

IN THE MATTER OF  
JOHN HOELSCHER, P.D.  
LICENSE NO.11115,  
RESPONDENT

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

\* \* \* \* \*

**CONSENT ORDER**

Based on information received and a subsequent investigation by the Maryland State Board of Pharmacy (the "Board") and subject to State Government Article §10-226 (c), Annotated Code of Maryland the Board summarily suspended **John Hoelscher, P.D., License No. 11115** (the "Respondent") for endangering the public health, safety, and welfare and for violating certain provisions of the Health Occupations Article, Code Ann. §12-101 et seq. (Repl. Vol. 1994) under the Maryland Pharmacy Act (the "Act").

Specifically, the Board possessed sufficient evidence to show that Respondent had violated certain provisions of §12-313(b) of the Act:

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:

**FINDINGS OF FACT**

The evidence supporting the summary suspension of Respondent's pharmacist license<sup>1</sup> and that would have supported the suspension is as follows:

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<sup>1</sup> Respondent's pharmacy license for Medicap Pharmacy was also summarily suspended, however, Respondent voluntarily waived any right to contest that suspension.

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

2. In April 1996, Respondent entered into a Consent Order with the Board based upon information received that Respondent had violated § 12-313 (b) (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 and, (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. (See attached-Exhibit B).

3. In May 1997, the Board executed an Order whereby Respondent was summarily suspended. (See attached-Exhibit C).

4. The Board acted to summarily suspend the license of Respondent after receiving sufficient evidence which indicated that Respondent had violated the terms of the April 1996 Consent Order and that the Board had reason to believe that the manner in which Respondent was practicing pharmacy endangered the health, safety, and welfare of the public. (See attached-Exhibit C page 5, paragraph 15, and page 6, paragraph 16).

5. In May 1997, the Board found as Conclusions of Law that Respondent violated §12-313 (4) (ii), §12-313 (14), §12-313 (15) and that Respondent had violated the conditions of probation pursuant to the Consent Order of April 1996.

6. Respondent filled prescriptions for patients and taped the prescriptions to the door or front area of the closed pharmacy in

violation of the rules and regulations of the Board and the Pharmacy laws which require that a pharmacist be available at the time the prescription is picked up in order to answer questions of the patient. COMAR 10.34.05.02 C.

8. In June 1997 Respondent entered into a thirty (30) day inpatient drug rehabilitation program and was successfully discharged in July 1997.

9. On July 3, 1997 a case resolution conference (CRC) was held at Respondent's request. Present at the CRC were George Voxakis, Ph.D., P.D., Mr. Lottier, Ms. Faltz-Jackson, Paul Ballard, Assistant Attorney General, Board Counsel, Lisa Hall, Administrative Prosecutor, Rose M. Matricciani, Esq., Respondent's counsel, and Ron Crisp, M.D.

#### CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds Respondent violated Health Occupations Article §§12-313 (b)(4)(ii), (14), (15), and COMAR 10.34.05.02 and various conditions of the April 1996 Consent Order.

#### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 17<sup>th</sup> day of September, 1997, by a majority of the Board, hereby

**ORDERED** that Respondent's license be **reinstated and be placed on PROBATION** for a period of at least two (2) years, subject to the following conditions:

1. During the two (2) year period of PROBATION, Respondent shall not be employed in any capacity in which he would dispense medications;

2. Respondent may be employed in a non-dispensing, health related work setting with prior Board approval;

3. Respondent shall not be employed in any setting in which he would have access to prescription medications, including drug samples;

4. Respondent's work setting may be observed by the Pharmacist's Education and Assistance Committee ("PEAC") or the Board's representatives to ensure compliance with the above enumerated paragraphs;

5. Respondent shall submit to random observed urine screens with the following schedule:

a) in the first six (6) months following execution of this Order, Respondent shall have weekly observed drug urine screens;

b) for the second six (6) months following execution of this Order, Respondent shall have random observed drug urine screens performed every other week

c) and in the last twelve months Respondent shall have monthly random observed drug urine screens;

6. Respondent shall consent to have the results of the random observed drug urine screens provided to the Board, and any positive results shall be deemed as evidence of violation of this Consent Order and subject to rebuttal by the Respondent;

7. Respondent, Respondent's therapist, employer, and PEAC

shall file quarterly reports to the Board on the Respondent's status and compliance with his program and this Order;

8. Respondent shall remain under the direction of PEAC and shall provide to the PEAC the name, address, and telephone number of his therapist;

9. Respondent shall attend Narcotics Anonymous and Alcoholics Anonymous meetings, in accordance with the Aftercare Treatment Plan dated July 2, 1997 (attached as Exhibit A) and the recommendations of his treatment counselor with regards to frequency of Respondent's attendance at the meetings;

10. Respondent shall follow the recommendations of his therapist;

11. Respondent shall immediately notify the Board in writing of any change in his address and shall request prior approval of any change of employment and Respondent shall further furnish the Board with the business address and telephone number of any employment;

12. Respondent acknowledges that a copy of this Consent Order shall be provided to Respondent's therapist and PEAC;

13. Respondent shall disclose to his employer the probationary status of his pharmacist license, and Respondent will provide his employer with a copy of this Consent Order;

14. Respondent may petition the Board for complete reinstatement and release from any or all conditions of probation following the completion of at least two (2) years of PROBATION under the following conditions:

a. Respondent will submit to a psychological/psychiatric

evaluation by an addictions specialist;

b. The Board will choose the evaluator and will furnish the evaluator with a copy of this Consent Order and any other public documents in Respondent's Board file;

c. The Board will ask the evaluator to determine what conditions are necessary for the Respondent's safe return to the practice of pharmacy;

d. Respondent agrees that he will enter into a Consent Order with the Board which will encompass the evaluator's recommendations for Respondent's safe return to the practice of pharmacy, and other conditions deemed appropriate by the Board in view of the results of that evidence and the Respondent's compliance with this Consent Order;

e. Respondent will bear the cost of the evaluation.

**ORDERED** that in the event the Board finds for any reason in good faith the Respondent has substantially violated any provision of Title 12 of the Health Occupations Article, Maryland Annotated Code or the regulations thereunder, or if the Respondent violated any of the foregoing conditions of Probation, the Board, *after notification to the Respondent, and an opportunity to be heard*, may take immediate action or impose any lawful disciplinary sanction it deems appropriate, including but not limited to revocation or suspension of Respondent's licensee to practice pharmacy; and be it further

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

further

ORDERED that for purposes of public disclosure, as permitted by §10-617 (h), State Government Article, Maryland Code Annotated, this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order, resulting from formal disciplinary proceedings.

9/19/97

Date

Irving W. Lottier, Jr., P.D.

Irving W. Lottier, Jr., P.D.  
Secretary of the Board of Pharmacy

**CONSENT of John Hoelscher, P.D.**

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

1. I am represented by an attorney.
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 §12-315 of the Act and §10-201 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 or an Administrative Law Judge.

By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order provided the Board adopts the foregoing Final 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 §10-201 et seq. of the Administrative Procedure Act except on connection with any alleged violation of this Order. I acknowledge that by failing to abide by the conditions set forth in this Order, I may, after an opportunity to be heard, suffer disciplinary action, including revocation of my license to practice pharmacy in the State of Maryland.

8/19/97  
DATE

John Hoelscher  
John Hoelscher, P.D.

STATE OF MARYLAND  
CITY/COUNTY OF: FREDERICK

I HEREBY CERTIFY that on this 20<sup>th</sup> day of August, 1997, a Notary of the State of Maryland and (City/County), CAROLYN C. BRAM, 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 WITNESS my hand and notarial seal.  
[Signature]  
Notary Public

My commission expires: 12-1-99