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BEFORE THE
OREGON BOARD OF OPTOMETRY
STATE OF OREGON

In the Matter of the License to Practice) AGENCY CASE NO:03-09-01
as an Optometrist of:)
STEPHEN J. GRAHAM, M.D., O.D.) STIPULATED ORDER
Licensee.)
_____)

TO: STEPHEN J. GRAHAM M.D., O.D.

The Oregon Board of Optometry (Board) is the state agency responsible for licensing and disciplining optometrists and for regulating the practice of optometry. Stephen J. Graham, M.D., O.D. (Licensee) is licensed by the Board to practice as an optometrist in the State of Oregon and is currently subject to the Jurisdiction of the Board.

The Board proposed revocation discipline to Licensee's license to practice as an optometrist for violations of the Board's statutes and rules. The Board has determined as follows:

Findings of Fact

1. Licensee applied for licensure with this Board on December 23, 2002. In order to be able to be licensed by endorsement, Licensee reinstated his New York license to practice optometry prior to applying for the Oregon license. In his license application Licensee answered the following questions with a "no".

10. Has any state rejected your application, suspended or revoked your professional license or certificate.
12. Has disciplinary action, judgment or injunction ever been brought against you by a governmental jurisdiction, professional organization, licensing agency or regulatory board?

2. In the license application licensee stated that his answers were true and complete and further signed that he understood his obligation to furnish complete and accurate information and

1 agreed that the obligation was a continuing one to furnish any changes in answers within the
2 application.

3 3. On April 17, 2003 this Board provided Licensee with a license to practice optometry
4 in the State of Oregon. Licensee also holds a medical degree as an ophthalmologist. With
5 Licensee's Optometry License, Licensee was also granted by statute (ORS 683.010(3)) the
6 ability to prescribe Schedule III, IV, or V drugs or pharmaceutical agents that are on the
7 optometric non-topical formulary pursuant to rule.

8 4. Since becoming licensed by this Board, the Board has determined the following
9 information.

10 A. On November 19, 2002, the Idaho State Board of Medicine served a discipline
11 complaint on Licensee alleging various counts of internet prescription of controlled
12 substances for various patients, that licensee had shared or split fees with non-
13 physicians in exchange for referrals and had practiced outside his specialty of
14 ophthalmology. The allegations included advertising in the practice of medicine in
15 an unethical and unprofessional manner, allowing others to use his license to practice
16 medicine when they are not authorized to do so, providing health care which fails to
17 meet the standard of health care provided by other qualified physicians in the same or
18 similar communities, dividing fees or arranging to split or divide fees in violation of
19 the Idaho code, prescribing or furnishing narcotics, hypnotics, hallucinogenic,
20 stimulating or dangerous drugs for other than treatment of any disease, injury or
21 medical condition, and that Licensee had refused to divulge to the Idaho Board the
22 means, method or device used in the treatment of a disease in violation of Idaho
23 Code. On June 6, 2003, Licensee resolved that discipline by entering into a final
24 Stipulation and Order. (Licensee signed this on May 28, 2003 and it was final on
25 June 6, 2003) That order required Licensee to **surrender** his Idaho license to practice
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1 medicine and his State of Idaho controlled prescription writing authority for a
2 minimum of five (5) years from the effective date of the stipulation.

3 B. On January 10, 2002, the Arizona Board of Medicine opened a complaint and notified
4 Licensee. The allegations were for filling internet prescriptions without performing
5 physical examinations of patients the prescriptions were provided to. It was alleged
6 Licensee did not maintain any medical records for the person with whom he
7 consulted with telephonically or to whom he prescribed medications. The Arizona
8 Board had determined that Licensee had issued 10,723 electronic prescriptions to
9 3,558 patients,7,816 of those prescriptions were for Schedule III controlled
10 medications. The conduct described above was found by the Arizona Board to be
11 unprofessional conduct pursuant to their statutes. On May 30, 2003, Licensee signed
12 a Consent Agreement to resolve the discipline matter. The order found that Licensee
13 was issued a Decree of Censure for unprofessional conduct, that he pay a \$10,000
14 civil penalty for unprofessional conduct, and that for a period of one year he was on
15 probation with certain conditions. It was finalized on July 10, 2003.

16 C. On November 4, 2002, Licensee applied to reinstate his New York Optometry
17 license. In that application, Licensee was required to respond to the following
18 question: "Since you last registered, has any state other than New York instituted
19 charges against you for professional misconduct, unprofessional conduct,
20 incompetence or negligence or revoked, suspended, or accepted surrender of a
21 professional license held by you? Licensee responded to that question "no." On
22 December 4, 2002 the New York Board of Optometry reinstated Licensees license in
23 the State of New York.

24 D. On July 15, 2003, Licensee applied to be a provider on the VSP Panel. (Vision
25 Service Plan Panel) In that application when asked whether the license or registration
26 to practice optometry/medicine in any jurisdiction or your narcotics registration has

1 ever been sanctioned, voluntarily or involuntarily revoked, placed on probation,
2 suspended or limited in any manner or is any such action pending; Licensee stated
3 “no.” In that application, Licensee agreed by signature to affirm the true and correct
4 responses and further agreed to promptly notify VSP of any adverse action by a state
5 licensing board. Subsequent to application, a staff person from Licensee’s office
6 contacted VSP and indicated that Licensee wanted the application returned as he
7 wished to withdraw his application.

8 Conclusions of Law

9 5. The Board alleges that the acts and conduct of Licensee, if proven as described above would
10 constitute violations of ORS 683.140(2) (Securing a license by practicing fraud or deceit upon the
11 board), ORS 683.140(3) (unprofessional conduct, or for gross ignorance or inefficiency in the
12 profession); OAR 852-10-027(1) (Fraud, misrepresentation or dishonesty), (7) (Unlawful use of drugs or
13 controlled substances), (11) Willfully deceiving or attempt to deceive the Board, an employee of the
14 Board, or an agent of the Board in reference to any matter under investigation by the Board), (16) Any
15 conduct or practice contrary to recognized standards of ethics of the optometric profession), (18)
16 (Failing to give written notification to the Board of any disciplinary action or sanction related to the
17 practice of optometry by any state licensing agency), and OAR 852-50-016(1) (Notify the Board
18 immediately upon termination of practice in a location) and (2) (Failure to notify the Board in writing of
19 address change).

20 Stipulations

21 Licensee agrees to informally dispose of this matter and settle as follows:

- 22 1. Licensee will be suspended from the practice of optometry for a four-year period which
23 will begin on the signature of this final order by the Board.
- 24 2. Licensee will agree to have his license restricted for an additional six-year period to begin
25 at the end of the four-year suspension that prohibits Licensee from the Practice of
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1 Optometry in the State of Oregon for that six-year period. The four-year suspension and
2 six-year prohibition on practice will run consecutively.

- 3 3. Licensee agrees that during the four-year period of suspension and the six year period of
4 prohibition on practice, for a total of a ten-year period, Licensee will not be allowed to
5 teach, sponsor, coordinate or participate in any way, in any continuing education
6 programs relating to optometric education in the State of Oregon.
- 7 4. Licensee agrees to pay a civil penalty in the sum of \$250 payable within sixty days of the
8 Stipulated order signature by the Board.
- 9 5. After the period of suspension and prohibition on practice has expired, if Licensee
10 requests reactivation of his Optometric license in Oregon, Licensee will be required to do
11 the following:
 - 12 a. Licensee will be on probation with the Oregon Board of Optometry for five
13 years from the date of license reactivation.
 - 14 b. Licensee must not have been subject to any disciplinary orders as to any
15 medical licenses held by Licensee that have been entered since the time of final
16 signature of this stipulation until the time for reactivation of the license in any
17 of the 50 states of the United States, in order to qualify for consideration of
18 reactivation of his license.
 - 19 c. Licensee must meet the requirements of the reactivation rule followed by the
20 Board, OAR 852-50-014.
- 21 6. Pursuant to ORS 183.415(5) the Board and Licensee agree to informally dispose of and
22 settle this matter.
- 23 7. Licensee stipulates that he has been advised of his right to request a hearing in this matter
24 pursuant to ORS 183.415(2)(a), and to be represented at hearing pursuant to ORS
25 183.415(3).
- 26 8. Licensee waives his right to a hearing in this matter.

