



## **OHIO OPTICAL DISPENSERS BOARD**

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### **MINUTES OF MEETING** **DECEMBER 2, 2010**

#### **REGULAR MEETING OF THE OHIO OPTICAL DISPENSERS BOARD** **DECEMBER 2, 2010**

The regularly scheduled meeting of the Ohio Optical Dispensers Board (Board) began on Thursday, December 2, 2010 at 9:02 A.M. at 77 South High Street, East B, 31<sup>st</sup> Floor, Columbus. President Susan Bender called the meeting to order in open session.

#### **BOARD MEMBERS IN ATTENDANCE:**

Present: Susan Bender, President; Brian J Miller, Vice President; James Fortune, Sr., Treasurer; Thomas Barracato; Susan C. Benes, M.D.; Timothy Fries, O.D.; Paul R. King; Oscar J. Watson.

Absent: Michael Wm  
. Hall

#### **STAFF MEMBERS IN ATTENDANCE:**

Present: Nancy L. Manns, Executive Director; William Lehman, Investigator; Leah O'Carroll, Assistant Attorney General; Wilma Simmons, Executive Secretary.

#### **ADMINISTRATIVE MATTERS**

##### **Ordering of the Agenda**

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

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY JAMES FORTUNE, SR. THAT THE CONSENT AGENDA FOR THE DECEMBER 2, 2010 MEETING BE APPROVED AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS.

The President and Executive Director also reviewed the regular agenda prior to the meeting. IT WAS MOVED BY THOMAS BARRACATO AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE REGULAR AGENDA FOR THE DECEMBER 2, 2010 MEETING BE APPROVED AS AMENDED. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS.

##### **President's Report**

President Bender welcomed the guests and asked that they introduce themselves to the Board and other guests.

**Approval of Minutes**

IT WAS MOVED BY THOMAS BARRACATO AND SECONDED BY PAUL R. KING THAT THE MINUTES OF THE OCTOBER 21, 2010 BOARD MEETING BE APPROVED AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Executive Director's Report**

Director Manns informed the Board that a public member to fill the position held by Mr. Watson has not been named by the Governor's office and probably won't be filled until the new administration is in place.

Director Manns stated that the Board would be discussing the proposed changes to the rules for the mandatory five-year Rule review during this meeting.

The budget for FY' 12 and FY' 13 was submitted and accepted for review, including the language for the changes to the law that were approved by the Board at the October Board meeting. There is much speculation about what will happen with the budget now that there is a new administration. The Board will probably know more at the February board meeting. The Board will be assessed with a new charge for internet services from the Department of Administrative Services/Office of Information Technology. This unexpected new fee could cost the Board up to \$9,000/year. The Board was made aware of the charges after the budget process was completed and the budget was submitted. This is a significant blow to the Board's budget, especially if the Board's appropriations are cut.

Director Manns informed the Board that her personal goals for 2010 and steps toward achieving those goals were documented and part of the Board's mailing packet.

Director Manns informed the Board that the process for on-line renewals of the 2011 optician and ocularist licenses had been initiated. As of 11/23/10, 684 licensees have renewed using the on-line method compared to only 23 licensees who have renewed by the traditional paper method. There have been a total of 130 requests for the traditional paper renewal.

The Annual Report for fiscal year 2010 has been posted on the Board's web page and electronically sent to the State Library and the Governor's office. A hard copy was also sent to the Governor's office.

Ms. Manns informed the Board that she had participated in the webinar provided by the State Auditor's office on October 26, 2010 concerning The Fiduciary Duties of Board and Commission Members presented by Brian C. Cook Deputy Chief Legal Counsel. Ms. Manns offered copies of the handouts to Board members who wished to review them. Ms Manns said that she found the information informative, basic and of value.

**Special Orders:**

**Review and Approval of Proposed Rule: Chapter 4726-3 Definitions**

After discussion,

IT WAS MOVED BY BRIAN J. MILLER AND SECONDED BY SUSAN C. BENES, M.D. THAT THE BOARD APPROVE THE FOLLOWING PROPOSED RULE 4726-3 DEFINITIONS AS WRITTEN FOR FILING AND TO SET THE RULES HEARING FOR THURSDAY, FEBRUARY 17, 2011. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**4726-3-06- Definitions:**

After discussion,

IT WAS MOVED BY SUSAN C. BENES, M.D. AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE BOARD RESCIND THE FOLLOWING RULE: 4726-3-06 DEFINITIONS. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Review and Approval of Proposed Rules: Chapter 4726-7**

After discussion,

IT WAS MOVED BY THOMAS BARRACATO AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE BOARD APPROVE THE FOLLOWING PROPOSED RULES AS AMENDED FOR FILING AND TO SET THE RULES HEARING FOR THE FOLLOWING RULES FOR THURSDAY, FEBRUARY 17, 2011: 4726-7-01-DEFINITIONS, 4726-7-02-LICENSURE RENEWAL REQUIREMENTS, 4726-7-03-EXTENSION, WAIVER OF CONTINUING EDUCATION AND 4726-7-04-APPRENTICE REGISTRATION RENEWAL. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**4726-11-01, 4726-11-03, 4726-11-04:**

After discussion,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY THOMAS BARRACATO THAT THE BOARD RESCIND THE FOLLOWING RULES: 4726-11-01 CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL; 4726-11-03 WAIVER OF CONTINUING EDUCATION; 4726-11-04 CONTINUING EDUCATION REQUIREMENTS EXCUSED. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Review and Approval of Proposed Rules: Chapter 4726-9**

After discussion,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY SUSAN C. BENES, M.D. THAT THE BOARD APPROVE THE FOLLOWING PROPOSED RULES AS AMENDED AND TO SET THE RULES HEARING FOR THURSDAY, FEBRUARY 17, 2011 FOR

THE FOLLOWING PROPOSED RULES: 4726-9-01-DEFINITIONS, 4726-9-02-APPLICATION FOR APPROVAL OF CONTINUING EDUCATION, 4726-9-03-EDUCATION ACTIVITIES THAT MEET AND EDUCATIONAL ACTIVITIES THAT DO NOT MEET THE CONTINUING EDUCATION REQUIREMENTS. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**4726-11-02-Board Approval of Continuing Education Programs:**

After discussion,

IT WAS MOVED BY THOMAS BARRACATO AND SECONDED BY SUSAN C. BENES, M.D. THAT THE BOARD RESCIND THE FOLLOWING RULE: 4726-11-02 BOARD APPROVAL OF CONTINUING EDUCATION PROGRAMS. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Review and Approval of Proposed Rules: Chapter 4726-13**

After discussion,

IT WAS MOVED BY THOMAS BARRACATO AND SECONDED BY PAUL R. KING THAT THE BOARD APPROVE THE FOLLOWING PROPOSED RULES AS AMENDED AND TO SET THE RULES HEARING FOR THURSDAY, FEBRUARY 17, 2011 FOR THE FOLLOWING PROPOSED RULES: 4726-13-01-GENERAL INFORMATION, 4726-13-02-STANDARDS RELATING TO COMPETENT PRACTICE AS A LICENSED DISPENSING OPTICIAN, 4726-13-03-STANDARDS RELATING TO COMPETENT PRACTICE AS AN OCULARIST. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**4726-17-01-Display of License/4726-17-02-Proper Identification:**

After discussion,

IT WAS MOVED BY SUSAN C. BENES, M.D. AND SECONDED BY PAUL R. KING THAT THE BOARD RESCIND THE FOLLOWING RULES: 4726-17-01 DISPLAY OF LICENSE; 4726-17-02 PROPER IDENTIFICATION. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Approval of Policy - Processing Complaints Based on Working on a Lapsed License and Processing Complaints on Permitting an Unlicensed Individual to Practice:**

After discussion,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY THOMAS BARRACATO THAT THE BOARD APPROVE THE POLICY "PROCESSING COMPLAINTS BASED ON WORKING ON A LAPSED LICENSE AND PROCESSING COMPLAINTS ON PERMITTING AN UNLICENSED INDIVIDUAL TO PRACTICE" AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

At 10:00 AM, the Board conducted a hearing on adoption of new rules and the rescission of rules. (See Addendum 2.0)

**Approval of Policy – Board Meeting Format:**

After discussion,

IT WAS MOVED BY THOMAS BARRACATO AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE BOARD APPROVE THE POLICY “BOARD MEETING FORMAT” AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Approval of Policy – Board Member Overnight Accommodations:**

After discussion,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY THOMAS BARRACATO THAT THE BOARD APPROVE THE POLICY “BOARD MEMBER OVERNIGHT ACCOMMODATIONS” AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Approval of Policy – Process to Investigate a Complaint Against or Involving a Sitting Board Member:**

After discussion,

IT WAS MOVED BY TIMOTHY FRIES, O.D. AND SECONDED BY OSCAR J. WATSON 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 Financial Report**

After discussion,

IT WAS MOVED BY JAMES FORTUNE, SR. AND SECONDED BY SUSAN C. BENES, M.D. THAT THE FINANCIAL REPORT FOR CURRENT FY 2011 BE ACCEPTED AS AMENDED. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Continuing Education**

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

IT WAS MOVED BY THOMAS BARRACATO AND SECONDED BY SUSAN C. BENES, M.D. 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.

**Optical Training Institute – Internet Courses – Re-approval for Calendar Year 2011:**

58 Spectacle Hours

36 Contact Lens Hours

**Laws and Rules Regulating Opticianry – On-Line re-Approval for Calendar Year 2011:**

2 Spectacle, Contact Lens, Ocularist, Management Hours

**Approval of Licenses:**

After review of licensure applications by Board members,  
IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY PAUL R. KING THAT  
THE BOARD APPROVE FOR LICENSURE THE APPLICANTS LISTED ON  
ADDENDUM 1.0. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD  
MEMBERS PRESENT.

**Discipline:**

After review of the Consent Agreement for Case #1110008 by Board members,  
IT WAS MOVED BY THOMAS BARRACATO AND SECONDED BY SUSAN C. BENES,  
M.D. THAT THE BOARD RATIFY THE CONSENT AGREEMENT FOR CASE #1110008.  
MOTION ADOPTED BY VOTE OF THE BOARD MEMBERS PRESENT. PRESIDENT  
BENDER ABSTAINED.  
(See Addendum 3.0)

**Executive Session**

IT WAS MOVED BY PAUL R. KING AND SECONDED BY JAMES FORTUNE, SR.  
THAT THE BOARD GO INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL  
MATTERS.

A ROLL CALL VOTE WAS TAKEN.

YEA VOTES: SUSAN BENDER, BRIAN J MILLER, JAMES FORTUNE, SR., SUSAN C.  
BENES, M.D., THOMAS BARRACATO, PAUL R. KING, TIMOTHY FRIES, O.D.,  
OSCAR J. WATSON. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD  
MEMBERS PRESENT.

At 10:45 A.M. on Thursday, December 2, 2010, the Board went into executive session to  
discuss pending personnel matters. All visitors and staff left the room.

At 11:50 AM President Bender brought the meeting out of Executive Session and reported that  
the Board had gone into Executive Session to discuss pending personnel matters.

Hearing no other issues for discussion, President Bender adjourned the meeting at 11:55 AM,  
December 2, 2010.

**ATTESTED:**

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**PRESIDENT, SUSAN BENDER**

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**EXECUTIVE DIRECTOR, NANCY MANN**

**Future Board Meeting Dates:**

February 17, 2011	April 21, 2011	June 16, 2011
August 18, 2011	October 20, 2011	December 8, 2011

**ODB - Pending Applicants - Spectacle**

**Report Parameters**

Board = ODB  
 Credential prefix = S

Report generated on 11/23/2010 at 3:39:49 PM

name	address1	city	statecode	zipcode
Jenny L. Cameron	96 Biede Lane	Defiance	OH	43512
Mindy J. Carpenter	3042 Pinetree Drive	Uniontown	OH	44685
Loretta Faye Dunlap	17325 State Route 58	Wellington	OH	44090
Kristine Katchmazenski	4723 Oakview Court	Liberty Township	OH	45011
Sarah J. Mancino	5284 Bridgewater Drive	Lyndhurst	OH	44124
Brian David Matulka	504 Maple Lane	Ravenna	OH	44266
Virve A. Moore	8204 Indian Trail Drive	Cincinnati	OH	45243
Troy Alexander Oldendick	10198 Dugan Gap Road	North Bend	OH	45052

**ODB - Pending Applicants - Spectacle/Contact Lens**

**Report Parameters**

Board = ODB  
 Credential prefix = SC

Report generated on 11/23/2010 at 3:49:45 PM

name	address1	city	statecode	zipcode
Joseph D. Colini	3317 Henninger Road Apt 202	Cleveland	OH	44109
Thomas M. Massie	2913 Rockledge Trail	Beavercreek	OH	45430
Marian Mekhaiel	1100 Snider Road Apt 28	Mason	OH	45040
Sarah Ruth Payne	102 Spence Street	South Point	OH	45680
James S. Watts	700 Moxahala Street	New Lexington	OH	43764

**ODB - Pending Applicants - Reciprocity**

**Report Parameters**

Board = ODB

Report generated on 12/2/2010 at 7:45:54 AM

name	address1	city	statecode	zipcode
Mary Wakefield	4719 Northport Court	Kings Mills	OH	45034

OHIO OPTICAL DISPENSERS BOARD  
PUBLIC RULES HEARING  
THURSDAY, DECEMBER 2, 2010  
10:00 AM

**PRESIDENT SUSAN BENDER:**

I WOULD LIKE TO CALL TO ORDER THIS PUBLIC HEARING OF THE OHIO OPTICAL DISPENSERS BOARD, HEREINAFTER TO BE REFERRED TO AS "THE BOARD." LET THE RECORD SHOW THAT THIS HEARING IS BEING HELD IN CONFERENCE ROOM EAST B&C OF THE 31<sup>ST</sup> FLOOR OF THE RIFFE CENTER, 77 SOUTH HIGH STREET, COLUMBUS, OHIO. TODAY IS THURSDAY, DECEMBER 2, 2010. IT IS 10:10 AM. I AM SUSAN BENDER, PRESIDENT OF THE BOARD. WILL OTHER MEMBERS OF THE BOARD PLEASE INTRODUCE THEMSELVES.

LET THE RECORD SHOW THAT A QUORUM IS PRESENT.

THIS IS A PUBLIC HEARING FOR THE PURPOSE OF RECEIVING COMMENTS AND TESTIMONY CONCERNING THE BOARD'S INTENTION TO RESCIND AND ADOPT ADMINISTRATIVE RULES AS PROPOSED IN ITS OCTOBER 29, 2010 FILING WITH THE JOINT COMMITTEE ON AGENCY RULE REVIEW.

ANY PERSON AFFECTED BY THE PROPOSED ACTION OF THE BOARD MAY APPEAR AND BE HEARD IN PERSON, BE REPRESENTED BY AN ATTORNEY, OR BOTH. ANY PERSON WHO WISHES MAY PRESENT HIS OR HER POSITION; PROVIDE ARGUMENTS AND CONTENTIONS ORALLY OR IN WRITING; AND, PRESENT EVIDENCE TENDING TO SHOW THAT THE PROPOSED NEW RULES, IF ADOPTED OR EFFECTUATED, WILL BE UNREASONABLE OR UNLAWFUL. FOR PURPOSES OF ESTABLISHING A COMPLETE RECORD OF THIS HEARING, I ASK THAT ALL IN ATTENDANCE SIGN THE ATTENDANCE SHEET. THOSE WHO PLAN TO TESTIFY SHOULD COMPLETE A WITNESS SLIP AND PROVIDE IT TO NANCY MANNS. IF YOU SO TESTIFY, PLEASE BE CONSIDERATE OF OTHERS WHO WISH TO TESTIFY BY MAKING YOUR PRESENTATION AS BRIEF AS POSSIBLE. PLEASE RESTRICT YOUR COMMENTS TO THE RULES THAT ARE THE SUBJECT OF THIS HEARING, AND BEGIN YOUR TESTIMONY BY IDENTIFYING THE RULE NUMBER OR TITLE TO WHICH YOUR COMMENTS REFER.

BEFORE WE TAKE TESTIMONY FROM THE WITNESSES FOR THE HEARING, I WOULD LIKE TO CALL ON NANCY MANNS FOR A STATEMENT.

DO YOU SWEAR THAT THE TESTIMONY YOU ARE ABOUT TO GIVE IS TRUE AND ACCURATE TO THE BEST OF YOUR KNOWLEDGE?

**NANCY MANNS:**

I DO.

**STATEMENT: NANCY MANNS**

FOR THE RECORD, MY NAME IS NANCY MANNS AND I AM THE EXECUTIVE DIRECTOR OF THE BOARD. THE BOARD HAS TAKEN OFFICIAL ACTION TO FIX THIS TIME AND PLACE FOR A PUBLIC HEARING CONCERNING ITS INTENT TO PROPOSE RULES:

4726-1-01

4726-1-02

4726-1-03

4726-1-04

4726-1-05

4726-1-06

4726-1-07

4726-1-08

4726-1-09

AND TO RESCIND:

4726-3-01

4726-3-02

4726-3-03

4726-3-04

4726-3-05

THE FOLLOWING EXHIBITS HAVE BEEN SUBMITTED TO BE MADE A PART OF THE RECORD OF THIS PUBLIC HEARING.

EXHIBIT #1 IS A COPY OF THE PROPOSED RULES WITH COPIES OF THE "RULE SUMMARY AND FISCAL ANALYSIS" FORMS ATTACHED. THE RULES BEAR AN ELECTRONIC STAMP VERIFYING THAT THEY WERE ORIGINALLY FILED ON October 29, 2010.

EXHIBIT #2 CONSISTS OF COPIES OF THE COVER LETTERS CONFIRMING THE ORIGINAL FILING WITH THE SECRETARY OF STATE, THE LEGISLATIVE SERVICE COMMISSION AND THE JOINT COMMITTEE ON AGENCY RULE REVIEW.

EXHIBIT #3 IS A COPY OF THE PUBLIC NOTICE OF THIS HEARING. IN ADDITION, THE PUBLIC NOTICE AND RULES WERE POSTED ON THE REGISTRY OF OHIO WEB SITE, AS MANDATED BY SECTION 119.01(a) OF THE REVISED CODE AS WELL AS ON THE BOARD'S WEB PAGE.

TO DATE, I HAVE NOT RECEIVED WRITTEN COMMENT CONCERNING THE PROPOSED RULES.

**PRESIDENT SUSAN BENDER:**

THIS CONCLUDES THE PRELIMINARY MATTERS TO BE PRESENTED BY THE BOARD.

**PRESIDENT SUSAN BENDER:**

AT THIS TIME THE BOARD WILL HEAR TESTIMONY FROM MEMBERS OF THE GALLERY. IF YOU WISH TO TESTIFY, PLEASE STATE YOUR NAME, THE ORGANIZATION YOU ARE REPRESENTING AND THE RULE YOU ARE ADDRESSING.

**PRESIDENT SUSAN BENDER:**

SINCE THERE ARE NO PRESENTERS OF TESTIMONY, THIS PUBLIC HEARING OF THE OHIO OPTICAL DISPENSERS BOARD IS ADJOURNED.

LET THE RECORD SHOW THAT THE HEARING CONCLUDED AT 10:15 AM.

**CONSENT AGREEMENT  
BETWEEN  
JOSEPH D. COLINI  
AND  
THE OHIO OPTICAL DISPENSERS BOARD**

This CONSENT AGREEMENT is entered into by and between **JOSEPH COLINI**, and the **OHIO OPTICAL DISPENSERS BOARD** (“Board”), a state agency charged with enforcing Chapter 4725 of the Ohio Revised Code, and all rules promulgated there under.

**JOSEPH COLINI** enters into this CONSENT AGREEMENT being fully informed of his rights under Chapter 119. of the Ohio Revised Code (“ORC”), including the right to representation by counsel and the right to a formal adjudication hearing on the issues considered herein.

This Consent Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Consent Agreement.

**BASIS FOR ACTION**

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

- A. 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 enumerated violations.
- B. The **BOARD** enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violation of Section 4725.53(A)(1) of the Ohio Revised Code. **MR. COLINI** admits that from 1997 to 2002 he had various criminal convictions including assault and theft resulting in incarceration on 2 separate occasions.

- C. 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 there under, whether occurring before or after the effective date of this **CONSENT AGREEMENT**.
- D **MR. COLINI** admits to 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, **MR. COLINI** knowingly and voluntarily agrees with the **BOARD** to the following terms, conditions, and limitations:

#### **EMPLOYMENT CONDITIONS**

1. **MR. COLINI** agrees that during his first year of licensure as a Dispensing Optician he shall be on probation for that year from the date he is issued his license and is employed as a licensed optician.
2. Prior to accepting employment as a Dispensing Optician, each time with every employer, **MR. COLINI** during the probation period shall notify the Board .
3. **MR. COLINI** shall have his employer(s), submit written reports regarding his job performance on a monthly basis determined by the Board. **MR. COLINI** shall have his employer(s) send documentation to the Board, along with the first employer report, of receipt of a copy of this Consent Agreement, including the date it was received.
4. **MR. COLINI** shall report to the Board, in writing, any violation of this Consent Agreement within thirty days of the occurrence of the violation.
5. **MR. COLINI** shall verify that the reports and documentation required by this Consent Agreement are received in the Board office.

**FAILURE TO COMPLY**

If, in the discretion of the Board or its Designate, **MR. COLINI** appears to have violated or breached any term or condition of this Agreement, the Board reserves the right to institute formal disciplinary proceedings pursuant to ORC 4725.53 or rules promulgated under OAC 4726 for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Agreement.

Any action initiated by the Board based on alleged violations of this Agreement shall comply with the Administrative Procedure Act, Chapter 119, of the Ohio Revised Code.

**DURATION/ MODIFICATION OF TERMS**

**JOSEPH COLINI** may seek a modification of the terms, conditions and limitations in this Consent Agreement on or after June 30, 2011. Any application for modification made prior to June 30, 2011 shall not be considered by the Board. The above described probationary terms, conditions and limitations may be amended or terminated in writing upon the agreement of both parties.

**ACKNOWLEDGMENTS/LIABILITY RELEASE**

**MR. COLINI** agrees that in the event the **BOARD**, in its discretion, does not ratify 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. **MR. COLINI** 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.

**Joseph Colini**  
**Consent Agreement**  
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**MR. COLINI** acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

**MR. COLINI** waives all of his rights under Chapter 119, ORC, as they relate to matters that are the subject of this Consent Agreement.

**MR. COLINI** waives any and all claims or causes of action he may have against the Board, and its members, officers, employees and/or agents arising out of 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, ORC. The information contained herein may be reported to appropriate organizations, data banks and governmental bodies.

This Consent Agreement is not an adjudication order within the meaning of Section 119.01(D), ORC. Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedures Act, Chapter 119,

**MR. COLINI** understands that this Consent Agreement is subject to ratification by the Board prior to signature by the Board President and Supervising Member, and shall become effective upon the last date of signature below.

**THE OHIO OPTICAL DISPENSERS  
BOARD**

\_\_\_\_\_  
**JOSEPH D. COLINI**

\_\_\_\_\_  
**SUSAN E. BENDER**  
**President**  
**Supervising Disciplinary Member**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**LEAH O'CARROLL, Esq.**  
Assistant Attorney General  
Attorney for Ohio Optical Dispensers Board