

IN RE: RORY W. SIMPSON, O.D.

NO.: 09-04

CONSENT ORDER

Comes now the West Virginia Board of Optometry (hereinafter "Board") by Gregory S. Moore, O.D., its President, for the purpose of agreeing to disciplinary action to be taken against Rory W. Simpson, O.D. (hereinafter "Respondent"). As reflected in this document, the parties have reached an agreement concerning the proper disposition of this matter, and the Board, upon approval of such agreement, does hereby **FIND** the following:

1. The Board is a state entity created by West Virginia Code § 30-8-1 *et seq.* and is empowered to regulate the practice of optometry pursuant to the same.
2. Respondent is currently a licensee of the Board holding license number 994-D.
3. On or about January 30, 2009, Respondent saw Justin Ward at his office located at the Sears Vision Center in the Meadowbrook Mall in Clarksburg, West Virginia.
4. Mr. Ward presented with blurry vision in his left eye which he explained to Respondent during a standard eye exam.
5. During that examination, which Mr. Ward stated lasted approximately fifteen (15) minutes, Respondent told Mr. Ward that his right eye was fine and he had "very poor" vision in his eye and that no contact was going provide perfect vision for him. No additional tests were done during that visit and Respondent provided Mr. Ward

with a prescription for one contact lense and glasses.

6. On or about February 10, 2009, Mr. Ward returned to Respondent's office to pick up the new contact that had previously been ordered. At that time, a nurse showed him how to put the contact in and remove it from his eye, and, after he had successfully inserted and removed the contact himself, Mr. Ward was told that he could leave.
7. During that same visit, Mr. Ward told the nurse that his vision was not better with the new contact at which point she informed him that it would take a few weeks before he would see the full effect.
8. At no time during Mr. Ward's February 10, 2009 visit did the Respondent speak to him or check his vision with the new contact.
9. After approximately two weeks and no correction in his vision, Mr. Ward's wife called Respondent's office and inquired about the contact, she was informed that the contact was correct and that Mr. Ward had an Astigmatism. A follow up appointment was made during that call with to the optical center.
10. Mr. Ward decided to get a second opinion prior to his follow up appointment and scheduled an appointment with another optometrist, Dr. Groves, on March 3, 2009.
11. At his March 3, 2009 eye examination with Dr. Groves, Mr. Ward was told that he had keratoconus, a degenerative disorder of the eye causing the cornea to thin and

change to a more conical shape.

12. During that eye examination, Mr. Ward had several tests completed in order to determine the correct type and fit of contacts that he should have with this condition.
13. Dr. Groves further explained to Mr. Ward that at this point, his left eye showed advanced and his right eye showed mild signs of keratoconus, and that soft contacts would not sufficiently correct his sight; therefore he should be fit with gas permeable lenses.
14. Dr. Groves' diagnosis of keratoconus was later confirmed by the West Virginia University Eye Institute.
15. Respondent did not provide Mr. Ward with a thorough visual examination at his January 30, 2009 appointment and therefore Respondent missed the diagnosis of keratoconus in both of Mr. Ward's eyes.
16. Although a follow up exam was scheduled by the optical store after Mr. Ward's complaints of continued poor vision with the new contact, Respondent did not offer Mr. Ward follow up care his January 30, 2009 visit.
17. Respondent did not provide the optometric standard of care necessary for the visual well being of this patient.

CONCLUSIONS OF LAW

1. The Board is a state entity of created by West Virginia Code § 30-8-1 *et seq.* to regulate the practice of optometry in this state.
2. The Board is authorized to refuse to issue, refuse to renew, suspend or revoke any certificate of registration for gross malpractice. W. Va. Code § 30-8-8.
3. The Board may place a licensee on probation, limit or restrict, 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 standards of professional conduct in violation of W. Va. Code § 30-8-1 *et seq.* or of the rules of the Board. W. Va. Code R § 14-4-4.
4. The Board is authorized to enter into Consent decrees to resolve complaints without further adjudication. W. Va. Code § 30-1-8(a).
5. The Board has the authority to assess administrative costs incurred . W. Va. Code § 30-1-8(a)

CONSENT OF RESPONDENT

Rory W. Simpson, O.D., by affixing his signature hereon, agrees to the following:

1. Respondent is aware of his right to be represented by counsel and of his option to pursue this matter through the appropriate administrative and/or court procedures, but Respondent intelligently waives his right to do so.

2. Respondent intelligently and voluntarily waives his right to a formal hearing before the Board in this matter if the Board accepts the terms and conditions set forth herein.
3. Respondent accepts the findings set forth above and consents to the entry of this Consent Order freely and voluntarily and not under duress, restraint or compulsion.
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 Order, Respondent have waived any objections to the Board or any of its members participating in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Order.
5. Respondent understands that this Consent Order 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 agreement, 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 of optometry.

ORDER

1. On the basis of the foregoing, and upon entry of this Consent Order by this tribunal, the Board hereby **ORDERS** that this Consent Order shall serve as an informal settlement of this Complaint pursuant to West Virginia Code § 30-1-8(a).
2. This Consent Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this case. In this regard, the Respondent authorizes the Board to review and examine all investigative file materials concerning the Respondent prior to or in conjunction with the consideration of this Consent Order. Furthermore, should this Consent Order not be accepted by the Board, it is agreed that presentation to and by the Board 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 be receive a written reprimand for his conduct resulting in the filing of this complaint.
4. The Board further **ORDERS** Respondent to complete nine (9) continuing education hours to be completed in the following manner: three (3) credit hours on medical legal, three (3) credit hours on practice management and three (3) credit hours on kerataconus. 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 nine (9) continuing education hours must be completed within one (1) year of the date this Consent Order is entered by the Board.

5. The Board **ORDERS** Respondent to pay administrative costs in the amount of Six Hundred Eighty-Five Dollars and Thirty Cents (\$685.30).
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 W.Va. 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 Order will result in further disciplinary action by the Board.
8. This Consent Order constitutes a full and final settlement of this matter, and nothing in this Consent Order 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 totaling Six Hundred Eighty-Five Dollars and Thirty Cents (\$685.30) are not timely paid, this Consent Order 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 of the Judgment Order, 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 Order by both parties, satisfactory completion of the terms contained with this Consent Order and the full payment of the administrative costs agreed to herein.

11. This Consent Order 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:



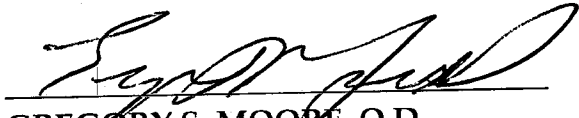
RORY W. SIMPSON

11/13/09
DATE

ENTERED into the records of the West Virginia Board of Optometry this:

17th day of November, 2009.

WEST VIRGINIA BOARD OF OPTOMETRY,



**GREGORY S. MOORE, O.D.
BOARD PRESIDENT**

11/17/09
DATE