

IN THE MATTER OF \* BEFORE THE  
MAARTEN CALON, P.D. \* MARYLAND STATE  
LICENSE NO. 08359 \* BOARD OF PHARMACY  
RESPONDENT \*

\* \* \* \* \*

**ORDER STAYING SUMMARY SUSPENSION**

Pursuant to Md. Code Ann., State Gov't § 10-226(c) (1999 Repl. Vol.), and after a show cause hearing held on June 23, 2005, the State Board of Pharmacy (the "Board") hereby stays the summary suspension of the license to practice pharmacy issued to Maarten Calon, P.D. (the "Respondent"), under the Maryland Pharmacy Act (the "Act"), Title 12, Health Occupations Article (2000 Repl. Vol.).

**Ruling on State's Motion for Appropriate Relief**

The State filed a preliminary Motion for Appropriate Relief in which it was disclosed that the State engaged in *ex parte* communications with the Board's President, John Balch, in response to statements made in a letter, dated June 13, 2005, sent by Respondent's counsel, also *ex parte*, to Mr. Balch. The Respondent's counsel, Joseph Kaufman, asserted in his letter that the Board should allow the Respondent to return to work "in accordance with representations that you have made to the Maryland Pharmacists Association". The Administrative Prosecutor thereafter, on June 15, 2005, spoke directly with Mr. Balch regarding the substance of his statements made to the Maryland Pharmacists Association. The State's Motion requested a determination of whether Mr. Balch should be recused from this matter.

The Board authorized Mr. Balch to address the Maryland Pharmacists Association at the Association's annual meeting with welcoming comments about the functions of the Board and the Pharmacists Education and Rehabilitation Committee ("PEAC").<sup>1</sup> There is nothing in the arguments made by the State or Respondent's counsel that indicate that Mr. Balch made any direct or indirect reference to this matter, but rather that Mr. Balch made general statements encouraging licensees to utilize the services of PEAC in the event that they require assistance with substance abuse issues.

As Mr. Balch was not present at the Show Cause hearing, did not constitute a member of the Show Cause hearing panel, and did not participate in any deliberations regarding the Board's decision in this matter, the Board's finds the issue to be moot.

### **Findings**

This Order is based on the following investigative findings, which the Board has reason to believe are true:

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland.
2. At all times relevant hereto, the Respondent was a dispensing pharmacist at the Veterans Hospital in Baltimore, Maryland, an agency of the Federal government.

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<sup>1</sup> The Board contracted with PEAC to provide rehabilitative services to licensees as well as to serve as the Board's monitor in disciplinary cases which involve substance abuse or mental health issues.

3. On April 14, 2004, the Respondent was arrested by the Veterans Affairs Police Service and issued two Federal violation notices for willful removal of government property and unauthorized use of federal property. The charges asserted that the Respondent stole from the mailroom at the VA hospital packages of medications that were to be mailed to patients, as follows:

Drug Name	Amount Missing
Oxycodone	90 Tablets - 5 mg
Oxycodone	10 Tablets - 5 mg
Morphine	180 Tablets – 30 mg
Methadone	360 Tablets – 10 mg

4. On August 9, 2004, the Board received a complaint from DEA Agent Grush regarding the above events. However, because the incident occurred on federal government property and involved a federal government employee, the Board was unable to obtain further information to substantiate the complaint until the Veterans Administration consented to the release of such information.

5. On February 24, 2005, the Respondent pleaded guilty to and was found guilty of the willful removal of government property, in the United States District Court for the District of Maryland. (*United States of America v. Maarten A. Calon*, Case No. 04-M-3502-PWG)

6. Six months later, the Board obtained the information confirming the above events from the Veterans Administration. In addition, on May 4, 2005, the Respondent filed a renewal application on which he checked “yes” for question 5, which asked “have you pled guilty, nolo contendere (*sic*), or been convicted of, or

received probation before judgment of any criminal act (excluding traffic violations)?

7. As a result of the criminal conviction, the Respondent was placed on 24 months' supervised probation with the United States Probation Office and has to comply with a number of conditions of supervision, including performing 40 hours of community service, payment of a \$500 fine, and participating in a treatment program approved by the probation officer relating to substance and/or alcohol abuse.

8. The Respondent signed a rehabilitation contract with PEAC on April 19, 2004, and has been compliant with its terms to date.

9. The Respondent has been employed at Carroll Hospital Center since December 2004, with the permission of PEAC, and currently works under supervision of another pharmacist. Carroll Hospital Center was aware of the Respondent's PEAC contract at the time of his hiring.

10. The Respondent currently attends NA meetings approximately three times per week and takes antidepressant medication to aid in his recovery.

### **DISCUSSION**

The Respondent signed a rehabilitation contract with the Pharmacists Education and Assistance Committee ("PEAC") on April 19, 2004, and is currently receiving treatment for his substance abuse addiction. The Board finds that, although the Respondent has yet to complete his PEAC contract, he has demonstrated a substantial period of successful recovery. Furthermore, the

Respondent has been able to obtain pharmacy employment in an environment in which he is supervised by another pharmacist.

Although the Board finds the Respondent is making an earnest attempt at recovery, the Board remains concerned that the Respondent not be placed in work situations that may create too much of a temptation to divert drugs once again, or cause the Respondent to be overly stressed or depressed during this critical time in his recovery. Therefore, the Board is staying the suspension of the Respondent's license with the restrictions set forth below.

### **CONCLUSION OF LAW**

Based upon the foregoing, the Board concludes the Order for Summary Suspension, dated June 7, 2005, was properly issued to protect the public health, safety, and welfare imperatively require emergency action, pursuant to Md. Code Ann., State Gov't Article § 10-226(c)(2) (1999 Repl. Vol.). However, the Respondent's practice is not an imminent threat to the public health, safety and welfare with the restrictions placed on his license as set forth below.

### **ORDER**

Based on the foregoing, and after a Show Cause Hearing was held in which the Respondent was given the opportunity to be heard as to whether the Summary Suspension should continue, on this 30 day of JUNE, 2005, by an affirmative vote of majority of the Board, by authority granted to the Board by Md. Code Ann., State Gov't Art. § 10-226(c)(2) (1999 Repl. Vol.), it is hereby,

**ORDERED** that the SUMMARY SUSPENSION of the Respondent's license to practice pharmacy in Maryland, License No. 08359, is STAYED; and be it further,

**ORDERED** that the Respondent may continue to practice pharmacy under the following conditions:

1. The Respondent shall enter into a three-year contract with PEAC and abide by all of its terms, which shall include, at minimum:

- A. authorization for release of PEAC records, including any therapy records, to the Board;
- B. random full urinalysis at least monthly;
- C. quarterly pharmacy supervisor reports;
- D. weekly monitor contact;
- E. requirement of Board approval prior to any change or modification to the PEAC contract;
- F. requirement that PEAC submit quarterly progress reports to the Board; and
- E. requirement that PEAC notify the Board of any incident of non-compliance with the PEAC contract, this Order, or treatment, within two (2) business days of the occurrence;

2. The Respondent shall practice under the supervision of another pharmacist;

3. The Respondent shall not practice more than 40 hours per week;

4. The Respondent shall not work night shifts; and be it further,

**ORDERED** that the Respondent may petition the Board for modification of the above restrictions after one (1) year provided that the Respondent has been fully compliant with the above terms; and be it further,

**ORDERED** that the Respondent may petition the Board for termination of the stayed suspension after two (2) years provided that the Respondent has been fully compliant with the above terms; and be it further,

**ORDERED** that the Respondent's failure to abide by the terms of the PEAC contract or his removal from or voluntary cessation of the PEAC program shall be deemed a violation of the conditions of the stayed suspension set forth herein; and be it further,

**ORDERED** that in the event that Board receives credible information that the Respondent has violated any of the above terms, the Board shall lift the stay of the summary suspension, providing that the Respondent be given the opportunity to request a show cause hearing within a reasonable time thereafter; and be it further,

**ORDERED** that the Respondent shall bear the expenses associated with this Order; and be it further,

**ORDERED** that the Respondent may submit a written request to the Board within thirty (30) days of the date of this Order for an evidentiary hearing to be held before the Board on the summary suspension, which hearing may be consolidated with a hearing on charges, should charges be issued; and be it further

**ORDERED** that this document constitutes a formal disciplinary action of the Maryland State Board of Pharmacy and is therefore a public document for

purposes of public disclosure, pursuant to the Public Information Act., State Gov't  
§ 10-611 *et seq.* and COMAR 10.34.01.12.

June 30, 2005  
Date

Lalanne G. Marra for  
Jeanne Furman, P.D.  
Secretary, Board of Pharmacy