

IN THE MATTER OF * BEFORE THE MARYLAND
MARC R. WEINBERG, P.D. * STATE BOARD OF
LICENSE NO. 13316 * PHARMACY

* * * * *

CONSENT ORDER OF REINSTATEMENT

Background Findings

On June 12, 2003, Mr. Weinberg submitted a Petition for Reinstatement to the Board of Pharmacy (the "Board") for reinstatement of his license to practice pharmacy. On October 15, 2003, Mr. Weinberg appeared before a quorum of the Board to present his case in support of reinstatement and to answer questions posed by the Board regarding his ability to practice pharmacy in a safe and ethical manner. Mr. Weinberg's PEAC sponsor, Jason Noel, P.D., was also in attendance in support of Mr. Weinberg's petition.

Mr. Weinberg surrendered his license to practice pharmacy on September 18, 2002, in lieu of further investigation by the Board into allegations of his substance abuse and drug diversion. Specifically, Mr. Weinberg was terminated from Walgreens after it was discovered that he diverted Phentermine, Paxil and Allegra for personal consumption. Mr. Weinberg was arrested for theft and his criminal case was placed on the stet docket in Baltimore City. Mr. Weinberg's Letter of Surrender set forth requirements that he must enter into and adhere to a contract with the Pharmacists Education and Assistance Committee (PEAC) and submit to a mental evaluation prior to any consideration by the Board for reinstatement of his license.

FINDINGS OF FACT

1. Mr. Weinberg entered into a contract with PEAC on September 18, 2002, and has been fully compliant with all of its terms, which include weekly random and supervised urine screens, NA meetings, and outpatient therapy.

2. The Board has received letters of support from PEAC and Mr. Weinberg's therapist, John Davis, Ph.D., as well as a positive mental evaluation from Diane Stabler, M.D., all attesting to Mr. Weinberg's sobriety and ability to practice pharmacy safely and ethically for the long term.
3. Mr. Weinberg is up to date with his continuing education credits.

CONCLUSIONS OF LAW

The Respondent has been fully compliant with his PEAC contract and has demonstrated that he is capable of practicing pharmacy in a safe and ethical manner.

ORDER

Based on an affirmative vote of the Board, it is on this 31st day of October, 2003, hereby:

ORDERED that Mr. Weinberg's license to practice pharmacy be REINSTATED; and be it further,

ORDERED that Mr. Weinberg's license be placed on INDEFINITE PROBATION, subject to the following conditions:

1. Mr. Weinberg may not practice pharmacy over 40 hours per week;
2. Mr. Weinberg is limited to practicing in one pharmacy, and shall not be employed as a floater;
3. Mr. Weinberg's pharmacy employer shall be in good standing;
4. Mr. Weinberg shall provide the pharmacy employer with a copy of this Consent Order and insure that the attached verification form is completed by the employer and returned to the Board prior to commencing employment;
5. Mr. Weinberg shall insure that the pharmacy employer provides the Board with quarterly progress reports;

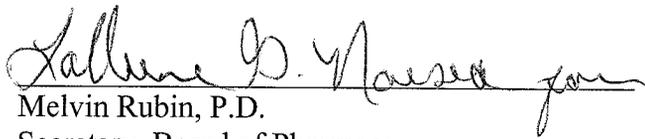
6. Mr. Weinberg shall continue his PEAC contract to include weekly random and supervised urine testing, NA meetings, and therapy;
7. Mr. Weinberg shall insure that his therapist submits quarterly progress reports; and be it further,

ORDERED that in the event the Board finds for any good faith reason that Mr. Weinberg has relapsed, has violated any of the conditions of probation herein, or in the event that the Board finds for any good faith reason that Mr. Weinberg has committed a violation of Title 12 of the Health Occupations Article or regulations adopted thereunder, the Board may immediately suspend Mr. Weinberg's license prior to a hearing; and be it further,

ORDERED that Mr. Weinberg may petition the Board for release from probation after two (2) years provided that he has been in compliance with all of the terms of probation; and be it further,

ORDERED that this is a final order of the Maryland Board of Pharmacy and as such is a public document pursuant to the Maryland Annotated Code, State Government Article, Section 10-617(h).

10/31/03
Date


Melvin Rubin, P.D.
Secretary, Board of Pharmacy

CONSENT

1. By signing this Consent, I hereby admit to the truth of the findings contained herein and agree to be bound by the foregoing Consent Order and its conditions.
2. By this Consent, I submit to the foregoing Consent Order as a resolution of this matter. By signing this Consent, I waive any rights I may have had to contest the findings and determinations contained in this Consent Order.
3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.
4. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

11/5/03
Date

Marc R. Weinberg P.D.
Marc R. Weinberg, P.D.

STATE OF MARYLAND
COUNTY/CITY OF Maryland :

I hereby certify that on this 5th day of November, 2003, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared MARC WEINBERG and made an oath in due form that the foregoing Consent was his voluntary act and deed.

Bernadette Stalen-Evans
Notary Public
My commission expires: _____
Bernadette Stalen-Evans, Notary Public
State of Maryland - Baltimore County
My Commission Expires September 1, 2006

May 31, 2002

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

Re: Surrender of Pharmacist's License
Marc R. Weinberg, P.D., License Number: 13316

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 may 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 I am in the same position as an unlicensed individual.

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 immediately upon my signing it.

I understand that this Letter of Surrender is a PUBLIC document. I understand that the Board will notify the National Association of Boards of Pharmacy, the federal Health Care Integrity and Protection Data Bank, and boards of other states regarding this Letter of Surrender and the fact that I have surrendered my license in lieu of disciplinary action under the Maryland Pharmacy Act. 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 (2000 Repl. Vol.), and that this Letter of Surrender may be considered to constitute a disciplinary action by the Board.

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.

Pursuant to its authority under Md. Code Ann., Health Occupations, §12-101, et seq. and Md. Code Ann., State Government, §10-226, and based upon my admitted substance abuse problem, I understand and agree that I should not be dispensing drugs as a pharmacist due to the resulting 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 my substance abuse problem threatens the public health because it renders me mentally and physically incompetent to practice pharmacy. I further agree for the limited purposes of considering my petition for reinstatement of my license 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. **I understand that by executing this Letter of Surrender, I am waiving any right to contest these findings in a formal evidentiary hearing at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law, including the right to appeal.**

I fully concur and agree not to petition the Board for reinstatement of my license until I have successfully completed a substance abuse treatment program approved by the Pharmacist Education Assistance Committee ("PEAC"). I understand and agree that the Board may consider the outcome of any criminal proceedings brought against me for the violation of any federal or State laws regarding the unlawful dispensing and possession of controlled dangerous substances as a factor in determining whether reinstatement of my license would be appropriate. I further understand and agree that the following conditions must be met prior to the reinstatement of my license as determined by the Board:

1. I agree that prior to considering my reinstatement application, the Board shall require that I undergo at my expense a mental status evaluation to be performed by a licensed mental health care provider selected by the Board, which evaluation shall concern my physical and mental conditions as they relate to my ability to safely practice pharmacy, with a primary focus on the status of my substance abuse problem.

2. 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 that the Board will 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 will 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 understand that the decision to reinstate my license is solely at the Board's discretion and that I have no right to appeal the Board's decision regarding my reinstatement.

I understand and agree that if I apply for a license to practice pharmacy in another state or jurisdiction prior to my reinstatement as a pharmacist in Maryland, this Letter of Surrender will be released upon request for my licensing information. I also understand that this Letter of Surrender and accompanying investigative materials in the Board's file

may be released by the Board in accordance with Md. State Gov't. Code Ann. §10-611 et seq. (1995 Repl. Vol.).

I wish to make clear that I have been given an opportunity to consult with an attorney of my choosing before signing this letter which constitutes the PUBLIC 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 13316:

1. My wall license; and
2. My wallet license.

Sincerely yours,
Marc R. Weinberg P.D.
Marc R. Weinberg, P.D.

VERIFICATION

STATE OF Maryland

CITY/COUNTY OF Carroll

I HEREBY CERTIFY that on this 30th day of August, 2002 before me, a Notary Public of the State of Maryland and County aforesaid, personally appeared Marc R. Weinberg and declared and affirmed under the penalties of perjury that signing the foregoing Letter of Surrender was his voluntary act and deed.

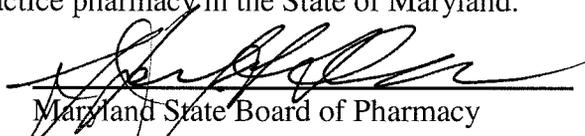
As witness my hand and notarial seal.

Lori A. Uman

Notary Public

My Commission Expires: July 20, 2004

ON BEHALF OF THE BOARD OF PHARMACY, on this 13th day of September, 2002, I accept Marc R. Weinberg's PUBLIC surrender of his license to practice pharmacy in the State of Maryland.



A handwritten signature in black ink, appearing to read 'Stanton B. Ades', is written over a horizontal line.

Maryland State Board of Pharmacy

Stanton B. Ades, President