

MEMBERS OF THE BOARD

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David Turetsky, OD



**Western University of Health Sciences - College of Optometry
Vision Science Lab 2205
Health Education Center, Second Floor**

**Health Education Center
701 E. Second Street
Pomona, CA 91766**

Friday, November 21, 2014

9:00 a.m. – 5:00 p.m.

(or until conclusion of business)

ORDER OF ITEMS SUBJECT TO CHANGE

FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum
2. Welcome – President's Report
3. Public Comment for Items Not on the Agenda
Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]
4. Approval of Board Meeting Minutes
 - A. November 1, 2013
 - B. June 23, 2014
 - C. August 8, 2014
5. Department of Consumer Affairs Report
*Awet Kidane, Director of the Department of Consumer Affairs and
Christine Lally, Deputy Director of Board/Bureau Relations*
6. Overview of the Bagley-Keene Open Meeting Act Training
7. Discussion and Possible Action on Requiring Posting of a Consumer Notice Defining the Designations on an Optometrist License
8. Discussion and Possible Action to Amend Business and Professions Code §3057, Requirements for Licenses; Exceptions, Expiration; "In Good Standing"

The mission of the California State Board of Optometry is to protect the health and safety of California consumers through licensing, education, and regulation of the practice of Optometry.

9. Discussion and Possible Action to Amend Business and Professions Code §3057.5 Eligibility of Graduates from Foreign Universities
10. Discussion and Possible Action to Add Business and Professions Code §3058 Requirements for Licensure; Qualifications of Foreign Graduates
11. Discussion and Possible Action to Amend Business and Professions Code §3015.1 Issuance of License with Retired Volunteer Service Designation; Duties of Applicant, Holder of Retired License
12. Discussion and Possible Action to Amend Business and Professions Code §3041.3 Certificate Requirements – Therapeutic Pharmaceutical Agents
13. Discussion and Possible Action to Amend Business and Professions Code §3152, Fee Schedule
14. New Legislation Affecting the Practice of Optometry
 - A. Assembly Bill 809 (Logue) Telehealth Patient Consent
 - B. Senate Bill 1466 (BP&ED Health Committee) Omnibus
 - C. Assembly Bill 1711 (Cooley) Economic Impact Assessment
 - D. Assembly Bill 2720 (Ting) Requires State Agencies to Record Votes in Meeting Minutes
 - E. Assembly Bill 2396 (Bonta) Denial of Licensure for Prior Convictions
 - F. Senate Bill 1159 (Lara) Professions and Vocations: License Applicants: Federal Tax Identification Number
15. Executive Officer's Report
 - A. BreEZe
 - B. Budget
 - C. Personnel
 - D. Examination and Licensing Programs
 - E. Enforcement Program
 - F. Board Meeting Dates 2015
16. Petitions for Reduction of Penalty or Early Termination of Probation
 - A. Jolyn Wei, OD, OPT 13614
 - B. Salimah Pirmohamed, OD, OPT 13918
 - C. Brittany Pham, OD, OPT 10398

FULL BOARD CLOSED SESSION

17. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

FULL BOARD OPEN SESSION

18. Adjournment

***PUBLIC COMMENTS:** Public comments will be taken on agenda items at the time the specific item is raised. Time limitations will be determined by the Chairperson. The Board may take action on any item listed on the agenda, unless listed as informational only. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.*

***NOTICE:** The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Lydia Bracco at (916) 575-7170 or sending a written request to that person at the California State Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.*

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 1 – Call to Order and Establishment of Quorum

Dr. Alejandro Arredondo, O.D., Board President, will call the meeting to order and call roll to establish a quorum of the Board.

Alejandro Arredondo, O.D., Board President, Professional Member

Madhu Chawla, O.D., Vice President, Professional Member

Donna Burke, Board Secretary, Public Member

Cyd Brandvein, Public Member

Frank Giardina, O.D., Professional Member

Glenn Kawaguchi, O.D., Professional Member

Alexander Kim, MBA, Public Member

William H. Kysella, Jr., Public Member

Kenneth Lawenda, O.D., Professional Member

Rachel Michelin, Public Member

David Turetsky, O.D., Professional Member

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To: Board Members

Date: November 21, 2014

From: Alejandro Arredondo, O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 2 – Welcome – President's Report

Welcome and report by President Alejandro Arredondo, O.D.

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www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 3 – Public Comment

The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)].

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To: Board Members

Date: November 21, 2014

From: Donna Burke
Board Secretary

Telephone: (916) 575-7170

Subject: Agenda Item 4 – Approval of Board Meeting Minutes

The positing on the agenda is incorrect.

Minutes for August 16, 2013 and the November 1, 2013 meetings were approved at the August 8, 2014 meeting.

The minutes listed as January 24, 2014 should have been June 23, 2014, Special Meeting. The Board has requested additional comments that need to be researched and added.

The minutes for the August 8, 2014 are being drafted.

Due to a change in staff duties, staff responsible for drafting the minutes is becoming familiar with this process and reviewing notes, recordings and webcasts. The minutes will be current and available at the next meeting.

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To: Board Members

Date: November 21, 2014

From: Awet Kidane, Director, Consumer Affairs
Christine Lally, Deputy Director of Board/Bureau
Relations

Telephone: (916) 575-7170

Subject: Agenda Item 5 – Department of Consumer Affairs Report

Representatives from the Executive Office will provide a report for the Department and an update on BreZEze.

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To: Board Members

Date: November 21, 2014

From: Cyd Brandvein
Public Member

Telephone: (916) 575-7170

Subject: Agenda Item 6 – Overview of the Bagley-Keene Open Meeting Act Training

On Wednesday, November 5, 2014, board representatives Mona Maggio, Jessica Sieferman and Cyd Brandvein attended the Department of Consumer Affairs, SOLID Solutions training on the Bagley-Keene Open Meeting Act. Senior Legal Counsel Michael Santiago was also in attendance.

Topics discussed included, but were not limited to:

What is the Bagley-Keene Open Meeting Act and its purpose

Notice/Requirements

Closed Session

What is a State Body

Meetings and Serial Communication

When is it Not a Meeting

Election of Officers

Standing Committees

Teleconference

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Sacramento, CA 95834
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www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Nooshin Movassaghi

Telephone: (916) 575-7176

Subject: Agenda Item 7 – Discussion and Possible Action on Requiring Posting of a Consumer Notice Defining the Designations on an Optometrist License

Action Requested:

Please review and discuss the attached issue paper to determine if requiring posting of a consumer notice defining the designations on an optometrist license should be added to the Consumer Information as stated in §1566.1. Board staff has identified two options for amending the current statute in order to make the designations more visible to the consumer.

Background:

Currently under California Laws and Regulations Code of Regulations (CCR) §1566.1 Consumer Information requires that an optometrist post the Board of Optometry's contact information in a conspicuous place so the consumer can direct any complaints or grievances they may have with the doctor.

Potential options:

1. Amend §1566.1 to require that the optometrist also include the definition of the five designations (DPA, TPA, TPL, TPG, and TLG).

Pros: Currently these designations are available on the Board of Optometry website under Forms/Publications, Consumers, "What do the letters after an optometrist's name mean?" which is not readily visible to a patient in an optometrist office. This amendment would allow the patient visibility at the time of the visit.

Cons: None identified.

2. Separate regulation (for example §1566.2) to mandate that these designations be posted in the same conspicuous place as the Consumer Notice.

Pros: This allows for the regulation to be enforced separately and would hold the doctor accountable for making an effort to post for the consumer.

Cons: None identified.

3. Include the four O's (Optometrists, Ophthalmologists, Opticians, and Optometric) with their definition to either an amendment of §1566.1 or a separate regulation (for example §1566.2).

Pros: Currently these definitions are available on the Board of Optometry website under Forms/Publications, Board Publications, “Focus on your Eye – What to Expect at an Eye Examination?” which is not readily visible to a patient in an optometrist office. This amendment would allow the patient visibility at the time of the visit and educate the consumer as to the scope of what these licensed and unlicensed individuals can perform.

Cons: None identified.

Attachments:

1. What do the letters after an optometrist’s name mean?
2. Focus on Your Eyes – What to Expect at an Eye Examination

§1566.1. CONSUMER INFORMATION

The "CONSUMER NOTICE" specified in Section 1566 shall also contain the following consumer information: The practice of optometry in California is regulated by the Board of Optometry. The Board of Optometry receives and investigates all consumer complaints involving the practice of optometry. Complaints or grievances involving a California-licensed optometrist, should be directed to:

BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
2450 DEL PASO ROAD, SUITE 105
SACRAMENTO, CA 95834
PHONE: 1-866-585-2666 OR (916) 575-7170
EMAIL: OPTOMETRY@DCA.CA.GOV
INTERNET: WWW.OPTOMETRY.CA.GOV



BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105
SACRAMENTO, CALIFORNIA 95834
TEL: (916) 575-7170
www.optometry.ca.gov



FACT SHEET

WHAT DO THE LETTERS AFTER AN OPTOMETRIST'S LICENSE MEAN?

After an optometrist has been issued a license to practice optometry in the State of California, he/she may obtain certifications that allow the optometrist to provide certain additional optometric procedures and services. Such certifications are listed immediately to the right of the doctor's license number. The five different certification designations and their meanings are listed below.

DPA

The DPA designation indicates that the optometrist is certified to use diagnostic pharmaceutical agents for examination purposes only.

TPA

The TPA designation indicates that the optometrist is certified to use therapeutic pharmaceutical agents and the optometrist may treat certain conditions of the human eye, or any of its appendages, with therapeutic pharmaceutical agents. The optometrist may also perform certain procedures on the eye. The therapeutic pharmaceutical agents that may be prescribed, the conditions of the eye, and the authorized procedures are listed in California Business and Professions Code Section 3041.

TPL

The TPL designation indicates that, in addition to the optometric services described in the TPA section above, the optometrist is also certified to perform lacrimal irrigation and dilation procedures for patients over the age of 12 years.

TPG

The TPG designation indicates that, in addition to the optometric services described in the TPA section above, the optometrist is also certified to diagnose and treat primary open angle glaucoma in patients over the age of 18 years.

TLG

The TLG designation indicates that, in addition to the optometric services described in the TPA section above, the optometrist is also certified to perform lacrimal irrigation and dilation procedures for patients over the age of 12 years and diagnose and treat primary open angle glaucoma in patients over the age of 18 years.

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www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7176

Subject: Agenda Item 8 – Discussion and Possible Action to Amend Business and Professions Code Section 3057 Requirements for Licenses; Exceptions, Expiration; “In Good Standing”

Action Requested:

Staff requests the Board review and discuss the proposed amendments to Business and Professions Code (BPC) §3057 to clarify the licensure requirements for out-of-state licensees applying for licensure in California.

If the language is approved, the Board will need to direct staff to move forward with the legislative process.

Background:

BPC §3057 defines the requirements for licensure as an optometrist in California for an out-of-state licensee. As part of the application process, section (a)(4) requires the applicant to submit proof that he or she has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in five of the seven consecutive years immediately preceding the date of his or her application under this section.

This law was added in 2006. At that time the Board wanted to ensure that out-of-state practicing optometrists were proficient in treating patients with therapeutic pharmaceutical agents (TPAs) and that the 5,000 practice hours of experience would be sufficient. However, this requirement is now obsolete, inconsistent with the licensing requirements for new graduates and impacts access to care and has economic impact for the State.

A recent graduate from any U.S. school/college can apply for and obtain licensure in California; however, if the graduate decides to become licensed in another state after graduation, then decides to apply for licensure in California, a month, year, two years later, the application would be denied because the applicant has not met the 5,000 practice hours requirement.

The current application process for out-of-state licensees requires the applicant to indicate on the application whether or not he/she has met the practice hours requirement set forth in BPC §3057, and submit a completed “Certification of 5,000 Practice Hours” form with the application. The Certification asks for information pertaining to each worksite where hours were earned (e.g. worksite addresses, dates and number of hours worked at each location). The applicant signs this certification under penalty of perjury that the information is true and correct. However, no supporting information is required to substantiate that the information provided is true.

Patient access to care is negatively impacted because of the barrier to licensure until the 5,000 practice hours are met and a negative economic impact is created when new businesses are kept out of California.

Attachments

1. Proposed Amendments to BPC §3057
2. Application for Licensure by an Out-of State Licensed Optometrist and Instructions
3. Certification of 5,000 Practice Hours

**§3057. REQUIREMENTS FOR OUT OF STATE LICENSED OPTOMETRISTS;
EXCEPTIONS; EXPIRATION; "IN GOOD STANDING"**

(a) The board may issue a license to practice optometry to a person who meets all of the following requirements:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Has successfully passed the licensing examination for an optometric license in another state.

(3) Submits proof that he or she is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements.

~~—(4) Submits proof that he or she has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in five of the seven consecutive years immediately preceding the date of his or her application under this section.~~

(~~54~~) Is not subject to disciplinary action as set forth in subdivision (h) of Section 3110. If the person has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(~~65~~) Has furnished a signed release allowing the disclosure of information from the Healthcare Integrity and Protection Data Bank and, if applicable, the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(~~76~~) Has never had his or her license to practice optometry revoked or suspended.

(~~87~~) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.

(~~98~~) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(~~409~~) Has met the certification requirements of Section 3041.3 to use therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(~~4110~~) Submits any other information as specified by the board to the extent it is required for licensure by examination under this chapter.

| (4211) Files an application on a form prescribed by the board, with an acknowledgment by the person executed under penalty of perjury and automatic forfeiture of license, of the following:

(A) That the information provided by the person to the board is true and correct, to the best of his or her knowledge and belief.

(B) That the person has not been convicted of an offense involving conduct that would violate Section 810.

| (4312) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.

| (4413) Has successfully passed the board's jurisprudence examination.

(b) If the board finds that the competency of a candidate for licensure pursuant to this section is in question, the board may require the passage of a written, practical, or clinical exam or completion of additional continuing education or coursework.

(c) In cases where the person establishes, to the board's satisfaction, that he or she has been displaced by a federally declared emergency and cannot relocate to his or her state of practice within a reasonable time without economic hardship, the board is authorized to ~~do both of the following:~~

~~—(1) Approve an application where the person's time in active practice is less than that specified in paragraph (4) of subdivision (a), if a sufficient period in active practice can be verified by the board and all other requirements of subdivision (a) are satisfied by the person.~~

~~—(2) Reduce or waive the fees required by paragraph (4312) of subdivision (a).~~

(d) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(e) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon a person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a ~~physician~~qualified healthcare professional so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.



STATE BOARD OF OPTOMETRY
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 P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



APPLICATION FOR LICENSURE BY AN OUT OF STATE LICENSED OPTOMETRIST

FEE: \$275

The following information is required under Sections 3044, 3045 & 3046 of the Business and Professions Code.

All terms of information requested are mandatory. Failure to provide any of the requested information will result in the application being rejected as incomplete. The information provided will be used to determine qualification for licensure. The official responsible for the maintenance of this information is the Executive Officer. The information may be transferred to other interagency or intergovernmental agency, and/or enforcement agencies. Each individual has the right to review the files or records maintained on them by the agency, unless the records are identified as exempt from access as provided in Section 1798.40 et seq. of the Information Practices Act of the Civil Code.

All applicants are subject to fingerprinting for criminal background checks. If you are having your prints taken in California, you must use a Live scan form. You can download this form from the Board's web-site or you can request this form by marking ✓ the box titled "Live Scan Form." If you are having your prints taken outside of California, you must use a fingerprint card. If you need a fingerprint card, please mark ✓ the box titled "Fingerprint Card".

☐

Live Scan Form (California Only)

☐

Fingerprint Card (Out of State)

PLEASE TYPE OR PRINT CLEARLY

1. Name: (FIRST) (MIDDLE) (LAST)

Other name/s used:

E-mail address: (_____)

2. Address: (NUMBER & STREET)

(CITY)

(STATE)

(ZIP)

(TELEPHONE)

3. Date of Birth: (Mandatory)

mm / dd / yyyy

4. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405 (c)(2)(C) authorize collection of your SSN. Your SSN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgement or order for family support in accordance with Section 11350.6 of the Welfare and Institutions Code, or for verification of licensure or examination status by a licensing or examination entity that utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN, you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.

(Mandatory)

5. Education: Name(s) of School(s) or College(s) of Optometry attended

(NAME OF SCHOOL)

(DATE ENTERED)

(DATE DEGREE CONFERRED)

6. Have you sat for the California Laws and Regulations Examination?

If yes, please provide the month and year of test administration.

mm

yyyy

☐

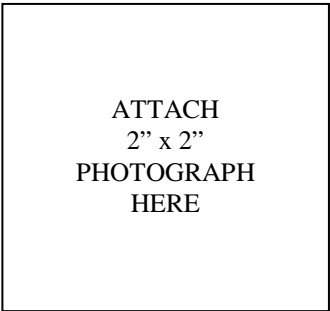
Yes

☐

No

<p>7. Please list the name, month and year of the examination administered to qualify you for licensure:</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="flex: 1; border-bottom: 1px solid black; text-align: center;">Name of Examination</div> <div style="flex: 1; border-bottom: 1px solid black; text-align: center;">mm/yyyy</div> </div>
<p>8. Please list all states in which you are licensed to practice optometry:</p> <div style="margin-top: 10px;"> <p>State: _____ Lic. No.: _____ ; State: _____ Lic. No.: _____</p> <p>State: _____ Lic. No.: _____ ; State: _____ Lic. No.: _____</p> </div> <p style="margin-top: 10px;">NOTE: A LETTER OF GOOD STANDING MUST BE SENT FROM EACH STATE BOARD IN WITH WHICH YOU ARE LICENSED DIRECTLY TO THE CALIFORNIA BOARD.</p>
<p>9. Please indicate if you have ever had a license to practice optometry denied, suspended, or subject to disciplinary action</p> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="margin-right: 10px;"><input type="checkbox"/> Yes</div> <div style="margin-right: 10px;"><input type="checkbox"/> No</div> <div>(If you marked "Yes, provide full details including charge(s), where (state or territory) and final Disposition on separate piece of paper and attach to this application.)</div> </div>
<p>10. Please indicate if you, as a juvenile or adult, have ever been convicted of or plead nolo contendere to any violation of a U.S. statute, state statute or local ordinance, other than vehicle code offenses in which fines levied were less than \$50.00 (Convictions dismissed pursuant to Section 1203.4 of the Penal Code must be disclosed)</p> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="margin-right: 10px;"><input type="checkbox"/> Yes</div> <div style="margin-right: 10px;"><input type="checkbox"/> No</div> <div>(If you marked "Yes", provide the full details of each offense, including nature, location and date of final disposition. Submit on a separate piece of paper with this application.</div> </div>
<p>11. Please indicate whether you have met the 5,000 hours of practice requirement set forth in section 3057 of the California Business and Professions Code in five of the seven consecutive years preceding the date of this application.</p> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="margin-right: 10px;"><input type="checkbox"/> Yes</div> <div style="margin-right: 10px;"><input type="checkbox"/> No</div> <div>(If "Yes", you must fill out the Certification of 5,000 Practice Hours form (LBC-4) and submit along with this application)</div> </div>
<p>12. Please indicate whether you have met TPA requirements set forth in section 3041.3 of the California Business and Professions Code.</p> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="margin-right: 10px;"><input type="checkbox"/> Yes</div> <div style="margin-right: 10px;"><input type="checkbox"/> No</div> <div>(If you marked "Yes", please refer to page two of the instructions for submitting documentation.)</div> </div>
<p>13. Please indicate whether you have met the minimum continuing education requirements set forth in section 3059 of the California Business and Professions Code for the current and preceding year.</p> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="margin-right: 10px;"><input type="checkbox"/> Yes</div> <div style="margin-right: 10px;"><input type="checkbox"/> No</div> <div>(If you marked "Yes", please refer to page two of the instructions for submitting documentation.)</div> </div>
<p>14. 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 application, and any attached sheets, are true and I understand and agree that any misstatements of material facts herein may be cause for the denial of this application or for subsequent suspension or revocation of a certificate of registration to practice optometry in California if one is granted to me. I further declare that my signature on this application authorizes the National Practitioner Data Bank, the Federal Drug Enforcement Agency, and any other law enforcement agency or jurisdictional entity to release any and all information required by the California Board of Optometry.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="flex: 1;">Signature of Applicant: _____</div> <div style="flex: 1;">Date: _____</div> </div>

PHOTOS MUST HAVE BEEN TAKEN WITHIN THE LAST SIX MONTHS
USE TAPE DO NOT STAPLE





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 OF 5,000 PRACTICE HOURS

If you practiced at numerous locations during the time period being documented, use a separate form for each practice location.

This certification is for use in establishing eligibility to become licensed in California based upon number of hours practiced and must accompany the Application for Licensure by an Out-of-State Licensed Optometrist.

1. Name: (First) (Middle) (Last)			
2. Address: (Number & Street)			
(City)	(State)	(Zip)	(Telephone)
Were you self-employed? <input type="checkbox"/> Yes <input type="checkbox"/> No • If you answered "No" proceed to <u>Section I</u> and have the employer or custodian of records* complete and certify the information. • If you answered "Yes", go to <u>Section II</u>			
SECTION - I Practice address during the period indicated below: <hr/> (Number & Street) <hr/> (City) (State) (Zip) (Telephone)			
From: (mm/dd/yyyy)	To: (mm/dd/yyyy)	Total hours	
Business name and address, if different from the practice address.			
<hr/> (Name of business) <hr/> (Number & Street) <hr/> (City) (State) (Zip) (Telephone)			

SECTION - I (continued)

Employer/Custodian of Records:

I certify under penalty of perjury under the laws of the State of California that I am the custodian of records of the business listed above, and that the above is a true and correct representation of the records of the business.

Printed/Typed Name of Certifying Person_____
Signature of Certifying Person_____
Date of Signing(_____)_____
Telephone Number**SECTION - II** Dates and hours of practice.

NOTE! IF THIS APPLICATION IS BEING MADE PURSUANT TO A FEDERALLY DECLARED EMERGENCY AS STATED IN BUSINESS AND PROFESSIONS CODE SECTION 3056, PLEASE INDICATE BELOW:

☐ YES (If yes, please call the Board at (866-585-2666 for information)

☐ NO (If no, please continue)

From: (mm/dd/yyyy)	To: (mm/dd/yyyy)	Total hours:	State and License Number:
From: (mm/dd/yyyy)	To: (mm/dd/yyyy)	Total hours:	State and License Number:
From: (mm/dd/yyyy)	To: (mm/dd/yyyy)	Total hours:	State and License Number:

I declare under penalty of perjury under the laws of the State of California that the answers given by me, employer, or custodian of record in completing this application are true and I understand and agree that any misstatements of facts herein may be cause for the denial of my application for licensure t or for subsequent suspension or revocation of a certificate of registration to practice optometry in California if one is granted to me.

Signature of Applicant_____
Date

*THE CUSTODIAN OF RECORDS is a person or institution that has charge or custody of documents, papers, or other valuables.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7176

Subject: Agenda Item 9 – Discussion and Possible Action to Amend Business and Professions Code §3057.5 Eligibility of Graduates from Foreign Universities

Action Requested:

Staff requests the Board review and discuss the proposed amendments to Business and Professions Code §3057.5; make edits that are necessary to clarify the criteria for the Board to issue a Letter of Sponsorship (LOS) to allow a foreign graduate to take the National Board of Examiners in Optometry (NBEO). If the language is approved, the Board will need to direct staff to move forward with the legislative process.

Background:

Business and Professions Code §3057.5 was added in 1987 to allow the Board to provide a LOS to a graduate of a foreign university, provided the applicant meets the following criteria:

- 1) Is over the age of 18 years
- 2) Is not subject to denial under Section 480
- 3) Has obtained a degree as a doctor of optometry issued by a university located outside the United States.

Staff found that the current requirements are insufficient for determining a foreign graduate's eligibility for sponsorship, due to the fact that:

1. Many countries do not issue a degree as a doctor of optometry, but do issue a baccalaureate degree in optometry.
2. The Board receives requests for LOS from individuals who are licensed ophthalmologists in foreign countries. Not all foreign licensed ophthalmologists can qualify for licensure through the Medical Board of California.
3. Not all countries have the profession of optometry.

Before staff issues a LOS to an applicant, staff must determine if the applicant's education obtained through the foreign university is equivalent to the education earned in a U.S. school/college of optometry. This is done by requesting the applicant have his/her transcripts evaluated by an evaluation service. If the education is deemed equivalent, staff will issue the LOS. If the education does not meet the equivalency, we provide the applicant with a list of the U.S. schools/colleges of optometry that provide courses to obtain the education needed to qualify for the examination. When an applicant completes the education through a U.S. school/college of optometry, the applicant is issued a degree as a doctor of optometry and is treated as a U.S. graduate, not a foreign graduate.

The amendments are needed to provide foreign licensed optometrists and ophthalmologists who do not meet the current criteria in law a means to apply for and be considered for issuance of a LOS. In addition, it will authorize the Board to request pertinent information in order to evaluate the applicant's education, work history, etc. to determine if a LOS will be granted.

Attachments

1. Proposed Amendments to BPC §3057.5

§3057.5. ELIGIBILITY OF GRADUATES FROM FOREIGN UNIVERSITIES

(a) Notwithstanding any other provision of this chapter, the board shall permit a graduate of a foreign university who ~~meets all of the following requirements~~ is over the age of 18 years, is not subject to denial of a license under Section 480, and meets one of the following criteria to take the examinations for a ~~certificate of registration~~ licensure as an optometrist:

~~–(a) Is over the age of 18 years.~~

~~–(b) Is not subject to denial of a certificate under Section 480.~~

1) ~~–(c)~~ Has obtained a degree as a doctor of optometry issued by a university located outside of the United States.

2) Has obtained a degree from a school of optometry program located outside of the United State, having a minimum a four year, or equivalent, curriculum leading to optometry licensure.

3) Has obtained a degree from a school of medicine outside of the United States and completed the necessary requirements to practice in the field of ophthalmology in that country.

(b) All foreign graduates must provide to the Board as applicable the following supporting documents:

1) Current curriculum vitae

2) Official examination scores

3) Certificate of optometric/medical education

4) Official school transcripts

5) Certified copy of optometric/medical diploma(s)

6) Official English translation

7) Certificate of completion of post graduate training

8) Certificate of clinical training

The Board may, at its discretion, request additional supporting documentation.

(c) The Board shall require the applicant to obtain an evaluation of the official transcripts from the college or university that issued the degree from an education evaluation service approved by the Board. The evaluation must be sent from the evaluation service directly to the Board.

(d) Documents that are not in English must be translated by a certified U.S. translation service approved by the Board.

(e) Foreign graduates not meeting the educational equivalency, as determined by the evaluation service, will be required to obtain the necessary education to meet the equivalency requirement.

(f) The applicant must file an application for foreign graduate on a form prescribed by the Board, signed under penalty of perjury, that the information provided is true and correct.

(g) The applicant must submit an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.

(h) The Board will issue a Letter of Sponsorship, or its equivalent, in order to satisfy any requirement of the National Board of Examiners in Optometry (NBEO) needed to allow the candidate to take all required examinations for licensure. The Letter for Sponsorship expires one year from the date of approval.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7176

Subject: Agenda Item 10 – Discussion and Possible Action to Amend Business and Professions Code Section 3058 Requirements for License, Qualification of Foreign Graduates

Action Requested:

Staff requests the Board review and discuss the proposed language to add Business and Professions Code Section 3058. Please provide edits that are necessary to establish the requirements for licensure for foreign graduates. If the language is approved, the Board will need to direct staff to move forward with the legislative process.

Background:

Business and Professions Code §3057.5 was added in 1987 to allow the Board to provide a Letter of Sponsorship for a graduate of a foreign university to take the National Board of Examiners in Optometry (NBEO). However, there is not a pathway for licensure once the foreign graduate passes the NBEO.

The draft language clearly defines the requirements for licensure and is similar to the licensure requirements for new U.S. graduates and out of state graduates.

Attachments

1. Proposed Language

Section 3058 Requirements for Licensure; Qualifications of Foreign Graduates

(a) The Board may issue a license to practice optometry to a person who meets all of the following requirements:

- (1) Has met the provisions of Section 3057.5.
- (2) Has successfully passed all the required examinations.
- (3) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.
- (4) Has met the certification requirements of Section 3041.3.
- (5) Has submitted any other information as specified by the board to the extent it is required for licensure under this chapter.
- (6) Has filed an application on a form prescribed by the board under penalty of perjury that the information provided is true and correct.
 - (A) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.
 - (B) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.
- (7) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a qualified professional so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7176

Subject: Agenda Item 11 – Discussion and Possible Action to Amend Business and Professions Code Section 3151.1 Issuance of License with Retired Volunteer Service Designation; Duties of Applicant, Holder of Retired License.

Action Requested:

Staff requests the Board review and discuss the proposed language to amend Business and Professions Code (BPC) §3151.1. Please provide any edits that are necessary to define the timeframe that the holder of a retired license can convert the retired license to a license with retired volunteer service designation and sets the expiration date of the license. If the proposed amendments are approved, the Board will need to direct staff to move forward with the legislative process.

Background:

The amendments to BCP §3151.1 are essentially clean-up language.

Attachments

1. Proposed Language

§3151.1. ISSUANCE OF LICENSE WITH RETIRED VOLUNTEER SERVICE DESIGNATION; DUTIES OF APPLICANT; HOLDER OF RETIRED LICENSE

(a) The board shall issue, upon application and payment of the fee described in Section 3152, a license with retired volunteer service designation to an optometrist who holds a retired license for less than three years or a license that is current and active.

(b) The holder of a retired license issued for more than three years may convert the license to retired volunteer service designation if he or she satisfies the requirements in Section 3147.6.

(~~b~~c) The applicant shall certify on the application that he or she has completed the required number of continuing education hours pursuant to Section 3059.

(~~e~~d) The applicant shall certify on the application that the sole purpose of the license with retired volunteer service designation is to provide voluntary, unpaid optometric services at health fairs, vision screenings, and public service eye programs.

(~~e~~e) The holder of the retired license with volunteer service designation shall submit a biennial renewal application, with a fee fixed by this chapter and certify on each renewal that the required number of continuing education hours pursuant to Section 3059 were completed, and certify that the sole purpose of the retired license with volunteer service designation is to provide voluntary, unpaid services as described in subdivision (c).

Pursuant to Section 3146, the license expires at midnight on the last day of the license holders' birth month every two years if not renewed.

Added Stats 2012 ch 359 § 6 (SB 1215), effective January 1, 2013.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7176

Subject: Agenda Item 12 – Discussion and Possible Action to Amend Business and Professions Code Section 3041.3 Certificate Requirements -Therapeutic Pharmaceutical Agents

Action Requested:

Staff requests the Board review and discuss the proposed language to amend Business and Professions Code §3041.3 which sets forth the criteria for obtaining certification to administer and prescribe Therapeutic Pharmaceutical Agents (TPA). Please provide edits that are necessary to clarify the requirements to obtain TPA certification. If the language is approved the Board will need to direct staff to move forward with the legislative process.

Background:

Business and Professions Code §3041.3 was added in 1996 to define the criteria for both California licensed optometrists and out-of-state licensees seeking licensure in California on the requirements to obtain certification to administer and prescribe Therapeutic Pharmaceutical Agents (TPA).

Staff has discovered the classroom didactic course is no longer offered by the schools/colleges of optometry and that a preceptor can be either a TPA certified optometrist or ophthalmologist.

Attachments

1. Proposed Language

§3041.3. TPA CERTIFICATE CERTIFICATION REQUIREMENTS

(a) In order to be certified to use therapeutic pharmaceutical agents and authorized to diagnose and treat the conditions listed in subdivisions (b), (d), and (e) of Section 3041, an optometrist shall apply for a certificate from the board and meet all requirements imposed by the board.

(b) The board shall grant ~~a certificate to use~~ therapeutic pharmaceutical agents certification to any applicant who graduated from a California accredited school of optometry prior to January 1, 1996, is licensed as an optometrist in California, and meets all of the following requirements:

~~—(1) Satisfactorily completes a didactic course of no less than 80 classroom hours in the diagnosis, pharmacological, and other treatment and management of ocular disease provided by either an accredited school of optometry in California or a recognized residency review committee in ophthalmology in California.~~

(21) Completes a preceptorship of no less than 65 hours, during a period of not less than two months nor more than one year, in-with either an TPA-certified optometrist in good standing, or a physician and surgeon board-certified in ophthalmology in good standing. ~~ophthalmologist's office or an optometric clinic.~~ The training received during the preceptorship shall be on the diagnosis, treatment, and management of ocular, and systemic disease. The preceptor shall certify completion of the preceptorship using a form provided by the Board. ~~Authorization for the ophthalmologist to serve as a preceptor shall be provided by an accredited school of optometry in California, or by a recognized residency review committee in ophthalmology, and the preceptor shall be licensed as an ophthalmologist in California, board-certified in ophthalmology, and in good standing with the Medical Board of California.~~ The individual serving as the preceptor shall schedule no more than three optometrist applicants for each of the required 65 hours of the preceptorship program. This paragraph shall not be construed to limit the total number of optometrist applicants for whom an individual may serve as a preceptor, and is intended only to ensure the quality of the preceptorship by requiring that the ~~ophthalmologist~~ preceptor schedule the training so that each applicant optometrist completes each of the 65 hours of the preceptorship while scheduled with no more than two other optometrist applicants.

(32) Successfully completes a minimum of 20-80 hours of documented and accredited self-directed education in ocular and systemic diseases within two years prior to meeting the requirements of paragraph (1); and,

(43) Passes the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" examination or, in the event this examination is no longer offered, its equivalent, as determined by the State Board of Optometry.

~~—(5) Passes the examination issued upon completion of the 80-hour didactic course required under paragraph (1) and provided by the accredited school of optometry or residency program in ophthalmology.~~

~~—(6) When any or all of the requirements contained in paragraph (1), (4), or (5) have been satisfied on or after July 1, 1992, and before January 1, 1996, an optometrist shall not be required to fulfill the satisfied requirements in order to obtain certification to use therapeutic pharmaceutical agents. In order for this paragraph to apply to the requirement contained in paragraph (5), the didactic examination that the applicant successfully completed shall meet equivalency standards, as determined by the board.~~

~~—(7) Any optometrist who graduated from an accredited school of optometry on or after January 1, 1992, and before January 1, 1996, shall not be required to fulfill the requirements contained in paragraphs (1), (4), and (5).~~

(c) The board shall grant a ~~certificate to use~~ therapeutic pharmaceutical agents certification to any applicant who graduated from a California accredited school of optometry on or after January 1, 1996, who is licensed as an optometrist in California, and who ~~meets all of the following requirements:~~

~~—(1) P~~passes all sections of the National Board of Examiners in Optometry's national board examination, or its equivalent, as determined by the State Board of Optometry.

~~—(2) Of the total clinical training required by a school of optometry's curriculum, successfully completed at least 65 of those hours on the diagnosis, treatment, and management of ocular, systemic disease.~~

~~–(3) Is certified by an accredited school of optometry as competent in the diagnosis, treatment, and management of ocular, systemic disease to the extent authorized by this section.~~

~~–(4) Is certified by an accredited school of optometry as having completed at least 10 hours of experience with a board-certified ophthalmologist.~~

(d) The board shall grant a ~~certificate to use~~ therapeutic pharmaceutical agents certification to any applicant who is an optometrist who obtained his or her license outside of California if he or she meets all of the requirements for an optometrist licensed in California to be certified to use therapeutic pharmaceutical agents.

(1) In order to obtain a ~~certificate to use~~ therapeutic pharmaceutical agents certification, any optometrist who obtained his or her license outside of California and graduated from an accredited school of optometry prior to January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (b). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received at the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry in California for persons who graduate before January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (b) be waived based on fulfillment of the requirement in another state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.

(2) In order to obtain a ~~a certificate to use~~ therapeutic pharmaceutical agents certification, any optometrist who obtained his or her license outside of California and who graduated from an accredited school of optometry on or after January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (c). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received by the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry for persons who graduate on or after January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (c) be waived based on fulfillment of the requirement in another

state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.

(3) The State Board of Optometry shall decide all issues relating to the equivalency of an optometrist's education or training under this subdivision.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7176

Subject: Agenda Item 13 – Discussion and Possible Action to Amend Business and Professions Code Section 3152 Fee Schedule

Action Requested:

Staff requests the Board review and discuss the proposed language to amend Business and Professions Code §3152 which sets the maximum amount the Board can set for fees. California Code of Regulations §1524 establishes the current fees. If the amendments and additions are approved, the Board will need to direct staff to move forward with the legislative process.

Background:

The proposed amendments to Business and Professions Code §3152 (a), (b), (c), (h), (u) and (v) are for clarification only. Amendment (c) is to add an initial license fee; (g) increases the renewal fee for retired licenses with volunteer designation. This is to cover the \$16 that is sent to UC Berkeley and the CURES fee. Staff is working with the Department of Consumer Affairs to determine the actual amount that will be charged at renewal. Staff will report the outcome to the Board; in addition, the Board currently charges a \$25 dollar fee for written license verification, and the fee is appropriated to a miscellaneous fee account; amendment (x) allows the funds to be appropriately identified.

Attachments

1. Proposed Language

§3152. FEE SCHEDULE

The amounts of fees and penalties prescribed by this chapter shall be established by the board in amounts not greater than those specified in the following schedule:

- ~~-(a) The fee for applicants applying for a license shall not exceed two hundred seventy-five dollars (\$275).~~
- (a) The fee for the application and determining the candidate's eligibility to take the Board's jurisprudence examination shall not exceed two hundred and seventy-five dollars (\$275).
- (b) The fee for the application and determining a foreign graduate's eligibility for sponsorship to take any section of the licensing examinations may not exceed two hundred dollars (\$275).
- (c) Initial license with a fee. This fee will be prorated and established according to the month of issuance (month fee is received by the Board) and expiration date (applicant's birth month) of the license. The fee for an original license shall be charged at an amount equal to the renewal fee in effect at the time the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect at the time the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the fee for an original license if the license is issued less than 45 days before the date on which it will expire.
- ~~(d-b)~~ The fee for renewal of an optometric license shall not exceed five hundred dollars (\$500).
- ~~(e-g)~~ The delinquency fee for renewal of an optometric license shall not exceed fifty dollars (\$50).
- ~~(f-d)~~ The fee for a branch office license shall not exceed seventy-five dollars (\$75).
- ~~(g-e)~~ The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars (\$75).
- ~~(h-e)~~ The ~~penalty for failure to pay the annual delinquency~~ fee for renewal of a branch office license shall not exceed twenty-five dollars (\$25).
- ~~(i-k)~~ The fee for issuance of a statement of licensure shall not exceed forty dollars (\$40).
- ~~(j-l)~~ The fee for biennial renewal of a statement of licensure shall not exceed forty dollars (\$40).
- ~~(j-m)~~ The delinquency fee for renewal of a statement of licensure shall not exceed twenty dollars (\$20).
- ~~(k-n)~~ The application fee for a fictitious name permit shall not exceed fifty dollars (\$50).
- ~~(l-o)~~ The renewal fee for a fictitious name permit shall not exceed fifty dollars (\$50).
- ~~(m-p)~~ The delinquency fee for renewal of a fictitious name permit shall not exceed twenty-five dollars (\$25).
- ~~(o-q)~~ The fee for a retired license shall not exceed twenty-five dollars (\$25).
- ~~(p-r)~~ The fee for a retired license with volunteer designation shall not exceed fifty dollars (\$50).
- ~~(q-s)~~ The biennial renewal fee for a retired license with volunteer designation shall not exceed ~~fifty-one hundred~~ dollars (~~\$50~~100).
- (r) The delinquency fee for biennial renewal of a retired license with volunteer service designation is shall not exceed twenty-five dollars (\$25).
- ~~(s-h)~~ The application fee for a certificate to perform lacrimal irrigation and dilation shall not exceed fifty dollars (\$50).
- ~~(t-i)~~ The application fee for a certificate to treat glaucoma shall not exceed fifty dollars (\$50).
- ~~-(f) The fee for issuance of a license or upon change of name authorized by law of a person holding a license under this chapter shall not exceed twenty-five dollars (\$25).~~
- (u) The fee for issuance of a license or a change of name authorized by law of a person holding a license, or change of information under this chapter shall not exceed twenty-five dollars (\$25)
- (v) The fee for the replacement of any license, or renewal thereof that must be reissued because the license is lost or destroyed shall not exceed fifty dollars (\$25).
- ~~(w-j)~~ The fee for approval of a continuing education course shall not exceed one hundred dollars (\$100).
- (x) The fee for a letter of good standing or verification of licensure shall not exceed fifty twenty-five dollars (\$25).

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Robert Stephanopoulos
Policy Analyst

Telephone: (916) 575-7182

Subject: Agenda Item 14 – New Legislation Affecting the Practice of Optometry

Assembly Bill 809 (Logue) Telehealth Patient Consent

Status: Chaptered by Secretary of State, Chapter 404, Statutes of 2014

Summary: This legislation deletes a requirement that informed consent for telehealth must be made by provider at the originating site where the patient is located, allows written consent to be provided, rather than requiring consent to be verbal, and clarifies that current telehealth law does not preclude a patient from receiving in-person health care delivery services after agreeing to receive services via telehealth.

Assembly Bill 2102 (Ting) Licensees: Demographic Data Collection

Status: Chaptered by Secretary of State, Chapter 420, Statutes of 2014

Summary: This legislation requires the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board, and the Board of Vocational Nursing and Psychiatric Technicians to annually collect and report licensee demographic data to the Office of Statewide Health Planning and Development.

Senate Bill 1256 (Mitchell) Medical Services: Credit

Status: Chaptered by Secretary of State, Chapter 256 Statutes of 2014

Summary: This legislation prohibits medical providers from arranging for a line of credit on behalf of a patient unless the patient signs a release acknowledging they are aware of their rights concerning these loans that are offered by third party providers. In addition, the bill would require the healthcare practitioner to provide the patient with a treatment plan prior to arranging for the line of credit, prohibit charges to the credit account before the procedure has been rendered, and prohibit a licensee from arranging for credit for a patient who is under the influence of anesthesia.

Senate Bill 1466 (B, P & ED Committee) Health Omnibus

Status: Chaptered by Secretary of State, Chapter 316, Statutes of 2014

Summary: This bill makes several non-controversial, minor, nonsubstantive or technical changes to various provisions within the Business and Professions Code (BPC) relating to the regulatory boards of the Department of Consumer Affairs (DCA).

Assembly Bill 1702 (Patterson) Delay or Denial of Licensure Due to Incarceration

Status: Chaptered by Secretary of State, Chapter 410, Statutes of 2014

Summary: This bill specifies that an individual who has satisfied the requirements for licensure while incarcerated and who applies for licensure after being released from incarceration shall not have his/her application delayed or

denied solely on the basis that some or all of the requirements were completed while the individual was incarcerated; and exempts the Board of Chiropractic Examiners (BCE) from these requirements.

Assembly Bill 1711 (Cooley) Economic Impact Assessment

Status: Chaptered by Secretary of State, Chapter 779, Statutes of 2014

Summary: Requires an economic impact assessment to be included in the initial statement of reasons that a state agency submits to the Office of Administrative Law when adopting, amending, or repealing a non-major regulation.

Assembly Bill 2396 (Bonta) Denial of Licensure for Prior Convictions

Status: Chaptered by Secretary of State, Chapter 737, Statutes of 2014

Summary: This legislation prohibits boards within the Department of Consumer Affairs (DCA) from denying a professional license based solely on a criminal conviction that has been withdrawn, set aside or dismissed by the court.

Assembly Bill 2720 (Ting) Requires State Agencies to Record Votes in Meeting Minutes

Status: Chaptered by Secretary of State, Chapter 510, Statutes of 2014

Summary: This legislation would require a state body to publicly report any action taken and the vote or abstention on that action of each member present for the action.

Senate Bill 1159 (Lara) Professions and Vocations: License Applicants: Federal Tax Identification Number

Status: Chaptered by Secretary of State, Chapter 752, Statutes of 2014

Summary: This legislation prohibits licensing boards under the Department of Consumer Affairs (DCA) from denying licensure to an applicant based on his or her citizenship or immigration status, and requires a licensing board and the State Bar to require, by January 1, 2016, that an applicant for licensure provide his or her individual taxpayer identification number (ITIN) or a social security number (SSN) for an initial or renewal license.

Senate Bill 1240 (Anderson) Changes to State Employment Applications

Status: Chaptered by Secretary of State, Chapter 240, Statutes of 2014

Summary: This legislation requires state employment application forms to require an applicant to disclose whether the applicant has ever entered into an agreement with a state department prohibiting the applicant from seeking or accepting subsequent employment with the state.

Senate Bill 1243 (Lieu) Professions and Vocations

Status: Chaptered by Secretary of State, Chapter 395, Statutes of 2014

Summary: This legislation increases the transparency of information distributed by the Department of Consumer Affairs (DCA); requires the Office of Administrative Hearings (OAH) to submit specified reports to the Legislature annually; enhances unlicensed advertising enforcement; extends, until January 1, 2017, the provisions establishing the Veterinary Medical Board (VMB) and the term of the executive officer (EO); sets the operative date of the veterinary assistant controlled substance SB 1243 program for July 1, 2015; and extends the Certified Common Interest Development (CID) Manager program and the Tax Preparer program until January 1, 2019.

AB-1840 Pupil health: vision appraisal

Status: Chaptered by Secretary of State, Chapter 803, Statutes of 2014

Status: Chaptered by Secretary of State - Chapter 803, Statutes of 2014.

Summary: Authorizes a child's vision to be appraised by using an eye chart or any scientifically validated photoscreening test and requires photoscreening tests to be performed, under an agreement with, or the supervision of an optometrist or ophthalmologist, by the school nurse or by a trained individual who meets specified requirements as determined by the California Department of Education (CDE).

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
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To: Board Members

Date: November 21, 2014

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7170

Subject: Agenda Item 15 – Executive Officer's Report

A. BreEZe

While Board staff continues to devote large portions of time to the BreEZe project, they are confident the amount of time spent now will not only improve their daily processes, but also benefit consumers, applicants, and licensees. Board staff has discussed numerous benefits Release 1 Boards are currently experiencing with BreEZe. Some of the benefits R1 Boards have mentioned include the following:

- **Easier to navigate:** Having all data in one system, rather than two, helps streamline current business processes
- **Electronic application tracking:** Currently, staff manually tracks all applications. BreEZe will be able to electronically track and report application statistics
- **Improved efficiency:** The addition of online transactions to business processes will reduce the workload associated with application processing (including miscellaneous applications), renewals, complaint intake, etc. Pending transaction information is easily obtained when needed (e.g. renewal deficiencies and associated correspondence).
- **Improved data integrity:** CAS and ATS were extremely susceptible to improper data entry due to its lack of rules. BreEZe has a myriad of embedded governing rules, business rules, action steps, restricted lists of values, etc; all of which will dramatically improve the accuracy of licensing and enforcement data.
- **Improved data reporting:** Improved integrity = more accurate reports. In addition to the extensive list of standard reports that will be available via BreEZe Business Objects, the data export feature allows staff to extract raw data as specified and manipulate via external programs (e.g. Excel).
- **Workflows and transaction assignment:** Staff has the option of dictating the workflow "cycle" of various processes. This is made possible by the simple fact that transactions can be assigned (either manually or automatically). These features also allow for evaluation of staff workload.
- **Queues:** Queues provide quick access to specific outstanding activities such as incomplete applications or renewals, pending action steps, etc. They show all activities that meet specific criteria as defined within the board's configuration. Once an activity no longer meets those criteria, it either disappears from the queue or moves to a different queue.
- **Letters and certificates:** All standard letters and certs are housed within the system and can be generated at any time with a few clicks, although more often than not, they will be automatically generated via transaction approval (e.g. replacement certs as a result of an address change).
- **Online updates:** Changes made in back office (VR) are immediately reflected in the online system (if configured to show online). Licensees appreciate being able to confirm license updates online while on the phone with staff.

Staff will continue to dedicate their time to ensure BreEZe is the best possible system to meet their needs as well as the needs of consumers, applicants, and licensees.

B. Budget

The Expenditure and Fund Condition Reports will be presented at the meeting.

C. Personnel

Robert Stephanopoulos has returned to the Enforcement Program. Rob applied for the vacant Associate Governmental Analyst position and expressed his interest in returning to enforcement.

The vacant Policy Analyst position was successfully reclassified to a Staff Services Manager I classification. This position will serve as the Assistant Executive Officer. Interviews are scheduled, with anticipation to have the SSM I in place by the end of November.

Nancy Day, Management Services Technician in the Licensing Program began working full time September 1, 2014.

Carolyn Wilson, Retired Annuitant joined the Board at the beginning of November. Carol is currently training on the evaluation processes for issuing licenses and certification in order to provide continued service to applicants and licensees while staff participates in BreEZe testing and script writing. Carol is also working on a newsletter draft for early 2015.

D. Examination and Licensing Programs

The Board is ramping up recruitment efforts to secure more licensees to serve as subject matter experts in the development of the California Laws and Regulations Examination. The focus on the recruitment will be optometrists who are licensed between 2- 10 years.

License statics will be presented at the meeting.

E. Enforcement Program

Prepared by Jessica Siefertman, Lead Enforcement Analyst/Probation Monitor

The Board's Enforcement Program has been operating with a vacancy for several months. With the vacancy now filled, we should be closer meeting our enforcement targets. In addition, enforcement and licensing staff have been working closely together to educate licensees who are operating without a valid fictitious name permit. This collaboration and outreach has led to an increase in FNP applications and enforcement workload. In the near future, Enforcement staff will also be reaching out to those licensees who fail to update their address of record with the Board in order to educate and obtain compliance with the Optometry Practice Act.

Attachments

Enforcement Performance Measures

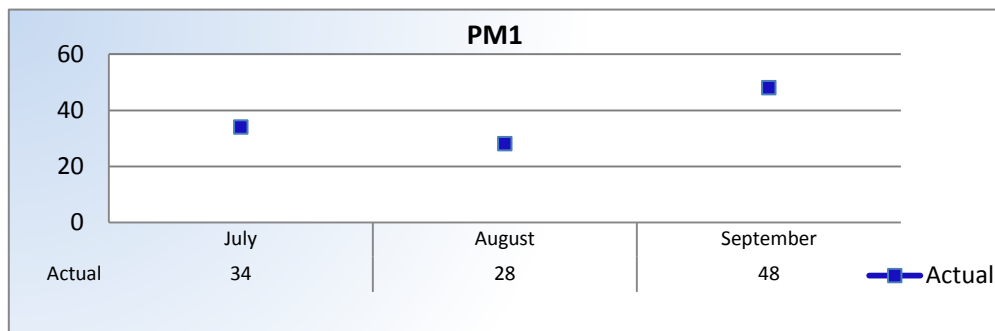
Performance Measures

Q1 Report (July - September 2014)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

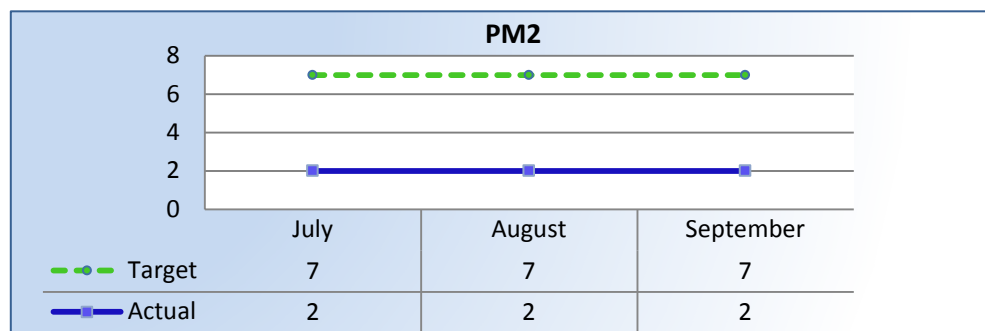


Total Received: 110 Monthly Average: 37

Complaints: 98 | Convictions: 12

PM2 | Intake

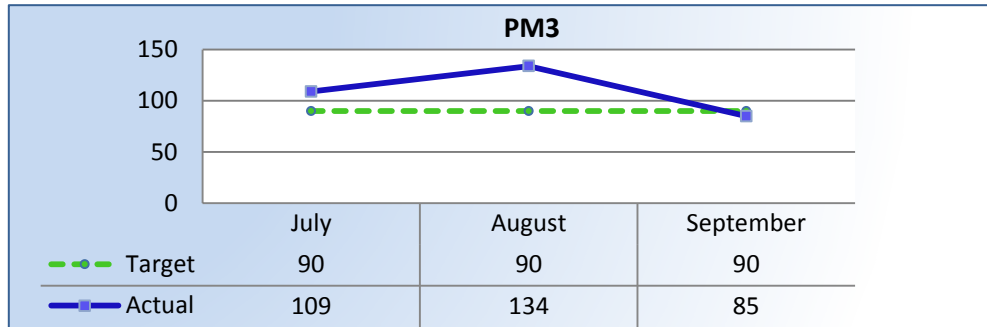
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | Actual Average: 2 Days

PM3 | Intake & Investigation

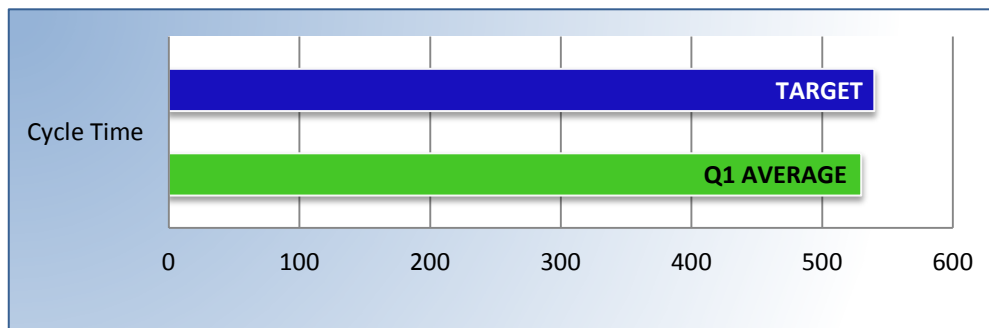
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 90 Days | Actual Average: 101 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 530 Days

PM7 | Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** N/A

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not report any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Jessica Sieferman
Enforcement Lead

Telephone: (916) 575-7184

Subject: Agenda Item 16A - In the Matter of the Petition for Reduction of Penalty and Early Termination of Probation

Dr. Jolyn Wei, O.D. (Petitioner) was issued Optometrist License Number 13614 by the Board on August 11, 2008. On November 14, 2012, the Board filed an Accusation against Petitioner charging her with violations of laws and regulations based on her conviction of a substantially related crime. On September 20, 2013, Petitioner's license was revoked, the revocation was stayed and Petitioner's License was placed on three (3) years probation, subject to certain terms and conditions.

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

1. Petition for Reduction of Penalty and Early Termination of Probation
2. Copies of the Stipulated Settlement and Disciplinary Order, and Accusation
3. Certification of Licensure



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



**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.
	Jolyn		Wei	13614
2. ADDRESS	(NUMBER)	(STREET)	DATE OF BIRTH	
	6001	Carlton Way Apt 407	07/28/1980	
	(CITY)	(STATE)	(ZIP CODE)	TELEPHONE
	Los Angeles,	CA	90028	(310) 339-7808
3. PHYSICAL DESCRIPTION	(HEIGHT)	(WEIGHT)	(EYE COLOR)	(HAIR COLOR)
	5' 5"	140 lbs	brown	black
4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGE(S) OF OPTOMETRY ATTENDED				
NAME OF SCHOOL				
Illinois College of Optometry				
ADDRESS (NUMBER) (STREET)				
3241 S Michigan Ave				
(CITY) (STATE) (ZIP CODE)				
Chicago, IL 60616				
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
Children's Hospital LA	12/2011	09/2014	Hospital
Lakewood Eye Physicians	05/2011	11/2011	Private Practice
University of Southern CA	04/2010	05/2011	Research

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 09/22/14

Signature Jolyn Wei

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.

Statement of Explanation:

Question 9:

I am currently under treatment for major depression and anxiety disorder by Dr. Francesca Staiti of Kaiser Permanente Los Angeles Medical Center.

Question 10:

I was arrested and pled no contest to a misdemeanor DUI charge in November 2010 in San Gabriel, CA.

Question 12:

My optometry license is currently under probation by the California board of Optomtery due to my misdemeanor DUI.

QUESTION 13. LIST THE DATE OF DISCIPLINARY ACTION TAKEN AGAINST YOUR LICENSE AND EXPLAIN FULLY THE CAUSE OF THE DISCIPLINARY ACTION.

My optometry license was placed under probation by the California State Board of Optometry on September 20, 2013.

The cause of the disciplinary action was a misdemeanor DUI, which occurred on Saturday, November 13, 2010. At that time, I was invited to dinner by a close friend, who is at that time going through difficulties in her marriage and contemplating a potential divorce. She had been in a distraught state for several days, and asked me if I could have dinner with her for consolation and opinions. I picked her up for dinner after work that night, and we shared drinks over dinner and our long conversation. We stayed at the restaurant for a prolonged period of time talking and continued to have food and drinks. As we noticed that the hours had gotten late, we decided to leave the restaurant. The arrest occurred when we were on our way back to her residence. The officer pulled me over for driving onto the lane dividing lines. There was no accident, property damage, or injury. The police report stated that my attitude was cooperative and polite towards the officers. I was brought to the police station to perform a breathalyzer test, at which point my BAC was 0.12. I was held over night at the station, and released the next morning.

This was a **misdemeanor**, non-aggravated, first offense DUI. I pled no contest to the charge. At this time, the case is closed. I completed the court ordered DUI program and paid all the fines as mandated by the court.

QUESTION 14. EXPLAIN FULLY WHY YOU FEEL YOUR LICENSE SHOULD BE RESTORED, OR THE DISCIPLINARY PENALTY REDUCED.

Ever since my DUI, I had been deeply remorseful of my actions and have changed my lifestyle to avoid the same mistake from happening again, including never drinking and driving, and reducing the consumption of alcoholic beverages altogether.

Once my probation started, I have been compliant with all terms and conditions set forth by the Board of Optometry, including submitting daily for biological fluid testing and complete abstinence of alcohol. I have never had an alcohol or drug addiction, and the DUI was a single and regrettable incident nearly 4 years ago. Though I understand that a DUI bears upon my fitness to practice optometry generally, in no way did my poor decision to drive home that evening reflect on my skills as an optometrist.

I believe I have demonstrated that it was not a repeating pattern of my behavior but rather a one-time mistake that I have learned a great deal from, and it will not occur again. I believe my good behavior and compliance with my probation show that I am ready to have my license restored.

QUESTION 15. DESCRIBE IN DETAIL YOUR ACTIVITIES AND OCCUPATION SINCE THE DATE OF THE DISCIPLINARY ACTION; INCLUDE DATES, EMPLOYERS, AND LOCATIONS.

Since the effective date of my disciplinary action on September 20, 2013, I have continued to work at Children's Hospital Los Angeles in Los Angeles, CA as a pediatric optometrist, where I provided care to the under-insured children and children with special needs.

As required by my probation's community service requirements, I started volunteering for the Valley Community Clinic in North Hollywood, CA as a general optometrist on December 7, 2013. There I provide care to the uninsured population and performed comprehensive eye exams as well as glaucoma evaluations and treatments.

As of September 19, 2014, I left Children's Hospital Los Angeles for a new position with Dr. Steven Steinschriber, MD, an ophthalmologist in Los Angeles, CA as a medical optometrist, in which I will be providing para-surgical care as well as medical management of various ophthalmic conditions alongside Dr. Steinschriber.

On October 26, 2013, I presented a lecture titled "Co-management of Oculoplastics" at the American Academy of Optometry's annual meeting in Seattle, WA. I also attended the annual meeting in full from October 23, 2013 to October 26, 2013 in Seattle, WA.

These have been my principal activities since the date of the disciplinary action.

QUESTION 16. DESCRIBE ANY REHABILITATIVE OR CORRECTIVE MEASURES YOU HAVE TAKEN SINCE YOUR LICENSE WAS DISCIPLINED TO SUPPORT YOUR PETITION.

I have been under the care of Dr. Francesca Staiti, M.D., a psychiatrist at Kaiser Permanente Los Angeles Medical Center, for management of depression and anxiety disorder.

I also took a one-month medical leave from March 17, 2014 to April 14, 2014 to undergo intensive therapy sessions for stress management.

I believe these measures have greatly increased my wellbeing, and prove strongly that I will not allow further misjudgment such as the DUI to occur again in the future.

Of course, I have also abstained entirely from the use of alcohol and I have completed the court-ordered DUI program. And, as described earlier, I have volunteered for at least 16 hours per month at the Valley Community Clinic in North Hollywood providing free eye care to people in need.

QUESTION 17. LIST ALL POST-GRADUATE OR REFRESHER COURSES, WITH DATES, LOCATION AND TYPE OF COURSE, YOU HAVE TAKEN SINCE YOUR LICENSE WAS DISCIPLINED.

Since my license was disciplined, I have continued to improve my knowledge as an optometrist by attending a variety of CE courses and regularly reading optometric literature (please see questions 18 and 19 below). However, I have not taken any post-graduate courses in the past year.

QUESTION 18. LIST ALL OPTOMETRIC LITERATURE YOU HAVE STUDIED DURING THE LAST YEAR.

Every month I receive and read the Optometry and Vision Science journal, and I also read various journal articles that related to my patient care online on PubMed and other public scientific journal websites. While I did not anticipate the need to keep track of all optometric literature I've studied and therefore did not have a complete catalogue of all articles available, some of the literature I've studied in the past year include:

Bleich, Stefan, et al. "Elevated homocysteine levels in aqueous humor of patients with pseudoexfoliation glaucoma." *American journal of ophthalmology* 138.1 (2004): 162-164.

Reynolds, Alison L., David Kent, and Breandán N. Kennedy. "Current and Emerging Therapies for Ocular Neovascularisation." *Retinal Degenerative Diseases*. Springer New York, 2014. 797-804.

Nowak, Jerzy Z. "AMD—the retinal disease with an unprecised etiopathogenesis: in search of effective therapeutics."

Steinberg, Earl P., et al. "National study of cataract surgery outcomes. Variation in 4-month postoperative outcomes as reflected in multiple outcome measures." *Ophthalmology* 101.6 (1994): 1131-40.

Taban, Mehran, et al. "Acute endophthalmitis following cataract surgery: a systematic review of the literature." *Archives of Ophthalmology* 123.5 (2005): 613-620.

Abramson, David H., et al. "A phase I/II study of direct intraarterial (ophthalmic artery) chemotherapy with melphalan for intraocular retinoblastoma: initial results." *Ophthalmology* 115.8 (2008): 1398-1404.

Kim, Jonathan W., David H. Abramson, and Ira J. Dunkel. "Current management strategies for intraocular retinoblastoma." *Drugs* 67.15 (2007): 2173-2185.

Kim, Jonathan W. "What are the General treatment Guidelines for Graves' ophthalmopathy?." *Curbside Consultation in Oculoplastics: 49 Clinical Questions* (2011): 109.

BenEzra, David, Evelyne Cohen, and Lionel Rose. "Traumatic cataract in children: correction of aphakia by contact lens or intraocular lens." *American journal of ophthalmology* 123.6 (1997): 773-782.

Romero-Rangel, Tatiana, et al. "Gas-permeable scleral contact lens therapy in ocular surface disease." *American journal of ophthalmology* 130.1 (2000): 25-32.

QUESTION 19. LIST ALL CONTINUING EDUCATION COURSES YOU HAVE COMPLETED SINCE YOUR LICENSE WAS DISCIPLINED.

I attend the American Academy of Optometry annual meeting each year for continuing education courses. Below is a list of CE courses I have completed since my probation began a year ago.

Diabetic Retinopathy (COPE ID 37775-PS)

The Case For Neuroprotection in Glaucoma (COPE ID 38668-GL)

Neuroimaging 101 for the Optometrist (COPE ID 37787-NO)

Glaucoma Progression Analysis Using Visual Fields and OCT (COPE ID 37795-GL)

The Optic Nerve in Glaucoma (COPE ID 36119-GL)

Pediatric and Adult Orbital Disorders (COPE ID 37794-AS)

Not a Dry Eye in the House! (COPE ID 37820-AS)

Important Mental Health Conditions for the Optometrist (COPE ID 37828-GO)

Hash is Here: What the Eyecare Practitioner Needs to Know About Marijuana and the Eye (COPE ID 37829-PH)

Clinical Conundrums in Glaucoma (COPE ID 38293-GL)

The Secondary Glaucomas (COPE ID 38295-GL)

Common Pediatric Ocular Diseases and Their Treatments (COPE ID 38296-FV)

The Pressure is On: Managing Acute Highly Elevated IOP (COPE ID 38707-GL)

I am scheduled to attend the American Academy of Optometry annual meeting again in November 2014 in Denver, CO, and anticipate to complete more CE courses at the meeting.

**QUESTION 20. LIST NAMES, ADDRESSES AND TELEPHONE NUMBERS OF
PERSONS SUBMITTING LETTERS OF RECOMMENDATION ACCOMPANYING THIS
PETITION.**

Dr. Susan Cotter, OD of Ketchum University (formerly Southern California College of
Optometry)

2575 Yorba Linda Blvd, Fullerton, CA 92831

(714) 449-7488

Dr. Gloria Estrada, OD of California Eye and Ear Specialists

2400 North Broadway, Lincoln Heights, CA 90031

(626) 664-7315

Miss Jennifer Lee of Beverly Hills Unified School District, Horace Mann School

1824 S Sherbourne Dr, Los Angeles, CA 90035

(310) 253-9012

Dr. Louis Lipschultz, OD of United Webcast

808 East Union Ave, Fullerton, CA 92831

(925) 890-9260



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

DATE: September 23, 2014

TO: California State Board of Optometry Members: Drs. Arredondo, Chawla, Giardina, Kawaguchi, Lawenda, & Turetsky; Mses. Brandvein & Burke; Mssrs. Givner, Kim, & Kysella

FROM: Susan Cotter, OD, MS, FAAO

RE: Jolyn Wei, OD, FAAO

Please accept this letter as a character witness statement for Dr. Jolyn Wei. By way of introduction, I am a Professor of Optometry at the Southern California College of Optometry (SCCO) at Marshall B Ketchum University. As a full-time academic optometrist and clinician scientist, I frequently am asked to write letters of recommendation for present and former students and residents, other optometrists, and optometry faculty members at SCCO and elsewhere who are being considered for promotion or tenure. As you might expect, some letters are considerably easier to write than others. However, when Dr. Wei called me 30 minutes ago to ask me to write her a letter, I did not hesitate one second, albeit I was indeed grateful knowing that this particular letter would be an easy letter to write.

I have known Jolyn since July of 2008 when she started the Pediatric Optometry and Vision Therapy Residency at SCCO. We had ranked her #1 for the match and were thrilled that we matched with her. Dr. Wei was an excellent resident – one of our best and brightest. She provided a high level of care to her patients and tutored third year students in strabismus and amblyopia in her free time. Because she speaks Japanese, Mandarin, and Taiwanese fluently she was a big hit with many of the Asian parents and grandparents. Not only did she deliver top quality care to their children, but she communicated in their native language and was very sensitive to all of the different cultural nuances. I worked closely with Jolyn that year – spending considerable time with her in and out of clinic. I am not alone when I say that many of our faculty members remember Jolyn's year to have been a very good one for our residency.

Not long after completing her residency, Jolyn and I worked together on the Multi-ethnic Pediatric Eye Disease Study (MEPEDS) at the University of Southern California (USC) Keck School of Medicine's Department of Ophthalmology. One of my duties as the co-principal investigator (with R. Varma, MD) for this study funded by the National Eye Institute of the National Institutes of Health, was to identify and hire top-notch pediatric optometrists/ophthalmologists to serve as clinical examiners. We felt fortunate that Jolyn worked for us. In her role as a clinical examiner, she underwent training and certification to conduct standardized and very comprehensive eye exams on 6-to 72-month old children in our clinical facility and on our mobile van. Recognizing how good of an optometrist Jolyn was, one of our MEPEDS pediatric ophthalmologists then hired her to work in the pediatric ophthalmology department at Children's Hospital Los Angeles after the MEPEDS study ended.

Jolyn and I have kept in close touch since completing data collection for the MEPEDS grant. Of note is that she was a first author representing MEPEDS at the largest vision research

meeting in the world – the Association for Research in Vision & Ophthalmology Meeting in 2011, where she presented the following:

Wei J, Cotter SA, Varma R, Tarczy-Hornoch K, McKean-Cowdin R, Tielsch J, Friedman D, Repka M, Katz J, Multi-Ethnic Pediatric Eye Disease Study & Baltimore Pediatric Eye Disease Study Groups. Early life risk factors associated with childhood strabismus: The Multi-Ethnic Pediatric Eye Disease Study and the Baltimore Pediatric Eye Disease Study. Investigative Ophthalmology and Visual Science 2011; 52: ARVO E-Abstract 6321.

Even more impressive was the recent continuing education lecture that Jolyn gave at the American Academy of Optometry meeting in October of 2013 on the "Co-management of Oculoplastic Disease." I attended and it was really very good! Based on the quality of her Academy course, SCCO attempted to have Jolyn provide that lecture at one of our CE programs; however, she was unable to present because the date coincided with a Saturday that she was doing her State Board-mandated community service.

Which brings me to the DUI. Jolyn contacted me the day after she received her DUI 4 years ago. She was clearly mortified that this had happened to her, and her humiliation was only exacerbated every time she had to go to the required meetings or use the ignition interlock device that was required for persons with DUI's in Los Angeles County. I know that it has been a very long and costly last 4 years for Jolyn having had to first comply and fulfill the legal requirements from her DUI, and then to start over again and comply with further requirements imposed by the State Board of Optometry. This has been a very long haul for this young woman who is a really good optometrist and very productive member of society. I can assure you that unlike the rest of her optometrist friends and colleagues, Jolyn no longer has a single drink when out socially or at professional meetings (and the numerous drug/alcohol tests that she undergoes each month certainly confirm that this is true).

In terms of character – Jolyn is solid – the attributes that come to mind are bright, hardworking, honest, ethical, and trustworthy. I do not hesitate for a minute to have her provide optometric care to my patients or family members as I have complete trust in her abilities as an optometrist.

In closing I would like to point out that the adage, "It is *not* the *mistakes* we make that *define* our character, but how we handle them afterward..." certainly pertains to Jolyn. She has been rock solid and has not taken a single drink of alcohol since the day she took that misstep and received her DUI 4 years ago.

I hope that you seriously consider my opinion of this young optometrist who I am proud to call a friend and colleague. If you have any questions or I can provide you with further information, please feel free to call (714-357-9349 cell) or email (scotter@ketchum.edu).

Sincerely,



Susan Cotter, OD, MS, FAAO
Professor of Optometry

September 22, 2014

Board of optometry

(Insert address here)

To whom it may concern,

I have known Jolyn Wei for about 3 years now and in that time I have come to learn that she is an outstanding colleague, friend, and overall outstanding citizen. She is highly respected by her peers and other doctors of our community. I have no reservations when writing this letter of recommendation, as I can attest for her good sense of character. When we first met I never encountered her drinking any alcoholic beverages at social events or gatherings. As of the beginning of her probation I can attest she has not engaged in any type of alcohol consumption.

Jolyn has come to be a great inspiration to me, although she is serving the community as part of her probation terms, she has really inspired me to give back to my optometric community when I see the enthusiasm she has as she returns from her days of work at the Valley Community Clinic. During the time of her probation I have seen Jolyn grow as an optometrist and as a person as well. Her passion to help others is admirable.

Should you have any questions please don't hesitate to contact me in any way convenient to you I have included all my contact information at the bottom of this letter for your convenience.

Sincerely,

Gloria Estrada, O.D

gestrada@californiaeyeandear.com

(626) 664-7315

1824 S. Sherbourne Drive
Los Angeles, CA 90035

September 24, 2014

To members of Optometry Board:

My name is Huei-Yu Jennifer Lee. I'm employed with Beverly Hills School Unified District and have been an education specialist at Horace Mann School for over 7 years.

I have known Ms. Jolyn Wei for the past 17 years. We attended University of California, Los Angeles, and have shared a variety of activities together such as parties, sports, and traveling to other parts of the country. I have known Ms. Wei to be a conscientious, caring, and hardworking person. Ever since her DUI incident, Ms. Wei has made many positive changes if not more on herself and others around her. For one, Ms. Wei has been educating her friends and colleagues about being responsible drivers. When there's a social gathering or party, she always volunteers to be the designated driver. In addition, Ms. Wei commits herself to community services on regular basis and goes out of her way in helping others. She has shown strengths and growth from the incident by dedicating herself to work and showing professionalism across board. I feel strongly that Ms. Wei no longer needs to be on probation. She has proven to be a responsible and law abiding citizen through her positive life style and impacts she has made on others.

If you need any further information, please contact me at 310-253-9012.

Thank you!

Yours sincerely,



Huei-Yu Jennifer Lee, M.A.
Education Specialist
1824 S. Sherbourne Drive
Los Angeles, CA 90035
Phone Number: 310-253-9012

Louis Lipschultz, OD

808 East Union Avenue
Fullerton, CA 92831

September 23, 2014

To Whom It May Concern:

When Dr. Jolyn Wei asked me to write a letter of character reference for her, I immediately responded, telling her, without hesitation that I would be happy to do this. Sometimes it is a struggle to draft a letter of reference for an individual, but not in this case. In my book of friends and colleagues, I categorize Dr. Jolyn Wei as a "solid citizen."

I have known Dr. Jolyn Wei since 2008 in both a professional and a personal capacity. Jolyn has been a guest in my home and I have seen her socially and professionally at optometry events. Also, Jolyn has entrusted me on multiple occasions to provide input or guidance on professionally-related decisions. Thus, I feel that I know Jolyn quite well, and I am very qualified to provide a positive reference.

As an optometrist, I regard Dr. Wei as one of the more progressive individuals in our profession. She completed a residency at the Southern California College of Optometry, was one of the key clinical examiners in a large nationally funded grant at University of Southern California Keck School of Medicine's Ophthalmology Department, and has lectured at the prestigious American Academy of Optometry meeting, one of the most highly regarded organizations in our profession.

Jolyn has shared with me the details of her DUI from when it first happened. She has shared the legal processes she completed without complication or delay, as well as how she has complied with the numerous requirements from the California State Board of Optometry after fulfilling the legal requirements for the DUI. I would like to note that I have also been to multiple social events with Jolyn in the last several years, and have never seen her have an alcoholic beverage at any of those events.

I feel that after my 30 years working in our profession, and over 20 years working in industry and other businesses outside of vision care, that I am very good at "reading people" and also very good at judging character. Regardless of the purpose of this letter of reference, it really doesn't matter to me. Jolyn is rock-solid in my opinion.

On a personal level, Jolyn is very close to her family, which is difficult as her immediate family all live overseas. In years past, Jolyn would regularly visit Japan or Taiwan to share quality time with them. I urge you, the reader, to seriously consider Dr. Jolyn Wei's request of the State Board.

Sincerely,



Louis Lipschultz, OD
loul@unitedwebcast.com
925-890-9260

Dear Members of the Board,

Thank you for the opportunity to petition for early termination of my probation or, in the alternative, for modification of the terms of my probation to eliminate condition 18, the biological fluid testing requirement.

As you know, my probation arises out of a DUI in 2010. In reviewing my petition, I ask that the Board consider the following information that isn't otherwise in the Petition form.

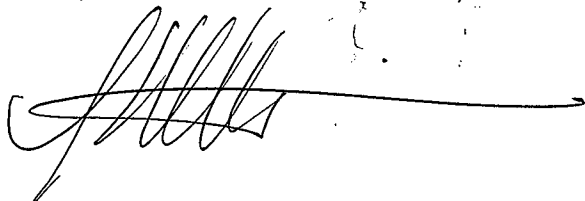
- First, and perhaps more than anything else, I cannot express with words how much I regret that I drove when I should not have, and will never do so again. It was dangerous to myself and to others, and totally irresponsible.
- It is the first and only blemish on my personal record and I am embarrassed that it happened.
- Addressing the Board's Disciplinary Guidelines, there were no aggravating factors. No patient was jeopardized, there was no pattern or history of wrongful conduct, nor evidence of any other of the aggravating factors listed in the Disciplinary Guidelines.
- There are, however, several mitigating factors for you to consider. I was respectful, cooperative, and forthcoming both when I was pulled over for the DUI and in dealing with the Board's discipline process. I acknowledged my wrongdoing, have taken responsibility for it, and have taken affirmative actions to prevent recurrence, including taking time away from work to address stress in my personal life. In addition, the DUI occurred four years ago, and I had no prior criminal or disciplinary history, nor any since.
- I have complied fully with every condition of my probation, paid all costs, passed the law exam, timely turned in my quarterly reports, and have cooperated completely with the Board and my probation officer, Ms. Sieferman. I have attached to this letter emails between myself and Ms. Sieferman from the past year that reflect my cooperation and communications with her.
- I have also completed a 3-month drug and alcohol program as required by the Court.

At this point I do not believe further probation is warranted or necessary to ensure I am fit as an optometrist. I believe I have demonstrated that nothing like this will ever happen again and there is nothing meaningful to be gained by further probation.

However, if the Board is not inclined to grant me early termination of my probation at this time, I ask that the Board grant my request to eliminate the requirement for biological fluid testing (condition 18 of my probation). The reason I am asking for this change is that my family lives in Taiwan, and because of the daily testing (or call-in) requirement, I am unable to travel out of the United States and cannot visit my family. The Board was gracious enough to allow me an exception to travel to Taiwan to visit my parents last December, but I have not otherwise been able to leave the Country due to the daily call-in and testing requirement. I have never tested positive for and do not use illegal drugs or drink alcohol anymore. I have learned my lesson. I believe that a year of abstention sufficiently demonstrates that I am not reliant on alcohol, and the circumstances of my DUI do not suggest any dependency or likelihood of it happening ever again.

I thank you for your consideration of this Petition.

Very truly yours,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Southern California Alcohol and Drug Programs, Inc.

11500 PARAMOUNT BOULEVARD, DOWNEY, CALIFORNIA 90241

Certificate Of Completion


This is to certify that

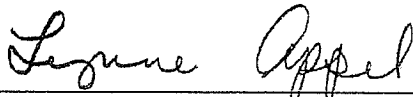
WEI, JOLYN

has successfully completed the

3 Month AB-541 Program

On this 17TH day of October 20 11


Program Director


Executive Director



August probation monitor fee

Jolyn Wei <jolynwei@gmail.com>

Tue, Jul 29, 2014 at 2:26 PM

To: "Jessica@DCA Sieferman" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Sieferman,

I have mailed out the check for the August probation monitor fee today. Thank you!

Sincerely,

Jolyn Wei

iPhoneから送信

2014/9/23
UT

Gmail - CA Law exam



CA Law exam

Jolyn Wei <jolynwei@gmail.com>

Fri, Jan 3, 2014 at 10:39 PM

To: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Sieferman;

Thank you for your help. I hope you had a wonderful new year as well!

Sincerely,

Jolyn Wei

iPadから送信

2014/01/03 0:22、"Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov> のメッセージ:

Good morning, Dr. Wei,

I hope you had a wonderful and safe New Year. I just wanted to let you know that I sent a reminder to Jeff Robinson today to have him contact PSI on your behalf. I will let you know as soon as you can schedule your CLRE.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

2450 Del Paso Rd., Suite 105

Sacramento, CA 95834

P: 916.575.7184

F: 916.575.7292

www.optometry.ca.gov

The Board is committed to providing quality customer service. Please click on <http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: jolyn wei [mailto:jolynwei@gmail.com]
Sent: Tuesday, October 22, 2013 11:34 AM
To: Sieferman, Jessica@DCA
Subject: Re: CA Law exam

Dear Ms. Sieferman,

Thank you so much for your kind assistance.

Sincerely,

Jolyn Wei

On Tue, Oct 22, 2013 at 8:01 AM, Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov> wrote:

Good morning, Dr. Wei,

Our licensing unit has been informed that PSI cannot schedule the CLRE so far in advance. Since you cannot take the CLRE until April 2014, PSI has asked us to contact them in January. PSI will, in turn, contact you to schedule the exam.

Please contact me with any questions.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

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Sacramento, CA 95834

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F: 916.575.7292

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From: jolyn wei [mailto:jolynwei@gmail.com]

Sent: Thursday, October 17, 2013 5:36 PM

To: Sieferman, Jessica@DCA

Cc: Maggio, Mona@DCA; Craig S. Steinberg, OD, JD (craig@odlawyer.com)

Subject: Re: CA Law exam

Dear Ms. Sieferman,

Thank you so much for your help. Also please relay my immense gratitude to the Board for its kindness. Thank you again.

Sincerely,

Jolyn Wei

On Thu, Oct 17, 2013 at 1:11 PM, Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov> wrote:

Good afternoon, Dr. Wei,

Pursuant to Probation Condition 9 of your Disciplinary Order, you will be considered in violation of your probation if you have not passed the examination within six months from the effective date of the decision (March 20, 2014). With that said, a new version of the CLRE will be released on April 1, 2014, and you will be allowed to retake the CLRE at that time. Since the timeframe is so close, if you take and pass the examination within the first week of April, the Board will not pursue any disciplinary action (i.e., file a Petition to Revoke Probation) based on this violation.

Since this is an exception to the normal 180-day waiting period, Board staff will work with PSI (CLRE Vendor) to allow you to retake the CLRE after April 1, 2013. PSI will contact you shortly to reschedule the CLRE within the first week of April.

Please contact me with any questions.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

2450 Del Paso Rd., Suite 105

Sacramento, CA 95834

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F: 916.575.7292

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The Board is committed to providing quality customer service. Please click on <http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: jolyn wei [mailto:jolynwei@gmail.com]

Sent: Thursday, October 17, 2013 12:03 PM

To: Sieferman, Jessica@DCA

Subject: Re: CA Law exam

Thank you for your hep Ms. Sieferman. I hope there's still chance for me to keep being an optometrist.

Sincerely,

Jolyn

On Thu, Oct 17, 2013 at 11:59 AM, Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov> wrote:

Good morning, Dr. Wei,

I was just informed that the new version of the CLRE was updated on October 1, 2013, so you took the new version. I will research this issue further to see if there are other options for you. I hope to have an answer to you by next week.

Thank you for your patience.

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

2450 Del Paso Rd., Suite 105

Sacramento, CA 95834

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F: 916.575.7292

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The Board is committed to providing quality customer service. Please click on <http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: Sieferman, Jessica@DCA

Sent: Thursday, October 17, 2013 10:31 AM

To: 'jolyn wei'

Cc: 'Craig S Steinberg, O.D., J.D.'

Subject: RE: CA Law exam

Good morning, Dr. Wei,

Thank you for your prompt notification. I am researching this now and hope to have an answer within the next few hours.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

2450 Del Paso Rd., Suite 105

Sacramento, CA 95834

P: 916.575.7184

F: 916.575.7292

www.optometry.ca.gov

The Board is committed to providing quality customer service. Please click on <http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: jolyn wei [mailto:jolynwei@gmail.com]
Sent: Thursday, October 17, 2013 10:26 AM
To: Sieferman, Jessica@DCA
Cc: Craig S Steinberg, O.D., J.D.
Subject: CA Law exam

Dear Ms. Sieferman,

I just took the CA Optometry law exam, and unfortunately I did not pass. I remember you mentioned during our meeting that there's a chance that the exam may be changing to a new set of questions in October, and I may have another chance to take it. Can you let me know if such opportunity is possible? If not, is there any way I can work with the Board to preserve my license from revocation, such as negotiating an extension of deadline for passing the law exam, etc? I really do not want to lose my license and end my career. I've worked very hard to meet all the requirements the Board asks of me, and I really hope the Board would be sympathetic and help me out.

Thank you for your help.

Sincerely,

Jolyn Wei

--

"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." -
Ralph Waldo Emerson

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"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." -
Ralph Waldo Emerson

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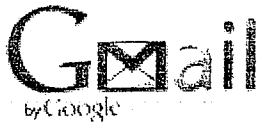
"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." -
Ralph Waldo Emerson

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2014/9/23

Gmail - CA Law exam

"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." -
Ralph Waldo Emerson



Change of employment

Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>
To: jolyn wei <jolynwei@gmail.com>

Thu, Sep 18, 2014 at 5:49 PM

Good evening, Dr. Wei,

Congratulations on your new employment. You can find the Notice to Employer form on our website under the forms and publications tab: http://www.optometry.ca.gov/formspubs/employer_notice.pdf.

Please contact me with any questions.

Sincerely,

Jessica

On Sep 18, 2014, at 5:45 PM, "jolyn wei" <jolynwei@gmail.com> wrote:

Dear Ms. Sieferman,

I'd like to inform you, in accordance with my probation terms, that I have changed my place of employment. I have left CHLA as of 9/12/14 and will begin my new employment starting 9/22/14. My new employer is Dr. Steven Steinschiber, MD in Los Angeles. I will need the notice to employer form for Dr. Steinschiber to fill out and send back to you as my probation mandates. Please let me know if there's anything else I need to do relating to my change of employment.

Thank you for your kind assistance as always.

Sincerely,

Jolyn Wei

--

"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." -
Ralph Waldo Emerson



Community service plan proposal

Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>

Fri, May 30, 2014 at 9:11 AM

To: Elham Zarabian <elhamz@yahoo.com>

Cc: Irina Pogosyan <ipogosyan@valleyclinic.org>, jolyn wei <jolynwei@gmail.com>

Thank you, Dr. Zarabian.

I will mark her hours down in her file. I hope you have a wonderful weekend.

Sincerely,
Jessica

Sent from my iPhone

On May 30, 2014, at 9:08 AM, "Elham Zarabian" <elhamz@yahoo.com> wrote:

Hello Ms. Sieferman. Hope all is well.

It has been a great pleasure having Dr. Jolyn Wei doing community service at our Optometry Department. Dr. Wei started in December of 2013 and has been volunteering her time 16 hours per month to the present. She has been diagnosing and treating patients in a primary care setting.

If you have any further questions, please do not hesitate to contact us. I will submit another report to you by August 2014.

Sincerely,

Elham Zarabian, O.D.
Director of Optometry
Valley Community Clinic

On Friday, May 30, 2014 8:57 AM, elhamzz <elhamzzz@gmail.com> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>
Date: May 27, 2014 at 11:20:50 AM PDT
To: "'Irina Pogosyan'" <ipogosyan@valleyclinic.org>,
"ezarabian@valleyclinic.org" <ezarabian@valleyclinic.org>
Subject: RE: Community service plan proposal

Good morning, Irina Pogosyan and Dr. Zarabian,

According to the email I received below, you are the correct people I should contact for verifying Dr. Wei's monthly community service with Valley Community Clinic. As requested in my email to Ms. Rose below, I need quarterly verifications of Dr. Wei's service. However, I haven't received any such verifications. Would you please email me the amount of hours Dr. Wei spent volunteering and a brief description of the services she provided for the following months:

- December 2013
- January 2014
- February 2014
- March 2014

Thank you so much for your assistance in this matter.

Sincerely,

Jessica Sieferman, Enforcement Lead
California State Board of Optometry
2450 Del Paso Rd., Suite 105
Sacramento, CA 95834
P: 916.575.7184
F: 916.575.7292
<http://www.optometry.ca.gov/>

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From: Judi Rose [mailto:jrose@valleyclinic.org]
Sent: Thursday, October 17, 2013 3:58 PM
To: Sieferman, Jessica@DCA; Irina Pogosyan; ezarabian@valleyclinic.org
Subject: FW: Community service plan proposal

Good afternoon, Ms. Sieferman,
We are delighted to have Dr. Wei with us. Although I am the original 'connector' due to my long-time friendship with Dr. Barry Leonard, I will not be your contact throughout Dr. Wei's time with us. I am forwarding your message to both Irina Pogosyan, our HR Director and to Dr. Elham Zarabian, our Optometry Director. They would be

your contacts for all information, forms, etc. for Dr. Wei.
Thank you so much.

Judi

Judi Rose

Vice President, Chief Development Officer
Valley Community Clinic
6801 Coldwater Canyon Ave
North Hollywood, CA 91605
818-301-6321 direct
jrose@valleyclinic.org
<http://www.valleycommunityclinic.org/>

From: Sieferman, Jessica@DCA [mailto:Jessica.Sieferman@dca.ca.gov]
Sent: Thursday, October 17, 2013 2:38 PM
To: 'jrose@valleyclinic.org'
Subject: FW: Community service plan proposal

Good morning, Ms. Rose,

As part of her probation, Dr. Jolyn Wei is required to provide free optometric services for a minimum of 16 hours per month of probation. Dr. Wei has informed me (below) that you are able to provide the opportunity for her fulfill this requirement through the Valley Community Clinic. On behalf of the Board, thank you for providing this opportunity to Dr. Wei.

Attached is Dr. Wei's Disciplinary Order. In addition, I have attached a community service form in order to verify Dr. Wei's hours. I will need to receive quarterly verifications from you. You can either complete this form and mail it back, or you can simply email me the verification of hours. Is this something you are able to do? If so, I will notify Dr. Wei that she is approved to provide free optometric services at our facility.

Thank you for your help, Ms. Rose. Please contact me with any questions or concerns.

Jessica Sieferman, Enforcement Lead
California State Board of Optometry
2450 Del Paso Rd., Suite 105
Sacramento, CA 95834
P: 916.575.7184
F: 916.575.7292
<http://www.optometry.ca.gov/>

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From: jolyn wei [mailto:jolynwei@gmail.com]
Sent: Monday, October 14, 2013 12:29 PM
To: Sieferman, Jessica@DCA; Craig S Steinberg, O.D., J.D.

Subject: Community service plan proposal

Dear Ms. Sieferman,

I have found optometric community service with the Valley Community Clinic in North Hollywood, CA. I spoke with Ms. Judi Rose (jrose@valleyclinic.org), who had confirmed with me that they will provide me with 16 hours of service each month, either half days every Saturday or 2 full Saturdays a month.

However, I am concerned that there may not be enough patients to fulfill 16 hours of community service with this clinic alone, and I cannot find another opportunity at this time, I'd like to be able to supplement my service hours if they are not enough with a non-optometric community service. Please let me know if this is a viable option.

Sincerely,

Jolyn Wei

--
"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson



Difficulty checking phamatech

Jolyn Wei <jolynwei@gmail.com>

Sun, Aug 31, 2014 at 9:26 AM

To: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Sieferman,

I'm still having difficulty checking my status today. I was never able to check yesterday since the phone system goes into voicemail and never provided a response. Same issue persists today with the website down and phone system not working. :(

Jolyn Wei

iPhoneから送信

Aug 30, 2014 4:46 PM, "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov> のメッセージ:

> Hi Dr. Wei,

>

> Thank you for letting me know about your difficulties. I've emailed Phamatech about their connection issues early this morning. Hopefully the issue will be resolved soon.

>

> Please try calling their automated system to see if you have to test today.

>

> Please update me when you're able to log in.

>

> Thank you,

>

> Jessica

>

>

>

>> On Aug 30, 2014, at 4:35 PM, "Jolyn Wei" <jolynwei@gmail.com> wrote:

>>

>> Dear Ms. Sieferman,

>>

>> I'm having difficulty checking if I'm selected for collection today since the Phamatech website is down, and their office is closed due to the weekend. I've been trying the website all day, but I'm unable to verify the status today. My apologies for the inconvenience.

>>

>> Sincerely,

>>

>> Jolyn Wei

>>

>> iPhoneから送信



Dr. Jolyn Wei : Community Service

Elham Zarabian <elhamz@yahoo.com>

Tue, Aug 26, 2014 at 10:45 AM

Reply-To: Elham Zarabian <elhamz@yahoo.com>

To: "Jessica.Sieferman@dca.ca.gov" <Jessica.Sieferman@dca.ca.gov>, "Dr. Wei" <jolynwei@gmail.com>

Hello Ms. Sieferman. Hope all is well.

This is to inform you that Dr. Jolyn Wei has been continuing her community service at our Optometry Department at Valley Community Clinic. She is volunteering 16 hours per month.

If you have any further questions, please do not hesitate to contact us. I will submit another report to you in three months.

Sincerely,

Elham Zarabian, O.D.
Director of Optometry
Valley Community Healthcare
6801 Coldwater Canyon Ave.
North Hollywood, CA, 91605
Email: ezarabian@valleyclinic.org
Work: (818) 764-7047 Ext. 425
Cell: (310) 666-8726



February 2014 probation monitoring fee mailed

jolyn wei <jolynwei@gmail.com>

Wed, Feb 19, 2014 at 10:31 AM

To: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Sieferman,

Thank you for your continual kind assistance. I will schedule the exam on April 1st.

Sincerely,

Jolyn Wei

On Wed, Feb 19, 2014 at 9:23 AM, Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov> wrote:

Good morning, Dr. Wei,

I have been informed by PSI that you are not able to schedule the exam until April 1. On April 1, you may go online and schedule your exam for any day on or after April 2.

Thank you for your patience.

Please contact me with any questions.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

2450 Del Paso Rd., Suite 105

Sacramento, CA 95834

P: 916.575.7184

F: 916.575.7292

www.optometry.ca.gov

<http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: Jolyn Wei [mailto:jolynwei@gmail.com]

Sent: Friday, February 14, 2014 5:10 PM

To: Sieferman, Jessica@DCA

Subject: Re: February 2014 probation monitoring fee mailed

Dear Ms. Sieferman,

I haven't received any contact from PSI. I was going to email you again Monday. Thank you for updating me.

Sincerely,

Jolyn

iPadから送信

2014/02/14 12:20、"Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov> のメッセージ:

Good morning, Dr. Wei,

I just checked with our licensing unit again, and it appears PSI still hasn't updated your status on their Web site. Has anyone from PSI contacted you? We have been told that they were going to contact you directly.

Thank you for your patience.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

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F: 916.575.7292

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The Board is committed to providing quality customer service. Please click on <http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: Sieferman, Jessica@DCA
Sent: Thursday, February 06, 2014 9:26 AM
To: 'jolyn wei'
Subject: RE: February 2014 probation monitoring fee mailed

Good morning, Dr. Wei,

Thank you for requesting an update. I was informed by licensing that PSI was supposed to call you directly. I just spoke with the licensing unit again. They will look into right now.

I will forward any response I receive to you.

Thank you,

Jessica Sieferman, Enforcement Lead
California State Board of Optometry
2450 Del Paso Rd., Suite 105
Sacramento, CA 95834
P: 916.575.7184
F: 916.575.7292
www.optometry.ca.gov

The Board is committed to providing quality customer service. Please click on <http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: jolyn wei [mailto:jolynwei@gmail.com]
Sent: Thursday, February 06, 2014 8:59 AM

To: Sieferman, Jessica@DCA

Subject: Re: February 2014 probation monitoring fee mailed

Dear Ms. Sieferman,

Any updates on the law exam with PSI? Just checking in. Thank you so much!

Sincerely,

Jolyn

On Tue, Jan 28, 2014 at 8:24 PM, Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov> wrote:

Good evening, Dr. Wei,

I spoke with the licensing unit on January 2nd in regards to your PSI eligibility. I will send them an email right now to inquire again. Hopefully I can provide a status update tomorrow. I will let you know what I find out.

Thank you,

Jessica

Sent from my iPhone

> On Jan 28, 2014, at 8:22 PM, "jolyn wei" <jolynwei@gmail.com> wrote:

>

> Dear Ms. Sieferman,

>

> I have mailed the check for the February probation monitoring fee today. Please look for it in the mail.

>

> Also, I have not received any notification form PSI regarding retaking the test in April. Is there anything I need to do on my end?

>

> Thank you!

>

> Sincerely,

>

> Jolyn Wei

>

> --

> "The sun illuminates only the eye of the man, but shines into the eye and the heart of the child."

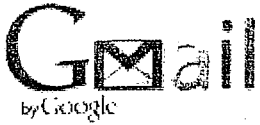
- Ralph Waldo Emerson

2014/9/23

Gmail - February 2014 probation monitoring fee mailed

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"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." -
Ralph Waldo Emerson

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"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo
Emerson



July probation fee and 2nd quarter report

jolyn wei <jolynwei@gmail.com>

Tue, Jul 1, 2014 at 1:20 PM

To: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Sieferman,

Sorry for the slight delay, it has been a crazy week for me. I've mailed out the July probation monitor fee along with the 2nd quarter report this morning via USPS priority mail. Tracking number is: 9114901230803842282344. Please expect its arrival in the next few business days.

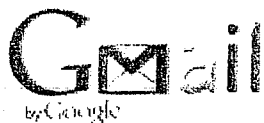
I have also contacted Dr. Francesca Staiti of Kaiser Permanente Los Angeles medical center regarding my quarterly physician's report.

Thank you so much for all your kind assistance.

Sincerely,

Jolyn Wei

--
"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson



Law exam

Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>
To: jolyn wei <jolynwei@gmail.com>

Thu, Apr 17, 2014 at 12:43 PM

Good afternoon, Dr. Wei,

Congratulations on passing the CLRE! I have asked the licensing unit to print the results out for your file.

Thank you for the update. Have a great rest of week.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

2450 Del Paso Rd., Suite 105

Sacramento, CA 95834

P: 916.575.7184

F: 916.575.7292

www.optometry.ca.gov

The Board is committed to providing quality customer service. Please click on
<http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: jolyn wei [mailto:jolynwei@gmail.com]

Sent: Thursday, April 17, 2014 11:30 AM

To: Sieferman, Jessica@DCA

Subject: Law exam

Dear Ms. Sieferman,

I just want to notify you that I have taken and passed the CA Optometry Law and Regulations exam this morning.

Thank you!

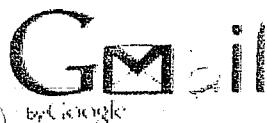
Sincerely,

Jolyn Wei

--
"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson

2014/9/23

Gmail - March 2014 probation fee check mailed.



March 2014 probation fee check mailed.

Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>
To: jolyn wei <jolynwei@gmail.com>

Fri, Feb 28, 2014 at 3:32 PM

Thank you, Dr. Wei. I will keep an eye out for it.

Have a wonderful weekend.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

2450 Del Paso Rd., Suite 105

Sacramento, CA 95834

P: 916.575.7184

F: 916.575.7292

www.optometry.ca.gov

The Board is committed to providing quality customer service. Please click on <http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: jolyn wei [mailto:jolynwei@gmail.com]
Sent: Friday, February 28, 2014 3:13 PM
To: Sieferman, Jessica@DCA
Subject: March 2014 probation fee check mailed.

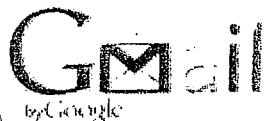
Dear Ms. Sieferman,

I have mailed out the probation fee check today. Please look for it in the mail soon. Thank you!

Sincerely,

Jolyn Wei

"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson



Medical leave

Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>

Fri, Mar 21, 2014 at 11:19 AM

To: jolyn wei <jolynwei@gmail.com>

Thank you for the update, Dr. Wei.

I hope you have a speedy recovery, and you feel better soon.

Sincerely,

Jessica

Sent from my iPhone

> On Mar 21, 2014, at 11:16 AM, "jolyn wei" <jolynwei@gmail.com> wrote:

>

> Dear Ms. Sieferman,

>

> I have recently suffered an illness, and my physician had placed me on medical leave for 4 weeks. I calculated it and my leave should not interfere with my probation requirement of working at least 80 hours per month, and I will continue with my community service, so my probation terms should not be affected. However, I just wanted to inform you of this event, and keep you updated on what's happening with me. As always, thank you for your assistance and care.

>

> Sincerely,

>

> Jolyn Wei

>

> --

> "The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson



Probation Compliance Meeting

Jolyn Wei <jolynwei@gmail.com>

Mon, May 12, 2014 at 5:19 PM

To: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Sieferman,

Thank you for the notification. I will see you May 29th at 1pm.

Sincerely,

Jolyn Wei

iPadから送信

2014/05/12 13:11、"Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov> のメッセージ:

Good afternoon, Dr. Wei,

As stated during your probation orientation, we will have probation compliance meetings around twice a year throughout your probation term. The purpose of these meetings is to review all the documentation I have relevant to your probation compliance, ensure your documentation matches my records, as well as go over any outstanding questions or concerns you may have.

With that said, I have scheduled your probation compliance meeting for **May 29, 2014 at 1:00 PM** at the **Division of Investigation, 2151 Convention Center Way, Suite #115, Ontario, CA 91764.**

Please contact me with any questions.

Sincerely,

Jessica Sieferman, Enforcement Lead

California State Board of Optometry

2450 Del Paso Rd., Suite 105

Sacramento, CA 95834

P: 916.575.7184

F: 916.575.7292

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Probation petition process

Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>
To: Jolyn Wei <jolynwei@gmail.com>

Wed, Sep 3, 2014 at 9:39 PM

Hi Dr. Wei,

During the August Board meeting, they changed the date from 11/14 to 11/21. Sorry for the confusion.

Have a wonderful night.

Jessica

On Sep 3, 2014, at 9:25 PM, "Jolyn Wei" <jolynwei@gmail.com> wrote:

Dear Ms. Sieferman,

I just want to confirm the date of the hearing, since during our compliance meeting I was told it was 11/14/14 but your most recent email said it'll be 11/21/14. The reason is the American Academy of Optometry annual meeting is from 11/12-11/15 in Denver, and if there's no conflict with the hearing date, I'd like to attend the meeting. Thank you for your kind assistance!

Sincerely,

Jolyn Wei

iPadから送信

2014/09/02 11:33、"Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov> のメッセージ:

Good morning, Dr. Wei,

You are eligible to file your petition for early termination on September 20, 2014.
You may find the petition form here: <http://www.optometry.ca.gov/formspubs/petition-probation.pdf>.

Petition hearings are held during our quarterly board meetings in front of a quorum of the Board. The next meeting is scheduled for November 21, 2014 in Southern California. If you wish for your petition to be heard at this meeting, I will need your petition packet no later than September 26, 2014.

The majority of our meetings are webcast and available on our website.

In order to get an idea of what to expect, you may wish to watch a few previous petition hearings found here: <http://www.optometry.ca.gov/meetings/index.shtml>. The most recent hearing, held on August 8, 2014 involved violations unrelated to your discipline, but you can watch it here: https://www.youtube.com/watch?v=tEXi0Il_Zs4&feature=youtu.be (starts about 36 minutes into the meeting). Similarly, another hearing starts about 3 hours into this meeting: <https://www.youtube.com/watch?v=LSSxsWCpotw&feature=youtu.be>.

To get a better idea of the types of questions you may be asked for your specific violations, you may want to watch the petition hearing held on September 16, 2011. It starts about 2 hours and 45 minutes into the meeting: <http://www.optometry.ca.gov/meetings/11mtng.shtml>.

Please feel free to contact me with any questions.

Sincerely,

Jessica Sieferman, Enforcement Lead
California State Board of Optometry
2450 Del Paso Rd., Suite 105
Sacramento, CA 95834
P: 916.575.7184
F: 916.575.7292
www.optometry.ca.gov

The Board is committed to providing quality customer service. Please click on <http://www.surveymonkey.com/consumeraffairs> to share your feedback. Thank you.

From: jolyn wei [mailto:jolynwei@gmail.com]
Sent: Tuesday, September 02, 2014 10:13 AM
To: Sieferman, Jessica@DCA
Subject: Probation petition process

Dear Ms. Sieferman,

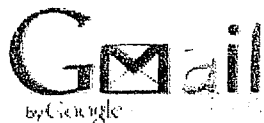
Hope you had a wonderful labor day weekend. As we approach my date for eligibility for petition for modification of my probation terms, I'd like to ask for more information on how this process is started. Is there any paperwork that I should fill out? Or do I submit a letter? Any information would be greatly appreciated. Thank you so much for your kind assistance on this matter.

Sincerely,

Jolyn Wei

--

"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson



jolyn wei <jolynwei@gmail.com>

Fri, Mar 28, 2014 at 12:26 PM

To: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Siefertman,

I have mailed out the quarterly report due 4/1/14 along with April's probation monitoring fee of \$100 today via USPS priority mail (tracking number 9114 9011 5981 8997 8326 09).

I have also contacted my physician, Dr. Francesca Staiti at Kaiser Permanente Los Angeles office (phone number 800-954-8000) for the quarterly physician's report to be sent to you.

Also, I got a parking ticket on 3/26/14. I'm not sure if this constitutes a violation of my probation of "breaking any laws" since it's a parking citation....but I thought it best to report it to you.

Thank you as always for your kindness and your assistance. Hope you have a wonderful weekend.

Sincerely,

Jolyn Wei

"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson



Quarterly reports and January probation fee

jolyn wei <jolynwei@gmail.com>

Thu, Dec 19, 2013 at 5:29 PM

To: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Sieferman,

Happy Holidays! I just want to check in with you before I fly out to go home tomorrow evening, and let you know that I've mailed my first quarterly report along with the January probation fee of \$100 to you via USPS priority mail. You can track the mail at usps.com with label # 9114901159818632694418.

I have had my appointment with Dr. Francesca Staiti at Kaiser Permanente, and she will mail the physician's quarterly report to you directly as instructed by the probation terms. Her address and phone number are:
4700 Sunset Blvd
Los Angeles, CA 90027
(800)954-8000.

Again, I will be out of the country from 12/21 (flying out evening of 12/20) to 1/12/14. I will have access to the internet intermittently while I'm abroad, so please feel free to email me with any questions or concerns.

Thank you for all your assistance thus far through this difficult process. Your kindness has made the process easier to bear with. :) Have a wonderful holiday season and a great beginning of the new year!

Sincerely,

Jolyn Wei

--
"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson



Returned to the United States.

jolyn wei <jolynwei@gmail.com>

Mon, Jan 13, 2014 at 10:24 AM

To: "Sieferman, Jessica@DCA" <Jessica.Sieferman@dca.ca.gov>

Dear Ms. Sieferman,

Happy New Year! I just wanted to inform you that I've returned to the United States and have resumed my body fluid testing checks as mandated in the letter. Thank you!

Sincerely,

Jolyn Wei

--

"The sun illuminates only the eye of the man, but shines into the eye and the heart of the child." - Ralph Waldo Emerson

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

In the Matter of the Accusation Against:

Case No. CC 2010 129

JOLYN WEI
918 S. Oxford Ave. # 229
Los Angeles, CA 90006
Optometrist License No. 13614

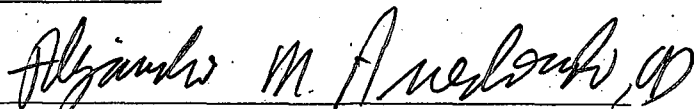
Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 September 20, 2013.

It is so ORDERED August 22, 2013.



FOR THE STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
E-mail: Gillian.Friedman@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. CC 2010 129

12 **JOLYN WEI**
13 **918 S. Oxford Ave. # 229**
Los Angeles, CA 90006
14 **Optometrist License No. 13614**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Mona Maggio (Complainant) is the Executive Officer of the State Board of
21 Optometry. She brought this action solely in her official capacity and is represented in this matter
22 by Kamala D. Harris, Attorney General of the State of California, by Gillian E. Friedman, Deputy
23 Attorney General.

24 2. Respondent Jolyn Wei (Respondent) is represented in this proceeding by attorney
25 Craig S. Steinberg, O.D., whose address is: Law Offices of Craig S. Steinberg, O.D. 5737 Kanan
26 Road, #540, Agoura Hills, CA 91301.

27 3. On or about August 14, 2008, the State Board of Optometry issued Optometrist
28 License No. 13614 to Jolyn Wei (Respondent). The Optometrist License was in full force and

1 effect at all times relevant to the charges brought in Accusation No. CC 2010 129 and will expire
2 on July 31, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. CC 2010 129 was filed before the State Board of Optometry (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on January 15,
7 2013. Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. CC 2010 129 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. CC 2010 129. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

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

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

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. CC 2010 129.

27 10. Respondent agrees that her Optometrist License is subject to discipline and she agrees
28 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. 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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 Settlement 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.

12. 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.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Optometrist License No. 13614 issued to Respondent Jolyn Wei (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

///

1 **SEVERABILITY CLAUSE**

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

7 1. **Obey All Laws.** Respondent shall obey all federal, state, and local laws, governing
8 the practice of optometry in California.

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

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

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

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

- 28 • For the period covering January 1st through March 31st, reports are to be completed and

1 submitted between April 1st and April 7th.

2 • For the period covering April 1st through June 30th, reports are to be completed and
3 submitted between July 1st and July 7th.

4 • For the period covering July 1st through September 30th, reports are to be completed and
5 submitted between October 1st and October 7th.

6 • For the period covering October 1st through December 31st, reports are to be completed
7 and submitted between January 1st and January 7th.

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

9 3. **Cooperate With Probation Monitoring Program.** Respondent shall comply
10 with the requirements of the Board's probation monitoring program, and shall, upon reasonable
11 request, report or personally appear as directed.

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

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

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

22 4. **Probation Monitoring Costs.** All costs incurred for probation monitoring during
23 the entire probation shall be paid by the Respondent. The monthly cost may be adjusted as
24 expenses are reduced or increased. Respondent's failure to comply with all terms and conditions
25 may also cause this amount to be increased. The fee for probation monitoring shall start at a
26 minimum of \$100 per month.

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

1 incurred.)

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

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

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

14 5. **Function As An Optometrist.** Respondent shall function as an optometrist for a
15 minimum of 60 hours per month for the entire term of her probation period.

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

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

26 The Respondent must ensure that the Board receives written confirmation from the
27 employer that she is aware of the Discipline, on forms to be provided to the Respondent (DG-
28 Form 1 (05/2012)). The Respondent must ensure that all reports completed by the employer are

1 submitted from the employer directly to the Board. Respondent is responsible for contacting the
2 Board to obtain additional forms if needed.

3 **7. Changes Of Employment Or Residence.** Respondent shall notify the Board, and
4 appointed probation monitor in writing, of any and all changes of employment, location, and
5 address within 14 calendar days of such change. This includes but is not limited to applying for
6 employment, termination or resignation from employment, change in employment status, and
7 change in supervisors, administrators or directors.

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

12 **8. Cost Recovery.** Respondent shall pay to the Board a sum not to exceed the costs
13 of the investigation and prosecution of this case. That sum shall be \$3,452.50 and shall be paid in
14 full directly to the Board, in a Board approved payment plan, within 6 months from the end of the
15 Probation term. Cost recovery will not be tolled.

16 If Respondent is unable to submit costs timely, she shall be required instead to submit an
17 explanation of why she is unable to submit these costs in part or in entirety, and the date(s) she
18 will be able to submit the costs, including payment amount(s). Supporting documentation and
19 evidence of why the Respondent is unable to make such payment(s) must accompany this
20 submission.

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

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

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

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

9 10. **Community Services.** All types of community services shall be at the Board's
10 discretion, depending on the violation. Within 30 calendar days of the effective date of this
11 decision, Respondent shall submit to the Board, for its prior approval, a community service
12 program in which Respondent provides free non-optometric or professional optometric services
13 on a regular basis to a community or charitable facility or agency, amounting to a minimum of 16
14 hours per month of probation. Such services shall begin no later than 15 calendar days after
15 Respondent is notified of the approved program.

16 11. **Valid License Status.** Respondent shall maintain a current, active and valid
17 license for the length of the probation period. Failure to pay all fees and meet CE requirements
18 prior to her license expiration date shall constitute a violation of probation.

19 12. **Tolling For Out-Of-State Residence Or Practice.** Periods of residency or
20 practice outside California, whether the periods of residency or practice are temporary or
21 permanent, will toll the probation period but will not toll the cost recovery requirement, nor the
22 probation monitoring costs incurred. Travel outside of California for more than 30 calendar days
23 must be reported to the Board in writing prior to departure. Respondent shall notify the Board, in
24 writing, within 14 calendar days, upon her return to California and prior to the commencement of
25 any employment where representation as an optometrist is/was provided.

26 Respondent's license shall be automatically cancelled if Respondent's periods of
27 temporary or permanent residence or practice outside California total two years. However,
28 Respondent's license shall not be cancelled as long as Respondent is residing and practicing in

1 another state of the United States and is on active probation with the licensing authority of that
2 state, in which case the two year period shall begin on the date probation is completed or
3 terminated in that state.

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

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

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

21 **15. Completion Of Probation.** Upon successful completion of probation,
22 Respondent's license shall be fully restored.

23 **16. Sale Or Closure Of An Office And/Or Practice.** If Respondent sells or closes
24 his or her office after the imposition of administrative discipline, Respondent shall ensure the
25 continuity of patient care and the transfer of patient records. Respondent shall also ensure that
26 patients are refunded money for work/services not completed or provided, and shall not
27 misrepresent to anyone the reason for the sale or closure of the office and/or practice. The
28 provisions of this condition in no way authorize the practice of optometry by the Respondent

1 during any period of license suspension.

2 17. **ABSTENTION FROM USE OF CONTROLLED SUBSTANCES/ALCOHOL**

3 Respondent shall abstain completely from the use or possession of alcohol, any and all
4 other mood altering drugs, substances and their associated paraphernalia. Respondent shall
5 identify for the Board, a single physician, nurse practitioner or physician assistant who shall be
6 aware of Respondent's history of substance abuse and will coordinate and monitor any
7 prescriptions for Respondent for dangerous drugs, controlled substances, or mood altering drugs.
8 The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on
9 a quarterly basis. Quarterly reports are due for each year of probation throughout the entire length
10 of probation as follows:

- 11 • For the period covering January 1st through March 31st, reports are to be
12 completed and submitted between April 1st and April 7th.
- 13 • For the period covering April 1st through June 30th, reports are to be completed
14 and submitted between July 1st and July 7th.
- 15 • For the period covering July 1st through September 30th, reports are to be
16 completed and submitted between October 1st and October 7th.
- 17 • For the period covering October 1st through December 31st, reports are to be
18 completed and submitted between January 1st and January 7th.

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

- 20 1. the Respondent's name;
- 21 2. license number;
- 22 3. physician, nurse practitioner, or physician assistant's name and signature;
- 23 4. physician, nurse practitioner, or physician assistant's license number;
- 24 5. dates Respondent had face-to-face contact or correspondence (written and verbal)
25 with physician, nurse practitioner, or physician assistant;
- 26 6. the Respondent's compliance with this condition;
- 27 7. if any substances have been prescribed, identification of a program for the time-
28 limited use of any substances;

8. any change in behavior and/or personal habits;
9. assessment of the Respondent's ability to practice safely;
10. recommendation dependant on Respondent's progress and compliance with this condition on whether to continue with current prescription plan and/or treatment, modify plan and/or treatment, or require Respondent to cease practice;
11. other relevant information deemed necessary by the physician, nurse practitioner, physician, or the Board.

Respondent is ultimately responsible for ensuring her physician, nurse practitioner or physician assistant submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation.

The Board may require a single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health medical records. Respondent shall also provide information of treating physicians, counselors or any other treating professional as requested by the Board.

Respondent shall ensure that she is not in the presence of or in the same physical location as individuals who are using illegal substances, even if Respondent is not personally ingesting the drug(s). Any positive result that registers over the established laboratory cut off level 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 optometric license.

Respondent also understands and agrees that any positive result that registers over the established laboratory cut off level shall be reported to each of Respondent's employers.

18. BIOLOGICAL FLUID TESTING

Respondent, at her expense, shall participate in random testing, including but not limited to biological fluid testing (i.e. urine, blood, saliva), breathalyzer, hair follicle testing, or any drug screening program approved by the Board. The length of time shall be for the entire probation

1 period.

2 Respondent shall make daily contact to determine if she is required to submit a specimen
3 for testing, including weekends and holidays, at a lab approved by the Board. Board
4 representatives may also appear unannounced, at any time to collect a specimen. All collections
5 will be observed.

6 At all times Respondent shall fully cooperate with the Board or any of its representatives,
7 and shall, when directed, appear for testing as requested and submit to such tests and samples for
8 the detection of alcohol, narcotics, hypnotic, dangerous drugs or other controlled substances. All
9 alternative testing sites, due to vacation or travel outside of California, must be approved by the
10 Board prior to the vacation or travel.

11 If Respondent is unable to provide a specimen in a reasonable amount of time from the
12 request, Respondent understands that, while at the work site, any Board representative may
13 request from the supervisor, manager or director on duty to observe Respondent in a manner that
14 does not interrupt or jeopardize patient care in any manner until such time Respondent provides a
15 specimen acceptable to the Board.

16 If Respondent tests positive for a prohibited substance per her probationary order,
17 Respondent's license shall be automatically suspended. The Board will contact the Respondent
18 and her employers, supervisors, managers, work site monitors, and contractors and notify them
19 that Respondent's license has been suspended as a result of a positive test. Thereafter, the Board
20 may contact the specimen collector, laboratory, Respondent, treating physician, treatment
21 provider and support group facilitators to determine whether the positive test is in fact evidence of
22 prohibited use. If the Board determines the positive test is not evidence of prohibited use, the
23 Board shall immediately reinstate the license and inform the Respondent and others previously
24 contacted, that the license is no longer suspended.

25 Failure to submit to testing on the day requested, or appear as requested by any Board
26 representative for testing, as directed, shall constitute a violation of probation and shall result in
27 the filing of an accusation and/or a petition to revoke probation against Respondent's optometrist
28 license.

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DATED: 5/8/13

DATED: 6-25-13

STIPULATED SETTLEMENT (CC 2010 129)


ENDORSEMENT

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

Dated: 7-2-13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for Complainant

LA2012602582
51240607.doc

Exhibit A

Accusation No. CC 2010 129

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. CC 2010 129

13 **JOLYN WEI**
3801 Katella Avenue, No. 130
14 Los Alamitos, CA 90720

ACCUSATION

15 Certificate of Registration to Practice
Optometry Number 13614

16 Respondent.

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18
19 Complainant alleges:

20 **PARTIES**

21 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

23 2. On or about August 11, 2008, the State Board of Optometry (Board) issued
24 Certificate of Registration to Practice Optometry Number 13614 to Jolyn Wei (Respondent). The
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on July 31, 2013, unless renewed.

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1 public, other licensees, health care facilities, other licensing agencies, or any other source
2 suggesting that an optometrist may be guilty of violating this chapter or any of the regulations
3 adopted by the board."

4 7. Section 3110 states, in pertinent part:

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

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

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

13 "(k) Conviction of a felony or of any offense substantially related to the qualifications,
14 functions, and duties of an optometrist, in which event the record of the conviction shall be
15 conclusive evidence thereof.

16 "(l) Administering to himself or herself any controlled substance or using any of the
17 dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a
18 manner, as to be dangerous or injurious to the person applying for a license or holding a license
19 under this chapter, or to any other person, or to the public, or, to the extent that the use impairs
20 the ability of the person applying for or holding a license to conduct with safety to the public the
21 practice authorized by the license, or the conviction of a misdemeanor or felony involving the
22 use, consumption, or self administration of any of the substances referred to in this subdivision, or
23 any combination thereof.

24 REGULATORY PROVISIONS

25 8. California Code of Regulations, title 16, section 1517 states in pertinent part:

26 "For the purpose of denial, suspension, or revocation of the certificate of registration of an
27 optometrist pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act
28 shall be considered to be substantially related to the qualifications, functions, and duties of an

1 optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist
2 to perform the functions authorized by his/her certificate of registration in a manner consistent
3 with the public health, safety, or welfare.”

4 COST RECOVERY

5 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 CAUSE FOR DISCIPLINE

10 (Convictions of a Substantially Related Crime)

11 10. Respondent is subject to disciplinary action under sections 3110, subdivisions (f), (k),
12 and (l) and section 490, in conjunction with California Code of Regulations, title 16, section
13 1517, in that Respondent has been convicted of a crime substantially related to the qualifications,
14 functions or duties of a licensed optometrist. The circumstances are as follows:

15 11. On or about June 15, 2011, after pleading nolo contendere, Respondent was convicted
16 of one misdemeanor count of violating Vehicle Code 23152, subdivision (b) [driving while
17 having .08% and more, by weight, of alcohol in her blood] in the criminal proceedings entitled
18 *The People of the State of California v. Jolyn Wei* (Super. Ct. Los Angeles County, 2010,
19 No.0AH05970). The Court sentenced Respondent to serve thirteen days in jail, pay a fine or
20 perform 12 days of community labor. Respondent was also required to complete courses in a
21 first- offender alcohol and other drug education and counseling program and pay restitution. The
22 Court further placed Respondent on probation for thirty-six months.

23 12. The circumstances surrounding the conviction are that on or about November 14,
24 2010, during a traffic stop at 0037 hours by the San Gabriel Police Department, Respondent was
25 contacted after, among other things, straddling several lanes. While speaking to Respondent, the
26 officer detected an odor of an alcoholic beverage and Respondent was observed to have
27 bloodshot and watery eyes. Respondent admitted to having consumed two Kirin beers that night
28 at dinner. During the investigation Respondent was performed a Field Sobriety Test, and

1 submitted to a breath test that resulted in blood-alcohol content level of .12%. Respondent was
2 subsequently arrested for violating Vehicle Code section 23152, subdivision (a) [driving while
3 under the influence of alcohol or drugs].

4 PRAYER

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

- 7 1. Revoking or suspending Optometrist License Number 13614, issued to Respondent;
8 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
9 enforcement of this case, pursuant to section 125.3; and
10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: 11.14.2012

12 Mona Maggio
13 MONA MAGGIO
14 Executive Officer
15 State Board of Optometry
16 Department of Consumer Affairs
17 State of California
18 Complainant

19 LA2012602582
20 60858337.doc
21 jz/tv (9/24/2012)



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, Mona Maggio 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 28th day of October 2014, the Executive Officer examined said official records of the Board and found that **Jolyn Wei** graduated from the Illinois College of Optometry in 2008, and is the holder of Optometry License No. 13614, which was granted to her effective August 11, 2008. Said License is currently in full force and effect and will expire on July 31, 2015, unless renewed. The current address of record for said Optometry License is 4650 W. Sunset Blvd, Los Angeles, CA 90027.

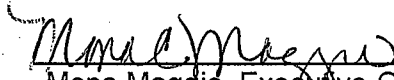
Said records further reveal that on or about August 8, 2008, **Jolyn Wei** became certified to utilize Therapeutic Pharmaceutical Agents and authorized to diagnose and treat the conditions listed in Business and Professions Code (BPC) Section 3041(b), (d), and (e).

Said records further reveal that on or about March 30, 2009, **Jolyn Wei** became certified to perform lacrimal irrigation and dilation pursuant to BPC Section 3041(e)(6).

Said records further reveal that on or about March 30, 2009, **Jolyn Wei** became certified to diagnose and treat primary open angle glaucoma in patients over the age of 18 years pursuant to BPC Section 3041(f).

Said records further reveal that on November 14, 2012, the Board filed an Accusation against **Jolyn Wei** in Case Number CC 2010-129. As a result of that action, the Board revoked Optometry License No. 13614, effective September 20, 2013. However, the revocation was stayed and said License was placed on probation for a period of three (3) years, with terms and conditions.

Given under my hand and the seal of the State Board of Optometry, at Sacramento, California, this 28th day of October 2014.


Mona Maggio, Executive Officer

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Jessica Sieferman
Enforcement Lead

Telephone: (916) 575-7184

Subject: Agenda Item 16B - In the Matter of the Petition for Reduction of Penalty and Early Termination of Probation

Dr. Salimah Moez Pirmohamed, O.D. (Petitioner) was issued Optometrist License Number 13918 by the Board on May 16, 2010. On August 29, 2012, the Board filed an Accusation against Petitioner charging her with violations of laws and regulations based on her conviction of a substantially related crime that included the use of alcohol to an extent or in a manner dangerous to self or others. On September 26, 2013, Petitioner's license was revoked, the revocation was stayed and was placed on three (3) years probation, subject to certain terms and conditions.

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

1. Petition for Reduction of Penalty and Early Termination of Probation
2. Copies of the Decision, and Accusation
3. Certification of Licensure



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



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.			
SALIMAH MOEZ PIRMOHAMED	13918			
2. ADDRESS (NUMBER) (STREET)	DATE OF BIRTH			
11249 CAMINITO RODAR	11/10/1982			
(CITY) (STATE) (ZIP CODE)	TELEPHONE			
SAN DIEGO CA 92126	(703) 9819980			
3. PHYSICAL DESCRIPTION (HEIGHT) (WEIGHT) (EYE COLOR) (HAIR COLOR)				
5'2" 105 BROWN BLACK				
4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGE(S) OF OPTOMETRY ATTENDED				
NAME OF SCHOOL				
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY				
ADDRESS (NUMBER) (STREET)				
4901 CALHOUN RD.				
(CITY) (STATE) (ZIP CODE)				
HOUSTON TX 77204				
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
CA	13918TLG	05/16/10	11/30/14	ACTIVE

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
PLEASE SEE ATTACHED			

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 09/26/2014 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.

6.

Location	Dates	Type of practice
Mission Optometry Dr. Robert Joyce 32245 mission Trail Suite D4 Lake Elsinore, CA 92530	04/2011-Present	Private
Dr. Satnick 9460 Mira Mesa Blvd San Diego, CA 92126	04/2011-10/2011	Private
Dr. Yana Repkin 13425 Community Rd Poway, CA 92064 Start Date : 06/2011 End Date : 06/2012	06/2011-06/2012	Walmart
Dr. Renee White 565 Broadway Chula Vista, CA 91910	06/2011-05/2013	Sears
Dr. Neal Macudzinski 210 E Via Rancho Pkwy Escondido, CA 92025	11/2011-05/2013	Sears
Newport Avenue Optometry Dr. Eli Ben-Moshe 4822 Newport Ave San Diego, CA 92107	12/2011-Present	Private

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)

I was arrested for a DUI on December 14, 2011. I completed all classes, counseling, meetings, and paid all fees set forth by the state of California. I have not been convicted of any other law violations.

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)

I am not on probation or parole by the state or the government, but my optometry license is on probation under the California Board of Optometry as a result of my DUI on December 14, 2011.

12. Have you ever had disciplinary action taken against your optometric license in this state or any other state?

Yes, the disciplinary action taken against my license on September 26, 2013 in the state of California was due to my getting a DUI on December 14th of 2011. My license was placed on probation for three years, during which time I have complied with all conditions, including, obeying all laws, submitting quarterly reports on time, cooperating with the probation monitoring program, paying probation monitoring costs, functioning as an optometrist, notifying any of my employers about my probation, keeping the board notified of an employment or residence changes, paying recovery costs, passing the California laws and regulations examination, completing eight hours of community service every month, maintaining a valid license, abstaining from use of controlled substances and alcohol, and submitting to biological fluid testing.

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

The disciplinary action taken against my license on September 26, 2013 in the state of California was due to my getting a DUI on December 14th of 2011.

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

I am truly embarrassed and remorseful that I made the mistake of driving under the influence, and, I take full responsibility for my actions. I am asking for early termination of probation because the terms of the probation have very negatively impacted my professional and personal life as well as the lives of my loved ones, beyond, what I believe to be the intentions of the probation. Before the night of December 13, 2011, I had never been in any trouble from any authority figure, and certainly never with the police and this entire experience has been truly terrifying for me. Since the night of December 13, 2011, I have complied with all State regulations including completing the DUI First-offender program, taking alcohol abuse education classes, counseling, attending meetings, and paying all fees. I have also complied with all terms set by the optometry board. I understand the seriousness of my actions, and, in turn, understand the need for severe consequences. Some of the terms of my probation, however, specifically, the random drug testing preventing me from leaving the country, the humiliation and stress of observed drug testing, and, the requirement of notifying each employer of my DUI and terms of probation, have negatively impacted my life beyond the intentions of the probation.

First, as drug testing is only available within the United States, I was forced to miss out on several once-in-a-lifetime opportunities this year. First, I had to decline the privilege to volunteer free eyecare to underserved populations in Afghanistan this summer. I have been actively involved in organizing mission trips to various parts of the world including Honduras and Mexico since my days serving as President of SVOSH in optometry school. After school, I have been active in my religious community advocating the need to provide eyecare, as well as, education and building infrastructure in third world countries through the Aga Khan Development Network. This year, when I was chosen to participate in a drive to provide free eyecare in Afghanistan and had to decline, I was devastated. This also greatly hurt my reputation and credibility in the community, because, as someone who had been advocating the need for this service for so long, I could not follow through my words with actions. I also recently had to decline another opportunity to provide free eyecare in East Africa this coming February due to my probation and may never get these opportunities again. My new husband and I are eager to

start a family and traveling to a third world country would not be possible once I become pregnant. Second, I am and have always been very close with my family. Due to the probation, I have not been able to visit my grandfather, aunts, uncles, and cousins as they do not live in the United States. Nor have I been able to see my new mother-in-law who has recently fallen out of remission with breast cancer. I have visited my grandfather every single summer for as long as I can remember, and have purposely made longer visits for the past 5 years, since my grandmother passed away. This summer, I missed his 90th birthday because of the probation. I was the only grandchild not present at his birthday celebration and this has caused me and my family much sadness and pain. My grandfather's health is deteriorating and I am terrified that I will miss my last opportunity to spend time with him in person. There are no words to express the heartache that this causes me every day. Third, I missed my cousin's wedding due to the probation. This was especially difficult because during my own wedding, earlier this year, my cousin and my aunt (my cousin's mother) literally organized my entire wedding for me. They worked so hard the months leading up to my wedding, and, did nothing but cater to my needs during the entire event to make sure that everything ran smoothly. Due to the probation, I was not able to attend my cousin's wedding and return the favor. This has caused much strain on our relationship, as well as, caused much heartache to myself and my family. Last, as a wedding gift, my husband's cousin offered us a free honeymoon to safari in Africa, however, we need to go on this trip by the end of 2014 because my husband's family sold the safari hotel. Due to my probation, my husband and I cannot go to Africa on safari, which is a trip that we cannot otherwise afford. Both my husband's parents and my parents were born in East Africa, and this would have been an amazing opportunity for us to see where our families came from. This has also additionally put strain on our new marriage. My husband and I planned to travel out of the country for our honeymoon and for the first year of our marriage, taking multiple trips to see the world. Then, this coming year, our plan was to start a family. My husband is already 42 years old and we cannot afford to wait for another year before we start trying for our family. Once we start our family, it will be years before we will be able to travel and experience a new country the way we can now. The probation has essentially taken this precious time that we have together away from us, and, this has caused conflict in our marriage.

Second, the humiliation and stress of observed drug testing has caused much distress in my life. The first time I had to go in for an observed drug test, I felt shamed, I had great difficulty urinating in front of a stranger, who was staring at me. My culture is very modest and conservative. I was brought up to be modest, respectful, and was taught the decency of covering up and being a lady. This humiliating experience feels like it is against everything I had been taught. After it was over, I could not stop crying for the rest of the day, I felt utterly humiliated. Since that first experience, and over the next months, I had great difficulty sleeping at night over the stress of possibly having to go in again to urinate in front of a stranger. I tried to make sure I drank a lot of water the hour before testing to ensure that I could get the humiliation over with as quickly as possible. This, however, also had unpleasant drawbacks because the testing center makes me wait over an hour on average before I get called for testing, even when the waiting room is empty. Multiple times, I have had to get up and request the front desk to please take me back because I was in pain from having to hold on to a full bladder for such a long time. This stress is constant for me every single morning when I wake up, and does not go away until I can go for testing and get the humiliating experience over-with. Often, I have to wait until after work to go for testing because the center does not have a female on staff first thing in the morning, so I have to wait until after 7pm to go to the testing center and do not get home until 9pm on a day where I have been up since 6am for work. I cannot possibly imagine the stress of being pregnant, compounded

with this daily humiliation and stress. I have always wanted to be a mother, and I do not want my precious memories of being pregnant for the first time, to be tainted with the humiliation of drug testing. Therefore, we have to put our family on hold until my probation is over, and this has put incredible stress on my marriage. Additionally, every time we have to leave town, I become exceedingly stressed out that I will have to go to a new testing center and test in front of new strangers. This has further put stress on our new marriage because my well-intentioned husband keeps trying to surprise me with getaways for the weekend to rest, but, I am too worried about being picked for drug testing to enjoy any trip or relax.

Last, I practice optometry in Southern California, where your reputation is often more important than your resume, when looking for work. It has always been my dream to be an owner and partner in a private practice. This year, I have had to pass up multiple opportunities with doctors who are looking for a partner because I feel the need to protect my reputation. I have had friends who are great doctors, who have been turned down for a job because a previous employer/doctor stated that they "rushed through their exams." If a good doctor, without a DUI and probation on their record, can lose out on a job opportunity based on this one comment, I can't imagine the damage a doctor, who, does not know me, can do to my reputation before they take the time to find out what a thorough and responsible doctor I am. I have lost much income this year due to having to turn down fill-in work with new doctors, which, prior to the probation, was my main source of income. Additionally, the financial stress of drug testing fees and probation monitoring costs has completely depleted my savings and emergency bank accounts. This has also put additional stress on my marriage. I feel completely helpless and at a loss because I cannot advance professionally or personally in my life with these restrictions.

I take full responsibility for my mistakes and my actions. I regret my mistake and will not repeat it. I just implore you to please consider that the terms of my probation have had an unintentional and very negative impact on my personal and professional life and the lives of my loved ones. I understand the severity of my mistake and have learned from my mistakes. I would just like to move on with my life and leave this nightmare in the past. Thank you for your time and your consideration.

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

09/2013 to Present: Work as an Optometrist Tuesday, Thursday, Friday, and Saturday

Practice/Employer Name: JCPenney Independent Doctor of Optometry/Self
Address: 290 E. Via Rancho Pkwy
Escondido, CA 92025
Phone: (760) 489-1725

04/2011 to Present: Fill-in doctor Wednesdays

Practice/Employer Name: Mission Optometry/Robert Joyce
Address: 32245 Mission Trail
Suite D4
Lake Elsinore, CA 92530
Phone: (951) 674-1561

Fax: (951) 674-5300

12/2011 to Present: Worked Saturdays from 2011 to 2013, then, 2013 to present, Fill-in Occasionally

Practice/Employer Name: Newport Avenue Optometry/Eli Ben Moshe
Address: 4822 Newport Ave
San Diego, CA 92107
Phone: (619) 222-0559

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

Education Classes:

Six, two hour classes over six weeks focused on legal, medical, and social problems associated with the abuse of alcohol and other drugs. Each class was conducted by a skilled instructor and included lectures, discussions, and multimedia material.

Counseling Groups:

12, two hour sessions, over 12 weeks provided an opportunity to examine my own behavior and personal attitudes towards alcohol and drug use. The group provides support for positive changes. The group is conducted in a manner that encourages the participant to share ideas and information so he or she may identify and resolve alcohol and/or drug related problems.

Face-to-Face Interviews:

3 Interviews, 20 minutes, over 3 months to assess progress and provide an opportunity to discuss any personal issues that may be a deterrent from successfully completing the program.

Self-Help Meetings:

Attended 3 alcoholics anonymous meetings and one MADD meeting.

17. List all post-graduate or refresher courses, with dates, location and type of course, you have taken since your license was disciplined.

Please see numbers 16 and 19.

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

Throughout the year, I access many different sources including PubMed for articles related to cases I encounter on a regular basis. I do not, however, normally keep a record of every article that I read. Since the receiving this application, I have made an effort to document the articles that I have been reading over the past couple months and have listed them below. This list, however, is only a small fraction of the number of articles/literature that I have read since September 26, 2013.

1. Biomed Opt Express. 2014 Jul 14;5(8):2614-9. doi: 10.1364/BOE.5.002614. eCollection 2014. Direct observation and validation of fluorescein tear film break-up patterns by using a dual thermal-fluorescent imaging system. Su TY1, Chang SW2, Yang CJ1, Chiang HK3.

2. Diurnal IOP Control: How Important Is It? Sanjay Asrani, MD. Glaucoma Today. <http://bmctoday.net/glaucomatoday/2014/08/article.asp?f=diurnal-iop-control-how-important-is-it>
3. D. R. Overby, E. H. Zhou, R. Vargas-Pinto, R. M. Pedrigi, R. Fuchshofer, S. T. Braakman, R. Gupta, K. M. Perkumas, J. M. Sherwood, A. Vahabikashi, Q. Dang, J. H. Kim, C. R. Ethier, W. D. Stamer, J. J. Fredberg, M. Johnson. Altered mechanobiology of Schlemm's canal endothelial cells in glaucoma. Proceedings of the National Academy of Sciences, 2014; DOI:10.1073/pnas.1410602111
4. Controlling Myopia in Children. Barry Santini. 2020Mag. August 2014. <http://www.2020mag.com/story/49785/>

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

Advancements In Dry Eye Evaluation And Treatment Of Meibomian Gland Dysfunction And Dry Eye
Carlsbad, CA 42177-AS Trt/Mngmnt Anterior Segment Live 08/14/2014 James Davies
Surgical Eye Care Center 2
11155310

Laser Procedures For The Management Of Glaucoma And More
Seattle, WA 37919-GL Glaucoma Live 10/26/2013 Nathan Lighthizer
American Academy Of Optometry 2
10887629

Glaucoma Or Neuro? You Make The Call!
Seattle, WA 39281-NO Neuro-Optometry Live 10/26/2013 Robert Wooldridge
American Academy Of Optometry 2
10887637

Glaucoma Sig Symposium: Point-counter Point: Evidence-based Decisions In Glaucoma Management
Seattle, WA 38640-GL Glaucoma Live 10/25/2013 Michael Mee
American Academy Of Optometry 2
10887634

The Secondary Glaucomas
Seattle, WA 38295-GL Glaucoma Live 10/25/2013 Murray Fingeret
American Academy Of Optometry 2
10887633

Clinical Conundrums In Glaucoma
Seattle, WA 38293-GL Glaucoma Live 10/25/2013 Joseph Sowka
American Academy Of Optometry 2
10887632

Not A Dry Eye In The House !
Seattle, WA 37820-AS Trt/Mngmnt Anterior Segment Live 10/24/2013 Etty Bitton

American Academy Of Optometry 2
10887627

Off Label Uses Of Common Medications

Seattle, WA 36215-PH Pharmacology Live 10/24/2013 Jeffrey Varanelli
American Academy Of Optometry 1
10887622

Successful Management Of Your Cataract Patients

Seattle, WA 37168-PO Peri-Op Mngmt of Ophth Surgery Live 10/24/2013 Maynard Pohl
American Academy Of Optometry 1
10887624

Functional Vision Loss

Seattle, WA 37830-NO Neuro-Optometry Live 10/24/2013 Kelly Malloy
American Academy Of Optometry 1
10887628

Influence Of Today's Science On Retina Care In Your Office

Seattle, WA 38290-PS Trt/Mngmnt Posterior Segment Live 10/24/2013 Jeffry Gerson
American Academy Of Optometry 2
10887631

Hot Topics In Scleral Lenses

Seattle, WA 39199-CL Contact Lenses Live 10/24/2013 Muriel Schornack
American Academy Of Optometry 1
10887636

Updates And Advances In Oct And Faf Technology For Vision Threatening Disease.

Seattle, WA 37764-PS Trt/Mngmnt Posterior Segment Live 10/23/2013 Khadija Shahid
American Academy Of Optometry 1
10887625

The Case For Neuroprotection In Glaucoma

Seattle, WA 38668-GL Glaucoma Live 10/23/2013 Jeffrey Goldberg
American Academy Of Optometry 1
10887635

Premium Iols: When Things Don't Go As Planned

Seattle, WA 37788-PO Peri-Op Mngmt of Ophth Surgery Live 10/23/2013 Eric Polk
American Academy Of Optometry 1
10887626

Systemic Antibiotic Management Of Infection And Ocular Disease

Seattle, WA 38285-AS Trt/Mngmnt Anterior Segment Live 10/23/2013 Blair Lonsberry
American Academy Of Optometry 2
10887630

Vision Expo West 09/17/2014-09/20/2014:

31B1 • Community Outreach to Build Your Independent Practice: Increasing Your Patient Base One

Person at a Time 1

32B2 • Enhancing Practice Growth 2

33B6 • 'Googlocation' - Drive Traffic to Your Practice and Increase Your Visibility 2

34C5 • Update on SD OCT Imaging 1

41B2 • Enhancing Profit and Profitability 2

43C7 • Identifying Glaucomatous Progression1

Pending Course (2hrs)

Cataract Post-Op Common Complications; What to Expect, and Expect the Unexpected

Carlsbad, CA 11/06/2014 James Davies Surgical Eye Care Center

Pending courses (tentative 20hrs), American Academy of Optometry 11/12/2014-11/15/2014:

SD-02 Khadija Shahid 1hr

Optometric Management of the New Plaquenil Screening Guidelines

CL-02 Barry Weissman 1hr

Corneal Oxygen 2014

CL-03 Kathryn Richdale, David Troilo 2hrs

Contact Lens Treatments for Myopia Control: Emerging Evidence-Based Practices

AS-03 Nicholas Colatrella, Jeffrey Varanelli 1hr

Sutureless Amniotic Membranes: When and How to Use Them

CL-08 Thomas Quinn 1 hr

Practical Problem-Solving of Red Eye in the CL Patient

AS-04 Barry Weissman 1hr

The Corneal Dystrophies

JP-03 Robert Dister, Michael Harris 1hr

The Dilation Dilemma

GL-03 Anthony DeWilde 1hr

Rethinking Gonioscopy: New Concepts of Angle Closure Glaucoma

SS-08 Jane Ann Grogg, John Samples, Michael Sullivan-Mee 2hrs

Glaucoma SIG Symposium: The Implementation of Optical Coherence Technology (OCT) in Managing Glaucoma

OP-06 Bruce Onofrey 1hr

Ocular Infection Management – The Next Generation

OP-07 Blair Lonsberry 2hrs

Oral Pharmaceuticals in Ocular Surface Infection and Inflammation

NO-05 Leonid Skorin 1hr

Alzheimer Disease: An Update With Answers to Common Questions

NO-06 James Fanelli, Leonard Messner, Lorraine Lombardi 2hrs

The Cranial Neuropathies: 3rd, 4th, and 6th Nerve Palsies

GL-06 David Hicks 1 hr

OCT in Glaucoma: Interpretation, Progression and Management

OP-08 Tammy Than 2hrs

Ophthalmic Therapeutic Update

LV-14 Lauren Hoffman 1hr

Making Technology Accessible for Low Vision Patients

LV-15 Gary Asano 1hr

Why are Mainstream Lenses Important in Low Vision Rehabilitation Care?

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

1. Robert Joyce, O.D.
32245 Mission Trail
Suite D4
Lake Elsinore, CA 92530
(951) 674-1561
2. Eli Ben Moshe, O.D.
4822 Newport Ave
San Diego, CA 92107
(619) 222-0559
3. Zarah Yi, PhD
4545 Mercurio Street,
San Diego CA 92130
(206) 355-5867
4. Joni Young
1700 Lombard St,
Oxnard, CA 93030
(805) 278-4321

Robert J. Joyce, O.D.
7344 Escallonia Court
Carlsbad, CA 92011

Jessica Sieferman
Enforcement Lead
California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

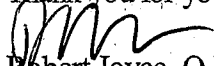
9/20/2014

Dear Jessica,

I am a licensed optometrist in the state of California, and I have been practicing optometry since 2002. I have had many opportunities to practice in various aspects of our industry. I have held positions in clinical research including FDA clinical trials, have been involved in starting several new companies, have worked in refractive surgery, and ultimately settled in private independent optometry as the owner of two practices. Over the years, I have had the opportunity to hire and employ doctors for research positions, to work in refractive surgery, and also to work as associates in primary care in my practices.

It is with this background that I feel well qualified to make character references for Doctors of Optometry. I have had the opportunity to work with Dr. Pirmohamed for the past 4 years. I can say without a doubt that she is one of the finest doctors I have ever had the opportunity to work with. First, Dr. Pirmohamed is thorough and completely qualified in every way; I have never encountered a situation that I questioned her clinical decision making. Secondly, patients not only love her, they request her, and my staff always looks forward to working with her. She renders her care with kindness and respect and the patients frequently comment on the good care they receive during her examinations. Finally, Dr. Pirmohamed is meticulous in her note keeping. In a multi-doctor practice this is critical, but it is also a reflection of the importance that she places on her responsibility to her patients and to the practice of optometry. It is because of these qualities that I confidently give Dr. Pirmohamed my most enthusiastic endorsement.

I have a full recognition of the gravity of Dr. Pirmohamed's offense. However, I am also aware of her complete compliance to the terms of her probation and her outstanding character and work ethic. This is why I believe you should consider early termination of her probation. Principle reasons include protecting her professional reputation and freeing her for travel. I am aware that she has missed several very important family events recently, as well as a humanitarian trip to Afghanistan to do eye care among the needy there. I am a firm believer in upholding the public persona of Doctor and care a great deal for Optometry's image. I am proud of Dr. Pirmohamed and the impact she has on the community through her kind and competent service. Thank you for your consideration.


Robert Joyce, O.D.

09/12/2014

Jessica Sieferman
Enforcement Lead
California State Board of Optometry
2450 Del Paso Rd., Suite 105
Sacramento, CA 95834

Dear Jessica Sieferman:

My name is Dr. Eli Ben-Moshe, I am an optometrist, and, I own a private practice in Ocean Beach, California. I have had the pleasure of having Dr. Salimah Pirmohamed work for me as a fill-in doctor since 2011. Dr. Pirmohamed is a well-accomplished young doctor with an impressive resume. Even more impressive, however, is her work ethic, and her kind and professional disposition. When Dr. Pirmohamed sees my patients, I do not have to worry about what kind of care my patients will receive. She always follows the proper procedures and guidelines whether she is treating a red eye, dilating a patient, or recommending a newer and safer contact lens. My patients love her and feel that they have received the best possible care.

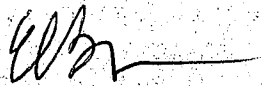
I believe that Dr. Pirmohamed is genuinely embarrassed and remorseful for her mistake in driving under the influence. I know her to be a very responsible and respectful doctor. I do not believe she would ever make this same mistake twice. Additionally, I know that being on probation has had a very negative impact on her life. She is very close with her family, especially with her grandfather, and cannot visit them because they live outside of the United States. I also know that she takes her reputation very seriously and has had to cut back on work because she has to disclose her DUI to every new employer. This has held her back both professionally and financially for the past year. Dr. Pirmohamed has expressed the desire to buy a practice or join a private practice since I have met her, and I believe that being on probation has held her back from achieving her goals.

Dr. Pirmohamed has great potential as a practice owner and is an ethical and hardworking doctor. I do not believe that you will be disappointed by giving her a second chance and ending her probation. I believe that she has a lot to offer our profession and will do great things with that ability when given the chance.

Please feel free to contact me if you have any questions or if you would like to discuss Dr. Pirmohamed further.

Sincerely,

Eli Ben-Moshe, O.D.



Zahra Shajani Yi, PhD
4545 Mercurio Street
San Diego, CA 92130
September 23, 2014

Jessica Sieferman
Enforcement Lead
California State Board of Optometry
2450 Del Paso Rd., Suite 105
Sacramento, CA 95834

Dear Ms. Sieferman,


I am writing to attest to Dr. Salimah Piramohamed's moral character and I would like to take a moment to introduce myself. I completed a PhD in Chemistry at the University of Washington and a post-doctoral fellowship at The Scripps Research Institute in La Jolla, California. I am currently a stay at home mother of two girls.

I have known Dr. Piramohamed for six years and over that period we have become friends. I know her to be a kind and generous person. She is a leader in our religious community who leads the congregation in special prayers. This position is considered to be an honor in the community and only offered to people who are reliable, responsible and caring. In addition to her duties, she also volunteers to drive members of the congregation to prayers as needed. On a more personal note, she would find time to come and help me watch my children when they were infants.

Dr. Piramohamed has also applied every year to be a volunteer in third-world countries. She was selected this year to be part of a team that provides free eyes exams and aid in cataract surgery in Afghanistan by the Aga Khan Foundation; however, she had to decline this offer since her probation requires her to stay in the country.

In addition to limiting her contribution to the general community, the restrictions of her probation have negatively impacted her interactions with her extended family, most of who live in Canada. She is very close to her extended family and has been worried that she cannot visit her grandfather who recently turned 90. I know that Dr. Piramohamed feels both remorse and embarrassment for her mistake and I truly believe that she will not make such a mistake again.

Sincerely,



Zahra Shajani Yi, PhD



9/24/2014

Joni Young, ASW
Acting Program Director
Ventura County Adult Day Health Care Center
1700 N Lombard St., Suite #150
Oxnard, CA 93030
(805) 278-4321

Jessica Sieferman
Enforcement Lead
California State Board of Optometry
2450 Del Paso Rd., Suite 105
Sacramento, CA 95834

To Jessica Sieferman:

My name is Joni Young, and I am currently the Acting Program Director for Ventura County Adult Day Health Care Center. Dr. Salimah Pirmohamed has been volunteering free eye exams for our participants here for the past year. I am writing this letter on behalf of Dr. Pirmohamed to recommend that her probation with the Board of Optometry be terminated. Dr. Pirmohamed is a talented and responsible doctor who is always punctual, shows compassion and kindness towards our participants, and has always acted ethically and appropriately during her time at the center.

She regrets her decision of driving under the influence, and has expressed her considerable remorse and embarrassment. I believe she truly does regret this mistake. After getting to know Dr. Pirmohamed over the past year, I believe her to be a strong and ethical doctor, a leader in her community, and a kind and family oriented person. I know that because of her probation, she is unable to visit both her ninety year old grandfather, whom she normally visits annually in Canada, and also her family in Canada and the UK, whom she is very close to. She has missed her grandfather's birthday, family reunion, and her cousin's wedding this year. This has caused her and her family much pain and sadness. She was also chosen to volunteer overseas in Afghanistan, a once in a lifetime opportunity, and had to decline because of the probation. I believe the community overseas missed out on a great opportunity to receive such exceptional care from such a wonderful doctor.

Dr. Pirmohamed is a wonderful person and a responsible doctor. I believe she has learned from her past mistakes and should be released from probation. Please do not hesitate to contact me if any further information is required.

Sincerely,


Joni Young, ASW

RECEIVED BY
STATE BOARD OF OPTOMETRY
2013 AUG 27 AM 11:38
BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SALIMAH MOEZ PIRMOHAMED,

Respondent.

Case No. CC 2011 129

OAH No. 2012100797

ORDER OF DECISION

(Government Code Sections 11511.5
and 11511.7; Title 1, California
Code of Regulations Sections 1026
and 1028)

DECISION

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

This Decision shall become effective on September 26, 2013.

IT IS SO ORDERED this 28th day of August.

By: Alyson M. Anseloni, OD

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

In the Matter of the Accusation Against:

SALIMAH MOEZ PIRMOHAMED, O.D.

Optometrist License No. 13918

Respondent

Case No. CC 2011-129

OAH No. 2012100797

PROPOSED DECISION

Carla Nasoff, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on May 16, 2013, in San Diego, California.

Karen Gordon, Deputy Attorney General, Deputy Attorney General, represented complainant Mona Maggio, Executive Officer of the State Board of Optometry (Board).

Ted E. Thompson, Attorney At Law represented Salimah Moez Pirmohamed who was present throughout the hearing.

The matter was submitted on May 16, 2013.

FACTUAL FINDINGS

Licensure and Background

1. On May 16, 2010, respondent was issued a Registration to Practice Optometry, License Number 13918. Respondent's license will expire on November 30, 2014, unless renewed.
2. On August 29, 2012, complainant filed an Accusation against respondent in her official capacity. On May 16, 2013 an administrative hearing was conducted.

The Circumstances that Gave Rise to the Disciplinary Action

3. On March 7, 2012, respondent was convicted on her plea of guilty to driving a vehicle under the influence of alcohol (DUI). Respondent pled guilty to violating Vehicle Code section 23152, subdivision (b), (driving with a blood alcohol content (BAC) of 0.08 percent or more), a misdemeanor. Respondent's BAC was 0.14 percent.

The circumstances that lead to the conviction were that on December 14, 2011, respondent had dinner with friends at a restaurant. Respondent drank alcoholic beverages (vodka) during dinner and then proceeded to drive her friends home. While driving home, the California Highway Patrol Officer observed respondent's vehicle traveling at a high rate of speed and drifting from side to side. The officer stopped respondent and administered a field sobriety test which respondent failed. Respondent had difficulty maintaining her balance, her speech was slurred, she smelled of alcohol and her eyes were watery. The officer placed respondent under arrest for driving under the influence of alcohol. She was transported to the San Diego CHP office where two breath tests were conducted at 00:58 and 1:01 hours with results of .145 and .152 percent BAC respectively. Respondent was then transported to Las Colinas Women's Detention Facility.

On March 7, 2012, respondent pled guilty to DUI and was placed on five (5) years summary probation with standard alcohol conditions, ordered to enroll in a first conviction program and fined \$2,064.

Respondent's Testimony

4. In 2009 respondent graduated from the University of Houston in the Optometry program. From 2010 to 2011, she traveled with her father to China, Hong Kong, London, Ireland and Canada. Since 2011, she has worked per diem as a contract Optometrist.

On December 14, 2011, respondent went out to dinner with her fiancé and his friend. She drove her fiancé's car to the restaurant. Respondent testified that, "On this night, I was encouraged by my friends to drink vodka...I had two vodka drinks...I generally abstain from drinking alcohol because of my Islamic religion...Prior to this incident, I only drank one beer in college, one-half a glass of wine at a friend's wedding and one-half glass of wine at my 2009 college graduation."

On December 14, 2011, while driving home from the restaurant, respondent testified that she swerved her car to avoid hitting a large pothole. A police officer stopped her and conducted a field sobriety test. Respondent failed the field sobriety test and was later convicted on her plea of guilty of driving under the influence. Respondent completed the first offender's program, attended the MADD impact victim panel and paid all court fines and fees. Respondent completed all that the court has required of her except that she remains on criminal probation until 2017. Respondent expressed genuine embarrassment and sincere remorse for her conduct. Respondent testified, "I am a leader in my mosque, a priestess and

role model in my community...I would not jeopardize my religious leadership position ever again by drinking...I was raised not to drink alcohol...December 14, 2011, was the last time I drank alcohol...I am done with alcohol!"

Respondent's testimony was credible. She responded to questions readily and with appropriate detail. She maintained good eye contact and was forthright, humble and apologetic for her prior conduct. Respondent was believable and took responsibility for her actions. Her prior history of alcohol use was minimal. Respondent's testimony was sincere when she stated that she has not and would not drink alcohol in the future. It is highly unlikely respondent would ever repeat this behavior in the future.

Zahra Shajani Yi's Testimony

5. Ms. Zahra Shajani Yi testified on behalf of the respondent as a character witness. Ms. Yi received her Ph.D. in molecular chemistry and worked as a molecular biologist at the Scripps Research Institute in La Jolla, California before becoming a stay at home mother. Ms. Yi first met respondent in 2009 and both attend the same mosque. Ms. Yi testified that, "It is taboo to drink in our Islamic religion...I have never seen (respondent) drink alcohol...She (respondent) is a role model in our mosque."

Ayaz Walji's Testimony

6. Ayaz Walji is respondent's fiancé. Mr. Walji owns and operates an adult health care center and a mortgage company. He has known respondent for two years. On December 14, 2011, he was at a restaurant with respondent and a friend. Mr. Walji testified that while they had dinner, he encouraged respondent to drink a vodka alcoholic beverage. He testified, "I egged her on, I encourage her and she initially resisted. I regret encouraging her." Mr. Walji drank three to four vodka drinks. Mr. Walji did not testify as to how many drinks respondent consumed. He believed that when they left the restaurant, respondent was able to safely drive home. Mr. Walji was in the car when the police pulled them over. He did not see respondent complete the sobriety test. Unlike respondent, he occasionally drinks alcohol even though alcohol consumption is not allowed based on his religious beliefs. He no longer has any alcoholic beverages in his home and no longer encourages respondent to drink alcohol. He has not seen respondent drink alcohol since the December 14, 2011, incident.

Rehabilitation Evidence

7. Respondent pled guilty and was convicted of DUI. She complied with the terms and conditions of her criminal probation and made no effort to excuse her conduct. She appeared remorseful and contrite. Respondent was attentive, engaged and apologetic. Respondent's past history of alcohol use was minimal. There was no prior evidence of alcohol abuse. Since December 2011, she has completely abstained from any alcohol use. Respondent now has a more supportive system that encourages her abstinence. Her fiancé regretted "egging her on" to drink alcohol in 2011. He was sincere in his commitment to

support respondent's abstinence. He no longer has any alcoholic beverages in his home. By all accounts, the December 2011 incident was an isolated event that has little chance of repeating. Respondent remains active in her mosque and she does not want to jeopardize her current religious leadership role. She no longer feels as though someone could "egg her on" to drink alcohol. Respondent has completely abstained from any alcohol use since December 14, 2011, even though the terms of criminal probation allow lawful use.

The Board's primary responsibility is to protect the public. Respondent demonstrated, by clear and convincing evidence, that her initial efforts made toward rehabilitation have been successful. She provided corroborating testimony from witnesses who confirmed her minimal past use of alcohol and her continued abstinence since her conviction. An outright revocation is not warranted and would simply be punitive. The minimum recommended three year probationary period with specific terms and condition is sufficient to ensure respondent maintains her sobriety and will adequately protect the public. Respondent has demonstrated that she has been diligent regarding her rehabilitation since 2011 and has taken a significant step of complete abstinence. Any additional months of probation would not advance the public interest. A three-year period of probation with standard terms and specific conditions will sufficiently protect the public.

Cost recovery

The total cost recovery requested for the investigation and enforcement of this matter was \$3,482.50. This amount is reasonable given the amount of investigation and documentation reviewed in the preparation of this case.

LEGAL CONCLUSIONS

Purpose of Discipline

1. According to the Optometry Board's Disciplinary Guidelines, the purpose of the Board is to assure the highest quality of optometry practice. Protection of the public is the highest priority. In furtherance of that goal, the Board seeks to keep unqualified and undesirable persons and those guilty of unprofessional conduct out of the profession.

2. The purpose of administrative discipline is not to punish licensees but to protect the public by eliminating those practitioners who are dishonest, immoral, disreputable, or incompetent. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.)

Burden and Standard of Proof

3. The standard of proof in an administrative action seeking to suspend or revoke a professional license is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence

requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

Disciplinary Statutes and Regulations

4. Business and Professions Code section 3090 provides in part that the board may take action against all persons guilty of any of the regulations adopted by the board.

5. Business and Professions Code section 482 provides in part that each board shall develop criteria to evaluate the rehabilitation of a person when considering the denial of a license and take into account all competent evidence of rehabilitation furnished by the licensee.

6. Business and Professions Codes sections 490 and 493 authorize the Board to suspend or revoke a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession, for which the licensee's license was issued.

7. Business and Professions Code section 3110, subdivisions (k) and (l), provide in part:

The board may take action against any licensee who is charged with unprofessional conduct... Unprofessional conduct includes, but is not limited to the following:

(k) Conviction of a felony or of any offense substantially related to the qualifications, functions and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof.

(l) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a manner, as to be dangerous or injurious to the person... holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, or the conviction of a misdemeanor or felony involving the use, consumption, or self administration of any of the substances referred to in this subdivision, or any combination thereof....

In this matter, respondent was convicted of driving while under the influence of alcohol, a misdemeanor. Respondent used alcohol in a dangerous manner in that she drove

impaired and threatened her life and the lives of others. Respondent engaged in unprofessional conduct. The DUI conviction was an offense substantially related to the qualification, functions and duties of an optometrist.

8. Business and Professions Code section 125.3 provides in part that the administrative law judge may direct a licensee found to have committed a violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

In this matter the total cost recovery requested for the investigation and enforcement of this matter was \$3,482.50. This amount is reasonable given the amount of investigation and documentation reviewed in the preparation of this case.

Regulatory Authority - Substantial Relationship Criteria

9. California Code of Regulations, title 16, section 1516 subdivision (a) 1-5, sets forth the criteria for rehabilitation provides in part provides in part:

When evaluating the criteria for rehabilitation the board will consider the following:

- (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) referred to in subdivision (1) or (2).
- (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.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.

Eighteen months has lapsed since the incident. There have been no repeated offenses. Respondent complied with all terms of her criminal probation, attended all required programs, paid all fines and fees and remains on criminal probation until 2017.

Substantial Relationship

10. Licensing authorities do not enjoy unfettered discretion to determine whether a given conviction is substantially related to the relevant professional qualifications. Business

and Professions Code section 481 requires each licensing agency to develop criteria to aid it in determining whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates. (*Donaldson v. Department of Real Estate of State of Cal.* (2005) 134 Cal.App.4th 948, 955-956.)

11. California Code of Regulations, title 16, section 1517, sets forth the criteria for substantial relationship. For purposes of revocation of the certificate or registration of an optometrist, a crime or act shall be considered to be substantially related to the qualifications, functions, and duties of an optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist to perform the functions authorized by her certificate of registration in a manner consistent with the public health, safety or welfare. Such crimes shall include any violation of the provisions of Chapter 7, Division 2 of the Code section 3000 et seq.

In this matter, there is a nexus or logical relationship between the professional fitness of an optometrist and the alcohol-related misconduct. In *Sulla v Board of Registered Nursing* (2012) 205 Cal. App 4th 1195, 1204, the court determined that discipline was appropriate against the registered nurse for a DUI conviction and recognized that there was a nexus between professional qualifications of a registered nurse and a conviction for driving while under the influence of alcohol. In addition, three court of appeal decisions discuss similar statutes providing for discipline of physicians (*Griffiths v Superior Court* (2002) 96 Cal. App. 4th 757; *Weissbuch v Board of Medical Examiners* (1974) 41 Cal App. 3d 924; and *Watson v Superior Court* (2009) 176 Cal App 4th 1407.) In all three cases, the courts held that a conviction involving alcohol consumption reflected a lack of sound professional and personal judgment that was relevant to the professional's fitness and competence to practice. Alcohol consumption quickly affects normal driving ability. Driving under the influence of alcohol threatens personal safety and places the public in jeopardy. Driving under the influence shows a breach of duty owed to society and such conduct tends to undermine public confidence and respect in the health care profession.

Furthermore, based on Business and Professions Code section 3110, subdivision (1), the Legislature has determined that a nexus exists in cases where an optometrist uses alcoholic beverages to an extent or in a manner as to pose a danger to herself or others. In this matter, respondent used alcoholic beverages to an extent or in a manner as to pose a danger to herself or others. The DUI conviction is substantially related to the qualifications, functions and duties of an optometrist and there is justification for the imposition of discipline.

Rehabilitation

12. The amount of evidence of rehabilitation varies according to the seriousness of the misconduct at issue. The mere expression of remorse does not demonstrate rehabilitation. A truer indication of rehabilitation will be presented if respondent can demonstrate by his sustained conduct over an extended period of time that he is rehabilitated and fit to practice. (*In re Menna* (1995) 11 Cal.4th 975, 987, 991.) Rehabilitation is a "state

of mind” and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved “reformation and regeneration.” (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) The evidentiary significance of an applicant’s misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

Evaluation

13. Respondent was convicted on her plea of guilt to DUI. Respondent used alcohol in a manner that was dangerous to herself and others. Business and Professions Code section 3110, subdivision (l), authorizes discipline of an optometrist for the use of alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public. The record of the conviction is conclusive evidence of such unprofessional conduct. The statute is sufficiently clear to give fair warning of the conduct it prohibits.

There is no dispute between the parties that when respondent drove her car after consuming alcoholic beverages (vodka), she posed a danger to herself and others. Driving under the influence of alcohol demonstrates an inability or unwillingness to obey legal prohibitions against such conduct and constituted a serious breach of a duty owed to society. Respondent’s conduct undermines public confidence in and respect for her profession. Such conduct reflects poorly on the optometrist’s common sense and professional judgment that are essential to the practice optometry, and tends to undermine public confidence in and respect for her profession. Clear and convincing evidence established that respondent engaged in unprofessional conduct. Therefore cause exists to impose discipline for the DUI conviction.

The purpose of discipline is not to punish, but to protect the public. Respondent presented evidence of her self-reflection and remorse. Significant progress has been made toward her rehabilitation. She is active in her mosque and has been elevated to a leadership role. She was credible and sincere when she testified that since December 2011 she no longer drinks any alcohol and that testimony was corroborated by witnesses. Her past history of alcohol use was minimal and by all accounts, there is little chance that this conduct will be repeated.

Cause Exists to Impose Discipline

14. Cause exists, by clear and convincing evidence, to impose discipline on respondent’s license based on Business and Professions Code sections 490 and 3110, subdivision (k), in that respondent was convicted of a crime that is substantially related to the qualifications, functions or duties of a licensed optometrist.

15. Cause exists, by clear and convincing evidence, to impose discipline on respondent’s license based on Business and Professions Code sections 3110, subdivision (l), in that respondent used alcohol to an extent or in a manner dangerous to herself and others.

16. According to the Board's Disciplinary Guidelines, the maximum recommended discipline for a violation of Business and Professions Code section 3110, subdivision (1), is revocation. The minimum recommended discipline is stayed revocation with three (3) to five (5) years probation with standard conditions and standard alcohol conditions. In this matter, the minimum discipline of three years is warranted. A three-year probationary period with specific terms and conditions is sufficient to insure public safety. Respondent has engaged in active rehabilitation, completed all court required programs, paid all court fines and fees and has demonstrated her serious commitment to sobriety with serious rehabilitation efforts. Respondent had not abused alcohol in the past. This was an isolated incident for which respondent has learned a valuable and costly lesson. Therefore the minimum recommendation of discipline of three (3) years is warranted and will be ordered.

ORDER

Optometrist License Number 13918 issued to respondent Salimah Moez Pirmohamed O.D. is revoked. However, revocation is stayed and respondent is placed on probation for three (3) years with the following terms and conditions.

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 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, she shall be required, instead, to submit an explanation of why she is unable to submit the costs, and the date(s) 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 her probation period.

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 her employer, and each subsequent employer during the probation period, of the discipline imposed by this decision by providing 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 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 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 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 \$3,482.50 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, she shall be required instead to submit an explanation of why she is unable to submit these costs in part or in entirety, and the date(s) 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 8 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 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 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 she ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy any condition of probation, Respondent may surrender 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 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. ABSTENTION FROM USE OF CONTROLLED SUBSTANCES/ALCOHOL

Respondent shall abstain completely from the use or possession of alcohol, any and all other mood altering drugs or substances, and their associated paraphernalia. Respondent shall identify for the Board, a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances, or mood altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis. 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.

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

1. the Respondent's name;
2. license number;
3. physician, nurse practitioner, or physician assistant's name and signature;
4. physician, nurse practitioner, or physician assistant's license number;
5. dates Respondent had face-to-face contact or correspondence (written and verbal) with physician, nurse practitioner, or physician assistant;
6. the Respondent's compliance with this condition;
7. if any substances have been prescribed, identification of a program for the time-limited

- use of any substances;
8. any change in behavior and/or personal habits;
 9. assessment of the Respondent's ability to practice safely;
 10. recommendation dependant on Respondent's progress and compliance with this condition on whether to continue with current prescription plan and/or treatment, modify plan and/or treatment, or require Respondent to cease practice;
 11. other relevant information deemed necessary by the physician, nurse practitioner, physician, or the Board.

Respondent is ultimately responsible for ensuring her physician, nurse practitioner or physician assistant submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation.

The Board may require a single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health medical records. Respondent shall also provide information of treating physicians, counselors or any other treating professional as requested by the Board.

Respondent shall ensure that she is not in the presence of or in the same physical location as individuals who are using illegal substances, even if Respondent is not personally ingesting the drug(s). Any positive result that registers over the established laboratory cut off level 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 optometric license.

Respondent also understands and agrees that any positive result that registers over the established laboratory cut off level shall be reported to each of Respondent's employers.

18. BIOLOGICAL FLUID TESTING

Respondent, at her expense, shall participate in random testing, including but not limited to biological fluid testing (i.e. urine, blood, saliva), breathalyzer, hair follicle testing, or any drug screening program approved by the Board. The length of time shall be for the entire probation period. The Respondent will be randomly drug tested at the frequency outlined in Uniform Standards for Substance Abuse #4.

Respondent shall make daily contact to determine if she is required to submit a specimen for testing, including weekends and holidays, at a lab approved by the Board. Board representatives may also appear unannounced, at any time to collect a specimen. All collections will be observed.

At all times Respondent shall fully cooperate with the Board or any of its representatives, and shall, when directed, appear for testing as requested and submit to such tests and samples for the detection of alcohol, narcotics, hypnotic, dangerous drugs or other controlled substances. All alternative testing sites, due to vacation or travel outside of California, must be approved by the Board prior to the vacation or travel.

If Respondent is unable to provide a specimen in a reasonable amount of time from the request, Respondent understands that, while at the work site, any Board representative may request from the supervisor, manager or director on duty to observe Respondent in a manner that does not interrupt or jeopardize patient care in any manner until such time Respondent provides a specimen acceptable to the Board.

If Respondent tests positive for a prohibited substance per her probationary order, Respondent's license shall be automatically suspended. The Board will contact the Respondent and her employers, supervisors, managers, work site monitors, and contractors and notify them that Respondent's license has been suspended as a result of a positive test. Thereafter, the Board may contact the specimen collector, laboratory, Respondent, treating physician, treatment provider and support group facilitators to determine whether the positive test is in fact evidence of prohibited use. If the Board determines the positive test is not evidence of prohibited use, the Board shall immediately reinstate the license and inform the Respondent and others previously contacted, that the license is no longer suspended.

Failure to submit to testing on the day requested, or appear as requested by any Board representative for testing, as directed, 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.

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

Dated: June 17, 2013

A handwritten signature in black ink, appearing to read "Carla Nasoff", is written over a horizontal line.

CARLA NASOFF

Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Supervising Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. CC 2011 129

12 **SALIMAH MOEZ PIRMOHAMED, O.D.**
8730 Costa Verde Blvd., #2458
13 San Diego, CA 92122

A C C U S A T I O N

14 **Optometrist License No. 13918**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about May 16, 2010, the State Board of Optometry issued Optometrist License
22 Number 13918 to Salimah Moez Pirmohamed, O.D. (Respondent). The Optometrist License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on
24 November 30, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the State Board of Optometry (Board), Department
27 of Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 (d) The Legislature hereby finds and declares that the application of this
2 section has been made unclear by the holding in *Petropoulos v. Department of*
3 *Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has
4 placed a significant number of statutes and regulations in question, resulting in
5 potential harm to the consumers of California from licensees who have been
6 convicted of crimes. Therefore, the Legislature finds and declares that this
7 section establishes an independent basis for a board to impose discipline upon
8 a licensee, and that the amendments to this section made by Senate Bill 797 of
9 the 2007-08 Regular Session do not constitute a change to, but rather are
10 declaratory of, existing law.

11 8. Section 493 of the Code states:

12 Notwithstanding any other provision of law, in a proceeding conducted
13 by a board within the department pursuant to law to deny an application for a
14 license or to suspend or revoke a license or otherwise take disciplinary action
15 against a person who holds a license, upon the ground that the applicant or the
16 licensee has been convicted of a crime substantially related to the qualifications,
17 functions, and duties of the licensee in question, the record of conviction of the
18 crime shall be conclusive evidence of the fact that the conviction occurred, but
19 only of that fact, and the board may inquire into the circumstances surrounding
20 the commission of the crime in order to fix the degree of discipline or to
21 determine if the conviction is substantially related to the qualifications,
22 functions, and duties of the licensee in question.

23 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
24 and 'registration.'

25 9. Section 3110 of the Code states:

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

29 (k) Conviction of a felony or of any offense substantially related to the
30 qualifications, functions, and duties of an optometrist, in which event the record
31 of the conviction shall be conclusive evidence thereof.

32 (l) Administering to himself or herself any controlled substance or using
33 any of the dangerous drugs specified in Section 4022, or using alcoholic
34 beverages to the extent, or in a manner, as to be dangerous or injurious to the
35 person applying for a license or holding a license under this chapter, or to any
36 other person, or to the public, or, to the extent that the use impairs the ability of
37 the person applying for or holding a license to conduct with safety to the public
38 the practice authorized by the license, or the conviction of a misdemeanor or
39 felony involving the use, consumption, or self administration of any of the
40 substances referred to in this subdivision, or any combination thereof.

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1516, states:

(a) 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.

....

11. California Code of Regulations, title 16, section 1517 states:

For the purpose of denial, suspension, or revocation of the certificate of registration of an optometrist pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions, and duties of an optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist to perform the functions authorized by his/her certificate of registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

(a) Any violation of the provisions of Article 2, Chapter 1, Division 2 of the Code (Sections 525 et seq. of the Code).

(b) Any violation of the provisions of Article 6, Chapter 1, Division 2 of the Code (Sections 650 et. seq. of the Code) except Sections 651.4 and 654.

(c) Any violation of the provisions of Chapter 5.4, Division 2 of the Code (Sections 2540 et seq. of the Code).

(d) Any violation of the provisions of Chapter 7, Division 2 of the Code (Sections 3000 et seq. of the Code).

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1 COST RECOVERY

2 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 FIRST CAUSE FOR DISCIPLINE

7 (March 7, 2012 Criminal Conviction for Driving With Blood Alcohol Level
8 of 0.08% or More on December 14, 2011)

9 13. Respondent is subject to disciplinary action under sections 490 and 3110, subdivision
10 (k), in that Respondent was convicted of a crime that is substantially related to the qualifications,
11 functions or duties of a licensed optometrist as follows:

12 14. On or about March 7, 2012, in the Superior Court of California, County of
13 San Diego, Central Division, in the matter entitled *People v. Salimah Moez Pirmohamed*,
14 Case No. M143499, Respondent was convicted on her plea of guilty of violating Vehicle Code
15 section 23152(b) (driving with a blood alcohol content (BAC) of 0.08% or more [0.14% BAC]), a
16 misdemeanor. Pursuant to a plea bargain, charges of violating Vehicle Code sections 23152(a)
17 (DUI) and 12500 (unlicensed driver), were dismissed.

18 15. As a result of the conviction, the Court placed Respondent on five years summary
19 probation and ordered Respondent to violate no laws, pay various fines and fees, and enroll in and
20 complete a First Offender Program and a MAAD Impact Panel.

21 16. The circumstances surrounding the conviction are that on December 14, 2011, at
22 approximately 12:00 a.m., California Highway Patrol Officers, while on routine patrol, were
23 stopped on the 6th Avenue on ramp to SR-163 northbound in San Diego, California. Officers
24 were providing traffic control for a large pothole on the freeway and their patrol vehicle's
25 overhead emergency lights were activated. Officers observed Respondent's vehicle traveling at a
26 high rate of speed, then brake abruptly as it neared slower moving vehicles. Officers followed
27 Respondent's vehicle, which was traveling at approximately 70 mph, and observed the vehicle
28

1 drifting from side to side. Officers caught up to the vehicle as it approached Friars Road and
2 activated their overhead emergency lights. Respondent pulled over on the right shoulder just
3 south of Genesee Avenue. When officers made contact with Respondent, they detected a strong
4 odor of an alcoholic beverage emitting from within Respondent's vehicle. Officers noticed
5 Respondent's speech was slurred and her eyes were watery. Respondent told officers she
6 consumed wine at approximately 9:00 p.m. that evening and that she was the designated driver.
7 Respondent handed officers a Virginia driver's license. Officers instructed Respondent to exit
8 her vehicle and she complied. Officers noticed that Respondent had difficulty maintaining her
9 balance on the shoulder of the freeway. Officers administered field sobriety tests which
10 Respondent failed. Respondent declined to blow into a preliminary alcohol screening device
11 while at the scene. Officers placed Respondent under arrest for driving under the influence of
12 alcohol and transported her to the San Diego CHP office where she performed breath tests at
13 0058 and 0101 hours, with results of 0.145% and 0.152% BAC, respectively. Respondent was
14 transported to the Las Colinas Women's Detention Facility.

15 SECOND CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct - Use of Alcohol in a Manner Dangerous to Self or Others)

17 17. Respondent is subject to disciplinary action under Code section 3110, subdivision (1),
18 in that she used alcoholic beverages to an extent or in a manner dangerous to herself, other
19 persons, or the public, as is more fully detailed in paragraphs 13 through 16, above, which are
20 incorporated here by reference.

21 PRAYER

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

24 1. Revoking or suspending Optometrist License Number 13918, issued to Salimah Moez
25 Pirmohamed, O.D.

26 2. Ordering Salimah Moez Pirmohamed, O.D. to pay the State Board of Optometry the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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

DATED: August 29, 2012 MONA MAGGIO

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

SD2012703500

70608587.docx



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, Mona Maggio 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 28th day of October 2014, the Executive Officer examined said official records of the Board and found that **Salimah Moez Pirmohamed** graduated from the University of Houston, College of Optometry in 2009, and is the holder of Optometry License No. 13918, which was granted to her effective May 16, 2010. Said License is currently in full force and effect and will expire on November 30, 2014, unless renewed. The current address of record for said Optometry License is 290 E Via Rancho Pkwy, Escondido, California, 92025.

Said records further reveal that on or about May 20, 2010, **Salimah Moez Pirmohamed** became certified to utilize Therapeutic Pharmaceutical Agents and authorized to diagnose and treat the conditions listed in Business and Professions Code (BPC) Section 3041(b), (d), and (e).

Said records further reveal that on or about May 20, 2010, **Salimah Moez Pirmohamed** became certified to perform lacrimal irrigation and dilation pursuant to BPC Section 3041(e)(6).

Said records further reveal that on or about May 20, 2010, **Salimah Moez Pirmohamed** became certified to diagnose and treat primary open angle glaucoma in patients over the age of 18 years pursuant to BPC Section 3041(f).

Said records further reveal that on August 29, 2012, the Board filed an Accusation against **Salimah Moez Pirmohamed** in Case Number CC 2011-129. As a result of that action, the Board revoked Optometry License No. 13918, effective September 26, 2013. However, the revocation was stayed and said License was placed on probation for a period of three (3) years, with terms and conditions.

Said records further reveal that on or about November 7, 2013, Statement of Licensure No. 6991 was issued to **Salimah Moez Pirmohamed** authorizing her to practice at 32245 Mission Trail, Suite D4, c/o Robert Joyce, O.D., Lake Elsinore, CA 92530. Said Statement of Licensure expires on November 30, 2014, unless renewed.

Said records further reveal that on or about December 30, 2013, Branch Office License No. 6893 was issued to **Salimah Moez Pirmohamed** authorizing her to practice at 290 E Via Rancho Parkway, Escondido, CA 92025. Said Branch Office License expires on February 1, 2015, unless renewed.

Given under my hand and the seal of the State Board of Optometry, at Sacramento, California, this 28th day of October 2014.

A handwritten signature in cursive script, appearing to read 'Mona Maggio', written over a horizontal line.
Mona Maggio, Executive Officer

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Jessica Sieferman
Enforcement Lead

Telephone: (916) 575-7184

Subject: Agenda Item 16C - In the Matter of the Petition for Reduction of Penalty and Early Termination of Probation

Dr. Brittany Quynh Pham, O.D. (Petitioner) was issued Optometrist License Number 10398 by the Board on September 22, 1994. On February 5, 2013, the Board filed an Accusation against Petitioner charging her with violations of laws and regulations based on Unprofessional Conduct related to Insurance Fraud. On June 27, 2013, Petitioner's license was revoked, the revocation was stayed and Petitioner's license was placed on five (5) years probation, subject to certain terms and conditions.

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

1. Petition for Reduction of Penalty and Early Termination of Probation
2. Copies of the Stipulated Settlement and Disciplinary Order, and Accusation
3. Certification of Licensure



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



OPTOMETRY

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) Brittany Q. Pham				CERTIFICATE OF REGISTRATION NO. OPT 103981
2. ADDRESS (NUMBER) (STREET) 3929 Rivermark Plaza				DATE OF BIRTH 12/13/1968
(CITY) (STATE) (ZIP CODE) Santa Clara CA 95054				TELEPHONE (408) 828-5005
3. PHYSICAL DESCRIPTION (HEIGHT) (WEIGHT) (EYE COLOR) (HAIR COLOR) 5'1" 95 lbs Brown Brown				
4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGE(S) OF OPTOMETRY ATTENDED				
NAME OF SCHOOL U. C. Berkeley School of Optometry				
ADDRESS (NUMBER) (STREET) School of Optometry University of California				
(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
1776 N. Milpitas Blvd., Milpitas, CA 95035	06/01/98	06/25/09	Private Practice
3929 Rivermark Plaza, Santa Clara, CA 95054	11/16/10	PRESENT	Private Practice

39M-12

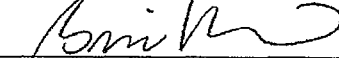
7. Are you or have you ever been addicted to the use of narcotics or alcohol? ☐ YES ☒ NO
8. Are you or have you ever suffered from a contagious disease? ☐ YES ☒ NO
9. Are you or have you ever been under observation or treatment for mental disorders, alcoholism or narcotic addiction? ☐ YES ☒ NO
10. Have 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 10/01/2014 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.

12. The only disciplinary action taken against my optometric license is the current one of being placed on probation for unprofessional conduct, for which I'm petitioning for early termination.

13. The disciplinary action was effective June 27, 2013. Disciplinary action was taken for unprofessional conduct because I was billing VSP for frames and prescription lenses while providing patients with plano sunglasses and billed for contact lenses while providing patients with glasses.

14. Since VSP terminated my contract with them, and selling my practice in June 2009, I've had a lot of time to reflect upon my poor decisions which ultimately led to my current probation. I fully understand that not only have I harmed VSP, my actions have poorly reflected upon the profession as a whole and although I cannot undo these actions, I sincerely regret them. I have learned from this experience and I'm a more ethical and better clinician for having gone through it. I would like a chance to put this behind me and move forward without having the cloud of being on probation over me.

15. I'm currently employed by Tammy Tran, O.D., at 3929 Rivermark Plaza, Santa Clara, CA, 95054. I'm working there 62-70 hours/month providing comprehensive eye exams and contact lens fittings. I'm not involved any billing activities.

16. I've fully paid VSP for restitution. I've re-taken and passed the California Laws and Regulations Exam on October 31, 2013, so I now fully understand what constitutes unprofessional conduct. I've completed a Professional Ethics course designed for me by Dr. Morris Berman, O. D. at the Southern California College of Optometry. I now not only know what ethical behavior is, but also why it's important to be ethical as an optometrist. I took a Medical Record Keeping course on September 23 and 24, 2013 with the Western Institute of Legal Medicine which enabled me to keep better patient records. I've volunteered for almost 200 hours at Samaritan House in Redwood City, providing free comprehensive eye exams to needy patients without insurance or Medi-Cal, which helped me realize why I became an optometrist in the first place.

17. Medical Record Keeping, Western Institute of Legal Medicine, September 23-24, 2013, 520 South El Camino Real, Suite 310, San Mateo, CA 94402.

Professional Ethics Course, Completed June 25, 2014, Marshall B. Ketchum University, University Eye Center at Los Angeles, 3916 S. Broadway, Los Angeles, CA 90037.

18. *The Lowdown on Blue Light: Good vs Bad and its Connection to AMD*, Mark Dunbar ,OD and Ronald Melton, OD, Review of Optometry, November 2013.

Updates in Ocular Surface Wellness, Part 1: Ocular Allergy, Review of Optometry, March 2014.

Increase Your Allergy Know-How: A Review of the Latest Relevant Information on Ocular Allergy, Michael Blaiss, MD, Milton M. Hom, OD, FAAO, FACAAl(Sc), Paul M. Karpecki, OD, Jodi Luchs, MD, FACS, Francis S. Mah, MD, Mark S. Milner, MD, Review of Optometry, April 2014.

Updates in Ocular Surface Wellness, Part 2: Dry Eye, Review of Optometry, May 2014.

19. Trans-Epithelial Corneal Collagen Cross-Linking

OCT in the Diagnosis and Management of Macular Disease 2014

Pediatric Ophthalmology Cases: Staying Out of Trouble

Ischemic Optic Neuropathy

Finding an Oasis in the Desert...Dry AMD Update and Clinical Trial Results

Periocular Soft Tissue Trauma

What's New in Glaucoma Surgery

Update on Retinal Detachment Repair

Some Dumb Name Sign

What is New and Interesting in Oculofacial Plastic Surgery?

Double Trouble: Navigating Cranial Nerves 3 & 6

Lens-Based Refractive Surgery: The Merger of Cataract and Refractive Surgery

Dr. Curmudgeon's World of Glaucoma: Questioning Ourselves into the Future...

Automimmune Retionapthy

Lasers in Corneal Surgery

Clinical Update on IFIS: Prevention and Management.

20. Tammy Tran, O.D., 3929 Rivermark Plaza, Santa Clara, CA 95054. (408)988-7957

Christopher Cabrera, O.D., 2440 Daniels Street, Manteca, CA 95337. (209)823-7200

DR. TAMMY H. TRAN, OD
3929 RIVERMARK PLAZA
SANTA CLARA, CA 95054
TEL: 408-988-7957 FAX: 408-988-7967

To Whom It May Concern:

I am pleased to write a letter of recommendation on behalf of Dr. Brittany Pham, a very special and talented person. I have known and worked with Dr. Pham for over 10 years, and in that time I have witnessed first hand her compassion and care towards her patients.

With 20 years of experience, Dr. Pham is an exceptional optometrist. She is thorough and comprehensive in her examination and diagnosis of patients. Most importantly, her patients are impressed by this thoroughness in answering all of their questions and conveying complicated medical information in an easy to understand manner. Her gentle demeanor puts patients at ease and cultivates a long lasting doctor-patient rapport, making her well received, respected, and loved in her community.

As a colleague, Dr. Pham is insightful, intelligent, and well versed in our field of Optometry. Her refractory results are finite and precise. She handles difficult keratoconus patients with ease due to her many years of experience. She is adept at treating numerous ocular diseases, and is a pleasure to work beside with her vast knowledge and exemplary skills.

Dr. Pham's compassion, sincerity, and ethics further set her apart. She is a friendly and caring human being. She attends to patients needs with the utmost integrity, and cares for them just as she would her 6 year old son. I trust her completely with my own patients and my personal vision care. As one of her patients, I can highly attest to her professional integrity and genuine thoughtfulness she reserves for everyone.

I consider Dr. Brittany Pham to be a woman of great knowledge and talent. She is an engaging and experienced doctor for the last two decades.

During the past year, she has complied with all the conditions of her probation and I do not feel it is necessary for her to be on probation any longer.

Please do not hesitate to contact me should you have any questions.

Sincerely,



Tammy Tran, O.D.

Christopher R Cabrera, OD
OPTOMETRIST

2440 DANIELS STREET
MANTECA, CALIF. 95337
(inside COSTCO)

209 823- 7200 209 824- 2020

209 824-6744 fax
ccabreraod@gmail.com

Hanh Judy Nguyen, ODBrittany Pham, ODThy Mim, OD

26 September 2014

To : California Board of Optometry


Re: Brittany Pham, OD

I have known Dr Pham since shortly after she began practice in San Jose. She worked regularly for me at my office there, until she began her own practice in Milpitas. She was well-liked by patients and staff alike. I found her performance to be professional, thorough and courteous.

More recently, she has performed an occasional temporary relief in my office in Manteca. She is a competent OD who enjoys practice and ensures that patients are comfortable with her attention. I was chagrined when she was no longer able to work for me due to her other commitments.

I believe Dr Pham is working hard to restore her licensure status, and I have no doubt she will be successful. I feel she will continue to be a credit to our profession for many years to come. I wish her the nothing but the best.

Sincerely,



Christopher R. Cabrera, OD

2440 Daniels Street

Manteca, Calif. 95337

drchris@cabreraoptometry.com

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

In the Matter of the Accusation Against:

Case No. CC 2010-167

BRITTANY QUYNH PHAM
7082 Emerson Lane
San Ramon, CA 94582

Optometrist License No. 10398

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 June 27, 2013.

It is so ORDERED May 28, 2013.

Alexander M. Anebono, OD

FOR THE STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. CC 2010-167

13 **BRITTANY QUYNH PHAM**
7082 Emerson Lane
San Ramon, CA 94582

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Optometrist License No. 10398**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:
19

20 **PARTIES**

21 1. Mona Maggio (Complainant) is the Executive Officer of the State Board of
22 Optometry. She brought this action solely in her official capacity and is represented in this matter
23 by Kamala D. Harris, Attorney General of the State of California, by Shana A. Bagley, Deputy
24 Attorney General.

25 2. Respondent Brittany Quynh Pham (Respondent) is representing herself in this
26 proceeding and has chosen not to exercise her right to be represented by counsel.
27
28

3. On or about September 22, 1994, the State Board of Optometry issued Optometrist License No. 10398 to Brittany Quynh Pham (Respondent). The Optometrist License was in full force and effect at all times relevant to the charges brought in Accusation No. CC 2010-167 and will expire on December 31, 2014, unless renewed.

JURISDICTION

4. Accusation No. CC 2010-167 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 February 12, 2013. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. CC 2010-167 is attached as exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. CC 2010-167. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her 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 her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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.

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. CC 2010-167.

1 10. Respondent agrees that her Optometrist is subject to discipline and she agrees to be
2 bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 CIRCUMSTANCES IN MITIGATION

4 11. Respondent Brittany Quynh Pham has never been the subject of any disciplinary
5 action. She is admitting responsibility at an early stage in the proceedings.

6 CONTINGENCY

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

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

19 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
20 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
21 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
22 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
23 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
24 writing executed by an authorized representative of each of the parties.

25 15. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or formal proceeding, issue and enter the following
27 Disciplinary Order:
28

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Optometrist License No. 10398 issued to Respondent Brittany Quynh Pham is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

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

1 reports shall constitute a violation of probation and shall result in the filing of an accusation
2 and/or a petition to revoke probation against Respondent's optometrist license. Respondent is
3 responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are
4 due for each year of probation throughout the entire length of probation as follows:

- 5 • For the period covering January 1st through March 31st, reports are to be completed
6 and submitted between April 1st and April 7th.
- 7 • For the period covering April 1st through June 30th, reports are to be completed and
8 submitted between July 1st and July 7th.
- 9 • For the period covering July 1st through September 30th, reports are to be completed
10 and submitted between October 1st and October 7th.
- 11 • For the period covering October 1st through December 31st, reports are to be
12 completed and submitted between January 1st and January 7th.

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

13 3. COOPERATE WITH PROBATION MONITORING PROGRAM

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

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

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

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

26 4. PROBATION MONITORING COSTS

27 All costs incurred for probation monitoring during the entire probation shall be paid by the
28 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. The fee for probation monitoring shall start at a minimum of \$100 per month.

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.

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

1 supervisor and director and all subsequent supervisors and directors with a copy of the decision
2 and order, and the accusation in this matter prior to the beginning of or returning to employment
3 or within 14 calendar days from each change in a supervisor or director.

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

9 7. CHANGES OF EMPLOYMENT OR RESIDENCE

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

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

18 8. COST RECOVERY

19 Respondent shall pay to the Board a sum not to exceed the costs of the investigation and
20 prosecution of this case. That sum shall be \$5384.00 and shall be paid in full directly to the
21 Board, in a Board approved payment plan, within 6 months from the end of the Probation term.
22 Cost recovery will not be tolled.

23 If Respondent is unable to submit costs timely, he/she shall be required instead to submit an
24 explanation of why he/she is unable to submit these costs in part or in entirety, and the date(s)
25 he/she will be able to submit the costs, including payment amount(s). Supporting documentation
26 and evidence of why the Respondent is unable to make such payment(s) must accompany this
27 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 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 20 hours per month of probation. Such

1 services shall begin no later than 15 calendar days after Respondent is notified of the approved
2 program.

3 **11. VALID LICENSE STATUS**

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

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

8 Periods of residency or practice outside California, whether the periods of residency or
9 practice are temporary or permanent, will toll the probation period but will not toll the cost
10 recovery requirement, nor the probation monitoring costs incurred. Travel outside of California
11 for more than 30 calendar days must be reported to the Board in writing prior to departure.
12 Respondent shall notify the Board, in writing, within 14 calendar days, upon his/her return to
13 California and prior to the commencement of any employment where representation as an
14 optometrist is/was provided.

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

20 **13. LICENSE SURRENDER**

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

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

3 **14. VIOLATION OF PROBATION**

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

11 **15. COMPLETION OF PROBATION**

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

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

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

20 **17. REMEDIAL EDUCATION**

21 Respondent shall take and successfully complete Ethics and Billing courses for health care
22 providers pertaining to the practice of Optometry. All course work shall be taken at the graduate
23 level at an accredited or approved educational institution that offers a qualifying degree for
24 licensure as an optometrist, or through a course approved by the Board. Classroom attendance
25 must be specifically required. Course content shall be pertinent to the violation and all course
26 work must be completed within one year from the effective date of this decision. Successful
27 completion is a grade of "C" or "70%" or better for any completed course.

1 Within 90 calendar days of the effective date of the decision, Respondent shall submit a
2 plan for prior Board approval for meeting these educational requirements. All costs of the course
3 work shall be paid by the Respondent. Units obtained for an approved course shall not be used
4 for continuing education units required for renewal of licensure.

5 **18. EMPLOYMENT LIMITATIONS**

6 Respondent shall not work in any health care setting as a supervisor of optometrists. The
7 Board may additionally restrict Respondent from supervising technicians and/or unlicensed
8 assistive personnel on a case-by-case basis.

9 Respondent shall not work as a faculty member in an approved school of optometry or as an
10 instructor in a Board approved continuing education program.

11 Respondent shall work only in a regularly assigned, identified and predetermined
12 worksite(s) and shall not work in a "float" capacity.

13 **19. RESTITUTION**

14 Within 90 calendar days of the effective date of this decision, Respondent shall provide to
15 the Board or its designee proof of restitution for \$165.20 paid to Vision Service Plan.

16 **20. AUDIT REQUIRED**

17 The Board shall require quarterly audits of patient visits, billings, and payments as a
18 condition of probation.

19 Within 30 calendar days of the effective date of this decision, Respondent shall provide to
20 the Board or its designee the names and qualifications of three third party auditors. The Board or
21 its designee shall select one of the three auditors to audit Respondent's billings. During said
22 audit, randomly selected client billing records shall be reviewed in accordance with accepted
23 auditing/accounting standards and practices.

24 The Board or its designee shall provide the approved auditor with copies of the decision(s)
25 and accusation(s), and a proposed auditing plan. Within 15 calendar days of receipt of the
26 decision(s), accusation(s), and proposed monitoring plan, the auditor shall sign an affirmation that
27 he or she has reviewed the terms and conditions of the Respondent's disciplinary order, fully
28 understands the role of auditor, and agrees or disagrees with the proposed auditing plan set forth

1 by the Board. If the auditor disagrees with the proposed auditing plan, the auditor shall submit a
2 revised auditing plan with the signed affirmation for approval by the Board or its designee.

3 Within 60 calendar days of the effective date of this decision, and continuing throughout
4 probation, Respondent's patient visits, billings and payments shall be audited by the approved
5 auditor. Respondent shall make all records available for immediate inspection and copying on the
6 premises by the auditor at all times during business hours and shall retain the records for the
7 entire term of probation.

8 If Respondent fails to obtain approval of an auditor within 60 calendar days of the effective
9 date of this decision, Respondent shall receive a notification from the Board or its designee to
10 cease the practice of optometry within three (3) calendar days after being so notified. Respondent
11 shall cease practice until an auditor is approved to provide auditing responsibility.

12 The Board shall be advised of the results of the audit, and may obtain any and all copies of
13 any documents audited or the results of the audit. The cost of the audits shall be borne by
14 Respondent. Failure to pay for the audits in a timely fashion within ten (10) calendar days from
15 audit completion shall constitute a violation of probation.

16 Quarterly reports of the audit results are due each year of probation and the entire length of
17 probation from the auditor as follows:

- 18 • For the period covering January 1st through March 31st, reports are to be completed
19 and submitted between April 1st and April 7th.
- 20 • For the period covering April 1st through June 30th, reports are to be completed and
21 submitted between July 1st and July 7th.
- 22 • For the period covering July 1st through September 30th, reports are to be completed
23 and submitted between October 1st and October 7th.
- 24 • For the period covering October 1st through December 31st, reports are to be
25 completed and submitted between January 1st and January 7th.

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

- 27 1. The Respondent's name;
- 28 2. License number;

1 3. Auditor's name and signature;

2 4. Auditor's license number;

3 5. Dates Respondent had face-to-face contact or correspondence (written and
4 oral) with auditor;

5 6. The Respondent's compliance with this condition;

6 7. The Respondent's compliance with accepted auditing/accounting standards and
practices;

7 8. Any change in behavior and/or personal habits;

8 9. Assessment of the Respondent's ability to practice safely;

9 10. Recommendation dependant on Respondent's audit results and compliance with
10 this condition on whether to continue with current audit plan or modify the
11 plan;

12 11. Other relevant information deemed necessary by the auditor, or the Board.

13 Respondent is ultimately responsible for ensuring his/her auditor submits complete and
14 timely reports. Failure to ensure each auditor submits complete and timely reports shall constitute
15 a violation of probation.

16 If the auditor resigns or is no longer available, Respondent shall, within five (5) days of
17 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
18 names and qualifications of a replacement third party auditor who will be assuming that
19 responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement
20 auditor within 60 calendar days of the resignation or unavailability of the auditor, Respondent
21 shall receive a notification from the Board or its designee to cease the practice of optometry
22 within three (3) calendar days. After being so notified, Respondent shall cease practice until a
23 replacement auditor is approved and assumes auditing responsibility.

24 **21. MEDICAL RECORD KEEPING COURSE**

25 Within 60 calendar days of the effective date of this decision, Respondent shall enroll in a
26 course in medical record keeping equivalent to the Medical Record Keeping Course offered by
27 the Physician Assessment and Clinical Education Program, University of California, San Diego
28 School of Medicine (Program), approved in advance by the Board or its designee. Respondent

1 shall provide the program with any information and documents that the Program may deem
2 pertinent. Respondent shall participate in and successfully complete the classroom component of
3 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
4 successfully complete any other component of the course within one (1) year of enrollment. The
5 medical record keeping course shall be at Respondent's expense and shall be in addition to the
6 continuing optometric education requirements for renewal of licensure.

7 A medical record-keeping course taken after the acts that gave rise to the charges in the
8 accusation, but prior to the effective date of the decision may, in the sole discretion of the Board
9 or its designee, be accepted towards the fulfillment of this condition if the course would have
10 been approved by the Board or its designee had the course been taken after the effective date of
11 this decision.

12 Respondent shall submit a certification of successful completion to the Board or its
13 designee not later than 15 calendar days after the effective date of the decision, whichever is later.

14 **22. LENS PRESCRIPTIONS - MAINTAIN RECORDS**

15 Respondent shall maintain patient records of all lens prescriptions dispensed or
16 administered by Respondent during probation, showing all the following:

- 17 1. Name and address of the patient;
- 18 2. Date;
- 19 3. Price of the services and goods involved in the prescription;
- 20 4. Visual impairment identified for which the prescription was furnished.

21 Respondent shall keep these patient records in a separate file, in chronological order, and
22 shall make them available for inspection and copying by the Board or its designee, upon request.

23 **23. WORKSITE MONITOR**

24 Within 30 calendar days of the effective date of this decision, Respondent shall submit to
25 the Board or its designee for prior approval as a worksite monitor, the name and qualifications of
26 an optometrist or board certified ophthalmologist, and a plan of practice in which Respondent's
27 practice shall be monitored by the approved worksite monitor. The worksite monitor's license
28 scope of practice shall include the scope of practice of the Respondent that is being monitored.

1 The worksite monitor shall have an active unrestricted license, with no disciplinary action within
2 the last five (5) years. The worksite monitor shall not have any financial, personal, or familial
3 relationship with the Respondent, or other relationship that could reasonably be expected to
4 compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it
5 is impractical for anyone but the licensee's employer to serve as the worksite monitor, this
6 requirement may be waived by the Board; however, under no circumstances shall a licensee's
7 worksite monitor be an employee of the licensee. Any cost for such monitoring shall be paid by
8 Respondent.

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

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

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

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

1 a) Have face-to-face contact with the Respondent in the work environment on a
2 frequent basis as determined by the Board, at least once per week.

3 b) Interview other staff in the office regarding the Respondent's behavior, if
4 applicable.

5 c) Review the Respondent's work attendance.

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

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

- 11 • For the period covering January 1st through March 31st, reports are to be
12 completed and submitted between April 1st and April 7th.
- 13 • For the period covering April 1st through June 30th, reports are to be completed
14 and submitted between July 1st and July 7th.
- 15 • For the period covering July 1st through September 30th, reports are to be
16 completed and submitted between October 1st and October 7th.
- 17 • For the period covering October 1st through December 31st, reports are to be
18 completed and submitted between January 1st and January 7th.

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

- 20 1. The Respondent's name;
- 21 2. License number;
- 22 3. Worksite monitor's name and signature;
- 23 4. Worksite monitor's license number;
- 24 5. Worksite location(s);
- 25 6. Dates Respondent had face-to-face contact or correspondence (written and oral)
26 with monitor;
- 27 7. Staff interviewed, if applicable;
- 28 8. Attendance report;

9. Any change in behavior and/or personal habits;
10. Assessment of the Respondent's ability to practice safely;
11. Recommendation dependant 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.

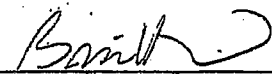
Respondent is ultimately responsible for ensuring his/her worksite monitor submits complete and timely reports. Failure to ensure his/her worksite monitor submits complete and timely reports shall constitute a violation of probation.

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.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Optometrist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the State Board of Optometry.

DATED: 04/03/13


BRITTANY QUYNH PHAM
Respondent

///

///

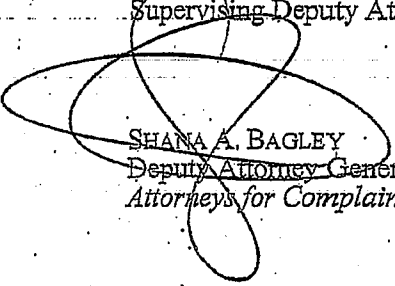
ENDORSEMENT

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

Dated: 5 APRIL 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General


SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

SF2012901061/ Stipulation.rtf

Exhibit A

Accusation No. CC 2010-167

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. CC 2010-167

13 **BRITTANY QUYNH PHAM**
7082 Emerson Lane
San Ramon, CA 94582

OAH No.

ACCUSATION

14 **Optometrist License No. 10398**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about September 22, 1994, the State Board of Optometry issued Optometrist
22 License Number 10398 to Brittany Quynh Pham (Respondent). The Optometrist License was in
23 full force and effect at all times relevant to the charges brought in this Accusation and will expire
24 on December 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the State Board of Optometry (Board), Department
27 of Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code (Code) unless otherwise indicated.

1 4. Code section 118, subdivision (b), provides that the suspension, expiration, surrender,
2 or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
3 disciplinary action during the period within which the license may be renewed, restored, reissued
4 or reinstated.

5 STATUTORY AUTHORITY

6 5. Code section 810 states that:

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

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

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

14 (b) It shall constitute cause for revocation or suspension of a license or
15 certificate for a health care professional to engage in any conduct prohibited under
Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

16 6. Code section 3105 provides that:

17 Altering or modifying the medical record of any person, with fraudulent intent,
18 or creating any false medical record, with fraudulent intent, constitutes unprofessional
19 conduct. In addition to any other disciplinary action, the State Board of Optometry
20 may impose a civil penalty of five hundred dollars (\$500) for a violation of this
section.

21 7. Code section 3106 states that: "Knowingly making or signing any certificate or other
22 document directly or indirectly related to the practice of optometry that falsely represents the
23 existence or nonexistence of a state of facts constitutes unprofessional conduct."

24 8. Code section 3110 states, in part:

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

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

4 (e) The commission of fraud, misrepresentation, or any act involving
5 dishonesty or corruption, that is substantially related to the qualifications, functions,
6 or duties of an optometrist.

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

8 COST RECOVERY

9 9. Code section 125.3 provides, in part, that the Board may request the administrative
10 law judge to direct a licensee found to have committed a violation or violations of the licensing
11 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
12 case.

13 FACTUAL STATEMENT

14 10. On an unknown date, Respondent entered into a Vision Service Plan (VSP) Member
15 Doctor Agreement with VSP, under which she provided services to patients with VSP coverage
16 and billed VSP for payment for her services as provided for by the agreement.

17 11. On or about December 17, 2008, a VSP investigator conducted an audit of 95 of
18 Respondent's patient records.

19 12. The records contained the following discrepancies: billing for ophthalmic frames and
20 lenses but providing Plano (non-prescription) sunglasses or no materials, billing for contact lens
21 fitting and materials when patients received glasses or no materials, and billing for examinations
22 and materials when there were no records of exams or prescription orders. Respondent repeatedly
23 ordered prescription sunglasses for patients and submitted claims to VSP. However, when the
24 laboratory delivered the prescription sunglasses to Respondent, she would replace the prescription
25 lenses with nonprescription lenses and then deliver the sunglasses to the patients. Under this
26 practice, the patients received nonprescription sunglasses that the VSP insurance plan did not
27 cover.
28

1 13. In a Notice of Adverse Action and Restitution Demand from VSP to Respondent
2 dated March 17, 2009, VSP notified Respondent that it was terminating its contract with her,
3 effective at the close of business on June 22, 2009. Additionally, VSP demanded that Respondent
4 repay \$189,223.00 for the improper claims that she had previously submitted and \$4,125.00 for
5 the cost of the audit. Respondent repaid approximately \$193,182.80 of the \$193,348.00 that she
6 owed to VSP.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct-Insurance Fraud)**

9 14. Respondent's license is subject to disciplinary action under Sections 810,
10 subdivisions (a)(1) and (a)(2), in conjunction with Section 3110, subdivisions (a), (e), and (f), in
11 that in 2008 and 2009, Respondent fraudulently submitted bills to VSP as more particularly set
12 forth in paragraphs 9 through 13, above.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct-Alteration of Medical Records)**

15 15. Respondent's license is subject to disciplinary action under Section 3105, in
16 conjunction with Section 3110, subdivisions (a) and (e), in that Respondent altered, modified
17 and/or omitted information in the medical records of some of her patients, and created a false
18 medical record with fraudulent intent, as more particularly set forth in paragraphs 9 through 13,
19 above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - False Representation of Facts)**

22 16. Respondent's license is subject to disciplinary action under Section 3106, in
23 conjunction with Section 3110, subdivision (e), in that Respondent fraudulently submitted bills to
24 VSP, necessarily involved knowingly creating paperwork directly related to her practice of
25 optometry that falsely represented facts regarding several of her patients, as more particularly set
26 forth in paragraphs 9 through 13, above.

PRAYER

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

1. Revoking or suspending Optometrist License Number 10398, issued to Brittany Quynh Pham;
2. Ordering Brittany Quynh Pham 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: February 5, 2013



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

SF2012901061/accusation.rtf



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, Mona Maggio, 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 9th day of July 2014, the Executive Officer examined said official records of the Board and found that **Brittany Quynh Pham** graduated from the University of California at Berkeley in 1994, and is the holder of Optometry License No. 10398 which was granted to her effective September 22, 1994. Said License is currently in full force and effect and will expire December 31, 2014, unless renewed. The current address of record for said License is 3929 Rivermark Plaza, Santa Clara, CA 95054.

Said records further reveal that on or about April 21, 1997, **Brittany Quynh Pham** became certified to utilize Therapeutic Pharmaceutical Agents and is authorized to diagnose and treat the conditions listed in subdivision (b), (d), and (e) of Section 3041.

Said records further reveal that on February 5, 2013, the Board filed an Accusation in Case Number CC 2010-167. As a result of that action, the Board revoked Optometry License No. 10398, effective June 27, 2013. However, the revocation was stayed and said License was placed on probation for a period of five (5) years, with terms and conditions.

Given under my hand and the seal of the California State Board of Optometry, at Sacramento, California, this 9th day of July 2014.


Mona Maggio, Executive Officer

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Board Staff

Telephone: (916) 575-7170

Subject: Agenda Item 17 – Full Board Closed Session

Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: November 21, 2014

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 18 – Adjournment
