

IN THE MATTER OF
TERRISA JO DRAKE, O.D.
APPLICANT

* BEFORE THE MARYLAND
* STATE BOARD OF EXAMINERS
* IN OPTOMETRY
* Case Number: 2020-002

**FINAL ORDER OF DENIAL OF APPLICATION
FOR LICENSURE UNDER THE MARYLAND OPTOMETRY ACT**

On January 16, 2020, the Maryland State Board of Examiners in Optometry (the “Board”) notified **Terrisa Jo Drake, O.D.** (the “Applicant”) of its intent to deny her *Application for Licensure* (the “Application”), dated July 26, 2019. The Notice informed the Applicant that unless she requested a hearing in writing within 30 days of the date of receipt of the Notice, the Board intended to sign this Final Order, which was enclosed. More than 30 days have elapsed, and the Applicant has not requested a hearing. Therefore, the Board hereby denies the Applicant’s Application.

The basis for the Board’s action was pursuant to the Maryland Optometry Act (the “Act”), codified at Md. Code Ann., Health Occupations Article (“Health Occ.”) §§ 11-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.). The Board based its action on the following provisions of the Act:

§ 11-313. Denials, reprimands, probations, suspensions, and revocations – Grounds.

Subject to the hearing provisions of § 11-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant . . . if the applicant . . . :

- (20) 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[.]

Pursuant to Health Occ. § 11-313 (20), the underlying ground for disciplinary action under § 11-313 is:

- (8) Willfully fails to file or record any optometric report as required by law[.]

INVESTIGATIVE FINDINGS

The Board finds the following:

1. On or about October 28, 1999, the Texas Board of Optometry (the “Texas Board”) issued the Applicant an optometry license. On or about November 30, 2018, the Texas Board suspended the Applicant’s optometry license, but stayed the suspension in lieu of probation for 18 months. *See ¶¶ 8-9, infra.*
2. On or about July 26, 2019, the Applicant submitted her Application online through to the Board’s online application system.
3. In her Application, the Applicant answered “YES” to the question, “Has your license to practice in any state ever been revoked or suspended?”
4. The Applicant provided a written explanation for her affirmative response.

She stated:

On November 2, 2018, an Agreed Settlement was entered with the Texas Optometry Board regarding: 1. Failure to submit the total of required patient records for review before the deadline. 2. Late payment of a fine of \$2,000.00[.] A probated license suspension was commenced with a fine of \$500.00, additional CE regarding patient documentation in the amount of 6 hours, and additional records for review, for a period of 18 months.

5. The Board obtained information and documents from the Texas Board and the Applicant. The Board determined that the Applicant entered an Agreed Settlement effective November 30, 2018, which was based on the Applicant's noncompliance with a "Letter of Formal Agreement" with the Texas Board effective August 25, 2016.

6. The 2016 Letter of Formal Agreement between the Applicant and the Texas Board included Findings of Fact and Conclusions of Law, although the Texas Board considered it an informal disposition and not a disciplinary action. The findings included that a patient's records prepared by the Applicant "do not provide sufficient and accurate information of the assessment of the patient's condition such that another optometrist . . . can identify the examination performed and the results obtained," and that the records "do not provide sufficient and accurate information to permit the [Texas Board] to accurately assess [Applicant's] compliance with the examination requirements of the Texas Optometry Act."

7. The Letter of Formal Agreement required the Applicant to submit five patient records each quarter to the Texas Board for one year and pay an administrative penalty of \$2,000 within six months.

8. The 2018 Agreed Settlement between the Applicant and Texas Board included Findings of Fact and Conclusions of Law and was a formal disciplinary action reported to the National Practitioner Data Bank. The Texas Board's findings included that, pursuant to the earlier 2016 Letter of Formal Agreement, the Applicant submitted four patient records to the Texas Board in the first quarter, five patient records to the Texas Board in the second quarter, but "no other patient records were submitted by the [Applicant]." The Texas Board determined that the Applicant "did not submit the

required number of patient records.” The Texas Board also found that the Applicant paid the \$2,000 administrative penalty approximately nine months late.

9. The 2018 Agreed Settlement suspended the Applicant’s Texas optometry license for 18 months and probated¹ the suspension provided that the Applicant pay a \$500 fine, submit five patient records to the Board each quarter for the probationary period, and complete six hours of continuing education concerning the “making of medical records” during the probationary period.

GROUND FOR DENIAL OF LICENSURE

10. The Board may deny an applicant’s application for licensure if the applicant violates any provision contained in Health Occ. § 11-313. The Board concludes that the Applicant’s Application is subject to denial because her actions with respect to the 2016 Formal Agreement and the 2018 Agreed Settlement, as described above, constitute violations of the Act under Health Occ. § 11-313.

11. The Applicant’s actions, as described above, constitute, in whole or in part, a violation of the following provision of the Act under Health Occ. § 11-313 (20), by having a license to practice optometry denied, suspended, or revoked in another state for an act that would be grounds for disciplinary action under this section.

12. The Applicant’s actions, as described above, for which the Texas Board suspended the Applicant’s Texas optometry license are grounds for disciplinary action in Maryland. Pursuant to Health Occ. § 11-313 (20), the underlying ground for disciplinary action under Health Occ. § 11-313 is: Health Occ. § 11-313 (8), for willfully failing to

¹ In cases of a probated suspension, the Texas Board’s regulations describe the suspension as the “original action” that has been probated subject to certain conditions. The “original action” may be enforced if an individual does not comply with the conditions of probation. *See* 22 Tex. Admin. Code § 277.3.

file or record any optometric report as required by law.

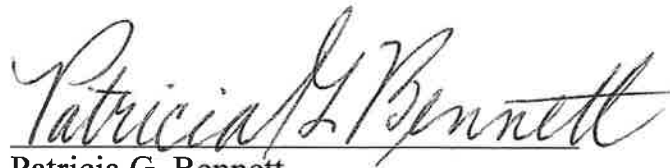
ORDER

It is, on the affirmative vote of a majority of the quorum of the Board, hereby:

ORDERED that the Application for Licensure of **Terrisa Jo Drake, O.D.**, dated July 26, 2019, is **DENIED**; and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 and 2019 Supp.).

9/29/20
Date


Patricia G. Bennett
Executive Director
Maryland State Board of Examiners in Optometry

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Health Occ. § 11-308, the Applicant has the right to seek judicial review of this Final Order. Any petition for judicial review must be filed within thirty (30) days from the date of mailing of this Final Order. The cover letter accompanying this Final Order indicates the date it was mailed. Any petition for judicial review must be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Applicant files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

Patricia G. Bennett
Executive Director
Maryland State Board of Examiners in Optometry
4201 Patterson Avenue
Baltimore, Maryland 21215
Fax: (410) 358-2906

Notice of any petition should also be sent to the Board's counsel at the following address:

Deborah A. Donohue
Assistant Attorney General
Maryland Department of Health
300 West Preston St., Suite 302
Baltimore, Maryland 20201
Fax: (410) 333-7894