

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE OPTOMETRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
WILLIAM H. MYERS, O.D.,	:	LS0803202OPT
RESPONDENT.	:	

[Division of Enforcement Case # 06 OPT 012]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

William H. Myers, O.D.  
15445 W. Howard Avenue  
New Berlin, WI 53151

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Wisconsin Optometry Examining Board  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Optometry Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. William H. Myers, O.D., Respondent, date of birth September 28, 1948, is licensed by the Wisconsin Optometry Examining Board as an optometrist in the state of Wisconsin pursuant to license number 1434, which was first granted August 5, 1973.
2. Respondent's last address reported to the Department of Regulation and Licensing (DRL) is 15445 W. Howard Avenue, New Berlin, WI 53151.
3. Respondent practices as an optometrist at Myers Eye Care in New Berlin, Wisconsin.
4. Wis. Stat. § 440.12 requires the DRL to deny an application for any credential renewal if the Wisconsin Department of Revenue (Revenue) certifies the credential holder is liable for delinquent taxes.
5. Because Respondent had delinquent taxes, on June 22, 2005, Revenue sent Respondent a letter notifying him that his application for renewal of his certificate of registration would be denied unless DRL received documentation from Revenue that he was not liable for delinquent state taxes. On July 12, 2005, Revenue filed a statement with DRL that Respondent remained liable for delinquent taxes.
6. On October 26, 2005, DRL mailed Respondent a Notice of Denial dated October 21, 2005 notifying him that his application for renewal of his certificate of registration had been denied because of delinquent taxes and that his right to

continue to practice would expire in 30 days. On December 13, 2005, DRL mailed Respondent a letter indicating that his certificate of registration expired on November 25, 2005.

7. Wis. Stat. § 449.02(1) and Wis. Adm. Code § Opt 7.04 provide that an optometrist who fails to renew a certificate of registration is prohibited from practicing optometry until the certificate is renewed.

8. The Division of Enforcement (DOE) received information that Respondent was practicing optometry after Respondent had been notified that his registration was expired. On October 12, 2006, DOE sent Respondent a letter which among other things asked why he believed he could continue to practice as an optometrist without a current license.

9. Respondent did not respond to DOE's letter. But on October 26, 2006, Respondent entered into an installment agreement with Revenue for the payment of his taxes and Respondent's license was reinstated on November 29, 2006.

10. From November 25, 2005 until November 29, 2006, Respondent practiced as an optometrist without a current license.

### CONCLUSIONS OF LAW

1. The Wisconsin Optometry Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 449.07(1) and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct, by having practiced as an optometrist without a current license, constitutes a violation of Wis. Stat. § 449.02(1) and Wis. Adm. Code § Opt 7.04.

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

### Suspension

1. The license of William H. Myers, O.D., Respondent, as an optometrist in the state of Wisconsin shall be **SUSPENDED** for 14 days. The dates of suspension shall be for the periods June 30 through July 6, 2008 and August 4 through August 10, 2008, inclusive.

### Confirmation of Non-Practice During Suspension

2. Prior to the commencement of the suspension, Respondent shall provide evidence satisfactory to the Board's designee that:

- a. Respondent's optometry office will be closed during the suspension, or
- b. Another licensed and registered optometrist will be working in the office during Respondent's suspension and that optometrist is aware that Respondent shall not practice during the period of suspension.

3. Within 10 days of the end of the suspension, Respondent shall provide evidence satisfactory to the Board's designee that Respondent did not practice during the suspension.

### Community Service

4. Within 60 days of the date of this Order, Respondent shall practice optometry for four hours on each of four separate days for no compensation at the Walkers Point Community Clinic in Milwaukee, Wisconsin.

5. Within 10 days of the fourth day of practice at the Walkers Point Clinic, Respondent shall provide evidence sufficient to the Board's designee that Respondent has completed this practice requirement. A letter from the clinic's director confirming the dates and hours of practice shall be sufficient evidence.

### Miscellaneous

6. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$635.00 pursuant to Wis. Stat. § 440.22(2).

7. Evidence and payment shall be mailed or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817

8. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license and registration. The Department in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered community service Respondent's license and registration **SHALL BE SUSPENDED**, without further notice or hearing, until Respondent has complied with the terms of this Order.

9. This Order is effective on the date of its signing.

By: Gregory A Foster  
A Member of the Board

3/20/08  
Date

STATE OF WISCONSIN  
BEFORE THE OPTOMETRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
WILLIAM H. MYERS, O.D.,	:	LS _____ OPT
RESPONDENT.	:	

[Division of Enforcement Case # 06 OPT 012]

It is hereby stipulated and agreed, by and between William H. Myers, O.D., Respondent; Sandy Swartzberg o DeWitt, Ross & Stevens, S.C., attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Department o Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (file 06 OPT 012). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation, he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Respondent  
15445 W. Howard Avenue  
New Berlin, WI 53151

Sandy Swartzberg  
DeWitt, Ross & Stevens, S.C.  
Attorneys for Respondent  
13935 Bishop’s Drive, Suite 300  
Brookfield, WI 53005-6605

Date

John R. Zwieg  
Attorney for Complainant  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

Date