

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

## FINDINGS OF FACT

1. William H. Myers, O.D., ("Respondent") was born on September 28, 1948, and was licensed to practice optometry in the state of Wisconsin pursuant to license number 1434, first granted on August 5, 1973.
2. Respondent's most recent address on record with the Optometry Examining Board and the Department of Regulation and Licensing in 15445 W. Howard Avenue, New Berlin, Wisconsin 53151.
3. At all times relevant to this proceeding, Respondent has been practicing optometry at Myers Eyecare, 15855 W. National Avenue, New Berlin, Wisconsin and at 416 Genesee Street, Delafield, Wisconsin.
4. On October 26, 2005, the Department of Regulation and Licensing mailed a notice to Respondent, informing him that his privilege to practice optometry would expire in thirty days, in consequence of non-payment of taxes due to the State of Wisconsin.
5. On December 13, 2005, the Department mailed a notice to Respondent informing him that his certificate of registration had expired on November 25, 2005.
6. Thereafter the Division of Enforcement received information that Respondent was continuing to practice optometry, despite his expired license. On October 12, 2006, the Division wrote a letter to Respondent, inquiring why he believed he could continue to practice optometry, despite his lack of a current license to do so.
7. Respondent did not respond to the Division's letter from October 12, 2006.
8. On October 26, 2006, Respondent entered into an installment payment plan with the Wisconsin Department of Revenue for payment of his taxes.
9. On November 29, 2006, Respondent's license to practice optometry was re-instated.
10. Respondent practiced optometry without a license from November 25, 2005, until November 29, 2006.
11. On March 20, 2008, the Optometry Examining Board imposed a fourteen-day suspension of Respondent's license, to be served during two separate specified weeks in 2008.
12. The March 20, 2008, Order required that Respondent perform four, four hour days of community service uncompensated practice of optometry at a community clinic in Milwaukee, Wisconsin. Respondent was to provide evidence of having done so within ten days of the fourth days of practice at the community clinic.

13. Under the March 20, 2008, Order, Respondent was also required to pay costs of the proceedings, in the amount of \$635.00 by June 20, 2008.

14. Respondent failed to comply with the community service requirement or the payment of costs as ordered.

15. Respondent failed to apply for or pay the renewal fee for his license on or before December 14, 2009, and his license expired on December 14, 2009, for non-renewal.

16. On October 7, 2010, pursuant to the notice of the March 20, 2006 Order, that non-compliance would be grounds for suspension of the license, the Optometry Examining Board suspended Respondent's license.

17. On November 22, 2010, the Division of Enforcement received a letter stating that Respondent was continuing to practice optometry, despite the non-renewal and suspension of his license.

18. On December 9, 2010, the Department received a letter from Respondent, stating he was sorry that the Department Monitor had not been informed that he had completed his community service, and that his payment of costs was never received in July 2008.

19. The letter continued that Respondent was sending a confirmation letter from the community clinic and a second check for the \$635.00 "fee".

20. A check dated December 8, 2010, in the amount of \$635.00, payable to "Dept. Regulation & Licensing" was enclosed with Respondent's letter requesting his license be reinstated, and asking for the amount of his license fee for the current license period.

21. On December 12, 2010, investigators for the Division of Enforcement paid an unannounced visit to Respondent's office in Delafield, Wisconsin.

22. The investigators spoke with an employee of Respondent, who told them that Respondent had opened the Delafield office sometime around December 2008 or January 2009, and had been seeing clients at that office ever since.

23. The investigators informed the employee that Respondent had been unlicensed from and after December 15, 2009.

24. The employee informed the investigators that Respondent had been seeing patients during the period of January 2010, and that there was a patient scheduled for the afternoon of December 14, 2010.

25. The investigators left a copy of the disciplinary orders against Respondent with the employee, along with a business card of one of the investigators, with a request that she have Respondent contact the investigator immediately.

26. Respondent did not contact the investigator as requested.

27. On December 16, 2010, the Department Monitor in the Division of Enforcement received a letter from the community clinic at which Respondent had been ordered to perform four, four-hour periods of community service. The letter stated that Respondent had “worked a morning and an afternoon shift” on each of two days, for a total of four sessions. The Department Monitor called the community clinic and inquired about the duration of the four shifts; she was informed that each shift had been three hours long.

28. On December 22, 2010, Respondent’s check dated December 8, 2010, was returned to the Department, unpaid, for not sufficient funds.

29. Respondent is the sole support of his disabled wife and adult son.

30. Respondent does not routinely practice on Wednesdays.

### CONCLUSIONS OF LAW

1. The Optometry Examining Board has jurisdiction in this matter pursuant to Wis. Stat. § 449.07.

2. Respondent’s conduct in continuing to practice optometry knowing that he did not have a current license to do so violated Wis. Stat. § 449.02(1) and is unprofessional conduct within the meaning of Wis. Stat. § 449.08.

### ORDER

1. Now, therefore, William H. Myers, O.D., is REPRIMANDED.

2. It is further ordered that the license previously issued to William H. Myers, and suspended by Order of the Board dated March 20, 2008, is REINSTATED, immediately upon his compliance with the following conditions:

- a. Payment of all costs of disciplinary proceedings previously assessed against him, but only those costs that have not been paid on or before the date of this Order.
- b. Payment of all statutory license renewal fees and late fees that should have been paid for periods when his license was not suspended, but only expired.
- c. Payment of all statutory license renewal fees and late fees due for the current license period.

3. It is further ordered that the license previously issued to William H. Myers is LIMITED by the conditions that

- a. He may not practice optometry in the state of Wisconsin on any of the thirty Tuesdays and Wednesdays next following the reinstatement of his license under paragraph 2 of this Order.
  - b. Within six months of the date of this Order, he shall provide optometric services as a community service at Walker's Point Community Clinic, for four shifts of not less than three hours each. Within ten days of completing this community service requirement, he shall cause Walker's Point Community Clinic to send a letter to the Department Monitor, at the address noted in paragraph 4, below, certifying that he has performed no less than four shifts of not less than three hours each.
4. It is further ordered that Respondent shall pay the costs of this proceeding in the amount of \$1,428.42 within 180 days of the date of this Order. Payment shall be made by check payable to the Department of Regulation and Licensing, and shall be mailed or delivered to

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

5. 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. The Board 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 Respondent fails to timely submit payment of the costs as set forth above, the Respondent's license (#1434) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

Wisconsin Optometry Examining Board

By: *Gregory Forten*  
A Member of the Board

15 SEPT 2011  
Date