

IN THE MATTER OF

*

BEFORE THE

BARRY THOMAS, P.D.

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MARYLAND STATE BOARD

OF PHARMACY

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Based upon certain information having come to the attention of the Maryland State Board of Pharmacy (the "Board") regarding the pharmacy practice of Barry Thomas, P.D. ("Respondent"), the Board charged Respondent with violation of § 12-311(b) of the Health Occupations Article, Maryland Annotated Code. The specific charges are as follows:

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:

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(4) Is addicted to any controlled dangerous substance . . . ;

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(5) Provides pharmaceutical services while . . . under the influence of a drug with abuse potential;

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(7) Willfully fails to file or record any report that is required by law;

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(14) Without first having received a written or oral prescription for the drug from an authorized prescriber, dispenses any drug for which a prescription is required;

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(20) Is professionally . . . incompetent;

In addition, at the prehearing conference, Respondent admitted having been dismissed from a second place of employment following the discovery that he had engaged in conduct identical to that giving rise to the initial charges filed by the Board.

Respondent was notified of the charges by letter dated September 14, 1983. A prehearing conference was held on October 3, 1983 before Bernard B. Lachman, P.D., President of the Board. Also present at the conference were Respondent, Howard L. Sollins, Assistant Attorney General and administrative prosecutor for the Board, Ronald S. Gass, Assistant Attorney General, and counsel to the Board; and Roslyn Scheer, Executive Director for the Board. Respondent agreed to enter into a Consent Order as proposed by the Board.

FINDING OF FACT

The Board finds:

1. That Respondent is a pharmacist licensed to practice pharmacy in Maryland;
2. That between January, 1981 and November 1, 1982 Respondent was employed as manager of Revco Pharmacy No. 1211 ("Revco");
3. That during his employment at Revco, Respondent took various controlled dangerous substances for his personal use during working hours without having obtained a prescription.
4. That Respondent admitted that he took Percodan (Schedule II), Ritalin (Schedule II), various types of amphetamines (Schedule II), Tylenol with Codeine #4 (Schedule III), and Empirin with Codeine #4 (Schedule III);
5. That Respondent failed to record his dispensing of these drugs to himself;

6. That in a statement obtained by Revco dated November 1, 1982, Respondent admitted that he was addicted to various controlled dangerous substances which dependence had rendered him incompetent;
7. That following Respondent's dismissal from Revco Pharmacy No. 1211, Respondent voluntarily committed himself to Springwood Psychiatric Institute ("Springwood") in Leesburg, Virginia where he received treatment for alcohol and drug dependencies until December 15, 1982.
8. That Respondent failed to participate in follow-up treatment at Springwood;
9. That Respondent was employed as a pharmacist at Drug Fair Pharmacy No. 757 ("Drug Fair") on January 15, 1983 until August, 1983;
10. That during his period of employment at Drug Fair, Respondent admitted that he took drugs for his personal use without a prescription and without recording the dispensing of such drugs.
11. That the drugs taken from Drug Fair without authorization included Percodan (Schedule II) and Ritalin, (Schedule II);
12. That Respondent admitted that he provided pharmacy services at Revco and Drug Fair while under the influence of drugs;
13. That Respondent admitted he is dependent on alcohol.
14. That Respondent is currently receiving in-patient alcohol and drug therapy at the Massie Unit of the Allegany County Department of Health.

CONCLUSIONS OF LAW


Based upon the foregoing Findings of Fact, the Board, by unanimous vote of the members considering this case, concludes as a matter of law, that Respondent violated Health Occupations Article § 12-311(b)(4), (5), (7), (14) and (20), Maryland Annotated Code.

ORDER

Upon the foregoing Findings of Fact and Conclusions of Law, it is this 23rd day of November, 1983 by the unanimous vote of those members of the Maryland State Board of Examiners of Pharmacy considering this case,

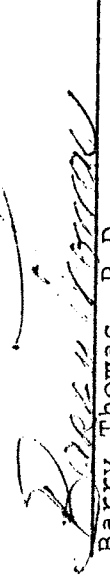
ORDERED that the license of Respondent, Barry Thomas, P.D., an individual licensed to practice pharmacy in the State of Maryland, is hereby REVOKED; and it be further

ORDERED that one (1) year after the date of this Order, the Board will entertain a petition for reinstatement of Respondent's license to practice pharmacy. However, at a minimum, Respondent must present evidence satisfactory to the Board that he has completed and been discharged from an alcohol and drug abuse treatment program substantially similar to the Impaired Pharmacists Program offered at University of Maryland Hospital and that he is and has been free of all dependency on drugs and alcohol for at least one year. At such time, if the Board determines that complete reinstatement would not be appropriate, the Board may reinstate Respondent's license subject to whatever terms and conditions it deems appropriate.


Bernard B. Lachman, P.D.
President

CONSENT

By this Consent, I hereby accept and submit to the foregoing Order and its conditions. I acknowledge the validity of the Order as if made after a hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protection provided by law. I also recognize that I am waiving my rights to appeal any adverse ruling of the Board that might have followed any such hearing. By this Consent, I waive all such rights and acknowledge my failure to abide by the conditions of the Order the Board need not consider any future petition by me to reinstate my license to practice pharmacy in the State of Maryland. I sign this Consent without reservation and fully understand its meaning.



Barry Thomas, P.D.

STATE OF MARYLAND)
CITY/COUNTY OF BALTIMORE) ss:

I HEREBY CERTIFY that on this 14th day of June, 1983 personally appeared before me Barry Thomas, P.D. and made oath in due form of law that the foregoing Consent is his voluntary act and deed.



As witness my hand and Notarial Seal.


Notary Public

My Commission Expires:

My Commission Expires July 1, 1986

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(14) Without first having received a written or oral prescription for the drug from an authorized prescriber, dispenses any drug for which a prescription is required;

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(20) Is professionally . . . incompetent;

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CONCLUSIONS OF LAW

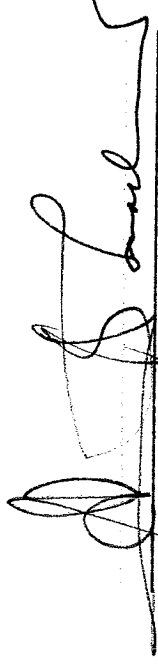
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ORDER

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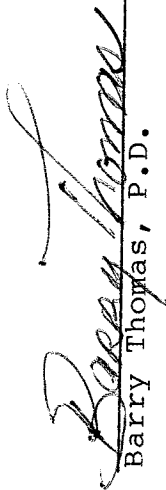
ORDERED that one (1) year after the date of this Order, the Board will entertain a petition for reinstatement of Respondent's license to practice pharmacy. However, at a minimum, Respondent must present evidence satisfactory to the Board that he has completed and been discharged from an alcohol and drug abuse treatment program substantially similar to the Impaired Pharmacists Program offered at University of Maryland Hospital and that he is and has been free of all dependency on drugs and alcohol for at least one year. At such time, if the Board determines that complete reinstatement would not be appropriate, the Board may reinstate Respondent's license subject to whatever terms and conditions it deems appropriate.



Bernard B. Lachman, P.D.
President

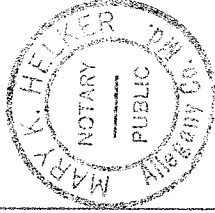
CONSENT

By this Consent, I hereby accept and submit to the foregoing Order and its conditions. I acknowledge the validity of the Order as if made after a hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protection provided by law. I also recognize that I am waiving my rights to appeal any adverse ruling of the Board that might have followed any such hearing. By this Consent, I waive all such rights and acknowledge my failure to abide by the conditions of the Order the Board need not consider any future petition by me to reinstate my license to practice pharmacy in the State of Maryland. I sign this Consent without reservation and fully understand its meaning.

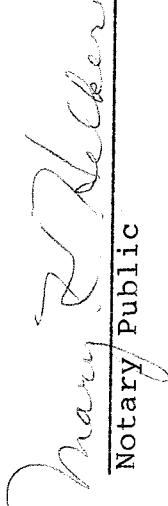

Barry Thomas, P.D.

STATE OF MARYLAND)
CITY/COUNTY OF BALTIMORE) ss:

I HEREBY CERTIFY that on this 9th day of Nov, 1983 personally appeared before me Barry Thomas, P.D. and made oath in due form of law that the foregoing Consent is his voluntary act and deed.



As witness my hand and Notarial Seal.


Notary Public

My Commission Expires:

My Commission Expires July 1, 1986