

IN THE MATTER OF * BEFORE THE STATE BOARD
 GERALD N. FREEDENBERG, P.D. * PHARMACY
 License No. 6162 *

* * * * *

CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Health Occupations Article §12-315, Annotated Code of Maryland, (the "Act"), the Board charged Gerald N. Freedenberg, P.D., (the "Respondent") with violations of certain provisions of the Health Occupations Article, Annotated Code, §12-313(b). Specifically, the Board charged Respondent with violation of the following provisions:

Submits a false statement to collect a fee (§12-313(b)(5) of the Act)

Willfully makes or files a false report or record as part of practicing pharmacy, (§12-313(b)(6) of the Act)

Willfully fails to file or record any report that is required by law (§12-313(b)(7) of the Act)

Willfully impedes or obstructs the filing or recording of any report that is required by law. (§12-313(b)(8) of the Act)

Without first having received a written or oral prescription for the drug from an authorized prescriber, dispenses any drug for which a prescription is required (§12-313(b)(14) of the Act)

Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or alter proceeding is pending to have the conviction or plea set aside (§12-313(b)(21) of the Act)

Is convicted of a violation of this title
(\$12-313(b)(22) of the Act)

STATEMENT OF FACTS

The parties agree that in the event this matter went to hearing, the facts would show as follows:

1. At all times relevant to these charges, Respondent was and is licensed to practice pharmacy in the State of Maryland.

2. On or about November 4, 1981, Respondent was charged in the Circuit Court of Baltimore City, Criminal Case No. 28130803, in a 101 count information with: medicaid fraud, felony theft, false pretenses, and altering prescriptions between 1977 and 1981 in order to receive additional fees for services. On July 7, 1982, Respondent plead guilty to false pretenses and altering physicians' prescriptions submitted to the Maryland Medicaid Program. As a result of Respondent's plea agreement, he was granted probation before judgment, placed on one year's probation and ordered to perform one hundred (100) hours of community services.

3. Subsequent to the entry of the sentence in Criminal No. 28130803, Respondent, after a hearing and subsequent settlement, was suspended from participation in the Maryland Medical Assistance Program for a period of thirty (30) days and agreed to reimburse the Maryland Medical Assistance Program the sum of Seven Thousand (\$7,000) dollars.

4. On November 30, 1983 Respondent advised the Maryland Board of Pharmacy that he would "cease and desist from any practice that constitutes a violation of §12-311(b)."

5. On or about June 26, 1992, Respondent was charged, in the Circuit Court for Baltimore City, State of Maryland v. Gerald Freedenberg, R.Ph. Criminal Case No. 292178005, with felony medicaid fraud in violation of Article 27, Section 230B(b) 1 of the Annotated Code of Maryland and felony theft in excess of \$300.00 or greater in violation of Article 27, Section 342 of the Annotated Code of Maryland. The charges were based upon the following facts:

a. In February of 1991, the Respondent sought provider status with the Maryland Medical Assistance Program when he purchased "Towson Pharmacy" at 7800 York Road, Towson, Maryland. On or about November 15, 1991 the Department of Health and Mental Hygiene conducted a routine review of Respondent's billings to the Medicaid program. As a result of that survey Respondent was required to produce written prescription to substantiate a number of claims for reimbursement. Respondent was unable to produce written prescriptions for a substantial number of claims. During the subsequent investigation into Respondent's billing practices Respondent admitted that he was familiar with medicaid regulations requiring pharmaceutical providers to obtain and retain a copy of the prescriptions written for medicaid recipients. Respondent admitted that a total of seventy-one (71) prescriptions totalling \$6,662.00 represented false billings to the Maryland Medical Assistant Program.

b. In addition to falsely billing the Maryland Medicaid Program, Respondent admitted to submitting false claims to Blue Cross and Blue Shield in the sum of \$22,500.00

6. On June 29, 1992 Respondent pled guilty to one count of Felony Theft and one count of Medicaid Fraud and received a one year suspended sentence with five years of supervised probation. Additionally, Respondent was fined \$10,000.00 and ordered to pay, as required by a plea agreement, the sum of \$19,986.00 to Medical Care Compliance Administration, and \$22,500.00 to Blue Cross Blue Shield.

CONCLUSIONS OF LAW

Based on the foregoing Statement of Facts, the Board concludes that the Respondent violated §12-313(b)(5), (6), (7), (8), (14), (21) and (22) of the Act.

ORDER

Based upon the Board's Findings of Fact and Conclusions of Law and by agreement of the parties to settle this matter without an evidentiary hearing, it is this 21 day of July, 1993, by a majority of the quorum of the Board,

ORDERED that the license of Respondent, Gerald N. Freedenberg, P.D., be and is hereby **SUSPENDED**; and be it further

ORDERED that on or after six (6) years from the date of this Order, the Respondent may file a petition for reinstatement provided that the Respondent has met the following conditions prior to the filing of the petition:

1. The Respondent shall take and pass, with at least a B average, three college level ethics courses to be pre-approved by the Board; however, in the event that the courses taken by Respondent are non-graded courses, he shall obtain at least a

passing grade;

2. Respondent shall take continuing education courses equalling at least 30 hours every two years during the time his license is suspended; however, the courses referred to in subparagraph 1 above shall count towards Respondent's continuing education requirements based on the following formula (5 hours CE credit for each 1 credit of the college course); and further provided that the requirement to take at least 30 hours of continuing education may be obtained and accumulated at any time prior to filing a petition for reinstatement;

3. Respondent shall meet the reinstatement standards and requirements for people out of practice as delineated in COMAR 10.34.13;

4. Respondent shall be evaluated by a therapist approved by the Board and Respondent shall obtain any treatment or therapy recommended by the therapist. Respondent's petition for reinstatement will include a recommendation from a therapist approved by the Board as to whether or not it would be appropriate for Respondent to practice pharmacy; and be it further

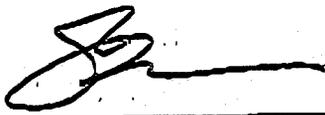
ORDERED that when Respondent works as an unlicensed individual under the supervision of a pharmacist to obtain experience as required in COMAR 10.34.13, he shall give a copy of this Consent Order to any and all pharmacy employers; and be it further

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

ORDERED that this is a final Order and as such is a public

document pursuant to §19-611 et seq. of the State Government Article, Annotated Code of Maryland.

July 21, 1993
Date


Steven Cohen, P.D.
President
Board of Pharmacy

CONSENT OF GERALD N. FREEDENBERG, P.D.

I, Gerald N. Freedenberg, P.D., by affixing my signature hereto, acknowledge that:

1. I am represented by Louis J. Glick, Esquire, and I have had the opportunity to consult with counsel before signing this document;

2. I am aware that without my consent, my license to practice pharmacy in this State cannot be limited except pursuant to the provisions of §12-313 of the Act and §10-205 et seq. of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland;

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in §12-315 of the Act and §10-205 of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland, and any right

to appeal as set forth in §12-316 of the Act and §10-215 of the Administrative Procedure Act. I acknowledge that by failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice pharmacy in the State of Maryland.

7/8/93

Date


Gerald N. Freedenberg, P.D.

STATE OF MARYLAND
CITY/COUNTY OF: Baltimore

I HERESY CERTIFY that on this 8th day of July, 1993, a Notary Public of the State of Maryland and (City/County), Baltimore, personally appeared Gerald N. Freedenberg, 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 WITNESSETH my hand and notarial seal.


Notary Public

My Commission Expires: 9-1-94