

BEFORE THE WEST VIRGINIA BOARD OF OPTOMETRY

**WEST VIRGINIA BOARD OF
OPTOMETRY,**

Complainant,

v.

Complaint No. 23-01

**MICHAEL KUCHER, O.D.,
License No. 703-OD,**

Respondent.

CONSENT AGREEMENT AND ORDER

The Respondent, Michael Kucher, O.D. (hereinafter "Respondent"), and the West Virginia Board of Optometry (hereinafter "Board"), execute this Consent Agreement and Order for the purpose of resolving the above complaint filed against Respondent. As reflected in this Consent Agreement and Order, the parties have reached an agreement in which Respondent agrees and stipulates to the Findings of Fact, Conclusions of Law and Order set forth herein concerning the proper disposition of this matter. The Board, having approved such agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. Respondent is a licensee of the Board, holding License No. 703-OD, and at all times relevant, practiced optometry in Weirton, West Virginia.

2. On February 27, 2023, the Board received a written complaint from Annamarie Sesler (“Ms. Sesler”) regarding the optometry care that she received from Jacob Davis, O.D. (“Dr. Davis”) at the Family Vision Center in Weirton, West Virginia. Ms. Sesler stated that Dr. Davis, while working at the Family Vision Center, had provided her optometric care for approximately two years, and that he was not a licensed optometrist. Ms. Sesler asserted that Respondent was aware that Dr. Davis was practicing optometry without a license.

3. On or about March 24, 2023, Respondent responded to the complaint. Respondent acknowledged that Dr. Davis was not licensed to practice optometry and that Dr. Davis had been working under Respondent’s license and Respondent’s wife’s license, Dr. Laurie Raab. Respondent stated that he and Dr. Raab understood that Dr. Davis was not licensed, so they did not permit him to sign any medical or optometric prescriptions.

4. The Board’s Complaint Committee appointed Robert L. Hanson, West Virginia Attorney General’s Office, as an investigator in this matter. Mr. Hanson conducted an investigation during which he, among other things, spoke with Ms. Sesler and others for whom Dr. Davis had provided optometric care and on whom Dr. Davis had performed optometric procedures. On or about February 9, 2024, Mr. Hanson submitted his “Report of Investigation” to the Board.

5. The Board’s Complaint Committee reviewed Ms. Sesler’s complaint, Respondent’s response thereto, and supporting documentation obtained during the investigation.

6. Upon recommendation of the Complaint Committee, the Board, by majority vote at its meeting on February 26, 2024, found probable cause to believe that Respondent permitted Dr. Davis to practice optometry without a license, and in doing so, Respondent aided and abetted Dr. Davis’s unlicensed practice of optometry, engaged in behavior likely to endanger the health of

the public, and engaged in false and deceptive advertising, in violation of W. Va. Code §§ 30-8-18(g)(8), (9) and (10), and W. Va. Code R. § 14-4-1. Accordingly, the Board determined there was sufficient evidence to warrant further proceedings and that further action should be taken against Respondent.

CONCLUSIONS OF LAW

1. Respondent is a licensee of the Board, holding License No. 703-OD, and is therefore subject to the license requirements and disciplinary rules of the Board.

2. The Board is a state entity created and governed by W. Va. Code §§ 30-8-1 *et seq.*, and is empowered to regulate the practice of optometry in the State of West Virginia.

3. In order to carry out its regulatory duties, the Board may suspend, revoke or otherwise discipline an individual's license to practice optometry under the authority granted to it by W. Va. Code §§ 30-8-5 and 30-8-18 and W. Va. Code R. §§ 14-4-1 *et seq.*

4. Respondent does not contest that the Board has probable cause to charge him with one or more violations of the Board's governing statutes and rules based upon its investigation and findings in this matter.

5. The conduct described in the above Findings of Fact would, if proven, constitute violations of W. Va. Code § 30-8-18(g)(8), (9) and (10), and W. Va. Code R. § 14-4-4. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Michael Kucher, O.D., by signing this Consent Agreement and Order, acknowledge the following:

1. After having had the opportunity to consult with an attorney of my choice, I sign this Consent Agreement and Order voluntarily, freely, without compulsion or duress, and understand that my signature has legal consequences.

2. The entire agreement is contained in this Consent Agreement and Order, and no person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth in this document.

3. I am aware that I may pursue this matter through appropriate administrative and/or court proceedings. I am aware of my legal rights regarding this matter, but I have chosen to waive those rights intelligently, knowingly, and voluntarily.

4. I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. I acknowledge that the execution of this document constitutes disciplinary action by the Board and is therefore considered to be public information.

The Respondent, Michael Kucher, by affixing his signature hereto, agrees to the following Order.

ORDER

Based on the foregoing, and in lieu of further prosecution of these matters, the Board does hereby ORDER and DECREE as follows:

1. The Respondent is hereby REPRIMANDED for his actions in this matter.
2. Within ninety (90) days from the date of entry of this Order, Respondent shall pay a fine in the amount of One Thousand Dollars (\$1,000.00).
3. Within ninety (90) days from the date of entry of this Order, Respondent shall reimburse the Board the costs of this proceeding in the amount of Two Thousand Dollars

(\$2,000.00), which represents the administrative and legal expenses incurred by the Board in the investigation and disposition of this case.

4. Within ninety (90) days from the date of entry of this Order, Respondent shall take and pass the National Board of Optometry's Online State Law Exam ("OSLE"), which is available on the National Board of Examiners in Optometry's website, www.optometry.org.

5. Should Respondent fail to comply with the provisions of this Consent Agreement and Order, Respondent's license to practice optometry shall be summarily suspended pending a hearing to address such failure(s). Following said hearing, additional disciplinary sanctions may be levied, including but not limited to further suspension or revocation of Respondent's license.

6. Respondent shall, at all times, cooperate with the Board and any of its agents or employees.

7. This document is a public record available for inspection by the public in accordance with the provisions of the West Virginia Freedom of Information Act, W. Va. Code §§ 29B-1-1 *et seq.*, and may be reported to other governmental agencies, professional boards, or other organizations.

8. This Consent Agreement and Order constitutes the entire agreement between the parties.

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In recognition of this Consent Agreement and Order, we hereby affix our signatures.

WEST VIRGINIA BOARD OF OPTOMETRY

By:

Jennifer Stevens, OD
Jennifer Stevens, O.D., President

Entered:

6/21/24

Date

REVIEWED AND AGREED TO BY:

Michael P. Kucher, OD

Michael Kucher, O.D.

Respondent

6/14/24

Date

This day personally appeared before me, Michael Kucher, O.D., whose name is signed to the foregoing document and who is known to me, having acknowledged before me that the statements in the foregoing document are complete, true and correct, to the best of his knowledge, information, and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the 14th day of June, 2024.

My Commission expires: November 28 2028

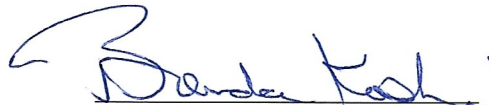
Brenda Koski

Notary Public



NOTARY STATEMENT

This is to confirm that Vincent S. Gurrera, Esq, Gurrera Law Office, PLLC ,does not represent Michael Kucher, O.D. and Brenda Koski has only notarized this document on his behalf.


Brenda Koski, Notary Public