



OHIO OPTICAL DISPENSERS BOARD

77 SOUTH HIGH ST. 16TH FLOOR
COLUMBUS, OHIO 43215-6108
(614) 466-9709 FAX (614) 995-5392
WWW.OPTICAL.OHIO.GOV
Email: odb@odb.ohio.gov

MINUTES OF MEETING **DECEMBER 4, 2008**

REGULAR MEETING OF THE OHIO OPTICAL DISPENSERS BOARD **DECEMBER 4, 2008**

The regularly scheduled meeting of the Ohio Optical Dispensers Board (Board) began on Thursday, December 4, 2008, at 9:15 A.M. at 77 South High Street, West B & C, 31st Floor, Columbus. President Brian Miller called the meeting to order in open session.

BOARD MEMBERS IN ATTENDANCE:

Present: Brian J Miller, President; Michael W. Hall, Vice President; Susan C. Benes, M.D; A. Joseph Bitonte ; James DeDario; James Fortune, Sr.; Timothy Fries, O.D; Oscar J. Watson.
Absent: Susan Bender, Treasurer

STAFF MEMBERS IN ATTENDANCE:

Present: Nancy L. Manns, Executive Director; William Lehman, Investigator; Melissa Wilburn, Assistant Attorney General; Wilma Simmons, Executive Secretary

ADMINISTRATIVE MATTERS

Ordering of the Agenda

The President and Executive Director reviewed the consent and regular agenda prior to the meeting.

IT WAS MOVED BY MICHAEL HALL AND SECONDED BY JOE BITONTE THAT THE CONSENT AGENDA FOR THE DECEMBER 4, 2008 MEETING BE APPROVED AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS.

IT WAS MOVED BY MICHAEL HALL AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE REGULAR AGENDA FOR THE DECEMBER 4, 2008 MEETING BE APPROVED AS AMENDED. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS.

President's Report

President Miller welcomed the guests attending the meeting. Name tags had been provided to guests in order to facilitate communication between Board members and guests. President Miller encouraged Board members to introduce themselves to guests.

President Miller thanked the Board members for their timely response to the annual Executive Director's performance evaluation and informed everyone that their thoughts and suggestions had been compiled and would be discussed during Executive Session.

President Miller informed the Board that Director Manns should be applauded for her nicely written article for the Athletic Trainers Board. President Miller reminded the Board that a copy of this article was mailed in the Board packet and stated that hopefully this will help to ensure the protection of the public from improperly fitted sports and/or performance contacts.

President Miller informed the Board that this would be a busy meeting; however, if everyone continued with the discipline shown in previous one day meetings this meeting would be a very efficient and effective meeting.

President Miller informed the Board that Treasurer Susan Bender could not attend this meeting due being on a disability leave and that Vice President Hall would be giving the treasurer's report.

President Miller informed the Board that an invitation had been extended to the Board by the National Committee of State Boards & Commissions for the national meeting in New Orleans. Since the Board is no longer a member of this committee it was the consensus of the Board that no one would be attending on behalf of the Board.

Approval of Minutes

IT WAS MOVED BY JOE BITONTE AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE MINUTES OF THE OCTOBER 16, 2008 BOARD MEETING BE APPROVED AS AMENDED. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS.

Executive Director's Report

Director Manns informed the Board that license renewals are progressing as usual with only about 17% having been renewed. This means that once again we are bracing ourselves for an onslaught at the end of December. There was a small glitch during the mailing process wherein about 250 individuals received duplicate renewal forms. We have been keeping track of the people who have called the office and the programmers are trying to figure out what made this happen. We have also placed a notice on the Board's web page, OAO's web page and this information was also sent to representatives of Wal-Mart, Luxottica and COSTCO.

Director Manns reminded the Board to turn in their time sheets to her on a weekly basis for time spent reviewing continuing education programs or any other approved Board functions between meetings in order that they receive reimbursement for the activity in a timely manner. Director Manns emphasized to the Board that it is very difficult to put time in for pay retroactively with OAKS now in place. Director Manns informed the Board that a good way to remember to do this would be to get in the habit of sending a time report every Friday if you have done work for the Board. Director Manns also informed the Board that travel expenses turned in after 90 days will not get paid.

Director Manns informed the Board that budget information for FY '10 and FY'11 has been submitted to the Office of Budget and Management (OBM) as well as the draft language for the proposed fee increases. As of yet there has been no feedback on either the budget submission or the draft fee changes to the law.

Director Manns informed the Board that her personal goals for 2008 and markers indicating progress toward meeting the goals were included in their Board packet. Ms. Manns indicated that the Board would receive at each Board meeting such updates that should be used by the Board members for evaluation of the Executive Director. Ms. Manns informed the Board that personal goals for 2009 will be presented to the Board at the February 12, 2009 Board Meeting.

Director Manns informed the Board that she had attended a mandatory Minority Business Enterprise (MBE)/Encouraging Diversity, Growth and Equity (EDGE) training program on October 28, 2008 for certification as the Board's MBE/EDGE Procurement officer. The MBE and EDGE programs are designed by the Ohio Department of Administrative Services' Equal Opportunity Division (EOD) to facilitate the growth of small businesses in Ohio. Each year, as the Chief EOD officer of the Board, Ms. Manns will be required to submit an annual expenditure projection plan to forecast which expenditures made by the Board will be selected for contracting opportunities for businesses that are certified as EDGE and/or MBE businesses.

Director Manns informed the Board that she had served as Booth Coordinator for the state's first annual Reverse Trade Fair held at the Franklin County fairgrounds on November 5, 2008. The term "reverse" was used since agencies had booths, free of charge, to display and discuss upcoming procurement opportunities with minority, women-owned and socially and economically disadvantaged businesses. Over 600 MBE/EDGE vendors attended to speak with representatives of the Boards and Commissions about the goods and services that they could provide. In turn the Boards were able to provide samples of the goods and services that they would require from state vendors.

Director Manns informed the Board that she had been able to obtain a regional contact at COSTCO and that she had received a list of District Managers to invite to the Board meetings. Director Manns expressed that she was glad to see that a representative from COSTCO had attended today's meeting.

Special Orders:

Approval of Board Member Qualifications Policy:

After discussion,

IT WAS MOVED BY MICHAEL HALL AND SECONDED BY OSCAR WATSON THAT THE BOARD APPROVE THE POLICY "BOARD MEMBER QUALIFICATION, DUTIES AND RESPONSIBILITIES AND TERMS AS WRITTEN". MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Approval of Processing Complaints Policy:

After discussion,

IT WAS MOVED BY MICHAEL HALL AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE BOARD RE-AFFIRM THE POLICY, "PROCESSING COMPLAINTS BASED ON WORKING ON A LAPSED LICENSE OR PERMITTING AN UNLICENSED INDIVIDUAL TO ENGAGE IN THE UNAUTHORIZED PRACTICE OF OPTICIANRY AND/OR OCULARISTRY AS WRITTEN". MOTION ADOPTED BY MAJORITY VOTE OF THE BOARD MEMBERS PRESENT. SUSAN C. BENES, M.D. ABSTAINED.

Revision of Processing Complaints Against a Board Member Policy:

After discussion,

IT WAS MOVED BY SUSAN C. BENES, M.D. AND SECONDED BY MICHAEL HALL THAT THE BOARD APPROVE THE POLICY "PROCESS TO INVESTIGATE A COMPLAINT AGAINST OR INVOLVING A SITTING BOARD MEMBER" AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Approval Of Establishment, Purpose and Conduct of Board; Board Member Appointments:

After discussion,

IT WAS MOVED BY OSCAR WATSON AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE BOARD NOT APPROVE THE POLICY "ESTABLISHMENT, PURPOSE AND CONDUCT OF THE BOARD; BOARD MEMBER APPOINTMENTS" AS WRITTEN. MOTION ADOPTED BY MAJORITY VOTE OF THE BOARD MEMBERS PRESENT.

Approval Of Board Member Overnight Accommodations Policy:

After discussion,

IT WAS MOVED BY SUSAN C. BENES, M.D. AND SECONDED BY MICHAEL HALL THAT THE BOARD APPROVE THE POLICY "BOARD MEMBER OVERNIGHT ACCOMMODATIONS" AS WRITTEN. MOTION ADOPTED BY MAJORITY VOTE OF THE BOARD MEMBERS PRESENT.

After discussion,

It was the consensus of the Board that Director Manns made a new policy for inter-city Board members for the expenses incurred by attending Board meetings.

Approval of Board Meeting Format Policy:

After discussion,

IT WAS MOVED BY JOE BITONTE AND SECONDED BY SUSAN C. BENES, M.D. THAT THE BOARD APPROVE THE POLICY "BOARD MEETING FORMAT" AS WRITTEN. MOTION ADOPTED BY MAJORITY VOTE OF THE BOARD MEMBERS PRESENT.

Approval of Financial Report

After discussion,

IT WAS MOVED BY SUSAN C. BENES, M.D. AND SECONDED BY OSCAR WATSON THAT THE FINANCIAL REPORT FOR CURRENT FY 2009 BE ACCEPTED AS SUBMITTED. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Continuing Education

After review by Board members of submitted applications for approval of continuing education hours and discussion,

IT WAS MOVED BY JOE BITONTE AND SECONDED BY OSCAR WATSON THAT THE BOARD APPROVE THE CONTINUING EDUCATION PROGRAMS WITH THE APPROVED HOURS AS LISTED BELOW. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

SECO – Atlanta, GA – March 4-8, 2009:

40 Spectacle Hours
23 Contact Lens Hours
16 Management Hours

Recommendations: The following course(s) may be approved pending re-submission of application for Management hours:

“New Employee Orientation” – 1 Management
“How Time Flies: Time Management” – 1 Management
“Eight No Frills Ways to Boost Referrals” – 1 Management
“Front Office Procedures” – 1 Management
“Create Profits in the Dispensary” – 1 Management
“Top Thirty Systemic Medications” – 1 Management
“Making the Most of Your Practice” – 1 Management
“Professionally Encourage a Decision to Purchase” – 1 Management

ODB Executive Director Law & Rules – Multiple Locations – Calendar Year 2009:

2 Spectacle, Contact, Ocularist, Management Hours

ODB Executive Director Law & Rules-On-Line Internet Course – Calendar Year 2009:

2 Spectacle, Contact, Ocularist, Management Hours

Quantum Optical – Internet Course – Calendar Year 2009:

46 Spectacle Hours
17 Contact Lens Hours
4 Spectacle/Contact Lens Hours
2 Spectacle/Contact Lens/Ocularist Hours
18 Management Hours

Optical Training – Internet Course – Calendar Year 2009:

52 Spectacle Hours
30 Contact Lens Hours

After review by Board members of the submitted application for approval of continuing education hours and discussion,
IT WAS MOVED BY MICHAEL HALL AND SECONDED BY SUSAN C. BENES, M.D. THAT THE BOARD APPROVE THE CONTINUING EDUCATION PROGRAM WITH THE APPROVED HOURS AS LISTED BELOW CONTINGENT UPON RECEIPT OF A LETTER EXPLAINING THE REASON FOR THE LATENESS OF THE SUBMISSION. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Cuyahoga Community College – Internet Course – Calendar Year 2009:

4 Spectacle Hours

Request for Waiver of Continuing Education:

After discussion,
IT WAS MOVED BY TIMOTHY FRIES, O.D. AND SECONDED BY OSCAR WATSON THAT THE BOARD APPROVE THE REQUEST FOR THE WAIVER OF CONTINUING EDUCATION FOR THE 2009 LICENSURE RENEWAL FOR R.S. FOR REASONS OF MEDICAL HARDSHIP. MOTION ADOPTED BY MAJORITY VOTE OF THE BOARD MEMBERS PRESENT.

A.A.G. Report:

AAG Melissa Wilburn informed the Board that the Flagel Realty Company, Inc., Dayton, Ohio, continues to pursue through the Montgomery County Courts the requirement that the Board take receivership of the Northmont Opticians records and files. AAG Wilburn informed the Board that the presiding judge made a decision that the Ohio Attorney General's Office will be the receiver of the contents of the business unless the doctors made a request for the records. AAG Wilburn informed the Board that she has filed an appeal on behalf of the Ohio Attorney General's office and on behalf of the Board. AAG Wilburn informed the Board that the appeal will take the case out of present judge's jurisdiction and it is hoped that the new judge will be more receptive to meeting and coming to an mutual agreement especially since there are two opticians who are willing to take receivership of the records.

Strategic Planning:

Systematic Plan for Review of Law Changes

In accordance with the Board's goal for calendar year 2008 to conduct a review of Chapter 4725.40-4725.99 Ohio Revised Code (ORC), Director Manns informed the Board that 3.1.1 of the Board's packet is a summary of concepts to re-write and firm up the disciplinary process.

Approval of Licenses

After review of licensure applications by Board members,
IT WAS MOVED BY MICHAEL HALL AND SECONDED BY JOE BITONTE THAT
THE BOARD APPROVE FOR LICENSURE THE APPLICANTS LISTED ON
ADDENDUM 1.0. MOTION ADOPTED BY MAJORITY VOTE OF THE BOARD
MEMBERS PRESENT. SUSAN C. BENES, M.D. WAS ABSENT DURING THIS VOTE.

Discipline:

Investigator Lehman passed out copies of a signed Consent Agreement, Case Number
0804023, for ratification by the Board.

After review of the Consent Agreement by Board members,
IT WAS MOVED BY MICHAEL HALL AND SECONDED BY OSCAR WATSON THAT
THE BOARD RATIFY THE CONSENT AGREEMENT FOR CASE NUMBER 0804023.
SUSAN C. BENES, M.D. ABSTAINED. MOTION ADOPTED BY MAJORITY VOTE OF
THE BOARD MEMBERS PRESENT.

Investigator Lehman passed out copies of a signed Consent Agreement, Case Number
0909006, for ratification by the Board.

After review of the Consent Agreement by Board members,
IT WAS MOVED BY MICHAEL HALL AND SECONDED BY SUSAN C. BENES, M.D.
THAT THE BOARD RATIFY THE CONSENT AGREEMENT FOR CASE NUMBER
0909006. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS
PRESENT.

New Business:

Practice Question for Web Page: Filling Expired Scripts:

After discussion,
IT WAS MOVED BY SUSAN C. BENES, M.D. AND SECONDED BY MICHAEL HALL
THAT THE BOARD APPROVE THE FAQ, "FILLING EXPIRED PRESCRIPTIONS",
FOR INCLUSION ON THE BOARD'S WEB PAGE UNDER THE "FAQ SECTION" AS
WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS
PRESENT.

Executive Session

IT WAS MOVED BY MICHAEL HALL AND SECONDED BY JOE BITONTE THAT THE BOARD GO INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS AND/OR APPOINTMENT OF PUBLIC OFFICIALS.

A ROLL CALL VOTE WAS TAKEN.

YEA VOTES: BRIAN MILLER, SUSAN BENES, M.D., JIM DEDARIO, JOE BITONTE, MICHAEL HALL, OSCAR WATSON, TIMOTHY FRIES, O.D., JAMES FORTUNE.
MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS.

At 12:15 P.M. on Thursday, December 4, 2008, the Board had gone into executive session to discuss personnel matters and/or appointment of public officials. All staff members and visitors left the room.

President Miller brought the meeting out of Executive Session and adjourned the meeting at 1:05 P.M., December 4, 2008.

ATTESTED:

PRESIDENT, BRIAN J MILLER

EXECUTIVE DIRECTOR, NANCY MANNS

Future Board Meeting Dates:

February 12, 2009 – 9:00 AM – 4:00 PM

April 16, 2009 – 9:00 AM – 4:00 PM

June 18, 2009 – 9:00 AM – 4:00 PM

August 20, 2009 – 9:00 AM – 4:00 PM

October 15, 2009 – 9:00 AM – 4:00 PM

December 3, 2009 – 9:00 AM – 4:00 PM

ODB - Pending Applicants - Spectacle

Report Parameters

Board = ODB
 Credential prefix = S

Report generated on 12/3/2008 at 3:50:13 PM

name	address1	address2	city	statecode	zipcode
Joyce M. Bell	1004 Lofton Drive		Clayton	OH	45315
Peggy A. Fletcher	375 West Galbraith Road Apt 26		Cincinnati	OH	45215
Carrie Fults	2241 West Laskey Road		Toledo	OH	43613
	Poolhouse				
Rita E. Garcia	8433 Holiday Hills Drive		Cincinnati	OH	45255
Derrick D. Henderson	750 South College Drive Apt 57		Bowling Green	OH	43402
Kristen Alyssa Hoeffler	6009 Bridgehaven Drive		Milford	OH	45150
Christina J. Ireton	2825 Lajunta Avenue		Springfield	OH	45503
Edward A. Kawa, Sr.	1490 South Circleview Drive		Seven Hills	OH	44131
Casey M. Mahood	15000 Sprague Road Apt J44		Middleburg Heights	OH	44130
Barbara Anne Miller	1724 Wilbur Avenue		Fairborn	OH	45324
Crystal G. Parsley	301 West Arlington Drive		Trenton	OH	45067
Lindsey Marie Rees	558 Parkside Drive		Bay Village	OH	44140
Andrea R. Rossio	2432 Milton Road		University Heights	OH	44118
Nathan A. Ruff	4835 Ireland Road NE		Lancaster	OH	43130
Nathan Wheeler	3320 Grand Falls Boulevard		Maineville	OH	45039

ODB - Pending Applicants - Spectacle/Contact Lens

Report Parameters

Board = ODB
 Credential prefix = SC

Report generated on 12/3/2008 at 3:57:53 PM

name	address1	address2	city	statecode	zipcode
Melissa J. Foos	1922 South Byrne Road Apt 13		Toledo	OH	43614
Julie A. Frye	PO Box 90		Mt. Orab	OH	45154-0090
Melinda A. Henry	213 Centennial Avenue		Canal Fulton	OH	44614
Sara E. Roll	2840 Sycamore Creek Drive		Independence	KY	41051
Jennifer A. Tellish	7312 Melynne Trace		Canal Winchester	OH	43110
Sheila M. Woods	11012 Corundite Road NW		Massillon	OH	44647

**CONSENT AGREEMENT
BETWEEN
FREDERICK QUICK
AND
THE OHIO OPTICAL DISPENSERS BOARD**

This CONSENT AGREEMENT is entered into by and between **FREDERICK QUICK**, Opticians, License No. 3890-SC and the **OHIO OPTICAL DISPENSERS BOARD**("Board"), a state agency charged with enforcing Chapter 4725 of the Ohio Revised Code, and all rules promulgated thereunder.

FREDERICK QUICK enters into this CONSENT AGREEMENT being fully informed of his rights under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues considered herein.

BASIS FOR ACTION

This CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

1. The **BOARD** is empowered by Section 4725.53 of the Ohio Revised Code to refuse to grant a license, suspend or revoke a license or impose a fine or order restitution for any of the enumerated violations.
2. The **BOARD** enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violation of Section 4725.53(A)(9) of the Ohio Revised Code and Ohio Administrative Code 4726-3-06(B). **FREDERICK QUICK** engaged in optical dispensing of contact lens not pursuant to the prescription of a licensed physician or licensed optometrist, a violation of Ohio Revised Code Section 4725.53(A)(9) on or about April 8, 2008.
3. The **BOARD** expressly reserves the right to institute additional formal proceedings based upon any other violations of Chapter 4725 of the Ohio Revised Code or any rules promulgated thereunder, whether occurring before or after the effective date of this **CONSENT AGREEMENT**.
4. **FREDERICK QUICK** is a Licensed Dispensing Optician in the State of Ohio, and holds license number 3890-SC.
5. **FREDERICK QUICK** admits the factual and legal allegations set forth in this Consent Agreement issued by the **BOARD**.

AGREED CONDITIONS

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth and in lieu of any further formal proceedings at this time, **FREDERICK QUICK**, knowingly and voluntarily agrees with the **BOARD** to the following terms, conditions, and limitations:

A. **FREDERICK QUICK** shall pay a fine of Four hundred dollars (\$400.00) pursuant to Section 4725.53(A)(B) of the Ohio Revised Code. The four hundred dollar (\$400.00) fine in the form of a certified check or money order made payable to the Treasurer State of Ohio, must be received by the Board at the Ohio Optical Dispensers Board, 77 South High Street, 16th Floor, Columbus, Ohio 43215-6108 not later than 30 days from the ratification by the Board of this consent agreement.

B. **FREDERICK QUICK** shall be on probation for 1 year from the date this consent agreement is ratified by the Board.

EMPLOYMENT CONDITIONS

Prior to accepting employment as a Dispensing Optician, each time with every employer, **Mr. Quick** shall notify the Board.

Mr. Quick shall have his employer(s), if working in a position where a Licensed Dispensing Optician is required, submit written reports regarding job performance on a quarterly basis. **Mr. Quick** shall provide his employer(s) with a copy of this order and shall have his employer(s) send documentation to the Board, along with the first employer report, of receipt of a copy of this order. Further, **Mr. Quick** is under continuing duty to provide a copy of this order to any new employer prior to accepting employment.

Frederick Quick
Consent Agreement
Page 3

Mr. Quick shall submit any and all information that the Board requests regarding his ability to practice according to acceptable and prevailing standards of safe optical dispensing.

Mr. Quick shall not submit or cause to be submitted any false, misleading, or deceptive statements, information, or documentation to the Board or to employers or potential employers.

Mr. Quick shall submit the reports and documentation required by this order on forms specified by the Board. All reporting and communications required by this order shall be made to the Investigator of the Board.

Mr. Quick shall submit the reports and documentation required by this order or any other documents required by the Board to the attention of the Investigator, Ohio Optical Dispensers Board, 16th Floor, 77 South High Street, Columbus, Ohio 43215-6108.

Mr. Quick shall verify that the reports and documentation required by this order are received in the Board office.

Mr. Quick shall inform the Board within five(5) business days, in writing of any change in employment status or of any change in residential or home address or telephone number.

This disciplinary action shall be entered in the **BOARD'S** journal and will be maintained in his licensure file.

C. **FREDERICK QUICK** shall obey all laws and rules of the Ohio Revised Code and Ohio Administrative Code governing Licensed Opticians in Ohio.

FAILURE TO COMPLY

By his signature on this agreement, **FREDERICK QUICK** agrees that in the event the **BOARD**, in its discretion, does not approve this **CONSENT AGREEMENT**, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. **FREDERICK QUICK** agrees that should the **BOARD** reject this **CONSENT AGREEMENT** and if this case proceeds to hearing, he will assert no claim that the **BOARD** was prejudiced by its review and discussion of this **CONSENT AGREEMENT** or of any information relating thereto.

ACKNOWLEDGEMENTS/LIABILITY RELEASE

FREDERICK QUICK waives any and all claims or causes of action he may have against the **BOARD**, and members, officers, employees and/or agents of the **BOARD**, arising out of the matters which are the subject of this **CONSENT AGREEMENT**.

This **CONSENT AGREEMENT** shall be considered a public record as that term is used in Section 149.43 of the Ohio Revised Code.

This **CONSENT AGREEMENT** is not an adjudication order within the meaning of Section 119.01 (D) of the Ohio Revised Code.

Upon consent of **FREDERICK QUICK** and the **BOARD**, the terms and conditions of this **CONSENT AGREEMENT** may be modified or terminated in writing.

EFFECTIVE DATE

It is expressly understood that this **CONSENT AGREEMENT** is subject to ratification by the **BOARD** prior to signature by the President and Supervising Member and shall become effective upon the last date of signature below.

**THE OHIO OPTICAL DISPENSERS
BOARD**

FREDERICK QUICK

BRIAN J MILLER
President
Supervising Disciplinary Member

DATE

DATE

MELISSA L. WILBURN, Esq
Assistant Attorney General
Attorney for Ohio Optical Dispensers Board

DATE

**CONSENT AGREEMENT
BETWEEN
MARILYN JO DARLING
AND
THE OHIO OPTICAL DISPENSERS BOARD**

This CONSENT AGREEMENT is entered into by and between **MARILYN JO DARLING**, Opticians, License No. 5873-S and the **OHIO OPTICAL DISPENSERS BOARD**("Board"), a state agency charged with enforcing Chapter 4725 of the Ohio Revised Code, and all rules promulgated thereunder.

MARILYN JO DARLING enters into this CONSENT AGREEMENT being fully informed of her rights under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues considered herein.

BASIS FOR ACTION

This CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

1. The **BOARD** is empowered by Section 4725.53 of the Ohio Revised Code to refuse to grant a license, suspend or revoke a license or impose a fine or order restitution for any of the enumerated violations.
2. The **BOARD** enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violation of Section 4725.52 of the Ohio Revised Code and Ohio Administrative Code 4726-5-02(A)(C). **MARILYN JO DARLING** failed to register an apprentice she supervised, and allowed the individual to hold themselves out as an apprentice optician; and, allowed the individual to engage in the practice of dispensing optical aids at Sears Optical, 1558 Coshocton Ave., Mount Vernon, OH 43050 for the period of on or about July 1, 2008 through on or about September 11, 2008.
3. The **BOARD** expressly reserves the right to institute additional formal proceedings based upon any other violations of Chapter 4725 of the Ohio Revised Code or any rules promulgated thereunder, whether occurring before or after the effective date of this **CONSENT AGREEMENT**.
4. **MARILYN JO DARLING** is a Licensed Dispensing Optician in the State of Ohio, and holds license number 5873-S.
5. **MARILYN JO DARLING** admits the factual and legal allegations set forth in this Consent Agreement issued by the **BOARD**.

AGREED CONDITIONS

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth and in lieu of any further formal proceedings at this time, **MARILYN JO DARLING** knowingly and voluntarily agrees with the **BOARD** to the following terms, conditions, and limitations:

A. **MARILYN JO DARLING** shall pay a fine of Two hundred fifty dollars (\$250.00) pursuant to Section 4725.53(A)(B) of the Ohio Revised Code. The two hundred fifty dollar (\$250.00) fine in the form of a certified check or money order made payable to the Treasurer State of Ohio, must be received by the Board at the Ohio Optical Dispensers Board, 77 South High Street, 16th Floor, Columbus, Ohio 43215-6108 not later than 30 days from the ratification by the Board of this consent agreement.

B. **MARILYN JO DARLING** agrees and acknowledges that this disciplinary action shall be entered in the **BOARD'S** journal and will be maintained in her licensure file.

C. **MARILYN JO DARLING** shall obey all laws and rules of the Ohio Revised Code and Ohio Administrative Code governing Licensed Opticians in Ohio.

D. The **BOARD** agrees not to institute formal proceedings against **MARILYN JO DARLING** as long as she is in compliance with the terms and conditions of this **CONSENT AGREEMENT**.

FAILURE TO COMPLY

By her signature on this agreement, **MARILYN JO DARLING** agrees that in the event the **BOARD**, in its discretion, does not approve this CONSENT AGREEMENT, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. **MARILYN JO DARLING** agrees that should the **BOARD** reject this CONSENT AGREEMENT and if this case proceeds to hearing, she will assert no claim that the **BOARD** was prejudiced by its review and discussion of this CONSENT AGREEMENT or of any information relating thereto.

ACKNOWLEDGEMENTS/LIABILITY RELEASE

MARILYN JO DARLING waives any and all claims or causes of action she may have against the **BOARD**, and members, officers, employees and/or agents of the **BOARD**, arising out of the matters which are the subject of this CONSENT AGREEMENT.

This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43 of the Ohio Revised Code.

This CONSENT AGREEMENT is not an adjudication order within the meaning of Section 119.01 (D) of the Ohio Revised Code.

Upon consent of **MARILYN JO DARLING** and the **BOARD**, the terms and conditions of this CONSENT AGREEMENT may be modified or terminated in writing.

EFFECTIVE DATE

It is expressly understood that this CONSENT AGREEMENT is subject to ratification by the **BOARD** prior to signature by the President / Supervising Disciplinary Member and shall become effective upon the last date of signature below.

**THE OHIO OPTICAL DISPENSERS
BOARD**

MARILYN JO DARLING

BRIAN J MILLER
President
Supervising Disciplinary Member

DATE

DATE

MELISSA L. WILBURN, Esq
Assistant Attorney General
Attorney for Ohio Optical Dispensers Board

DATE