

IN THE MATTER OF * BEFORE THE
KIM MICHAEL HULKO, P.D. * MARYLAND STATE
License No. 10047 * BOARD OF PHARMACY
Respondent *

* * * * *

CONSENT ORDER

The Maryland State Board of Pharmacy (the "Board") charged Kim Michael Hulko, P.D. (the "Respondent"), with violation of certain provisions of the Maryland Pharmacy Act, Md. Code Ann., Health Occ. §12-101 et seq. Repl. Vol. (1994) (the "Act"). Specifically, the Board charged the Respondent with violation of the following provision of §12-313 of the Act:

(b) 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:

(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 any act that would be grounds for disciplinary action under the Board's disciplinary statutes.

The Respondent was given notice of the charges and the issues underlying those charges by letter and charging document sent to the Respondent on May 2, 1995. A revised charging document was sent to Respondent on May 4, 1995. A pre-hearing conference was

scheduled for June 7, 1995. The Respondent waived the pre-hearing conference and as a result of subsequent discussions between Sherrai V. Hamm and Janet Klein Brown, Assistant Attorneys General and Administrative Prosecutors, and David A. Burlage, Esquire, and Patrick O'Rourke, Esquire, Attorneys for the Respondent, the parties agreed to enter into this Consent Order.

FINDINGS OF FACT

The Board finds:

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

2. On December 28, 1994, the Respondent's license to practice pharmacy in the State of Colorado was suspended for a period of three years with all but ninety days stayed.¹

3. The stay period of the Respondent's suspension commenced on September 26, 1994 and ended on December 28, 1994, the effective date on the Colorado State Board of Pharmacy's final order. The Respondent was placed on probation for a period of three years, following the end of the stay period.

4. The Colorado State Board of Pharmacy found that the Respondent violated §§ 12-22-122(1), 12-22-125(1)(c), 12-22-122(2)(a)(II), and 12-22-126(1)(b) of the Colorado Revised Statute

¹ The Respondent entered into a Stipulation Agreement, thereby consenting to the suspension of his license to practice pharmacy and the terms of his probation.

(1991). The Respondent also violated Colorado State Board of Pharmacy Rule 1.00.12.

5. The Respondent's license to practice pharmacy in the State of Colorado was suspended because he had taken controlled dangerous substances, from his place of employment, for his personal use.

6. The above constitutes violations of §12-313 (b) (14), (20), and (24) of the Act.

CONCLUSION

Based upon the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated §12-313 (b) (23).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and agreement of the parties, it is this 14th day of February, 1996, by a majority of a quorum of the Board, hereby

ORDERED that Respondent's license to practice is **SUSPENDED** for a period of three (3) years and be it further

ORDERED that said **SUSPENSION** is **IMMEDIATELY STAYED** and that the Respondent is placed on **PROBATION** for a period of four (4) years, subject to the following conditions:

1. The Respondent shall comply with all the "Conditions Precedent to Continuing the Stay Period" and the "Terms of Probation" of the Stipulation and Final Agency Order of the Colorado Board of Pharmacy, effective December 28, 1994.

2. Prior to the next licensure renewal in 1997, in addition to any continuing education units ("CEUs") needed for licensure renewal in Maryland, the Respondent shall obtain and submit evidence of 1.5 extra CEUs in the subjects of controlled substance law or pharmacy law. Respondent is not required to obtain any additional CEU's for any subsequent licensure renewal after 1997.

3. That the Respondent shall submit this FINAL ORDER to each immediate pharmacy manager or superior at each location that the Respondent is employed as a licensed pharmacist. The current pharmacy employer(s) shall acknowledge, within ten (10) days of the date of this Order, the receipt of this Order and his/her responsibilities therein. It is the responsibility of the Respondent to ensure compliance of the pharmacy employer(s) with this paragraph.

4. Respondent may not enter into any subsequent employment as a pharmacist unless he provides the Board with written notification from the prospective employer, within thirty (30) days of employment, verifying that the employer has received a copy of this Order and agrees to comply with all conditions herein pertinent to Respondent's employers.

5. Respondent shall arrange for his employer to submit quarterly written reports to the Board regarding Respondent's performance as a pharmacist and compliance with this Order. The first report shall be due on June 1, 1996, with the remaining reports due at quarterly intervals thereafter (i.e., September 1,

1996, December 1, 1996, and March 1, 1997) while Respondent remains on probation.

6. Respondent shall arrange for the Peer Assistance Services, Inc., 2170 South Parker Road, Suite 229, Denver, Colorado 80231, (303) 369-0039, to submit quarterly written reports to the Maryland Board of Pharmacy, Pharmacy Compliance Officer, 4201 Patterson Avenue, Baltimore, Maryland 21215, (410) 764-4755, regarding Respondent's results of urine screening and Respondent's attendance at Narcotics Anonymous, Alcoholics Anonymous meetings, and/or any other Twelve-Step Program. The first report shall be due June 1, 1996, with the remaining reports due at quarterly intervals thereafter (i.e., September 1, 1996, December 1, 1996, and March 1, 1997) while Respondent remains on probation.

7. In addition to the foregoing reports, Respondent himself shall submit quarterly reports, including copies of all reports which he has submitted in the quarter to the Colorado Board of Pharmacy as required by its December 28, 1994 Order. The reports shall be submitted beginning on June 1, 1996, and at quarterly intervals thereafter while he is on probation.

8. Respondent shall provide the Board with his home address. In the event that Respondent moves, he shall notify the Board in writing of his new address and of any change in his home and work telephone number within seven (7) days.

9. If Respondent were to be employed as a pharmacist in Maryland, Respondent shall seek approval from the Board prior to

beginning any employment in Maryland in which Respondent would have access to controlled dangerous substances.

10. The Respondent shall practice pharmacy in Maryland in accordance with the Maryland Pharmacy Act and in a competent manner.

ORDERED that the conditions of the Consent Order be, and the same hereby are, effective as of the date that the Order is signed by the Board; 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 the Respondent has substantially violated any provision of Title 12 of the Health Occupations Article or regulations thereunder, or has violated the conditions of probations herein, the Board may take action, including, but not limited to, revocation or suspension of the Respondent's license to practice pharmacy after giving the Respondent notice and an opportunity for a hearing; and be it further

ORDERED that four (4) years from the date of this Order, 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 without any conditions or restrictions. The petition must include recommendations from Respondent's employer, therapist, and the Peer Assistance Services, Inc. If the Board determines that the termination of probation and complete reinstatement would be

inappropriate at the time, the Board may modify one or more of the conditions upon which Respondent was placed on probation; and be it further

ORDERED that for purposes of public disclosure, as permitted by §10-617(h), State Gov't Art., Ann. Code of Maryland, this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order.

2/14/96
Date

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

CONSENT OF KIM MICHAEL HULKO, P.D.

I, Kim Michael Hulko, P.D. by affixing my signature hereto, acknowledge that:

1. I am represented by attorney, Patrick O'Rourke, Esquire, and have been advised by him of the legal implications of signing this Consent Order.

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 §10-207 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 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 §10-208 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 §10-208 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.

2/9/96
DATE

Kim Michael Hulko
KIM MICHAEL HULKO, P.D.

STATE OF COLORADO
CITY/COUNTY OF:

I HEREBY CERTIFY that on this 9th day of February, 1996, a Notary Public of the State of Colorado and (City/County), Arapahoe, personally appeared Kim Michael Hulko, P.D., License No. 10047 and made oath in due form of law that the signing of 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.

Bonnie J. Coe
Notary Public

My Commission Expires: 2-8-99