

IN THE MATTER OF

STEVEN HERLICH

Respondent

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BEFORE THE

MARYLAND BOARD

OF PHARMACY

\* \* \*

~~CONFIDENTIAL~~

BACKGROUND

Based on information received and reviewed by the State Board of Pharmacy (the "Board") regarding the practice of STEVEN HERLICH ("the Respondent"), on May 9, 1990 the Board voted to accept the surrender of the Respondent's license pursuant to 12-310.1 of the Annotated Code of Maryland, under the condition that it was equivalent to a revocation by the Board. Respondent was notified of that decision by letter of May 11, 1990.

By letter dated February 4, 1992, Respondent petitioned the Board for reinstatement of his license to practice in Maryland. At the Board's meeting on February 19, 1992, the Respondent presented his petition for reinstatement. Based on its review of that petition and the reports submitted to the Board by the persons monitoring Respondent's progress, the Board determined that it is appropriate for Respondent to return to the practice of pharmacy in a non-supervising role and as restricted by the conditions of probation specified in this Order.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 23 day of April, 1992, by unanimous vote of those members of the Board considering this case:

ORDERED that Respondent's license to practice is REINSTATED BUT hereby ~~SUSPENDED~~ and be it further

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

1. Respondent shall ~~not accept any medications other than~~ ~~radiopharmaceuticals~~ For the first 6 months of employment Respondent shall not work more than 40 hours each week.
2. Respondent shall immediately give a copy of this Consent Order to any and all Pharmacy employers. He shall arrange for any and all such employers to write to the Maryland Board of Pharmacy within thirty (30) days of their receipt of the Order 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 his probation.
3. Respondent shall ~~arrange at his own expense his participation~~ ~~in the Oakview Treatment Center program of outpatient group therapy and~~ ~~supervised follow-up monitoring~~ and shall comply with all recommendations made to him by the person who leads his group therapy program (hereinafter, "his therapist") in the manner which she suggests until such time as and unless he is discharged from treatment by his therapist. His therapist at the present time is Kathleen C. Jones, R.N., C.D., who also serves as his case manager. If he is discharged from treatment by his therapist, Respondent shall arrange for prompt submission by the therapist of a written discharge report to the Maryland Board of Pharmacy and the Pharmacists Rehabilitation Committee of the Maryland Pharmacists Association.
4. If, in violation of number 3, Respondent fails to continue with his therapist or his program at the Oakview Treatment Center without having

been discharged or ordered by the Board to change or discontinue the program or therapy, Respondent shall immediately notify the Maryland Board of Pharmacy and the Pharmacists Rehabilitation Committee in writing and have his therapist notify such agencies of his status directly.

5. Respondent shall immediately give a copy of this Consent Order to his therapist and arrange for the therapist to advise the Maryland Board of Pharmacy within thirty (30) days, in writing, of her receipt thereof.

6. Respondent shall arrange for his therapist to submit written quarterly reports to the Maryland Board of Pharmacy and to the Pharmacists Rehabilitation Committee of the Maryland Pharmacists Association, reporting 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 June 1, 1992. Subsequent reports are due on September 1, 1992, December 1, 1992, March 1, 1993 and quarterly thereafter until such time as Respondent has been terminated from probation.

7. Respondent is responsible for arranging through the Outpatient Treatment Center program for urine observed urine screenings in a manner acceptable to the Board. Respondent shall also arrange for immediate notification to the Board by the screener and his case manager at any time the tests indicate a likelihood that Respondent has ingested a prohibited drug. He shall arrange for his therapist 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.

8. Respondent shall send written quarterly reports to the Board ~~and to the Pharmacists Rehabilitation Committee of the Maryland Pharmacists Association~~ in any, ~~problems or problems that~~ and ~~to the Board~~ said

reports shall be forwarded to Roslyn Schear, Executive Director of the Board. The first report is due on June 1, 1992. Subsequent reports are due on September 1 and December 1, 1992 and quarterly thereafter unless and until the probationary period has been terminated.

9. Respondent shall ~~attend~~ ~~regular~~ ~~meetings~~ ~~of~~ ~~Alcoholic Anonymous or Narcotics Anonymous programs~~ as recommended by his therapists. Respondent 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 ~~Alcoholic Anonymous and Narcotics Anonymous~~ programs. In such quarterly reports, Respondent shall attach a copy of proof of his attendance at those meetings. The first report is due on June 1, 1992. Subsequent reports are due on September 1 and December 1, 1992 and quarterly thereafter unless and until the probationary period has been terminated. These reports may be incorporated in the reports required in number 8.

10. Respondent shall ~~submit~~ ~~to~~ ~~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 shall be due on June 1, 1992. If, subsequent to the date of this Order, Respondent assumes a new position with a pharmacy employer, the first report shall be due one month after that position is assumed.

11. In the event that the Respondent changes jobs as a pharmacist or as an employee in a facility with drugs on the premises or decides not to practice pharmacy, or not to be employed in such a facility, 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.

12. In the event that Respondent's therapist(s) or the Pharmacists Rehabilitation Committee report 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 the practice of pharmacy until the Pharmacy Board determines that the Respondent is capable of resuming the practice of pharmacy or gives him permission to resume the practice of pharmacy, with or without a report from that therapist or another therapist.

13. 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 of address and/or change of telephone number.

14. Respondent shall ~~enter into a contract with and/or~~ ~~enter his~~ ~~contract with the Pharmacists Rehabilitation Committee of the Maryland~~ ~~Pharmacy Board for a period of two years from the date of~~ ~~this order.~~ In the event that the Pharmacists Rehabilitation Committee terminates Respondent's contract prior to the expiration of his probation period, the Respondent shall arrange for the Pharmacists Rehabilitation Committee to immediately notify the Maryland Board of Pharmacy of such action.

15. Respondent shall ~~enter into a contract with the Pharmacists Rehabilitation~~ ~~Committee of the Maryland Board of Pharmacy on April 1,~~ ~~1992 and~~ ~~enter into a contract with the Board of Pharmacy on April 1,~~ ~~1992. These reports shall~~ ~~be filed with the Board of Pharmacy on or before the date of the~~ ~~respondent's entry into the program of controlled~~ ~~substance treatment.~~

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

17. The 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 Board finds for any reason in good faith that the Respondent has violated any provision of Title 12 of the Health Occupations Article or regulations thereunder or under Article 27, or has violated a condition of probation in this Order, 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 Administrative Procedure Act, State Government Article, §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 notifying the Respondent, conducting a hearing and determining that a violation has occurred, 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 three (3) years from the date of this Order, the Board shall entertain a petition for termination of Respondent's probationary status and full reinstatement of his license to practice pharmacy without any conditions or restrictions as to the scope of practice. Any such petition shall be accompanied by reports from his pharmacy employer and from

the person or persons serving as his therapist and case manager at Oakview and Pharmacists Rehabilitation Committee which were prepared within thirty (30) days of his petition. 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. However, if Respondent fails to waive any such petition, then his probationary status shall continue indefinitely, subject to the conditions set forth in this Order.

4/23/92

Date

Paul G. Smith, Jr.  
Secretary  
Maryland Board of Pharmacy

CONSENT

I, Steven Harlich, P.D., by affixing my signature hereto, acknowledge:

1. That I have been advised to seek advice of counsel prior to signing this document and have sought such advice;
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 (hereinafter "the APA"), State Government Article, §10-201 et seq., Annotated Code of Maryland.
3. That under the APA I would have the following rights, among others before further action may be taken against my license: 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 under the APA;

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

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

7. That I agree that if I subsequently challenge the validity of this Order, my previous surrender of my license under the condition set by the Board shall take effect once again and shall have the result of revocation of my license.

Steven Herlich  
Steven Herlich, P.D.

STATE OF MARYLAND

CITY/COUNTY OF

I HEREBY CERTIFY that on this April 9<sup>th</sup> day 92 of Steven Herlich, before me, a Notary Public of the State and City/County aforesaid, personally appeared 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 Pauline Gray  
Notary Public

My Commission Expires: 3/1/95

AND Driver's # 642-777-005-334