

IN THE MATTER OF
JEFFREY LEWIS, P.D.
LICENSE NO. 8484,
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 the Health Occupations Article, Code Ann., §12-101 et seq., 1994 Repl. Vol. (the "Act") the Board charged Jeffrey Lewis, P.D., License No. 8484 (the "Respondent"), with having violated certain provisions of the Act under §12-313 (b).

Specifically, the Board charged the Respondent with having violated the following 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 :

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

- (24) Violates any rule or regulation adopted by the Board.

The Board adopted COMAR 10.34.18 which requires that a licensee obtain and document continuing education credits.

BACKGROUND

The Respondent was given notice of the charges and the issues underlying those charges by letter and charging document mailed to

the Respondent on October 30, 1997. On November 18, 1997 a case resolution conference was held before a panel of the Board. Due to the personal knowledge of the present Board member of the Respondent, the Board member was asked by Lisa Hall, Administrative Prosecutor, to recuse himself. This having been done, Board Counsel, Mr. Paul Ballard, Assistant Attorney General, left the room and the parties conducted settlement negotiations. Board Counsel was then asked to enter the room and the proposed settlement was then presented to Board Counsel. At the next Board meeting, Board Counsel presented the proposed settlement to the Board. The Board made a counter proposal of settlement which was later accepted by the Respondent.

The parties have entered into this Consent Order in order that the matter be resolved without further litigation. The parties hereto make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

The Board finds that:

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

2. Respondent applied for renewal of his Maryland license to practice pharmacy with the State Board of Pharmacy on September 19, 1996.

3. Appended to Respondent's renewal form was the Continuing

Education Record form. This form was filled out by Respondent. The renewal application and continuing education form contain an attestation clause and a statement which the licensee signs indicating that the information provided is true and accurate and that the credits were earned during the renewal period.

4. Respondent and all pharmacist licensees are required to retain the supporting documentation for four (4) years after the date of renewal for which the credits were used.

5. A pharmacist applying for renewal in Maryland and practicing in Maryland is required to present valid documentation of the successful completion of 30 continuing education credits. See COMAR 10.34.18.02. A.

6. Respondent's continuing education record submitted with his renewal application indicated that Respondent had completed 30.5 hours of continuing education credits. Respondent's continuing education credits were audited by the Board in or about April 1997.

7. The Board audit revealed that Respondent had a deficit in continuing education credits of 9.5 hours. Respondent was asked to submit the required documentation for his claimed continuing education credits. This further investigation revealed that Respondent possessed documentation for 16.5 hours.

8. Concerning the information on the Continuing Education Form provided to the Board by the Respondent, the results of the

audit were as follows:

- Entry 1. Geriatric care, valid for +7 hours
- Entry 2. organic..., valid for +2.5 hours
- Entry 3. treatment of asthma, valid for +1 hour
- Entry 4. ADD..., valid for +6.0 hours
- Entry 5. Freedom of Choice..., **NOT VALID** until 6/97
- Entry 6. Hypothyroidism..., **NOT VALID**
- Entry 7. Pharmacist Responsibility, **NOT VALID**
- Entry 8. making recommendations..., **NOT VALID** until 6/97
- Entry 9. Etiology/Mgmt of... **NOT VALID** until 6/97
- Entry 10. Outpatient use of..., **NOT VALID**
- Entry 11. Common sprains, **NOT VALID**

8. Drug Store News reported that two of Respondent's courses were not received and processed until June 1997. These courses were therefore not earned during the renewal period.

9. The renewal application places all licensees on notice concerning the use of continuing education credits with this language contained on the form:

*Continuing Education credits **MUST** be obtained during the renewal period. The authorizing signature and date on the certificate, or some other verification of the date the credits were earned is required to be within the renewal period.*

Respondent's signature and date of his signature appear just above this statement.

10. Under COMAR 10.34.18.07 D falsifying a continuing education record is grounds for disciplinary action under Health Occupation Article §12-313 (b) (1) and (2). Under COMAR 10.34.11.04 D a licensee found to have violated this section may be subjected to a monetary penalty between \$500 to \$5,000.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Facts, the Board finds

that the Respondent failed to obtain the required continuing education credits during the renewal period, for which the Board finds that the Respondent violated §12-313 (b) (24) of the Act, which is based on Respondent's violation of COMAR 10.34.18. Further, the Board finds that the Respondent has violated §12-313 (b) (1) for his submission of a document containing false information in support of his continuing education credits, and for attempting to obtain licensure renewal, and obtaining licensure renewal without the requisite continuing education credits.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this _____ day of _____, 1997, by a majority of the Board, hereby

ORDERED that Respondent be and is hereby placed on **PROBATION** for a period of **18 months** under the following conditions;

a) Respondent shall earn and submit documentation for the successful completion of **51** continuing education credits, which includes Respondent's deficit of **13.5** credits for the previous renewal period;

b) Respondent shall earn the credits in (a) above in addition to the continuing education credits which must be earned by the Respondent during the current renewal period;

c) Respondent shall take and successfully pass a Board-

approved college level course in ethics;

d) Respondent's continuing education forms shall be audited for the next two renewal periods;

e) Respondent shall pay a monetary penalty in the amount of \$2,350 (two thousand three hundred fifty dollars).

ORDERED that Respondent may **Petition** the Board for termination of Probation after one year from the effective date of this Order. A pre-requisite of Respondent's Petition from Termination of Probation is his successful completion of the probationary conditions as described herein.

ORDERED, that the Respondent shall **petition** the Board for termination of Probation at the conclusion of the **18** months of Probation imposed by this Order; and it is further

ORDERED that Respondent shall immediately notify the Board in writing of any change in his residential and/or business address; and it is further

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 Consent Order conditions, 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 the Board's execution on 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.

2/18/98

Date

David M. Russo

David Russo, P.D., M.B.A.
President

CONSENT of Jeffrey Lewis, P.D.

I, Jeffrey Lewis, by affixing my signature hereto, acknowledge that:

1. I am aware that I have the right to have had an attorney, and have had the opportunity to consult with one.

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.

4. I understand that by agreeing to enter into this Consent Order I cannot challenge the Findings of Fact and Conclusions of Law in any future 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 §12-315 of the Act and §10-201 et seq. of the Administrative Procedure Act except in 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.

1/6/98
DATE

Jeffrey Lewis
Jeffrey Lewis, P.D.

STATE OF MARYLAND

CITY/COUNTY OF:

I HEREBY CERTIFY that on this 7 day of JANUARY,
1998, a Notary of the State of Maryland and (City County),
ANNE ARUNDEL, personally appeared JEFFREY LEWIS
_____, P.D. License No. 8484, 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.

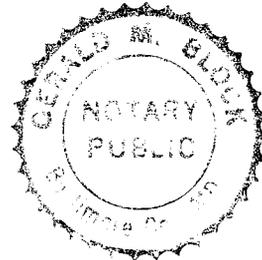
AS WITNESS my hand and notarial seal.

Gerald M. Block

Notary Public

My commission expires:

11/1/99



June 14, 1999

State Board of Pharmacy
Department of Health and Mental Hygiene
4201 Patterson Avenue
Baltimore, Maryland 21215-2299

Re: Voluntary Irrevocable Surrender of Pharmacist's License
Jeffrey Lewis, P.D. - License Number 8484

Dear Members of the Board of Pharmacy:

To resolve the Board's pending investigation of my recent behavior and in lieu of incurring disciplinary action under the Maryland Pharmacy Act, Md. Code Ann., Health Occupations, §12-101 et seq., and/or emergency disciplinary action under Md. Code Ann., State Government, §10-226, please be advised that I have decided to surrender my license to practice pharmacy in the State of Maryland. I understand that in so doing, I can no longer practice pharmacy as set forth in the Annotated Code of Maryland, Health Occupations Article, Section 12-101. In other words, I understand that this surrender of my license means that I am in the same position as an unlicensed individual.

My decision to surrender my license to practice pharmacy in the State of Maryland is IRREVOCABLE and PUBLIC. I agree to apply for reinstatement of my license to practice pharmacy in the State of Maryland only under the conditions set forth in this Letter of Surrender. This Letter of Surrender shall become effective upon its acceptance by the Board of Pharmacy (the "Board").

I understand that the Board will notify boards of other states regarding the Letter of Surrender. I also understand that if I apply for licensure in any form in any other state or jurisdiction, this Letter of Surrender and all underlying documents may be released or published by the Board to the same extent as a final order which would result from disciplinary action pursuant to St. Gov't Article, Md. Ann. Code §10-611 et seq. (1994 Repl. Vol.), and that this Letter of Surrender may be considered to constitute a disciplinary action by the Board. I also understand that this Letter of Surrender may be released by the Board to the same extent as a final public order which could result from disciplinary action, pursuant to Md. State Gov't. Code Ann. §10-611 et seq.

(1995 Repl. Vol.).

I affirm that I have ceased the practice of pharmacy in Maryland. In accordance with the terms and conditions of this Letter of Surrender, I permit the Board to advise any health care institution and health care professionals that I have surrendered my license to practice pharmacy. I hereby submit my display and wallet licenses. I confirm that I have no current license to practice pharmacy in the State of Maryland.

Based upon my admitted dispensing of medications pursuant to illegitimate prescriptions and my mental health problems, I understand and agree that I should not be dispensing drugs as a pharmacist due to the resulting potential danger to the public health and safety. By virtue of this Letter of Surrender, I waive any right to contest the Board's finding that I have dispensed drugs without a legitimate prescription and that due to my mental health problem my continued practice of pharmacy would threaten the public safety, health, and welfare. I further agree for the limited purposes of considering my petition for reinstatement that the Board may deem this to be a finding of fact and conclusion of law just as if the Board had held a full contested case hearing under the Administrative Procedure Act, Md. Code Ann., State Government Article, §§10-201, et seq. (1995 Repl. Vol.).

I fully concur and agree that at the end of five months following the date the Board accepts this Letter of Surrender, the Board shall reevaluate my progress in therapy and my prognosis for full recovery. Based upon its review of certain reports by the Pharmacist and Education and Assistance Committee ("PEAC"), my therapists, and a Board-appointed mental health evaluator, the Board shall set terms at its sole discretion regarding preconditions for the eventual reinstatement of my license, including setting a minimum period of time for treatment prior to considering any petition for reinstatement. I further understand and agree that the following conditions must be met prior to the Board's reevaluation of my progress in treatment and my prognosis for recovery:

1. My treatment shall be monitored by PEAC, which shall issue a report on my progress to the Board five months from the date this Letter of Surrender is accepted by the Board.

2. I will be treated by a psychiatrist for medication management and by a licensed mental health professional who will provide appropriate psychotherapy. Both of these therapists shall provide quarterly reports to the Board regarding my progress in therapy.

3. I will submit to a mental health evaluation by a Board-appointed licensed mental health professional four months after the date that the Board accepts this Letter of Surrender.

4. I will continue to comply with the probationary conditions set forth in the Board's Consent Order issued on February 18, 1999 concerning my failure to complete continuing education requirements.

5. I will keep up to date with all continuing education requirements.

6. Five months following the date of this Letter of Surrender I shall meet with Board representatives regarding my progress in therapy and my prognosis for recovery.

I agree and understand that the Board may condition reinstatement of my license by attaching preconditions, probationary conditions or other restrictions on my license that the Board deems appropriate for the protection of the public.

I agree and understand that the Board shall not grant reinstatement of my license until I have met the above conditions and have personally appeared before the Board and answered any questions posed by Board members regarding my ability to safely practice pharmacy. I understand that the Board may only reinstate my license if it is satisfied that I have complied with the foregoing conditions and that in its judgment I can practice pharmacy without posing a danger to the public or myself.

I wish to make clear that I have been given an opportunity to consult with Mark Chandlee, Esquire, an attorney of my choosing, before signing this letter, which letter constitutes the IRREVOCABLE SURRENDER of my license to practice pharmacy in the State of Maryland. I understand both the nature of the Board's actions and this Letter of Surrender fully. I make this decision knowingly and voluntarily. I have voluntarily consented to submit

this Letter of Surrender.

Upon submission of this Letter of Surrender to the Board of Pharmacy, I agree to immediately surrender to the Board the following items regarding License Number 8484:

- 1. My wall license;
- 2. My wallet license; and
- 3. My display certificate.

Sincerely yours,

Jeffrey L. Lewis
 Jeffrey Lewis

VERIFICATION

STATE OF MARYLAND

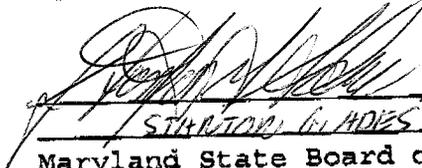
CITY/COUNTY OF ANNE ARUNDEL

I HEREBY CERTIFY that on this 14th day of June, 1999, before me, a Notary Public of the State of Maryland and County aforesaid, personally appeared Jeffrey Lewis, and declared and affirmed under the penalties of perjury that signing the foregoing Irrevocable Letter of Surrender was his voluntary act and deed.

Deborah J. Warren
 Notary Public
 Deborah J. Warren

My Commission Expires: May 1, 2003

ON BEHALF OF THE BOARD OF PHARMACY, on this 16 day of June, 1999, I accept Jeffrey Lewis' PUBLIC IRREVOCABLE surrender of his license to practice pharmacy in the State of Maryland.


_____, PRESIDENT
~~STARTON GARDNER~~
Maryland State Board of Pharmacy