

IN THE MATTER OF
OMAR A. MANNA, O.D.
Applicant

* BEFORE THE MARYLAND
* BOARD OF EXAMINERS
* IN OPTOMETRY
* CASE NO.: 03-BP-246

* * * * *

FINAL ORDER

Based on information received, the Maryland Board of Examiners in Optometry (the "Board") charged Omar A. Manna, O.D. (the "Applicant") (D.O.B. 3/27/65), with its Notice of Initial Denial of his Application for Optometry Licensure under the Maryland Optometry Practice Act (the "Act"), Md. Health Occ. Code Ann. ("Health Occ.") §§11-101 *et seq.* (2000 Repl. vol.).

The Board notified the Applicant that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Board's notification, unless the Applicant requested a hearing.

On June 1, 2004, the Applicant received the Board's Notice of Initial Denial of his Application for Optometry Licensure. The Board notified the Applicant in that Notice that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Notice unless the Applicant requested a hearing. The Applicant's written request was due on June 30, 2004. The Applicant did not request a hearing by June 30, 2004.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. BACKGROUND

1. On or about October 17, 2003, the Board received the Applicant's Application for Licensure By Partial Waiver of Examination (the "Application").
2. The Application submitted by the Applicant was signed and notarized.
3. The Applicant has been licensed to practice Optometry in the Commonwealth of Virginia being issued license number 0601-002166 in October of 1996.
4. The Applicant was previously licensed to practice Optometry in the State of Maryland being issued license number 01422 on September 25, 1996.
5. The Applicant's Maryland Optometry license lapsed on June 30, 1999.
6. Question #8 of the Application reads as follows:

If you are licensed in any other state, insert your license number, date of issuance and state _____. Has this license ever been subject to disciplinary action? If so, please explain.
_____.

7. In the first blank in question #8, the Applicant wrote, "0601002166 10/10/96 VA."
8. In the second blank in question #8, the Applicant wrote, "Incomplete record keeping in 8/2001."
9. As a result of the Applicant's affirmative response to question #8, the Board began an investigation into the Applicant's disciplinary history in Virginia.

II. HISTORY OF DISCIPLINE IN VIRGINIA

10. The Board's investigation revealed that the Virginia Board of Optometry (the "Virginia Board") had taken disciplinary action against the Applicant's Virginia license on three (3) different occasions.
11. First, on April 21, 2000, the Virginia Board issued an Order with the following Findings of Fact with respect to [the Applicant's] treatment of Patient A¹:

¹ The patients' names have been omitted for confidentiality purposes.

- A. On or about January 12, 1998, [the Applicant] failed to;
 - 1. assess the pupil and/or document his findings.
 - 2. obtain confrontation fields and/or document his findings.
 - 3. document completely his tonometry findings, to include type and time.
 - 4. assess and/or document extra ocular movement.
 - 5. sign the medical record.
 - 6. provide the patient with a wearing schedule and care system.
 - 7. schedule a follow-up appointment.
- B. On or about June 20, 1998, he failed to:
 - 1. obtain or document the patient's history.
 - 2. assess the anterior segment health and/or document his findings.
 - 3. provide the patient with a wearing schedule.
 - 4. schedule a follow-up appointment.
 - 5. sign the medical record.
- C. On or about October 11, 1998, he failed to:
 - 1. obtain and/or document the patient's history.
 - 2. obtain confrontation fields and/or document his findings.
 - 3. sign the medical record.
- D. On or about October 14, 1998, he failed to:
 - 1. provide the patient with a wearing schedule and care system.
 - 2. sign the medical record.
- E. On or about November 24, 1998, he failed to:
 - 1. obtain and/or document the patient's history.
 - 2. provide the patient with a wearing schedule and care system.
 - 3. sign the medical record.

12. As a penalty for the conduct described in the Findings of Fact, the Virginia Board ordered the Applicant to take four (4) hours of continuing education and undergo one (1) patient record inspection within six (6) months.

13. The Virginia Board issued a second Order on August 31, 2001. In this Order, the Virginia Board made the following Findings of Fact:

[Finding of Fact #1 omitted.]

2. By Order entered April 21, 2000, [the Applicant] was placed under terms and conditions to include obtaining four (4) hours of continuing education in record keeping and to be subject to one unannounced patient record inspection.

3. [The Applicant] failed to obtain the four (4) continuing education hours by April 21, 2001, as required by Term #1 of the Order entered April 21, 2000.

4. A review of the patient records collected pursuant to [T]erm #2 of the Order entered April 21, 2000, revealed a continued pattern of record keeping deficiencies and inappropriate care. Specifically,

- a. Improper evaluation and follow-up of a suspected glaucoma patient;
- b. Incomplete evaluation and follow-up of contact lens patients; and
- c. No apparent near point testing on several patients.

14. As penalty for the conduct described in the Findings of Fact in the August 31, 2001 Order, the Virginia Board ordered the Applicant to take a twelve (12) hour course in patient record keeping.

15. The Virginia Board issued a third Order on October 31, 2003 (14 days after the Maryland Board received the Application). In the October 31, 2003 Order, the Virginia Board found that a patient record inspection uncovered continued problems with the Applicant's documentation and practice.

16. Specifically, the third Virginia Board order listed the following Findings of Fact after a record review of ten (10) patient charts from the Applicant's practice identified the following deficiencies:

- a) [The Applicant] failed to document Patient A's history to include pertinent health data and primary complaint. Further, [the Applicant] failed to test Patient A's near vision.
- b) [The Applicant] failed to document Patient B's history to include pertinent health data and primary complaint. [The Applicant] failed to test Patient B's near vision, but prescribed prescriptive lenses.
- c) [The Applicant] failed to document a primary complaint in Patient C's record. [The Applicant] failed to document what contacts tested. [The Applicant] failed to test Patient C's near vision, but prescribed corrective lenses. Further, [the Applicant] failed to document what contact solution Patient C used for lens care.
- d) [The Applicant] failed to document Patient F's history to include pertinent health data and primary complaint. Further, [the Applicant] failed to test Patient F's near vision.
- e) [The Applicant] failed to document Patient G's history to include pertinent health data and primary complaint. Further, [the Applicant] failed to test Patient G's near vision.

17. As penalty for these deficiencies, the third Order dated October 31, 2003 from the Virginia Board places the Applicant's Virginia license on *indefinite probation* and requires that he take four (4) hours of continuing education, agree to a patient record inspection of ten (10)

patient charts, improve his documentation, refrain from prescribing contact lenses until the follow-up appointment for all patients, and conduct a near vision test on all patients.

III. FALSE REPRESENTATION ON THE APPLICATION

18. As stated *supra* in paragraph #7, the Applicant only informed the Board about one (1) disciplinary action against his Virginia license in response to question #8 on the Application.
19. Approximately twenty-one (21) days *prior to* completing his Application, on October 14, 2003, the Virginia Board sent the Applicant a Notice of Informal Conference dated September 23, 2003 by Certified Mail.
20. When the Applicant completed his Application, he was or should have been aware that he had been involved "disciplinary action" with the Virginia Board on three (3), rather than one (1), separate occasions with Orders being issued on April 21, 2000 and August 31, 2001 and with a Notice of Informal Conference being sent by the Virginia Board to him just three (3) weeks prior to his completion of the Application for licensure.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes as a matter of law that the Applicant's conduct, as found in the three disciplinary Orders from the Virginia Board, constitutes grounds for denial of his application pursuant to Health Occ. §11-302(b) which requires that an applicant be of good moral character, and Health Occ. §11-313 (20) which permits denial of an application if an applicant has had a license to practice optometry, denied, suspended, or revoked in another state for an act which would be grounds for disciplinary action under this section; (21) which prohibits conduct which would be a violation of any provision of title eleven (11); (23) which prohibits the commission of an act of unprofessional conduct in the practice of optometry; and (27) which prohibits conduct which exhibits an inappropriate standard

of care. In addition, the Applicant's conduct in only informing the Board about one (1) of the three (3) [one pending] disciplinary proceedings by the Virginia Board constitutes violation of Health Occ. §11-313(1) which prohibits an Applicant from fraudulently or deceptively obtaining a license; (21) which prohibits violation of any provision of title eleven (11) with underlying grounds of violation of Health Occ. §11-302(b) which requires that applicants be of good moral character, and (23) which prohibits the commission of acts of unprofessional conduct in the practice of optometry.

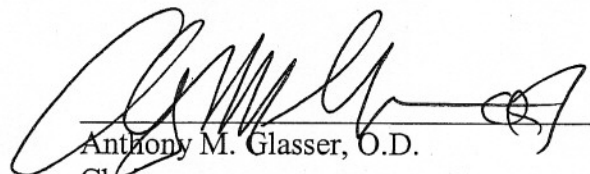
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 30th day of June, 2004, by an affirmative vote of the majority of the Board considering the case

ORDERED that the Applicant's Application for Optometry Licensure in the State of Maryland be and hereby is DENIED; and be it further

ORDERED that this is a Final Order of the Board, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann §10-611 *et seq.* (1999 Repl. vol.).

6/30/04
Date


Anthony M. Glasser, O.D.
Chair
Board of Examiners In Optometry

NOTICE OF RIGHT OF APPEAL

Pursuant to Md. State Gov't. Code Ann. §10-222, the Applicant has the right to take a direct judicial appeal. Any appeal shall be made as provided for judicial review of a final decision in the State Government Article and Title 7, Chapter 200 of the Maryland Rules of Procedure.