

STATE OF MAINE
BOARD OF OPTOMETRY

In re:	)	CONSENT
Michael G. Hagar, O.D.	)	AGREEMENT
Case Nos. OP10-04 and OP11-04	)	

INTRODUCTION

This document is a Consent Agreement ("Consent Agreement") concerning the license of Michael G. Hagar to practice as an optometrist in the State of Maine. The parties to the Consent Agreement are: Michael G. Hagar ("Dr. Hagar"); the Maine State Board of Optometry ("Board"); and the State of Maine Office of Attorney General ("Attorney General"). The Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 2431-A(2).

STATEMENT OF FACTS

1. Dr. Hagar is a licensed optometrist in the State of Maine.

Complaint No. OP10-04

2. On June 15, 2010, the Board received a complaint ("Complaint No. OP10-04") filed by [REDACTED]. Complaint No. OP10-04 alleges, among other things, that Dr. Hagar performed an optometric examination of her then two-year-old son, Hunter, on June 9, 2010. It was Hunter's first optometric examination, and he was frightened by the examination room and the examination process. As a result, Hunter tried to resist Dr. Hagar's attempts to

examine him and to administer eye drops by thrashing around. When [REDACTED] was not able to keep Hunter still by simply holding him on her lap, Dr. Hagar instructed [REDACTED] to lay Hunter down on her legs with Hunter's legs wrapped around her waist and his head facing up. Dr. Hagar sat in his chair with his knees directly in front of [REDACTED] knees. When Hunter continued to struggle, Dr. Hagar placed Hunter's head between his knees and used his knees to hold Hunter's head upright. Hunter continued to squeeze his eyes shut, and Dr. Hagar used his fingers to separate Hunter's eyelids in order to open them to administer the eye drops. Dr. Hagar continued administering the drops even though Hunter was by then hysterical, crying that it hurt, and [REDACTED] was visibly upset. As a result of Dr. Hagar's treatment of him, Hunter had red marks on the sides of his head and face which persisted for at least a day after the examination. [REDACTED] also alleges that Hunter suffered a scratched cornea.

3. Dr. Hagar admits that he restrained Hunter's head between his
knees in order to administer the eye drops but denies doing anything that would have scratched Hunter's cornea.

Complaint No. OP11-04

4. On March 14, 2011, the Board received a complaint ("Complaint No. OP11-04") filed by [REDACTED]

5. Complaint No. OP11-04 alleges, among other things, that Dr. Hagar conducted an optometric examination of [REDACTED] mother-in-law, [REDACTED], on March 9, 2011. [REDACTED] was present for the examination because, as [REDACTED] explained to Dr. Hagar, [REDACTED]

[REDACTED] is eighty-four years old at the time of the examination and suffered from mild dementia. [REDACTED] had difficulty remaining positioned in front of the Slit Lamp, moving her forehead back from the forehead rest such that Dr. Hagar alleges that the eye structure images were blurred, and he could not visualize them. After this had occurred several times, Dr. Hagar reached around with his free hand and pulled [REDACTED] head into the forehead rest piece many times before completing the examination as best he could. There is no allegation that Dr. Hagar's action injured [REDACTED], but he also did not ask her permission or that of [REDACTED] before handling [REDACTED]. [REDACTED] further alleges that Dr. Hagar was condescending and rude to both of the [REDACTED] in the course of the examination. [REDACTED] also alleges that Dr. Hagar did not permit [REDACTED] time to respond to examination questions but rather interrupted her when she did not respond quickly enough and visibly grimaced at

[REDACTED] inconsistent answers to his examination questions.

6. Dr. Hagar acknowledges that he should have terminated the examinations of [REDACTED] and [REDACTED] and not persisted in completing them in this manner.

7. Pursuant to 32 M.R.S.A. § 2431-A(2)(F), "unprofessional conduct in the practice of optometry" is defined as a violation "of a commonly understood standard of professional behavior," which is a ground for both denial of licensure and the imposition of discipline by the Board pursuant to 32 M.R.S.A.

§ 2431-A(2)(F) and 10 M.R.S.A. § 8003(5-A)(A)(2).

8. The parties have agreed to enter into the Consent Agreement in order to resolve Complaint Nos. OP10-04 and OP11-04.

COVENANTS

In order to resolve fully Complaint Nos. OP10-04 and OP11-04 filed against Dr. Hagar's optometrist license without further legal proceedings, it is agreed to among the parties that:

1. Dr. Hagar admits that if these matters were to go to adjudicatory hearing, there is sufficient evidence for the Board to find that his treatment of both [REDACTED] and [REDACTED] constitutes unprofessional conduct in the practice of optometry;

2. Dr. Hagar agrees to accept a REPRIMAND from the Board for the above violations and agrees not to use such measures with patients in the future;

3. Dr. Hagar agrees to pay a fine of One Thousand Dollars
(\$1,000.00) within thirty (30) days of the Board's approval of the Consent Agreement as sanction for the above violation. Said fine is to be paid by **CERTIFIED CHECK OR MONEY ORDER** made payable to "Treasurer, State of Maine" and remitted to Susan Giampetruzzi, Executive Secretary, Maine Board of Optometry, Department of Professional and Financial Regulation, 113 SHS, Augusta, ME 04333-0113;

4. Dr. Hagar agrees to complete satisfactorily a nationally-recognized continuing medical education course for disruptive/distressed physicians ("Disruptive Physician Course") no later than November 30, 2012. Dr. Hagar

agrees to submit an official description of the proposed Disruptive Physician Course to the Board for its prior approval within thirty (30) days of the date upon which Dr. Hagar signs the Consent Agreement and proof of enrollment within thirty (30) days of the date Dr. Hagar is notified that the Board has approved the proposed course. The eligible course is to be a minimum of eighteen (18) hours in duration. Dr. Hagar agrees to provide all releases and/or authorizations for colleagues, supervisors, employees, physicians, and/or mental health care providers required by the course administrators for purposes of assessing Dr. Hagar's behavior before and after the course. Dr. Hagar agrees to submit official proof of completion of the Disruptive Physicians Course within ten (10) days of its receipt. Dr. Hagar agrees that the Disruptive Physician Course will not be eligible for credit by the Board toward any continuing education licensure renewal requirement;

5. ~~The Attorney General and the Board agree that no further agency~~
or legal action will be taken against Dr. Hagar's license based on Complaint Nos. OP10-04 and OP11-04 described herein, except in the event that Dr. Hagar does not comply fully with the terms of the Consent Agreement. The Attorney General and the Board agree that no further agency or legal action will be taken against Dr. Hagar's license. Any violation of the Consent Agreement will be a ground for discipline by the Board;

6. The Consent Agreement is not subject to appeal;

7. The Consent Agreement is not subject to amendment except by written agreement of all parties;

8. The Consent Agreement is a public document within the meaning of 1 M.R.S.A. § 402, et seq.;

9. Dr. Hagar understands that the execution of the Consent Agreement is completely voluntary and that he has the right to consult with an attorney before signing the Consent Agreement; and

10. Dr. Hagar understands that his signature indicates that he has read and understands the Consent Agreement and that he enters into it of his own free will.

Dated: _____

MICHAEL G. HAGAR, O.D.

Dated: Oct 14, 2011

JAMES SAVAGE, President
Board of Optometry

Dated: 10/14/11

JUDITH M. PETERS
Assistant Attorney General

8. The Consent Agreement is a public document within the meaning of 1 M.R.S.A. § 402, et seq.;

9. Dr. Hagar understands that the execution of the Consent Agreement is completely voluntary and that he has the right to consult with an attorney before signing the Consent Agreement; and

10. Dr. Hagar understands that his signature indicates that he has read and understands the Consent Agreement and that he enters into it of his own free will.

Dated: 10-06-2011

Michael G. Hagar O.D.
MICHAEL G. HAGAR, O.D.
B.S.B.M.B.

Dated: _____

JAMES SAVAGE, President
Board of Optometry

Dated: _____

JUDITH M. PETERS
Assistant Attorney General