

STATE OF MAINE
MAINE BOARD OF OPTOMETRY

In Re:
Leonard Shaw, O.D.

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DECISION AND ORDER

INTRODUCTION

Pursuant to 32 M.R.S.A. § 2431-A and 10 M.R.S.A. § 8003(5), the Maine Board of Optometry ("the Board") met in public session at the Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine on May 5, 2006, for an adjudicatory hearing in the matter of Leonard Shaw, O.D. Attending the hearing were board members Brian L. Daniels, O.D., J. David Heward, O.D., James P. Savage, O.D., and Nicole C. Shipp, O.D. For purposes of the adjudicatory hearing, Doctors Daniels, Heward, and Savage participated as the voting members of the Board. Dr. Shipp did not participate as a voting member in the decision but rather participated as the State's witness in her role of complaint officer.

The hearing arose as a result of an investigation of a complaint filed with the Board by ██████████ on August 8, 2005. Judith Peters, Assistant Attorney General, presented the State's case. Leonard Shaw, O.D., was present, without counsel, and presented his defense. Susan Sparaco, Assistant Attorney General, served as the Board's hearing officer.

The Board considered the State's Exhibits Numbers 1-12 and the testimony of Nicole Shipp, O.D., and Leonard Shaw, O.D. At the conclusion of the hearing, the Board

deliberated, and based on the preponderance of evidence, rendered the following decision.

FINDINGS OF FACT

Proper record keeping is an important and necessary component of patient care and an integral part of the practice of optometry. Dr. Shaw's records are deficient with respect to information regarding patient history; acuity; abnormal conditions or significant characteristics of internal and external ocular tissues; advice for medical treatment or referral; objective and subjective refraction of the eyes; and a cover test or muscle balance test or both. The above cited information is necessary to meet the minimum standards of a competent eye examination.

CONCLUSIONS OF LAW

1. Dr. Shaw's records fail to meet the requirements of 32 M.R.S.A. § 2417(3). A violation of 32 M.R.S.A. § 2417(3) is a ground for discipline under 32 M.R.S.A. § 2431-A(2)(H).
2. The deficiencies in Dr. Shaw's records reflect incompetence within the meaning of 32 M.R.S.A. § 2431-A(2)(E)(2).

DISCIPLINARY SANCTION

Based on the above findings of facts and conclusions of law, the Board voted unanimously to impose the following sanctions:

1. Leonard Shaw, O.D., is hereby **REPRIMANDED**. The Board is issuing a reprimand to impress upon Dr. Shaw and other practitioners that proper documentation and record keeping must be maintained as part of appropriate and safe patient care.

2. Dr. Shaw shall complete a 2.0 hour continuing education course in record keeping by August 1, 2007 as a condition of probation.

3. As a further condition of probation, to ascertain Dr. Shaw's progress in the area of record keeping, Dr. Shaw shall make his patient records available for inspection by a Board designee at a mutually agreeable time with a minimum 24 hours notice. This condition of probation will remain in effect until three (3) months after completion of the above-described continuing education course in record keeping.

COSTS

Pursuant to 10 M.R.S.A. § 8003-D, the Board voted unanimously to impose upon Dr. Shaw the costs, should they arise, for preparation of the administrative record.

SO ORDERED.

Dated:

5/15/2006



Brian L. Daniels, O.D., Acting Chair
Maine Board of Optometry

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. § 11001 and 10 M.R.S.A. § 8003(5), any party may appeal this Decision and Order by filing a Petition for Review in the Superior Court within thirty (30) days of the receipt of this Order. The Petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action in which they wish reviewed. This shall contain a concise statement as to the

nature of the action or inaction to be reviewed, the grounds upon which relief is sought, and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the Maine Board of Optometry, all parties to the agencies proceedings, and the Maine Attorney General.