



OHIO OPTICAL DISPENSERS BOARD

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MINUTES OF MEETING **FEBRUARY 11, 2010**

REGULAR MEETING OF THE OHIO OPTICAL DISPENSERS BOARD FEBRUARY 11, 2010

The regularly scheduled meeting of the Ohio Optical Dispensers Board (Board) began on Thursday, February 11, 2010 at 11:10 A.M. at 77 South High Street, West B & C, 31st Floor, Columbus. President Michael Hall called the meeting to order in open session.

BOARD MEMBERS IN ATTENDANCE:

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

Absent: James Fortune, Sr.

STAFF MEMBERS IN ATTENDANCE:

Present: Nancy L. Manns, Executive Director; William Lehman, Investigator; 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 SUSAN C. BENES, M.D. THAT THE CONSENT AGENDA FOR THE FEBRUARY 11, 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 A. JOSEPH BITONTE AND SECONDED BY SUSAN C. BENES, M.D. THAT THE REGULAR AGENDA FOR THE FEBRUARY 11, 2010 MEETING BE APPROVED AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS.

President's Report

President Hall welcomed the guest attending the meeting and thanked everyone for making the effort to attend the meeting despite the bad weather.

Approval of Minutes

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE MINUTES OF THE DECEMBER 3, 2009 BOARD MEETING BE APPROVED AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Special Orders:

Election of 2010 Officers:

After discussion,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY A. JOSEPH BITONTE THAT THE BOARD POSTPONE THE ELECTION OF OFFICERS FOR 2010 UNTIL THE APRIL 15, 2010 BOARD MEETING. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Clarification and Approval of Policy: Executive Director's Duties:

After discussion,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY SUSAN BENDER THAT THE BOARD DELEGATE TO ITS EXECUTIVE DIRECTOR THE AUTHORITY TO PERFORM THE FOLLOWING ADMINISTRATIVE DUTIES ON BEHALF OF THE BOARD INCLUDING BUT NOT LIMITED TO: HIRING, TERMINATION, ACCEPTING EMPLOYEE RESIGNATIONS, PAYROLL AND APPROVAL OF LEAVE REQUESTS; AND, THAT THE BOARD'S POLICY ON EXECUTIVE DIRECTOR'S DUTIES REFLECT THE SAME. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Approval of Financial Report

After discussion,

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE FINANCIAL REPORT FOR CURRENT FY 2010 BE ACCEPTED AS SUBMITTED. 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 SUSAN BENDER 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.

Opticians Association of Ohio – Perrysburg, OH – March 14, 2010:

4 Spectacle Hours

4 Contact Lens Hours

Opticians Association of Ohio – Warrensville, OH – February 20-21, 2010:

8 Spectacle Hours
8 Contact Lens Hours

Vision Expo East – New York, New York – March 18-21, 2010:

42 Spectacle Hours
25 Contact Lens Hours
51 Management Hours

Opticians Association of Ohio – Columbus, OH – March 28, 2010:

4 Spectacle Hours
4 Contact Lens Hours

Opticians Association of Ohio – Fairborn, OH – April 18, 2010:

4 Spectacle Hours
4 Contact Lens Hours

Tennessee Dispensing Opticians – Chattanooga, TN – March 21, 2010:

5 Spectacle Hours
2 Contact Lens Hours
1 Spectacle/Contact Lens Hours

Tennessee Dispensing Opticians – Bristol, TN – April 11, 2010:

4 Spectacle Hours
4 Contact Lens Hours

Opticians Association of Ohio – Twinsburg, OH – November 14, 2010:

4 Spectacle Hours
4 Contact Lens Hours

American Society of Ocularists – Fort Lauderdale, FL – May 22-26, 2010

6 Ocularist Hours
1 Management Hour

Denied: Cardiopulmonary Resuscitation for 1 Ocularist Hour

C.E.D.O. – Perrysburg April 10th, Independence April 11, Zanesville April 24, Dublin April 25, 2010

4 Spectacle Hours

Contact Lens Society Of America – Jacksonville, FL – April 7-10, 2010:

25 Contact Lens Hours

The following course(s) will be approved pending re-submission of application:

HIV, AIDS and the Ocular Professional óRe-submit for 1 Contact Lens/Ocularist with Infectious Control

You Can Survive and Thrive in a Slow Economy ó Re-submit for 2 Management Hours

Approval of Licenses

After review of licensure applications by Board members,

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE BOARD APPROVE FOR LICENSURE THE APPLICANTS LISTED ON ADDENDUM 1.0 WITH THE EXCEPTION OF THOMAS A. MURNYACK, II. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

After review of provisional licensure applications by Board members,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY SUSAN BENDER THAT THE BOARD APPROVE FOR LICENSURE THE APPLICANTS LISTED ON ADDENDUM 1.1 UPON RECEIPT OF THE CRIMINAL RECORDS CHECK INDICATING NO CRIMINAL RECORD. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

After review of licensure applications by Board members,

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY SUSAN C. BENES, M.D. THAT AFTER CLAIRIFICATION OF INFORMATION PROVIDED ON THE APPLICATION WAS PROVIDED TO THE BOARD THAT THE BOARD APPROVE FOR LICENSURE APPLICANT THOMAS A. MURNYACK, II ON ADDENDUM 1.0. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Discipline:

After review of the Consent Agreement for Case Number 1008006 by Board members, IT WAS MOVED BY BRIAN MILLER AND SECONDED BY SUSAN BENDER THAT THE BOARD RATIFY THE CONSENT AGREEMENT FOR CASE NUMBER 1008006. MOTION ADOPTED BY VOTE OF THE BOARD MEMBERS PRESENT. PRESIDENT HALL ABSTAINED.

(See Addendum 2.0)

After review of the Consent Agreement for Case Number 1008017 by Board members, IT WAS MOVED BY A. JOSEPH BITONTE AND SECONDED BY SUSAN BENDER THAT THE BOARD RATIFY THE CONSENT AGREEMENT FOR CASE NUMBER 1008017. MOTION ADOPTED BY VOTE OF THE BOARD MEMBERS PRESENT. PRESIDENT HALL ABSTAINED.

(See Addendum 2.0)

New Business:

Contact Lens Prescription for FAQ

After discussion,

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY TIMOTHY FRIES, O.D. THAT THE BOARD APPROVE AS AMENDED THE FAQ CONCERNING THE FILLING OF CONTACT LENS PRESCRIPTIONS FOR POSTING ON THE BOARD'S WEB PAGE.

Executive Director's Report

Director Manns informed the Board that as of January 21, 2010, 3,078 (93%) of license renewals were complete and that there were 52 (1.5%) that remain incomplete due to continuing education pending or a portion of the renewal form which was not completed and/or awaiting other additional information.

Director Manns informed the Board that Investigator Lehman has been keeping track of the type of continuing education hours obtained by licensees for renewal, whether they were obtained through classroom programs or approved providers of on-line continuing education. From this report we have learned that out of a total of 11,427 hours obtained for licensure renewal, 46% were obtained in the classroom and 54% were obtained through on-line courses. We have also determined that of the on-line hours, 1,807 were obtained after December 7, 2009, the last date of classroom presentations. The total numbers obtained after the December 7, 2009 date comprised 16% of the total continuing education hours obtained.

Director Manns informed the Board that she is replacing the black and white printer which was purchased in 2003 with a combination scanner/copier/printer through the State's Cost per Copy program. The Board is currently paying the Department of Administrative Services (DAS) \$70 per month for services for this printer which included support for networking issues and maintenance only. The Cost per Copy program through DAS will provide a new printer that will also serve as a copier and scanner for the Board at a cost of \$59 per month. This cost includes all maintenance, toner and repairs. This program will save the Board over \$200 per year while providing the Board with a new machine that will duplex and provide other options to the staff.

Director Manns informed the Board that National City Bank was purchased by PNC Bank. This purchase is important to those Board members who have checks directly deposited into National City Bank. While both banks have provided assurances that the change over will be "transparent" it is strongly recommended by DAS that the Board members who currently use National City should submit new direct deposit forms to be effective for the paycheck of February 26, 2010.

Director Manns informed the Board that she has been working with Karen Gasper, Director of public Affairs and Outreach, of the Attorney General's office to incorporate information about consumer and small business information onto the Board's web page. It is expected that the

information concerning web check and small business scams will be available by the end of February on the Board's web page.

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

Director Manns informed the Board that they should have received their individual Financial Disclosure forms which need to be completed and turned in by April 15, 2010. Board member expense information to assist with completing this form was included in the Board packet.

Director Manns informed the Board that the cost to do an annual audit by the Auditor of State as suggested by the auditor would be around \$11,100 to \$14,000. Legislation has been submitted to change the audit from annually to bi-annually; however, the Board will still be responsible for paying the charges incurred from the audit.

Board's Goals:

A listing of suggested Board goals for 2010 was handed out to each Board member. President Hall informed the Board that he had found this list of goals very helpful to him during his year as president of the Board. After discussion, it was the consensus of the Board that each member would rate the goals from the highest priority to the lowest and fax the results back in to the Board office. Executive Director Manns would then tally the results and bring back to the Board meeting in April for further discussion.

Hearing no other issues for discussion, President Hall adjourned the meeting at 1:00 P.M., February 11, 2010.

ATTESTED:

PRESIDENT, MICHAEL WM. HALL

EXECUTIVE DIRECTOR, NANCY MANNNS

Future Board Meeting Dates:

April 15, 2010
June 17, 2010
August 19, 2010
October 21, 2010
December 2, 2010

ODB - Pending Applicants - Spectacle

Report Parameters

Board = ODB
Credential prefix = S

Report generated on 2/4/2010 at 10:06:06 AM

name	address1	address2	city	statecode	zipcode
Jeffrey M. Baughman	34560 Rocksprings Road		Pomeroy	OH	45769
Brandy Bice	5763 Cold Creek Drive		Hilliard	OH	43026
Tangeria Akoupea Blair II	906 Beardsley Street		Akron	OH	44311
Lisa N. Burden	2108 Mill Road		West Alexandria	OH	45381
Christy Marie Curtis	36989 Clearway Drive		Eastlake	OH	44095
Zachary T. Ford	602 Fair Avenue NW		New Philadelphia	OH	44663
Jenifer Haas	6845 Meadow Oak Drive		Columbus	OH	43235
Elizabeth A. Hansen	820 Erie Road		Eastlake	OH	44095
Barbara L. Hysinger	856 Kling Street		Akron	OH	44311
Howard Ingalls	315 Taylor Street		Bradford	OH	45308
Jennifer M. Jordan	9261 Citrus Road NW		Malvern	OH	44644
Jeffery C. Kley	640 Pritz Avenue		Dayton	OH	45410
Trena M. McClaren	105 Chris Avenue		Washingtonville	OH	44490
Angie McLaughlin	5946 Acoma Drive		Toledo	OH	43623
Thomas A. Murnyack, II	7850 Mentor Avenue N3		Mentor	OH	44060
Joette E. Rose	9 Elm Street		Englewood	OH	45322
Mary E. Shea	1107 Stambaugh Northwest		North Canton	OH	44720
Kyle Matthew Sites	1612 Bennett Avenue		Zanesville	OH	43701
Julie A. Vizzo	1550 Willoughby Drive		Wooster	OH	44691
Steven D. Wallen	70 Bobtail Way		Monroe	OH	45050
Melissa Marie Zelch	29030 Weber Avenue		Wickliffe	OH	44092

ODB - Pending Applicants - Spectacle/Contact Lens

Report Parameters

Board = ODB
Credential prefix = SC

Report generated on 2/4/2010 at 10:43:06 AM

name	address1	address2	city	statecode	zipcode
Nicole Raechelle Alloway	44626 US Highway 36		Coshocton	OH	43812
Michael E. Black	1803 Mound Street		Springfield	OH	45505
Beverly L. Dziengelewski	605 West Livingston Street		Celina	OH	45822
Christina J. Ireton	2825 Lajunta Avenue		Springfield	OH	45503
Sandi Lynn Miller	499 Ludlow Street		Greendale	IN	47025
Cathleen M. Pelland	09831 County Road 17		West Unity	OH	43570
Melinda Ann Ritchie	804 Primrose Drive		Wapakoneta	OH	45895
Leatha Marie Schutte	822 East Court Street		Sidney	OH	45365

ODB - Provisional Applicants - Spectacle

Report Parameters

Board = ODB
Credential prefix = S

Report generated on 2/4/2010 at 10:06:06 AM

name	address1	address2	city	statecode	zipcode
Amber N. Rhoades	37339 Grove Avenue		Willoughby	OH	44094
Kris A. Shuff	Apt 202 1153 Waterford Court		Hebron	KY	41048

ODB - Provisional Applicants - Spectacle/Contact Lens

Report Parameters

Board = ODB
Credential prefix = SC

Report generated on 2/4/2010 at 10:43:06 AM

name	address1	address2	city	statecode	zipcode
Allison A. VanDyne	323 Harding Way West Apt 1		Galion	OH	44833
Kathy S. Vanek	26500 Oriole Avenue		Euclid	OH	44132

**CONSENT AGREEMENT
BETWEEN
SOVANNA OUR
AND
THE OHIO OPTICAL DISPENSERS BOARD**

This CONSENT AGREEMENT is entered into by and between **SOVANNA OUR**, Opticians, License No. 10174-S and the **OHIO OPTICAL DISPENSERS BOARD** (öBoardö), a state agency charged with enforcing Chapter 4725 of the Ohio Revised Code, and all rules promulgated thereunder.

SOVANNA OUR 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.

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:

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 4725.55(D) of the Ohio Revised Code **MS. OUR** willfully and knowingly made a false statement in an application for licensure by Jeffery Kley. **MS. OUR** stated that she was the direct supervisor of Jeffery Kley from October 2008 until August 6, 2009. Mr. Kley was not employed at that location after January 19, 2009.
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 of this **CONSENT AGREEMENT**.

Sovanna Our
Consent Agreement
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4. **MS. OUR** is a Licensed Dispensing Optician in the State of Ohio, and holds license number 10174-S.
5. **MS. OUR** 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, **SOVANNA OUR** knowingly and voluntarily agrees with the **BOARD** to the following terms, conditions, and limitations:

- A. **MS. OUR** shall pay a fine of five hundred dollars (\$500.00) pursuant to Section 4725.53(A)(B) of the Ohio Revised Code. The five hundred dollar (\$500.00) 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 thirty (30) days from the ratification by the Board of this CONSENT AGREEMENT.
- B. **MS. OUR'S** license shall be suspended for six (6) months, of which five (5) months are stayed. In addition, **MS. OUR** may not supervise an apprentice for one (1) year from the date of the ratification of this CONSENT AGREEMENT. **MS. OUR** agrees and acknowledges that this disciplinary action shall be entered in the **BOARD'S** journal and will be maintained in her licensure file.
- C. **MS. OUR** 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 **MS. OUR** as long as she is in compliance with the terms and conditions of this CONSENT AGREEMENT.

FAILURE TO COMPLY

If, in the discretion of the Board or its Designate, **MS. OUR** 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 CONSENT 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

The terms, limitations and conditions of this Consent Agreement may be modified or terminated, in writing, at any time upon the agreement of both **MS. OUR** and the Board.

ACKNOWLEDGEMENTS/LIABILITY RELEASE

MS. OUR 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. **MS. OUR** 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.

MS. OUR acknowledges that she 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.

MS. OUR waives all of her rights under Chapter 119, ORC, as they relate to matters that are the subject of this Consent Agreement.

Sovanna Our
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MS. OUR waives any and all claims or causes of action she 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,

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**

SOVANNA OUR

MICHAEL WM. HALL
President
Supervising Disciplinary Member

DATE

DATE

LEAH O'CARROLL, Esq
Assistant Attorney General
Attorney for Ohio Optical Dispensers Board

**CONSENT AGREEMENT
BETWEEN
JEFFERY KLEY
AND
THE OHIO OPTICAL DISPENSERS BOARD**

This CONSENT AGREEMENT is entered into by and between **JEFFERY KLEY**, Apprentice Registration 10141 and the **OHIO OPTICAL DISPENSERS BOARD** (öBoardö), a state agency charged with enforcing Chapter 4725 of the Ohio Revised Code, and all rules promulgated thereunder.

JEFFERY KLEY enters into this CONSENT AGREEMENT being fully informed of his rights under Chapter 119. of the Ohio Revised Code (öORCö), 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 the enumerated violations.
- B. The **BOARD** enters into this CONSENT AGREEMENT in lieu of formal proceedings based upon the violation of Section 4725.55(D) of the Ohio Revised Code. **MR. KLEY** admits that he willfully and knowingly made a false statement on his licensure application to become a licensed optical dispenser in the State of Ohio. **MR. KLEY** signed an affidavit stating thatí the foregoing application and his answers were truthful and completely without mental reservations of any kind. Statements within the licensure application of **MR. KLEY** stated that he had fulfilled the 2 year apprenticeship requirement. It was discovered that these documents were falsified and that **MR. KLEY** needed an additional four (4) months to complete his apprenticeship requirement.

- 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 thereunder, whether occurring before or after the effective date of this **CONSENT AGREEMENT**.
- D. **MR. KLEY** is an Apprentice Optician in the State of Ohio, and holds apprentice registration number 10141.
- E. **MR. KLEY** 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. KLEY** knowingly and voluntarily agrees with the **BOARD** to the following terms, conditions, and limitations:

1. **MR KLEY** voluntarily withdraws his application for licensure dated August 10, 2009, as a spectacle dispensing optician
2. Upon completion of his apprenticeship time, **MR. KLEY** may reapply for this licensure on or after February 5, 2010.
3. **MR. KLEY** shall obey all federal, state, and local laws, and all laws and rules governing the practice of Opticianry in Ohio.
4. **MR. KLEY** shall appear in person for interviews before the full Board or its designated representative as requested by the Board or its designee.

EMPLOYMENT CONDITIONS

5. **MR. KLEY** agrees that during his first year of licensure as a Dispensing Optician he shall work as a dispensing optician only in the presence of another Licensed Dispensing Optician.
6. **Upon licensure as a Dispensing Optician, MR. KLEY** shall be subject to the Employment Conditions of this Consent Agreement for not less than one (1) year. The probationary term shall be one (1) year of employment as a Dispensing Optician in Ohio. Periods of time when **MR. KLEY** is not employed as a Dispensing Optician in Ohio **SHALL NOT** be credited towards completing the one (1) year probationary term.
7. Prior to accepting employment as a Dispensing Optician, each time and with every employer, **MR. KLEY** shall notify and obtain approval from the Board or its designee.
8. **MR. KLEY** is under a continuing duty to provide a copy of this Consent Agreement to any new employer prior to accepting employment in a position where a Licensed Dispensing Optician is required.
9. **MR. KLEY** 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 on a schedule determined by the Board.** **MR. KLEY** 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.
10. **MR. KLEY** shall report to the Board, in writing, any violation of this Consent Agreement within thirty days of the occurrence of the violation.
11. **MR. KLEY** shall verify that the reports and documentation required by this Consent Agreement are received in the Board office.

12. Upon licensure as a Dispensing Optician **MR. KLEY shall not supervise apprentice opticians for two (2) years.** Periods of time when **MR. KLEY** is not employed as a Dispensing Optician in Ohio **SHALL NOT** be credited towards completing the two (2) year supervision requirement.

FAILURE TO COMPLY

If, in the discretion of the Board or its Designate, **MR. KLEY** 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

The terms, limitations and conditions of this Consent Agreement may be modified or terminated, in writing, at any time but no sooner than one year from the date of ratification of this consent agreement, upon the agreement of both **MR. KLEY** and the Board.

The Board may only alter the probationary period imposed by this Consent Agreement if the Board determines that **MR KLEY** has complied with all aspects of this Consent Agreement based upon an interview and/or review of the quarterly reports as required herein.

ACKNOWLEDGMENTS/LIABILITY RELEASE

MR. KLEY 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. KLEY** 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.

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

MR. KLEY 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. KLEY 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**

JEFFERY KLEY

MICHAEL WM. HALL
President
Supervising Disciplinary Member

DATE

DATE

LEAH O’CARROLL, Esq.
Assistant Attorney General
Attorney for Ohio Optical Dispensers Board