

IN THE MATTER OF  
FRANK LEUNG  
LICENSE NO. 15395

\* BEFORE THE  
\* MARYLAND STATE  
\* BOARD OF PHARMACY  
\*

Respondent

\* \* \* \* \*

**FINAL DECISION AND ORDER**

**Background**

On November 8, 2004, the Board of Pharmacy (the "Board") summarily suspended the pharmacist's license held by Frank Leung, License No. 15395, based on Mr. Leung's diversion of significant quantities of controlled dangerous substances from a hospital pharmacy. The Board entered into a Consent Order with Mr. Leung on March 29, 2005, in which Mr. Leung agreed to a suspension of his license until at least November 8, 2005. On May 4, 2006, the Board entered into a Consent Order of Reinstatement, reinstating the Mr. Leung's license pursuant to certain terms and conditions. The Board ordered, among other things, that upon reinstatement, Mr. Leung was prohibited from practicing as a dispensing pharmacist and could not have access to controlled dangerous substances.

On April 27, 2007, the Board received information from the owner of White Flint Pharmacy that Mr. Leung was practicing there as a dispensing pharmacist. On May 7, 2007, Mr. Leung submitted a Petition for Modification of Probation to the Board. Upon inspection of the Board's licensing records, it discovered that Mr. Leung had never submitted a reinstatement application and thus, did not possess a current license to practice pharmacy. Thereafter, at the Board's direction, Mr. Leung submitted a

reinstatement application to the Board. On November 6, 2007, the Board issued a Notice of Intent to Deny Reinstatement.

A contested case hearing was held under the Administrative Procedure Act, Md. Code Ann., State Gov't §10-201 *et seq.*, and COMAR 10.34.01, before a quorum of the Board on April 16, 2008. After the conclusion of the hearing on the same date, April 16, 2008, the same quorum of the Board convened to deliberate and voted unanimously to deny the reinstatement of Mr. Leung's license for the reasons set forth in this Final Decision and Order.

### SUMMARY OF THE EVIDENCE

#### **A. Documents.**

The following documents were admitted into evidence.

- State's Exhibit No. 1 - Licensure printout for Mr. Leung
- State's Exhibit No. 2 - Board's Consent Order of Reinstatement, dated 5/1/06
- State's Exhibit No. 3A - Permit printout for White Flint Pharmacy
- B - Mr. Leung's Personnel file at White Flint Pharmacy
- State's Exhibit No. 4 - Board's Investigative Report
- State's Exhibit No. 5 - Mr. Leung's Petition for Modification, dated 5/21/07
- State's Exhibit No. 6 - Memo from Vanessa Thomas-Gray, dated 6/8/07
- State's Exhibit No. 7 - Memo from Colin Eversley, dated 6/28/07
- State's Exhibit No. 8 - Reinstatement Application, dated 7/6/07
- State's Exhibit No. 9 - Email from Wise, dated 8/6/07
- State's Exhibit No. 10 - WRB Communications records
- State's Exhibit No. 11A - Notice of Intent to Deny Cover letter, dated 11/6/07

- B - Notice of Intent to Deny
- C - Request for Hearing, dated 12/10/07
- D - Hearing Notice, dated 2/14/08

**B. Witnesses.**

*State:* Colin Eversley – Compliance Investigator, Board of Pharmacy

*Respondent:* Frank Leung, P.D.

**FINDINGS OF FACT**

Based upon the testimony and documentary evidence presented at the evidentiary hearing, the Board finds that the following facts are true:

1. Mr. Leung was first licensed in Maryland on October 20, 1999. Mr. Leung's license expired on June 28, 2005. (State's Ex. 1)
2. In accordance with two Board orders dated November 8, 2004, and March 29, 2005, Mr. Leung's license was suspended due to his diversion of significant quantities of controlled dangerous substances, including Oxycontin and Percocet, from a hospital pharmacy. (State's Ex. 11B)
3. On May 4, 2006, the Board reinstated Mr. Leung's license to practice pharmacy based on certain conditions. Since Mr. Leung did not renew his license during the suspension period, Mr. Leung had to first provide evidence of completing 30 continuing education credits in satisfaction of the renewal period 7/1/03 to 6/30/05. Once Mr. Leung was reinstated, his license was ordered to be placed on immediate probation for at least three (3) years pursuant to certain probationary conditions. (State's Ex. 2)
4. In light of Mr. Leung's substance abuse history, the probationary terms of the 2006 Consent Order included a prohibition against Mr. Leung practicing as a

dispensing pharmacist or having access to controlled dangerous substances.  
(State's Ex. 2)

5. During the period February 14, 2005, through November 30, 2005, Mr. Leung practiced pharmacy at WRB Communications ("WRB"). The Mr. Leung's position at WRB required that he possess an active license as a pharmacist. (State's Ex. 10) Mr. Leung's license was either suspended or lapsed during the entirety of his tenure at WRB.
6. Although Mr. Leung submitted the 30 CE credits in accordance with the 2006 Consent Order, he never fulfilled the licensing process by submitting a reinstatement application or fee. Thus, Mr. Leung was never issued a license. However, for reasons that are unclear, the Board's website and licensing database indicated that Mr. Leung's license was on probation. (State's Ex. 1, 2; T. 57)
7. On June 26, 2006, Mr. Leung filled out an application for a pharmacist position at White Flint Pharmacy. (State's Ex. 10) Mr. Leung found out about the pharmacist vacancy because he was utilizing the services of a healthcare professionals employment agency. (T. 61-62) White Flint Pharmacy is a full-service pharmacy with a controlled dangerous substance inventory. (State's Ex. 3A; T. 46)
8. In addition, Mr. Leung submitted a resume in which he represented himself as a "Registered Pharmacist in Maryland." Mr. Leung was hired at a rate of \$46/hour, which was commensurate with his previous salaries paid as a pharmacist. (State's Ex. 3B)

9. Mr. Leung further provided White Flint Pharmacy with a license that bore his name, but not his correct license number or expiration date. The license number on the license submitted by Mr. Leung is assigned to another pharmacist, who acted as Mr. Leung's supervisor at a previous place of employment. (State's Exs. 3B, 8)
10. Mr. Leung practiced pharmacy at White Flint from at least January through April 2007. In addition, during the entirety of his employment at White Flint, Mr. Leung had immediate access to controlled dangerous substances. (T. 44, 46)
11. On, April 27, 2007, the permit holder for White Flint Pharmacy called the Board to inquire as to Mr. Leung's probationary conditions. The permit holder informed the Board that Mr. Leung had been working for him as a dispensing pharmacist. (State's Ex. 4; T. 21) Mr. Leung was terminated on March 12, 2007. (State's Ex. 3B)
12. On May 21, 2007, Mr. Leung submitted a Petition for Modification of Probationary Terms. In Mr. Leung's Petition, after reciting the terms of probation, he states that he has "strictly adhered to the restrictions imposed by the Board on his pharmacy practice privileges during the probationary period. He has fully complied with all probationary terms and demonstrated the commitment to remain in compliance for the rest of his three-year probation." Furthermore, Mr. Leung states that he "works part-time as a drug information specialist at WRB Communications, Inc. His employer is aware of his drug

abuse history and will furnish reports to the Board if necessary.” (State’s Ex. 5)

13. After being notified by the Board that he did not have a current and active license, Mr. Leung submitted a reinstatement application to the Board on July 20, 2007. In his application, Mr. Leung lists WRB Communications as work experience as a licensed pharmacist. Mr. Leung also states that he practiced at WRB from 2005 to 2007. Mr. Leung did not list White Flint Pharmacy. (State’s Ex. 8)

### OPINION

Mr. Leung’s initial offense before the Board involved the diversion of large quantities of controlled dangerous substances from a hospital pharmacy. The Board, in its adjudication of that violation, nonetheless permitted Mr. Leung the opportunity to demonstrate that he could, if given another chance, practice pharmacy legally and ethically. Unfortunately, Mr. Leung did not take advantage of this opportunity. Instead, he almost immediately set about violating key conditions of his probation.

Mr. Leung argues that because of the Board’s error in listing his licensure status as probationary, he reasonably believed that his license had been reinstated. The Board accepts Mr. Leung’s proposition even though it is clear, and Mr. Leung concedes, that he never received a reinstated license from the Board and knew, in fact, that his license had expired. However, believing that his license was reinstated, Mr. Leung proceeded to deliberately violate the terms of his reinstatement; that is, he applied for a dispensing pharmacist’s position that had immediate access to controlled dangerous substances. Mr. Leung argues that there is no evidence that he diverted any controlled substances from

White Flint. Mr. Leung clearly misses the point. The crux of the issue is that Mr. Leung intentionally violated key terms of a Board Order, an order allowing him re-entry back into the pharmacy profession after serious substance abuse violations.

Not only did Mr. Leung blatantly violate the terms of his Consent Order, he subsequently made false statements to the Board in an attempt to modify his terms of probation. Mr. Leung stated that he had been in full compliance with his probationary terms, knowing that he was in direct violation. In addition, Mr. Leung misrepresented that he was practicing at WRB Communication in a non-dispensing role, when in fact, he had not worked at WRB for almost two years. Mr. Leung also made the same misrepresentation on his Reinstatement application to the Board.

In addition, the Board has serious concerns about Mr. Leung's continuous proclivity to misrepresent his licensure status to employers. He indicated to WRB that he was a licensed pharmacist when his license was suspended, and thereafter lapsed. He similarly indicated to White Flint Pharmacy that he was licensed to practice pharmacy without any limitations on his practice. In fact, Mr. Leung submitted a falsified license with the license number and expiration date of another pharmacist who was his prior supervisor. The Board cannot take lightly such serious acts of misrepresentation.

Indeed, at the hearing, Mr. Leung continued his efforts to misrepresent facts. He refused to admit that he submitted the falsified license to White Flint, stating that he had no idea how the license ended up in his personnel file. He claimed that he did not function as a dispensing pharmacist at White Flint Pharmacy until six months after hire, although he used the services of a healthcare professionals employment agency, filled out an application for a pharmacist position, represented himself as a licensed pharmacist on

his resume, and was paid at the pharmacist's rate. Furthermore, Mr. Leung testified that he did not practice as a licensed pharmacist at WRB, when the qualifications for his position specifically required a pharmacist's license. On the whole, the Board did not find Mr. Leung's testimony to be credible in light of the overwhelming documentary evidence to the contrary.

A pharmacist's ethics must be beyond the pale. Pharmacists play an integral part in the provision of quality healthcare services to patients. In addition, pharmacists act as gatekeepers, allowing or prohibiting access to highly addictive drugs with street value. At this juncture, the Board has no confidence that Mr. Leung has the capability to practice pharmacy in an ethical and legal manner. That Mr. Leung has gone through great lengths to obtain employment and reinstatement of his license through fraudulent and deceitful means buttresses the Board's position.

Based on the egregiousness of the Respondent's misconduct, the Board finds that a denial of Mr. Leung's application is warranted. The Board feels that a significant sanction is necessary to address the violations committed by Mr. Leung as well as to provide a deterrent to other pharmacists who may be tempted to engage in similar unethical and illegal acts.

### **CONCLUSION**

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes that the Respondent violated Md. Code Ann., Health Occ. § 12-302(a) and (b), §§ 12-313(b)(1), (2), (7), (25) and Code Md. Regs. tit. 10, § 34.10.01A(1).



**ORDER**

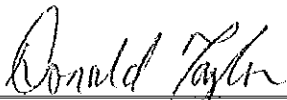
Based on the foregoing Findings of Fact, Opinion, and Conclusion, by a unanimous decision of a quorum of the Board it is hereby:

**ORDERED** that the application for a pharmacist's license submitted by Frank Leung is hereby **DENIED**; and be it further,

**ORDERED** that Mr. Leung may submit another application to the Board for consideration no earlier than FIVE (5) YEARS from the date of this Order; and be it further,

**ORDERED** that this is a final order of the State Board of Pharmacy and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't Art., §§10-611, *et seq.*

JULY 30, 2008  
Date

  
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Donald Taylor, P.D.  
President, Board of Pharmacy

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. Art., §12-316, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Act, Md. Code Ann., State Gov't Art., §§10-201, *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.