

IN THE MATTER OF
MICHAEL JOINES, P.D.
License No. 10823
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 Health Occupations Article §12-315, Annotated Code of Maryland (the "Act"), the Board charged Michael Joines, P.D. License No. 13514 (the "Respondent"), with violations of §12-313 of the Act.

Specifically, the Board charged 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 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:

- (2) Fraudulently or deceptively uses a license;
- (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;
- (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 document sent to Respondent on May 25, 1995. A prehearing conference on those charges was held on June 6, 1995 and was attended by George

Voxakis, P.D. and Theodore S. Litwin, Esquire, Board members and Tracy Baroni, R. Ph., J.D., Pharmacist Compliance Officer. Also in attendance were Respondent, Michael L. Wilsman, Esquire, counsel for Respondent and the Administrative Prosecutor, Janet Klein Brown, Assistant Attorney General. At Respondent's request, Anthony Tommasello, P.D., of the Maryland Pharmacists' Rehabilitation Committee and Mrs. Joines were also present.

Following the prehearing conference, the parties and the Board agreed to resolve the administrative charges by way of settlement. As a result of negotiations entered into at the prehearing conference the parties have agreed to enter into the following Consent Order.

FINDINGS OF FACT

The Board makes the following findings of fact:

1. At all times relevant to the charges herein, Respondent was licensed to practice Pharmacy in the State of Maryland.
2. On or about January 1, 1995, Respondent was employed as a pharmacist at Wal-Mart Pharmacy, store number 10-1715, 8155 Elliot Road, Easton Maryland.
3. On February 22, 1995, Respondent entered into a contract with the Maryland Pharmacists' Rehabilitation Committee, agreeing to treatment for chemical dependency.
4. On or about February 24, 1995, Respondent informed the Pharmacy District Manager of District 98, Wal-Mart Stores, Inc. (the "District Manager") that he had relapsed from a former drug problem and admitted to taking an unspecified amount of Roxicet

tablets and Acetaminophen #3 tablets from Wal-Mart between January 1, 1995 and February 22, 1995.

5. On or about February 24, 1995, the District Manager and the Pharmacist in charge of store number 10-1715 conducted an inventory of all controlled substances and confirmed the shortages of Roxicet and Acetaminophen #3.

6. On or about February 25, 1995, Respondent informed the District Manager and the pharmacy Supervisor that he took twenty-two (22) Roxicet tablets and forty (40) Acetaminophen #3 tablets from Wal-Mart without a prescription from an authorized prescriber.

7. On or about February 25, 1995, the District Manager reported to the Drug Enforcement Administration the theft or loss of controlled substances.

8. On or about February 25, 1995, Respondent signed a Restitution note and agreed to pay Wal-Mart \$18.48.

9. On or about February 25, 1995, Respondent was terminated from employment by Wal-Mart Stores, Inc.

10. On or about March 15, 1995, Respondent made restitution to Wal-mart.

11. Previously, on November 16, 1988, Respondent's pharmacy license was suspended and immediately stayed and Respondent was placed on probation for two years, subject to certain conditions. The Board's action was based on Findings of Fact that Respondent, while employed with Giant Foods, removed approximately 210 tablets of Dilaudid, without a prescription, and used them for himself.

12. On March 1, 1991, the Board found that Respondent satisfactorily complied with all the conditions of probation and reinstated Respondent's pharmacy license without any conditions.

13. Roxicet and acetaminophen #3 are controlled dangerous substances for which a prescription is required.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law, that the Respondent violated §§ 12-313(2)(14) and (20) of the Act.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and agreement of the parties, it is this 2nd day of Aug, 1995, by a majority of a quorum of the Board, hereby

ORDERED that the license of Michael Joines, P.D., to practice pharmacy be **SUSPENDED**; and be it further

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

1. Respondent shall enter into a new contract, or renew his former contract, with the Maryland Pharmacists' Rehabilitation Committee (the "Rehabilitation Committee"). The contract shall be for a term of at least four (4) 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 modifications. Any modifications must be approved by the Board.

2. Within 45 days from the date of this Consent Order, Respondent shall be evaluated by a licensed psychiatrist regarding any possible disorders which are relevant to Respondent's substance abuse problem. Respondent shall provide a copy of this Consent Order to the evaluating psychiatrist and shall be responsible for all costs of evaluation. Respondent shall direct the psychiatrist to submit a report and recommendations to the Board and agrees to abide by any recommendations for treatment made by the evaluating psychiatrist.

3. Respondent shall continue to participate in group therapy programs of the Talbot County Health Department Drug Treatment Program and comply with all recommendations made to him and in the time limit suggested by his counselor(s), until such time as he is discharged from treatment by the counselor(s). If such discharge occurs, Respondent shall arrange for prompt submission by the counselor(s) of a written discharge report to the Board and the Rehabilitation Committee. If Respondent is discharged from treatment by his current counselor or any subsequent counselor(s) or therapist(s) (if additional counseling is recommended by the evaluating psychologist or the Rehabilitation Committee) Respondent will no longer be obligated to arrange for periodic reporting by the counselor(s) or therapist as directed in paragraph 5.

4. If, in violation of paragraph 3, Respondent fails to continue with his counselor without having been discharged or

ordered by the Board to change or cease counseling, Respondent shall immediately notify the Board and the Rehabilitation Committee in writing and have his counselor(s) notify the aforementioned entities.

5. Respondent shall arrange for his counselor(s), the Rehabilitation Committee, Respondent himself, and his psychiatrist should ongoing treatment be necessary to submit written quarterly reports to the Board reporting on Respondent's compliance with this Order and his progress. The reports shall be due on June 1, September 1, December 1 and March 1 of each year. The first set of reports from the counselor, the Rehabilitation Committee and Respondent shall be due on July 5, 1995.

6. Respondent shall be responsible for arranging for random observed urine screens at least once a week, in a manner acceptable to the Board. Respondent shall arrange for the results of all screening to be reported directly to his counselor and the Rehabilitation Committee. Respondent shall arrange for his counselor or the Rehabilitation Committee to advise the Board of the results of all of the screening by incorporating the results into the quarterly reports, however, all positive results shall be reported to the Board immediately. If Respondent is no longer in counseling or therapy, the results of the urine screen will be reported directly to the Rehabilitation Committee, who will report the results to the Board.

7. Respondent shall participate in at least three meetings per week of Narcotics Anonymous ("NA") programs. Respondent shall

include in his quarterly reports to the Board the dates and places of meetings attended and the progress he has made with NA programs. Respondent shall attach a copy of the proof of his attendance at said meetings in his reports, if such proof is available.

8. The Respondent shall agree to and follow through with any change in his treatment program determined to be necessary by the Board, based upon the recommendations of his psychiatrist, counselor(s), or the Rehabilitation Committee.

9. In the event that Respondent moves, he shall promptly notify the Board in writing of the change of address and of any change in his home and work telephone number.

10. Respondent shall refrain from engaging in the conduct which led to his suspension from the practice of pharmacy under the Maryland Pharmacy Act.

11. Respondent's employment shall be subject to approval by the Board.

12. Respondent may not work as a dispensing pharmacist; and may not be employed in a position that permits access to legend drugs, with the exception of dispensing and access to radio-pharmaceuticals in the absence of any and all controlled dangerous substances. After the first year of probation, Respondent may petition the Board to change the restrictions on dispensing. Any changes made in dispensing may be made only on the approval of the Board and the recommendation of the Rehabilitation Committee after consultation with the counselor and psychiatrist if appropriate.

Any limitation on the Respondent's ability to dispense must be contained in his contract with the Rehabilitation Committee.

13. Respondent shall provide a copy of this Order to his pharmacy employer. Within ten (10) days of the date of this Order, Respondent shall arrange for his employer to acknowledge in writing to the Board that the employer has received a copy of the Order and agrees to comply with the conditions pertaining to the employer.

14. In the event that Respondent's psychiatrist, counselor(s) or the Rehabilitation Committee reports to the Board that Respondent is incapable of practicing pharmacy safely, or that his previous problems are interfering with his ability to practice pharmacy, Respondent shall, within 24 hours of being informed by the Board of that report, voluntarily discontinue the practice of pharmacy. The Respondent shall not resume the practice of pharmacy until the Board determines that Respondent is capable of resuming the practice of pharmacy or gives him permission to resume the practice of pharmacy.

15. Respondent shall practice in accordance with the Maryland Pharmacy 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 hereunder, 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 the 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 regarding the Board's action. 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 four (4) years of 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 the 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 foregoing Findings of Fact, Conclusions of Law and Order.



Steven Cohen, P.D.
President
Maryland Board of Pharmacy

CONSENT OF MICHAEL JOINES, P.D.

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

1. I am represented by an attorney, Michael L. Wilsman, 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 §10-205 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 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 §10-215 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.

July 28, 1995
Date

Michael Joines
Michael Joines, P.D.

STATE OF MARYLAND
CITY/COUNTY OF Anne Arundel)
SS:

I HEREBY CERTIFY that on this 28th day of July, 199~~4~~⁵, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared Michael Joines, P.D., License No. 13514, 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.

Jane M Johnson
Notary Public
JANE M JOHNSON

My Commission Expires: May 13, 1997