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**To:** Board Members **Date:** August 26, 2016

**From:** Cheree Kimball **Telephone:** (916) 575-7185  
Lead Enforcement Analyst

**Subject: Agenda Item 2 - Petition for Reduction of Penalty and Early Termination of Probation**

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Dr. Gregory Lawrence Tom, O.D. (Petitioner) was issued Optometrist License Number 10427 by the Board on September 22, 1994. On March 26, 2007, the Board filed an Accusation against Petitioner charging him with violating laws and regulations of the Optometry Practice Act. The Petitioner entered into a Stipulated Surrender of License, adopted by the Board, effective April 3, 2008.

On or about February 23, 2009, the Petitioner filed a Petition for Reinstatement of License, which the Board granted effective January 1, 2010. Petitioner's license was reinstated, immediately revoked, the revocation was stayed, and the license was placed on probation for five years. The Petitioner filed a Petition for Reduction of Penalty or Early Termination of Probation on November 19, 2010, which the Board denied, effective August 16, 2011.

On or about August 18, 2011, the Board filed a Petition to Revoke Probation against the Petitioner. By Decision and Order effective August 29, 2012, the Board adopted a Proposed Decision granting the Board's Petition. Petitioner's license was revoked effective August 29, 2012.

On or about May 1, 2013, Petitioner filed a Petition for Reinstatement, which the Board granted effective December 11, 2013. Petitioner's license was reinstated, immediately revoked, the revocation was stayed, and the license was placed on probation for five years. The Petitioner filed a Petition for Reduction of Penalty or Early Termination of Probation on December 12, 2014, which the Board denied, effective April 22, 2015.

The Petitioner is requesting the Board to grant his Petition for Reduction of Penalty and Early Termination of Probation.

Attached are the following documents submitted for the Board's consideration in the above referenced matter:

1. Petition for Reduction of Penalty or Termination of Probation
2. Copies of Decision, Order Denying Petition for Reconsideration, Decision, Order Denying Petition for Reconsideration, Decision and Order, Order Denying Petition for Reconsideration, Petition to Revoke Probation, Decision, Decision, Decision and Order, and Accusation
3. Certification of Licensure

## **Petition for Early Termination of Probation**

**Gregory Tom, O.D.**

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Agenda Item 2, Attachment 1



**PETITION FOR REDUCTION OF PENALTY  
 OR EARLY TERMINATION OF PROBATION**

No petition for reduction of penalty or early termination of probation will be entertained until one year after the effective date of the Board's disciplinary action. The decision of the petition will be made by the full Board and in accordance with the attached standards for reinstatement or reduction of penalty. Early release from probation or a modification of the terms of probation will be provided only in exceptional circumstances, such as when the Board determines that the penalty or probationary terms imposed have been excessive, considering both the violation of law charged and the supporting evidence, or when there is substantive evidence that there is no more need for the degree of probationary supervision as set forth in the original terms and conditions. As a rule, no reduction of penalty or early termination of probation will be granted unless the probationer has at all times been in compliance with the terms of probation.

**PLEASE TYPE OR PRINT LEGIBLY**

1. NAME	(FIRST)	(MIDDLE)	(LAST)	CERTIFICATE OF REGISTRATION NO.
	GREGORY	L	TAM	
2. ADDRESS	(NUMBER)	(STREET)	DATE OF BIRTH	
	202	Aspenwood Ct	7/16/67	
	(CITY)	(STATE)	(ZIP CODE)	TELEPHONE
	SAN RAMON	CA	94582	(970) 2068152
3. PHYSICAL DESCRIPTION	(HEIGHT)	(WEIGHT)	(EYE COLOR)	(HAIR COLOR)
	5'10"	155	BAN	BRN
4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGE(S) OF OPTOMETRY ATTENDED				UC356
NAME OF SCHOOL				
UC BERKELEY SCHOOL OF OPTOMETRY				
ADDRESS	(NUMBER)	(STREET)		
	210	Minor Hall		
	(CITY)	(STATE)	(ZIP CODE)	
	Berkeley	CA	94720	
5. ARE YOU CURRENTLY LICENSED IN ANY OTHER STATE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
STATE	LICENSE NO.	ISSUE DATE	EXPIRATION DATE	LICENSE STATUS

6. List locations, dates, and types of practice for 5 years prior to discipline of your California license.

LOCATION	DATE FROM	DATE TO	TYPE OF PRACTICE
VISION ONE OPTOMETRY Pleasanton CA	04/2010	8/2012	PRIVATE

7. Are you or have you ever been addicted to the use of narcotics or alcohol?  YES  NO
8. Are you or have you ever suffered from a contagious disease?  YES  NO
9. Are you or have you ever been under observation or treatment for mental disorders, alcoholism or narcotic addiction?  YES  NO
10. Have you ever been arrested, convicted or pled no contest to a violation of any law of a foreign country, the United States, any state, or a local ordinance? you must include all convictions, including those that have been set aside under Penal Code Section 1203.4 (which includes diversion programs)  YES  NO
11. Are you now on probation or parole for any criminal or administrative violations in this state or any other state? (Attach certified copies of all disciplinary or court documents)  YES  NO
12. Have you ever had disciplinary action taken against your optometric license in this state or any other state?  YES  NO

IF YOU ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, YOU MUST ATTACHMENT A STATEMENT OF EXPLANATION GIVING FULL DETAILS.

**ON A SEPARATE SHEET OF PAPER PROVIDE THE FOLLOWING INFORMATION**

13. List the date of disciplinary action taken against your license and explain fully the cause of the disciplinary action.
14. Explain fully why you feel your license should be restored, or the disciplinary penalty reduced.
15. Describe in detail your activities and occupation since the date of the disciplinary action; include dates, employers and locations.
16. Describe any rehabilitative or corrective measures you have taken since your license was disciplined to support your petition.
17. List all post-graduate or refresher courses, with dates, location and type of course, you have taken since your license was disciplined.
18. List all optometric literature you have studied during the last year.
19. List all continuing education courses you have completed since your license was disciplined.
20. List names, addresses and telephone numbers of persons submitting letters of recommendation accompanying this petition.

I declare under penalty of perjury under the laws of the State of California that the answers and information given by me in completing this petition, and any attachments, are true and I understand and agree that any misstatements of material facts will be cause for the rejection of this petition.

Date 4/25/16 Signature 

All items of information requested in this petition are mandatory. Failure to provide any of the requested information will result in the petition being rejected as incomplete. The information will be used to determine qualifications for reinstatement, reduction of penalty or early termination of probation. The person responsible for information maintenance is the Executive Officer of the Board of Optometry at 2420 Del Paso Road, Suite 255, Sacramento, California, 95834. This information may be transferred to another governmental agency such as a law enforcement agency, if necessary to perform its duties. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified confidential information and exempted by Section 1798.3 of the Civil Code.

To: Directors and Members of the California Board of Optometry

Re: Dr. Gregory Tom, O.D.  
Application for Early Termination of Probation

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I originally surrendered my license as a result of an audit by VSP that revealed improper billing. While I cannot undue what I have done, I am extremely humbled and remorseful for my actions. I am very sorry that I did not uphold my optometric oath and that I allowed money to compromise my integrity and honesty. My professional abilities have never been questioned and I have made life-saving diagnoses. But, I let material goals outweigh my moral and ethical values. It was an error in judgment that I have learned a lot from, and it will never happen again.

I learned a valuable lesson. I will never forget what I put my family through, nor will I forget all the hard work that I put into my professional career, only to lose my practices and license. Every day for the past 10 years, I am reminded of my careless mistakes and how my actions affected the lives of others. At the time, I was single and did not have a great deal of responsibilities. I now have a family with two young children. Having children changes people. Each day I try to be a role model for my family. My actions and my choices are contributing every day to their development of their values and ethical parameters. They are now old enough to understand mistakes and they are developing their own ethical boundaries. I feel that I am strong enough and have rehabilitated myself to be a great parent, teacher, and contributing doctor to my community.

The road to this point has been filled with many trials and tests. Recently, I suddenly lost my father to cancer. He was a great role model to me and every day I constantly strive to make amends for my past actions. When he found out about my situation, he was disappointed but he forgave me. I have finally learned to forgive myself. I have come to terms with the consequences of my decisions. Before he passed, I promised my father I would atone for my errors and I will keep that promise to him.

### Factors Supporting Early Termination of Probation

Dr. Tom is currently only able to work for other doctors under their direct supervision. Dr. Tom has a strict policy of providing only services that are authorized by the insurance plan. He has studied, learned, and understands the specifics of each medical plan where he works. If multiple procedures are performed, he advises the staff and surgeon that billing cannot be done in certain circumstances if those are the insurance rules. He is constantly aware of insurance boundaries and always places patient care first and foremost. His actions show he has developed boundaries and awareness of proper billing. Even though he does not own the office, he is instinctively watching out for the office's billing accuracies.

His records have been audited each month by his monitor and have not shown any deficiencies in regards to his professional abilities or record keeping. Dr. Tom's monitor has visited each doctor's office he has worked for to inspect and observe the work environment and role Dr. Tom performs.

Dr. Tom continues to teach about the eye at financially challenged schools as part of their science class. He has taught this class since 2009. This was an added community volunteer service that was not required by his current probation. In the class, he also performs multiple dissections of a bovine eye for every student to see and touch. This has helped expand students' interest in science and optometry in schools that typically do not have abundant financial resources. He also talks to the students about doing the right thing and doing things the right way.

Dr. Tom is a highly motivated optometrist and loves his profession. He continues to take more than the required continuing education. He has continued to expand his optometric license parameters. In 2015, he completed his glaucoma certification and can now treat glaucoma under his license in California. If the Petition is granted, Dr. Tom wants to provide care to areas of need in Oakland and San Leandro, where a high incidence of diabetes and glaucoma exists.

Monthly, he continues to perform volunteer optometric services at an eye clinic in an economically challenged area that serves San Leandro and Oakland, California. His probationary terms require 16 hours per month. He routinely volunteers 25% more hours than required. Dr. Tom helped start the eye clinic. where there was a need but no resources available. He supplied the equipment, including the phoropters, projectors, trial lenses, slit lamp, and portable tonometer. The eye clinic has built a very solid rapport with local M.D.s who are very appreciative of Dr. Tom's diagnostic abilities and donation of time. If granted his early termination of his probation, Dr. Tom intends to continue to provide volunteer optometric services at this clinic.

Though it is expected, it is still important to know that Dr. Tom has been completely compliant with all terms of his probation. He has completed his law test ahead of schedule. He prepaid the monthly fee required by the Board to maintain his probation. He took his probation seriously, committed to meeting or exceeding every requirement, and has done so.

Dr. Tom has submitted several letters of recommendation vouching for his character and professionalism. Superior Court Judge Braden Woods supports Dr. Tom's full reinstatement, the public's need for his abilities, and states, "Dr. Tom has redeemed himself and can be trusted to follow the ethical boundaries of his profession and make a positive contribution to society. His acting probation monitor, Dr. James Young, O.D., describes his accurate record keeping and sees no deficiencies in any and all audits. Another one is from his current employer, Dr. Sarbjit Hundal, M.D. Dr. Mika Hiramatsu, M.D., Director of RotaCare, provided a letter in regards to his devotion and help in creating a free optometry center in San Leandro, California. Dr. Michelle Tom, M.D., describes his desire to practice and how his skills are needed in the community.

Dr. Tom has been licensed for over 22 years. His mistake and conduct that resulted in his discipline was related to a VSP insurance adverse action. He has suffered from financial hardship and his health has also suffered from all the stress. He has served 33 months of his 60-month probation and will have served 36 months by the time the Board's decision is made. He's not asking to be forgiven or excused, he's saying that the probation has achieved its purpose of rehabilitation and he's asking to have that probation ended early.

Dr. Tom has not practiced independent optometry since 2006 and would love nothing more than to be able to return to private practice and contribute to those needed communities. He has the knowledge, desire, expertise and advanced credentials to help his community. But, more than that, he has the commitment to ethics and honesty that this Board can be comfortable and confident that he will not repeat the things that got him into this situation again. Based on the supporting factors above, his 100% compliance with his probationary terms, his dedication to advancing his license with glaucoma certification, his extensive volunteer activities and donation of time, and, more than anything, his acknowledgment that what he did was wrong, it would in the best interest of the public to allow the Petitioner to terminate probation. There is nothing further to gain from continuing his probation. Dr. Tom is remorseful and wants a chance to start over. He is safe to return without any license restriction and has clearly solidified his professional ethical and moral boundaries.



## **Questions 13-20**

**Question 12: Have you ever had disciplinary action taken against your optometric license in this state or any other state? Please attach a statement of explanation.**

As these questions are very similar, both Questions 12 and 13 are addressed below.

**Question 13: List the date of disciplinary action taken against your license and explain fully the cause of the disciplinary action.**

Yes, I have had disciplinary action taken against my optometric license in the state of California. I voluntarily surrendered my license in October 2007 and the Board of Optometry accepted this as of April 2008.

Vision Service Plan, VSP, performed its annual audit at my office locations. My San Mateo office was audited and found to have zero (0) violations. Subsequent audits of the San Ramon and San Jose offices produced several discrepancies with regards to billing on medically necessary contact lenses and glasses over contacts and prescription sunglasses for children. The audit was for 2001-2002.

At these offices, VSP specifically audited only patients that involved the above categories, necessary contacts and sunglasses on children. There were a total of 30 files audited in San Jose and 37 files audited in San Ramon.

An independent consultant, Dr. Daniel Lau, reviewed the charts in question. He agreed with some of the VSP findings and indicated there was evidence of overbilling on some contact lens supplies and glasses. VSP claimed that I owed them approximately \$85,000 in fees, of which \$50,000 was already paid. Many of the charges were contested with supporting documentation and shown to be correct. VSP, however, never responded to the claims. Several patients were in the middle of their fittings and had yet to return for follow up and they wore contact lenses, yet VSP did not respond to this evidence. The financial difference was withheld from the offices and VSP never provided any means of accounting or explanation of benefits.

Many of the claims were for medically necessary contact lenses. VSP had always allowed a back up pair of lenses for patients that meet these requirements. However, VSP had changed its rules to eliminate this and only allowed glasses over contacts. I had several patients negatively react to this change. I then would request the lab to remove the lenses and replace them with their full prescription so the patient now had a back up pair. At the time, I felt that the insurance company was not taking care of the patient. The patient still paid for all their costs and got their contacts covered also. We used a prefilled out form from VSP and always got paid the same amount. The fees received were in slightly higher than fees for private paying previous patients. The patient care and diagnosis was never compromised; however, the patient did receive benefits they would not normally have received under the new guidelines. Thus, the practice and patient benefited financially. In addition, some children were given prescription sunglasses and in some cases just non-prescription sunglasses. I understood that VSP did

not allow nonprescription lenses. My actions were foolish, irresponsible, and unethical in trying to take something from an insurance company even though it benefited the patient.

When I first obtained my optometry license I worked for a few private VSP doctors and they showed me how sunglasses were approved with just the smallest of prescriptions. I did not feel comfortable in giving prescription lenses to those who did not require it, so I contacted the lab and asked them if there was a way to remove the lenses and provide them with a better lens. They said yes and provided plano polycarbonate grey lenses. These actions were obviously not appropriate and very unprofessional and unethical. At the time, I thought it was a great way to promote sunglasses and get them covered under their insurance and help the parents out who were financially challenged. This method of billing was only done on these select patients. VSP subsequently removed me from its panel in 2002. Other major insurance companies were made aware of VSP findings and performed audits but no billing discrepancies were found and I remained in good status until I sold the businesses in February 2006.

The overbilling accounted for less than 0.01% of the total number of yearly exams. However, this in no way justifies what was done, even if it was just one patient.

#### **14. Explain why you feel your license should be restored, or the disciplinary penalty reduced.**

I would like to have my license fully reinstated based on my actions for the past 3 years and what I have learned over that time.

By accepting the probationary terms and embracing the Board's decision, I have successfully met all of the terms of my probation. In most cases I have exceeded or met the requirements before their due dates.

I worked diligently to finish my Ethic Class requirements immediately after my probation initiated and all the required essays. I traveled a long distance and met with the director to discuss the topics personally. In January 2014, I completed Ethical Concerns by the Pennsylvania College of Optometry. In 2015, I completed another Ethics class, Ethical Guidelines and Expected Conduct of Optometrists by Southern CA College of Optometry. I feel that this is an important achievement as it has helped me further develop ethical boundaries that I encounter each day. Each day I am reminded of my past and how I need to continue to be on the correct side of any ethical situations in life or in practice.

Another reason for my full reinstatement has been my extensive commitment to volunteer optometric services and non-optometric services.

Providing free optometric community service was a requirement of my probation. I have been volunteering at RotaCare in San Leandro, CA. RotaCare clinic is a non-profit corporation where doctors and nurses provide free medical care to the non-insured in surrounding communities. I started the eye care clinic at RotaCare. Prior to my start, there was no eye service available. In this community, there is a large segment of uninsured patients who are at high risk for glaucoma and diabetes based on the demographics. I was required to volunteer 16 hours per month. I have consistently provided up to 40% more than the required volunteer hours.

In addition, I personally provided all the equipment in the eye clinic from the phoropters, lensometer, trial lens, pupilometer, portable Goldman tonometer, retinoscope, ophthalmoscope, and BIO. I also helped locate and repair the Slit Lamp microscope currently in use. It is now a full eye clinic and has become a big contribution to the community. This is clearly stated in the letter of recommendation by its Medical Director, Dr. Mika Hiramatsu, M.D.

I treat patients from 3 months old to 80 years of age. I see many patients who are new to the USA and have never received adequate optometric care. I am proud to tell them I am an optometrist. I also interact with many MDs and residents. I am able to teach residents and MDs about the role modern optometry plays in health care and how optometrists do much more

than just glasses. Furthermore, I plan on continuing this volunteer work even if my license is fully reinstated. There is a high demand for eye care in this area and I feel that I can continue to make a difference with my skills as an optometrist and as a liaison between the optometric and medical community.

From 2008, I have volunteered at local schools to contribute back to the community. I have developed an optometric education program to teach elementary school children in economically challenged areas. I have taught in various classes each month during the year in Alameda and Contra Costa County. I educated students on the anatomy and functions of the human eye. I have received hundreds of letters from the students who are so appreciative of the time. This is critical in our schools given the lack of funds to do such activities.

In addition, I volunteered at schools to help enhance their science programs by conducting a “cow eye dissection” at various schools in Alameda, Contra Costa, and San Mateo County. All of the schools are lacking the necessary funding for such science projects. I purchase fresh cow eyes from slaughterhouses and bring them to the students to learn about the anatomy of the eye. The students are able to touch the parts and learn and have fun at the same time. It is a priceless experience. It has been so impacting that word is spreading and more teachers want the dissection in their classrooms.

Becoming glaucoma-certified is another way that I have continued to expand my scope of practice and improve my clinical skills to better serve my community. This was not a requirement by the terms of my probation or continuing education. I love my profession and I have always continued to improve my skills. To become glaucoma-certified, I had to put in the time to study the course material and pass the required tests. I need this certification to help the communities that do not have readily available access to medical care.

In summary, I have clearly met or exceeded all the requirements of my probationary terms. My actions, more than just words, clearly demonstrate my dedication to returning to full reinstatement and that I can be trusted to return to the public without monitoring. The extensive volunteer services shows that I am committed to my community. I am proud that I have made an impact on the community and I will continue to support the community moving forward. I feel that there is nothing further to gain from being on probation and my actions support my request to terminate my probation.

**15. Describe in detail your activities and occupation since the date of the disciplinary action; include dates, employers, and locations.**

My probation terms do not allow me to work independently. I have to be under the supervision of another doctor.

Working as an employed optometrist was a very daunting task. My previous employer, who wrote a letter of recommendation for me in 2012, had to hire another optometrist when I had to stop practicing in August 2012. Many potential employers will not hire an optometrist on probation, as insurance carriers did not allow probation optometrists to see patients. Often many ridiculed me if I was granted an interview. Corporations stated that HR did not allow optometrists on probation. It was a very humbling experience to be more than qualified but unable to find work.

I found some temporary work for an independent optometrist, Tammy Nguyen, who worked at JC Penny Optical in San Bruno, CA, which was over 90 minutes from my home. I was strictly an on-call doctor. I practiced general optometry doing eye exams and contact lens fittings. I was offered far less compensation than other optometrists, though, due to my probation. I began working for Dr. Nguyen on December 27, 2014 and continued until April 2015 when she gave up her lease.

I was then employed by Dr. William Ellis, M.D. from March 1, 2014 through August 23, 2014. I worked at his locations in El Cerrito, Walnut Creek, Corte Madera, and San Francisco. I screened for LASIK, pterygium, and cataract patients. I was again offered less compensation as a result of my probation.

I worked on call and for fill in for Dr. James Young, O.D., at Sears Optical a few days a month from January 27, 2014 until September 26, 2014 and remain on call. I performed general eye exams and contact lens fittings.

I worked part time for Dr. Tara Starr, M.D., in her Berkeley office and occasionally in her Lafayette office from October 2014 until April 2015, as she required an OD for six months. I performed general eye exams and work ups on all her surgical patients pre and post op, glaucoma patients, diabetics and general patients. I was limited in my work schedule due to inability to obtain membership on insurance panels. As such my compensation was markedly reduced based solely on the fact that I was a risk factor due to my probation.

Currently I work for Dr. Sarbjit Hundal, M.D. at the Mission Valley Eye Medical Center. I perform general eye exams and contact lens fittings. I work 12 hours per week and as an on call doctor. The reason for my limited work schedule is my inability to gain membership to medical and vision plans. They will not allow optometrist on probation to be on their panels. Dr. Hundal would prefer to have all optometrist on all panels. He has offered me work based on my clinical skills and ability to treat patients but will not increase my hours until I have panel membership.

I started the eye clinic at RotaCare at Davis Street in San Leandro, California. Finding a volunteer organization to practice optometry was a very challenging task. Several clinics denied my volunteer requests stating their Board did not approve probationary ODs. I approached RotaCare about starting an optometry clinic. I explained the high demand in the area and the need for this added service. RotaCare is the free clinic where doctors provide free medical treatment for non-insured patients. Prior to my start, there were no eye services available. The clinic did not have any funds to start an optometry clinic and vendors would not donate any equipment. The solution: I provided all the equipment in the eye clinic from the phoropters, trial lens, pupilometer, portable Goldman tonometer, retinoscope, ophthalmoscope, and BIO.

At RotaCare, we treat patients of all ages who do not have medical insurance. I work with other nurses, MDs, and medical students. Together we provide valuable medical services for an underserved community. I started working here in January 2014 and plan on continuing my volunteer services even post of my hopeful early termination of probation.

I have been a volunteer coach in my community for youth sports and development in the cities of San Ramon and Walnut Creek for the past 4 years. I have also spent last two years volunteering with the Catholic Youth Organization (CYO). I have implemented a lot of my life skills and core values into these settings. The directors and parents of these other leagues have noticed my unique teaching style and how it relates outside of sports. I have actually been asked to coach other teams and parents are now requesting for me to be their children's coach. I truly believe this is yet another way I am positively impacting local youth.

I have been volunteering at The First Tee since July 2009. I made the decision to continue this community volunteer service despite not having it be a term of my probation. I chose to do this because it enables me to positively affect kids and provides me yet another way to give back to the community. I have committed to do this in 2016 also. It will be 7 years this coming July. I have taken numerous classes and passed tests to become reach the level of Certified Golf Coach, which takes approximately 4 years to complete.

**16. Describe any rehabilitative or corrective measures you have taken since your license was disciplined to support your petition.**

Rehabilitation is defined as the ability to restore someone to a satisfactory state as through education or other means. I believe that my actions demonstrate the vindication of my character and will show that I am a reputable and ethical person.

My volunteer optometry services with RotaCare at Davis Street in San Leandro, CA has helped rehabilitate my character. My probation requirement was 16 hours per month. I have devoted time in excess of these hours almost every single month. I started the eye clinic here at RotaCare. They never had an eye clinic. I provide a great and needed service for this diverse, economically challenged community. I am truly fortunate when I see the expression on patients I see. Many are from foreign countries and have never had optometric eye care. Others have lost their jobs and have not received eye care in several years. Their expressions of happiness and words of gratitude are worth every minute. I truly feel that I am helping the community. RotaCare needed an optometrist but Dr. Tom, the optometrist, needed RotaCare just as much. As much as I have given, I have received and I am reminded of what an impact I have on those around me.

From 2013 to 2014, I have completed over 173 hour of continuing education. I am very committed to my profession and want to be at the forefront of it.

In 2015, I completed an additional 44 units of continuing education. In addition, I completed my glaucoma certification. By mid 2016, I will have completed 45 hours of continuing education. I respect my profession and education only further supports the rehabilitation of my character.

Another form of rehabilitation has been non-optometric community service by working with The First Tee. I stated work with the First Tee in July 2009 and this July 2016 will be 7 years of community service. This is a non-profit that helps introduce inner city and economically challenged children to the game of golf and its unique values. I am responsible for teaching the children life skills and how those skills relate to everyday life and how it will impact them and affect them in a positive manner. There are 9 core values: Honesty, Perseverance, Respect, Sportsmanship, Integrity, Responsibility, Confidence, Judgment, and Courtesy. We teach each of these values and how students can apply these everyday at home and in life.

Each year I have taken ethic classes. Ethical Concerns on January 27, 2014 by Dr. Roberto Pineda M.D., and Nancy Holekamp, M.D. The article addresses how doctors face ethical challenges how they apply to private practice and decisions we face daily in practice. Ethical Guidelines and Expected Conduct by Optometrists by Tony Carnevali, O.D was another ethics class. This article addressed the daily ethical situations optometrists encounter in clinical practice. These not only educate me on ethical issues, they remind me of issues I have experienced and how to react in the future.



**17. No courses were taken except for continuing education.**

**18. List all optometric literature you have studied during the last year.**

1. Review of Optometry
2. Optometric Management
3. Eye and Contact Lens Science and Clinical Practice
4. Optometry Today
5. Vision Monday
6. American Journal of Ophthalmology
7. Contact Lens Spectrum

Here is a sample list of the various articles that I have read and studied in the last 12 months:

New Technology for Dry Eye Treatment

New Surgical Options for Presbyopia

Myopia Control Strategy

The Rapid Evolution of Cataract Surgery

Ocular Surface Wellness

Eye On Glaucoma and OSD

Are You Clear on Your Macular Function Screening Responsibilities

Increase Your Allergy Know How

The Lowdown on Blue Light

OCT and Common Clinical Uses

Topical Steroids and the Treatment of Ocular Inflammation

Contact Lens Infiltrates

Collagen Cross Linking

Disorders of the Nasolacrimal Duct

Varicella Zoster Virus

Shingles to Chicken Pox

Corneal Transplant Surgery

The Minimally Invasive Glaucoma Surgery That Keeps its Promise

Marking Up Lenses for Scleral Fitting

The Impact of Environment on Dry Eye

Irregular Astigmatism

Is Cyclosporine the New Normal for Treating Dry Eye

The Role of Amniotic Membrane Transplantation

Integrated Cross Disciplinary Approaches to Management of Diabetic Eye Disease

Diet and Nutrition in AMD

Prevention and Management of Ocular Inflammation

**19. List all continuing education courses you have completed since your license was disciplined.**

	<b>Name</b>	<b>Date</b>	<b>Hours</b>
1.	Berkeley Practicum 2014	January 18-20, 2014	20
2.	Morgan Sarver Symposium 2014	May 2-4, 2014	21
3.	Ethical Concerns	January 27, 2014	1.0
4.	Optometry Medical Model Initiative	September 4, 2014	2.0
5.	CEing is Believing 2014	July 16-18, 2014	24
6.	Berkeley Practicum 2015	January 17-19, 2015	20
7.	CEing is Believing 2015	January 28-29, 2015	24
8.	Ethical Guidelines and Ethical Conduct by ODs	October 5, 2015	2.0
9.	Glaucoma Case Management	September 25, 2015	16
10.	Glaucoma Grand Rounds	August 13-14, 2015	16
11.	SIB 2016	February 25, 2016	22
12.	Integrated Cross-Disciplinary Management of Diabetes	April 7, 2016	2.0
13.	Morgan Symposium 2016	April 30, 2016	21

**20. List names, addresses, and telephone numbers of persons submitting letters of recommendations accompanying this petition.**

James Young, O.D.  
Probation Monitor  
1700 Stoneridge Mall Rd, 3<sup>rd</sup> Floor  
Pleasanton, CA 94588

Honorary Braden C. Woods  
Superior Court of CA  
County of San Francisco  
575 Polk St. – Dept. 8  
San Francisco, CA 94102

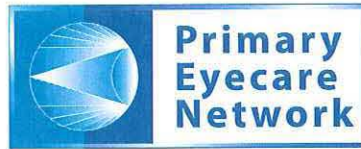
Michelle Tom, M.D.  
24451 Health Center Dr.  
Laguna Hills, CA 92653

Craig Steinberg, J.D  
Law office of Craig Steinberg, O.D, J.D.  
5737 Kanan Rd #540  
Agoura Hills, CA 91301  
(to arrive at hearing)

Mika Hiramatsu, M.D.  
Medical Director RotaCare Bay Area  
3081 Teagarden St.  
San Leandro, CA 94577

Dr. Sarbjit Hundal, M.D  
Medical Director, Mission Valley Eye Medical Center  
39263 Mission Blvd  
Fremont, CA 94539

## **Continuing Education Certificates**



## The Optometric Medical Model Initiative

Palm Event Center in the Vineyard - Pleasanton, California

September 4, 2014

COPE Event # Pending

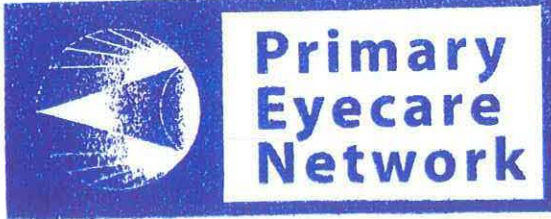
### Certificate of Attendance

Attendee Name: Gregory Tom, OD

Address: 3191 Crow Canyon PL San Ramon, CA 94583

License #: \_\_\_\_\_ State: \_\_\_\_\_ License #: \_\_\_\_\_ State: \_\_\_\_\_

*On completion of the event, please present this form to a course monitor to validate your attendance.*

Course ID#	Credit Hours	Course Title & Instructor	Validation
41665-GL	2 hours	Decisions in Glaucoma: When to pull the trigger Robert Prouty, OD	

Thank you for attending.  
You will receive a total of 2 Credit Hours for this event.



COPE Administrator: Mary Eastwood, OD, Manager of Education Services

**Please Note:**

Keep this certificate as your validated record of attendance. COPE Administrator will not notify any licensing board, or any other agency, of your attendance unless specifically required by your licensing board. COPE Administrator does not guarantee that the course you have attended has been approved for continuing education credit by your licensing board. COPE Administrator will retain a copy of this certificate for 5 years.

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SANTA BARBARA • SANTA CRUZ

DENNIS M. LEVI, O.D., PH.D.
DEAN

SCHOOL OF OPTOMETRY
BERKELEY, CALIFORNIA 94720-2020

January 21, 2014

To Whom It May Concern:

This is to certify that Gregory Tom, OD, attended the following lectures on January 18 - 20, 2014, at the 25th Annual Berkeley Practicum. The continuing education program was presented by the School of Optometry, University of California, Berkeley.

State CA License No. 10427T State License No.

January 18, 2014

8 TPA Hours
(including 2 GLAUC-CE Hours)

- Chirag Patel, MD Monday Morning Quarterback: Anterior Segment Triage and Treatments
Todd Margolis, MD, PhD Ocular Surface Diseases and Corneal Discomfort/Pain
Denise Goodwin, OD, FAAO Optic Nerve: Itis, Opathy, and Edema
Robert Prouty, OD, FAAO Glaucoma Treatments: From Medications to 'Reefer Madness'

January 19, 2014

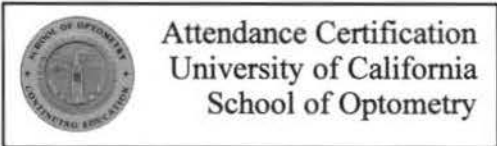
8 TPA Hours
(including 2 GLAUC-CE Hours)

- Robert Prouty, OD, FAAO Lumps, Bumps and Lid Lesions: Know When to Hold and to Fold
Leo Semes, OD, FAAO Adventures in Posterior Segment Grand Rounds
Harry Quigley, MD New Views of Glaucoma Therapy - 2014
Edward Chu, OD, FAAO Strokes and Ocular Manifestations in Your Patients: Prevention & Management

January 20, 2014

4 TPA Hours

- Mika Moy, OD, FAAO and Christina Wilmer, OD, FAAO How to Treat Anterior Ocular Infections: Updates and Practical Pearls
'Name that Disease': Cases and Treatments for Anterior Ocular Infections



Patsy L. Harvey, O.D., M.P.H
Continuing Education Director

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SANTA BARBARA • SANTA CRUZ

DENNIS M. LEVI, O.D., PH.D.  
DEAN

SCHOOL OF OPTOMETRY  
BERKELEY, CALIFORNIA 94720-2020

May 5, 2014

To Whom It May Concern:

This is to certify that **Gregory Tom, OD**, attended the following lectures on May 2-4, 2014, at the 29<sup>th</sup> Annual Morgan/Sarver Symposium. The continuing education program was presented by the School of Optometry, University of California, Berkeley.

State CA License No. 104275 State \_\_\_\_\_ License No. \_\_\_\_\_

**May 2, 2014**

**5 TPA Hours  
(including 5 GLAUC-CE Hours)**

Carl Jacobsen, OD and  
Todd Severin, MD

*2014 Updates on Detection, Diagnosis, Treatment and Management of Glaucoma  
Glaucoma Cases - Parts 1 and 2*

**May 3, 2014**

**6 TPA, 2 MISC Hours**

Etty Bitton, OD  
Ed Hernandez, OD  
William Townsend, OD  
Nancy Wong, OD

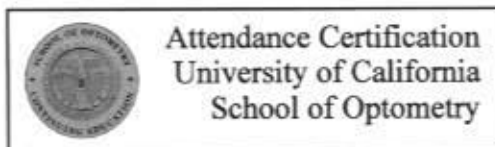
*Red, Green and Yellow: Understanding Ocular Surface Staining  
Vision Care in California: New Directions, New Treatments  
My Retinal Detachment: Now I See, Now I Don't  
Optical Coherence Tomography (OCT): Posterior Segment Applications*

**May 4, 2014**

**8 TPA Hours**

Leonard Messner, OD  
Etty Bitton, OD  
William Townsend, OD  
Michael Samuel, MD

*Concussions: Neuro-Ophthalmology, Complications & Management  
Not a Dry Eye in the House  
Diabetes and the Eye: What We Must Know For Our Patients  
Ocular Nutrition: Treating Macular Degeneration with Nutritional Supplements*



Patsy L. Harvey, O.D., M.P.H.  
Continuing Education Director



## CEiB 2014 CERTIFICATE OF ATTENDANCE



**Dr. Gregory Tom**  
 202 Aspenwood Ct  
 San Ramon CA 94582  
 United States  
**OE Tracker: 534000**

**Administrator:**  
 Daniel Rostenne, EyeCarePro  
 55 Douglas Crescent  
 Toronto ON, M4W 2E6  
 (412) 532-6542 - danielr@eyecarepro.net

**Event:**  
 COPE Event #107654  
 Event Title: CEiB2014  
 Location: Online  
 Dates: July 16th - 22nd, 2014

Date	Course	Instructor(s)	Credit Type	Hours	Test
8/26/2014	A day in the Retina Clinic (41386-PS)	Leo Semes	COPE Approved - Online	1	Passed
7/16/2014	Effective Perimetry (41339-GO)	Joe Pizzimenti	COPE Approved - Online Interactive	1	Passed
8/26/2014	Eye Nutrition 101: What You Need to Know and How to Exp... (41913-GO)	Steven Newman	COPE Approved - Online	1	Passed
8/26/2014	Myopia Control: Peer Reviewed Research Update (42019-GO)	Alan Glazier	COPE Approved - Online	1	Passed
7/16/2014	OhhAhhhAhhh - The Magic of Orthokeratology Continues - ... (38243-CL)	Cary Herzberg	COPE Approved - Online Interactive	1	Passed
7/16/2014	Pain Management in the Optometric Practice (41272-PH)	Steven Ferruci	COPE Approved - Online Interactive	1	Passed
7/16/2014	Ultra-widefield Auto-Fluorescence Advantages and Limita... (34529-PS)	Jerome Sherman	COPE Approved - Online Interactive	1	Passed
8/26/2014	Become The Consultant Of Your Business (42125-PM)	Jay Binkowitz	COPE Approved - Online	1	Passed
7/16/2014	Diabetes: A Public Health Crisis (41338-SD)	Joe Pizzimenti	COPE Approved - Online Interactive	1	Passed
8/26/2014	Diagnosing the Surface: Current Technologies for Ocular... (41838-AS)	Richard Maharaj	COPE Approved - Online	1	Passed
7/16/2014	High Energy Blue Light (41391-GO)	Thomas Gosling	COPE Approved - Online Interactive	1	Passed





# CEiB 2014 CERTIFICATE OF ATTENDANCE



**Gregory Tom**  
 202 Aspenwood Ct  
 San Ramon CA 94582  
 United States  
**OE Tracker: 534000**

**Administrator:**  
 Daniel Rostenne, EyeCarePro  
 55 Douglas Crescent  
 Toronto ON, M4W 2E6  
 (412) 532-6542 - danielr@eyecarepro.net

**Event:**  
 COPE Event #107654  
 Event Title: CEiB2014  
 Location: Online  
 Dates: July 16th - 22nd, 2014

Date	Course	Instructor(s)	Credit Type	Hours	Test
8/26/2014	Lipiflow Treatment for Evaporative Dry Eye (38023-SD)	Alan Glazier	COPE Approved - Online	1	Passed
8/26/2014	The Management of Eye Diseases using Epigenetics, Nutri... (37395-PD)	George Rozakis	COPE Approved - Online Interactive	1	Passed
8/26/2014	The Most Current Course on Corneal Collagen Cross Linki... (41987-AS)	Andrew Morgenstern	COPE Approved - Online	1	Passed
8/26/2014	Clinical Decisions in Glaucoma (41840-GL)	Mark Dunbar	COPE Approved - Online	1	Passed
8/26/2014	High Tech in Low Vision (41088-LV)	Alexis Malkin	COPE Approved - Online	1	Passed
8/26/2014	Infiltrates: From Tissue to Treatment (41387-CL)	Loretta Szczołka-Flynn	COPE Approved - Online	1	Passed
8/26/2014	When Equal is not Equal (41809-GO)	Agustin Gonzalez & Mel Friedman	COPE Approved - Online	1	Passed
8/26/2014	Paleo, Gluten-Free, Vegan: What's important for eye he... (41089-GO)	Laurie Capogna	COPE Approved - Online	1	Passed
8/26/2014	A Lifetime of Contact Lens Wear: The Keys to Making it ... (32965-CL)	Mile Brujic	COPE Approved - Online	1	Passed
8/26/2014	Modern Cataract Surgery with the Femtosecond Laser (41911-PO)	Rob Stutman and Scott Laborwit	COPE Approved - Online	1	Passed
8/26/2014	Beyond Dry Eye: Improving the Success of Treating the O... (41960-AS)	Scott Hauswirth	COPE Approved - Online	1	Passed



# CEiB 2014 CERTIFICATE OF ATTENDANCE



**Gregory Tom**  
202 Aspenwood Ct  
San Ramon CA 94582  
United States  
**OE Tracker: 534000**

**Administrator:**  
Daniel Rostenne, EyeCarePro  
55 Douglas Crescent  
Toronto ON, M4W 2E6  
(412) 532-6542 - danielr@eyecarepro.net

**Event:**  
COPE Event #107654  
Event Title: CEiB2014  
Location: Online  
Dates: July 16th - 22nd, 2014

Date	Course	Instructor(s)	Credit Type	Hours	Test
8/26/2014	The Power Of The Pupil (41087-NO)	Kelly Malloy	COPE Approved - Online	1	Passed
8/26/2014	Holes: Hold or Fold (41273-PS)	Diana Shechtman	COPE Approved - Online	1	Passed



# SiB 2015 CERTIFICATE OF ATTENDANCE



**Dr. Gregory Tom**  
 202 Aspenwood Ct  
 Pleasanton CA 94582  
 United States  
**OE Tracker: 534000**

**Administrator:**  
 Daniel Rostenne, EyeCarePro  
 55 Douglas Crescent  
 Toronto ON, M4W 2E6  
 (412) 532-6542 - danielr@eyecarepro.net

**Event:**  
 COPE Event #108539  
 Event Title: SiB2015  
 Location: Online  
 Dates: January 28th - 29th, 2015

Date	Course	Instructor(s)	Credit Type	Hours	Test
3/16/2015	Carotid Stenosis: The Manifestations and Clinical Spect... (43525-SD)	Richard Zimbalist	COPE Approved - Online	1	Passed
1/28/2015	K-Sicca? What to Pick-A?! (43782-AS)	Vicky Wong	COPE Approved - Online Interactive	1	Passed
1/28/2015	Low Vision Rehabilitation So Easy Even a Caveman Can Do It! (43703-LV)	Joseph Maino	COPE Approved - Online Interactive	1	Passed
1/28/2015	Reducing ARMD Risk Factors (43666-PS)	Steven Newman	COPE Approved - Online Interactive	1	Passed
1/28/2015	Updates on Collagen Cross Linking (43632-AS)	Andrew Morgenstern	COPE Approved - Online Interactive	1	Passed
3/16/2015	Retinal OCT Deconstructed (43583-GO)	Ian Raden	COPE Approved - Online	1	Passed
3/16/2015	Yuck – Demodex; Killing Those Little Buggers (43693-AS)	Alan Glazier	COPE Approved - Online	1	Passed
3/16/2015	Adv. Scleral Lens Technologies for the Treatment Cornea... (43802-AS)	Edward Boshnick	COPE Approved - Online	1	Passed
3/16/2015	Meet the Choroid (43588-GO)	Joseph Pizzimenti	COPE Approved - Online	1	Passed
3/16/2015	Sutureless Amniotic Membranes: When and How to use them (43691-AS)	Nicholas Colatrella	COPE Approved - Online	1	Passed

# CERTIFICATE of ACHIEVEMENT

This is to certify that

**Gregory Tom**

has completed the course

**Complete 16-Hour Glaucoma Case Management Course**

September 25, 2015



Dennis M. Levi, OD, PhD  
Professor of Optometry and Vision Science;  
Professor of Neuroscience;  
Dean, School of Optometry

Credit Hours: 16.0

mwguuvlrPX

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JOHN G. FLANAGAN, O.D., PH.D.  
DEAN

SCHOOL OF OPTOMETRY  
BERKELEY, CALIFORNIA 94720-2020

**UC Berkeley School of Optometry**

***Glaucoma Grand Rounds***

Thursday, August 13, 2015 – Friday, August 14, 2015  
Meredith W. Morgan Eye Center ~ Minor Hall, Berkeley Campus

This is to certify that ***Gregory Tom, OD***

State CA License No. 10927 State \_\_\_\_\_ License No. \_\_\_\_\_

attended the UC Berkeley School of Optometry sponsored program on August 13-14, 2015.

**SPEAKER**

**LECTURE TITLE**

**Thursday, August 13, 2015**

Glen Ozawa, OD  
Glen Ozawa, OD and Karen Walker-Brandreth, OD  
Glen Ozawa, OD and Karen Walker-Brandreth, OD  
Karen Walker-Brandreth, OD  
Glen Ozawa, OD and Karen Walker-Brandreth, OD

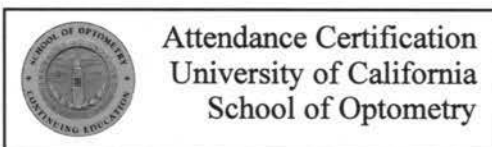
*Glaucoma Patient Grand Rounds – An Introduction*  
*Glaucoma Patient Cases and Pre-Case Review*  
*Glaucoma Patient Grand Rounds*  
*Optic Nerve Evaluation in Glaucoma*  
*Glaucoma Patient Case Presentations and Review*

**Friday, August 14, 2015**

Glen Ozawa, OD and Karen Walker-Brandreth, OD  
Glen Ozawa, OD and Karen Walker-Brandreth, OD  
Glen Ozawa, OD and Karen Walker-Brandreth, OD

*Glaucoma Patient Pre-Case Review*  
*Glaucoma Patient Grand Rounds*  
*Glaucoma Patient Case Presentations and Review*

**16 Hours TPA CE  
including 16 GLAUC-CE Hours**



Christina S. Wilmer, OD, FAAO  
Associate Dean of Clinical Affairs

# CE CREDIT CERTIFICATE

Agenda Item 2, Attachment 1

## Event

COPE Event ID #: 109510  
Title: Integrated Cross-Disciplinary Approaches to the Management of Diabetic Eye Diseases  
City: Ambler | State: PA  
Dates: 2015-06-23 - 2017-06-23

**Dr. Gregory Tom**  
202 Aspenwood Ct  
San Ramon CA 94582  
**OE Tracker:** 534000

**Administrator**  
Maureen Platt  
321 Norristown Road, Suite 150  
Ambler, PA 19002  
(215) 628-7754 - Maureen.Platt@PentaVisionMedia.com

Date	Course	Credit Type	Hours	Test
4/7/2016	Integrated Cross-Disciplinary Approaches to the Management of Diabetic Eye Diseases <b>COPE ID:</b> 45276-SD <b>Instructor(s):</b> Joseph Pizzimenti O.D	Written	2	Passed: 95%

**Course History for Licensee Gregory L. Tom, O.D.  
From: 01/01/2016 - 04/14/2016**

**If you have attended CE courses that are not listed below, please fax your attendance certificates to ARBO at 1-888-703-4848 and we will add them to your account**

Course Title	COPE ID	CEE	Category	Format	Date Completed	Instructor	Provider	Hours	Serial #
Anterior Segment OCT Applications in Contact Lens Evaluation Lake Oswego, OR	47245-CL		Contact Lenses	Internet/Online	02/25/2016	Jeffrey Sonsino	PROACTIVE OPTOMETRIC PHYSICIANS	1	11872054
The Role of VEP and PERG in Eye Care Lake Oswego, OR	47316-PD		Principles of Diagnosis	Internet/Online	02/16/2016	Alberto Gonzalez Garcia	PROACTIVE OPTOMETRIC PHYSICIANS	2	11894565
Applications of OCT Technology for Anterior Segment and Contact Lens Management Lake Oswego, OR	47420-AS		Trt/Mngmnt Anterior Segment	Internet/Online	02/16/2016	Steven Eiden	PROACTIVE OPTOMETRIC PHYSICIANS	1	11894566
Detecting Lesions with Widefield color and AF Images and Diagnosing the Detected Lesions with SD OCT Lake Oswego, OR	47514-PS		Trt/Mngmnt Posterior Segment	Internet/Online	02/16/2016	Jerome Sherman	PROACTIVE OPTOMETRIC PHYSICIANS	1	11894567
Clinical Evaluation of Eyelid Lesions Lake Oswego, OR	47229-SD		Systemic/Ocular Disease	Internet/Online	02/13/2016	James Milite	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884249
The Use of Off Label Drugs and Treatments in Optometric Care Lake Oswego, OR	47314-PH		Pharmacology	Internet/Online	02/13/2016	Steve Silberberg	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884255
The Top 10 Reasons to Measure Macular Pigment MP Lake Oswego, OR	47746-PS		Trt/Mngmnt Posterior Segment	Internet/Online	02/13/2016	Stuart Richer	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884259
Blepharitis, MGD and Ocular Surface Disease Lake Oswego, OR	47247-AS		Trt/Mngmnt Anterior Segment	Internet/Online	02/12/2016	Ian Gaddie	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884251
Ophthalmic Drug Delivery Systems Lake Oswego, OR	47279-PH		Pharmacology	Internet/Online	02/12/2016	Agustin Gonzalez	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884252
How to be a Hero The Eye and Systemic Disease Lake Oswego, OR	47284-SD		Systemic/Ocular Disease	Internet/Online	02/12/2016	Mark Friedberg	PROACTIVE OPTOMETRIC PHYSICIANS	2	11884253
Medical Therapy Is Not Enough - Whats Next Lake Oswego, OR	47219-GL		Glaucoma	Internet/Online	02/11/2016	Richard Witlin	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884248
Dry Eye The Past, Present, and Future Lake Oswego, OR	47244-AS		Trt/Mngmnt Anterior Segment	Internet/Online	02/11/2016	David Kading	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884250
Complications of Ocular Surgery and Their Management Lake Oswego, OR	47289-PO		Peri-Op Mngmt of Ophth Surgery	Internet/Online	02/11/2016	Mark Friedberg	PROACTIVE OPTOMETRIC PHYSICIANS	2	11884254
Key to Retinal Assessment Making Visible what is Invisible Lake Oswego, OR	47515-PS		Trt/Mngmnt Posterior Segment	Internet/Online	02/11/2016	Jerome Sherman	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884257
Advanced Cataract Co-Management Lake Oswego, OR	47185-PO		Peri-Op Mngmt of Ophth Surgery	Internet/Online	02/10/2016	Richard Witlin	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884247
The Harsh Reality of Posterior Segment Disease in a Healthy Patient Practice Lake Oswego, OR	47329-PS		Trt/Mngmnt Posterior Segment	Internet/Online	02/10/2016	Gina Wesley	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884256
The role of Inflammation in systemic and retinal Lake Oswego, OR	47577-SD		Systemic/Ocular Disease	Internet/Online	02/10/2016	Stuart Richer	PROACTIVE OPTOMETRIC PHYSICIANS	1	11884258
Infections of the Ocular Adnexa Lake Oswego, OR	47228-SD		Systemic/Ocular Disease	Internet/Online	02/09/2016	James Milite	PROACTIVE OPTOMETRIC PHYSICIANS	1	11872053
Life on the Edge Part 2 Lake Oswego, OR	47373-AS		Trt/Mngmnt Anterior Segment	Internet/Online	02/09/2016	Katherine Mastrota	PROACTIVE OPTOMETRIC PHYSICIANS	1	11872055
<b>TOTAL COPE HOURS - 22</b>							<b>TOTAL NON-COPE HOURS - 0</b>		
<b>TOTAL HOURS: 22</b>									

**Signature Agreement**

**By signing this document, I do hereby attest that I personally attended the listed course(s) and the information included is accurate to the best of my knowledge. I understand that the information attested to in this certificate may be shared with relevant optometry licensing boards or other state agency responsible for the licensure and regulation of optometrists.**

.....  
Signature

Agenda Item 2, Attachment 1  
.....  
Date



## **Ethics Class Certification**

# CERTIFICATE OF CONTINUING PROFESSIONAL EDUCATION

**Accreditation:** The Audio-Digest Foundation is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians.

**Designation:** The Audio-Digest Foundation designates most of its Enduring Materials for a maximum of 2 *AMA PRA Category 1 Credits*<sup>™</sup>. Physicians should claim only the credit commensurate with the extent of their participation in the activity.  
 \*Note: Each ACCEL program is designated for a maximum of 4 *AMA PRA Category 1 Credits*<sup>™</sup>.

Audio-Digest Foundation is accredited as a provider of continuing nursing education by the American Nurses Credentialing Center's (ANCC's) Commission on Accreditation. Audio-Digest awards 2.0 contact hours (or 4.0 contact hours for the ACCEL program) for each clinical activity.

GREGORY L TOM OD  
 202 ASPENWOOD CT  
 SAN RAMON CA 94582

DATE 01/27/2014  
 CUSTOMER ID # 22175911  
 LICENSE # \_\_\_\_\_  
 STATE OF LICENSURE: \_\_\_\_\_

**THIS PARTICIPANT HAS SUCCESSFULLY COMPLETED THE FOLLOWING CE ACTIVITIES  
 (APPLIES TO TESTS GRADED Jan 27 2011 THRU Jan 27 2014)**

DATE	VOLUME ISSUE	TITLE	PRE/POST-TEST	CE CREDITS
<b>OPHTHALMOLOGY</b>				
01/27/14	49-04	ETHICAL CONCERNS <i>Roberto Pineda, MD, Nancy M. Holekamp, MD</i> Test answers: 1=D, 2=C, 3=A, 4=D, 5=A, 6=D, 7=D, 8=B, 9=A, 10=D COPE # 30235-EJ, Event ID # 101652	60% 100%	1.0

**TOTAL CE CREDITS EARNED : 1.0**



The Pennsylvania College of Optometry (PCO) at Salus University is designated by the Council on Optometric Practitioner Education (COPE) as the COPE-Qualified Administrator of Continuing Education for Optometrists for *Audio-Digest Ophthalmology*. Upon COPE approval, PCO at Salus University designates each issue of *Audio-Digest Ophthalmology* for 1.0 CE credit for ODs for a maximum of 3 years from the publication date. ODs should contact their state boards for the number of recorded media credits accepted: <http://www.arbo.org/statecerequirements.php>



**Marshall B. KETCHUM UNIVERSITY**  
Southern California College of Optometry

**QUALITY ONLINE EDUCATION  
FOR INDEPENDENT OPTOMETRY**

**EXAM PASSED**

**You answered 16 out of 20 questions correctly.  
Your score is 80 %.  
A passing grade is 70 %.**

**Congratulations!** You passed the examination. Here are the results of your exam to print for your records. You will receive your CE certificate via Email. If you do not receive your certificate within the next 5 minutes, please call Sue Atkinson at 714 449-7442 or email ce@ketchum.edu.

**Course ID:** 16  
**Course Name:** Ethical Guidelines and Expected Conduct by Optometrists (NEW 9/4/2014, 42516-EJ)  
**Registration #:** 4084  
**Date Registered:** 10/5/2015  
**Date Passed:** 10/5/2015 11:12:53 PM  
**Your Name:** Gregory Tom  
**Address:** 202 Aspenwood Ct  
**City:** San Ramon  
**State:** Ca  
**Zip:** 94582  
**Phone:** 5102068152  
**Fax:**  
**Email Address:** idoc4u2c@yahoo.com  
**License #:** 10427 TG  
**Vision West Member:** N

Be sure to come back to this site periodically to check for new courses which are being added on an ongoing basis.

**Please print this page for your records.**

[ONLINE CE HOME](#)

[MBKU HOME](#)

[VISION WEST HOME](#)

[CONTACT US](#)

BROUGHT TO YOU IN  
PARTNERSHIP WITH



**Marshall B. KETCHUM UNIVERSITY**  
Southern California College of Optometry

## **CA Laws and Regulations Exam**

NAME: GREGORY TOM

BIRTHDATE: 07/16/1967

EXAM DATE: 12/05/2013

FILE ID: 4173

TEST CENTER: Walnut Creek



**EXAM:** California Optometry Laws and Regulations Examination

Congratulations! You have passed the California Optometry Laws and Regulations Examination.

**YOU ARE NOT YET LICENSED TO PRACTICE AS AN OPTOMETRIST.**

Your results will be sent to the California State Board of Optometry (SBO), which will advise you by letter of the other steps you may need to take to receive an Optometrist license.

A license will only be issued by SBO once you have passed the National Board of Examiners in Optometry Examination Parts 1-3, the California Laws and Regulations Examination, and SBO has received and reviewed criminal history information from the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI).

If you have already received notice from SBO that you have passed the California Laws and Regulations Examination and you have submitted all requirements for licensure, you should receive your license within 30 days from the date of passing this examination. If you have not received your Optometrist license by then, you may contact SBO after the 30-day period is over. Please do not call SBO before that time, as phone calls during this process will only further delay the mailing of notices and licenses.



CALIFORNIA STATE BOARD OF OPTOMETRY  
2450 DEL PASO ROAD, SUITE 105  
SACRAMENTO, CA 95834  
TELEPHONE: 916-575-7170  
WWW.OPTOMETRY.CA.GOV

  
*ASO*  
12/05/13

## **Letters of Recommendation**

---

James M. Young, O.D.  
1700 Stoneridge Mall Rd  
Pleasanton, CA 94588-3271  
T: 925.737.0126  
F: 925.737.0127

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April 15, 2016

To: Board members, Administrative Hearings officials

Re: Petition for Reduction of Penalty or Early Termination of Probation by #10427T, Tom, Gregory OD

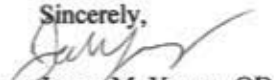
As Dr. Tom's practice monitor for the past 27 months of his 60-month probation term, I am pleased to endorse this Petition and to report he continues to demonstrate both good exam charting compliance and direct patient care.

At this time, I recommend the Board consider at least shortening the probation term if not granting early release, based on the following factors:

- Dr. Tom has now demonstrated professionally acceptable chart audit results for the past 27 months without any discrepancies. He does not perform, set, or control any patient billing or fee collection activities.
- Dr. Tom's prior violations and conduct have never involved his clinical competence or direct patient care.
- The original offenses occurred over 12 years ago (VSP insurance adverse action occurred 10.24.2003).
- Dr. Tom's work hours were recently severely cut due to inadmissibility to several insurance panels which comprise a large portion of the vast majority of eyecare employers' business. This cut was unrelated to Dr. Tom's patient care. This problem along with most employers' natural reluctance to hire probationers causes Dr. Tom substantial difficulty satisfying the minimum employment hours requirement.
- Dr. Tom willingly takes more C.E. and does more volunteer work than required. As Superior Court Judge B. Woods noted in 2013, such initiative and activity is favorable evidence toward rehabilitation.
- Dr. Tom and his household are now facing substantial financial hardship since his spouse was recently laid off from work. Dr. Tom truly wants to work and refuses to financially depend on others. Dr. Tom has excellent diagnostic skills and natural ability to create immediate valued rapport with patients, talents that are too valuable to go unused. However, he needs a clear license status to be useful to most employers.
- Dr. Tom has accepted full responsibility for prior offenses and probation violations, continues to suffer the consequences, and is strongly deterred against ever re-offending, due to heightened awareness of insurers' scrutiny, audits, and severely limited work opportunities. His clean audit results to date demonstrate increased conscientiousness and acceptance of the serious importance of professional ethics at all times.

Based on the foregoing, I sincerely believe Dr. Tom has accepted and learned from the gravity of his past misconduct and has sufficiently rehabilitated to deserve granting this Petition.

Sincerely,



James M. Young, OD

Superior Court of California  
County of San Francisco



BRADEN C. WOODS  
JUDGE

April 18, 2016

RE: Dr. Gregory Tom, O.D. – Petition for Full Reinstatement

Dear Members of the California Board of Optometry:

I believe the time has come to grant Dr. Gregory Tom's (Greg) petition for reinstatement. Over the past six years, Greg has honored his probation terms, shown remorse, and greatly improved his ability to make sound ethical decisions. He has demonstrated his rehabilitation through his actions, including: yearly ethics classes, public service through both optometric as well as non-optometric volunteer service, and commitment to the profession through starting a free eye clinic at Rotacare.

You will see in your files that I have written to you on Greg's behalf previously. In addition to being long-time friends of the Tom Family, my wife and I have been patients of Dr. Tom, and we have been following his progress throughout his probation.

Greg's dedication to not only completing but excelling during his probationary period has been remarkable. To the best of my knowledge, he has exceeded the expectations and requirements set forth for his probation, thereby proving worthy of reinstatement at this time. He has excellent clinic skills as an optometrist, and I am confident he will make a positive contribution to society.

Thank you for considering his petition. I can be contacted by phone or e-mail if I can provide any additional information.

Regards,

A handwritten signature in blue ink that reads "Braden C. Woods". The signature is fluid and cursive.

Hon. Braden C. Woods  
Superior Court of California  
County of San Francisco  
400 Mc Allister Street  
San Francisco, CA 94102  
(415) 551-4020 – bwoods@sftc.org





**RotaCare Bay Area, Inc.**  
San Leandro  
Davis Street Family Resource Center

11 April 2016

Jessica Sieferman  
California Board of Optometry  
Department of Consumer Affairs  
2450 Del Paso Road, Suite 105  
Sacramento, CA 95834

**RE: GREGORY TOM, OD**  
**License 10427**

Dear Ms. Sieferman

Dr. Gregory Tom has been an ongoing volunteer at the RotaCare Free Medical Clinic, San Leandro, since January 30, 2014. As you know, I am a pediatrician and the medical director of the clinic.

Dr. Tom has consistently volunteered beyond his required 16 hours per month at the clinic. He has been very reliable and consistent, and we have all greatly appreciated his expert assistance. The other volunteer physicians, medical residents, patients and families have found him friendly, helpful and happy to help. He often has seen more patients than any other provider during his clinic hours. We are very grateful to have this resource for our low-income patient population. I hope he will continue to volunteer for some time.

I support the early termination of Dr. Tom's probation. Please contact me if you need further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mika Hiramatsu'.

Mika Hiramatsu, MD



MISSION  
VALLEY  
EYE  
MEDICAL  
CENTER

SARB HUNDAL, M.D., F.A.C.S.  
Agenda Item 2, Attachment 1  
SURGEON/DIRECTOR

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39263 MISSION BLVD., • FREMONT, CA 94539 • (510) 796-4500 • FAX (510) 796-4573

April 15, 2016

To: California Optometric Board

Dr. Gregory Tom, O.D., has been working in my office for approximately one year. He has been an asset to my practice as he has very good clinical skills, diagnostic ability and I am very comfortable and happy with his ability to perform his duties as an optometrist.

Patients are very satisfied with the level of care and communication that they receive from Dr. Tom. They trust his recommendations, as do I - he has provided care for several patients that have been with me for over thirty years.

In terms of his character, I would describe him as very professional, honest, and trustworthy. I can vouch for him as an outstanding optometrist who always places patient care as the main priority.

Having his license fully reinstated would be of benefit to the public as they would gain a very competent and caring doctor who can practice optometry to the fullest extent.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Hundal', written in a cursive style.

Dr. Sarbjit Hundal, M.D.  
Medical Director  
Mission Valley Eye Medical Center  
39263 Mission Blvd  
Fremont, CA 94539

April 18, 2016

To : Board of Optometry

I am writing this letter on behalf of Gregory Tom's reinstatement for his optometry license. I am aware of his past offenses and believe the board should reconsider its decision to reinstate his license.

As his sister, I can tell you that there has been a radical change in his character. He is truly remorse for what has occurred and has become a different person. He is humble and kind. I see the change in the way he interacts with his family and friends that I have never seen before. He spends significant amount of time with his two young children. He is patient and loving. He teaches them to be honest, patient, and humble. Our relationship is the best it has ever been.

He volunteers and teaches children in underserved areas. He helped start the free eye clinic at Rotacare in San Leandro, CA. His care and compassion for helping children is demonstrated as the coach and mentor for two of the local youth basketball teams.

As an optometrist, he has excellent clinical skills and possesses a wonderful bedside manner. His patients respect his clinical decisions and his easy going personality have made him very popular. When the Board of Optometry revoked his license, Gregory informed his office and his patient's that he was no longer practicing optometry. There were many tears shed that day. The community not only lost one of its best clinicians but a well respected leader as well.

Gregory is extremely remorseful about what transpired and has learned much from this experience. His past actions weigh heavily on his shoulders. Not a day goes by that he does not regret his previous mistakes. He takes responsibility for his actions. He is a very different person now than he was then. I do not believe he would take those same actions today. It is important that you are aware that Gregory's past actions are out of character for him. He has never previously been associated with any wrong-doing or misrepresentation, nor will he in the future.

Since this matter, Gregory's whole life has changed. He continues to stay involved in his local community and works tremendously hard to regain their trust and respect. I would ask that when you review Gregory's past actions, that you also consider his change in character, dedication to his profession and devotion to his community. Please be mindful that, "Good people make mistakes. Even the best of us." What is even more important is what you do after the mistake is made. We all deserve a second chance.

I believe that Gregory Tom would be an invaluable addition to the practice of optometry. I strongly recommend without reservation that the Optometry Board reconsider reinstating Gregory's license.

Sincerely,



Michelle Tom, M.D.

BEFORE THE  
BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Reduction of  
Penalty or Early Termination of Probation:

Case No. CC 2013-47

GREGORY L. TOM,

OAH No. 2015010052

Optometrist License No. 10427

Petitioner.

**DECISION**

This matter was heard before a quorum of the California Board of Optometry (the Board), Department of Consumer Affairs, State of California, in Van Nuys, California, on January 23, 2015.

Matthew Goldsby, Administrative Law Judge, Office of Administrative Hearings, presided over the hearing.

Petitioner Gregory L. Tom appeared and represented himself.

Deputy Attorney General Sydney Mehringer appeared on behalf of the Office of the Attorney General, State of California.

The petitioner's evidence and the arguments and observations of the Deputy Attorney General were presented in open session. Board members had the opportunity to ask questions to assist in their deliberations. Additionally, Board members read and considered the petition and exhibits filed by the petitioner. At the conclusion of the open hearing on the petition, the Board met in closed session to deliberate and to vote on whether to approve the petition.

The matter was submitted at the conclusion of the hearing.

**FACTUAL FINDINGS**

1. On September 22, 1994, the Board issued Optometry License number 10427 to the petitioner.

2. In 2001 and 2002, the petitioner submitted bills to Vision Service Plan (VSP) for payment as an authorized service provider. After VSP conducted an audit, the insurance carrier determined that the petitioner had submitted fraudulent or improper bills totaling \$84,829.53.

3. On March 26, 2007, while acting in her official capacity, Taryn Smith (the complainant), as executive officer of the Board, brought an Accusation against the petitioner. The petitioner stipulated to the surrender of his license and, without making any specific admission, agreed that there was a factual basis for the imposition of discipline.

4. On April 3, 2008, the Board adopted the Stipulated Surrender of License and Order. Costs were awarded to the Board in the amount of \$11,284.57.

5. Thereafter, the petitioner filed a petition for reinstatement of his license. At the hearing on his petition, the petitioner appeared before the Board and testified on his own behalf. He presented evidence of paying partial restitution to the insurance carrier and character references from a probation monitor.

6. On June 15, 2009, the Board granted the petition for reinstatement. The petitioner's license was reinstated and immediately revoked, with the revocation stayed and the license placed on probation for five years.

7. On November 19, 2010, the petitioner filed a Petition for the Reduction of Penalty or Early Termination of Probation. At the hearing on his petition, the petitioner appeared before the Board and testified again on his own behalf. However, the evidence showed that the petitioner had failed to comply with the previous terms of probation. The petitioner performed optometry services at a local college for compensation without reporting the work to the Board. He was also not supervised by another optometrist as required by the terms of probation. After being admonished for the violation, the petitioner wrote a check to reimburse the college the compensation he had received. On the face of the reimbursement check, the petitioner inserted the memo "donation." The Board denied the petition based on (1) the claimant's failure to comply with previously imposed terms of probation and (2) the Board's concern that the petitioner was attempting to derive a tax benefit when he reimbursed the college.

8. On August 18, 2011, the complainant filed a Petition to Revoke Probation on six grounds of probation violations. On August 29, 2012, the petition was granted, the stay of revocation was lifted and the prior order of revocation was imposed.

9. Thereafter, the petitioner filed a Petition for Reinstatement of his license. On November 12, 2013, the Board granted the petition based on the petitioner's evidence, including his testimony. A license was issued to the petitioner and immediately revoked, with the revocation stayed and the license was placed on probation for five years, beginning December 11, 2013.

10. Beginning in January 2014, the petitioner commenced work under the supervision of a licensed optometrist. He is assigned clinical work and examines patients, but

he handles no administrative or billing tasks. The petitioner has performed to the satisfaction of his monitor and patients. The petitioner has been unable to secure other employment because of his probationary status.

11. The petitioner and his monitor have filed quarterly reports with the Board. The petitioner has donated time to serve communities without insurance or other resources for eye care. He teaches life skills to children and volunteers as a coach. He has completed continuing education courses in law and ethics.

12. On December 12, 2014, the petitioner filed his second Petition for the Reduction of Penalty or Early Termination of Probation. At the hearing on his petition, the petitioner appeared before the Board and testified that he had learned from his mistakes and that he was extremely remorseful. However, this testimony was identical in content and tone as the testimony given in prior hearings, and yet the petitioner's conduct failed to comport with those prior assurances. Accordingly, the petitioner's testimony is unreliable and not credited.

#### LEGAL CONCLUSIONS

1. Cause does not exist to grant the Petition for Penalty Reduction or Early Termination of Probation pursuant to Government Code section 11522 because the petitioner has not demonstrated that he is rehabilitated from his prior acts and offenses under the criteria of California Code of Regulations, title 16, section 1516. (Factual Findings, paragraphs 1 through 10; Legal Conclusions, paragraphs 2 through 6.)

2. Government Code section 11522 provides that a person whose license has been revoked or suspended may petition the agency for a reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition.

3. Business and Professions Code section 3091, subdivision (b), authorizes the Board, on the petition of a licensee, to modify or terminate the terms and conditions imposed on the probationary license.

4. The petitioner bears the burden of establishing his fitness for early termination of probation. (Evid. Code, § 500.) In a proceeding to restore a revoked or surrendered license, the burden rests on the petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392.) An individual seeking reinstatement must present strong proof of rehabilitation, which must be sufficient to overcome the former adverse determination. The standard of proof is clear and convincing evidence to a reasonable certainty. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308.) While the petitioner is seeking termination of probation, the principles and standards set forth in the cited cases dealing with reinstatement of a license would logically apply to a petition for early termination of probation.

5. When considering a petition for reinstatement under Government Code section 11522, the Board must evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:<sup>1</sup>

- (A) The nature and severity of the acts or offenses.
- (B) The petitioner's total criminal record.
- (C) The time that has elapsed since commission of the acts or offenses.
- (D) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the petitioner.
- (E) If applicable, evidence of expungement proceedings pursuant to Penal Code section 1203.4.
- (F) Evidence, if any, of rehabilitation submitted by the petitioner.


6. The petitioner has committed multiple acts involving dishonesty. He submitted fraudulent or improper bills to VSP. He thereafter engaged in the unsupervised practice of optometry withholding notification to the Board in violation of the terms of his probation. He has substantial history of disciplinary action and his successful completion of the first year of a five-year probationary term is insufficient to evaluate or anticipate the petitioner's rehabilitation. The evidence is neither clear nor convincing that the petitioner is fit to engage in the practice of optometry without Board oversight. The public will be served only by the petitioner's satisfactory compliance with all terms of probation as previously ordered.

ORDER

The petition of Gregory L. Tom is denied. The terms of probation remain in full force and effect.

ORDERED: March 23, 2015

EFFECTIVE: April 22, 2015

  
Alejandro Arredondo, O.D., President  
California Board of Optometry  
Department of Consumer Affairs

<sup>1</sup> California Code of Regulations, title 16, section 1516, subdivisions (b) and (c).

BEFORE THE BOARD OF  
OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of License of:

Gregory Lawrence Tom

Optometrist License No. 10427

Respondent.

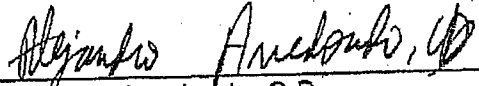
Case No. CG 2013-47

OAH No. 2013080607

**ORDER DENYING PETITION FOR RECONSIDERATION**

The Board of Optometry, having considered Respondent's  
November 28, 2013 letter as a Petition for Reconsideration in the above-entitled  
matter and determining that good cause for the granting of reconsideration has not  
been established, hereby denies the granting of the Petition.

IT IS SO ORDERED this 10th day of December, 2013.

  
Alejandro Arredondo, O.D.  
President  
California State Board of Optometry



BEFORE THE BOARD OF  
OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition  
for Reinstatement of:

OAH No. 2013080607

GREGORY TOM,  
  
Optometrist License No. 10427,  
  
Petitioner.

Agency Case No. CC 2013-47

**DECISION**

A quorum of the Board of Optometry (Board) heard this matter on September 13, 2013, in Pomona, California. Board member Donna Burke was present, but did not participate in the hearing or deliberations; she recused herself from this matter.

Chris Ruiz, Administrative Law Judge with the Office of Administrative Hearings was present at the hearing and during the consideration of the case, in accordance with Government Code section 11517.

Gregory Tom (Petitioner) represented himself.

Sydney Mehringer, Deputy Attorney General, represented the Attorney General of the State of California, pursuant to Government Code Section 11522. Jessica Sieferman, the Board's Enforcement staff, was also present during the proceedings.

The parties submitted the matter for decision, and the Board decided the case in executive session on September 13, 2013.

**FACTUAL FINDINGS**

1. On May 1, 2013, Petitioner filed a Petition for Reinstatement.
2. The Board issued optometrist license number 10427 to Petitioner on or about September 22, 1994.
3. In March 2007, the California Attorney General's Office filed an accusation against Petitioner alleging that from 2001 through 2006, Petitioner fraudulently submitted

bills to insurance provider Vision Services Plan totaling approximately \$80,000, and altered patient medical records.

4. In a Stipulated Surrender of License and Order, effective April 3, 2008, Petitioner agreed that there was a factual basis for discipline against his license for unprofessional conduct with regard to insurance fraud and the alteration of medical records; he surrendered his optometrist license.

5. Petitioner filed a Petition for Reinstatement of his optometrist license on February 23, 2009. The Board considered his petition on May 15, 2009, and in a Decision, effective July 15, 2009, the Board agreed to grant his petition. The Board reinstated Petitioner's optometrist license, effective January 1, 2010, immediately revoked it, stayed the revocation, and placed the license on five years probation with various terms and conditions.

6. Petitioner's probationary terms and conditions included, among others, being restricted to supervised employment by a Board-approved optometrist or ophthalmologist, prior to commencing employment (term and condition 2); and requiring Petitioner to inform the Board in writing of any change of place of practice within 15 days (term and condition 3).

7. In November 2010, Petitioner filed a Petition for Reduction of Penalty or Early Termination of Probation. Petitioner sought the early termination of his five-year probation. He contended it was appropriate to end his probation early because he was sufficiently rehabilitated from the earlier transgressions he committed. By Decision and Order, that Petition was denied effective August 16, 2011. Petitioner's Petition for Reconsideration filed thereafter was denied on September 20, 2011.

8. At a probation meeting in May 2011, Petitioner admitted that he had worked at three colleges between January 25 and 30, 2010. Petitioner asserted that he volunteered his services, but he was paid a stipend by the colleges and the student patients paid cash for their glasses. Petitioner contracted with the colleges under the business name of "Advanced Optometric Eyecare." According to the California Secretary of State, Advanced Optometric Eyecare is an active business with Petitioner as the agent for service. Petitioner used the tax identification number for this entity when contracting with the three colleges. His stipend ranged from approximately \$315 to \$350 for each day. Petitioner did not notify the Board before engaging in this work. He was not supervised by another optometrist. These activities by Petitioner violated Terms and Conditions numbers 2 and 3 of his probation. Petitioner explained that once he understood this was a violation of his probation, he issued personal checks to each college paying amounts greater than what he was paid. On each check, Petitioner wrote, "donation." This notation gave the Board concern that Petitioner sought to use these reimbursements as personal tax benefits, although when asked at hearing, Petitioner asserted he would not do so.

9. On August 18, 2011, the Board filed a Petition to Revoke Probation. By Decision and Order, effective August 29, 2012, Petitioner's license was revoked. On August 27, 2012, Petitioner filed a Petition for Reconsideration which was denied.

10. In his current Petition, Petitioner asserted that he has changed his mentality and learned from his mistakes since his license has been revoked. He described himself as a changed person and that the year since his license has been revoked has been a "long time." He explained how his revocation has caused his family financial and emotional hardship. Petitioner feels ashamed when he has to inform family members that he is unable to handle their optometric needs.

11. Petitioner offered the testimony of Radbert Chin, O.D., his prior employer, and James Young, O.D., Petitioner's monitor when Petitioner was on probation. Both support Petitioner once again becoming licensed. Additionally, Petitioner offered a letter from Superior Court Judge Braden C. Woods (Judge Woods), County of San Francisco. Judge Woods opinion is that reinstatement of Petitioner's license would not pose a threat to the public. Judge Woods believes that Petitioner's license should be reinstated and that if Petitioner were licensed it would be a benefit to the community.

12. After considering the Petition, all of its exhibits, the testimony of Petitioner and the other witness, the Board concluded that Petitioner has established that the Petition should be granted, with terms and conditions.

#### LEGAL CONCLUSIONS AND DISCUSSION

1. Cause exists to grant Petitioner's Petition for Reinstatement pursuant to Business and Professions Code section 11522, as set forth in Factual Findings 1-12.

2. Petitioner bears the burden to prove, by clear and convincing evidence to a reasonable certainty, that the Board should grant his petition. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398; *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.)

3. Government Code section 11522 states in pertinent part:

"A person whose license has been revoked or suspended may petition the agency for reinstatement . . . after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement."

4. California Code of Regulations, title 16, section 1516, states in pertinent part:

[¶] ... [¶]

(b) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a certificate of registration under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection (b).

5. Petitioner established, by clear and convincing evidence to a reasonable certainty, that his license should be reinstated. The public will be protected by issuing Petitioner a probationary license. The probationary license will include terms and conditions to protect the public.

ORDER.

Petitioner Gregory L. Tom's Petition for Reinstatement of licensure is hereby granted. A license shall be issued to Petitioner. Said license shall immediately be revoked, the order of revocation stayed and Petitioner's license placed on probation for a period of 5 years with the below stated terms and conditions. Petitioner will be hereinafter referred to as "Respondent" in the terms and conditions stated below.

**SEVERABILITY CLAUSE**

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order and all other applicants thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

**1. OBEY ALL LAWS**

Respondent shall obey all federal, state, and local laws, governing the practice of optometry in California.

Respondent shall notify the Board in writing within 72 hours of any incident resulting in his/her arrest, or charges filed against, or a citation issued against Respondent.

**CRIMINAL COURT ORDERS:** If Respondent is under criminal court orders by any governmental agency, including probation or parole, and the orders are violated, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

**OTHER BOARD OR REGULATORY AGENCY ORDERS:** If Respondent is subject to any other disciplinary order from any other health-care related board or any professional licensing or certification regulatory agency in California or elsewhere, and violates any of the orders or conditions imposed by other agencies, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

**2. QUARTERLY REPORTS**

Respondent shall file quarterly reports of compliance under penalty of perjury to the probation monitor assigned by the Board. Quarterly report forms will be provided by the Board (DG-QR1 (05/2012)). Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's optometrist license. Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year of probation throughout the entire length of probation as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

Failure to submit complete and timely reports shall constitute a violation of probation.

**3. COOPERATE WITH PROBATION MONITORING PROGRAM**

Respondent shall comply with the requirements of the Board's probation monitoring program, and shall, upon reasonable request, report or personally appear as directed.

Respondent shall claim all certified mail issued by the Board, respond to all notices of reasonable requests timely, and submit Reports, Identification Update reports or other reports similar in nature, as requested and directed by the Board or its representative.

Respondent is encouraged to contact the Board's probation monitoring program representative at any time he/she has a question or concern regarding his/her terms and conditions of probation.

Failure to appear for any scheduled meeting or examination, or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation and may result in the filing of an accusation and/or a petition to revoke probation against Respondent's Optometrist license.

**4. PROBATION MONITORING COSTS**

All costs incurred for probation monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and conditions may also cause this amount to be increased.

All payments for costs are to be sent directly to the Board of Optometry and must be received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs incurred.)

If Respondent is unable to submit costs for any month, he/she shall be required, instead, to submit an explanation of why he/she is unable to submit the costs, and the date(s) he/she will be able to submit the costs, including payment amount(s). Supporting documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that by providing evidence and supporting documentation of financial hardship it may delay further disciplinary action.

In addition to any other disciplinary action taken by the Board, an unrestricted license will not be issued at the end of the probationary period and the optometrist license will not be renewed, until such time as all probation monitoring costs have been paid.

**5. FUNCTION AS AN OPTOMETRIST**

Respondent shall function as an optometrist for a minimum of 60 hours per month for the entire term of his/her probation period. Respondent shall only work as a supervised employee in his capacity as an optometrist.

**6. NOTICE TO EMPLOYER**

Respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone number of all employers and supervisors and shall give specific, written consent that the licensee authorizes the Board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring. Monitoring includes, but is not limited to, any violation of any probationary term and condition.

Respondent shall be required to inform his/her employer, and each subsequent employer during the probation period, of the discipline imposed by this decision by providing his/her supervisor and director and all subsequent supervisors and directors with a copy of the decision and order, and the accusation in this matter prior to the beginning of or returning to employment or within 14 calendar days from each change in a supervisor or director.

The Respondent must ensure that the Board receives written confirmation from the employer that he/she is aware of the Discipline, on forms to be provided to the Respondent (DG-Form 1 (05/2012)). The Respondent must ensure that all reports completed by the employer are submitted from the employer directly to the Board. Respondent is responsible for contacting the Board to obtain additional forms if needed.

**7. CHANGES OF EMPLOYMENT OR RESIDENCE**

Respondent shall notify the Board, and appointed probation monitor in writing, of any and all changes of employment, location, and address within 14 calendar days of such change. This includes but is not limited to applying for employment, termination or resignation from employment, change in employment status, and change in supervisors, administrators or directors.

Respondent shall also notify his/her probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 calendar days. P.O. Boxes are accepted for mailing purposes; however the Respondent must also provide his/her physical residence address as well.

**8. COST RECOVERY**

Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be \$ 0 and shall be paid in full directly to the Board, in a Board-approved payment plan, within 6 months before the end of the Probation term. Cost recovery will not be tolled.

If Respondent is unable to submit costs timely, he/she shall be required instead to submit an explanation of why he/she is unable to submit these costs in part or in entirety, and the date(s) he/she will be able to submit the costs, including payment amount(s). Supporting

documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that by providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

Consideration to financial hardship will not be given should Respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due.

#### **9. TAKE AND PASS CALIFORNIA LAWS AND REGULATIONS EXAMINATION**

Within 60 calendar days of the effective date of this decision, or within some other time as prescribed in writing by the Board, Respondent shall take and pass the California Laws and Regulations Examination (CLRE). If Respondent fails this examination, Respondent must take and pass a re-examination as approved by the Board. The waiting period between repeat examinations shall be at six-month intervals until success is achieved. Respondent shall pay the established examination fees.

If Respondent fails the first examination, Respondent shall immediately cease the practice of optometry until the re-examination has been successfully passed; as evidenced by written notice to Respondent from the Board.

If Respondent has not taken and passed the examination within six months from the effective date of this decision, Respondent shall be considered to be in violation of probation.

#### **10. COMMUNITY SERVICES**

All types of community services shall be at the Board's discretion, depending on the violation. Within 30 calendar days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, a community service program in which Respondent provides free non-optometric or professional optometric services on a regular basis to a community or charitable facility or agency, amounting to a minimum of (to be determined by Board) (Ex: 20) hours per month of probation. Such services shall begin no later than 15 calendar days after Respondent is notified of the approved program.

#### **11. VALID LICENSE STATUS**

Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees and meet CE requirements prior to his/her license expiration date shall constitute a violation of probation.

#### **12. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE**

Periods of residency or practice outside California, whether the periods of residency or practice are temporary or permanent, will toll the probation period but will not toll the cost recovery requirement, nor the probation monitoring costs incurred. Travel outside of



California for more than 30 calendar days must be reported to the Board in writing prior to departure. Respondent shall notify the Board, in writing, within 14 calendar days, upon his/her return to California and prior to the commencement of any employment where representation as an optometrist is/was provided.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

### **13. LICENSE SURRENDER**

During Respondent's term of probation, if he/she ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy any condition of probation, Respondent may surrender his/her license to the Board. The Board reserves the right to evaluate Respondent's request and exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation. All costs incurred (i.e., Cost Recovery and Probation Monitoring) are due upon reinstatement.

Surrender of Respondent's license shall be considered a Disciplinary Action and shall become a part of Respondent's license history with the Board.

### **14. VIOLATION OF PROBATION**

If Respondent violates any term of the probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended until the matter is final. No petition for modification of discipline shall be considered while there is an accusation or petition to revoke probation or other discipline pending against Respondent.

### **15. COMPLETION OF PROBATION**

Upon successful completion of probation, Respondent's license shall be fully restored.

### **16. SALE OR CLOSURE OF AN OFFICE AND/OR PRACTICE**

If Respondent sells or closes his or her office after the imposition of administrative discipline, Respondent shall ensure the continuity of patient care and the transfer of patient records. Respondent shall also ensure that patients are refunded money for work/services not completed or provided, and shall not misrepresent to anyone the reason for the sale or closure of the office and/or practice. The provisions of this condition in no way authorize the practice of optometry by the Respondent during any period of license suspension.

### 17. WORKSITE MONITOR

Within 30 calendar days of the effective date of this decision, Respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of an optometrist or board certified ophthalmologist, and a plan of practice in which Respondent's practice shall be monitored by the approved worksite monitor. The worksite monitor's license scope of practice shall include the scope of practice of the Respondent that is being monitored. The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years. The worksite monitor shall not have any financial, personal, or familial relationship with the Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee. Any cost for such monitoring shall be paid by Respondent.

The Board or its designee shall provide the approved worksite monitor with copies of the decision(s) and accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the decision(s), accusation(s), and proposed monitoring plan, the worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order, fully understands the role of worksite monitor, and agrees or disagrees with the proposed monitoring plan set forth by the Board. If the worksite monitor disagrees with the proposed monitoring plan, the worksite monitor shall submit a revised worksite monitoring plan with the signed affirmation for approval by the Board or its designee.

Within 60 calendar days of the effective date of this decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved worksite monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the worksite monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this decision, Respondent shall receive a notification from the Board or its designees to cease the practice of optometry within three (3) calendar days after being so notified. Respondent shall cease practice until a worksite monitor is approved to provide worksite monitoring responsibility.

The worksite monitor must adhere at a minimum, to the following required methods of monitoring the Respondent:

- a) Have face-to-face contact with the Respondent in the work environment on a frequent basis as determined by the Board, at least once per week.
- b) Interview other staff in the office regarding the Respondent's behavior, if applicable.
- c) Review the Respondent's work attendance.

The Respondent shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

The worksite monitor must submit quarterly reports documenting the Respondent's work performance. Reports are due for each year of probation and the entire length of probation from the worksite monitor as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

The quarterly report shall include, but not be limited to:

1. the Respondent's name;
2. license number;
3. worksite monitor's name and signature;
4. worksite monitor's license number;
5. worksite location(s);
6. dates Respondent had face-to-face contact or correspondence (written and verbal) with monitor;
7. staff interviewed, if applicable;
8. attendance report;
9. any change in behavior and/or personal habits;
10. assessment of the Respondent's ability to practice safely;
11. recommendation defendant on Respondent's performance on whether to continue with current worksite monitor plan or modify the plan;
12. other relevant information deemed necessary by the worksite monitor or the Board.

Respondent is ultimately responsible for ensuring his/her worksite monitor submits complete and timely reports. Failure to ensure his/her worksite monitor submits complete and timely reports shall constitute a violation of probation.

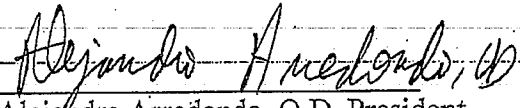
If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar days of such resignation or unavailability, submit in writing to the Board or its designee, for prior approval, the name and qualifications of a replacement worksite monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of optometry within three (3) calendar days. After being so notified, Respondent shall cease practice until a replacement monitor is approved and assumes monitoring responsibility.

18. ETHICS CLASS

Respondent is required to take an ethics class, as approved by the Board, during each year of his probation, for a total of five classes.

Ordered: November 12, 2013

Effective: December 11, 2013

  
Alejandro Arredondo, O.D. President  
California Board of Optometry  
Department of Consumer Affairs

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PAGE 02

BEFORE THE  
STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

GREGORY LAWRENCE TOM

Optometrist License No. 10427

Case No. CC 2008-225

OAH No. 2011080850

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition for Reconsideration, which has been filed by respondent in the above-entitled matter, having been read and considered, and good cause for the granting of the petition not having been shown, the petition is hereby denied. Accordingly, the Decision shall remain effective on August 29, 2012.

IT IS SO ORDERED this 29<sup>th</sup> day of August, 2012.

*Alejandro M. Anselmo, D*

ALEJANDRO M. ANSELMO,

BEFORE THE  
STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

**GREGORY LAWRENCE TOM**  
63 W. Angela St.  
Pleasanton, CA 94566

Optometry License No. 10427

Respondent

Case No. 2003-125

OAH No. 2011080850

**DECISION AND ORDER**

The attached Proposed Decision is hereby adopted by the State Board of Optometry, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 29, 2012.

It is so ORDERED July 30, 2012.

*Alejandro Arellano, OD*

FOR THE STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS

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BEFORE THE  
STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

GREGORY LAWRENCE TOM, O.D.,  
Optometry License No. 10427,

Respondent.

Case No. 2003-125

OAH No. 2011110025

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter on May 10 and 31, 2012, in Oakland, California.

Deputy Attorney General Char Sachson represented Mona Maggio, Executive Officer of the State Board of Optometry.

Craig S. Steinberg, O.D., Attorney at Law, represented respondent Gregory Lawrence Tom, O.D., who was present throughout the proceeding.

The record was left open until June 4, 2012, for complainant to submit a response to respondent's Hearing Brief (Ex. K.). Complainant did not file a response. The record was closed and the matter was submitted for decision on June 4, 2012.

SUMMARY

Following the filing of an accusation against him, and pursuant to a Stipulated Surrender and Order, respondent surrendered his optometry license effective April 3, 2008. Thereafter respondent petitioned the board to reinstate his license, which was granted effective July 15, 2009. The license was reinstated on probation to the board for five years on stated terms and conditions. In this proceeding, complainant seeks to revoke respondent's probation for his failure to comply with six conditions of his probation.

## FACTUAL FINDINGS

1. On September 22, 1994, the State Board of Optometry issued Optometrist License No. 10427 to respondent Gregory L. Tom. The license was surrendered effective April 3, 2008, in connection with disciplinary proceedings in Case No. 2003-125. The license was reinstated on probation effective July 15, 2009. The license was in full force and effect during all times relevant to this proceeding. It will expire, unless renewed, on July 31, 2012.
2. On January 13, 1995, the board issued to respondent Fictitious-Name Permit No. 2081 ("20/20 Optometry," San Ramon). The permit expired April 14, 2003, and has not been renewed.
3. On May 11, 1995, the board issued to respondent Branch Office License No. 4052. The license was cancelled on April 14, 2003.
4. On May 31, 1995, the board issued to respondent Fictitious Name Permit No. 2155. The permit expired April 14, 2003, and has not been renewed.
5. On June 15, 2001, the board issued to respondent Branch Office License No. 6275. The license expired on February 1, 2004, and has not been renewed.
6. On October 18, 2001, the board issued to respondent Fictitious Name Permit No. 2858 ("20/20 Optometry of Silicon Valley," San Jose). The permit expired on January 31, 2004, and has not been renewed.

*Prior Discipline/License Surrender*

7. In the prior disciplinary action respondent surrendered his license effective April 3, 2010. The discipline was based on a stipulated Surrender of License and Order in which respondent agreed that there was a factual basis for imposition of discipline based on the allegations in the accusation that he had committed insurance fraud, altered patient records, and made false representation of facts in his optometry practice. In particular, it was alleged, based on an audit of his billings conducted by Vision Service Plan (VSP), that respondent had fraudulently billed VSP, and received payment, in the amount of \$84,929.53 over a multiple-year period. Respondent agreed that in the event he were to petition the board to reinstate the license, all the allegations and charges set forth in the accusation would be deemed to be true, correct, and admitted by him. Respondent was ordered to pay the board its costs of investigation and enforcement of \$11,284.57 prior to reinstatement of the license. And, under the terms of the agreement, respondent agreed to wait one year after the effective date of the decision before applying for reinstatement.

*License Reinstatement on Probation*



8. Respondent filed a petition to reinstate his license on February 23, 2009. Although the petition was filed one month early, the board agreed to consider the petition. Among the evidence he presented to the board was evidence of payment of \$75,460 in restitution to VSP. The board found that respondent had demonstrated sufficient rehabilitation to warrant his reinstatement on probation. The board commented:

Petitioner showed a sincere change in attitude and acceptance of responsibility. He submitted evidence of partial restitution. Because of his family support, similar misconduct is not likely to be repeated. The evidence also showed that the public would benefit from Petitioner's medical talent. Conversely, petitioner committed serious misconduct by defrauding insurance provider VSP and altering his patient's medical records, and only one year has passed since the effective date of petitioner's license surrender. Because of the relatively short time since the conduct and the surrender of the license, petitioner must wait an additional period of time before the license is actually reinstated.

Although the effective date of the decision granting respondent's petition for reinstatement was July 15, 2009, the actual reinstatement of his license did not take place until January 1, 2010. The board ordered the reinstated license immediately revoked, stayed the revocation, and placed the license on probation for five years. Among the terms and conditions of probation imposed by the board were Restricted Practice, Reporting, Cooperate with Probation Surveillance, Monitoring, Maintain Records, Community Service, Payment of Costs, and Restitution. In addition, Probation Condition 12 provided that if respondent violated the conditions of his probation, the board may, after giving respondent notice and an opportunity to be heard, set aside the stay order and impose the revocation of respondent's license.

9. Respondent has had two probation monitors. His initial monitor was Margie McGavin. Jessica Siefertman assumed McGavin's caseload in February 2010. Respondent cooperated with both probation monitors, and he communicated with them regularly.

10. With the approval of Probation Monitor McGowan, respondent resumed working as an optometrist in January 2010 under the supervision of Radbirt Jonas Chin, O.D., at VisionOne Optometry in Pleasanton. Respondent worked for Dr. Chin on a part-time basis. Dr. Chin has been satisfied with respondent's performance.

11. Probation Monitor McGowan apparently approved Professor Robert B. DiMartino, O.D., M.S., as respondent's practice monitor. Dr. DiMartino did not submit any probation monitoring reports. The only document Dr. DiMartino provided of his monitoring of respondent, which he called "mentoring," is contained in a letter he wrote directly to board president Lee Goldstein, O.D., dated May 15, 2011. Respondent has a new practice monitor as of August 2011.

12. Respondent complied with all probation requirements associated with payment of cost recovery. Respondent exceeded the requirements for community service and for continuing education. Respondent has been active in a program called First Tee. He also volunteers at schools and at senior homes. At his most recent compliance meeting, no new violations were identified.

*Petition to Revoke Probation.*

13. On August 18, 2011, complainant issued the petition to revoke probation, alleging six violations of probation.

14. At hearing, Paragraph 20 of the petition to revoke probation was amended to allege as the factual basis for the Fourth Cause to revoke probation:

Respondent failed to submit to the Board and obtain approval of a monitoring plan for his work at the colleges.

THE FIRST, SECOND AND FOURTH CAUSES TO REVOKE PROBATION

15. Probation Condition 2 restricted respondent's employment on probation to a practice under the supervision of an optometrist or ophthalmologist as follows:

Petitioner is restricted from owning or operating his own optometry private practice. He is restricted to supervised employment by an optometrist or ophthalmologist whose license is in good standing and who has been approved by the Board or its designee prior to petitioner commencing employment.

16. Probation Condition 3 required respondent to report to the board any change in employment as follows:

Petitioner shall inform the board in writing of any change of *place of practice* and place of residence within fifteen (15) days.  
(Emphasis added.)

Business and Professions Code section 3005 defines "place of practice," as used in the Optometry Practice Act, to mean "any location where optometry is practiced."

17. Probation Condition 5 required respondent to have a practice monitor. It provided:

Within 30 days of the effective date of this decision, petitioner shall submit to the board for its prior approval a monitoring plan in which petitioner shall be monitored by another optometrist,

who shall provide periodic reports to the Board. Petitioner shall bear any cost for such monitoring. If the monitor resigns or is no longer available, petitioner shall, within 15 days, move to have a new monitor appointed, through nomination by petitioner and approval by the board.

18. Respondent did not report to either of his probation monitors that he provided optometry services at community colleges while on probation. Respondent admits that he provided optometry services at Foothill College on January 25 and April 12, 2010; at College of San Mateo on February 8, 2010, March 29, 2010, July 12, 2010, October 6, 2010, and February 7, 2011; and at Canada College on March 1, 2010, November 22, 2010, and March 7, 2011.

Respondent was hired by the schools as an independent contractor, and he received compensation for his services in the form of a stipend. For example at Foothill College, respondent signed an independent contractor agreement, completed invoices for his services, was paid \$350 per day for his services, and provided a taxpayer identification number for "Advanced Optometric Eyecare" on a IRS form W-9. Respondent examined 10 to 18 students per day, and prescribed lens where appropriate. Respondent permitted students to obtain single correction lens for \$15 and some of the frames for \$40. (These were for frames that were either donated or purchased at reduced rates.) Respondent would charge more for lenses with more complicated corrections, and he would charge more for frames other than the ones which were donated or purchased by him at a reduced rate. Respondent handled all the money except a \$20 deposit, which the school collected for the examination. If the student purchased glasses, the \$20 was applied toward the cost of the glasses. If no glasses were purchased, the deposit was refunded. Respondent would make up the glasses at his office, and then deliver them to the school. If there were problems with the glasses, the students would come into the VisionOne offices and he would fix the problem there.

19. There is no question that respondent was practicing optometry while at the community colleges. As defined by the Optometry Practice Act, that work was included within respondent's "place of practice." (Bus. & Prof. Code, § 3005.) Probation Condition 3 required respondent to report any change of his place of practice to the board. Respondent's failure to advise the board of his employment at the community colleges constituted a violation of Probation Condition 3.

20. Respondent was not supervised by an optometrist or an ophthalmologist in the performance of these services. Respondent's unsupervised employment at the community colleges constituted a violation of Probation Condition 2.

21. Respondent's services were not monitored by his practice monitor. Respondent's unmonitored employment at the community colleges constituted a violation of Probation Condition 6. Respondent's testimony that he told Dr. DiMartino of these services was self-serving, and is not competent evidence that his employment at the community

colleges was monitored. It is noted that Dr. DiMartino did not mention these services in his May 2011 letter to the board president.

22. Probation Monitor Sieferman first learned of respondent's work at the community colleges through a complaint filed with the board by one of the community colleges. She opened an investigation with the Division of Investigation in May 2011. The investigation was conducted by Investigator Andrew Omahen.

23. Probation Monitor Sieferman and respondent met on May 27, 2011. Respondent admitted working at the community colleges at that time, but stated that he believed it was community service. Respondent believed that his work at the community colleges was community service because he had performed this type of service since a student at the School of Optometry at the University of California, Berkeley, in the early 1990's under the supervision of a professor. Respondent continued working with the professor after he graduated for some time. After the professor died in 2002, the professor's wife requested that respondent continue the work, which he did, until he surrendered his license.

24. It never occurred to respondent that his work at the community colleges was employment. He believed it was community service because he could have earned more money working for an optometrist, and because the glasses were provided to the students at such discounted rates. Respondent first learned there was a problem with his service at the schools in an interview with Investigator Omahen on May 14, 2011. Respondent scheduled a meeting to discuss this with his probation monitor in May, as he wanted her to hear from him about his conduct. Respondent returned the stipends he had earned from the schools.

#### THIRD AND FIFTH CAUSES FOR PROBATION REVOCATION

25. Probation Condition 5 required respondent to cooperate with the board's probation program as follows:

Petitioner shall comply with the Board's probation surveillance program, including but not limited to allowing access to the probationer's optometric practice and patient records upon request of the Board or its agent:

26. Probation Condition 7 required respondent to maintain record of lens prescriptions he dispensed or administered as follows:

Petitioner shall maintain a record of all lens prescriptions that he dispensed or administered during his probation, showing all the following: 1) the name and address of the patient; 2) the date; 3) the price of the services and goods involved in the prescription; 4) the visual impairment identified for which the prescription was furnished. Petitioner shall keep these records

in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the board or its designee, upon request.

27. Investigator Omahen made an unannounced visit at Dr. Chin's offices on May 14, 2011. The investigator requested to review patient records. The patient records maintained by Dr. Chin were kept electronically, and made available for inspection. Respondent did not provide the patient records of the community college students. Respondent did not provide the investigator with a list of patients required to be maintained by Probation Condition 7.

28. A second meeting took place on May 25, 2011. At this meeting respondent provided a list of patients but the list did not include the community college students. Respondent subsequently provided an updated list which included most of the community college students, but it did not include students he examined on two days at Foothill College.

29. Respondent has provided varying accounts to Investigator Omahen and Monitor Siefertman and at hearing about whether he maintained records of the community college students. He testified that he did not maintain the records of the student patients at the community colleges, but rather he gave the records to the colleges at the end of each day for their keeping in the student health record. If the student needed glasses, he kept the record and returned it with the glasses to the school. He also stated that he kept some of the records, but they were kept in a box at Dr. Chin's office and he believes they were destroyed following a fire at the office.

30. Probation Condition 7 required respondent to maintain a record of lens prescriptions he dispensed or administered in a ledger form. Respondent did not maintain such a record while on probation, and did not create one until it was requested by Investigator Omahen. Respondent's conduct constituted a violation of Probation Condition 7.

31. Probation Condition 5 required respondent to cooperate with the board's probation program by providing patient records upon request. Respondent provided the records of patients he saw in Dr. Chin's office, but not those of all the community college students, stating that he had returned them to the community college for their safe keeping. Business and Professions Code section 3007, however, requires an optometrist to retain patient records for a minimum of seven years from the date he or she completes treatment of the patient. It is therefore found that respondent violated Probation Condition 5 by his inability to provide the patient records of the community college students upon the request of the board.

## SIXTH CAUSE FOR PROBATION REVOCATION

32. Probation Condition 11 required respondent to provide proof to the board that he had made full restitution to Vision Service Plan. This condition provided:

Within 90 days of the effective date of this order, Petitioner shall submit to the board proof that he has made full restitution to VSP Vision Care.

33. As alleged in the accusation, a VSP audit of respondent's billings determined that respondent had inappropriately billed and received payment from VSP in the amount of \$84,829.53. As of the date of the petition for reinstatement, respondent had paid VSP \$75,460 in restitution. Under the terms of Probation Condition 11, respondent was to submit proof of payment of "full restitution" within 90 days of the effective date of the order granting his petition for reinstatement. The order became effective July 15, 2009. Respondent was thus required to submit proof of payment of the full amount of \$84,829.53 within three months of that date.

34. Respondent did not provide verification of payment of "full restitution" to VSP within 90 days July 15, 2009. In failing to do so, he violated Probation Condition 11.

35. Respondent eventually paid VSP a reduced amount of \$8,785.64 by check dated July 26, 2010, which was more than one year after the effective date of the board's decision. VSP accepted that amount as payment in full of the outstanding restitution amount by letter dated August 9, 2010.

36. Respondent explained his delay as a product of his request for information from VSP which would specify to him the amount he owed. Respondent believed that VSP had withheld money due him during his last six months of panel membership, and without knowing the amount that was withheld he felt he was unable to calculate what he owed VSP. Respondent made numerous requests to VSP for various documents, including "reconciliation statements" for the six-month period and copies of an audio recording and transcript of a December 2003 VSP hearing. According to Respondent, VSP did not respond to any of his inquiries.

On July 26, 2010, respondent requested Probation Monitor Siefertman to send him the amount due VSP. She contacted VSP and was advised by Thomas Jones that the amount owing was \$8,758.84. Respondent wrote a check for that amount that day.

## LEGAL CONCLUSIONS

1. The standard of proof applied in this proceeding is clear and convincing evidence to a reasonable certainty.

2. Pursuant to Condition 12 of his probation to the board, respondent's may be revoked upon findings that he violated its terms and conditions.

3. By reason of the matters set forth in Factual Findings 15 through 21, it was established that respondent violated Conditions 2, 3 and 5, of his probation to the board in connection with his employment at the community colleges. Cause exists to revoke respondent's probation and to reimpose the stayed discipline (revocation) imposed in Case No. 2003-215.

4. By reason of the matters set forth in Factual Findings 25 through 31, it was established that respondent violated Conditions 5 and 7 of his probation to the board by failing to maintain a ledger of all lens prescriptions associated with his community college employment, and failing to make available all patient records. Cause exists to revoke respondent's probation and to reimpose the stayed discipline (revocation) imposed in Case No. 2003-215.

5. By reason of the matters set forth in Factual Findings 32 through 34, it was established that respondent violated Condition 11 of his probation to the board by reason of his failure to timely provide proof of payment of full restitution to VSP. Cause exists to revoke respondent's probation and to reimpose the stayed discipline (revocation) imposed in Case No. 2003-215.

#### *Disciplinary Considerations*

6. The question presented is whether respondent's probation should be extended as he requests, or whether his probation should be revoked as complainant requests.

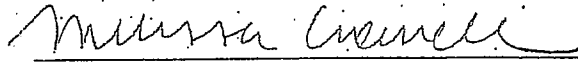
The probationary terms were developed by the board in order to ensure that respondent could practice optometry with safety to the public after having committing serious acts of unprofessional conduct as an optometrist. While all evidence in mitigation has been considered, it is concluded that respondent's lack of compliance with probation is for the most part unmitigated. While respondent believed that his work at the community colleges was community service, he failed to pose the question to his probation monitor with whom he had regular contact. The work was unmonitored and unsupervised, which is exactly what this board forbade under its order reinstating the license. Respondent's failure to maintain a ledger of his work at the community colleges made it impossible for it to be reviewed as well. Respondent was also ordered by this board to make full restitution to VSP in the amount of \$84,829.53 within three months of reinstating his license. Instead of complying with that order, respondent choose to quibble with VSP over the remaining amount of restitution he owed, saying that was his right. That was not his right, as the board's order regarding the amount of restitution he owed was a final order, and he had admitted the amount of restitution he owed VSP by virtue of petitioning for reinstatement. Lastly, respondent's inconsistent statements regarding the records of the community college patients raise questions about his candor.

The ultimate goal of licensing generally, and the highest priority of the board in exercising its disciplinary functions, is the protection of the public. (Bus. & Prof. Code, § 3010.1.) Probation is a serious matter, and the conditions of the board are meant to be strictly followed, not interpreted by probationers as it suits them. Respondent's overall performance on probation does little to install confidence that his performance on probation in the future would be different. For this reason, it is concluded that continuing respondent on probation would not be consistent with the public protection.

ORDER

The petition to revoke probation is granted, and probation is revoked. The stay of the revocation imposed in Case No. 2003-125 (Decision effective July 15, 2008) is lifted and the order of revocation of Optometrist License No. 10427 issued to respondent Gregory Lawrence Tom is imposed.

DATED: June 21, 2012



MELISSA G. CROWELL  
Administrative Law Judge  
Office of Administrative Hearings



BEFORE THE  
STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Early  
Termination of Probation for:

Case No. CC-2008-225

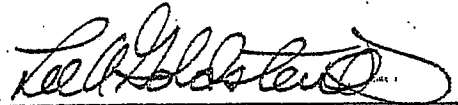
**GREGORY TOM**

Optometrist License No. 10427

**ORDER DENYING PETITION FOR RECONSIDERATION**

The Petition for Reconsideration, which has been filed by respondent in the above-entitled matter, having been read and considered, and good cause for the granting of the petition not having been shown, the petition is hereby denied. Accordingly, the Decision shall remain effective.

IT IS SO ORDERED this 30<sup>th</sup> day of September, 2011.



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 Attorney General of California  
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 Supervising Deputy Attorney General  
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 Attorneys for Complainant

7  
 8 BEFORE THE  
 STATE BOARD OF OPTOMETRY  
 DEPARTMENT OF CONSUMER AFFAIRS  
 9 STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke  
 Probation Against,

Case No. 2003-125

PETITION TO REVOKE PROBATION

12 GREGORY LAWRENCE TOM  
 13 DBA 20/20 OPTOMETRY  
 3191 Crow Canyon Place, Suite C  
 14 San Ramon, CA 94583

15 Optometry License No. 10427  
 Fictitious Name Permit No. 2081  
 16 Fictitious Name Permit No. 2155  
 Branch Office License No. 6275

17 Respondent.

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 20 Complainant alleges:

21 PARTIES

22 1. Mona Maggio (Complainant) brings this Petition to Revoke Probation solely in her  
 23 official capacity as the Executive Officer of the State Board of Optometry, Department of  
 24 Consumer Affairs.

25 2. On or about September 22, 1994, the State Board of Optometry issued Optometrist  
 26 License Number 10427 to Gregory L. Tom (Respondent). The Optometrist License was in effect  
 27 at all times relevant to the charges brought herein and will expire on July 31, 2012, unless  
 28 renewed.

1. 3. On or about January 13, 1995, the State Board of Optometry issued Fictitious Name  
 2 Permit Number 2081 to Gregory L. Tom (Respondent). The Fictitious Name Permit expired on  
 3 April 14, 2003, and has not been renewed.

4 4. On or about May 11, 1995, the State Board of Optometry issued Fictitious Name  
 5 Permit Number 2155 to Respondent. The Fictitious Name Permit expired on April 14, 2003, and  
 6 has not been renewed.

7 5. On or about June 15, 2001, the State Board of Optometry issued Branch Office  
 8 License Number 6275 to Respondent. The Branch Office License expired on February 1, 2004,  
 9 and has not been renewed.

10 6. In a disciplinary action entitled "In the Matter of the Accusation Against D.B.A.  
 11 20/20 Optometry, Gregory Lawrence Tom, Case No. 2003-125, Respondent surrendered his  
 12 Optometrist License. The surrender was effective April 3, 2008. On or about February 23, 2009,  
 13 Respondent petitioned to have his Optometrist License reinstated.

14 7. In a disciplinary action entitled "In the Matter of Petition for Reinstatement Against  
 15 Gregory L. Tom," Case No. 2003-125, the State Board of Optometry issued a decision, effective  
 16 July 15, 2009, in which Respondent's Optometrist License was reinstated, and immediately  
 17 revoked. However, the revocation was stayed and Respondent's Optometrist License was placed  
 18 on probation for a period of five (5) years with certain terms and conditions. A copy of that  
 19 decision is attached as Exhibit A and is incorporated by reference.

20 JURISDICTION.

21 8. This Petition to Revoke Probation is brought before the State Board of Optometry  
 22 (Board), Department of Consumer Affairs.

23 FIRST CAUSE TO REVOKE PROBATION

24 (Restricted Practice)

25 9. At all times after the effective date of Respondent's probation, Condition 2 stated:  
 26 "Restricted Practice: Petitioner is prohibited from owning or operating his own optometry  
 27 private practice. He is restricted to supervised employment by an optometrist or ophthalmologist.  
 28

1. whose license is in good standing and who has been approved by the Board or its designee prior  
2 to petitioner commencing employment.”

3 10. Respondent’s probation is subject to revocation because he failed to comply with  
4 Probation Condition 2, referenced above. The facts and circumstances regarding this violation  
5 are as follows:

6 11. On or about January 25, 2010 and April 12, 2010, Respondent provided optometry  
7 services at Foothill College in Los Altos Hills, California. On or about February 8, 2010, March  
8 29, 2010, July 12, 2010, October 6, 2010, and February 7, 2011, Respondent provided optometry  
9 services at College of San Mateo in San Mateo, California. On or about March 1, 2010,  
10 November 22, 2010 and March 7, 2011, Respondent provided optometry services at Canada  
11 College in Redwood City, California. On unknown dates, Respondent also provided optometry  
12 services at City College of San Francisco in San Francisco, California. Respondent was not  
13 supervised by a Board-approved optometrist or ophthalmologist as required by Condition 2, and  
14 he received compensation for his services. Respondent saw between 10 and 18 students per day  
15 while working at the schools.

16 SECOND CAUSE TO REVOKE PROBATION

17 (Reporting)

18 12. At all times after the effective date of Respondent’s probation, Condition 3 stated:  
19 “Reporting: Petitioner shall inform the Board in writing of any change of place of practice  
20 and place of residence within fifteen (15) days.”

21 13. Respondent’s probation is subject to revocation because he failed to comply with  
22 Probation Condition 3, referenced above. The facts and circumstances regarding this violation  
23 are as follows:

24 14. Respondent failed to inform the Board in writing that he practiced at Foothill College,  
25 College of San Mateo, Canada College and San Francisco City College, as stated above in  
26 paragraph 11.

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THIRD CAUSE TO REVOKE PROBATION

(Cooperate with Probation Surveillance)

15. At all times after the effective date of Respondent's probation, Condition 5 stated:

~~"Cooperation with Probation Surveillance: Petitioner shall comply with the Board's probation surveillance program, including but not limited to allowing access to the probationer's optometric practice and patient records upon request of the Board or its agent."~~

16. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 5, referenced above. The facts and circumstances regarding this violation are as follows:

17. Respondent failed to comply with Probation Conditions 2, 3, 6, 7 and 11. Additionally, an investigator from the Division of Investigation, acting as the Board's agent, requested access to patient records. Respondent failed to provide access to the requested records.

FOURTH CAUSE TO REVOKE PROBATION

(Monitoring)

18. At all times after the effective date of Respondent's probation, Condition 6 stated:

"Monitoring: Within 30 days of the effective date of this decision, petitioner shall submit to the Board for its prior approval a monitoring plan in which petitioner shall be monitored by another optometrist, who shall provide periodic reports to the board. Petitioner shall bear any cost for such monitoring. If the monitor resigns or is no longer available, petitioner shall, within 15 days, move to have a new monitor appointed, through nomination by petitioner and approval by the board."

19. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 6, referenced above. The facts and circumstances regarding this violation are as follows:

20. Respondent failed to submit to the Board and obtain approval for a monitoring plan.

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FIFTH CAUSE TO REVOKE PROBATION

(Maintain Records)

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21. At all times after the effective date of Respondent's probation, Condition 7 stated:  
"Maintain Records: Petitioner shall maintain a record of all lens prescriptions that he dispensed or administered during his probation, showing all the following: 1) the name and address of the patient, 2) the date, 3) the price of the services and goods involved in the prescription, and 4) the visual impairment identified for which the prescription was furnished. Petitioner shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the board or its designee, upon request."

22. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 7, referenced above. The facts and circumstances regarding this violation are as follows:

23. Respondent failed to maintain records of all lens prescriptions that he dispensed or administered during his probation.

SIXTH CAUSE TO REVOKE PROBATION

(Restitution)

24. At all times after the effective date of Respondent's probation, Condition 11 stated:  
"Restitution: Within 90 days of the effective date of this order, Petitioner shall submit to the Board proof that he has made full restitution to VSP Vision Care."

25. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 11, referenced above. The facts and circumstances regarding this violation are as follows:

26. Respondent failed to provide the Board with verification of payment of restitution to VSP Vision Care within 90 days of the effective date of the order.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the State Board of Optometry issue a decision.

- 1. Revoking the probation that was granted by the State Board of Optometry in Case No. 2003-125 and imposing the disciplinary order that was stayed thereby revoking Optometrist License No. 10427 issued to Gregory L. Tom;
- 2. Revoking or suspending Optometrist License No. 10427, issued to Gregory L. Tom;
- 3. Revoking or suspending Fictitious Name Permit No. 2081, issued to Gregory L. Tom;
- 4. Revoking or suspending Fictitious Name Permit No. 2155, issued to Gregory L. Tom;
- 5. Revoking or suspending Branch Office License No. 6275, issued to Gregory L. Tom;
- 6. Taking such other and further action as deemed necessary and proper.

DATED: 8/18/2011

*Monna Maggio*  
 MONA MAGGIO  
 Executive Officer  
 State Board of Optometry  
 Department of Consumer Affairs  
 State of California  
 Complainant

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BEFORE THE  
 BOARD OF OPTOMETRY  
 DEPARTMENT OF CONSUMER AFFAIRS  
 STATE OF CALIFORNIA

In the Matter of the Petition  
 for Reduction of Penalty or Early  
 Termination of Probation of:  
  
 GREGORY TOM, O.D.,  
  
 Optometrist License No. 10427,  
  
 Petitioner.

OAH No. 2011060861

Agency Case No. CC 2008-225

DECISION

A quorum of the Board of Optometry (Board) heard this matter on June 21, 2011, in Los Angeles, California. The members of the Board present were Lee A. Goldstein, O.D., President; Alejandro Arredondo, O.D., Vice President; Monica Johnson; Alexander Kim; Kenneth Lawenda, O.D.; and Fred Naranjo.

Board member Donna Burke was present, but did not participate in the hearing or deliberations; she recused herself from this matter.

Jessica Siefertman, the Board's Enforcement staff, was also present during the proceedings.

Daniel Juárez, Administrative Law Judge with the Office of Administrative Hearings was present at the hearing and during the consideration of the case, in accordance with Government Code section 11517.

Gregory Tom, O.D., (Petitioner) represented himself.

Michelle McCarron, Deputy Attorney General, represented the Attorney General of the State of California, pursuant to Government Code Section 11522.

The parties submitted the matter for decision, and the Board decided the case in executive session on June 21, 2011.



## FACTUAL FINDINGS

1. On or about November 19, 2010, Petitioner filed the Petition for Reduction of Penalty or Early Termination of Probation. Petitioner seeks the early termination of his five-year probation. He contends it is appropriate to end his probation early because he is sufficiently rehabilitated from the earlier transgressions he committed.
2. The California Attorney General contends the public would be unsafe if the Board were to reinstate Petitioner's license.
3. The Board issued optometrist license number 10427 to Petitioner on or about September 22, 1994.
4. In approximately March 2007, the California Attorney General's Office filed an accusation against Petitioner alleging that from 2001 through 2006, Petitioner fraudulently submitted bills to insurance provider Vision Services Plan totaling approximately \$80,000, and altered patient medical records.
5. In a Stipulated Surrender of License and Order, effective April 3, 2008, Petitioner agreed that there was a factual basis for discipline against his license for unprofessional conduct with regard to insurance fraud and the alteration of medical records; he surrendered his optometrist license.
6. Petitioner filed a Petition for Reinstatement of his optometrist license on February 23, 2009. The Board considered his petition on May 15, 2009, and in a Decision, effective July 15, 2009, the Board agreed to grant his petition. The Board reinstated Petitioner's optometrist license, effective January 1, 2010, immediately revoked it, stayed the revocation, and placed the license on five years probation upon various terms and conditions.
7. Petitioner's probationary terms and conditions include, among others, being restricted to supervised employment by a Board-approved optometrist or ophthalmologist, prior to commencing employment (term and condition 2); and requiring Petitioner to inform the Board in writing of any change of place of practice within 15 days (term and condition 3).
8. Petitioner's probation continues until January 1, 2015.
9. Petitioner asserted that he has changed his mentality and learned about his mistakes during his time on probation. He described himself as a changed person who has been diligent, cooperative, and proactive with all of the Board's probationary requirements. He explained that, while he agrees he lost sight of the ethical line between what was best for his patients and what was best for the doctor, he never placed any patient at risk by his misconduct. He explained how his revocation and probation has caused him and his family financial and emotional hardship. He described his community service, including designing an educational course on the human eye for preschool and elementary school children and

working with the First Tee of Contra Costa County (a golf program for minors). Petitioner has continued his continuing education studies. He reads optometry articles on a regular basis. Petitioner was single when he engaged in misconduct. He is now married and is a father. He asserted that his family life has allowed him to mature.

10. Petitioner submitted letters of support, including letters from Russell Wong, Learning Disability Specialist, Foothill College, dated November 23, 2010; Braden C. Woods, dated November 26, 2010; Richard A. Tramor, Esq., dated November 29, 2010; Radbert Chin, O.D., dated November 18, 2010; and Claire Tom, Petitioner's wife, dated December 1, 2010. Each author generally described Petitioner as a good person who has learned from his mistakes, a hard worker, and someone who is deserving of practicing optometry without restrictions.

11. At a probation meeting in May 2011, Petitioner admitted that he has worked at three colleges between January 25 and 30, 2010. Petitioner asserted that he volunteered his services, but he was paid a stipend by the colleges and the student patients paid cash for their glasses. Petitioner contracted with the colleges under the business name of "Advanced Optometric Eyecare." According to the California Secretary of State, Advanced Optometric Eyecare is an active business with Petitioner as the agent for service. Petitioner used the tax identification number for this entity when contracting with the three colleges. His stipend ranged from approximately \$315 to \$350 for each day. Petitioner did not notify the Board before engaging in this work. He was not supervised by another optometrist. These activities by Petitioner violated Terms and Conditions numbers 2 and 3 of his current probation. Petitioner explained that once he understood this was a violation of his probation, he issued personal checks to each college paying amounts greater than what he was paid. On each check, Petitioner wrote, "donation." This notation gave the Board concern that Petitioner sought to use these reimbursements as personal tax benefits, although when asked at hearing, Petitioner asserted he would not do so.

12. The Board approved Petitioner's probation monitor, Robert B. DiMartino, O.D., as of August 2010. DiMartino, however, has issued only one probation monitor report, in the form of a brief letter, dated May 15, 2011. In that report, DiMartino describes his monitor responsibility as "mentor[ing]." There is no evidence that DiMartino has reviewed any of Petitioner's patient files during his probation monitoring.

#### LEGAL CONCLUSIONS

1. Cause exists to deny Petitioner's Petition for Reduction of Penalty or Early Termination of Probation, pursuant to Business and Professions Code section 11522, as set forth in Factual Findings 1-12, and Legal Conclusions 2-6.

2. Petitioner bears the burden to prove, by clear and convincing evidence to a reasonable certainty, that the Board should grant his petition. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398; *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.)

3. Government Code section 11522 states in pertinent part:

A person whose license has been revoked or suspended may petition the agency for reinstatement . . . after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement.

4. California Code of Regulations, title 16, section 1516, states in pertinent part:

(a) . . . (a)

(b) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a certificate of registration under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection (b).

5. Petitioner did not prove, by clear and convincing evidence to a reasonable certainty, that the early termination of probation is warranted. Petitioner violated two conditions of probation (terms and conditions 2 and 3) by accepting stipends in exchange for

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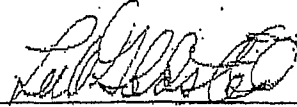
his optometry services and failing to inform the Board of these actions. While he returned those stipends to each college, he did so only after being confronted by an investigator from the Division of Investigations about the services Petitioner provided to those colleges. Further, and despite his assertion to the contrary, his notation of "donation" on each of his checks gives the Board suspicion that Petitioner intended (at least initially) to use these payments as personal tax benefits. Separate from these actions, Petitioner failed to provide persuasive evidence of rehabilitation.

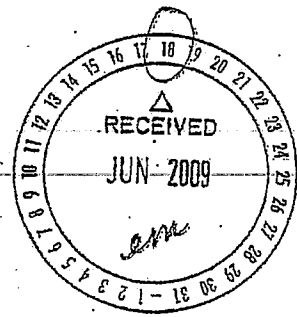
6. Petitioner's original misconduct was serious and warrants the current probation period to protect the public. With insufficient evidence of rehabilitation to merit an early end to his probation, the Petition should be denied.

ORDER

Gregory Tom's Petition for Early Termination of Probation is denied.

Dated: August 16, 2011

  
Lee A. Goldstein, O.D., President  
California Board of Optometry



BEFORE THE  
BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of:

) Case No. 2003-125

) **GREGORY LAWRENCE TOM, O.D.**

) OAH No. 2009040794

) Optometry License No. 10427

) Respondent.

DECISION

The attached Decision of the Administrative Law Judge is hereby adopted by the Board of Optometry, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective July 15, 2009.

It is so ORDERED June 15, 2009

\_\_\_\_\_  
LEE A. GOLDSTEIN, O.D. MPA  
PRESIDENT  
BOARD OF OPTOMETRY

**BEFORE THE  
BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement of:

**GREGORY LAWRENCE TOM, O.D.,**  
Optometry License No. 10427

Petitioner.

Case No. 2003-125

OAH No. 2009040794

**DECISION**

This matter was heard by a quorum of the Board of Optometry (Board) on May 15, 2009, in Fullerton, California. Amy C. Lahr, Administrative Law Judge, Office of Administrative Hearings, State of California, presided. Board members present and participating were Lee A. Goldstein, O.D., President; Alejandro Arredondo, O.D.; Martha Burnett-Collins, O.D.; Monica Johnson; Kenneth Lawenda, O.D.; Fred Naranjo; Edward J. Rendon, M.P.A.; and Susy Yu, O.D.

The record was closed and the matter was submitted for decision. Thereafter, the Board met in an executive session and decided the matter on the day of the hearing.

Gregory Lawrence Tom (petitioner) represented himself.

Erin Sunseri, Deputy Attorney General, California Department of Justice, appeared pursuant to Government Code section 11522.

**FACTUAL FINDINGS**

1. On or about September 22, 1994, the Board issued Optometry License Number 10427 to petitioner.

2. a. The Board, by Decision and Order effective April 3, 2008, in Case No. 2003-125, adopted a Stipulated Settlement and Disciplinary Order resolving an accusation that had been brought against petitioner.

b. In the Stipulated Surrender of License and Order, petitioner agreed that there was a factual basis for discipline against his license for unprofessional conduct with regard to insurance fraud and alteration of medical records. The facts underlying the

accusation are that from 2001 through 2006, petitioner fraudulently submitted bills to insurance provider Vision Services Plan (VSP), totaling approximately \$80,000. Petitioner also committed unprofessional conduct by altering his patients' medical records.

c. Pursuant to the Stipulated Surrender of License and Order, paragraph 22, Petitioner agreed to pay the Board its costs of investigation and enforcement in the amount of \$11,284.57, prior to the issuance of a new or reinstated license.

3. a. Pursuant to the Order, petitioner surrendered his license. Petitioner agreed not to petition the Board for reinstatement until one year from the effective date of the Decision and Order; i.e., until April 3, 2009.

b. Petitioner filed the instant petition for reinstatement on February 23, 2009. Although he filed the petition more than one month prior to the earliest agreed upon application date, the Board decided to consider it.

4. Petitioner contends his license should be reinstated because he admitted and accepted responsibility for his wrongful conduct. Petitioner acknowledged that he should not have substituted his own judgment for the insurance company rules. He grasped the gravity of his actions, and recognized how he harmed others. Petitioner believes that he has learned a painful lesson, and he is willing to comply with whatever guidelines the Board deems necessary.

5. Since petitioner surrendered his license, he has worked in the bank industry and has volunteered at a local preschool. Petitioner has completed 63 continuing education hours, and has studied various optometric literature. He also took an ethics class through the Department of Real Estate. In addition, petitioner paid \$75,460 restitution to VSP.

6. Petitioner submitted multiple references supporting his petition, including a letter from Robert DiMartino, O.D., Professor of Clinical Optometry at University of California, Berkeley. Dr. DiMartino highlighted petitioner's intellect and talent. He noted that although petitioner's actions demonstrated a lack of judgment, he has the capacity to learn from his error. Dr. DiMartino stated that petitioner's expertise was a great loss to the public, and that ongoing audits would best protect the public.

7. Petitioner's wife, Claire Syn Tom, testified in support of his reinstatement. She reiterated how difficult it has been for petitioner, and their family, to lose his license. Subsequent to the surrender, Mrs. Tom has noticed that petitioner's behavior has changed in numerous ways; for example, before his license was revoked, he focused primarily on his practice, and now he devotes himself to their family. In addition, Mrs. Tom has observed that petitioner has accepted responsibility for his actions, and he possesses more integrity than before this occurred.

LEGAL CONCLUSIONS

1. Cause exists to grant petitioner's petition for reinstatement, pursuant to Business and Professions Code section 11522, as set forth in factual findings 1-7 and legal conclusions 2-4.

2. Petitioner bears the burden to prove, by clear and convincing evidence, that he is sufficiently rehabilitated and entitled to reinstatement. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398; *Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1092.)

3. California Code of Regulations, title 16, section 1516 provides that the following rehabilitation criteria may be evaluated when considering a petition for reinstatement: (1) the nature and severity of the act(s) or crime(s) under consideration as grounds for denial; (2) evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code; (3) the time that has elapsed since commission of the act(s) or crime(s); (4) the extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant; and (5) rehabilitation evidence.

4. Petitioner has demonstrated sufficient rehabilitation to warrant his reinstatement on probationary terms. Petitioner showed a sincere change in attitude and acceptance of responsibility. He submitted evidence of partial restitution. Because of his experience and family support, similar misconduct is not likely to be repeated. The evidence also showed that the public would benefit from Petitioner's medical talent. Conversely, Petitioner committed serious misconduct by defrauding insurance provider VSP and altering his patients' medical records, and only one year has passed since the effective date of petitioner's license surrender. Because of the relatively short period of time since the conduct and the surrender of his license, petitioner must wait an additional period of time before the license is actually reinstated. Given the forgoing, the following order adequately protects the public interest while acknowledging petitioner's rehabilitation efforts.

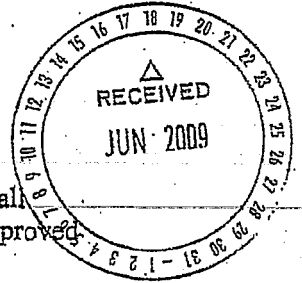
ORDER

Gregory Tom's petition for reinstatement is granted and his certificate of registration to practice optometry shall be reinstated, effective January 1, 2010. The certificate shall be immediately revoked, provided that the revocation shall be stayed, and the certificate shall be placed on probation for five (5) years, upon the following terms and conditions:

1. Obey All Laws: Petitioner shall obey all federal, state and local laws, and all rules governing the practice of optometry in California.



2. Restricted Practice: Petitioner is prohibited from owning or operating his own optometry private practice. He is restricted to supervised employment by an optometrist or ophthalmologist whose license is in good standing and who has been approved by the Board or its designee prior to petitioner commencing employment.
3. Reporting: Petitioner shall inform the Board in writing of any change of place of practice and place of residence within fifteen (15) days.
4. Residency of Practice: The period of probation shall not run during the time petitioner is residing or practicing outside the jurisdiction of California. If, during probation, petitioner moves out of the jurisdiction of California to reside or practice elsewhere, petitioner is required to immediately notify the Board in writing of the date of departure, and the date of return, if any.
5. Cooperate with Probation Surveillance: Petitioner shall comply with the Board's probation surveillance program, including but not limited to allowing access to the probationer's optometric practice and patient records upon request of the Board or its agent.
6. Monitoring: Within 30 days of the effective date of this decision, petitioner shall submit to the Board for its prior approval a monitoring plan in which petitioner shall be monitored by another optometrist, who shall provide periodic reports to the board. Petitioner shall bear any cost for such monitoring. If the monitor resigns or is no longer available, petitioner shall, within 15 days, move to have a new monitor appointed, through nomination by petitioner and approval by the board.
7. Maintain Records: Petitioner shall maintain a record of all lens prescriptions that he dispensed or administered during his probation, showing all the following: 1) the name and address of the patient, 2) the date, 3) the price of the services and goods involved in the prescription, and 4) the visual impairment identified for which the prescription was furnished. Petitioner shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the board or its designee, upon request.
8. Education Coursework: Within 90 days of the effective date of this decision, and on an annual basis thereafter, petitioner shall submit to the board for its prior approval an educational program or course to be designated by the board, which shall not be less than 40 hours per year, for each year of probation. This program must include at least eight hours of ethics course(s); and the program shall be in addition to the Continuing Optometric Education requirements for re-licensure. Petitioner shall bear all associated costs. Following the completion of each course, the Board or its designee may administer an

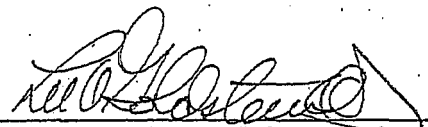


examination to test petitioner's knowledge of the course. Petitioner shall provide written proof of attendance in such course or courses as are approved by the board.

- 9. Community Service: Within 60 days of the effective date of this decision Petitioner shall submit to the Board, for its approval, a plan for community service, according to which he shall provide free services on a regular basis to an underserved community or charitable facility or agency for at least 10 hours a month, for the first 24 months of probation. Once a year Petitioner shall provide the Board with proof that he has complied with the plan.
- 10. Payment of Costs: Petitioner must pay to the Board the full amount of the unpaid costs assessed against him, as he agreed in the Stipulated Surrender and Order, totaling \$11,284.57. This amount is payable in equal monthly installments during the period of probation, provided that the full amount shall be paid 90 days prior to completion of probation. Petitioner shall commence making payments upon notification by the Board or its designee of the amount of unpaid costs, the monthly installment amount, and the payment schedule. A failure to make timely payments pursuant to the payment schedule shall constitute a violation of probation, although petitioner is free to pay the costs earlier than prescribed in the schedule. If petitioner has not paid the full amount of costs at the end of the five-year period of probation, his probation shall be extended until full payment has been made.
- 11. Restitution: Within 90 days of the effective date of this order, Petitioner shall submit to the Board proof that he has made full restitution to VSP Vision Care.
- 12. Violation of Probation: If petitioner violates probation in any respect, the Board, after giving him notice and an opportunity to be heard, may terminate probation and impose the stayed discipline, or such discipline as it deems appropriate. If an accusation or petition to revoke probation is filed against petitioner during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended until the matter is final.
- 13. Completion of Probation: Upon successful completion of probation, petitioner's certificate will be fully restored.

IT IS SO ORDERED.

Dated: June 15, 2009

  
 LEE A. GOLDSTEIN, O.D., President  
 Board of Optometry  
 Department of Consumer Affairs  
 State of California

BEFORE THE  
STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2003-125

D.B.A. 20/20 OPTOMETRY  
GREGORY LAWRENCE TOM  
3191 Crow Canyon Place, Suite C  
San Ramon, CA 94583

Optometry License No. 10427  
Fictitious Name Permit No. 2081  
Fictitious Name Permit No. 2155  
Branch Office License No. 6275  
Statement of Licensure Cert. No. 5181


Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the State Board of Optometry, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 3, 2008.

It is so ORDERED March 3, 2008.

  
\_\_\_\_\_  
FOR THE STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS

EDMUND G. BROWN JR., Attorney General  
of the State of California

WILBERT E. BENNETT  
Supervising Deputy Attorney General  
DIANN SOKOLOFF, State Bar No. 161082  
Deputy Attorney General  
California Department of Justice

1515 Clay Street, 20<sup>th</sup> Floor  
P.O. Box 70550  
Oakland, CA 94612-0550  
Telephone: (510) 622-2212  
Facsimile: (510) 622-2270

Attorneys for Complainant

**BEFORE THE  
STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2003-125

GREGORY LAWRENCE TOM  
D.B.A. 20/20 OPTOMETRY  
3191 Crow Canyon Place, Suite C  
San Ramon, CA 94583

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

Optometry License No. 10427  
Fictitious Name Permit No. 2081  
Fictitious Name Permit No. 2155  
Branch Office License No. 6275  
Statement of Licensure Cert. No. 5181

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties in  
this proceeding that the following matters are true:

PARTIES

1. Taryn Smith (Complainant) is the Executive Officer of the State Board of  
Optometry. She brought this action solely in her official capacity and is represented in this

matter by Edmund G. Brown Jr., Attorney General of the State of California, and by Diann Sokoloff, Deputy Attorney General.

2. Gregory Lawrence Tom (Respondent) is represented in this proceeding by attorney Richard Tamor, whose address is 1901 Harrison Street, 9th Floor, Oakland, CA 94612.

3. On or about September 22, 1994, the State Board of Optometry issued Optometry License No. 10427 to Gregory Lawrence Tom, doing business as 20/20 Optometry. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2003-125 and will expire on July 31, 2008, unless renewed.

4. On or about December 12, 2006, the State Board of Optometry issued a Statement of Licensure Certificate No. 5181 to Gregory Lawrence Tom, doing business as 20/20 Optometry. The license was in full force and effect and at all times relevant to the charges brought in Accusation No. 2003-125 and will expire on July 31, 2008, unless renewed.

5. On or about January 13, 1995, the State Board of Optometry issued Fictitious Name Permit No. 2081 to Gregory Lawrence Tom, doing business as 20/20 Optometry. The Permit expired on April 14, 2003, and has not been renewed.

6. On or about May 11, 1995, the State Board of Optometry issued Fictitious Name Permit No. 2155 to Gregory Lawrence Tom, doing business as 20/20 Optometry. The Permit expired on April 14, 2003, and has not been renewed.

7. On or about June 15, 2001, the State Board of Optometry issued Branch Office License No. 6275 to Gregory Lawrence Tom, doing business as 20/20 Optometry. The Permit expired on February 1, 2004, and has not been renewed.

#### JURISDICTION

8. Accusation No. 2003-125 was filed before the State Board of Optometry (Board), Department of Consumer Affairs, and is currently pending against Respondent. The

Accusation and all other statutorily required documents were properly served on Respondent on March 26, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2003-125 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

9. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. 2003-125. Respondent also has carefully read, discussed with counsel, and fully understands the effects of this Stipulated Surrender of License and Order.

10. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

11. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

12. Respondent, without making specific admissions, stipulates that there is a factual basis for imposition of discipline and agrees that cause exists for discipline based on the allegations in Accusation No. 2003-125, and hereby surrenders his Optometry License No. 10427 for the Board's formal acceptance.

13. Respondent without making specific admissions, stipulates that there is a factual basis for imposition of discipline and agrees that cause exists for discipline based on the

allegations in Accusation No. 2003-125, and hereby surrenders his Statement of Licensure Certificate No. 5181 for the Board's formal acceptance.

14. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Optometry License and Statement of Licensure Certificate without further process.

CONTINGENCY

15. This stipulation shall be subject to approval by the State Board of Optometry. Respondent understands and agrees that counsel for Complainant and the staff of the State Board of Optometry may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

16. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that the surrender of Optometry License No. 10427, and Statement of Licensure Certificate No. 5181 issued to Respondent Gregory Lawrence Tom, doing business as 20/20 Optometry, is accepted by the State Board of Optometry.

18. The surrender of Respondent's Optometry License and Statement of Licensure Certificate, and the acceptance of the surrendered license, permits, and certificate by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

19. Respondent shall lose all rights and privileges as an optometrist in California as of the effective date of the Board's Decision and Order.

20. Respondent shall cause to be delivered to the Board his Optometry License No. 10427, his Statement of Licensure Certificate No. 5181, and his wall and pocket license certificates on or before the effective date of the Decision and Order.

21. Respondent fully understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2003-125 shall be deemed to be true, correct, and admitted by Respondent when the Board determines whether to grant or deny the petition.

22. Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$11,284.57 prior to issuance of a new or reinstated license.

23. Respondent shall not apply for licensure or petition for reinstatement for one year from the effective date of the Board's Decision and Order.

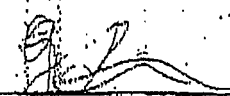


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ACCEPTANCE


I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Richard Tamor. I understand the stipulation and the affect it will have on my Optometry License, Fictitious Name Permits, and Branch Office License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the State Board of Optometry.

DATED: 12/7/07

  
\_\_\_\_\_  
GREGORY LAWRENCE TOM  
Respondent

I have read and fully discussed with Respondent Gregory Lawrence Tom the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 12/16/07

  
\_\_\_\_\_  
RICHARD TAMOR  
Attorney for Respondent


ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the State Board of Optometry of the Department of Consumer Affairs.

DATED: 12/20/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

WILBERT E. BENNETT  
Supervising Deputy Attorney General

  
DIANN SOKOLOFF  
Deputy Attorney General

Attorneys for Complainant.

1 EDMUND G. BROWN JR., Attorney General  
 of the State of California  
 2 WILBERT E. BENNETT  
 Supervising Deputy Attorney General  
 3 DIANN SOKOLOFF, State Bar No. 161082  
 Deputy Attorney General  
 4 California Department of Justice  
 1515 Clay Street, 20<sup>th</sup> Floor  
 5 P.O. Box 70550  
 Oakland, CA 94612-0550  
 6 Telephone: (510) 622-2212  
 Facsimile: (510) 622-2270

7 Attorneys for Complainant

8  
 9 **BEFORE THE**  
**STATE BOARD OF OPTOMETRY**  
 10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11  
 12 In the Matter of the Accusation Against:

Case No.

13 GREGORY LAWRENCE TOM  
 DBA 20/20 OPTOMETRY  
 14 3191 Crow Canyon Place, Suite C  
 San Ramon, CA 94583

**ACCUSATION**

15 Optometry License No. 10427  
 16 Fictitious Name Permit No. 2155  
 Fictitious Name Permit Number 2081  
 17 Branch Office License Number 6275

18 Respondent.

19  
 20 Complainant alleges:

21 PARTIES

22 1. Taryn Smith (Complainant) brings this Accusation solely in her official  
 23 capacity as the Executive Officer of the State Board of Optometry, Department of Consumer  
 24 Affairs.

25 2. On or about September 22, 1994, the State Board of Optometry issued  
 26 Optometry License Number 10427 to Gregory Lawrence Tom (Respondent). The Optometry  
 27 License was in full force and effect at all times relevant to the charges brought herein and will  
 28 expire on July 31, 2008, unless renewed.



1                    10. Section 3110 of the Code states:

2                    "The board may take action against any licensee who is charged with  
3 unprofessional conduct, and may deny an application for a license if the applicant has committed  
4 unprofessional conduct. In addition to other provisions of this article, unprofessional conduct  
5 includes, but is not limited to, the following:

6                    "(a) Violating or attempting to violate, directly or indirectly assisting in or  
7 abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules  
8 and regulations adopted by the board pursuant to this chapter.

9                    "(b) Gross negligence.

10                    "(c) Repeated negligent acts. To be repeated, there must be two or more negligent  
11 acts or omissions.

12                    "(d) Incompetence.

13                    "(e) The commission of fraud, misrepresentation, or any act involving dishonesty  
14 or corruption, that is substantially related to the qualifications, functions, or duties of an  
15 optometrist.

16                    "(f) Any action or conduct that would have warranted the denial of a license.

17                    ...

18                    "(g) The failure to maintain adequate and accurate records relating to the  
19 provision of services to his or her patients.

20                    11. Section 810 of the Code states:

21                    "(a) It shall constitute unprofessional conduct and grounds for disciplinary action,  
22 including suspension or revocation of a license or certificate, for a health care professional to do  
23 any of the following in connection with his or her professional activities:

24                    "(1) Knowingly present or cause to be presented any false or fraudulent claim for the  
25 payment of a loss under a contract of insurance.

26                    "(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the  
27 same, or to allow it to be presented or used in support of any false or fraudulent claim.

28                    ///

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Insurance Fraud)

12. Respondent is subject to disciplinary action under sections 810(a)(1) and 810(a)(2), in conjunction with section 3110, in that between March 23, 2002 and June, 2003, respondent fraudulently submitted bills to Vision Service Plan (VSP).

13. VSP conducted an audit of respondent's San Ramon and San Jose offices on July 28-29, 2003. A sample of respondent's insurance claims were selected and reviewed. Fifty-five (55) claims from both his San Jose and his San Ramon offices were audited. The audit disclosed that thirty seven (37) claims or 67% of the claims that were reviewed from his San Jose office, and forty-four (44) claims or 80% of the claims reviewed from his San Ramon office were billed inappropriately or could not be substantiated because the patient record could not be located. The audit further found that inappropriate billing patterns were also found to have occurred with some of the same patients' services from previous years dating back to 2001 and 2002. As a result of the audit, VSP terminated respondent from membership status on October 24, 2003, and determined that the amount improperly paid to respondent by VSP was \$84,829.53. In general, the audit revealed the following inappropriate billing patterns: (1) billing for medically necessary contact lenses when none were provided; (2) providing prescription lenses for use without contact lenses when authorization was given only for spectacle lenses for use over contact lenses; (3) providing plano gray-3 lenses when a prescription lens was ordered and billed to VSP; (4) inflating amounts billed to VSP for medically necessary contact lenses, and (5) committing other infractions, including double billing for medically necessary contact lenses, double billing insurance plans, switching dates of service, changing patients' dates of birth to support billing, billing an intermediate exam for a comprehensive exam, inflating the wholesale frame costs, overcharging patients for options, and billing plano sunglasses as frame only.

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1 14. Respondent's fraudulent billing submissions to VSP included the  
2 following:

3 a. In some cases (patients 5, 14, 15, 32, 49, and 51) the VSP materials and  
4 Interim Benefits Pre-Certification Request Forms (Pre-Cert) for medically necessary contact  
5 lenses (MNCL) i.e., contact lenses that are required by the patient as defined by VSP and do not  
6 include elective, cosmetic contact lenses, were filled out for patients using + cylinder formats for  
7 the Spectacle Rx (prescription), when the patient record showed - cylinder format on the  
8 examination findings. The cylinder on the Pre-Cert Forms was not marked + or -; this often  
9 made it appear that there was a significant change in the patient's Rx when that was not true.  
10 Pre-Cert Forms were filled out with a different spectacle Rx than that which was documented on  
11 the patient's record.

12 b. In one case (patient 28), MNCL were pre-certified by VSP but the Patient  
13 Survey (the survey sent by VSP to patients who have received services and materials under VSP  
14 plans, and filled out by the patients and returned to VSP) stated that he/she did not wear or  
15 receive contact lenses. (Respondent billed VSP for these services and he was paid the maximum  
16 allowance under the coverage.)

17 c. In some cases (patients 15, 23, 25, 49 and 50), VSP was routinely billed for  
18 spectacle lenses to be worn on top of the MNCL. Respondent provided prescription lenses for  
19 use without contact lenses when authorization was given only for spectacle lenses with use over  
20 contacts. The Rx of these lenses was routinely a +0.50 D for each eye. There was no apparent  
21 therapeutic objective for these Rxs. The Rxs were given without any documentation on the  
22 patient record of near-point testing to establish a need for this type of help; it appeared to be done  
23 solely for the purpose of inflating the VSP billing.

24 d. In some cases (patients 1, 3, 10, 17, 20, 21, 28, 29, 41, 53, 55 and 58), children  
25 as young as 18 months were given Rxs for glasses when the findings were unreliable - as would  
26 be expected at that age. The resulting Rx given to the children, and billed to VSP, were not  
27 therapeutically significant; the documented examination findings did not establish any need for  
28 the correction.

1 e. In some cases (patients 57 and 58), where spectacle lenses for use over contact  
2 lenses and spectacle lenses for young children were prescribed, and billed to VSP, the VSP  
3 Patient Surveys that were filled out by the patients or their parents showed that no lenses were  
4 supplied to the patient by Dr. Tom's office.

5 f. In some cases (patients 10, 17, 21, 21, 29, 33, 36, 41, 46, 48), where spectacle  
6 lenses for use over MNCL and spectacle lenses for young children were prescribed, the VSP  
7 Patient Surveys that were filled out by the patients or their parents showed that non-prescription  
8 sunglasses were supplied to the patient instead of the Rx lenses billed to VSP.

9 g. In some cases (patients 1, 3, 4, 10, 17, 20, 21, 48 and 62), the documentation  
10 on the "Laboratory Instructions" part of the spectacle lens orders instructed the laboratory to ship  
11 plano (non-prescription) sunlenses (Gray 3 planes) to Dr. Tom's office instead of the Rx  
12 spectacle lenses specified on the billings to VSP for that patient.

13 h. In some cases (patients 4, 5, 7, 10, 17, 20, 21, 26, 29, 30, 33, 38, 41, 46, 48, 50,  
14 60, 61 and 62), the billings to VSP routinely stated that dilation of the patient was performed on  
15 almost every patient, but inspection of the individual patient records reviewed showed that  
16 nineteen of those patients did not receive a dilated examination.

17 i. In one case (patient 24), Dr. Tom's office billed VSP for MNCL and spectacle  
18 lenses for use over the contacts. The patient had Lasik surgery 18 months before the billing took  
19 place; Dr. Tom was the co-managing optometrist on the surgery and filled out forms  
20 documenting that the patient had 20/20 acuity without Rx 12 months before his office executed  
21 the billing in question to VSP.

22 j. In some cases (patients 3 and 60), the Rx on VSP Doctor Service Report (IDC)  
23 was not supported by the patient record.

24 15. Incorporating by reference the allegations in paragraphs 12 through 14,  
25 respondent's conduct in knowingly presenting false and fraudulent claims to VSP for payment  
26 constitutes unprofessional conduct within the meaning of Code sections 810 (a)(1) and 810(a)(2)  
27 and provides grounds for disciplinary action under Code section 3110.

28 ///



SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Alteration of Medical Records)

16. Respondent is subject to disciplinary action under section 3105, in conjunction with section 3110, in that between March 23, 2002, and June, 2003, respondent fraudulently submitted bills to Vision Service Plan (VSP).

17. Incorporating by reference the allegations in paragraphs 12 through 14, respondent's conduct in fraudulently submitting bills to VSP necessarily involved altering and modifying the medical records of some of his patients with fraudulent intent and creating a false medical record with fraudulent intent. This conduct constitutes unprofessional conduct within the meaning of Code section 3105 and provides grounds for disciplinary action under Code section 3110.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct-False Representation of Facts)

18. Respondent is subject to disciplinary action under section 3106, in conjunction with section 3110, in that between March 23, 2002, and June, 2003, respondent fraudulently submitted bills to Vision Service Plan (VSP).

19. Incorporating by reference the allegations in paragraphs 12 through 14, respondent's conduct in fraudulently submitting bills to VSP necessarily involved knowingly creating paperwork directly related to his practice of optometry that falsely represented facts regarding several of his patients constitutes unprofessional conduct within the meaning of Code section 3106 and provides grounds for disciplinary action under Code section 3110.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the State Board of Optometry issue a decision:

1. Revoking or suspending Optometry License Number 10427, issued to Gregory Lawrence Tom, DBA 20/20 Optometry;

2. Revoking or suspending Fictitious Name Permit Number 2155, issued to Gregory Lawrence Tom, DBA 20/20 Optometry.

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3. Revoking or suspending Fictitious Name Permit Number 2081, issued to Gregory Lawrence Tom, DBA 20/20 Optometry.

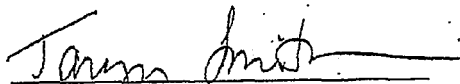
4. Revoking or suspending Branch Office License Number 6275, issued to Gregory Lawrence Tom, DBA 20/20 Optometry.

5. Ordering Gregory Lawrence Tom to pay the State Board of Optometry a civil penalty of five hundred dollars (\$500) for a violation of Code section 3105.

6. Ordering Gregory Lawrence Tom to pay the State Board of Optometry the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

7. Taking such other and further action as deemed necessary and proper.

DATED: 3/26/67



TARYN SMITH  
Executive Officer  
State Board of Optometry  
Department of Consumer Affairs  
State of California  
Complainant

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CALIFORNIA STATE BOARD OF  
**OPTOMETRY**STATE BOARD OF OPTOMETRY  
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834  
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov**CERTIFICATION**

The undersigned, Jessica Sieferman hereby certifies as follows:

*That she is the duly appointed, acting and qualified Executive Officer of the California State Board of Optometry (Board), and that in such capacity she has custody of the official records of the Board.*

On this fifth day of August 2016, the Executive Officer examined said official records of the Board and found that **GREGORY LAWRENCE TOM** graduated from the University of California in Berkeley, School of Optometry in 1994. Optometry License No. 10427 was granted to him effective September 22, 1994. Said Optometry License will expire July 31, 2018, unless renewed. The current address of record for said Optometry License is 1700 Stoneridge Mall Rd, 3<sup>rd</sup> Floor, Pleasanton, CA 94588.

Said records further reveal that on or about August 27, 1996, **GREGORY LAWRENCE TOM** became certified to utilize Therapeutic Pharmaceutical Agents pursuant to Business and Professions Code (BPC) Section 3041.3.

Said records further reveal that on or about March 26, 2007, the Board filed an Accusation in Case No. CC 2003-125. The Board, by Decision and Order effective April 3, 2008, adopted a Stipulated Surrender of License and Order resolving said Accusation. Optometry License No. 10427 and Statement of Licensure No. 5181 were surrendered.

Said records further reveal that on or about February 23, 2009, **GREGORY LAWRENCE TOM** filed a Petition for Reinstatement, in Case No. CC 2003-125. The Board, by Decision and Order effective July 15, 2009, granted said Petition. Optometry License No. 10427 was reinstated effective January 1, 2010. Said license was immediately revoked, the revocation was stayed and the license was placed on probation for five (5) years, with terms and conditions.

Said records further reveal that on or about November 19, 2010, **GREGORY LAWRENCE TOM** filed a Petition for Reduction of Penalty or Early Termination of Probation, in Case No. CC 2008-225. The Board, by Decision and Order effective August 16, 2011, denied said Petition.

Said records further reveal that on or about August 19, 2011, **GREGORY LAWRENCE TOM** filed a Petition for Reconsideration, in Case No. CC 2008-225. The Board, by Order effective September 30, 2011, denied said Petition.

Said records further reveal that on or about August 18, 2011, the Board filed a Petition to Revoke Probation in Case No. CC 2003-125. The Board, by Decision and Order effective August 29, 2012, adopted a Proposed Decision resolving said Petition. Said Decision and Order granted the revocation of probation and lifted the stay of revocation that was effective on January 1, 2010. Optometry License No. 10427 was revoked effective August 29, 2012.

Said records further reveal that on or about August 27, 2012, **GREGORY LAWRENCE TOM** filed a Petition for Reconsideration, in Case No. 2003-125. The Board, by Order effective August 29, 2012, denied said Petition.

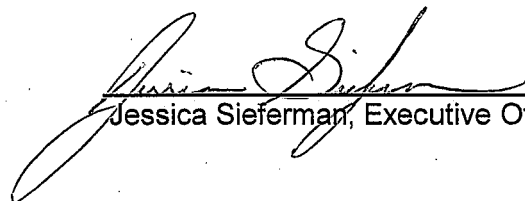
Said records further reveal that on or about May 1, 2013, **GREGORY LAWRENCE TOM** filed a Petition for Reinstatement, in Case No. CC 2013-47. The Board, by Decision and Order effective December 11, 2013, granted said Petition. Optometry License No. 10427 was reinstated effective December 11, 2013. Said Optometry License was immediately revoked, the revocation was stayed and the license was placed on probation for five (5) years, with terms and conditions.

Said records further reveal that on or about November 28, 2013, **GREGORY LAWRENCE TOM** filed a Petition for Reconsideration, in Case No. CC 2013-47. The Board, by Order effective December 10, 2013, denied said Petition.

Said records further reveal that on or about December 12, 2014, **GREGORY LAWRENCE TOM** filed a Petition for Reduction of Penalty or Early Termination of Probation, in Case No. CC 2013-47. The Board, by Decision and Order effective April 22, 2015, denied said Petition.

Said records further reveal that on or about September 29, 2015, **GREGORY LAWRENCE TOM** became certified to diagnose and treat primary open angle glaucoma in patients over the age of 18 years pursuant to BPC Section 3041(f).

Given under my hand and the seal of the State Board of Optometry, in Sacramento, California, on this fifth day of August 2016.

  
Jessica Sieferman, Executive Officer