BEFORE THE
BOARD OF OPTOMETRY
STATE OF OREGON

In the Matter of the License to Practice as an Optometrist of:  }
)  AGENCY CASE NO:11-09-02
)  STIPULATED FINAL ORDER
)  JOHN B. RUSH, O.D.  }
)  Licensee.
)  ________

TO:  JOHN B. RUSH 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. John B. Rush, O.D. (Licensee) is licensed by the Board to practice as an optometrist in the State of Oregon.

The Board voted to propose discipline to Licensee’s license to practice as an optometrist and require a peer mentor for violations of the Board’s statutes and rules. Licensee agreed to resolve this matter short of issuing the proposed discipline as follows:

Findings of Fact

At all times material herein, Licensee was owner and operator of Eye Center of Gold Beach located at 94225 4th Street, Gold Beach, Oregon. The Board received a complaint about inadequate and/or incomplete patient records for two patients and failure to release the records in a timely manner to another practitioner. On September 14, 2011, the Board requested patient chart notes from Licensee for two patients. In January 2012, the Board requested additional patient records for 15 patients. Thereafter, on April 21, 2012, Licensee provided additional paper and computer-generated notes on those 15 patients that were not provided to the Board in January 2012. The Board reviewed those patient charts and found the following occurring with repetition in the charts:

1. The charts were inadequate in noting patient history regarding ocular, medical, prescriptions or allergies.

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2. There were no records of any patients being dilated, as required by office policy and when the standard of care required it, particularly for those patients who had been diagnosed with diabetes or glaucoma. Patients who required dilation were not dilated, based on the records.

3. The EM level codes billed for the patients were not supported by the chart notes and treatment rendered.

4. Examinations were incomplete in their documentation in the chart notes and inadequate findings noted from the exam in the chart notes.

5. There were inadequate notations of diagnosis requiring use of pharmaceutical agents.

6. A subsequent optometrist could not take over care of the patients based on the chart notes provided by Licensee.

7. The chart notes did not note interaction with primary care physicians so that care can be coordinated.

8. Although appropriate referrals for care may have been made, the records did not adequately document such referrals.

Conclusions of Law

The Board alleges that the acts and conduct of Licensee described above, if proven, constitute violations of ORS 683.140(1)(c) (unprofessional conduct, or for gross ignorance or inefficiency in the profession); and care that was rendered that is not within the standard of practice currently followed by persons licensed to practice optometry in this case, inadequate and incomplete record keeping in violation of OAR 852-10-051(1), and OAR 852-60-027(19).

Stipulations

Licensee agrees to informally dispose of this matter pursuant to ORS 183.415(2) and settle as follows:

1. Licensee will take and complete within 90 days a Board-approved continuing education course of at least eight (8) hours on recordkeeping and provide proof of attendance to the
Board within 15 days of completion. The hours for the course are in addition to the regular
hours required for licensure, and are at Licensee’s expense.

2. Licensee agrees to be mentored by a Board-approved mentor for six months beginning July
1, 2012, on his record-keeping deficiencies. The mentor shall provide periodic reports to the
Board. All costs for the mentor shall be Licensee’s responsibility. If the mentor resigns or is
no longer available, the Board will approve an alternate mentor within 30 days. Licensee
agrees to cooperate with the mentor and allow access to his records; failure to do so may be
viewed as a failure to cooperate with this Board order. The Board may, in their discretion,
request chart notes directly from Licensee and Licensee agrees to cooperate in providing
those to the Board.

3. Within 90 days, Licensee agrees that he is required to successfully pass the Oregon Laws and
Administrative Rules Examination and provide written proof of that to the Board.

4. Within 90 days, Licensee agrees to submit to the Board a plan to bring files for all patients
seen on or after July 1, 2012 up to the standard of care as required by Oregon laws and rules.
The Board will review records quarterly for a one-year period, beginning July 1, 2012.

5. Licensee agrees that he will obey all federal and state laws and rules governing the practice
of Optometry in Oregon.

6. Licensee further agrees that if he ceases active practicing during the time of this order that
the period of mentoring is tolled. Licensee agrees to notify the Board immediately if he
plans to leave active practice in Oregon and his plans for future practice.

7. Licensee agrees to waive his right to a hearing in this matter.

8. This order is a public document and is reportable to the national Health Integrity
Practitioners Data Bank.

9. The Stipulated Final Order memorializes the entire agreement between Licensee and
the Board and if Licensee fails to complete the items agreed upon, that could result in
further discipline, up to and including revocation.
DATED this 15th day of June, 2012.

By: John B. Rush O.D., Licensee

BOARD OF OPTOMETRY

By: Nancy D. Sellers, Executive Director