



## **OHIO OPTICAL DISPENSERS BOARD**

77 SOUTH HIGH ST. 16<sup>TH</sup> FLOOR  
COLUMBUS, OHIO 43215-6108  
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### **MINUTES OF MEETING** **FEBRUARY 16, 2012**

#### **REGULAR MEETING OF THE OHIO OPTICAL DISPENSERS BOARD FEBRUARY 16, 2012**

The regularly scheduled meeting of the Ohio Optical Dispensers Board (Board) began on Thursday, February 16, 2012 at 9:15 A.M. at 77 South High Street, South A, 31<sup>ST</sup> Floor, Columbus. President Thomas Barracato called the meeting to order in open session.

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

**Present:** Thomas Barracato, President; Paul R. King, Vice President, Brian J Miller, Treasurer; Susan Bender; Jeffrey R. Rohlf; James Ashenhurst

**Absent:** Timothy Fries, O.D.; Susan C. Benes, M.D.; James Fortune, Sr.

#### **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 agenda prior to the meeting.

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY PAUL R. KING THAT THE CONSENT AGENDA FOR THE FEBRUARY 16, 2012 MEETING BE APPROVED AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

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

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY SUSAN BENDER THAT THE REGULAR AGENDA FOR THE FEBRUARY 16, 2012 MEETING BE APPROVED AS AMENDED. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

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

President Barracato welcomed guests in the gallery.

##### **Approval of Minutes**

IT WAS MOVED BY PAUL R. KING AND SECONDED BY JEFFREY R. ROHLF THAT THE MINUTES OF THE DECEMBER 8, 2011 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 information had been e-mailed and mailed via regular mail regarding the financial filings for the Ethics Commission and stressed that it was important that Board members file in a timely manner so that the Board would not incur financial penalties for late filings.

Director Manns informed the Board members that the appointment for the Ophthalmologist position on the Board had not been made by the time of the current Board meeting.

Director Manns informed the Board that at the direction of the Board, the Board will be going through a review of Sections 4725.40-4725.59 of the Revised Code law during the coming year to assess the need for changes to these sections of law to reflect current practice of opticians, apprentices and ocularists in the state of Ohio. Part of that process will include a review of the Board's mission statement during the current meeting.

Director Manns informed the Board that she has been working with AAG Melissa Wilburn on revising the contract the Board has with ABO/NCLE for providing the national qualifying certification exam for Ohio applicants. It is expected that a draft version should be available for the Board to approve at the April, 2012 Board meeting.

Director Manns informed the Board that to date 3,308 license renewals had been mailed and that a total of 3,184 have renewed to date. This reflects a 96% renewal rate. Of that total 3,096 renewed online (97%) and 88 renewed using the traditional paper method. A total of 69 have paid the \$75.00 late fee.

Director Manns informed the Board that all licensure applications have been changed to eliminate any reference to Board meeting deadlines. The revised licensure application, as well as information regarding the change to accept any CE approved by ABO/NCLE/NEBO for licensure renewal, has been added to the Board's webpage.

Director Manns informed the Board that the office computers are now four years old but are not eligible for replacement until they are five years old in accordance with state purchasing guidelines. Ms. Manns stated that she is going to upgrade the computers with additional RAM to help increase the functions of the computers until they can be replaced.

Director Manns also informed the Board that the financial audit of the Board's systems that was begun in July, 2012 still has not yet formally concluded. Recommendations/findings of the audit have not been received.

**Special Orders:**

**Review and Re-Affirmation of Policy: Executive Director's Duties:**

After discussion,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY SUSAN BENDER THAT THE BOARD RE-AFFIRM WITH AMENDMENTS THE POLICY "EXECUTIVE DIRECTOR'S DUTIES". MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Review and Re-Affirmation of Policy: Board Office Hours:**

After discussion,

IT WAS MOVED BY PAUL R. KING AND SECONDED BY JEFFREY R. ROHLF THAT THE BOARD RE-AFFIRM THE POLICY “BOARD OFFICE HOURS” AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Review and Re-Affirmation of Policy: Supervising Disciplinary Member:**

After discussion,

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY BRIAN J MILLER THAT THE BOARD RE-AFFIRM THE POLICY “SUPERVISING DISCIPLINARY MEMBER” AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Review and Re-Affirmation of Policy: Processing Ohio Bureau of Criminal Identification and Investigation and Federal Bureau of Investigation Reports:**

After discussion,

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY JEFFREY R. ROHLF THAT THE BOARD RE-AFFIRM WITH AMENDMENTS THE POLICY “PROCESSING OHIO BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION AND FEDERAL BUREAU OF INVESTIGATION REPORTS”. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Approval of Financial Report**

After discussion,

IT WAS MOVED BY JAMES ASHENHURST AND SECONDED BY JEFFREY R. ROHLF THAT THE FINANCIAL REPORT FOR CURRENT FY 2012 BE ACCEPTED AS WRITTEN. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Approval of Mission Statement**

After discussion,

IT WAS MOVED BY PAUL R. KING AND SECONDED BY JAMES ASHENHURST THAT BOARD ACCEPT AS AMENDED THE MISSION STATEMENT OF THE OPTICAL DISPENSERS BOARD. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

The new mission statement of the Ohio Optical Dispensers Board:  
To protect and serve the public of Ohio by effectively and efficiently regulating the practice of Opticianry and Ocularistry through the licensing of qualified practitioners and the establishment of professional standards.

**Board Governance/Planning:**

Review of Sections 4725.40-4725.99 Ohio Revised Code;  
After review of 4.1 ODB Law Review 2012 it was the consensus of the Board to prioritize and group the “Points for Discussion” as follows:

<b>Board Meeting</b>	<b>Topic(s) for Potential Law Changes</b>
April	Renewal process, fees, and continuing education
June	Scope of Practice
August	Composition of Board and Board Duties
October	Disciplinary Procedures
December	Pre-licensure education, Licensure Processes

After additional discussion, it was the consensus of the Board to change the Board name to “Ohio State Board of Opticianry and Ocularistry” and, to change the title of the director from Secretary-Treasurer to “Executive Director” as general recommendations for law change.

**Continuing Education**

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

IT WAS MOVED BY PAUL R. KING AND SECONDED BY BRIAN J MILLER THAT THE BOARD APPROVE THE CONTINUING EDUCATION PROGRAM WITH THE APPROVED HOURS AS LISTED BELOW. MOTION ADOPTED BY THE MAJORITY VOTE OF THE BOARD MEMBERS PRESENT. JEFFREY R. ROHLF ABSTAINED.

**Opticians Association of Ohio – Fairborn, OH – April 15, 2002:**

4 Contact Lens Hours

After further discussion regarding Board member Rohlfs’s reason for abstaining, it was determined that he did not have to abstain from the vote. Therefore, a second vote was conducted.

IT WAS MOVED BY PAUL R. KING AND SECONDED BY SUSAN BENDER THAT THE BOARD APPROVE THE CONTINUING EDUCATION PROGRAM WITH THE APPROVED HOURS AS LISTED ABOVE. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Approval of out-of-state Opticianry School:**

President Barracato informed the Board that he had reviewed a course syllabus from Camden County College School of Opticianry in Blackwood New Jersey and recommended that the Board accept the program.

After discussion,

IT WAS MOVED BY SUSAN BENDER AND SECONDED BY BRIAN J MILLER THAT THE BOARD APPROVE CAMDEN COUNTY COLLEGE SCHOOL OF OPTICIANRY AS A PROGRAM THAT MEETS THE EDUCATION REQUIREMENTS FOR LICENSURE IN

THE STATE OF OHIO. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

**Ratification of Licenses:**

IT WAS MOVED BY PAUL R. KING AND SECONDED BY SUSAN BENDER THAT THE BOARD RATIFY FOR LICENSURE THE APPLICANTS LISTED ON ADDENDUM 1.0. MOTION ADOPTED BY UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT. JEFFREY R. ROHLF ABSTAINED FROM VOTE ON LICENSEE #13257 WHICH WILL BE RATIFIED AT THE APRIL, 2012 BOARD MEETING.

**AAG Report:**

AAG Wilburn informed the Board of a decision of the Franklin County Court of Common Pleas in which the judge ruled that an Ohio Board violated the Open Meetings Act by failing to state and record in the meeting minutes a valid basis for going into executive session prior going into executive session. The Board in question argued that it had gone into executive session to discuss pending or imminent court action. However, the judge in this case determined that there was, in fact, no pending or eminent litigation. Ms. Wilburn reminded the Board that any agency must select and state a valid basis for going into executive session, with reference to the particular statutory exception that is invoked. The minutes must accurately reflect the statutory basis, and, that only appropriate topics may be discussed in executive session and all decisions of the Board must be made in open session.

**Discipline:**

After review of the Consent Agreement for Case #1210009 by Board members,  
IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY SUSAN BENDER THAT THE BOARD RATIFY THE CONSENT AGREEMENT FOR CASE #1210009. MOTION ADOPTED BY A UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT. (See Addendum 2.0)

**New Business**

Membership in NCSORB:

After discussion,

After review and discussion by Board members,

IT WAS MOVED BY BRIAN J MILLER AND SECONDED BY SUSAN BENDER THAT THE BOARD NOT BECOME A MEMBER OF THE NATIONAL COMMISSION OF STATE OPTICIANRY REGULATORY BOARDS (NCSORB) AND THAT THE BOARD NOT AUTHORIZE DIRECTOR MANNS TO FORWARD THE REQUIRED FEES FOR MEMBERSHIP TO NCSORB. MOTION DID NOT CARRY.

After further review and discussion by Board members,

IT WAS MOVED BY JAMES ASHENHURST AND SECONDED BY JEFFREY R. ROHLF THAT THE BOARD BECOME A MEMBER OF THE NATIONAL COMMISSION OF STATE OPTICIANRY REGULATORY BOARDS (NCSORB) AND THAT THE BOARD AUTHORIZE DIRECTOR MANNS TO FORWARD THE REQUIRED FEES FOR MEMBERSHIP TO NCSORB. MOTION ADOPTED BY A UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT.

Optical Dispensers Board  
February 16, 2012

Hearing no other issues for discussion, President Barracato adjourned the regularly scheduled meeting at 12:05 PM, February 16, 2012.

**ATTESTED:**

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**PRESIDENT, THOMAS BARRACATO**

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**EXECUTIVE DIRECTOR, NANCY MANNS**

**Future Board Meeting Dates:**

April 19, 2012  
June 21, 2012  
August 16, 2012  
October 18, 2012  
December 6, 2012

**ADDENDUM 1.0**

**ODB - First Issued**

**Report Parameters**

Board = ODB  
Credential status = ACTIVE  
Credential prefix = C, S, SC  
From 01/01/2012 to 02/15/2012

Report generated on 2/15/2012 at 2:24:39 PM

Type	Number	Name	Add Line 1	City	State	Zip	Orig Issue	Expiration Date
S	11594	ALLEYNE M.	4234 Sunbury Road	Galena	OH	43021	20120120	20121231
S	13241	BERRY ANDREA	4210 Americana Drive Apt 303	Cuyahoga Falls	OH	44224	20120127	20121231
SC	11503	BRENKE JULIANN	8496 Warren Street	Ottawa Lake	MI	49267	20120127	20121231
SC	5079	BUCKEYE JOY	556 Stevenson Avenue	Akron	OH	44312	20120118	20121231
S	11644	CLARK LISA	1527 Portal Drive NE	Warren	OH	44484	20120207	20121231
S	11822	DAIGLE MATTHEW	360 West Park Drive	Greenville	OH	45331	20120213	20121231
S	13263	DETTY KARYN	355 Sunset Drive	Chillicothe	OH	45601	20120214	20121231
SC	4446	DOUBRAVA MATTHEW	5651 West 54th Street	Parma	OH	44129	20120201	20121231
SC	4821	FROST MICHELE	1761 Malcolm Road	Bucyrus	OH	44820	20120131	20121231
SC	5180	GILLENLINE KEITH	13304 Crocus Avenue NW	Hartville	OH	44632	20120131	20121231
S	13219	HAGY KIMBERLY	102 Lucas Lane	Aurora	IN	47001	20120113	20121231
SC	10070	HAUFF JEFFREY	660 East Schrock Road	Westerville	OH	43081	20120209	20121231
SC	12623	HOSKINS JAMES	3324 Elliott Court	Burlington	KY	41005	20120202	20121231
SC	10071	JONES GAIL	26730 Butternut Ridge Road	North Olmsted	OH	44070	20120207	20121231
C	12714	KELLEY AMANDA	3698 Pansy Road	Clarksville	OH	45113	20120126	20121231
SC	10480	LEIGH CHRISTY	8483 Beech Avenue Apt #6	Cincinnati	OH	45236	20120207	20121231
SC	7418	LEMUS AUBREY	3866 Greensview Drive	Powell	OH	43065	20120209	20121231
S	11165	MADDUX JUSTIN	313 East Cliff Street	Baltimore	OH	43105	20120126	20121231
S	13225	MARTIN MISTY	500 Ridge Avenue	Newark	OH	43055	20120120	20121231
S	11582	MAY WILLETTA	3703 East 103rd Street	Cleveland	OH	44105	20120209	20121231
SC	11307	MUNOZ MONICA	6376 Lear Nagle Road	North Ridgeville	OH	44039	20120203	20121231
S	11280	O'DELL REBECCA	11360 Coontz Road	Orient	OH	43146	20120214	20121231
SC	7166	PATTERSON MISTY	161 Fairway Dr.	Pataskala	OH	43062	20120210	20121231
SC	12428	PLATT DONNA	36 Foster Drive	New Middletown	OH	44442	20120131	20121231
S	11750	PRATT BRANDON	1634 20th Street Apt 10	Cuyahoga Falls	OH	44223	20120127	20121231
SC	12708	PRESTON JESSICA	5661 Old Blue Rock Road	Cincinnati	OH	45247	20120131	20121231
S	10805	ROSEY LINDSAY	1157 Anderson Ferry Road	Cincinnati	OH	45238	20120214	20121231
SC	10200	ROWE LORI	1215 Jennings Avenue	Salem	OH	44460	20120131	20121231
S	13075	SCHOEN RICHARD	1056 Eldorado Ave	Kettering	OH	45419	20120207	20121231
S	13218	SHEPPARD STEVEN	2400 Woodbridge Road Apt 3	Gastonia	NC	28056	20120113	20121231
S	13256	STINNETT PAMELA	11322 Matilda Avenue	Celveland	OH	44105	20120207	20121231
SC	11987	SUNDERLAND DEBORAH	2889 South Hametown Road	Norton	OH	44203	20120214	20121231
SC	12665	SWANSON MEGAN	40 South Chesterfield Road	Columbus	OH	43209	20120210	20121231
S	11935	TAYLOR AMY	3480 County Road E-F	Swanton	OH	43558	20120203	20121231
SC	7520	TRAVERS JENNIFER	1438 South Carpenter Road Apt 210	Brunswick	OH	44212	20120127	20121231
SC	10411	WAGNER KIA	12316 Mortimer Avenue	Cleveland	OH	44111	20120127	20121231
SC	13255	WAITE RICHARD	316 Overlook Drive	Alliance	OH	44601	20120209	20121231
S	13259	WCISLAK HOPE	5159 Fairmeadow Drive	Sylvania	OH	43560	20120210	20121231
S	13240	WERTZ LAUREL	2432 Moser Road	Dalton	OH	44618	20120127	20121231
S	13235	WHITE AMY	311 Powhatten Street	Marion	OH	43302	20120126	20121231
SC	5852	WOLF CYNTHIA	605 Oakridge Street SW	North Canton	OH	44720	20120207	20121231
S	11906	WORKMAN NATHAN	65 East North Street	Newark	OH	43055	20120126	20121231

**CONSENT AGREEMENT  
BETWEEN  
LINDA GARCIA  
AND  
THE OHIO OPTICAL DISPENSERS BOARD**

This CONSENT AGREEMENT is entered into by and between **LINDA GARCIA**, Opticians, License No. 6617-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.

**LINDA GARCIA** 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 4725.53(7) of the Ohio Revised Code and Ohio Administrative Code 4726-7-04(A). **LINDA GARCIA** employed an unregistered individual as an apprentice optician; 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 Lenscrafters, 122 Southpark Center, Strongsville, OH 44136 from on or about July 1, 2011 through on or about September 28, 2011.

**Linda Garcia**  
**Consent Agreement**  
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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**
4. **LINDA GARCIA** is a Licensed Dispensing Optician in the State of Ohio, and holds license number 6617-S.
5. **LINDA GARCIA** 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, **LINDA GARCIA** knowingly and voluntarily agrees with the **BOARD** to the following terms, conditions, and limitations:

- A. **LINDA GARCIA** 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, 16<sup>th</sup> Floor, Columbus, Ohio 43215-6108 not later than 30 days from the ratification by the Board of this consent agreement.
- B. **LINDA GARCIA** agrees and acknowledges that this disciplinary action shall be entered in the **BOARD'S** journal and will be maintained in her licensure file.
- C. **LINDA GARCIA** shall obey all laws and rules of the Ohio Revised Code and Ohio Administrative Code governing Licensed Opticians in Ohio.

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D. The **BOARD** agrees not to institute formal proceedings against **LINDA GARCIA** 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. GARCIA** 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 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.

**ACKNOWLEDGEMENTS/LIABILITY RELEASE**

**LINDA GARCIA** 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. GARCIA** 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 this review and discussion of this CONSENT AGREEMENT or of any information relating thereto.

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

**Linda Garcia**  
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**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**

\_\_\_\_\_  
**LINDA GARCIA**

\_\_\_\_\_  
**THOMAS BARRACATO**  
**President**  
**Supervising Disciplinary Member**

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

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

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

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