

IN THE MATTER OF
RICHARD C. BENCHOFF, II
Respondent

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHARMACY

* * * * *

CONSENT ORDER

PROCEDURAL HISTORY

Based on information received and a subsequent investigation by the Maryland State Board of Pharmacy (the "Board"), and subject to the Maryland Pharmacy Act, codified at MD. CODE ANN., HEALTH OCC. ("Health Occupations") § 12-101 *et seq.* (1994 Repl. Vol. and 1999 Supp.), the Board charged Richard C. Benchoff, II, P.D. ("the Respondent") with violating certain provisions of the Act. The Board also notified the Respondent of its intention to deny the Respondent's application to be licensed by the Board to practice pharmacy in the State of Maryland.

Specifically, the Board charged the Respondent with violating the following provisions of the Act:

§ 12-701. Practicing pharmacy without a license.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice pharmacy in this State unless licensed by the Board.

The Respondent was given notice of the charges against him by letter and Charging Document sent via certified mail. A Case Resolution Conference ("CRC") was held on July 12, 2000. Present

were the Respondent, John P. Corderman, Esquire, counsel for the Respondent, James C. Anagnos, Administrative Prosecutor, Linda M. Bethman, counsel to the Board, LaVerne Naesea, Executive Director of the Board, W. Irving Lottier, Jr., P.D., Board member, and Melvin Rubin, P.D., Board member. As a result of the CRC, the parties and the Board agreed to resolve the charges pending against the Respondent by entering into the following Consent Order consisting of Procedural History, Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. The Respondent's license to practice pharmacy was summarily suspended by the Board in April 1999 for a substance abuse problem. He has not been licensed to practice pharmacy by the Board since that time.

2. On November 2, 1999, the Respondent began working as a pharmacy technician at Phar-Mor #520, located at 1111 Maryland Avenue, Hagerstown, Maryland.

3. Pharmacy technicians are not licensed by the Board

4. On November 5, 1999, Chris Brown ("C.B"), a pharmacist licensed by the Board (#08273) was working at Schindel's Pharmacy, located at 642 Oak Hill Avenue, Hagerstown, Maryland.

5. At approximately 2:28 p.m. on November 5, 1999, Mr. Brown received a telephone call from Phar-Mor #520. Based on

prior telephone conversations, as well as having known the Respondent for approximately twenty years, Mr. Brown recognized the voice on the other end of the line as that of the Respondent.

6. The Respondent requested that prescription number C660442 be transferred from Schindel's Pharmacy to Phar-Mor #520. As required by the Board's regulations, the Respondent indicated that his initials were "R.B." so that Mr. Brown could record the pharmacist to whom the prescription was being transferred.¹

7. The Board has obtained a copy of the original prescription, which indicates that a copy was given to Phar-Mor/Rick Benchoff on November 5, 1999.

8. The Board has also obtained from Phar-Mor #520 a transfer prescription record created by the Respondent at Phar-Mor #520 when he received the copy of the original prescription from Schindel's Pharmacy. "CB" is listed as the transferring pharmacist, while "RB" (the Respondent) is the receiving pharmacist. It also bears the initials "WCC" for William C. Chatkin, a pharmacist licensed by the Board.

¹Code Md. Regs. ("COMAR") 10.34.04.03A(2)(d) provides that a pharmacist transferring a prescription shall indicate on the prescription records the name of the transferring pharmacist. The pharmacist receiving the transferred prescription must then note the name of the pharmacy and pharmacist from whom the prescription is transferred. See COMAR 10.34.04.03B(4). Pharmacist is defined at COMAR 10.34.01.01C as "any person licensed as such by the State Board of Pharmacy." COMAR 10.34.04.03 does not authorize a pharmacy technician to either transfer or receive a prescription instead of a pharmacist.

CONCLUSIONS OF LAW

Based on the above allegations, the Respondent practiced pharmacy in the State of Maryland without a license in violation of § 12-701 of the Act.

ORDER

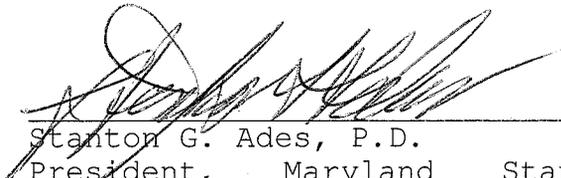
Based on the foregoing Procedural History, Findings of Fact, Conclusions of Law, and agreement of the parties, it is this 16 day of August 2000, by a majority of a quorum of the Board, hereby

ORDERED that the Respondent shall pay to the Board for payment into the State Board of Pharmacy Fund a civil fine of One Hundred Dollars (\$100.00) on or before September 15, 2000; and be it further

ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Consent Order; and be it further

ORDERED that upon execution of this Consent Order, it is subject to public inspection as a public document under the Maryland Public Information Act, codified at MD. CODE ANN., State Gov't § 10-611 et seq.

08/16/00
Date


Stanton G. Ades, P.D.
President, Maryland State Board of Pharmacy

CONSENT OF RICHARD C. BENCHOFF, II, P.D.

I, Richard C. Benchoff, P.D., by affixing my signature to this Consent Order, hereby admit to the truth of the foregoing Procedural History, Findings of Fact, and Conclusions of Law, and agree to be bound by this Consent Order and its conditions.

I am aware that I am entitled to a formal evidentiary hearing before the Board. However, by entering into this Consent Order with the Board, I am waiving my right to have a formal hearing as set forth in MD. CODE ANN., STATE GOV'T §§ 10-201 et seq., and any right to appeal as set forth in MD. CODE ANN., HEALTH OCC. § 12-412 and MD. CODE ANN., STATE GOV'T § 10-222.

I acknowledge that I have read this Consent Order in its entirety. I have consulted with my attorney, John P. Corderman, Esquire, and reviewed with him each and every part of this Consent Order. I understand this Consent Order and voluntarily, and without any coercion or undue influence, agree to sign it with full comprehension of its meaning and effect.

2 August 2000
Date

Richard C. Benchoff, II, P.D.
Richard C. Benchoff, II, P.D.

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF WASHINGTON COUNTY

I HEREBY CERTIFY that on this 2ND day of AUGUST

2000, before me, a Notary Public of the State of

MARYLAND and City/County aforesaid, personally appeared Richard C. Benchhoff, II, P.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESS my hand an Notarial Seal.


Notary Public

My Commission Expires:

July 14, 2002