

BEFORE THE
OREGON BOARD OF OPTOMETRY
STATE OF OREGON

In the Matter of the Assessment of Civil
Penalties Against:

Case No. 03-12-03

Robert P. McKenzie O.D.
Respondent.

FINAL ORDER ON DEFAULT FOR
UNLICENSED PRACTICE

TO: ROBERT P. MCKENZIE O.D.

The Board of Optometry (Board) is the state agency responsible for licensing, regulating and disciplining the practice of optometry in the State of Oregon. Robert P. McKenzie O.D. (Respondent) is an unlicensed optometrist and is performing such services as examination of patients, including diagnosis and treatment in the human eye of patients, is measuring or assisting patients of the powers or range of human vision and is providing and dispensing lenses, eyeglasses and appurtenances upon patients in the State of Oregon.

1.

From January 1, 1959 to May 31, 2003, Respondent had an active and valid license to practice Optometry in the State of Oregon. His practice was located at 134 SW Dorion, Pendleton, Oregon.

On 5/31/03 that license lapsed due to Respondent not fulfilling the requirements of OAR 852-20-070. (Requirement of DPS certification and TPA certification of optometric physicians in Oregon required to maintain an active license) On March 5, 2002, Respondent was so notified that he would be required to fulfill the above requirements by May 31, 2003 to maintain an active license. Respondent was again reminded by the Board, by letter on April 14, 2003, that he would need to obtain DPA Certification in order to renew his license to practice optometry after May 31, 2003. As of May 31, 2003, respondent did not fulfill those requirements, thus, the optometry license Respondent had lapsed as of that date.

During the summer of 2003, it came to the Board's attention that Respondent may still be examining and treating patients in his prior location of practice, although his license had lapsed

1 and was no longer valid. On June 26, 2003, Cathy Boudreau contacted Respondent and he
2 answered the phone, "Dr. McKenzie." She asked if she could make an appointment to see him.
3 He wanted to know who she was. He asked if she had been to see him prior. When she
4 responded no, respondent indicated he was not taking any new patients and was semi-retired.
5 Ms. Boudreau asked Respondent if he was still seeing old patients. He stated he was still seeing
6 them for "some things."

7 On November 14, 2003, the Board wrote to respondent and stated that he must
8 immediately cease and desist from any optometry practice as he was in violation of ORS
9 683.180(7) and that any practice of optometry in contravention of this notice may result in
10 imposition of civil penalties, injunctions or criminal prosecutions.

11 On December 5, 2003, the Board received information from JaDee VanHouten, an
12 employee of optometrist Dr. Monkman, also located in Pendleton, that she contacted Dr.
13 McKenzie to make an appointment for her grandmother who was a previous patient. On that
14 date, Dr. McKenzie stated that he would like to set up an appointment in the spring and when
15 asked if the grandmother could be examined sooner, stated "she will be ok until Spring." Ms.
16 VanHouten also went to the location of Respondent's prior practice at 134 SW Dorion and
17 observed the sign on the door. The sign stated "Reception Room, walk-ins, Vision exams,
18 Frame and Lenses, Contact Lenses, Apartment Rentals, Monday through Friday 9 a.m. to 5:30,
19 R.P. McKenzie, O.D., Optometrist."

20 On January 14, 2004, the Board issued a Notice of Intent to Impose Civil Penalties for
21 violations of the law in the sum of \$2,000. Respondent was served personally with that notice on
22 March 12, 2004 at 134 SW Dorion in Pendleton, Oregon. A response or request for hearing was
23 due by April 2, 2004. No request for hearing or response was received by the Board from
24 Respondent. The Notice of Civil Penalty included in paragraph 5.5 language that indicated that
25 the Board file is relevant to the subject and automatically became part of the evidentiary record
26 for purposes of default to prove a prima facie case.

1 Conclusions of Law

2 2.

3 The Board finds Respondent is in violation for practicing optometry in the State of
4 Oregon without having at the time of so doing a valid unrevoked license as an optometrist, in
5 violation of ORS 683.180(7) and 683.020. In addition, Respondent was advertising on the
6 building that he was an optometrist who could provide services in violation of ORS 683.140(6).
7 The Board is not assessing a civil penalty as originally proposed.

8 3.

9 The Board finds that the foregoing actions and conduct of Respondent described above
10 constitutes a violation of ORS 683.140(12), practicing optometry in the State of Oregon with
11 having at the time of so doing a valid unrevoked license as an optometrist as prohibited under
12 ORS 683.180(7).

13 4.

14 IT IS HEREBY ORDERED that Robert P. McKenzie, O.D., Respondent, is hereby found
15 to be in default and that this final order is entered and Respondent is in violation of ORS
16 683.140(12) and ORS 683.180(7).

17
18 DATED this 14th day of June, 2004.

19 OREGON BOARD OF OPTOMETRY
20 State of Oregon

21 *David Plunkett*

22

David W. Plunkett, Executive Director