

IN THE MATTER OF
JOHN F. RILEY, P.D.
LICENSE NO. 09173,
RESPONDENT

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHARMACY
* 98-BP-043, 98-BP-083

* * * * *

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 Board charged **John Riley, P.D., License No. 09173** (the "Respondent") with violation of certain provisions of Maryland 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:

(20) Is professionally, physically, or mentally incompetent.

Additionally, the Board charged the Respondent with having violated the probationary terms of the February 18, 1998 Consent Order.

BACKGROUND

On June 17, 1998 a case resolution conference was held at the Board's office; that conference was held at the request of the Respondent for the purpose of resolving the Notice of Charges issued regarding the violation of the February 1998 Consent Order and to resolve the

Summary Suspension Order issued by the Board on May 13, 1998. The case resolution conference was attended by Mr. David Russo, P.D., Board President; Ms. Norene Pease, Executive Director to the Board; the Respondent; Mr. Paul Ballard, Assistant Attorney General, Board Counsel; Mr. Rick Peters, PEAC representative; and Ms. Lisa B. Hall, Administrative Prosecutor. The parties have entered into this Consent Order consisting of Findings of Fact, Conclusions of Law and Order to resolve the issues presented and to avoid further litigation.

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 February 18, 1998 the Respondent and the Board entered into a Consent Order placing the Respondent on probation with conditions. Respondent's pharmacist's license was suspended for two years and the suspension was immediately stayed.
3. **Condition 1** of the Consent Order required that "Respondent will immediately cease and desist from the unauthorized dispensing and/or unauthorized use of prescription medications." On March 30, 1998 the Respondent submitted urine for a drug screen. It tested positive for hydromorphone.
4. **Condition 2** of the Consent Order required that the "Respondent shall comply with the terms of his PEAC contract." Respondent recently missed a urine drug screen test in violation of his PEAC contract and on March 30, 1998 he tested positive for hydromorphone.
5. **Condition 7** of the Consent Order required that the Respondent's "Failure to submit to a psychological examination within 90 days of the execution of this Order, shall be deemed as a violation of Respondent's probation." The Respondent has failed to submit to a psychological

examination within ninety (90) days following the execution of the Consent Order. Respondent submitted to a psychological examination recently and presented the report from that examination to the case resolution conference on June 17, 1998. The report was dated June 16, 1998.

6. **Condition 8** of the Consent Order required that the "Respondent shall immediately notify the Board in writing of any change in his residential and business address." The Respondent has changed his residence without notification to the Board in writing.

7. Respondent's conduct demonstrates that he has substantially violated the terms of the February 1998 Consent Order in that he has violated conditions 1, 2, 7, and 8.

8. On May 7, 1998 the Board notified the Respondent that it would hold a summary suspension hearing regarding the status of the Respondent's pharmacist license following the receipt by the Board of complaints regarding the Respondent's non-compliance with his PEAC contract. Additionally, in April 1998, Respondent's employer became aware of the probationary status and probationary conditions of the Respondent's pharmacist license pursuant to the February 1998 Consent Order.

9. Respondent's employment with NeighborCare Pharmacy was terminated in April 1998. On May 13, 1998 the Board summarily suspended the Respondent's license. The Respondent did not attend the show cause hearing.

10. Respondent returned his wallet certificate to the Board by mail.

11. On or about May 29, 1998 the Respondent was given notice by way of a charging document and letter of procedure of the Board's vote to charge the Respondent with having violated the probationary conditions of the Consent Order.

12. The Respondent requested that the Board schedule a case resolution conference.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent substantially violated the probationary terms under the February 1998 Consent Order and therefore he has also violated Health Occupations Article §§12-313 (b) (20) (Is professionally incompetent).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of August, 1998, by a majority of the Board, hereby

ORDERED that Respondent's license to practice pharmacy in the State of Maryland be and is hereby **indefinitely SUSPENDED;**

ORDERED that Respondent be placed on **PROBATION** effective beginning with the date of execution of this consent order;

ORDERED that Respondent's license be immediately subject to the following probationary conditions:

1. Respondent shall comply with the terms of his PEAC contract;
2. Respondent shall continue to attend weekly group and individual therapy;
3. Respondent shall continue to attend other meetings as required under his PEAC contract;
4. Respondent shall submit to a psychological examination as approved by the Board Respondent's expense. Respondent shall provide a copies of this Consent Order, the February

1998 Consent Order, and the 1998 Summary Suspension Order to the individual conducting the psychological evaluation;

5. Respondent shall consent to the release of the results and recommendations of the psychological examination to the PEAC and the Board;

6. Respondent shall abstain from self-prescribing prescription medications;

7. Respondent shall have his PEAC sponsor make quarterly written reports to the Board;

8. Respondent shall immediately notify the Board in writing of any change in his residential and business address.

ORDERED that at the end of six (6) months from the date of this Order the Respondent may petition the Board for re-instatement of his pharmacist license. At that time the Board may impose additional conditions of probation.

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 license 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.

8/19/98

Date

David Russo

David Russo, P. D.
Board President

CONSENT of John F. Riley, P.D.

I, John F. Riley, by affixing my signature hereto, acknowledge that:

1. I am not represented by an attorney, but am aware that I have the right to have had 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.

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.

7/27/98
DATE

John F. Riley
John F. Riley, P.D.

STATE OF MARYLAND
CITY/COUNTY OF:

I HEREBY CERTIFY that on this 27th day of July, 1998, a Notary of the State of Maryland and (City/County), Hartford, personally appeared John F. RILEY, P.D. License No. 09173, 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.

James [Signature]
Notary Public

My commission expires: 7/23/02