

IN THE MATTER OF  
JOHN HOELSCHER, P.D.  
License No. 11115

\* BEFORE THE  
\* MARYLAND STATE  
\* BOARD OF PHARMACY

\* \* \* \* \*

**CONSENT ORDER**

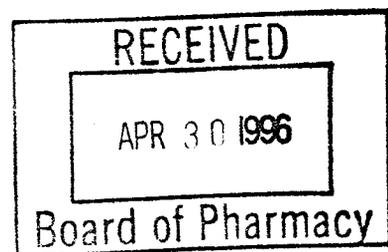
Based on information received from the Pharmacists' Rehabilitation Committee, (PRC), the Board of Pharmacy (the "Board") initiated emergency suspension proceedings regarding the pharmacist license of John Hoelscher, License No. 11115 (the "Respondent").

Specifically, the Board believed the Respondent was in violation of the following provisions:

Subject to the hearing provisions of §12-315 of this subtitle, the Board, on the affirmative vote of a two-thirds 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:

- (4) Provides professional services while:
  - (ii) Using any narcotic or controlled dangerous substance, as defined in Article 27 of the Code, or other drug that is in excess of therapeutic amounts or without valid medical indication:
- (14) Without first having received a written or oral prescription for the drug dispensed from an authorized prescriber, dispenses any drug for which a prescription is required.

A pre-deprivation hearing was held on June 30, 1995, with participation by the Respondent via telephone, Paul Ballard, Board Counsel, Robert Kabik, Board Member, Barbara Faltz Jackson, Board Member, and Norene Pease, Executive Director of the Board. The



Respondent voluntarily surrendered his license on June 30, 1995 as a result of the pre-deprivation hearing.

**FINDINGS OF FACT**

The Board makes the following findings of fact:

1. At all times relevant to the facts herein, Respondent was licensed to practice pharmacy in the State of Maryland.
2. At all times relevant to the facts herein, Respondent was the sole pharmacist and co-permit holder of the Medicap Pharmacy at 19 East Frederick Street in Walkersville, Maryland ("Medicap Pharmacy").
3. On June 26, 1995, the Board received a verbal report from the PRC that Respondent was practicing pharmacy while under the influence of unprescribed controlled dangerous substances.
4. The report from the PRC indicated that Respondent had been repeatedly non-compliant with his contract with the PRC, which required that Respondent refrain from taking unprescribed controlled dangerous substances.
5. The unprescribed controlled dangerous substance which Respondent was taking was Darvocet N-100, a Schedule IV controlled dangerous substance.
6. From June 30, 1995 until April 23, 1996, Respondent abided by the terms of the voluntary surrender of his license to practice pharmacy and his contract with the PRC.
7. On April 23, 1996, Respondent attended the Board meeting and requested that the Board reinstate his license.

**ORDER**

Based on the agreement of the parties, it is this 30<sup>th</sup> day of April, 1996, by a majority of a quorum of the Board, hereby

**ORDERED** that the license to practice pharmacy of John Hoelscher, P.D. be **REINSTATED**; and be it further

**ORDERED** that Respondent shall be immediately be placed on **PROBATION**, subject to the following conditions:

1. Respondent shall enter into a new contract with the PRC. The contract shall be for a term of at least two (2) years and continue at least as long as Respondent is on probation. Respondent shall provide the Board within fifteen (15) days of the signing of this Order with a copy of the contract and with a copy of any modification to the contract within fifteen (15) days of the date of any modification. Any modifications must be approved by the Board.

2. Respondent shall be responsible for arranging for random observed urine screens at least three times weekly, in a manner acceptable to the Board. Respondent shall arrange for the results of all the urine screening to be reported directly to the PRC. Respondent shall arrange for the PRC to advise the Board of the results of all urine screening by incorporating the results into the quarterly reports. All positive results shall be reported to the Board immediately.

3. Respondent shall forward to the Board a signed, notarized letter authorizing the Board to revoke Respondent's license should the Board receive confirmation of a relapse of the conduct which resulted in the voluntary surrender of Respondent's license in June 1995.

4. Respondent shall participate in at least two (2) meetings per week of Narcotics Anonymous ("NA") or Alcoholics Anonymous ("AA") programs. Respondent shall include in his quarterly reports the dates and places of meetings attended and the progress he has made with

these meetings. Respondent shall attach a copy of the proof of his attendance at said meetings in his reports, if such proof is available.

5. Respondent shall continue participation in group therapy sessions at least two (2) times weekly. Respondent shall include reports of progress made in these group therapy sessions in his quarterly reports.

6. Respondent shall arrange for daily observations of Respondent in his work environment by a local Maryland State Police Trooper. Respondent shall forward to the Board correspondence from the State Trooper relating the Trooper's understanding of the intent of these observations, and the Troopers intent to report any questionable behavior of Respondent to the Board. This correspondence shall be received by the Board within thirty (30) days of this Order.

7. Respondent agrees to permit representatives of the PRC, the Division of Drug Control, and/or the Board to conduct random audits of the controlled dangerous substance stock of the Medicap Pharmacy.

8. Respondent shall supply the Board with quarterly reports relating his progress. These reports are to include meaningful information pertaining to the status of the Respondent, including but not limited to, progress in therapy and NA/AA, status of employment, and facts pertaining to Respondent's personal life.

9. Respondent agrees to be responsible for quarterly reports on his progress to be made by the PRC. These reports shall include information pertaining to the progress of Respondent and the results of Respondent's random urine screens.

10. Respondent agrees to be responsible for quarterly reports on his progress in therapy, to be made by his group therapist. These reports should reflect the therapist's opinion

regarding the mental fitness of Respondent to practice pharmacy and the progress Respondent is making in his therapy sessions.

11. Respondent shall agree to follow through with any change in his treatment program determined to be necessary by the Board, based upon recommendations of the PRC.

12. In the event the Respondent moves or changes employment, he shall promptly notify the Board in writing within ten (10) days of the change of address and of any change in his home or work telephone number.

13. Respondent shall refrain from engaging in the conduct which led to his voluntary surrender of his license to practice pharmacy.

14. Any employment of respondent outside the Medicap Pharmacy shall be subject to the approval of the Board.

15. Respondent shall practice in accordance with the Maryland Pharmacy Practice Act and in a competent manner; 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 Order; 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 finds for any reason in good faith that Respondent has violated any provision of Title 12 of the Health Occupations Article or regulations thereunder or violated any of the conditions of Probation thereunder, the Board may take immediate action, including, but not limited to, revocation or suspension of the Respondent's license to practice pharmacy, prior to 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 10-210 et seq., within thirty (30) days after Respondent notifies the Board in writing of his desire for such a hearing. 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 on or after one year from the commencement date of Probation, the Board will entertain a petition for modification of Respondent's probationary conditions; and be it further

**ORDERED** that two (2) years after the commencement date of probation, Respondent shall be notified of a scheduled time at which Respondent shall petition the Board 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 be inappropriate at that time, the Board may modify one or more of the conditions upon which Respondent was placed on probation;

**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 contents of the Order.



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George C. Voxakis, Pharm. D.  
President  
Maryland Board of Pharmacy

**CONSENT OF JOHN HOELSCHER, P.D.**

I, John Hoelscher, P.D., by affixing my signature hereto, acknowledge that:

1. I have been advised of my right to consult an attorney prior to signing this Order.
2. I am aware that without my consent, my license to practice pharmacy in the 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.

By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact 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 §10-215 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.

4/29/96  
Date

John Hoelscher  
John Hoelscher, P.D.

STATE OF MARYLAND

CITY/COUNTY OF Fredrick

**I HEREBY CERTIFY** that on this 29 day of April, 1996, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared John Hoelscher, P.D.,

License No. 11115, 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 WITNESSED** by my hand and Notarial Seal.

Bonnie Gardner  
Notary Public

My Commission Expires: 11-21-1997