

BEFORE THE BOARD OF OPTOMETRY

WEST VIRGINIA BOARD OF  
OPTOMETRY,

*Complainant,*

V.

Complaint No. 13-02

EDMUND PRENDERGAST,  
License No. 666-D,

*Respondent.*

CONSENT DECREE

The Respondent, Edmund Prendergast (hereinafter "Respondent"), and the West Virginia Board of Optometry (hereinafter "Board"), execute this Consent Decree for the purpose of resolving the above complaint filed against Respondent. As reflected in this Consent Decree, 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. On January 23, 2013 the Board received a complaint (docketed by the Board as Complaint No. 13-02) from Genievee Rose. Ms. Rose alleges no follow up exam was offered following her complaint to you that her glasses did not correct her vision.

3. On February 21, 2013 Respondent responded to the Board's request for information regarding the complaint. During a review of that information, it was found that no follow up exam was offered.

*Her husband threatened my life & cursed me in my office in front of my 5 yr old son. I immediately ask them both to leave my office.*

### **Conclusions of Law**

1. That the Board is a State entity created by W. Va. Code § 30-8-1 *et seq.* and is empowered to regulate the practice of optometry.
- 2 That the Board is empowered to suspend, revoke or otherwise discipline an individual's optometry license under the authority granted to it by W. Va. Code § 30-8-5.
3. The Board has promulgated rules, approved by the legislature, governing the practice and procedure of the practice of Optometry, those rules being West Virginia Code Rules § 14-1-1 *et seq.*
4. Respondent's behavior violated the accepted standards of care as described in West Virginia Code Rules § 30-8-18(g)(3) and West Virginia Code Rules § 14-4-4.1
5. Because of this violation, pursuant to W. Va. Code § 30-8-5, Respondent is subject to disciplinary action.

### **Consent**

Respondent, by signing below, agrees to the following:

1. West Virginia law allows a person to practice optometry only upon issuance of a license by the Board. W. Va. Code § 30-8-1 *et seq.*
2. The Board is authorized to "suspend or revoke the license...impose probationary conditions upon or take disciplinary action against" when the holder acts in a manner prohibited by statute. See W. Va. Code § 30-8-18(g).
3. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal

consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein. Respondent acknowledges that she may pursue this matter through appropriate administrative remedies, and is aware of her legal rights regarding this matter, but intelligently and voluntarily waives such rights.

4. Respondent consents to the entry of the following Order affecting his license as an optometrist in the State of West Virginia.

### Order

On the basis of the foregoing and with the agreement of the Respondent, the Board hereby **ORDERS** as follows:

1. The Respondent agrees that a letter of reprimand be placed into his file at the Board Office; a copy of said letter is attached.

2. That if the Respondent fails to comply with this Consent Agreement and Order, the Board will immediately suspend the license of Respondent and until such time as the Respondent complies with all the terms of this Agreement. The Board shall take such other disciplinary action as is necessary.

3. That if the license of Respondent is suspended, the licensee must apply for reinstatement before the Board would lift said suspension.

