

IN THE MATTER OF
DONALD G. MAUCK, JR., P.D.

* BEFORE THE MARYLAND STATE
* BOARD OF PHARMACY

* * * * *

CONSENT ORDER

BACKGROUND

Upon certain information having come to the Maryland Board of Pharmacy (the "Board"), the Board determined to charge Donald G. Mauck, Jr., P.D. (the "Respondent"), a person licensed to practice pharmacy in the State of Maryland, with violation of §12-313(b)(4)(ii), 7, 8, and 14 of the Maryland Pharmacy Act, Health Occupations Article, Maryland Annotated Code (the "Act") which provides that subject to the hearing provisions of §12-315 of the Act, the Board of Pharmacy may reprimand a licensee, place a licensee on probation, suspend, or revoke the license of any licensee, or under §12-314 of the Act, may impose a monetary penalty if the licensee:

Provides professional services while:

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; (12-313(b)(4)(ii) of the Act).

Willfully fails to file or record any report that is required by law; (12-313(b)(7) of the Act).

Willfully impedes or obstructs the filing or recording of any report that is required by law; (12-313(b)(8) of the Act).

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 (§12-313(b)(14) of the Act).

Appropriate notice of the charges and the grounds upon which they were based was sent to Respondent in a letter dated August 2, 1991. A prehearing conference was held on September 4, 1991 and was attended by Respondent; his attorney, Steven G. Kessell, Esq.; Ralph Small, P.D. and George Voxakis, P.D., designees of the Board; Roslyn Scheer, Executive Director of the Board, and Judith K. Sykes, Assistant Attorney General and Administrative Prosecutor.

Following the prehearing conference, Respondent agreed to enter into the following Findings of Fact, Conclusions of Law and Consent Order.

1. Respondent is and was at all times relevant to these charges licensed to practice pharmacy in Maryland.

2. Respondent is and was at all times relevant to these charges also licensed to practice in the states of Pennsylvania, Virginia and West Virginia. Beginning on or about August 7, 1990, and at the present time, Respondent's West Virginia license has been and is a probationary license.

3. From on or about February 10, 1989 to January 19, 1990, Respondent was employed as a pharmacist by Rite Aid.

4. While employed at the Rite Aid Pharmacy, at 644 East Main Street, Waynesboro, Pennsylvania, Respondent took from the pharmacy 660 Valium 10 mg. tablets and 3300 Generic Fiorinal #3 capsules, and used them for his own personal consumption.

5. Respondent did not submit a prescription for or pay for the above-described tablets.

6. Valium is a Schedule IV controlled dangerous substance. Fiorinal #3 is a Schedule III controlled dangerous substance.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent is subject to discipline under Section 12-313(b)(4)(ii), 7, 8, and 14 of the Act.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 16 day of OCTOBER, 1991, by unanimous vote of a quorum of the Board considering this case:

ORDERED that Respondent's license to practice pharmacy is hereby SUSPENDED and be it further

ORDERED that said suspension is IMMEDIATELY STAYED and Respondent is placed on PROBATION subject to the following conditions:

1. Respondent shall immediately give a copy of this Consent Order to any and all pharmacy employers. He shall arrange for any and all such employees to write to the Maryland Board of Pharmacy within thirty (30) days of their receipt of the Order acknowledging receipt of the Order and stating that they agree to comply with all conditions thereof that apply to employers. These requirements extend to any and all present and/or future such employers during the period of this probation.

2. Respondent shall immediately give a copy of this Consent Order to the Virginia Pharmacists Aiding Pharmacists Committee ("VPAP"Committee). He shall arrange for the VPAP Committee to write to the Maryland Board of Pharmacy within thirty (30) days of its receipt of the Order acknowledging receipt of the Order and stating that it agrees to comply with all conditions thereof that apply to it.

3. Respondent shall, within thirty (30) days of this Order, send to the Maryland Board of Pharmacy a copy of his contract with the VPAP Committee. Respondent shall comply with all terms of his contract with the VPAP Committee which shall be renewed on a timely basis. In the event that the contract is terminated for any reason prior to the expiration of Respondent's probation period, the Respondent shall arrange for the VPAP Committee to immediately notify the Maryland Board of Pharmacy of that action.

4. Respondent shall arrange for the Virginia Pharmacists Aiding Pharmacists Committee to forward to the Maryland Board of Pharmacy quarterly reports advising the Board with respect to Respondent's compliance with his contract with them and of the extent to which he is making satisfactory progress in dealing with his problems of abuse of controlled dangerous substances. The first such report is due on December 1, 1991. Subsequent reports are due March 1, 1992, June 1, 1992, September 1, 1992 and quarterly thereafter until probation is terminated.

5. Respondent shall continue at his own expense to see his physician at the Amherst Family Practice in Winchester, Virginia, who at the present time is Dr. Gary Wake, as deemed necessary by his physician for purposes of his recovery program and to comply with all recommendations made to him by his physician with respect to his recovery program until such time and unless he is discharged from treatment by his physician. If such discharge occurs, Respondent shall arrange prompt submission by his physician of a written discharge report to the Maryland Board of Pharmacy.

6. If, in violation of paragraph 5, Respondent fails to continue with his physician at the Amherst Family Practice in Winchester, Virginia without having been discharged, Respondent shall immediately notify the Maryland Board of Pharmacy and have his physician notify the Board of his status directly.

7. Respondent shall immediately give a copy of this Consent Order to his physician at the Amherst Family Practice in Winchester, Virginia and arrange for the physician to advise the Maryland Board of Pharmacy within thirty (30) days, in writing, of his receipt thereof and stating that he agrees to comply with all provisions of the Order that apply to him.

8. Respondent shall arrange for his physician at the Amherst Family Practice in Winchester, Virginia to submit quarterly reports to the Maryland Board of Pharmacy on Respondent's compliance with this Order and progress, and specifically indicating what progress the Respondent has made in

dealing with the problems that led to his possession and abuse of controlled dangerous substances. The first report shall be due on December 1, 1991. Subsequent reports shall be due on March 1, 1992, June 1, 1992, and quarterly thereafter until such time as Respondent has been terminated from probation.

9. Respondent is responsible for arranging, through the Amherst Family Practice in Winchester, Virginia, for random observed urine screenings, two each month. He may use, for this purpose, the urine screenings being performed for purposes of compliance with the Virginia Pharmacists Aiding Pharmacists Program. Respondent shall also arrange for immediate notification to the Board by the physician at Amherst Family Practice who receives the report at any time the tests indicate a likelihood that the Respondent has ingested a prohibited drug. He shall also arrange for his physician at Amherst Family Practice to advise the Board of the results of all of Respondent's urine screenings by incorporating the results into his quarterly reports to the Board.

10. Respondent shall send written quarterly reports to the Board describing what he is doing, the progress he feels he is making, what, if any problems he presently faces, and how he is coping with those problems. Said reports shall be forwarded to Roslyn Scheer, Executive Director of the Board. The first report is due on December 1, 1991. Subsequent reports are due on March 1 and June 1, 1992 and quarterly thereafter unless and until the probationary period has been terminated.

11. Respondent shall participate, on a regular basis, in at least three (3) meetings of Alcoholics Anonymous or Narcotics Anonymous programs per week. He shall submit quarterly reports to the Board as to the dates and places of meetings attended and as to the progress he has made within the Alcoholics Anonymous and Narcotics Anonymous program. In such quarterly reports, Respondent shall attach a copy of proof of his attendance at those meetings. The first report is due on December 1, 1991. Subsequent reports are due on March 1 and June 1, 1992 and quarterly thereafter unless and until the probationary period has been terminated. These reports may be incorporated in the reports required in paragraph 10.

12. Respondent shall arrange for any and all Pharmacy employers during the course of his Probation to submit to the Maryland Board of Pharmacy written quarterly reports evaluating his job performance and describing the nature of his duties and his position. The first report from his current employer(s) shall be due on Dec., 1, 1991. Subsequent reports are due on March 1, 1992 and June 1, 1992 and quarterly thereafter unless and until the probationary period has been terminated.

13. In the event that the Respondent changes jobs as a pharmacist, Respondent shall immediately notify the Maryland Board of Pharmacy, in writing, identifying his new employer by name, address, and telephone number and describing any new position.

14. In the event that Respondent's physician at the Amherst Family Practice in Winchester, Virginia or the Virginia Pharmacists Aiding Pharmacists Program reports to the Maryland Board of Pharmacy that the Respondent is incapable of practicing pharmacy safely, or that his previous problems are interfering with his ability to practice pharmacy, the Respondent shall, within twenty-four (24) hours of being informed by the Pharmacy Board of that report, voluntarily discontinue or refrain from the practice of pharmacy in Maryland until the Pharmacy Board determines that the Respondent is capable of resuming the practice of pharmacy or gives him permission to resume or begin the practice of pharmacy in Maryland, with or without a report from the physician, the Virginia Pharmacists Aiding Pharmacists Program or any other person.

15. Respondent shall notify the Maryland Board of Pharmacy, in writing, of his current address. In the event that he moves, the Respondent shall promptly notify the Maryland Board of Pharmacy, in writing, of any change or address and/or change of telephone number.

16. Respondent will not acquire an ownership interest in a pharmacy during the period of his probation.

17. Respondent will not work more than eight hours per week as a floater during the period of his probation.

18. Within thirty (30) days from the date of this Order, Respondent will submit supporting documentation for the 30 hours of approved continuing education which he has completed within

the two-year period prior to September 30, 1991 in accordance with the requirement of the continuing education regulations promulgated by the Board in Code of Maryland Regulations (COMAR 10.34.18). The materials will be submitted to Roslyn Scheer, Executive Director of the Board.

19. Respondent shall refrain from engaging in the conduct which led to the charges in this case under the Maryland Pharmacy Act.

20. Respondent shall practice pharmacy 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 are hereby effective as of the date of this Order, and be it further

ORDERED, that in the event that 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 Pharmacy Board finds for any reason in good faith that the Respondent has violated any provisions of Title 12 of the Health Occupations Article or regulations 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 the Respondent an opportunity for hearing. However, the Respondent shall have a right to a hearing, in accordance with the Administrative Procedure Act, State Government Article, Section 10-201, 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, after notification to the Respondent, a hearing and determination of violation, withdraw the stay of suspension of Respondent's license or impose any other disciplinary action it deems appropriate; and be it further

ORDERED that on or after the date that Respondent's probationary status in West Virginia has been terminated and he has been reinstated to practice without restriction there, the Maryland Board of Pharmacy shall entertain a petition for termination of Respondent's probationary status in Maryland and full reinstatement of his license without any restrictions as to the scope of practice. Any such petition shall be accompanied by documentation of the ending of probationary status in West Virginia. If the Board determines that the termination of probation and complete reinstatement would not be appropriate at that time, the Board may modify one or more of the conditions upon which Respondent was placed on probation. If Respondent fails to make such petition, then his probationary status shall continue indefinitely, subject to the the conditions set forth in this Order.



President,
Maryland Board of Pharmacy

CONSENT

I, Donald G. Mauck, Jr., P.D., by affixing my signature hereto, acknowledge:

1. That I have been advised to seek advice of counsel prior to signing this document, but have voluntarily decided not to seek such advice prior to signing this document;

2. That I am aware that without my consent, no legal action can be taken against me, except pursuant to the Maryland Administrative Procedure Act, State Government Article, Section 10-201 et seq., Annotated Code of Maryland;

3. That I have the following rights, among others: to have a formal evidentiary hearing before the Board, to reasonable notice of said hearing, to representation by counsel, and to subpoena and cross-examine witnesses against me;

4. That I waive all such rights to the formal hearing;

5. That I admit to the truth of the foregoing Findings of Fact;

6. That I consent to the entry of the foregoing Order affecting my license to practice pharmacy in the State of Maryland;

7. That I acknowledge the validity of this Consent Order as if it were made following a formal hearing before the Board;

8. That I enter into this Consent Order of my own free will and under no duress or undue influence.

 P.D.

Donald G. Mauck, Jr., P.D.

STATE OF MARYLAND
CITY/COUNTY of Washington)

I HEREBY CERTIFY that on this 8th day of October,
1991, before me, a Notary Public of the State and County afore-
said, personally appeared DONALD G. MAUCK, P.D. and made oath in
due form of law that the foregoing Consent Order was his voluntary
act and deed.

AS WITNESS my hand and Notarial Seal.

Sandra A. Coffman
Notary Public

My Commission Expires: 3/2/92