Donald Ullman, P.D.
3031 Fallstaff Road
Apartment 508
Baltimore, Maryland 21209

January 31, 2001

Stanton G. Ades, P.D., President
Board of Pharmacy
4201 Patterson Avenue
Baltimore, Maryland 21215

Re: Surrender of Pharmacist License
License Number: 05762

Dear Mr. Ades and Members of the Board:

Please be advised that I have decided to surrender my license to practice pharmacy in the State of Maryland, License Number 05762. This Letter of Surrender shall become effective immediately upon the date of acceptance by the Board of Pharmacy (the "Board"). I understand that, as of the effective date of this Letter of Surrender, I may not give pharmacy/prescription advice or treatment to any individual, with or without compensation, cannot dispense medications, or otherwise engage in the practice of pharmacy in Maryland, as it is defined in the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") § 14-101 (2000 Repl. Vol.). In other words, as of the effective date of this Letter of Surrender, I understand that this surrender of my license means that I am in the same position as an unlicensed individual. I also understand that this Letter of Surrender is a public document.

My decision to surrender my license to practice pharmacy in Maryland has been prompted by an investigation of my license by the Maryland Board of Pharmacy and subsequent charges issued on October 19, 2000, as well as Amended Charges issued on January 17, 2001. The Charges were as follows:

Specifically, the Board charged me with violation of the following provisions of §12-313:

> 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:
>
> (2) Fraudulently or deceptively uses a license;
>
> (6) Willfully makes or files a false report or record as part of practicing pharmacy;
>
> (14) Without first having received a written or oral prescription for the drug from an authorized prescriber, dispensed any drug for which a prescription is required;
>
> (15) Except as provided in §12-511 of this title, unless an authorized prescriber authorizes the refill in the original prescription or by oral order, refills a prescription for any drug for which a prescription is required;
>
> (20) Is professionally, physically, or mentally incompetent[;].

Those Charges allege that, while I was the owner and primary dispensing pharmacist at the Medicine Shoppe in Dundalk, Maryland, I routinely dispensed medications without a valid prescription, including dispensing refills on prescriptions when there were no refills left. In some instances, the physicians had not authorized the prescriptions; in others, they had not authorized refills. The Charges cited specific instances involving 25 patients. Some of the prescriptions I dispensed required physician monitoring of blood levels and other pertinent information. The Charges also allege that I submitted false claims to PCS insurer, resulting in a payback of over

$66,000. Furthermore, the Charges alleged that I violated the terms of the Consent Order that I entered into with the Board by virtue of my failing to attend an ethics class in a timely manner and by virtue of violating the laws governing the practice of pharmacy. The Amended Charges are attached hereto and made a part hereof, as Exhibit I.

I affirm that I was served with a copy of the Charges and Amended Charges, and have otherwise been advised of the Board's actions through communications with representatives of the Board, the Office of the Attorney General and my legal counsel.

I have decided to surrender my license to practice pharmacy in Maryland to avoid further prosecution on the above-referenced charges. The basis for the charges against me include the findings of the investigation described above, and, by virtue of this surrender, I waive any right to contest those charges and findings.

I understand that the Board will advise the National Practitioners' Data Bank of this Letter of Surrender, and that I have surrendered my license to practice pharmacy in lieu of disciplinary action under the Act as resolution of the matters pending against me.

My Letter of Surrender is irrevocable. Enclosed herein is my wallet sized (renewal) license. The wall-sized certificate will be delivered within three (3) days of the date of this Letter.

Finally, I wish to make clear that I have consulted with an attorney before signing this letter surrendering 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 acknowledge that I understand and comprehend the language, meaning, terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Sincerely,

Donald Ullman, P.D.

Donald Ullman, P.D.

NOTARY

STATE OF Maryland

~~CITY~~/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 29th day of January, 2001, before me a Notary Public of the State of and City/County aforesaid, personally appeared Donald Ullman, P.D., and declared and affirmed under the penalties of perjury that signing the aforegoing Letter of Surrender was his voluntary act and deed.

Lisa A Cross
Notary Public

My Commission Expires: 4/1/04

ACCEPTANCE

ON BEHALF OF THE BOARD OF PHARMACY, on this 12 day of February, 2001, I accept Donald Ullman's **PUBLIC Surrender** of his license to practice pharmacy in the State of Maryland.

Stanton G. Ades, P.D., President
Board of Pharmacy

IN THE MATTER OF * BEFORE THE

DONALD ULLMAN, P.D. * STATE

LICENSE NO. 05762 * BOARD OF PHARMACY

Respondent *

* *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Health Occupations Article, Title 12, Annotated Code of Maryland (the "Act"), the Board charged Donald Ullman, P.D. (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 12-313 of the Act:

Specifically, the Board charged the Respondent with violation of the following provisions of §12-313:

> "Convicted" defined---In this section, "convicted" includes a determination of guilt, a guilty plea, or a plea of nolo contendere followed by a sentence.
>
> 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:
>
> (2) Fraudulently or deceptively uses a license;
>
> (3) Aids an unauthorized individual to practice pharmacy or to represent that the individual is a pharmacist:
>
> (6) Willfully makes or files a false report or record as part of practicing pharmacy;
>
> (14) Without first having received a written or oral prescription for the drug from an authorized prescriber, dispensed any drug for which a prescription is required;

(15) Except as provided in §12-511 of this title, unless an authorized prescriber authorizes the refill in the original prescription or by oral order, refills a prescription for any drug for which a prescription is required;

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

The Respondent was given notice of the charges by letter dated May 29, 1999. Accordingly, a Case Resolution Conference was held on June 15, 1999 and was attended by Melvin Rubin and Ramona Hawkins, pharmacist members of the Board, Norene Pease, Executive Director of the Board, and Paul Ballard, Assistant Attorney General Board Counsel. Also in attendance were the Respondent and his attorney, Arthur Frank, and the Administrative Prosecutor, Roberta L. Gill.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, since 1957, the Respondent has been licensed to practice pharmacy in the State of Maryland. The Respondent last renewed his license on May 11, 1998 and his license expires in January 31, 2000.

2. At all times relevant herein, the Respondent was the owner of the Medicine Shoppe in the Dundalk area of Baltimore County, Maryland. Respondent was the sole dispensing pharmacist there.

3. The Board received copies of transcripts of depositions taken in connection with divorce proceedings involving the Respondent's daughter. Information contained therein disclosed that, while the Respondent was at home on sick leave, he requested an unlicensed employee to send him Tylox, a Schedule II Controlled Dangerous Substance (CDS), which she did. Based upon those allegations, the Board referred the matter to the Division of Drug Control (DDC), which, on October 16, 1998, conducted an audit of the pharmacy. The audit period was from June 19, 1997 to October 15, 1998.[1] The next day, DDC received a box of prescriptions from the Respondent, with one on which the 30 prescribed tablets had been altered to "300," by adding a "0".

4. The DDC audit disclosed that during the audit period, 1335 tablets of Tylox were unaccounted for. DDC found that, on some of the prescriptions, drug labels for Tylox had been glued over other drugs, such as Percocet.

5. During a subsequent meeting attended by the Respondent, his wife and his attorney, the attorney admitted that his client, the Respondent, had panicked after the audit and had altered the prescription for Tylox from 30 to 300. The Respondent first claimed that an addicted friend had taken the Tylox. Next, the Respondent claimed that an ex-employee had taken the drugs, while a fill-in pharmacist was in charge of the pharmacy. Last, the

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[1]In an audit, the number of a specific drug ordered during a certain time period is compared to the number of prescriptions for that drug and the balance of the drug remaining. For example, if 1000 tablets of X drug is ordered, and there are prescriptions accounting for 800 tablets dispensed, the balance should be 200 tablets in stock.

Respondent claimed that, because his mother and father-in-law were in great pain, he had given them the Tylox for their pain.

6. DDC then requested a print-out for drugs allegedly prescribed for the Respondent's mother and father-in-law. The print-out and prescription forms showed that "Dr. Seth" had prescribed large amounts of Tylox for those two relatives of the Respondent. An analysis of the former prescriptions dispensed did not indicate that either of the two relatives had been issued Schedule II drugs by other practitioners. Tylox allegedly dispensed by the Respondent for them. When DDC showed the prescription forms to Dr. Seth, he denied issuing the prescriptions, which were on "call-in" forms.

7. When DDC took into account the forgeries and altered scripts, the inventory was 2575 tablets short of Tylox.

8. Subsequent to the above meeting, the Respondent reported to DDC that a break-in of the pharmacy had occurred on December 12, 1998.[2] The Respondent claimed that the theft resulted in the loss of the following Schedule III drugs:

Diazepam, 2mg, 500 tablets

Diazepam, 5mg, 500 tablets

Valium, 5mg, 360 tablets

generic Vicodin, 5mg, 1000 tablets

Lotab, 5mg, 200 tablets

Lortab, 7.5 mg (generic), 750 tablets

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[2]DDC required the Respondent to file a report with the police, which was done.

Although the burglar alarm, with a motion detector, was armed, the Respondent claimed that the alarm was not tripped and that the burglar must have hidden in the store at night, taken the drugs, and walked out amongst the crowd once the store opened the next morning.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §§ 12-313, 12-315 (2), (3), (6), (14) (15) and (20).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 18 day of September, 1998, by a majority of a quorum of the Board,

ORDERED that the Respondent's license to practice pharmacy in Maryland be **SUSPENDED** for a period of two months. The Respondent shall deliver to the Board his wall certificate and his wallet sized license. The Suspension becomes effective 15 days after this Order is signed by the Board; and be it further

ORDERED that, after the term of the suspension ends, the Respondent shall be placed on Probation for two years, subject to the following conditions:

1. During the first six months of the probationary period, the Respondent shall attend and successfully complete either a Board-approved ethics course or an ethics tutorial by a tutor approved by the Board. If the Respondent chooses a tutor, the tutor shall advise

the Board by way of a written report of the Respondent's progress in the tutorial. The Respondent hereby agrees that the Board shall supply to the tutor a copy of the complaint(s), investigative report(s), Charges and any other documents it deems relevant to aid the tutor in establishing a meaningful course for the Respondent. The Respondent shall promptly pay all costs associated with the tutorial.

2. Before the completion of the Probationary period, the Respondent shall pay to the Board a $5000.00 (Five Thousand Dollars) fine.

3. Within the first six months of the Probationary period, the Respondent shall take and successfully pass, with a score of 75% or better, the law portion of the Board's examination.

4. Before the Suspension period ends, the Respondent shall contact the Pharmacists Educational Assistance Committee (PEAC) for a random urinalysis (es) and an evaluation. The Respondent shall enter into a contract with PEAC and abide by any recommendations made by PEAC. PEAC shall report to the Board, on a quarterly basis, the results of the Respondent's urinalysis(es) and on the Respondent's compliance with its contract. Any violation by the Respondent of his contract with PEAC will be considered a violation of the terms of this Order.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that the Respondent shall practice in a competent manner, in accordance with all pharmacy laws and regulations; and be it further

ORDERED that should the Board receive a report that the Respondent's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation/Suspension shall be on the Respondent to demonstrate compliance with the Order or conditions.

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.

~~David Russo, P.D., Chairman~~ STANTON G MOYES, PRES IDENT
State Board of Pharmacy

CONSENT OF DONALD ULLMAN, P.D.

I, Donald Ullman, P.D., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Arthur Frank, Esq., and have been advised by him of the legal implication 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 §10-201 et seq. of the Administrative Procedure Act (APA), 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 admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing 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 APA, and any right to appeal as set forth in §12-316 of the Act and §10-201 et seq. of the APA. I acknowledge that my 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.

Sept. 8, 1999
Date

Donald Ullman, P.D.
Donald Ullman, P.D.

STATE OF MARYLAND

~~CITY~~/COUNTY OF Baltimore :

I HEREBY CERTIFY that on this 8th day of September, 1999, a Notary Public of the State of Maryland and (~~City~~/County) of Baltimore, personally appeared Donald Ullman, P.D., License No.05762, 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 WITNESSETH my hand and notarial seal.

Notary Public

My Commission Expires: 11/1/02

ARTHUR M. FRANK
BALTIMORE COUNTY MARYLAND
NOTARY PUBLIC

Arthur M. Frank, Notary Public
Baltimore County
State of Maryland
My Commission Expires Nov. 1, 2002

C:\RLG\Ullman Cons Ord.wpd
August 9, 1999 (rms)