

IN THE MATTER  
OF  
BRIAN MUSGROVE  
Applicant

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BEFORE THE  
MARYLAND BOARD  
OF PHARMACY

\* \* \* \* \*

**PRE-CHARGE CONSENT ORDER**

**Background**

On June 30, 2009, the Maryland Board of Pharmacy (the "Board") received a reciprocity application from Brian P. Musgrove ("Respondent") in which he advised the Board that he had been criminally convicted and formally disciplined by the South Carolina Board of Pharmacy based on insurance fraud. As a result, the Board conducted an investigation into the matter which confirmed that the Respondent had been federally convicted of insurance fraud in South Carolina and subsequently had his pharmacist's license suspended by the South Carolina Board of Pharmacy.

In lieu of instituting formal proceedings against the Respondent, in accordance with the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 *et seq.*, the Board held a Pre-Charge Case Resolution Conference with the Respondent on October 28, 2009. As a result, the Board and the Respondent have agreed to resolve this matter as set forth in this Consent Order.

## FINDINGS OF FACT

- (1) In February 2004, the Respondent pled guilty to Medicaid insurance fraud in the United States District Court of South Carolina, Florence Division, Criminal Case No. 4:04-138.
- (2) On August 16, 2004, the Respondent was sentenced to incarceration for 24 months, and supervised probation for three years thereafter. In addition, the Respondent was directed to pay restitution in the amount of \$397,770.69. The Respondent paid approximately \$86,000 at sentencing, and was ordered to make monthly payments of \$300 toward the outstanding balance.
- (3) On September 23, 2004, the South Carolina Board of Pharmacy suspended the Respondent's pharmacist's license based on the Medicaid fraud conviction.
- (4) On January 24, 2007, the South Carolina Board of Pharmacy reinstated the Respondent's pharmacist's license and placed it on probation, to run commensurate with the Respondent's criminal probationary term. The South Carolina Board instituted certain probationary conditions on the Respondent including prohibiting the Respondent from serving as the pharmacist-in-charge.
- (5) The Respondent was employed in South Carolina as a staff pharmacist at Kerr Drug. The Board received an employer report indicating positive performance by the Respondent.
- (6) The Respondent has been fully compliant with the terms of his criminal probation and was released from probation on November 30, 2009.

(7) The Board received a report from the South Carolina Board indicating that the Respondent has been fully compliant with the terms of the South Carolina Board order.

**CONCLUSION OF LAW**

Based on the foregoing Findings of Fact, the Board concludes that the Respondent is subject to disciplinary action in accordance with Md. Code Ann., Health Occ. §§12-313(b)(22) and (24).

**ORDER**

Based on an affirmative vote of a majority of the Board, it is this 9<sup>th</sup> day of December, 2009, hereby:

**ORDERED** that the Respondent's application for a pharmacist's license be GRANTED, PROVIDED that:

(1) The Respondent shall not own a pharmacy, in whole or in part, nor work in a pharmacy that is owned, in whole or in part, by a family member;

(2) The Respondent first take and pass the Multistate Pharmacist Jurisprudence Examination ("MPJE"); and

(3) The Respondent first submit evidence of completion of 30 continuing education credits taken within the past two years; and be it further,

**ORDERED** that upon satisfaction of the above and the issuance of a license, the Respondent's license shall be placed on immediate PROBATION for at least seven (7) YEARS, subject to the following conditions:

(1) Within the first year of probation, the Respondent shall successfully complete a Board-approved college level ethics course;

(2) The Respondent shall obtain prior Board approval of any and all pharmacy employers;

(3) The Respondent shall insure that his pharmacy employer(s) submit quarterly performance reports to the Board; and

(4) The Respondent shall NOT function as a pharmacy manager; and be it further,

**ORDERED** that the Respondent is responsible for all costs associated with complying with this Order; and be it further,

**ORDERED** that in the event the Board finds for any good faith reason that the Respondent has violated any of the conditions of probation herein, or in the event that the Board finds for any good faith reason that the Respondent has committed a violation of Title 12 of the Health Occupations Article or regulations adopted thereunder, the Board may take further disciplinary action against the Respondent, after notice and a hearing in accordance with the Maryland Pharmacy Act and the Administrative Procedure Act; and be it further,

**ORDERED** that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Consent Order; and be it further,

**ORDERED** that the Respondent may petition for modification of the terms of probation after three (3) years of probation, provided that the Respondent has been fully compliant with all terms and does not have any pending complaints against him; and be it further,

**ORDERED** that the Respondent may petition the Board for release from

probation after seven (7) years provided that he has been fully compliant with the terms of probation and no complaints have been filed against him; 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).

December 9, 2007  
Date

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

**CONSENT**

By signing this Consent, I hereby agree to be bound by the foregoing Consent Order and its conditions.

1. 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 of fact and conclusions contained in this Consent Order.

2. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.

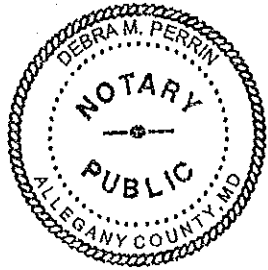
3. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

12/3/2009  
Date

Brian P. Musgrove RPH  
Brian Musgrove

STATE OF MARYLAND  
COUNTY/CITY OF Allegheny / Cumberland

I hereby certify that on this 3<sup>rd</sup> day of December, 2009, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared BRIAN P. MUSGROVE, and made an oath in due form that the foregoing Consent was his voluntary act and deed.



Debra M Perrin  
Notary Public  
My commission expires: \_\_\_\_\_

MY COMMISSION EXPIRES MARCH 8, 2010