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BEFORE THE
BOARD OF OPTOMETRY
STATE OF OREGON

In the Matter of the License to Practice
as an Optometrist of:

GARY A. KITZROW O.D.
Licensee.

AGENCY CASE NO: 00-07-02;
01-09-05, 01-10-03, 02-05-03

FINAL STIPULATED
ORDER

TO: GARY A. KITZROW, 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. Gary A. Kitzrow, O.D. (Licensee) is licensed by the Board to practice as an optometrist in the State of Oregon.

FINDINGS OF FACT

On August 13, 2001, Licensee was served with a Notice of Proposed Discipline for failure to reevaluate a patient and failing to respond to the Board. To resolve that matter short of hearing, Licensee agreed to do the following:

Take and pass the Oregon Board of Optometry's Law and Administrative Rule Exam in 90 days.

Write letters of apology to the patients in the four complaint cases.

Pay \$550 in fines for four failures to notify the Board of your change in practice location.

Take and pass an 8 hour course on documentation and medical record keeping.

Obtain medical records for patients at a certain medical facility and provide copies to the board with a copy of an agreement to transfer patient records to another optometrist.

Undergo counseling with a licensed psychologist or psychiatrist who is approved by the Board, agreeing to go two to four times per month for six month or until dismissed by the psychologist or psychiatrist. A report is to be sent to the Board and must include the treatment plan and prognosis.

1 By June 2004, Licensee had successfully completed everything but the counseling piece
2 of his agreement. The Board gave him until July 15, 2004 to provide to the Board proof of his
3 attendance at counseling for the time agreed in the agreement.

4 On March 10, 2005, the Board received a telephone call from Claudia Hardwick, PHD,
5 indicating that Licensee had gone to counseling on June 6, 2004, July 9, 2004 and July 28, 2004.
6 Dr. Hardwick informed the Board that Licensee had dropped out of treatment and was not
7 scheduled to continue.

8 On March 14, 2005, the Board having not heard from Licensee in regards to his
9 counseling schedule, wrote to Licensee and requested a response within ten days as to how often
10 he was going to counseling and why he was not attending the required amounts. That letter was
11 returned by the post office to the Board marked "unclaimed" on April 1, 2005. On April 8, 2005,
12 the Board having no response from Licensee, filed and served a Notice of Discipline on Licensee
13 for failure to complete the counseling sessions as agreed.

14 CONCLUSIONS OF LAW

15 The Board concludes that if this matter went to hearing, the facts would prove that the
16 acts and conduct of Licensee as described above and Licensee's failure to complete the
17 agreement as entered into is a violation of ORS 683.140(3) (unprofessional conduct, or for gross
18 ignorance or inefficiency in the profession); and OAR 852-10-027(16). Licensee's failure to
19 respond to the Boards letter of March 14, 2005, is unprofessional conduct and is a violation of
20 OAR 852-10-027(12).

21 STIPULATIONS

22 In lieu of proceeding to hearing on the Notice of Discipline, Licensee has agreed that in
23 lieu of this discipline matter proceeding, Licensee will agree to the following stipulations:

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1 1. Licensee and the Board wish to resolve the present disciplinary matter.
2 Licensee disputes the findings of fact and neither admits or denies any of the
3 allegations. Licensee also wants to reflect that he attended counseling sessions
4 with psychologist Dr. Ken Serkownek for three appointments prior to August
5 27, 2003. Dr. Serkownek closed his practice and referred Licensee to Dr.
6 Hardwick.

7
8 2. Licensee agrees to entering of this order. Licensee is aware that if the matter
9 proceeded to discipline, he is entitled to a contested case pursuant to ORS
10 183.310-550 and agrees that by resolving this matter he foregoes any contested
11 case rights, or rights on appeal. Pursuant to ORS 183.415 which provides for
12 informal resolution by agreement, the parties agree to this resolution.

13 3. Licensee will complete counseling with Dr. Hardwick through August 2, 2005
14 or with a psychiatrist or psychologist two to four times per month or until the
15 professional dismisses Licensee from care.
16

17 4. Licensee agrees to provide written documentation of attendance or dismissal
18 directly to the board by October 31, 2005.

19 5. Failure of Licensee to complete this agreed stipulation, may result, after
20 appropriate notice and a hearing, in further discipline to the Licensee pursuant
21 to ORS 683.140.
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23 6. This stipulation resolves all matters between Licensee and this Board. The
24 document memorializing the agreement shall be public record.

25 IN SIGNING THIS STIPULATED AGREEMENT, LICENSEE ACKNOWLEDGES:
26

1 I understand that by entering into the stipulated agreement, I waive the right to an
2 administrative hearing. I am aware I am entitled to hire an attorney to represent me and I
3 knowingly enter into this agreement.

4 No promises, representation, duress, or coercion have been used to induce me to sign this
5 stipulation.

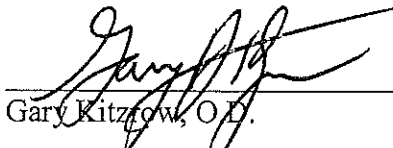
6 I have read this stipulation and understand it completely.

7 I understand that this stipulation will be submitted to the Board for approval and is
8 subject to the Board's confirmation.
9

10 IT IS HEREBY ORDERED:

- 11 1. Licensee will complete counseling with Dr. Hardwick through August 2, 2005
12 or with a psychiatrist or psychologist two to four times per month or until the
13 professional dismisses Licensee from care.
14 2. Licensee agrees to provide prior treatment records from Dr. Serkownek to Dr.
15 Hardwick or the psychologist providing treatment.
16 3. Licensee agrees to provide written documentation of attendance or dismissal
17 by October 31, 2005.
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19
20
21 4/26/05
Date



Gary Kitzrow, O.D.

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25 _____
Date



David Plunkett, Executive Director, Board of Optometry