

JAN 28 2014

**SETTLEMENT AGREEMENT BETWEEN MISSOURI STATE BOARD OF OPTOMETRY**  
**AND TROY L. BELL, O.D.**

MISSOURI STATE  
BOARD OF OPTOMETRY

Come now Troy L. Bell, O.D. ("Licensee") and the Missouri State Board of Optometry ("Board") and enter into this Settlement Agreement for the purpose of resolving discipline of Licensee's license as an optometrist.

Pursuant to the terms of § 536.060, RSMo 2000, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under §§ 621.110 and 336.110, RSMo 2000.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the draft complaint, the investigative report, and other documents relied upon by the Board in determining there was cause to discipline his license.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's license, numbered T03069, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 336, RSMo.

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Joint Stipulation of Facts and Conclusions of Law

1. The Missouri State Board of Optometry ("Board") is an agency of the State of Missouri created and established pursuant to § 336.130, RSMo 2000, for the purpose of executing and enforcing the provisions of Chapter 336.

2. Licensee Troy L. Bell, O.D. is licensed by the Board as an Optometrist, License No. T03069. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

3. On or about August 16, 2012, the Board received Licensee's application to renew his optometrist license. On the renewal application, Licensee answered "yes" to the question "I earned a total of thirty-two (32) hours of Board-approved continuing education units (CEUs) during the two-year reporting period of November 1, 2010 through October 31, 2012. If no, licensees may pay the \$150 continuing education penalty fee for earning their hours during the grace period (November 1, 2012 through December 31, 2012). Licensees must maintain all records documenting the continuing education requirements."

4. The Board renewed Licensee's license.

5. In January, 2013, Licensee was randomly chosen to participate in the continuing education audit for the November 1, 2010 through October 31, 2012 reporting period. On January 15, 2013, the Board mailed Licensee a letter requesting that he submit documentation of his continuing education hours for the reporting period on or before February 15, 2013.

6. On February 15, 2011, the Board received Licensee's response which reported he had completed a total of sixteen (16) hours of continuing education during the audited reporting period; however, only twelve (12) of the continuing education hours Licensee submitted were obtained through Board approved continuing education sponsors.

7. Pursuant to § 336.080, RSMo 2000 and 20 CSR 2210-2.030, every Missouri licensed optometrist is required to obtain thirty-two (32) hours of continuing educational programs during the two-year period immediately preceding the renewal period to renew his or her license.

8. Section 336.080.1, RSMo states, in relevant part:

1. Every licensed optometrist who continues in active practice or service shall, on or before the renewal date, renew his or her license and pay the required fee and present satisfactory evidence to the



board of his or her attendance for a minimum of thirty-two hours of board-approved continuing education, or their equivalent during the preceding two-year continuing education reporting period as established by rule and regulation.

9. Regulation 20 CSR 2210-2.030 states, in relevant part:

...

(5) Effective with the two (2)-year continuing education reporting period beginning on November 1, 2008, every optometrist currently licensed in Missouri shall obtain a minimum of thirty-two (32) hours of approved continuing education (herein "C.E." credits) relevant to the practice of optometry.

...

(7) Licensees shall report the number of C.E. credits earned during the continuing education reporting period on the renewal form provided by the board. The licensee shall not submit the record of C.E. attendance to the board except in the case of a board audit.

(8) Every licensed optometrist shall maintain full and complete records of all approved C.E. credits earned for the two (2) previous reporting periods in addition to the current reporting period. The records shall document the titles of the courses taken, dates, locations, course sponsors, and number of hours earned. The board may conduct an audit of licensees to verify compliance with the continuing education requirement. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries.

(9) Violation of any provision of this rule shall be deemed by the board to constitute misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of an optometrist depending on the licensee's conduct.

10. Licensee's failure to obtain the required thirty-two (32) continuing education hours from Board approved continuing education sponsors is a violation of section 336.080.1 and of Regulation 20 CSR 2210-2.030.

11. Licensee's conduct as described above constitutes incompetency, misconduct, fraud, misrepresentation and dishonesty in the performance of the functions or duties of a profession licensed by this chapter for which the Board has cause to discipline Licensee's license.

12. Licensee's conduct as described above constitutes violation of a provision of this chapter and lawful rule or regulation adopted pursuant to this chapter for which the Board has cause to discipline Licensee's license.

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13. Licensee's conduct as described above constitutes issuance of a certificate of registration or authority, permit or licensed based upon a material mistake of fact for which the Board has cause to discipline Licensee's license.

14. Cause exists for the Board to take disciplinary action against Licensee's license under § 336.110.2(3), (5), (6), and (11), RSMo, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(3) Use of fraud, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

....

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

...

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact[.]

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo 2000:

15. The terms of discipline shall include that the optometry license be placed on **PROBATION** for a period of two (2) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to engage in the practice of optometry under Chapter 336, RSMo, provided he adheres to all of the terms of this Settlement Agreement.



I. EDUCATIONAL REQUIREMENTS

- A. Within the first year of the effective date of this Agreement, licensee shall complete forty (40) hours of continuing education in addition to his regular continuing education requirements for licensure and renewal in November 2014.
- B. Licensee shall be subject to the biennial auditing of his continuing education hours.

II. GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.
- B. Licensee shall keep the Board apprised of his current home and work addresses and telephone numbers. Licensee shall inform the Board within ten (10) days of any change of home or work address and home or work telephone number.
- C. Licensee shall comply with all provisions of the Optometry Practice Act, Chapter 336, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- D. During the disciplinary period, Licensee shall timely renew his license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's license in a current and active state.
- E. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Settlement Agreement.
- F. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate.
- G. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 336, RSMo, by Licensee not specifically mentioned in this document.
- H. Licensee shall not allow his license to lapse.

16. The parties to this Agreement understand that the Missouri State Board of Optometry will maintain this Agreement as an open record of the Board as provided in Chapters 336, 610, 324, RSMo.

17. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

18. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions,

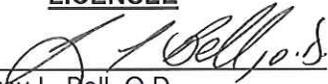


causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement or any portion thereof to be void or unenforceable.

19. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

20. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of act and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect. If Licensee does not request review by the Administrative Hearing Commission, the settlement agreement goes in to effect 15 days after the document is signed by the Executive Director of the Board.

**LICENSEE**

  
Troy L. Bell, O.D.

Date 1/24/14

**BOARD**

  
Brian Barnett,  
Executive Director  
State Board of Optometry

Date 1/29/14

