

IN THE MATTER OF * BEFORE THE
STUART GOLDFINE, P.D. * MARYLAND STATE
LICENSE NO. 06371 * BOARD OF PHARMACY
Respondent *

* * * * *

FINAL CONSENT ORDER

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

Subject to the hearing provisions of §12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation; or suspend or revoke a license if the applicant or licensee:

§12-313(23) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes.

Under the Board's disciplinary statutes, the Respondent's actions would subject him to discipline for:

§12-313(2) Fraudulently or deceptively uses a license;

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

§12-313(14) 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(20) Is professionally, physically, or mentally incompetent;

The Respondent was given notice of the charges and the issues underlying those charges by letter and charging documents dated July 5, 1996. A telephonic prehearing conference on those charges was held on August 23, 1996 and was attended by Theodore Litwin, LLB, Irving Lottier, P.D., members of the Board, Norene Pease, Executive Director of the Board, and Paul Ballard, Counsel to the Board. Also in attendance were the Respondent, his attorney, Ronald S. Marks, and the Administrative Prosecutor, Roberta L. Gill.

Following the prehearing conference, the parties and the Board agreed to resolve the administrative charges by way of settlement. The parties and the Board agreed to make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent resides in California.

2. On his license renewal application form, dated 9/13/95, the Respondent answered in the affirmative to Questions 2(a) and (b); to wit, the Respondent wrote "Y" for "Yes" to "[h]as any State Licensing or Disciplinary Board or a comparable body in the Armed Service, denied your application for licensure, reinstatement or renewal, or taken any action against your license, including but not limited to reprimand, suspension, or revocation?" and "[h]ave

you surrendered or failed to renew a license in any State?," respectively.

3. The Respondent attached a handwritten explanation of the licensure action.

4. The Board received a copy of the California Board's 10/19/93 charges and the 8/22/94 Stipulation. The charges and stipulation were based on the Respondent's having dispensed excessive amounts of injectable Demerol, pursuant to a valid prescription, over a four month period, and the Respondent's writing numerous prescriptions, over a four-year period of time, for controlled substances through a pharmacy which he owned, representing on the prescription forms that he was a "Dr." or "M.D.," when, in fact, he was not.

5. As a result of the above-described violations of the California Pharmacy law, the Respondent and the California Board entered into a Stipulation In Settlement and Decision whereby his license to practice pharmacy and that of his pharmacy to do business were revoked.

6. Being disciplined by the California Board is a violation of the Act.

7. The Respondent acknowledged that the amount of Demerol that he dispensed was excessive but claimed that he stopped dispensing it once he learned that the patient was also using another physician to obtain prescriptions. The Respondent further acknowledged writing prescriptions for friends and relatives, including some for controlled dangerous substances, non-schedule

IIIs. The Respondent claimed that he agreed to the revocation of his license based upon the bad advice he received from his former attorney, whom he filed a claim against and was awarded some restitution of the fee paid. The Respondent explained that during the three year interim between when the action was first charged by the California Board and its conclusion, he worked under supervision for a large pharmacy chain which gave him many letters of reference. The Respondent indicated that he plans to have his California license reinstated in another two years and practice there, but would like to return to Maryland to practice eventually.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §12-313(23).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 23rd day of October, 1996, by a majority of a quorum of the Board,

ORDERED that Respondent shall refrain from engaging in the conduct which led to the disciplinary action herein; and be it further

ORDERED that Respondent's license shall be SUSPENDED until the following occurs:

A. That one (1) year from the effective date of this Order, the Respondent may petition the Board for a STAY of the

Suspension and declare an interest to practice pharmacy in Maryland. If the Board grants the reinstatement, the Respondent shall be placed on Probation for one year, subject to the following conditions:

1. The Respondent is not to work as a "floater."
2. The Respondent is to work under Supervision, ensuring that within thirty (30) days of his employment in Maryland, the pharmacy-employer assures the Board in writing that he/she has reviewed the Board's Order and is willing to confirm to the requirements therein applying to him/her.
3. Beginning either September 1, December 1, March 1 or June 1, whichever is nearest to the date of the employment, the employer and the Respondent shall both submit separate quarterly reports detailing the Respondent's status/progress as a pharmacist.
4. The Respondent is to obtain and submit with the completion of Continuing Education Credits (CEUs) one course each in ethics, pain management and controlled dangerous substances, in addition to the CEUs needed for licensure renewal.
5. The Respondent shall take a Board pre-approved college-level ethics course; or

B. In the event that the Respondent is reinstated to practice in California, the Respondent may petition the Board to be also reinstated in Maryland, without a showing of the completion of the foregoing conditions for reinstatement/practice in Maryland. At that time, the Board may set forth any conditions of licensure that it deems reasonable; and be it further

ORDERED that regardless of the option (A or B) that the Respondent chooses, the Respondent shall maintain the required CEUs for licensure renewal in Maryland during the period of suspension; and be it further

ORDERED that Respondent shall practice in accordance with the Maryland Pharmacy Act and in a competent manner; and be it further

ORDERED that on or after the one (1) year probationary period has ended, the Respondent may petition the Board to remove the conditions of probation and restore his license to practice pharmacy without conditions or restrictions, only after the Respondent has demonstrated to the Board that he has practiced pharmacy in compliance with the Act and with the conditions of probation; and be it further

ORDERED that in the event that the Board receives an unsatisfactory report from the Respondent's Maryland employer indicating that Respondent is a threat to the public health, safety or welfare, the Board may take immediately disciplinary action, including suspension or revocation, providing the Respondent with notice and an opportunity to be heard within 30 days of said request; and be it further

ORDERED that in the event the Maryland Board of Pharmacy finds for any reason in good faith that Respondent has substantially violated any provision of Title 12 of the Health Occupations Article or regulations thereunder or has violated the conditions of the Order or of his Probation, the Board may take action, including but not limited to, revocation or suspension of the Respondent's license to practice pharmacy, after giving Respondent notice and an opportunity for a hearing, in accordance with the Administrative Procedure Act, State Government Article, §10-201 et seq.

ORDERED that for purposes of public disclosure, as permitted by §10-617(h), State Government Article, Annotated Code of Maryland, this document consists of the foregoing Findings of Fact, Conclusion of Law and Order.

10/23/46
DATE

George C. Voxakis

George Voxakis, Pharm. D.
President
State Board of Pharmacy

CONSENT OF STUART GOLDFINE, P.D.

I, Stuart Goldfine, P.D. by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Ronald S. Marks, and have consulted with him 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 §10-201 et seq. of the Administrative Procedure Act (APA), 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 §10-215 et seq. of the APA, and any right to appeal as set forth in §12-316 of the Act and §10-201 et seq. of

the APA. I acknowledge that my 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.

Oct 17, 1996
DATE

Stuart Goldfine
Stuart Goldfine, P.D.

STATE OF CALIFORNIA
CITY/COUNTY OF RIVERSIDE :

I HEREBY CERTIFY that on this 17th day of OCTOBER, 1996, A Notary Public of the State of California and (City/County), Riverside, personally appeared Stuart Goldfine, P.D., License No. 06371 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.

Esther Cruz
Notary Public

My Commission Expires: MARCH 31, 2000

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