

BEFORE THE WEST VIRGINIA BOARD OF OPTOMETRY

**WEST VIRGINIA BOARD
OF OPTOMETRY,**

Complainant,

v.

Complaint No. 11-02

**ERIC CROWDER,
Optometrist,**

Respondent.

CONSENT DECREE

Now comes the Respondent, Eric Crowder (hereinafter "Respondent"), and the West Virginia Board of Optometry (hereinafter "Board"), by Pamela Carper, its Executive Director, for the purpose of resolving a complaint filed against Respondent. Pursuant to W. Va. Code § 30-8-18(d) the Board may enter into a Consent Decree. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent agrees and stipulates to the Findings of Fact and Conclusions of Law set forth in this Consent Decree concerning the proper disposition of this matter. The Commission, having approved such agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. The Board is a state entity and is authorized to regulate the conduct of optometrists and is charged with the responsibility to protect the health, safety and welfare of the public through its regulation of the practice of optometry. *See, W. Va. Code § 30-8-1 et seq.*
2. Respondent is currently a licensee of the Board holding license number 889-OD.
3. On or around December 8, 2010, the Board received a complaint against Respondent filed by Darren G. McComas (hereinafter "McComas").

4. McComas alleged that he visited Respondent's office on or about January 8, 2010, located at 3540 Rt. 60 East, Barboursville, West Virginia, 25504, for an eye examination. McComas complained that he had poor eye sight in his left eye and it was getting worse. Crowder informed McComas that nothing could be done to improve his eyesight. McComas purchased two pair of glasses.

5. The vision in McComas' left eye continued to get worse and he saw another doctor who discovered a cataract which he corrected with surgery.

6. After the surgery Surgeons Optical wanted an additional \$150.00 for different lenses for Respondent's glasses.

7. McComas complained to the Board that his examination by Crowder was not thorough. Additionally, McComas complained that he had not received follow-up care by Crowder and that he was charged for an incomplete examination and new lenses.

8. Upon investigation by the Board of McComas' complaint the Board found that Respondent failed to provide the level of care to meet the optometric standard of care necessary for the visual well-being of McComas and that Respondent's records were incomplete.

CONCLUSIONS OF LAW

1 The Board has the authority and responsibility to regulate the profession of optometry in the State of West Virginia. *See, W. Va. Code § 30-8-1 et seq.*

2. The Board may place a licensee on probation, limit, restrict, or suspend a license, or revoke a license where a licensee has engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standard of professional conduct. *See, W. Va. Code § 30-8-18 and W. Va. Code R. § 14-4-4.*

3. The Board is authorized to enter into a Consent Decree to resolve a complaint without further adjudication. *See*, W. Va. Code § 30-8-18(d).

4. The Board has the authority to assess administrative costs incurred. *See*, W. Va. Code § 30-1-8(a).

CONSENT

1. By signing below Respondent agrees that he has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and is 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.

2. Respondent acknowledges that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

3. Respondent accepts the findings set forth above.

4. Respondent acknowledges that the Board may reject this proposal and may hold a hearing to impose such sanctions of a disciplinary nature as it deems appropriate. Should the Board not approve this Consent Decree, Respondent waives any objections to the Board or any of its members participating in the adjudication of this matter.

5. Respondent understands that this Consent Decree and the underlying complaint are public records and agrees that the sum and substance of the complaint and this agreement in part or in their entirety may be set forth in Board publications and placements deemed appropriate by the Board.

6. Respondent acknowledges that proof of any misstatement or misrepresentation made in connection with this matter will result in the rescission of this Consent Decree, the reinstatement of the complaint, and the addition of any other charges which may arise or ensue from providing false information to the Board in violation of West Virginia law as it pertains to the practice or optometry.

ORDER

1. On the basis of the forgoing, and upon entry of this Consent Decree by this tribunal, the Board hereby **ORDERS** that this Consent Decree shall serve as an informal settlement of this complaint pursuant to W. Va. Code § 30-1-8(a).

2. This Consent Decree is executed by Respondent for the purpose of avoiding further administrative action with respect to this case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning the Respondent prior to or in conjunction with consideration of this Consent Decree. Furthermore, should this Consent Decree not be accepted by the Board it is agreed that it shall not preclude the Board or any of its members from further participation, consideration, or resolution of these proceedings.

3. The Board **ORDERS** that Respondent receive a written reprimand for his conduct resulting in the filing of this complaint.

4. The Board further **ORDERS** Respondent to complete six (6) continuing education hours to be completed in the area of medical and patient documentation. These continuing education hours must be pre-approved by the Board and must be in addition to those continuing education hours required to maintain licensure by the Board. These additional six (6) continuing education hours must be completed within one (1) year of the date of this Consent Order is entered by the

Board.

5. The Board **ORDERS** Respondent to pay administrative costs in the amount of \$599.25.

6. The administrative costs imposed herein must be paid within thirty (30) days of the date Respondent receives notice of entry of this agreement by the Board, with such amount made payable to the West Virginia Board of Optometry (Administrative Costs). Failure to remit the payment of these administrative costs will result in further disciplinary action by the Board.

7. Any violation of any of the terms of this Consent Decree will result in further disciplinary action by the Board.

8. The Consent Decree constitutes a full and final settlement of this matter, and nothing in this Consent Decree or the circumstances giving rise to the same may be the subject of any appeal or other civil or administrative action by this Board except for an action to enforce the terms of this complaint.

9. If the administrative costs imposed herein totaled \$599.25 are not timely paid, this Consent Decree may be summarily enforced in the Circuit Court of Kanawha County without further notice to Respondent upon application by the Board for the entry of a Judgment Order for the total amount of payment agreed to herein, together with pre-judgment interest from the date of the President's signature hereon, post-judgment interest from the date of entry, and all costs of any enforcement action(s), which judgment shall be fully executable in accordance with applicable law.

10. This matter shall be closed upon the execution of this Consent Decree by both parties, satisfactory completion of the terms contained with this Consent Decree and the full payment of the administrative costs agreed to herein.

11. This Consent Decree relates solely to matters within the jurisdiction of the West Virginia Board of Optometry and does not evidence compliance with any other laws of the State of West Virginia or its political subdivisions, nor should any such compliance be implied.

AGREED TO BY:



ERIC CROWDER, O.D.

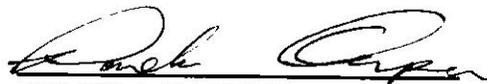
7/29/11

DATE

ENTERED into the records of the Optometry Board this:

20th day of July, 2011.

WEST VIRGINIA BOARD OF OPTOMETRY

By: 
PAMELA CARPER
EXECUTIVE DIRECTOR