

1 BEFORE THE
2 BOARD OF OPTOMETRY
3 STATE OF OREGON

3 In the Matter of the License to Practice)
4 as an Optometrist of:)

AGENCY CASE NO: 11-06-01,
10-07-02, 10-11-01, 10-12-03 and
11-02-02

5 Richard Roth, O.D.)

FINAL DEFAULT ORDER

6)
7)
Licensee.)
_____)

8 TO: Richard Roth, O.D.

9
10 The Oregon Board of Optometry (Board) is the state agency responsible for licensing and
11 disciplining optometrists and for regulating the practice of optometry. Richard Roth, O.D.
12 (Licensee) is licensed by the Board to practice as an optometrist in the State of Oregon.

13 **Findings of Fact**

14 On July 11, 2011 the Board issued a Proposed Notice of Discipline to issue a Revocation
15 of Licensee's license for violations of the Board's statutes and rules. The events are described as
16 follows:

- 17 • Licensee is licensed by the Board to practice in the State of Oregon as an
18 optometrist and his license is currently valid through August 31, 2011.
- 19 • The Board received a complaint on July 30, 2010 regarding Licensee's failure to
20 deliver contact lenses to a patient after payment was made. The patient, J.H.,
21 complained that Licensee had examined his eyes in May 2010, but by the end of
22 July 2010 the patient had not yet received the contact lenses he had ordered.
23 When contacted by the Board, Licensee indicated he could not find patient J.H.'s
24 file as he had "lost" it.
- 25 • On November 3, 2010, another complaint came in regarding the care of patient
26 D.C. This patient had ordered contact lenses on August 19, 2010 and paid \$226
for the lens supply. From August through October 2010, the patient returned to

1 the clinic and on each occasion was told “they would arrive tomorrow” or that
2 “Dr. Roth was having a dispute with the lab.”

3 The patient was upset as he believed the lenses were never ordered by Licensee
4 and that his money was used for other purposes. The patient finally demanded a
5 refund and received that on October 26, 2010. The Board sent letters to Dr. Roth
6 (November 4, 2010 and December 3, 2010) asking for his explanation and only
7 received the patient file without a written explanation. It wasn’t until January
8 2011 that Licensee provided the full patient records.

- 9 • During this same time period, the Board became aware that Dr. Roth had closed
10 his practice at Hollywood Vision Center located at 4000 NE Sandy Blvd.,
11 Portland, Oregon 97212. Licensee had failed to tell the Board that he had
12 closed one of his offices and consolidated it with another location.
- 13 • On January 25, 2011, another complaint came in regarding the care of patient
14 J.M. He too was complaining that he had ordered contact lenses and had not
15 received them. He was initially seen in July 2010 and picked up his contact for
16 his right eye in January 2011 and had to reorder for the other eye. He never did
17 get the other contact lens and switched to another optometrist. Between July 2010
18 and January 2011, he would regularly stop by Licensee’s office to see the status
19 of his order and received a different excuse each time. Patient J.M. estimated he
20 went to the office 10 times. Since the patient’s insurance year had changed during
21 this time, his insurance benefits had also expired. From January 2010 through
22 April 2011, the Board requested records of J.M. from Licensee. Finally, on April
23 1, 2011 the records were provided.
- 24 • On February 18, 2011, the Board received another complaint regarding the care of
25 patient LH. She had ordered spectacles in August 2010 and had paid for them but
26 had not received them by February 2011. Patient L.H.’s insurance expired for

1 that year while she was waiting to receive her glasses and she was unable to use
2 that benefit.

3 The Board requested the records from Licensee on February 18, 2011 and March
4 14, 2011. The records were received by the Board from Licensee on March 21,
5 2011.

- 6 • On March 17, 2011, Licensee received a letter from the Board asking for patient
7 records on all the patients noted above. Licensee failed to respond. On April 1,
8 2011, another letter was sent to him reminding him of the need for the records and
9 of his obligation to comply under the laws and rules.
- 10 • On June 3, 2011, the Board became aware of issues regarding the care of patient
11 F.H. This patient was attempting to contact Licensee, but in the meantime, he had
12 put a sign on the office door saying that he had gone out of business. She had last
13 talked to Licensee on May 21, 2011. Patient F.H.'s husband had ordered and paid
14 for spectacles and was not able to pick them up. Patient F.H. also wanted a copy
15 of her prescription from Licensee but was unable to get it.
- 16 • The Board became aware (from a third party) on June 7, 2011, that Licensee had
17 left the state and closed his business location permanently. Licensee did not
18 provide any notification to the Board or his patients. The Board became aware
19 through Licensee's landlord who contacted them that Licensee had closed his
20 location and was attempting to get another optometrist to take responsibility for
21 the patient records and the business. The Board became concerned for the
22 patients' ability to obtain their needed medical information.
- 23 • The Board obtained an email address for Licensee, and sent him an email on June
24 9, 2011, asking him to send the Board his current contact information
25 immediately. Licensee had been communicating with his landlord and with
26

1 another optometrist, but, until July 5, 2011, did not communicate with the Board,
2 and did not respond to the request for contact information until July 8, 2011.

- 3 • Licensee offered custody of his patient records to an optometrist on June 3, and
4 then withdrew the offer on June 13, following objections by his landlord. On July
5 5, Licensee informed the Board that custody of the records had been transferred to
6 another optometrist, approximately one week after the clinic had reopened under a
7 new name.
- 8 • On July 11, 2011, the Proposed Notice was issued and mailed via certified and
9 regular mail to Licensee in Portland Oregon and Greensboro North Carolina.
10 Licensee signed the certified return receipt in North Carolina and his staff signed
11 it from Portland. That Notice indicated that Licensee had 21 days to request a
12 hearing and that if a hearing was not requested for purposes of default the record
13 herein would be used as prima facie evidence. To date, Licensee has not
14 requested a hearing and is in default.

15 **Conclusions of Law**

16 Licensee's continued disregard for the legal requirements of his profession are very
17 serious, and the ability for patients to obtain their medical information is important for the
18 protection of the public of this state.

19 The Board finds that the acts and conduct of Licensee described above constitute
20 violations of the following:

- 21 • ORS 683.140(1)(c) - unprofessional conduct or for gross ignorance or inefficiency in the
22 profession;
- 23 • ORS 683.140(1) (p) - any violation of the provisions of ORS 683.010 to 683.335;
- 24 • OAR 852-010-0051(1) and 852-060-0027(19) failure to keep complete and accurate records for
25 each patient;

- 1 • OAR 852-010-0051(2) failure to keep all patient records for a minimum of seven years from the
- 2 date of the last office visit;
- 3 • OAR 852-060-0027(1) fraud, misrepresentation or dishonesty;
- 4 • OAR 852-060-0027(10) willfully deceiving or attempting to deceive the Board, or an employee
- 5 of the Board in reference to any matter under investigation by the Board;
- 6 • OAR 852-060-027(11) - failing to respond in writing to the Board request for information as
- 7 required;
- 8 • OAR 852-060-027 (20) - failing to retain or make appropriate transfer of the care of patient
- 9 records;
- 10 • OAR 852-050-018(1) - failure to notify the Board in writing of the practice location;
- 11 • OAR 852-050-018 (2) - failure to notify the Board in writing of the change in the Licensee's
- 12 official address;
- 13 • OAR 852-010-051(3) - failure to retain records or transfer them to a practicing optometrist when
- 14 closing a practice or changing practice locations; and
- 15 • OAR 852-010-051 (4) - failing to provide copies of records to a patient when requested.
- 16 • OAR 852-050-016(1) failure to notify the Board in writing of the termination of a practice
- 17 location;

18 **Order**

19 The Board orders an immediate revocation of Licensee's license.

20
21 DATED this 19th day of August, 2011

22 BOARD OF OPTOMETRY

23
24 By: Robert Mans, O.D.

25 Dr. Robert Mans, Board Chair
26 Oregon Board of Optometry

1 A party is entitled to judicial review of the Final Order. Judicial review is by the Oregon Court
2 of Appeals pursuant to the provisions of ORS 183.482. Judicial review may be obtained by
3 filing a petition for review with the Office of State Court Administrator, Supreme Court
4 Building, Salem, Oregon 97310. ORS 183.482 requires that an appeal is requested by filing a
petition in the Court of Appeals within 60 days following the date the order upon which the
petition is based is served.

5 * * * * *

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 22, 2011, I served the within Final Default Order upon the Licensee hereto, a true and correct copy thereof, by certified mail, return receipt requested, postage prepaid to:

Richard W. Roth, OD
3007 Masonic Drive
Greensboro, NC 27403

I HEREBY FURTHER CERTIFY that on the same date, I mailed a copy of the above-named document to the Assistant Attorney General assigned to represent the Oregon Board of Optometry hereto, a full, true, and correct copy thereof by first-class mail, postage prepaid to:

Lori H. Lindley
Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, OR 97310-4096


OREGON BOARD OF OPTOMETRY