

License #7970
Birthdate 1/5/16
3 W. 24th Street
Baltimore, MD 21208
Examination

IN THE MATTER OF

* BEFORE THE MARYLAND STATE

BENJAMIN CARTER, P.D.

* BOARD OF PHARMACY

* * * * *

CONSENT ORDER

This Consent Order is entered into by and between the Maryland State Board of Pharmacy and Benjamin E. Carter.

BACKGROUND

By letter of February 13, 1986, the Maryland Board of Pharmacy (the "Board") charged Benjamin Carter (the "Respondent") with violating the conditions of probation which had been placed on him by the Board's Order of December 15, 1982. That Order had suspended Respondent's license for a period of one year and had stayed the suspension subject to his complying with certain conditions of probation. The provisions of the Order of December 15, 1982 are incorporated by reference as if set forth fully herein.

Respondent was charged with violating the following conditions of probation, which were set out in paragraphs 1, 2, 3, and 9 of the Order:

1. That Respondent continue to receive psychiatric care from a psychiatrist satisfactory to the Board:

2. That Respondent arrange for his psychiatrist to file written quarterly reports with the Board indicating that Respondent continues to make satisfactory progress towards dealing with the problems that led to his abuse of alcohol and

amphetamines;

3. That Respondent continue to receive psychiatric care until discharged by his psychiatrist;

4. That Respondent arrange for each and every employer to provide the Board with written quarterly reports evaluating his performance as a pharmacist.

Prehearing conferences were held on March 17, 1986 and on May 6, 1986. Each conference was attended by Respondent Benjamin Carter, P.D.; his attorney, Joseph M. Guida, Esquire; Stephen Cohen, P.D., Designee of the Board; Roslyn Scheer, Executive Director of the Board; Harry J. Matz, Esquire, Assistant Attorney General and Counsel to the Board; and Judith K. Sykes, Esquire, Assistant Attorney General and Administrative Prosecutor for the State. As a result of discussions at the prehearing conferences and the report on a special evaluation of Respondent, Respondent agreed to enter into the following Consent Order.

FINDINGS OF FACT

1. Respondent entered into treatment with a therapist approved by the Board on September 14, 1983. After an initial report from that therapist dated September 22, 1983, no further report from the therapist was received until May 2, 1985.

2. Between January and May, 1985, Respondent's attendance at group therapy sessions which were part of his treatment program became irregular.

3. As of November, 1985, Respondent was not making satisfactory progress and was out of compliance with his treatment program.

4. Respondent left his Board-approved therapist in November, 1985, and enrolled in a different treatment program as to which he had not obtained Board approval.

5. Respondent did not begin furnishing employer reports until May, 1985. While, since that time, there has been substantial compliance with the requirement of quarterly employer reports, the reports have not always been furnished as required.

CONCLUSIONS OF LAW

Respondent has violated the conditions of his probation in that he has failed to comply with paragraphs 1, 2, 3, and 9 of the Order of December 15, 1982.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, this 11th day of June, 1986, by the unanimous vote of those members of the Board considering this case

ORDERED that the following modified Order is substituted for the Order of December 15, 1982, and be it further

ORDERED that Respondent's license to practice pharmacy is hereby **SUSPENDED**; and be it further

ORDERED that such suspension is **IMMEDIATELY STAYED** and Respondent is placed on **PROBATION** subject to the following conditions:

1. That Respondent continue in the treatment program in which he is currently enrolled and that he follow the guidelines and requirements of that program;

2. That Respondent continue in the therapy which is part of that program and comply with any and all recommendations made to him by the therapist in the time suggested by his therapist;

3. That Respondent immediately give a copy of this Consent Order to his therapist in that program and arrange for him to advise the Maryland Board of Pharmacy, in writing, of his receipt thereof;

4. That Respondent arrange for his therapist to submit written quarterly reports to the Maryland Board of Pharmacy and to the Pharmacists Rehabilitation Committee of the Maryland Pharmaceutical Association and to Dr. Robert Kent, reporting on compliance and progress and specifically indicating what progress he has made in dealing with the problems that led to his abuse of alcohol and amphetamines. The first report shall be due September 1, 1986. Thereafter, the reports shall be due quarterly, until such time as Respondent has been terminated from probation;

5. That Respondent will continue with his current therapist and program unless:

a. He is discharged from treatment by his therapist and/or the program. If that occurs,

Respondent shall arrange prompt submission by his therapist of a written discharge report to the Maryland Board of Pharmacy and to the Pharmacists Rehabilitation Committee of the Maryland Pharmaceutical Association; shall immediately begin treatment with another therapist so that his treatment remains uninterrupted; and shall, at the same time, notify the Board as to the change and request Board approval; or

- b. The Board, upon the recommendation of Dr. Robert Kent, and/or Pharmacists Rehabilitation Committee, orders Respondent in writing to make a required change in the therapist or program or both;

6. That if, in violation of paragraph (5), Respondent fails to continue with his therapist or program without having been discharged or ordered by the Board to change, Respondent shall immediately notify the Maryland Board of Pharmacy and Pharmacists Rehabilitation Committee in writing and have his therapist notify such agencies of his status directly.

7. That Respondent will arrange to meet once a month, at his own expense, with Dr. Robert Kent for the purpose of enabling Dr. Kent to evaluate his condition and progress and program. Respondent will arrange for full release of information

from his therapy program to Dr. Kent and for the cooperation of that program in furnishing reports which Dr. Kent requests.

8. That Respondent shall follow Dr. Kent's suggestion as to things Respondent can do to enhance the benefits of his treatment. It is understood that a change to a program other than the Frances Scott Key program or change in therapist will not be made, however, until Board approval has been received.

9. That Respondent shall arrange for Dr. Kent to forward brief monthly reports to the Board and a comprehensive report at the end of six (6) months. as to Respondent's condition, progress, and any recommended program changes.

10. That in the event that Respondent's therapist, or Dr. Robert Kent, or the Pharmacists Rehabilitation Committee reports to the Maryland Board of Pharmacy that he is incapable of practicing pharmacy safely, or that his previous problems are interfering with his ability to practice pharmacy, he shall, within 24 hours of being informed of that report, voluntarily discontinue the practice of pharmacy. He will not resume practice until the person making the report upon which the discontinuation is based reports to the Board that Respondent is capable of resuming the practice of pharmacy or the Board of Pharmacy gives him permission to resume the practice of pharmacy without such a report.

11. That Respondent shall arrange, through his program at Frances Scott Key or otherwise, for urine screenings three (3)

times weekly in a time, place and manner satisfactory to the Maryland Board of Pharmacy. The quarterly reports of Respondent's therapist shall advise the Board of the Respondent's urine screenings and the results of any other tests such as breathalyzer tests. Respondent shall also arrange for prompt notification to the Board at any time that the tests indicate a likelihood that Respondent has ingested alcohol or prohibited drugs.

12. That Respondent shall participate in at least three meetings per week of Alcoholics Anonymous programs. Respondent shall report to the Board monthly as to the dates and places of meetings attended and as to the progress he has made within the Alcoholics Anonymous program.

13. That Respondent shall immediately inform all of his pharmacy employers of his present probation status and shall inform those employers of the conditions of his probation by submitting to them copies of this Consent Order. Within thirty (30) days of the date of this Order (and within thirty (30) days of being hired as a pharmacist with any new employer) Respondent shall submit written proof to the Maryland Board of Pharmacy that he has given a copy of this Order to all Respondent's employers and have the employers send notification to the Maryland Board, in writing, an acknowledgment of receipt of this Consent Order and a statement that they agree to comply with all conditions thereof that pertain to employers.

14. That Respondent shall arrange for any and all of his pharmacy employers to submit to the Maryland Board of Pharmacy written quarterly reports evaluating his job performance and describing the nature of his duties and his position. The first report shall be due a month after the date of this Order. If, subsequent to the date of this Order, Respondent assumes a new position as pharmacist, the first report shall be due one month after the position is assumed.

15. In the event that Respondent changes jobs as a pharmacist or decides not to practice pharmacy, Respondent shall immediately notify the Maryland Board of Pharmacy, in writing, identifying his new employer by name, address, telephone number and describing his new position.

16. Commencing thirty (30) days from the date of this Order, Respondent shall send written quarterly reports to the Maryland Board of Pharmacy and to the Pharmacists Rehabilitation Committee of the Maryland Pharmaceutical Association describing the progress he feels that he is making, what problems he feels that he presently faces and how he is coping with these problems. The report as to Alcoholics Anonymous participation and progress required in paragraph (11) may be incorporated in this report;

17. That Respondent shall notify the Maryland Board of Pharmacy, in writing, of his current address. In the event that he moves, Respondent shall promptly notify the Maryland Board of

Pharmacy in writing of the change of address and any change in his telephone number;

18. Respondent shall comply with the contract which he entered into with the Pharmacist's Rehabilitation Committee of the Maryland Pharmaceutical Association on May 22, 1985. In the event that the Pharmacists Rehabilitation Committee terminates Respondent's contract prior to expiration of his probation period, Respondent shall arrange for the Pharmacists Rehabilitation Committee to immediately notify the Maryland Board of Pharmacy of such action at the time it takes place;

19. Respondent shall arrange for the Pharmacists Rehabilitation Committee to forward to the Maryland Board of Pharmacy quarterly reports, commencing September 1, 1986. These reports shall advise the Board of the extent to which Respondent is making satisfactory progress in therapy and in dealing with his problems of abuse of alcohol and amphetamines;

20. Respondent shall continue treatment with the Pharmacists Rehabilitation Committee of the Maryland Pharmaceutical Association until such time as he is discharged from treatment by the Committee. Upon discharge from treatment by the Pharmacists Rehabilitation Committee, Respondent shall arrange for the Committee to submit a written discharge report to the Maryland Board of Pharmacy;

21. That Respondent shall refrain from engaging in the conduct which led to his suspension of the practice of pharmacy

under the Maryland Pharmacy Act:

22. That Respondent shall practice in accordance with the Maryland Pharmacy Act and in a competent manner;

23. That Respondent will agree to and follow through with any change in his program determined to be necessary by the Board based upon the recommendations of Dr. Kent or the Pharmacists Rehabilitation Committee; and be it further

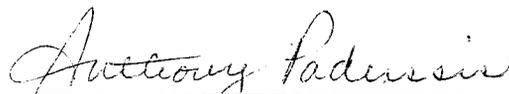
ORDERED that the conditions of this Consent Order **BE**, and the same hereby are **EFFECTIVE**, as of this date; and be it further

ORDERED that upon receipt of the six (6) month report from Dr. Robert Kent, the Board will reevaluate Respondent's programs and notify Respondent in writing of any changes required in his program and be it further

ORDERED that in the event the Maryland Board of Pharmacy receives an unsatisfactory report which it believes in good faith to be accurate, or in the event that the Maryland Board of Pharmacy believes for any reason in good faith that Respondent has violated H.O. Section 12-311(b)(4)(i) or (ii), (7), (14), or any provision of Title 12 of the Health Occupations Article or regulations thereunder, the Board may take immediate action, including but not limited to revocation or suspension, without first giving Respondent an opportunity for a hearing. However, Respondent shall have a right to a hearing, in accordance with the Administrative Procedure Act, State

Government Article, Section 10-201, et seq., within thirty (30) days after Respondent notifies the Board in writing of his desire for such a hearing regarding the Board's action; but the Board may, in its discretion, fail to entertain such notice if received more than ninety (90) days after its action; and be it further

ORDERED that two (2) years from the date of this Order, the Board shall entertain a petition for termination of Respondent's probationary status and full reinstatement of his license to practice pharmacy without any conditions or restrictions as to the scope of practice. If the Board determines that the termination of probation and complete reinstatement would not be appropriate at that time, the Board may modify one or more of the Conditions upon which Respondent was placed on probation. However, if Respondent fails to make any such petition then his probationary status shall continue indefinitely, subject to the conditions set forth in this Order.



Anthony Padussis, P.D.
President, Maryland Board of
Pharmacy

CONSENT

I, Benjamin Carter, P.D., by affixing my signature hereto acknowledge:

1. That I have been advised to seek advice of counsel prior to signing this document;

2. That I am aware that without my consent, no legal action can be taken against me except pursuant to the Maryland Administrative Procedure Act, State Government Article §10-201 et seq., Annotated Code of Maryland;

3. That I have the following rights, among others: to have a formal evidentiary hearing before the Board, to reasonable notice of said hearing, to representation by counsel, and to subpoena and cross-examine witnesses against me;

4. That I waive all such rights to a formal hearing;

5. That I admit to the truth of the foregoing Findings of Fact;

6. That I consent to the entry of the foregoing Order affecting my license to practice pharmacy in the State of Maryland;

7. That I acknowledge the validity of this Consent Order as if it were made following a formal hearing before the Board;

8. That I enter into this Consent Order of my own free will and under no duress or undue influence.

Benjamin E. Carter
Benjamin Carter, P.D.

STATE OF MARYLAND
CITY/COUNTY OF

Harford)

to wit:

On this 28th day of May, 1986, Benjamin Carter, P.D., known to me (or satisfactorily proven) to be the person whose name appears on the above signature line appeared before me and acknowledged that he executed the above Consent under oath administered by me.

Patricia Apicella
Notary Public

My Commission Expires: 7/1/86