

IN THE MATTER OF	*	BEFORE THE STATE BOARD
THOMAS AZMAN, O.D.	*	OF EXAMINERS IN
License No. TA 0678	*	OPTOMETRY
Respondent	*	Case No. 2019-002

* * * * *

FINAL DECISION AND ORDER OF PROBATION

Procedural Background

On September 4, 2018, the Maryland State Board of Examiners in Optometry (the “Board”) received a complaint regarding the optometric practice of Thomas Azman, O.D. (the “Respondent”). As a result of this complaint, the Board initiated an investigation. Based on the information provided to the Board during the investigation, in August of 2019 the Board issued “Charges Under the Maryland Optometry Act” which notified the Respondent that the Board was charging him with a violation of the Maryland Optometry Act, specifically Md. Health Occ. Code Ann., § 11-313(6) (“Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain”); (16) (“Grossly and willfully: (i) Overcharges for optometric services”); (23) (“Commits an act of unprofessional conduct in the practice of optometry”); and (25) (“Willfully engages in conduct that is likely to ... harm the public”).

By letter dated October 15, 2019, the Respondent, through his attorney Cory Silkman, Esquire, requested an evidentiary hearing on the disciplinary charges under the Maryland Optometry Act. By letter dated December 11, 2019, the Board notified the Respondent that an evidentiary hearing was scheduled for February 6, 2020 at 1:00 p.m. before the Board.

On January 8, 2020, the Respondent submitted a Motion to Dismiss; the State opposed on

January 16, 2020; the Respondent replied on January 30, 2020. On February 3, 2020, the Board denied the Respondent's Motion to Dismiss.

On January 9, 2020, the Respondent submitted a Motion *in Limine* to Exclude Letters of Education; the State opposed on January 16, 2020; the Respondent replied on January 30, 2020. On February 3, 2020, the Board granted the Respondent's Motion *in Limine* and excluded those letters from the record in this case.

On January 9, 2020, the State submitted a Motion to Exclude the Respondent's Witnesses and/or Limit the Scope of Testimony and/or Length of Testimony and/or Exhibits; the Respondent opposed on January 16, 2020; the State replied on January 30, 2020. On February 3, 2020, the Board denied the State's Motion to Exclude the Respondent's Witnesses and/or Limit the Scope of Testimony and/or Length of Testimony and/or Exhibits.

On January 30, 2020, the State submitted a Motion *in Limine* to Exclude Respondent's Witness J.A. On February 3, 2020, the Board denied the State's Motion *in Limine* to Exclude Respondent's Witness J.A.

On February 6, 2020, a quorum of the Board was present and an evidentiary hearing was held.¹ Roberta Gill, Administrative Prosecutor, was present and presented the State's case against the Respondent. The Respondent appeared and was represented at the hearing by Cory Silkman, Esquire.

Evidentiary Exhibits and Witnesses

¹ Board Member Francisco Burgos, O.D. recused himself from participation in the hearing and decision in this matter.

State's Exhibits

The State submitted the following documents, which were admitted into evidence:

1. a. Facsimile cover sheet, received September 4, 2018 (1 page).
b. Complaint from Patient, received September 4, 2018 (3 pages).
2. Board of Examiners in Optometry Licensing Information Printout for Respondent (1 page).
3. a. Board Subpoena Duces Tecum to Respondent, dated September 7, 2018 (4 pages).
Board Subpoena ad Testificandum to Respondent, dated October 19, 2018 (1 page).
b. Patient Records from Low Vision Specialists of Maryland and Virginia, a Global Complex Eye Care Company (30 pages).
4. Transcript of Interview with Patient, dated October 15, 2018, condensed version (25 pages).
5. Transcript of Interview with Respondent, dated November 26, 2018, condensed version (23 pages).
6. Report of Investigation, dated December 18, 2018 (8 pages).
7. a. Letter of Procedure to Respondent, dated August 22, 2019 (2 pages).
b. Charges Under the Maryland Optometry Act, dated August 22, 2019 (4 pages).
c. Respondent's Request for Evidentiary Hearing, dated October 15, 2019 (3 pages).
d. Notice of Administrative Hearing, dated December 11, 2019 (2 pages).

State's Witnesses

Patient, Complainant.

Larry Schuyler, Board Investigator.

The Respondent's Exhibits

The Respondent submitted the following documents, which were admitted into evidence:

1. Invoice, Optical Company 1, dated October 6, 2017 (1 page).
2. Patient's Account Summary from July 20, 2017 through October 4, 2017 (1 page).
3. Patient's Medical Records from Low Vision Specialists of Maryland and Virginia and Global Complex Eye Care, (33 pages).
4. Optometric Practice Operating Expenses Based on 2018 figures (5 pages).

5. Key Metrics: Assessing Optometric Practice Performance & Best Practices of Spectacle Lens Management Report, Essilor, dated March 22, 2018 (130 pages).
6. Key Financial Metrics to Track and Improve for Profitability, Gerald A. Eisenstatt, O.D., M.B.A., printed from the Internet on December 10, 2019 (13 pages).
7. Key Metrics: Assessing Optometric Practice Performance, Management & Business Academy, Essilor, 2015 Edition (52 pages).
8. Practice by the Numbers: Track Your Key Expenses, Laurie L. Sorrenson, O.D., F.A.A.O., printed from the Internet on December 10, 2019 (8 pages).
9. Eyewear Gross Profit Margin %, Key Metrics: Assessing Optometric Practice Performance, 2015 (1 page).
10. Metrics to Manage By: How to Calculate Chair Cost per Exam, Thomas F. Steiner, printed from the Internet on December 12, 2019 (7 pages).
11. Payment Report Summary – All Locations, Optical Company 2, January 1, 2018 through December 31, 2018 (1 page).
12. Payment Report Summary – All Locations, Low Vision Evaluation – Gross Revenue, January 1, 2018 through December 31, 2018 (1 page).
13. Payment Report Summary – All Locations, LTV OTC – Optical Company 3, January 1, 2018 through December 31, 2018 (1 page).
14. Payment Report Summary – All Locations, LV OTC – Optical Company 4, January 1, 2018 through December 31, 2018 (1 page).
15. Transaction Details – Credit Card – Media Company 1, January 8, 2018 through November 5, 2018 (1 page).
16. Transaction Details – Credit Card – Media Company 2, Media Company 3, January 1, 2018 through December 1, 2018 (1 page).
17. Transaction Details – Credit Card – Media Company 4, January 3, 2018 through October 10, 2018 (1 page).
18. Transaction Details – Credit Card – Optical Company 1, January 12, 2018 through December 27, 2018 (1 page).
19. Transaction Details – Credit Card – Optical Company 1 (Second), August 8, 2018 (1 page).

20. Transaction Details – Credit Card – Optical Company 3, February 13, 2018 through December 18, 2018 (1 page).
21. Transaction Details – Credit Card – Optical Company 4, January 31, 2018 through December 19, 2018 (1 page).

The Respondent’s Witnesses

Thomas Azman, O.D., Respondent.

Witness 1, Employee of the Respondent.

Witness 2, Vice President of Marketing, Low Vision Specialists.

Witness 3, Business partner of the Respondent.

FINDINGS OF FACT

The Board makes the following findings of fact, based on the entirety of the record:

1. On September 1, 1975, the Board issued license number TA 0678 to the Respondent to practice optometry in the State of Maryland. (State’s Exhibit 2, Bates No. 0005). At all times relevant to this Order, the Respondent was licensed to practice in Maryland as an optometrist. *Id.*
2. On September 4, 2018, the Board received a complaint regarding the Respondent from a patient of the Respondent (the “Patient”). (State’s Ex. 1, Nos. 001 - 004). The complaint alleged that in July of 2017, the Patient, who described the Patient’s condition as “legally blind,” had an appointment with the Respondent. *Id.* According to the complaint, after an examination by the Respondent, the Respondent told the Patient that the Patient would be able to manage life independently and “drive a car too.” *Id.* According to the complaint, the Respondent gave the Patient glasses, which “never works [sic] for me,” charged him “\$475.00 dollars cash, for the sfirst [sic] visit and then he charged on my credit card the amount of \$7,000.00(seven thousand dollars)

[sic] out my credit card.” *Id.* The Patient wanted to get “all my money back,” but claimed that the Respondent only offered the Patient “\$1,700.00 dollars, but I didnt [sic] take it.” *Id.*

3. Based on the Complaint, the Board initiated an investigation. (State’s Exs. 3, 4, 5, 6, Nos. 0006 - 0096). The Board’s investigation revealed that the Respondent admitted in his sworn interview that the glasses he sold to the Patient cost approximately \$850.00 and that he added a 72% business expense to the cost charged to the Patient. (State’s Exs. 5, No. 0077 and 6, No. 0095). A review of the Patient’s medical records obtained from the Respondent revealed that on July 20, 2017, the Patient paid the Respondent \$495.00 for a magnification assessment. (State’s Ex. 3B, Nos. 0012-0013, 0017-0018; Respondent’s Ex. 3, R. 293-294, R. 297-298). The Patient paid the Respondent \$3,3450.00 on August 9, 2017 and \$3,450.00 on September 14, 2017, a total of \$6,900.00 for telescope glasses. *Id.*

4. In testimony before the Board, the Patient testified that, after the initial assessment, the Respondent “congratulated me. He said you should be able to manage life yourself.” (Transcript, p. 19). The Patient testified: “I was so happy at that time for the glasses that he said that he’s going to give me. And I don’t think I need any other questions on that behalf because he told me that I’m going to be able to do everything by myself. That’s all it was about, that I was looking for.” (Tr., p. 23). The Patient testified: “The only doctor, optometrist, that he said I’m going to see well was him [Respondent].” (Tr., p. 37).

5. The Patient testified “I don’t see nothing with these glasses” (Tr., p. 30); “What I saw in the test, it was totally different to what I saw in the glasses.” (Tr., p. 48). The Patient continued, “He kept giving me a lot of appointments, which never works, never. And I got tired. To pay someone to drive me around for the same complaint. And I told him, Dr. Azman, get your glasses

and give me my money back.” (Tr., p. 30). The Patient testified: “I paid all of this money with the credit card. I paid the credit card those money with a lot of interest. And I told him, Dr. Azman, I call him three times and he – he kept saying that I’m not going to get any more than what he already offered me when we’re talking about the \$1,700.” (Tr., p. 33). The Patient continued: “I called credit card to ask them, this – these glasses that I bought from that person didn’t work; please give me my money back. They asked me that it’s been over six months but they open the case, which is – they told me what to do at this point they gave me the number that I called to make a complaint, which is this office [the Board]. And they asked me to fill out the complaint, which I did.” (Tr., pp. 33-34).

6. The Patient testified that, after seeing the Respondent, the Patient saw an optometrist at a Hospital: “when I saw him, which is the one who gave me these glasses, which I can see 10 times more than what he already gave me with these glasses.” (Tr., p. 36).

7. In testimony, the Respondent acknowledged that the fee he charges patients for a magnification assessment is \$495.00, which is not covered by insurance. (Tr., pp. 101, 110). He confirmed that the range of prices for glasses, telescopes, or microscopes is from \$2,500 to about \$6,000. (Tr., p. 101).

8. The Respondent testified that he examined the Patient on July 20, 2017, gave the Patient a two-hour magnification assessment, and accepted the \$495.00 assessment fee from the Patient in cash. This examination was in the Respondent’s Bowie, Maryland office. (Tr., p. 102; Respondent’s Exs. 2, R. 284 and 3, R. 285-287, R. 293-294, R. 298; State’s Ex. 3B, Nos. 0012-0013, No. 0018, Nos. 0034-0035).

9. The Respondent testified that the Patient has a prosthetic in the left eye, and in the right eye, the Patient has “very poor vision.” (Tr., p. 106; Respondent’s Ex. 3, R. 286; State’s Ex. 3B, No. 0034). The Respondent acknowledged that the Patient’s goals were to see at distance, see faces, watch television, and read. *Id.*

10. The Respondent testified that following the examination and assessment of the Patient on July 20, 2017, he designed a telescope prescription, which he showed to the Patient in a trial frame. (Tr., p. 113). The Respondent confirmed that when the Patient came in to see him, the Patient’s vision was 20/400; with the telescope in the trial frame, the Patient’s vision was 20/80. (Tr., p. 115; Respondent’s Ex. 3, R. 286; State’s Ex. 3B, No. 0034).

11. The Respondent testified that he provided a menu of options to the Patient, which is priced by set fees. (Tr., pp. 125, 157; Respondent’s Ex. 3, R. 287, R. 295; State’s Ex. 3B, No. 0035, No. 0014). The Respondent verified that the range of options he presented to the Patient ranged from \$1,495.00 for reading glasses to \$6,900.00 for “Telescope/Microscope/Dress/Sunglasses Use: Distance 20/80 MOBILE *i e* ALL AROUND Distance Vision Glasses.” (Tr., pp. 139-141; Respondent’s Ex. 3, R. 295; State’s Ex. 3B, No. 0014). The Respondent testified that the Patient expressed interest in the \$6,900.00 option, but the “Patient Options” sheet he gave to the Patient did not have “telescope” circled; and that in the desk top magnifier screen option, the Patient’s vision was not recorded. (Tr., p. 140, 143; Respondent’s Ex. 3, R. 295; State’s Ex. 3B, No. 0014).

12. The Respondent testified that the \$6,900.00 set fee included the telescope lens for the Patient’s functioning eye and a “dummy” lens; that a “dummy” lens cost \$895.00; and that there is no discount for a “dummy” lens. (Tr., pp. 156-157; Respondent’s Ex. 1, R. 001; Ex. 2, R. 284; and Ex. 3, R. 298; State’s Ex. 3B, No. 0018). The Respondent testified that patients with one eye

do not have to have the “dummy” lens, but that the Respondent included the “dummy” lens for the Patient. (Tr., p. 158). The Respondent testified that after spending two hours with the Patient, there was nothing in writing that he gave to the Patient that documented what the \$6,900.00 set fee would cover. (Tr., pp. 146-147). Witness 1, an employee of the Respondent who handles “all the phone calls related to low vision inquiries, appointments and all questions” (Tr., p. 167), confirmed that the information regarding what the set fees covered was not in the Patient’s file. (Tr., p. 177).

13. The Respondent testified that he ordered the telescope glasses for the Patient. (Tr., p. 126; Respondent’s Ex. 3, R. 310; State’s Ex. 3B, No. 0025), that the Patient came in for an appointment when the telescope glasses came in (*Id.*), and that the Respondent gave the Patient verbal instructions on the use and care of the telescope glasses. (Tr., pp. 129-30; Respondent’s Ex. 3, R. 310; State’s Ex. 3B, No. 0025). This appointment was on September 14, 2017 in the Respondent’s Bethesda, Maryland office. (Respondent’s Ex. 3, R. 288; State’s Ex. 3B, No. 0036).

14. The Respondent testified that on January 30, 2018, the Patient returned for an appointment because the Patient had problems with the telescope glasses. (Tr., p. 131; Respondent’s Ex. 3, R. 289; State’s Ex. 3B, No. 0037). This appointment was at the Respondent’s Frederick, Maryland office. The Patient was not able to see “as good as when he got them.” *Id.* The frames were out of shape, there were scratches, and the telescope was chipped at the edge. *Id.* The Respondent informed the Patient that there would be a charge for replacing the lens, but no charge for realignment. (Tr., pp. 131-32; Respondent’s Ex. 3, R. 289; State’s Ex. 3B, No. 0037). The Patient did not elect to replace the lens. *Id.* The Respondent sent the telescope glasses back to the lab for evaluation of alignment with no charge to the Patient. *Id.*

15. The Respondent testified that on March 16, 2018, when the telescope glasses had been returned from the lab, the Patient came back for an appointment. This appointment was at the Respondent's Columbia, Maryland office. (Tr., pp. 132-133; Respondent's Ex. 3, R. 290; State's Ex. 3B, No. 0038). When the Patient asked for a refund, the Respondent noted in the Patient's chart "I explain [sic] as you and your [spouse] know, you glasses are custom made and there is no refund. [The Patient] left with glasses on face." (Respondent's Ex. 3, R. 290; State's Ex. 3B, No. 0038).

16. The Respondent testified that on May 29, 2018, after the Patient had asked for a refund, the Patient came back for an appointment. This appointment was at the Respondent's Alexandria, Virginia office. (Tr., p. 135; Respondent's Ex. 3, R. 291; State's Ex. 3B, No. 0039). The Respondent testified that because there was no change in the Patient's regular prescription compared to the initial examination, the Patient needed to see an occupational therapist and take a cane mobility course – that "this will enhance your mobility greatly." *Id.*

17. The Respondent testified that on July 6, 2018, he called the Patient to inform the Patient that, although the telescope glasses were non-refundable, the Respondent's staff, but not the Respondent, was offering a refund of \$1,700. (Tr., pp. 143-144; Respondent's Ex. 3, R. 308; State's Ex. 3B, No. 0023).

18. Witness 2, the Respondent's Vice President of Marketing, testified that the markup on the Patient's telescope glasses – the actual cost of the goods to the fee charged to the patient (\$895.00 to \$6,900.00) - was 88%. (Tr., p. 205). Witness 2 confirmed that the average markup for frames in the "high" range is a multiplier of 3.8. (Tr., pp. 207-208; Respondent's Exs. 5, R. 57; and 6, R. 209).

19. Witness 2 testified that the pricing for the Patient's telescope glasses was developed by factoring in staff, occupancy, marketing, general overhead, doctor compensation, and cost of goods. (Tr., p. 197). Witness 2 testified that the fee of \$6,900.00 paid by the Patient included unlimited visits to the Respondent for one year, design changes, adjustments, and a one-year frame warranty. (Tr., pp. 205-206). Witness 2 described the marketing expenses for the Respondent's practice as "significantly high," at 26% compared to a traditional optometric practice's 1%. (Tr., pp. 199, 200; Respondent's Ex. 4, R. 002, R 005). Witness 3, the Respondent's business partner, testified "I've always argued with [Witness 2], why are you spending so much on marketing? It's too expensive. This is unbelievable, okay?" (Tr., p. 219). Witness 2 testified that the marketing for the Respondent's practice includes "radio commercials, TV commercials, social media, blogs." (Tr., p. 202).

20. Witness 3 testified that he and the Respondent have two corporations, Global Complex Eye Care/Global Vision/Low Vision of Maryland and Corporation 2, and that the Respondent operates strictly out of Global Complex Eye Care/Global Vision/Low Vision of Maryland. (Tr., p. 214). Witness 3 explained that "we're 50/50 partners in both corporations." (Tr., p. 245). Witness 3 testified that the pricing factors in the set fees for the Respondent's low vision practice include "a time element for the doctor," "[t]he advertisement," (Tr., p. 218) "the salaries ... [of] [Witness 1] and [Witness 2]," "rent for -- I don't know, 12, 13, 14 different satellite offices," (Tr., p. 219) "[t]he cost of goods." *Id.* Witness 3 added, "[t]he cost of goods, by the way, is not a significant factor." *Id.* Witness 3 testified that the price charged to the Respondent's patients "is based on a chart, basically, okay, that's already set. And it may change next year." (Tr., p. 220). Witness 3 testified that the amount of the pre-set fees is determined by Witness 2 and approved by the

Respondent and Witness 3. (Tr., p. 224).

21. Witness 3 testified that “our personal opinion is every low vision patient is a vulnerable patient.... But we believe – and this is our protocol from day one that they are vulnerable patients.” (Tr., pp. 231-232). Witness 3 explained: “Most of these patients have been to other low vision people. Okay? They’ve already gone to two, three and they spent hundreds of dollars, maybe thousands, for different low vision [aids].” (Tr., p. 247).

22. Witness 3 testified that the witness told the Respondent about the low vision practice: “I said, this is not sustainable. You’re going to have to charge for it.” (Tr., p. 215). Witness 3 explained, “I don’t think it’s that affordable the way we have it set up.” (Tr., p. 221). Witness 3 continued, “And, by the way, most people that call ... decide it’s too expensive.” *Id.* Witness 3 agreed that the low vision practice model has a high cost of devices in order to cover the overhead because the volume of patients seen by the Respondent does not cover the rest of the overhead. (Tr., p. 240).

23. Witness 3 testified that “I think there was a refund policy and I think a refund was offered to the patient, more than what the telescope costs. But remember what goes into the cost of a telescope is – the cost of goods is the bottom. You have all the other expenses.” (Tr., p. 238). Witness 3 testified that the witness and the Respondent made a profit of \$2,000.00 from the Patient, which is the type of profit required to make the Respondent’s business model sustainable. (Tr., p. 241). Witness 3 testified that the reason that Global Complex Eye Care/Global Vision/Low Vision of Maryland charges their patients so much is: “One reason. Because [the Respondent] loves it and wants to help people. And I’m – and, by the way, if he didn’t love this and help people out, I would say it’s finished. This is not – this is not a business model to be sustainable.” (Tr., p. 242).

24. Witness 3 testified that \$1,800.00 of the fee charged to the Patient is an average of the marketing costs allocated to that fee. (Tr., p. 241). Documents submitted into evidence by the Respondent show that, for calendar year 2018, the Respondent's practice spent at least \$126,950.00 on radio and television advertisements (\$42,570.00 with a broadcast company; \$57,000.00 with a radio station; and \$27,380.00 with another radio station) (Respondent's Exs. 15, R. 279; 16, R. 280; and 17, R. 281). Witness 3 testified: "We're not here to rip anyone off. That's not the way we operate. It might be perceived that way, but it's not." (Tr., p. 244).

ANALYSIS

Based on the evidence and testimony presented at the February 6, 2020 evidentiary hearing, the Board finds that the Respondent violated multiple provisions of the Optometry Act. Specifically, the Board finds the testimony of the Patient to be credible, and that the Patient had no motive to be untruthful. The Board finds that the Respondent grossly overcharged the Patient, a member of a vulnerable population, for telescope glasses, in order to keep the Respondent's business sustainable financially. The Board finds that the fee charged to the Patient was specifically developed to sustain the Respondent's passion for providing low vision services at multiple locations, and to underwrite large expenditures for advertising and marketing. The Board finds that the Respondent failed to provide the Patient documentation of what goods and services the set fee charged to the Patient covered. The Board finds that the Respondent's refusal to refund the \$6,900.00 charged to the Patient when the Patient was unable to see through the telescope glasses was willful. The Board finds that the Respondent engaged in the promotion of the sale of the telescope glasses to the Patient so as to exploit the Patient for financial gain to sustain his low vision business, and grossly overcharged the Patient for the telescope glasses. The Board also

finds that the Respondent's failure to offer a refund of more than \$1,700.00 on the Patient's \$6,900.00 purchase was willful. The Board finds that these actions violate Md. Health Occ. Code Ann., § 11-313(6) ("Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain"); and (16) ("Grossly and willfully: (i) Overcharges for optometric services"). The Board does not find that these actions constitute a violation of Md. Health Occ. Code Ann., § 11-315(23) ("Commits an act of unprofessional conduct in the practice of optometry"); or (25) ("Willfully engages in conduct that is likely to ... harm the public").

The Board finds that the Respondent's misconduct, as detailed in the Findings of Fact above, falls within paragraphs A.(6) and A.(13) of the Board's sanctioning guidelines. See COMAR 10.28.17.04. The range of potential sanctions under those paragraphs is reprimand or probation for 1 year to revocation. *Id.* The potential monetary penalty under each paragraph is \$1,000.00 to \$5,000.00. *Id.* In this instance, the Board finds that probation for 1 year and a \$5,000.00 monetary fine is appropriate.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated Md. Health Occ. Code Ann., § 11-313 as follows:

- (6) Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain; and
- (16) Grossly and willfully:
 - (i) Overcharges for optometric services.

The Board dismisses the charges based on § 11-313(23) ("Commits an act of unprofessional conduct in the practice of optometry"); and (25) ("Willfully engages in conduct that is likely to ... harm the public").

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and upon the affirmative vote of a majority of the members of the Board²: it is hereby:

ORDERED that the August 22, 2019 charge issued by the Board in this case alleging a violation of § 11-313(23) (“Commits an act of unprofessional conduct in the practice of optometry”) of the Maryland Optometry Act is hereby **DISMISSED**; and it is further

ORDERED that the August 22, 2019 charge issued by the Board in this case alleging a violation of § 11-313(25) (“Willfully engages in conduct that is likely to ... harm the public”) of the Maryland Optometry Act is hereby **DISMISSED**; and it is further

ORDERED that, beginning on the effective date of this Final Decision and Order of Probation, the Respondent is placed on **PROBATION** for a minimum of **ONE (1) YEAR** subject to the following terms and conditions:

1. The Respondent's status as a licensed optometrist shall be listed in the Board's computer records and website as being on “**Probation**;”

2. In addition to the continuing education units required by § 11-308 of the Health Occupations Article and the COMAR 10.28.02, the Respondent shall complete:

a. one Board-approved, in-person course on ethics in the practice of optometry; and

b. one Board-approved, post-graduate course with a minimum of **TWO (2)**

CONTINUING EDUCATION UNIT CREDIT HOURS, on cultural competency;

The Respondent’s failure to submit to the Board satisfactory evidence of the completion of

² Board Member Francisco Burgos, O.D. recused himself from participation in the hearing and decision in this matter.

the aforementioned courses within **SIX (6) MONTHS** from the effective date of this Final Decision and Order of Probation shall constitute a violation of probation and a violation of this Order;

3. The Respondent is responsible for any costs associated with the compliance of the terms and conditions set forth in this Final Decision and Order of Probation;

4. The Respondent shall comply with the Maryland Optometry Act and the Board's regulations. Any violation of the Maryland Optometry Act or the Board's regulations shall constitute unprofessional conduct and a violation of probation; and it is further

ORDERED that the Respondent shall pay to the Board a monetary fine of **FIVE THOUSAND DOLLARS AND ZERO CENTS (\$5,000.00)** in full by money order or cashier's check made payable to the Board and delivered personally or by certified mail to the Board within **NINETY (90) DAYS** of the effective date of this Final Decision and Order of Probation. Failure to pay this monetary fine in full to the Board within **NINETY (90) DAYS** of the effective date of this Final Decision and Order of Probation shall constitute a violation of this Final Decision and Order of Probation; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this probation and/or this Final Decision and Order of Probation, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board, if there is a genuine dispute as to the material fact(s), or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction which the Board may have imposed in this case under Md. Code Ann., Health Occ. § 11-313 including a reprimand, additional probation, suspension, revocation, and/or monetary fine, said violation being proven by a preponderance of the evidence; and it is

further

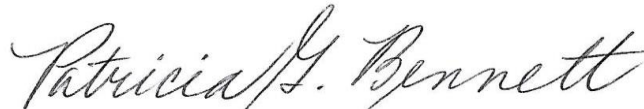
ORDERED that no earlier than **ONE (1) YEAR** after the effective date of this Final Decision and Order of Probation, the Board may consider a petition for termination of the Respondent's probationary status, provided that the Respondent has been compliant with the probationary terms of this Final Decision and Order of Probation; and it is further

ORDERED that there shall be no early termination of the **ONE (1) YEAR** probationary period. As such, the Board will not consider any requests from the Respondent to terminate probation any earlier than **ONE (1) YEAR** from the effective date of this Final Decision and Order of Probation; and it is further

ORDERED that this document is a **PUBLIC DOCUMENT** under Md. Code Ann., General Provisions § 4-333(b).

April 10, 2020

Date



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

NOTICE OF APPEAL RIGHTS

Any person aggrieved by a final decision of the Board under Md. Health Occ. Code Ann. § 11-313 may take a direct judicial appeal within thirty (30) days as provided by Md. Health Occ. Code Ann. § 11-318, Md. State Gov't Code Ann. § 10-222 and Title 7, Chapter 200 of the Maryland Rules, including Md. Rule 7-203 ("Time for Filing Action").

If the Respondent files an appeal, the Board is a party and should be served with the court's process at the following address:

Patricia G. Bennett, MSW, Executive Director
Maryland State Board of Examiners in Optometry
4201 Patterson Avenue, Suite 307
Baltimore, Maryland 21215-2299
Phone: 410-764-5994
Fax: 410-358-2906

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied. Notice of any petition should also be sent to the Board's counsel at the following address:

Deborah A. Donohue
Assistant Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201