

July 24, 1992

Ed C. Baer, O.D.
Kings Road Medical Center
2117 NW Fillmore
Corvallis, OR 97330

LETTER OF REPRIMAND

Dear Dr. Baer:

On January 8 and February 4, 1992, the Oregon Board of Optometry (Board) received complaints from Sandra Hufsmith, M.D. concerning your treatment of Mr. Floyd Fisher. In the complaints, it was alleged that Mr. Fisher had been diagnosed with glaucoma by Dr. Hufsmith. On May 15, 1991, Mr. Fisher visited your office seeking a prescription for eyeglasses. At that time, Mr. Fisher informed you that he was currently using the drug Betagen for treatment of glaucoma. You measured Mr. Fisher's inter-ocular pressure and instructed him, without consulting Dr. Hufsmith, to discontinue the Betagen medication. You examined Mr. Fisher's inter-ocular pressure on 8 separate occasions following the May 15, 1991 examination, (May 17, 1991, May 20, 1991, May 22, 1991, June 4, 1991, June 18, 1991, August 1, 1991, September 12, 1991, and October 2, 1991), in the absence of the medication. At one of the office visits, without consulting with Dr. Hufsmith, you informed Mr. Fisher that he no longer needed to use Betagen.

On May 15, 1992, the Board held a hearing and considered evidence presented by you and its attorney. Based on the evidence presented, the Board has determined that you performed acts outside the scope of practice for optometrists in Oregon; specifically, advising Mr. Fisher to discontinue his Betagen prescription. In Oregon, it is illegal at this time, and was illegal at all relevant times herein, for optometrists to prescribe (or order the discontinuance of) Betagen for the treatment of glaucoma. ORS 683.010 and 683.270(3). The Board has also determined that it was a lapse of your professional judgment to not consult with the treating physician when facts bearing on the appropriateness of continued Betagen treatment presented themselves in your May 15, 1991 examination Mr. Fisher.

BARBARA ROBERTS
Governor



695 Summer St. NE
Salem, OR 97310
(503) 373-7721

FAX (503) 378-3616

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July 24, 1992

Further, the Board expressed great concerns about your failure to respond on a timely basis to the Board's request for information. You were contacted by the Board twice, once on February 25, 1992, and once on March 19, 1992, requesting your records concerning treatment of Mr. Fisher. Your tardy response to these requests constitutes unprofessional conduct.


The Board is charged with the duty, among others, of securing evidence of and reporting on all violations of the laws regarding the practice of optometry. ORS 683.270(1)(c). ORS 683.140 authorizes the Board to revoke, suspend or fine, optometrists for unprofessional conduct, for gross ignorance, or for inefficiency in the profession. OAR 852-10-027 defines unprofessional conduct to include failing to respond in writing to a Board request for information as required.

YOU ARE REPRIMANDED FOR THE FOLLOWING:

- (1) Advising Mr. Fisher to discontinue using Betagen, as prescription of Betagen is outside the scope of practice for optometrists in Oregon;
- (2) Your lapse of professional judgment in not consulting with the Mr. Fisher's treating physician when facts concerning Mr. Fisher's prescribed treatment came to light; and
- (3) The extreme tardiness of your response to the Board's request for records in the above-mentioned complaint.

DATED this 25 day of July, 1992.

THE OREGON BOARD OF OPTOMETRY


Eric Knutson, Board Chair


NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition within 60 days from the service of this Order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.

SAS:jks/JGG03976

1 The Oregon Board of Optometry hereby IMPOSES a \$250 civil
2 penalty on Baer for failure to submit proof of continuing
3 education in a timely manner.

4 DATED this 29TH day of March, 1993.


5 OREGON BOARD OF OPTOMETRY

6 
7 _____
8 by David W. Plunkett
9 Board Administrator

10
11
12 CERTIFICATE OF MAILING

13 I certify that on March 29, 1993, I served the foregoing FINAL
14 ORDER upon the parties hereto by mailing, certified mail, postage
15 prepaid, a true, exact and full copy thereof to:

16 Edward C. Baer, OD
17 2119 NW Fillmore
18 Corvallis, Oregon 97330

18 
19 _____
20 David W. Plunkett
21 Board Administrator
22 Oregon Board of Optometry

23
24
25
26
21 JKS:/JGG804B88

July 31, 1996

Oregon

Ed C. Baer, O.D.
Corvallis Eye Clinic
Kings Road Medical Center
2117 NW Fillmore
Corvallis, OR 97330

BOARD OF
OPTOMETRY

Re: NOTICE OF PROPOSED DISCIPLINARY ACTION:
Reprimand and Imposition of Civil Penalties

Dear Dr. Baer:

You are a licensed optometrist practicing in the State of Oregon. You were licensed and practicing optometry within the State of Oregon for the period of July 1, 1994 through June 30, 1996. During that time you were required by law to acquire, and to prove your attendance at, thirty (30) hours of approved continuing education courses.

Proof of attendance of approved courses was due at the office of the Board of Optometry, Ste 100, 3218 Pringle Road SE, Salem, Oregon 97302-6306 on or before June 30, 1996. Under the laws and administrative rules which regulate the practice of optometry in the State of Oregon, an optometrist is required to have a valid, unrevoked license in order to continue practicing optometry in the state. Licensed optometrists are required by ORS 683.210 to report satisfactory continuing education in order to maintain a valid license.

Oregon Administrative Rule 852-70-035 specifies that each optometrist shall report his or her continuing education to the Board's office by June 30th of each even numbered year. Your file indicates that you failed to report your continuing education by June 30, 1996, as required by the above-mentioned rule.

The Board of Optometry sent a notification of intent to suspend your license for failure to submit the required proof of continuing education. This notice was mailed to you on or about July 2, 1996.

Subsequently, you responded to the notice and have met your continuing education requirement for the biennium of July 1, 1994 through June 30, 1996. **However, your failure to comply with the continuing education requirements to maintain your license within the time period designated by law concerns the Board.**

The Board of Optometry is charged with the duty of regulating the practice of optometry in the State of Oregon. This duty includes maintaining and advancing the professional skills and abilities of its licensees to assure the best possible care to the public. Under ORS 683.140 the Board is authorized to revoke, suspend or fine, optometrists for unprofessional conduct or for gross ignorance or inefficiency in the profession. ORS 683.140(11) specifies failure to comply with the requirements of continuing education is grounds for discipline by the Board. Under OAR 852-10-025(1)(d) and 852-10-025(2)(e), the Board may suspend or revoke a licensee for failure to comply with continuing education requirements and may impose disciplinary sanctions, including civil penalties, for failure to comply with the requirements of continuing education.



3218 Pringle Rd SE Ste 100
Salem, OR 97302-6306
(503) 373-7721
FAX (503) 378-3616

NOTICE OF PROPOSED DISCIPLINARY ACTION:

Reprimand and Imposition of Civil Penalties

Ed C. Baer, O.D.

July 31, 1996

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The Board hereby proposes to impose civil penalties of \$250 for your failure to submit your continuing education course work by June 30, 1996. Payment may be made to the Board of Optometry and submitted to the Board's office at the address on this letter.

You have the right, if you request, to have a formal contested case hearing before the Board or its hearings officer to contest the imposition of the fine set out above. At the hearing, you may be represented by an attorney, subpoena witnesses, and cross-examine witnesses. **That request for hearing must be made in writing to the Board, must be received by the Board within 21 days from the mailing of this notice** (or if not mailed, the date of personal service), and must be accompanied by a written answer to the charges contained in this notice.

The answer shall be made in writing to the Board and shall include an admission or denial of each factual matter alleged in this notice, and a short plain statement of each relevant affirmative defense you may have. Except for good cause, factual matters alleged in this notice and not denied in the answer shall be presumed admitted; failure to raise a particular defense in the answer will be considered a waiver of such defense; new matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency and evidence shall not be taken on any issue not raised in the notice and answer.

If you request a hearing, before commencement of that hearing you will be given information on the procedures, rights of representation, and other rights of the parties relating to the conduct of the hearing as required under ORS 183.413-415.

If you fail to request a hearing within 21 days, or fail to appear as scheduled at the hearing, the Board may issue a final order by default and impose the above sanctions against you. Your submission to the Board to date regarding the subject of this disciplinary case and all information in the Board's files relevant to the subject of this case automatically become part of the evidentiary record of this disciplinary action upon default for the purpose of proving a prima facie case.

If you have any questions in this regard, please call or write the Board's office.

Sincerely,



David W. Plunkett
Administrator

Certified Mail # P 035 084 955
Return Receipt Requested

fineceis.mrg