

BEFORE THE
OREGON BOARD OF OPTOMETRY
STATE OF OREGON

In the Matter of the Discipline and Assessment
of Civil Penalties Against:

Case No. 04-12-01

Francis K. Iwamoto, O.D.
Respondent.

FINAL DEFAULT ORDER IMPOSING
CIVIL PENALTIES
FOR UNLICENSED PRACTICE

TO: FRANCIS K. IWAMOTO O.D.

The Oregon Board of Optometry (Board) is the state agency responsible for licensing, regulating and disciplining the practice of optometry in the State of Oregon. Francis K. Iwamoto, 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.

The Board noticed the Respondent for Disciplinary Action on January 13, 2005. Respondent failed to respond in writing to request a hearing or make any effort to respond to the Board whatsoever. The Board by default now issues a \$10,000 civil penalty for the unlicensed practice by Respondent.

Findings of Fact

The License of Respondent was due for annual renewal and was to be paid and processed on October 1, 2004. Respondent received the renewal form in a regular mailing that occurred on August 23, 2004. If the renewal is not timely, pursuant to rule, the Board gives a grace period of thirty days. On October 6, 2004, the Board informed Respondent that his renewal was late and in accordance with the rule, that in order to maintain an active Oregon license, the renewal application with the correct fee and continuing education credits must be postmarked on or before November 8, 2004. That letter indicated that if the correct fees and continuing education credits were not received, Respondent's license would automatically be suspended. The letter

1 sent on October 6, 2004 was returned to the Board since the address the Board had on file was
2 not current. On October 28, 2004, Board staff telephoned Respondent to see if he received the
3 renewal information. Respondent was faxed all necessary information to renew his license on
4 that date. On October 28, 2004, Respondent faxed the Board a new current address. It was again
5 explained to Respondent that the renewal form and fee must be received by the Board on
6 November 8, 2004.

7 November 8, 2004 came and went and Respondent failed to get a timely renewal to the
8 Board. On November 15, 2004, Respondent received a letter from the Board notifying him that
9 in accordance with the rules, his license had automatically expired on November 8, 2004. The
10 letter notified him that he could no longer practice optometry in this state.

11 On December 3, 2004, staff called to verify that Respondent was not practicing
12 optometry and seeing patients. Respondent's office verified that Respondent was making
13 arrangements for patients that entire week. The Board notified Respondent personally that he
14 had no current license and was not able to practice and see patients during that conversation.
15 Respondent assured board staff that he would make arrangements to cancel the patients.
16 Respondent also indicated he had not completed his required continuing education and inquired
17 how he could obtain the amount necessary.

18 On January 3, 2005, Board staff again verified that Respondent was continuing to see
19 patients and had seen patients the last week of December 2004.

20 Respondent has continued to see patients and practiced optometry in this state, after being
21 notified via a letter on November 15, 2004 and after being told on December 3, 2004 and has
22 made no effort to obtain a current valid license.

23 On January 18, 2005, Respondent was personally served at his place of employment with
24 the Notice of Discipline at 8200 SE Holgate SE, Portland Oregon. In the notice of discipline
25 issued, Respondent was informed that if he failed to request a hearing within 21 days, or failed to
26 appear at a hearing, the Board may issue a final order by default and impose the sanctions against

1 Respondent. The Notice indicated that the Board's files and all relevant materials subject to this
2 matter automatically become part of the evidentiary record of this disciplinary action upon
3 default for the purpose of proving a prima facie case. ORS 183.415(6).

4 **Conclusions of Law**

5 The Board concludes based on the record herein, that Respondent has been practicing Optometry
6 in the State of Oregon without a valid license and assesses a civil penalty pursuant to ORS
7 683.140(12), for practicing optometry in the State of Oregon without having at the time of so
8 doing a valid unrevoked license as an optometrist, in violation of ORS 683.180(7) and 683.020.
9 The total civil penalty is \$10,000 for violation of those statutes based on evaluations performed
10 by Respondent on at least 10 patients for over a two-month period at \$1,000 per offense pursuant
11 to ORS 683.140.

12 The Board finds that Respondent also did not qualify for renewal as Respondent admitted
13 he had not completed the required amount of continuing education. In order to be renewed
14 pursuant to OAR 852-50-006, Respondent had to include documentation of completion of the
15 required continuing optometric education. In addition, Respondent failed to notify the Board of
16 a change of address from October 6, 2004 forward in violation of OAR 852-50-018.

17 The Board finds Respondent has an expired optometry license as of the date of November
18 8, 2004.

19 **ORDER**

20 The Board assesses a civil penalty against Respondent in the sum of \$10,000, to be paid
21 within 30 days of the date this order becomes final.

22

23 DATED this 1st day of April, 2005.

24

OREGON BOARD OF OPTOMETRY
State of Oregon

25

David Plunkett

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David W. Plunkett, Executive Director