

**BEFORE THE MINNESOTA
BOARD OF OPTOMETRY**

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MINNESOTA BOARD OF
OPTOMETRY

In the Matter of
Steven C. Blashill, O.D.
License No. 2073

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came on for hearing at a special meeting of the Minnesota Board of Optometry ("Board") on January 28, 2004, convened at 2829 University Avenue S.E., Minneapolis, Minnesota 55414. The hearing was conducted pursuant to the procedure set forth in paragraph 7 of the Stipulation and Order ("2003 Order") issued by the Board to Steven C. Blashill, O.D. ("Respondent"), on September 4, 2003.

The Board Discipline Committee ("Committee") presented affidavit evidence of Respondent's violations of the 2003 Order. In addition, Nathan W. Hart, Assistant Attorney General, appeared at the hearing and presented oral argument on behalf of the Committee. Respondent, pro-se, appeared in person and was allowed to present evidence and argument. Peter Krieser, Assistant Attorney General, was present as legal advisor to the Board.

The following members of the Board were present: Larry Morrision, O.D., LaMar Gunnarson, O.D., Orinne Jones, Jeanette Taylor Jones and Lori Mowbray, O.D. As members of the Board Discipline Committee, Board members Lee Nelson, O.D., and John Perszyk, O.D., did not participate in deliberations and did not vote in the matter.

FINDINGS OF FACT

Based upon its review of the record and the proceedings in this matter, the Board issues the following Findings of Fact:

1. The Board is authorized pursuant to Minnesota Statutes sections 148.52 to 148.62 (2002) to license, regulate, and discipline persons who apply for, petition, or hold licenses as optometrists and is further authorized pursuant to Minnesota Statutes sections 214.10 and 214.103 (2002) to review complaints against optometrists, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. Respondent agreed to and signed the 2003 Order issued by the Board on September 4, 2003. The 2003 Order remained in full force and effect at the time the conduct described in paragraphs 9 and 10 below occurred.

3. Paragraph 5.a. of the 2003 Order requires Respondent to abstain completely from alcohol and all mood-altering chemicals unless they are prescribed by a physician or dentist who has first been informed of Respondent's alcohol dependence history.

4. Paragraph 5.b. of the 2003 Order requires Respondent to sign and enter into a Participation Agreement and Monitoring Plan with the Health Professionals Services Program ("HPSP") within 30 days of the date of the 2003 Order.

5. Paragraph 5.c. of the 2003 Order requires Respondent to fully comply with all terms and conditions of his HPSP Participation Agreement and Monitoring Plan.

6. In paragraphs 6 and 7 of the 2003 Order, Respondent expressly acknowledged and agreed to a procedure by which the Committee could remove the stay of suspension on his license, thereby imposing the suspension, if the Committee had probable cause to believe Respondent failed to comply with or violated any of the requirements for staying the suspension.

7. In paragraph 9 of the 2003 Order, Respondent agreed to comply with the laws and rules of the Board and agreed that failure to comply with the Board's laws and rules shall be a violation of the 2003 Order.

8. Respondent expressly acknowledged and agreed in paragraph 7 of the 2003 Order that in the event the Committee received evidence Respondent violated the terms of the 2003 Order, (a) he would be notified of such allegations in writing and of the time and place of a hearing before the Board; (b) his response to the allegations would be due at least three days prior to the hearing; (c) his failure to submit a timely response to the Board could result in the allegations being deemed admitted; (d) he could submit affidavits made on personal knowledge and make oral argument at the Board hearing based on the record; and (e) the Board would determine at the hearing whether to impose additional disciplinary action against Respondent's license.

9. Respondent failed to comply with paragraph 5.a. of the 2003 Order because he failed to abstain completely from alcohol and all mood-altering chemicals as evidenced by at least the following:

a. On December 22, 2003, at approximately 1:00 p.m., Respondent reported to a toxicology laboratory for a urine screen. On December 23, 2003, the laboratory certified Respondent's screen as positive for alcohol (ethanol). Respondent's blood alcohol level was approximately .07.

b. On December 23, 2003, Respondent provided urine for another screen. On December 24, 2003, the toxicology laboratory certified the screen as positive for alcohol.

c. On December 23, 2003, Respondent admitted to his HPSP case manager that he had been drinking alcohol during the previous few days. He stated that before Sunday, December 21, 2003, he had not consumed alcohol for "over a month -- maybe six weeks."

10. Respondent failed to comply with paragraph 5.c. of the 2003 Order because he failed to fully comply with all terms and conditions of his HPSP Participation Agreement and Monitoring Plan as evidenced by at least the following:

a. On November 3, 2003, Respondent's HPSP case manager informed him she did not have results for a screen Respondent should have submitted to on October 24, 2003. Respondent was further informed he must return signed releases of information and screening information to HPSP by November 10, 2003.

b. On November 10, 2003, Respondent's HPSP case manager informed Respondent he needed to fax signed release forms and toxicology screening forms to HPSP that day. Further, Respondent was informed he had missed a screen and was requested to have a screen that day (November 10, 2003). Respondent sent HPSP some of the requested forms but did not send a release for his work-site monitor nor did he send the toxicology screening forms. Respondent did not report for a screen on November 10, 2003. Respondent did not provide the signed release for his work-site monitor until November 13, 2003.

c. On November 12, 2003, Respondent told his HPSP case manager he did not submit to the requested screen on November 10, 2003, due to prior obligations. Respondent's case manager then explained he must undergo a screen that day (November 12, 2003), although it would be documented as not completed on the day of the request for the screen (November 10, 2003). On November 13, 2003, the toxicology laboratory informed

Respondent's case manager it had no record indicating Respondent provided a specimen at the laboratory on November 12, 2003.

d. Pursuant to the terms and conditions of Respondent's Monitoring Plan with HPSP, he was to abstain from the use of alcohol. As noted in paragraphs 9.a. through 9.c. above, Respondent failed to comply with this requirement by relapsing to alcohol use.

e. On December 23, 2003, Respondent's HPSP case manager spoke with him about his positive screen for alcohol and the circumstances of his relapse. She requested he immediately schedule an appointment for a chemical dependency assessment and informed him he absolutely could not work until further notice. Respondent agreed not to work. On December 23, 2003, a Monitoring Plan Addendum was placed in Respondent's HPSP file requiring that he refrain from practice, effective immediately, and obtain a chemical dependency assessment. The case manager further requested that Respondent call her on December 24, 2003, and provide the name of the assessor and the date of the chemical dependency assessment. Respondent did not call his case manager on December 24, 2003, as requested. Respondent continued to practice optometry after a directive to refrain from practice and saw at least one patient on December 26, 2003.

f. On December 26, 2003, Respondent spoke with his HPSP case manager and told her he had scheduled an appointment for a chemical dependency assessment on December 30, 2003. When the case manager asked Respondent if he had cancelled his patient appointments scheduled for Monday, December 29, 2003, he replied he did not know he had to cancel them. Respondent's case manager again told Respondent he was not to practice optometry until further notice from HPSP.

g. On December 29, 2003, Respondent spoke with his HPSP case manager and admitted he drank alcohol on both Sunday and Monday evenings, December 21 and December 22, 2003. Respondent's toxicology screens for Monday and Tuesday, December 22 and December 23, 2003, were positive for alcohol. Respondent admitted he worked on Monday, December 22, 2003, and treated a patient on Tuesday, December 23, 2003. When Respondent asked his case manager about returning to work, she again told him he needed to remain out of practice until she could speak to the evaluator who was scheduled to perform his chemical dependency assessment.

h. On December 30, 2003, Respondent was evaluated at Regions Hospital. During his evaluation, Respondent was reluctant to undergo a breathalyzer test when requested to do so but did complete it, and the result was negative. Respondent appeared to have difficulty with his gait during the evaluation, and the evaluator expressed concerns about Respondent's honesty and openness with recovery. The evaluator recommended that Respondent enter residential chemical dependency treatment.

i. On December 31, 2003, Respondent went to work and saw patients. Respondent also spoke to his HPSP case manager, and she informed him he was being discharged from HPSP because he had failed to comply with HPSP's request that he refrain from practice. Respondent told his case manager he had enrolled in residential chemical dependency treatment and was scheduled to enter treatment on January 6, 2004.

j. In a December 31, 2003, memorandum, Respondent's HPSP case manager informed the Board's Executive Director of Respondent's discharge from HPSP on

December 31, 2003, due to noncompliance because he continued to work after HPSP had recommended he refrain from professional practice.

11. Respondent failed to comply with paragraph 9 of the 2003 Order because he failed to comply with the laws and rules of the Board.

12. On December 30, 2003, Respondent was served with a Notice of Removal of Stay of Suspension, Imposition of Suspension, and Hearing (“Notice”) and Order of Removal of Stay of Suspension by first-class mail at 1519 Haller Court, Maplewood, Minnesota 55119. The Notice informed Respondent of the alleged violations and of the date, time, and place of the hearing. The Notice also informed Respondent he was required to submit a response to the allegations contained in the Notice at least three days prior to the hearing.

13. Respondent appeared before the Board and stated his sobriety date to be December 23, 2003. He admitted to the multiple attempts and failures to remain sober, stated a desire to return to work immediately, and appeared to have limited insight or appreciation of his chemical dependency and its potential effects on his ability to practice. He submitted a letter from a chemical dependency counselor, which indicated he could return to work in April 2004. However, the letter did not indicate that the counselor had knowledge of the activities or responsibilities of an optometrist, nor was the subject of how Respondent could return to practice safely addressed in the letter.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 148.57, subdivision 3, 148.603, 214.10, and 214.103 (2002) and the 2003 Order.

2. The Committee gave proper notice of the alleged violations to Respondent, pursuant to paragraphs 6 and 7 of the 2003 Order.

3. The Committee has the burden of establishing the statutory violations charged by a preponderance of the evidence.

4. The Committee has proved by a preponderance of the evidence that Respondent has violated the 2003 Order and Minnesota Statutes section 148.57, subdivision 3, as follows:

a. Respondent violated paragraph 5.a. of the 2003 Order because he repeatedly failed to abstain completely from alcohol and all mood-altering chemicals.

b. Respondent violated paragraph 5.c. of the 2003 Order because he repeatedly failed to fully comply with all terms and conditions of his HPSP Participation Agreement and Monitoring Plan.

c. Respondent violated paragraph 9 of the 2003 Order because he failed to comply with the laws and rules of the Board.

5. The Committee had probable cause to remove the stay of suspension.

6. As a result of the violations set forth above and pursuant to the terms of the 2003 Order, the Board has the authority to impose additional disciplinary action against Respondent's license to practice optometry.

ORDER

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. IT IS ORDERED that the **SUSPENSION** of Licensee's license effected by the Committee on December 30, 2003, shall remain in full force and effect for an **INDEFINITE** period of time.

2. IT IS FURTHER ORDERED that effective immediately and during the period of suspension Respondent shall not engage in any conduct that constitutes the practice of optometry as defined in Minnesota Statutes section 148.56, subdivision 1 (2002), and shall not imply to any person by words or conduct that Respondent is authorized to practice optometry in the State of Minnesota; except that for a period not to exceed three days from the date of his receipt of this Order, Respondent shall, as appropriate, terminate services with his current patients.

3. IT IS FURTHER ORDERED that Respondent surrender his license certificate to the Board. Respondent shall personally deliver or mail the certificate to the Minnesota Board of Optometry, c/o Laurel E. Mickelson, Executive Director, University Park Plaza, 2829 University Avenue S.E., Suite 550, Minneapolis, Minnesota 55414-3222, within ten days of the date of his receipt of this Order.

4. IT IS FURTHER ORDERED that Respondent may petition the Board to reinstate his license upon submission of satisfactory evidence of at least one year of documented, uninterrupted recovery. Satisfactory evidence shall include, but shall not be limited to:

a. Random urine and/or blood screens, 18 per quarter for the first quarter after the date of this Order, 12 per quarter thereafter. If Respondent suffers a relapse, then 18 random urine and/or blood screens during the first quarter after the new sobriety date, and 12 random urine and/or blood screens per quarter thereafter must be documented.

b. Satisfactory completion of chemical dependency treatment programs.

c. Written documentation of regular attendance and participation at meetings of a self-help group in support of recovery.

d. A report from a treating physician that Respondent is fit and competent to resume the practice of optometry with reasonable skill and safety to patients.

The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit and competent manner in the practice of optometry.

5. IT IS FURTHER ORDERED that Respondent shall sign all necessary releases allowing the Board access to all medical, mental health, evaluation, therapy, chemical dependency, or other records from any treating health professional or evaluator. Respondent shall allow the Board or its designee to communicate with all treating health professionals.

6. IT IS FURTHER ORDERED that following Respondent's Petition for Reinstatement, Respondent shall appear before the Committee to discuss his petition and progress in recovery. Upon hearing Respondent's petition, the Committee may recommend that the Board continue, modify, or remove the suspension or impose conditions or restrictions as deemed necessary.

7. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition to lift the suspension and reinstate his license and his meeting with the Committee, take any of the following actions:

a. Remove the suspension and reinstate Respondent's license to practice optometry;

b. Remove the suspension and reinstate Respondent's license to practice optometry with conditions or restrictions; or

c. Continue the suspension of Respondent's license upon Respondent's failure to meet the burden of proof.

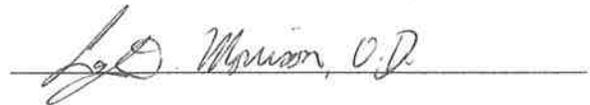
8. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute violation of a Board order and provide grounds for further disciplinary action.

9. This Order is a public document.

The foregoing Findings of Fact, Conclusions, and Final Order constitute the Decision of the Board in this matter.

Dated: March 1st, 2004

MINNESOTA BOARD
OF OPTOMETRY

A handwritten signature in cursive script, reading "L. D. Morrison, O.D.", is written over a horizontal line.

Chairperson

AG: #969498-v1