each month by certified check or bank cashier check, or money order payable to the "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to Renee Clark, Executive Director of the State Board of Optometrists, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payments.

4. Respondent shall pay the costs of the investigation in the amount of $366.25 within 60 days of the filing date of this order. Payment shall be made by certified check or bank cashier check, or money order payable to the "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to Renee Clark, Executive Director of the

State Board of Optometrists, P.O. Box 45010, Newark, New Jersey 07101 no later than thirty days from the filing date of this order.

5. Failure to remit any payments as required by this Order will result in the filing of a Certificate of Debt including interest, as calculated pursuant to the Court Rules, and such other proceedings as permitted by law.

6. Respondent shall fully attend, complete and successfully pass a 3 hour in-person course in pediatric eye care and a 3 hour in-person course in record keeping. The courses shall be pre-approved by the Board prior to attendance. These courses shall not be counted towards satisfaction of the continuing education requirements for renewal of license pursuant to N.J.A.C. 13:7-3(e).

7. Respondent shall complete 8 TPA, 5 Oral TPA and 20 general CE courses for a total of 33 CE courses to satisfy the deficiency in the 2009-2011 biennial renewal period and a total of 34 CE credits for the 2011- 2013 biennial renewal period consisting of 9 TPA, 5 Oral TPA and 20 general CE courses. These courses shall be completed within 12 months of the filing of this order. These courses shall not be counted towards satisfaction of the continuing education requirements for renewal of license in 2013 - 2015 or thereafter pursuant to N.J.A.C. 13:7-3(e).

8. Dr. Tandler shall be subject to an order automatically activating the stayed suspension of his license upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that Respondent has failed to comply with any of the terms set forth in this Consent Order. Respondent shall have a right to apply for removal of the automatic suspension on five (5) days notice to the Board. The Board may hold a hearing on that application at which the sole issue shall be whether there has been a material violation of this order. Similarly, any allegations of violations of the Optometry Act and/or its accompanying regulations on the part of the respondent during the period of probation which are substantiated, shall also serve as grounds for the imposition of any other appropriate disciplinary action as the Board may determine.

NEW JERSEY STATE BOARD OF
OPTOMETRISTS

By: _____
Mitchell Fink, O.D.
Board President

I have read and I understand
this Consent Order and agree to
be bound by its terms. I further
hereby consent to the entry of

this Consent Order.

Robert Tandler, O.D.

This Order is agreed to
as to form.

John B. Mullahy, Esquire
Attorney for Robert Tandler, O.D.