

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF A PETITION FOR AN :
ADMINISTRATIVE INJUNCTION :
INVOLVING :
: ADMINISTRATIVE INJUNCTION
LEE HAGOPIAN, :
RESPONDENT. : **0003944**

Division of Legal Services and Compliance Case No. 15 UNL 007

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

Lee Hagopian
2424 14th St.
Kenosha, WI 53140

Wisconsin Department of Safety and Professional Services
P.O. Box 8368
Madison, WI 53708-8368

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Lee Hagopian is not and has never been licensed to practice optometry in the state of Wisconsin. Respondent's address is 2424 14th Street, Kenosha, Wisconsin 53140.
2. Respondent is employed as an optician at Eyes on You Optical (the clinic) in Salem, Wisconsin.

3. On January 26, 2015, Patient A presented to the clinic for a contact lens exam and for disposable contact lenses.

4. Respondent performed an auto-refraction on Patient A to come to an approximate refraction measurement of Patient A's optical correction needs.

5. Respondent used a phoropter to determine Patient A's exact eyeglass prescription.

6. A refraction test determines whether a patient has hyperopia (farsightedness), myopia (nearsightedness), astigmatism, and/or presbyopia.

7. Respondent admitted to conducting an auto-refraction on Patient A, but he asserted that he had done so with the permission of Dr. A, a licensed optometrist.

8. Dr. A was not present at the clinic while Patient A was there, and Dr. A denies that he gave Respondent permission to examine or diagnose Patient A, or to use Dr. A's license in any way.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction in this matter pursuant to Wis. Admin. Code ch. SPS 3 and Wis. Stat. § 440.21, and is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44(5).

2. Pursuant to Wis. Stat. § 449.01(1)(a)(1), the practice of optometry is defined as:

The employment of any optometric means, including topical ocular diagnostic pharmaceutical agents under § 449.17, to determine the visual efficiency of the human visual system, including refractive and functional abilities, or to diagnose the presence of ocular disease or ocular manifestations of systemic disease and other departures.

3. Pursuant to Wis. Stat. § 449.02(1), no person shall practice optometry within the meaning of this chapter without a license to do so and a valid certificate of registration issued by the examining board, except that a dispensing optician need not be so licensed for the practice of optical dispensing.

4. By the conduct described in the Findings of Fact, Lee Hagopian engaged in the unlicensed practice of optometry, contrary to Wis. Stat. § 449.02(1).

ORDER

1. The attached stipulation is accepted.

2. Unless and until Respondent is properly licensed to practice optometry by the Wisconsin Optometry Examining Board, Respondent is enjoined and prohibited from the

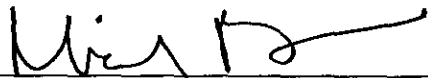
practice of optometry in the state of Wisconsin. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. See Wis. Stat. § 440.21(4)(a).

3. Unless and until Respondent is properly licensed to practice optometry by the Wisconsin Optometry Examining Board, Respondent is enjoined and prohibited from using any title that suggests he is authorized to practice of optometry in the state of Wisconsin, or engaging in any conduct or any communication that in any way implies that he is authorized to practice optometry in the state of Wisconsin. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. See Wis. Stat. § 440.21(4)(a).

4. If the Department determines that there is probable cause to believe that Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Issued at Madison, Wisconsin, this 29th day of April, 2015.

By: 

Michael J. Berndt, Chief Counsel
On behalf of the Department

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF A PETITION FOR AN :
ADMINISTRATIVE INJUNCTION INVOLVING :
 : STIPULATION
LEE HAGOPIAN, :
RESPONDENT. : 00039 4 4

Division of Legal Services and Compliance Case No. 15 UNL 007

Respondent Lee Hagopian and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Administration Injunction by the Wisconsin Department of Safety and Professional Services (Department). The parties to the Stipulation consent to the entry of the attached Administrative Injunction without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

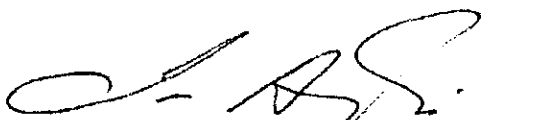
5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the

Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

7. Respondent is informed that should the Department adopt this Stipulation, the Department's Administrative Injunction is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Administrative Injunction.



Lee Hagopian, Respondent
2424 14th St.
Kenosha, WI 53140

4-14-15
Date



James E. Polewski, Attorney
WI State Bar Number 1002963
Department of Safety and Professional Services
Division of Legal Services and Compliance
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jim.polewski@wisconsin.gov

March 31, 2015
Date