

IN THE MATTER OF \* BEFORE THE MARYLAND

BENJAMIN E. CARTER, P.D. \* BOARD OF PHARMACY

\* \* \* \* \*

FINDINGS OF FACT, CONCLUSION OF LAW,  
AND ORDER

Upon certain information coming to its attention, the Maryland Board of Pharmacy (the "Board") determined to charge Benjamin E. Carter, P.D. (the "Respondent"), a person licensed to practice pharmacy in the State of Maryland, with violation of § 12-311(b)(21) of the Health Occupations Article of the Annotated Code of Maryland. The particular charge is

Subject to the hearing provisions of § 12-312 of this subtitle, the Board, on the affirmative vote of a two-thirds majority of its members then serving, may . . . reprimand any licensee, or suspend or revoke a license if the . . . licensee:

\* \* \*

(21) Is convicted of a crime involving moral turpitude.

Appropriate notice of the charge and the grounds upon which it was based were sent to Respondent in a letter dated April 5, 1982. A hearing was held on August 18, 1982. The following members of the Board were present at the hearing: Estelle G. Cohen, B.S., M.A.; Leonard J. DeMino, P.D.; Paul Freiman, P.D.; Bernard B. Lachman, P.D.; Anthony G. Padussis, P.D.; Ralph T. Quarles, P.D. and Robert E. Synder, P.D. Dr. Lachman presided at the hearing as President of the Board. A quorum of the Board was present.

Respondent was represented by Joseph M. Guida, Esquire, his attorney. Daniel J. O'Brien, Assistant Attorney General, presented the case on behalf of the Board. Ronald S. Gass, Assistant Attorney General, was present to advise the Board on procedural matters and rules of evidence.

Following an introductory statement by Dr. Lachman regarding the purpose of the hearing, both Mr. O'Brien and Mr. Guida made opening statements. Mr. O'Brien then presented the case for the State and introduced the following documentary evidence:

State's Exhibit #1: Grand Jury charges against Benjamin E. Carter in United States v. Carter, Crim. No. 79-0457, U.S. Dist. Ct. for the Dist. of Md. (Nov. 14, 1979).

State's Exhibit #2: Docket entries in United States v. Carter, Crim. No. 79-0457, U.S. Dist. Ct. for the Dist. of Md.

State's Exhibit #3: Transcript of arraignment of Benjamin E. Carter on January 21, 1980 in United States v. Carter, Crim. No. 79-0457, U.S. Dist. Ct. for the Dist. of Md.

After these exhibits were received into evidence, the State rested its case.

Mr. Guida called as witnesses Charles Thomas McGrath, P.D., Geraldine Haas, and the Respondent, who testified on his own behalf. At the request of Mr. Guida, the Board held the record open to receive into evidence a report from Respondent's probation officer. Subsequently, a copy of a letter from J. Peter Campbell, U.S. Probation Officer, Probation Office, United States District Court, District of Maryland, to Dan O'Brien, Assistant Attorney General, dated September 9, 1982, was admitted into evidence as Respondent's Exhibit #1. Following closing arguments by Mr. O'Brien and Mr. Guida, the hearing was adjourned.

#### FINDINGS OF FACT

The Board finds:

1. That Respondent is a person duly licensed by the Maryland Board of Pharmacy to practice pharmacy in the State of Maryland.

2. That Respondent was charged with and plead guilty to one count of knowingly and intentionally manufacturing a quantity of a Schedule II non-narcotic controlled dangerous substance, namely methamphetamine, with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) in United States v. Carter, U. S. Dist. Ct. for the Dist. of Md., Crim. No. 79-0457 (Jan. 21, 1980).

3. That Respondent was sentenced to eighteen (18) months imprisonment but the sentence was suspended and Respondent was placed on probation for a period of three (3) years upon the usual conditions of probation and the following special conditions:

(1) That Respondent perform 450 hours of unpaid and documented volunteer service to a local public service organization or agency to be determined by his probation officer;

(2) That Respondent must participate in a drug and alcohol program as elected by the probation officer.

Respondent was also placed on a special parole term for two (2) years.

4. That Respondent plead guilty to the criminal charge and cooperated with the authorities.

5. That Respondent knew or should have known that manufacturing a Schedule II non-narcotic controlled dangerous substance such as methamphetamine was a criminal offense.

6. That Respondent used his knowledge of pharmacy to violate federal drug law when he manufactured 500 capsules of methamphetamine, 485 capsules of which he used himself and 15 capsules of which he gave away to friends.

7. That Respondent's probation officer reported that Respondent was cooperative, has adhered to all the rules and regulations of his probation, and has completed many hours over

and above the Court ordered 450 hours of volunteer service with the State Department of Health and Mental Hygiene.

8. That Respondent's probation officer reported that Respondent has conscientiously attended Alcoholics Anonymous meetings regularly during the course of his probation.

9. That Respondent's probation officer reported that Respondent has received excellent reports from his pharmacy employers since he resumed working as a pharmacist in May, 1980.

10. That Respondent's probation officer reported that he intends to request the United States District Court for the District of Maryland to terminate Respondent's probation in advance of its March 9, 1983 expiration date.

11. That Respondent completed 250 additional hours of volunteer service with the State Department of Health and Mental Hygiene over and above the 450 hours required by the United States District Court.

#### CONCLUSION OF LAW

Based on the foregoing Findings of Fact, the Board unanimously concludes that Respondent was convicted (as that term is defined in § 12-311(a) of the Health Occupations Article) of a crime involving moral turpitude, namely violation of 21 U.S.C. § 841(a)(1) in United States v. Carter, U. S. Dist. Ct. for the Dist. of Md., Crim. No. 79-0457 (Jan. 21, 1980), in violation of § 12-311(b)(21) of the Health Occupations Article of the Annotated Code of Maryland.

#### ORDER

Upon the foregoing Findings of Fact and Conclusion of Law, it is this 15<sup>th</sup> day of December, 1982, by unanimous vote of the members of the Board considering this case,

ORDERED that Respondent's license to practice pharmacy in Maryland is hereby SUSPENDED for a period of one (1) year; and be it further

ORDERED that the foregoing suspension shall be immediately STAYED with Respondent placed on PROBATION subject to the following conditions:

1. That Respondent continue to receive psychiatric care from a qualified psychiatrist satisfactorily to the Board;
2. That Respondent arrange for his psychiatrist to file written quarterly reports with the Board indicating that Respondent continues to make satisfactorily progress towards dealing with the problems that led to his abuse of alcohol and amphetamines;
3. That Respondent continue to receive psychiatric care until discharged by his psychiatrist;
4. That in the event Respondent is discharged from treatment by his psychiatrist prior to the termination of his probation, his psychiatrist shall promptly provide the Board with a written discharge report;
5. That Respondent shall continue to participate in all activities recommended by Alcoholics Anonymous until discharged by that program;
6. That Respondent satisfactorily complete all of the requirements of his probation imposed by the United States District Court for the District of Maryland;
7. That Respondent's probation officer provide the Board with quarterly reports indicating that Respondent continues to comply with all the terms of his probation;
8. That Respondent notify any and all of his pharmacy employers about the probationary status of his license;

9. That Respondent arrange for each and every pharmacy employer to provide the Board with written quarterly reports evaluating his performance as a pharmacist;


10. That Respondent promptly notify the Board in writing of the names and addresses of any and all of his pharmacy employers throughout the probationary period;

11. That Respondent notify the Board in writing of his current address and telephone number throughout the probationary period; and

12. That Respondent shall practice in accordance with the laws governing the practice of pharmacy in Maryland; and be it further

ORDERED that two (2) years from the date of this Order, the Board will entertain a petition for termination of Respondent's probationary status and for reinstatement of his license to practice pharmacy without any condition or restriction whatsoever. At such time, if the Board determines that termination of probation and complete reinstatement would not be appropriate, the Board may modify one or more of the conditions upon which Respondent was placed on probation; and be it further

ORDERED that if Respondent violates any of the terms of his probation or fails to practice in accordance with the laws governing the practice of pharmacy in Maryland, the Board, after notification, hearing, and determination of violation, may withdraw the stay of the suspension of his license or may impose any other disciplinary sanctions it deems appropriate.

  
Paul Frieman, Secretary  
Maryland Board of Pharmacy