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## Board efforts to halt illegal sales of cosmetic contacts prove successful

A Napa man pleaded no contest to misdemeanor criminal charges for selling cosmetic contact lenses without a license. The plea came as the result of a sting operation conducted by the California Department of Consumer Affairs' Division of Investigation on behalf of the California State Board of Optometry.

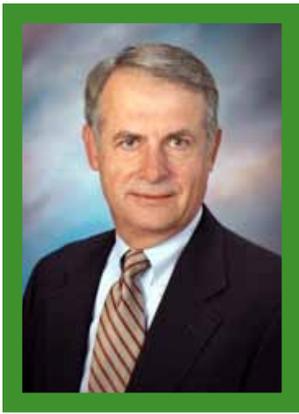
Ahmad Hussein Marini, general manager of the Doc of Rock store in Napa, was placed on three years' probation as a result of his plea. In addition, store owner Najjar R. Sadeddin, was ordered to pay \$6,000 in fines, including nearly \$2,500 to the Board of Optometry to cover the cost of its investigation.

In an article about the case, the *Napa Valley Register* newspaper quoted Department of Consumer Affairs Director Denise D. Brown and Mona Maggio, Executive Officer of the Board of Optometry. Denise D. Brown - "This investigation should send a warning that the Department of Consumer Affairs and the Board of Optometry will not tolerate unlicensed activity in California. Unlicensed activity undermines the credibility and undercuts the business of licensed professionals. More importantly, as in this case, there is potential for great consumer harm."

Mona Maggio - "People don't realize just how dangerous it is to buy cosmetic contact lenses without a prescription. If contacts aren't fitted properly, they can cause serious eye damage and, in extreme cases, blindness and eye loss."

The investigation began as the result of a complaint from a consumer, who alleged that Sadeddin was selling and dispensing cosmetic contact lenses without a license. Thirty days after informing him that was against the law, the Board sent out a representative acting as a consumer who found the shop was still operating illegally. The Division of Investigation then conducted its sting operation and arrested Sadeddin.

Thanks to all of you who submitted complaints in order to increase awareness about this type of unlicensed activity. The Board will be continuing its outreach efforts and encourages licensees who are aware of a business selling cosmetic contact lenses illegally to contact the Board's enforcement unit at 916.575.7170.



Senator Bill Emmerson

## Bill would create retired license and define temporary practice rules

Senate Bill 1215 by Senator Bill Emmerson, which would allow optometrists to apply for a retired license status or a retired license status with a volunteer designation and would define temporary practice requirements was introduced on February 22, 2012.

After receiving numerous inquiries and requests from optometrists regarding a retired license, the Board is trying for the second time to obtain this much-coveted status. Senator Ed Hernandez, then in the Assembly, introduced Assembly Bill 2848 to obtain this type of license in 2008, but the bill died in the Senate's inactive file.

Currently, because the Board does not have a retired license status available for licensees, optometrists must either keep their license active, place their license in an inactive status, or allow the license to expire, which puts the optometrist in a delinquent status.

Similarly, there are many optometrists who consider themselves retired who want to provide volunteer services but can't because they are in an inactive status or hold a delinquent license. All these individuals find it unreasonable to have to pay \$425 every two years to renew their license when they are not planning on practicing again, or will practice only once or twice a year at a volunteer event.

By allowing an optometrist to apply for a retired license and volunteer if they choose to, optometrists are permitted to maintain a license which they value and obtained through hard work and dedication.

## Here are highlights of the proposed license status changes

### Retired License Status

- No continuing education requirement.
- Optometrists earn the designation of retired versus inactive, cancelled, or delinquent.
- Makes the conversion from retired to active status much smoother if an optometrist decides to practice again.
- \$25 one-time fee (subject to change).

### Retired License Status with a Volunteer Designation

- Continuing education, dependent on the certification type, required with renewal.
- Can only practice optometry as a volunteer who provides free services.
- Optometrist earns the designation of retired versus inactive, cancelled, or delinquent.
- \$50 initial fee; \$50 renewal fee biennially (subject to change).

### Temporary practice – What's the issue?

Temporary practice is not defined in the Optometry Practice Act. Pursuant to Business and Professions Code section 3070, it is the Board's responsibility to define it in a way that will protect consumers and increase access to care.

### Highlights of proposed legislation

- Defines temporary practice as the practice of optometry at locations other than the optometrist's principal place of practice for not more than five days during a 30-day period and not more than 36 days in a calendar year.
- Clarifies when a Statement of Licensure must be obtained.
- Deletes exceptions currently in law, since they are no longer needed with the new definition of temporary practice.

The California Optometric Association expressed its support of the bill as currently written at the Board's March 2, 2012, meeting. The Board is open to working with other stakeholders as well to ensure that this bill will be beneficial for optometrists and most importantly, consumers.

If you have questions, please contact the Board at 916.575.7170. You can follow the progress of the bill at the Legislative Counsel's Web site, [www.leginfo.ca.gov](http://www.leginfo.ca.gov). You can also look for updates on the bill's status on the Board's Web site at [www.optometry.ca.gov](http://www.optometry.ca.gov).

# Help the Board stop unlicensed activity

## Unlicensed activity poses a threat to the public and the optometric profession

The Board needs your help to protect consumers, including your patients, friends, and families. While providing quality care at your place of practice is a very important part of your job as a healthcare professional, partnering with your licensing board and other associations to protect consumers outside of your practice also plays a huge role in our common goal to keep the public and patients safe.

Unlicensed activity can range from knowingly providing eye exams and other vision services under the guise of being an optometrist to selling cosmetic contact lenses without realizing that they are medical devices that require a prescription. While both of these examples are illegal and dangerous, practicing optometry without a license is a bigger public safety issue with a greater potential for consumer harm. In speaking with concerned optometrists, the Board has been made aware that this issue occurs predominantly in areas where there is a high population of underinsured or uninsured individuals. If you are an optometrist who is aware of this occurring in your community, please share your concerns with the Board. This is a way for you to not only protect the public and your profession, but also to give the voiceless a voice.

Trends like cosmetic contact lenses come and go, but the unlicensed practice of optometry can have harmful ramifications that can only be prevented with everyone working together.



### Here's how you can help

- Board staff can only investigate what is brought to our attention. If you see or hear of unlicensed activity, please contact the Board's enforcement unit as soon as possible at 916.575.7170 or online at [www.optometry.dca.ca.gov](http://www.optometry.dca.ca.gov). All leads are welcome and encouraged.
- Be aware of laws related to unlicensed activity such as:
  - > Business and Professions Code sections 17200 et. seq. - Unfair competition defined.
  - > Business and Professions Code section 3042 - Specified acts not prohibited; dispensing lenses without prescription not lawful.
  - > Business and Professions Code section 3120 - Penalty for violations – unlicensed activity is considered a misdemeanor.

Additional laws and regulations can be found online at [www.optometry.ca.gov/lawsregs/laws.pdf](http://www.optometry.ca.gov/lawsregs/laws.pdf).

The Board does not allow unlicensed activity to happen. Limited funding and staff shortages prevent the Board from going door to door to find unlicensed activity; however, the Board does investigate every complaint it receives.

# Enforcement Corner

## Rules to remember when advertising

Current Web sites, ranging from social networking sites such as Facebook and Twitter to e-commerce and deal sites such as Groupon and Yipit are fun and creative ways to reach new patients. However, all California licensed optometrists must follow the same rules and regulations using these sites that they would if advertising in their local newspaper or yellow pages. The following is a refresher of the Board's advertising-related Business and Professions Codes (BPC) and California Code of Regulations (CCR). The codes can be found in their entirety on the Board's Web site, [www.optometry.ca.gov/lawsregs/laws.pdf](http://www.optometry.ca.gov/lawsregs/laws.pdf).

### Patient referrals

When it comes to patient referrals, even when a patient refers another individual to your practice, remember that it is unlawful to offer any form of "rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients ..." (BPC 650).

### When using your name

Remember to make advertisements clear and honest for the consumer. "It is unlawful to disseminate any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image" (BPC 651).

When using your name after Doctor or Dr. in an advertisement, you must remember to notify the public of your profession with "Optometrist" "Opt. D" or "O.D." immediately following your name (BPC 3098). Example: "Dr. John Doe, Optometrist" "Dr. John Doe, O.D." Do not claim that you specialize, have expertise, or are a specialist in the treatment of any eye disease (BPC 3099 and 3100).

Any advertising must clearly identify the individual optometrist or optometrists (CCR 1513).

### When using fictitious names

Fictitious names such as California Optometry Clinic, California Eye Care Optometry, CA Optometric Associates, etc. can only be used if they are registered with the Board. If you are using a fictitious name without a permit to do so, you may be in violation of BPC 3078. Additionally, the names of all optometrists practicing

under the fictitious name must be displayed conspicuously in advertisements that use it. BPC section 651 and CCR 1513 also apply to the use of Fictitious Name Permits in advertisements. Applications for Fictitious Name Permits can be found on the Board's Web site [www.optometry.ca.gov/applicants/index.shtml](http://www.optometry.ca.gov/applicants/index.shtml).

Remember that as a licensee of the Board, you are ultimately responsible for any advertising related to your practice, even if it was created by your staff or an advertising agency. Optometrists found to be in violation of the Optometry Practice Act may be subject to citations, fines, or other legal action, which may include suspension or even revocation of their license to practice.

If you have questions, please contact the Board at 916.575.7170 or e-mail us at [optometry@dca.ca.gov](mailto:optometry@dca.ca.gov).

We are here to guide you.

### More tips to stay in compliance with the Board

1. Are your licenses up to date? The Board has found that many licenses, specifically Statement of Licensures (SOL), Branch Office Licenses (BOL), and Fictitious Name Permits (FNP) are delinquent. Remember, consumers also have access to this information and may not choose you as their optometrist if they see delinquent licenses on your record. The Board will periodically check each licensee's record and you may be cited for not having your licenses either cancelled or renewed as required by law. To find out, go to the License Look-up tool on the Board's Web site at [www.optometry.ca.gov](http://www.optometry.ca.gov) and look under Quick Hits. If you find a delinquent license on your record and wish to cancel it, you must submit a cancellation request in writing. Fax your request to 916.575.7292, or mail it to 2450 Del Paso Road, Suite 105, Sacramento, CA 95834 to the attention of the Licensing Unit. If you wish to renew (bring current) a delinquent license, please contact the Board 916.575.7170 for instructions.

2. If you have FNP issued by the Board and are a Medi-Cal provider, remember to use your FNP in its entirety on any forms. In December 2011, a Medi-Cal representative contacted the Board requesting that we work with optometrists to ensure they are using their FNP as issued with the Board. Oftentimes, Medi-Cal representatives will try to look up an FNP on our License Look-up tool and cannot find the name because the FNP entered by the optometrist on the claim was abbreviated, a nickname, or not the full name as issued by the Board. This is resulting in claim denials. Furthermore, keep in mind that abbreviating, nicknaming, or not using the full name of an FNP is not in compliance with current law and could result in disciplinary action by the Board. Always use your FNP in its entirety to protect yourself from potential legal issues and reduce confusion to the public (BPC section 651).

# New publications

The Board of Optometry has three new publications for your patients



## Focus on Consumer Protection:

This brochure gives tips to consumers about the Board, optometrist license types, medical records, reimbursements, and more.

## Cosmetic Contacts:

This brochure gives tips to consumers on how to avoid purchasing cosmetic contact lenses without a prescription from unlicensed individuals.

## Focus on Your Eyes:

This brochure explains to consumers the difference between types of eye care providers, what to expect during an eye exam and after the exam, and what their prescription must include.

## The brochures can be viewed online

If you are an optometrist, you can call the Board at 916.575.7170 to order 25 brochures, free of charge, for your office. This option will only be available for a limited time, so take advantage of it and help us educate consumers!

# Meeting your licensing needs will soon be a breeze!

The Board of Optometry is very excited to be a part of the Department of Consumer Affairs' new online program that will revolutionize the way the Board does business, the way licensees and license applicants do business with us, and the way consumers interact with us. It's called BreZE because many of the tasks that were paper-based and took time and effort to complete (such as license renewals and obtaining a Statement of Licensure) will now be much easier. Once completed, BreZE will be the largest online licensing and enforcement solution in the world, bringing with it improved access to our services, greater ease of use for our stakeholders and improved back-office functionality that will greatly enhance our licensing and enforcement efficiency.

## How will BreZE benefit you? Anytime, day or night you will be able to:

- Apply for or renew a license.
- Pay with a major credit card in a secure environment.
- Track the status of an application or licensing request.
- Submit address changes.
- Obtain proof of renewal status.

## How will BreZE benefit your patients? Your patients will be able to:

- Find real-time licensee information.
- File a complaint.
- Track the status of a complaint.

The Department of Consumer Affairs will begin rolling out BreZE this summer, but the Board will not make the transition until spring 2013. For more information, go to <http://www.dca.ca.gov> and click on the BreZE logo at the top of the page or e-mail the BreZE Team at [BreZEProject@dca.ca.gov](mailto:BreZEProject@dca.ca.gov).

# Disciplinary and Enforcement Actions

The following is a list of disciplinary and enforcement actions taken by the Board in 2012



## Probation

### Fisher, Svetlana (OPT 9936) West Hollywood, CA

Effective May 9, 2012 Respondent's license is suspended; the suspension is stayed and her license is placed on 3 years probation for unprofessional conduct: gross negligence, incompetence, failure to maintain adequate and accurate records, and violation of regulations.

### Armstrong, Robert (OPT 4890) Pasadena, CA

Effective May 10, 2012 Respondent's license is suspended; the suspension is stayed and his license is placed on 4 years probation for unprofessional conduct: gross negligence and failing to refer a patient to a physician.

## Stipulated Surrenders

### Vollmer, Arnold (OPT 6375), Carlsbad, CA

Effective January 19, 2012. Respondent's license is voluntarily surrendered for gross negligence, repeated negligent acts, and incompetence.

## Pending Accusations

### Lau, George (OPT 11908), Lake Forest, CA

Accusation pending. Subject to disciplinary action for conviction of a crime substantially related to the qualifications, functions, and duties of an optometrist and using alcohol in a manner dangerous to himself or others. The California State Board of Optometry proposes that Dr. Lau's license be revoked or suspended.

To view a printable version of the accusations and decisions go to the Citations and Disciplinary Actions section of the Board's Web site, [www.optometry.ca.gov/consumers/disciplinary.shtml](http://www.optometry.ca.gov/consumers/disciplinary.shtml).



## New and improved applications and forms

The Board has updated the following applications and forms, which are now available on the Board's Web site at [www.optometry.ca.gov](http://www.optometry.ca.gov) under the tab Forms and Publications.



### Applications

- Statement of Licensure
- Branch Office License
- Fictitious Name Permit
- Replace Lost or Stolen License

### Forms

- Principal Place of Practice Address
- Notification for New Licensees
- Name Change
- Address Change

## 2012 Board Meeting Dates

For the most current Board meeting dates and locations, go online to [www.optometry.ca.gov](http://www.optometry.ca.gov) and click on Board Meetings under Quick Hits.



## Keep up with the Board news

Are you interested in the Board of Optometry's latest actions?

If so, join our subscriber's list to get e-mail updates of:

- > Meeting agendas
- > Regulation and law changes
- > Newsletters
- > Subject matter expert workshop
- > Disciplinary and enforcement actions

To sign up, go to [www.optometry.ca.gov](http://www.optometry.ca.gov) and select the Join Our Mailing List icon in the highlights section of the home page.



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