

IN THE MATTER OF
THOMAS AZMAN, O.D.

* BEFORE THE MARYLAND
* STATE BOARD OF
* EXAMINERS IN
* OPTOMETRY

* * * * *

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER

Based upon complaints and related information coming to its attention and determined in its subsequent investigations, the Maryland State Board of Examiners in Optometry ("the Board") determined to charge Thomas Azman, O.D. ("Respondent") with violations of the Maryland Optometry Act ("the Act"), Maryland Health Occupations Code Annotated, §§10-101 et seq. Specifically, the charges under the Act were as follows:

- (2) Fraudulently or deceptively uses a license;
- (8) Willfully makes or files a false report or record in the practice of optometry;
- (19) Is professionally . . . incompetent.

Respondent was properly notified of the charges and the underlying allegations by letter dated November 7, 1983. A hearing was scheduled for January 17, 1984 and was postponed to February 6, 1984 at Respondent's request. On December 1, 1983, and March 13, 1984, pre-hearing conferences were held among H. Russell Smouse and Stephen B. Caplis, counsel for Respondent; Thomas J. Kwiatkowski, Jr., Assistant Attorney General, and Henry E. Schwartz, Assistant Attorney General, administrative prosecutors for the Board; Barbara Hull Foster, counsel to the Board; Barbara A. Curtis, Executive Director to the Board; and Harold S. Glazier, O.D., President and designee of the Board. As a result of discussions and negotiations at the pre-hearing conferences, Respondent has agreed to enter into the following Consent Order.

FINDINGS OF FACT

Based upon the information contained in its files and reports and otherwise known and available to it, the Board finds that:

1. Respondent is an optometrist currently licensed in Maryland and was a licensee at all times relevant to the allegations underlying the above proceedings.

2. At all times relevant to the above proceedings, Respondent, as a licensed optometrist in Maryland, participated as a health care provider in the Maryland Medical Assistance Program ("Medicaid") and in the Federal Medicare Program ("Medicare"), which status entitled him to file claims for professional services rendered to patients in said programs.

3. In the period May 1977 - January 1981, Respondent filed claims with and received payment from Medicaid for optometric goods and services for 53 cataract patients, representing on said claims that Medicaid provided exclusive coverage for such goods and services and that Respondent was legally entitled to full or primary payment thereon from Medicaid vis-a-vis Medicare with whom Respondent filed identical claims and received payment thereon.

4. In the period 1981 - 1982, evidence was presented to the effect that Respondent failed to conduct and undertake necessary and appropriate follow-up examinations and corrective actions for complications caused by contact lenses which he prescribed for patients C.S., P.S., and J.C.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board by unanimous vote of those members considering the above case, hereby concludes as a matter of law that Respondent violated Sections 10-312(2) and (8) of the Act, and hereby adjudicates Respondent GUILTY of those charges.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 8th day of ^{May} April, 1984, by unanimous vote of those members of the Board considering the above case:

ORDERED that the Maryland license to practice optometry of Respondent, Thomas Azman, O.D., is and shall be REVOKED; and be it further

ORDERED that said revocation of license is and shall immediately STAYED, and Respondent placed on PROBATION, subject to the following terms and conditions:

1. That Respondent shall be suspended from the practice of optometry for a period of thirty (30) days beginning on the execution date of this Order; and that Respondent shall in no way assist with his practice during said suspension; and

2. That upon execution of this Order, Respondent shall arrange and undertake a Board-approved program of continuing education in optometry, satisfying the following criteria:

a. 50 hours of continuing education in optometry per year for two years (which may include any hours of continuing education taken by Respondent to satisfy Section 10-309 of the Act);

b. 18 hours per year (of those required under paragraph 1a above) of "transcript quality" continuing education, i.e. requiring successful completion of a final examination or substantive course work as approved by the Board; and

c. 64 hours (of those required under paragraph 2a above) of continuing education specifically in the evaluation, fitting, care and management of patients for contact lenses; and

3. That upon execution of this Order, Respondent shall submit to supervision of his practice by a Board-approved licensed optometrist, satisfying the following criteria:

a. Direct, on-site supervision of Respondent's practice by the supervisor on a monthly basis for one year;

b. Quarterly reports to the Board by said supervisor, evidencing the nature, status, and competency of Respondent's practice, including but not limited to his contact lens practice;

c. Upon successful completion of paragraphs 3a and 3b above, continuing direct, on-site supervision of Respondent's practice by the supervisor on a quarterly basis;

d. Quarterly reports to the Board by said supervisor, evidencing that Respondent's practice, including but not limited to his contact lens practice, is fully competent and consistent with the standards of the Act; and

e. The cost, if any, of such supervision shall be born by Respondent; and

4. Respondent shall permanently refrain from applying to Medicaid for provider status or from otherwise seeking any benefits from Medicaid as a health care provider; and

5. Within 30 days of the date of this Order, Respondent shall pay a penalty of \$500 to the State of Maryland through the Board; and

6. Respondent shall cease and desist any other or further conduct in any way similar or related to that underlying the above proceedings; and

7. Respondent agrees to refund all fees received from or on behalf of patients C.S., P.S., and J.C. for the contact lenses and optometric services relating to said lenses, referred to in paragraph 4 of the Findings of Fact; and

8. That Respondent agrees that should new charges pertaining to improper follow-up care for contact lens patients arise against the Respondent, evidence from any party regarding

the cases of patients C.S, P.S., and J.C. may be utilized in any subsequent proceedings, subject to said evidence being properly admissible; and

9. That the Board will limit any public dissemination of this Order to the inclusion of that action in the list of disciplinary actions taken in the Board's newsletter; however, it is understood that this Order is public information, and that the Board will not attempt to control the use made of the Order by other agencies.

10. Respondent shall otherwise fully comply with and conduct his practice fully in accordance with the provisions of the Act; and

11. This Order is a full and final resolution of all complaints made against Respondent, or matters known to this Board, prior to the date of this Order; and be it further

ORDERED that after two years from the date of this Order, the Board, on petition from Respondent demonstrating his full compliance with and satisfaction of all the aforesaid probationary terms and conditions, shall terminate the above probation and reinstate Respondent's license to practice optometry in Maryland without conditions or restrictions. The Board may, only for good cause shown, maintain the probation, or reduce or eliminate one or more of the aforesaid probationary terms and conditions; and be it further

ORDERED that if Respondent violates any of the above terms and conditions of probation, or if the Board receives an unsatisfactory report from Respondent's supervisor, the Board, after notification and a hearing under the Maryland Administrative Procedure Act, may vacate the above stay of revocation of license or may impose any other disciplinary sanction available to it under the Act.

Harold S. Glazier O.D. 5/18/84
Harold S. Glazier, O.D.
President
State Board of Examiners in
Optometry

CONSENT

By this Consent, I agree to accept and submit to this Order. I do not admit, but deny, the Findings of Fact and Conclusions of Law preceeding the Order. However, I acknowledge the validity of the Order as if made after a hearing at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I also recognize that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing. By this Consent, I waive all such rights. I sign this Consent after consulting with my attorney and without reservation, and I fully understand its meaning.

Thomas Azman
Thomas Azman, O.D.

STATE OF MARYLAND)
CITY OF BALTIMORE)

ss:

I HEREBY CERTIFY that on this 30th day of ^{April} ~~December~~

1983, before me, a Notary Public for the State and City aforesaid, personally appeared Thomas Azman, O.D. and he made oath in due form of law that the foregoing Consent was his voluntary act and deed.

AS WITNESS my hand and notarial seal.

Patricia Tomaszefsky
Notary Public

My Commission Expires:

July 1, 1986

