

IN THE MATTER OF
BARRY THOMAS, P.D.

*
* BEFORE THE MARYLAND
* STATE BOARD OF PHARMACY
*

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**FINDINGS OF FACT
AND CONSENT ORDER**

PROCEDURAL BACKGROUND

1. In December of 1982, certain information having come to the attention of the Maryland State Board of Pharmacy (the "Board"), the Board directed an investigation of Barry Thomas, P.D. (the "Respondent").
2. Following the investigation and after considering the various reports the Board, upon advice of counsel, determined to charge Respondent with a violation of Health Occupations, § 12-311(b)(4), (5), (7), (14) and (20), Annotated Code of Maryland.
3. The aforementioned charges were embodied in a September 14, 1983 charge letter against Barry Thomas, P.D. That letter included appropriate notice of the charges and the grounds upon which they were based, and Respondent was advised of a prehearing conference to be held on Monday, October 3, 1983.
4. After the prehearing conference, Respondent entered into a Consent Order, signed by Respondent on or about November 9, 1983 and by Bernard B. Lachman, P.D., President of the Board on November 23, 1983. The Conclusions of Law of the Consent Order,

which is attached hereto as Exhibit "B", are incorporated by reference. In the Order, Respondent consented to the revocation of his license for one (1) year from the date of the Order, after which the Board agreed to entertain a petition for reinstatement of Respondent's license to practice pharmacy, upon satisfaction of at least the following conditions:

"[A]t a minimum, Respondent must present evidence satisfactory to the Board that he has completed and been discharged from an alcohol and drug abuse treatment substantially similar to the Impaired Pharmacists Program offered at the 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."

5. By letter dated August 28, 1984, Respondent requested the Board to consider reinstatement of his license to practice pharmacy in the State of Maryland.

FINDING OF FACT

6. The Findings of Fact of the Board in the Consent Order are found to be true, as of the date of the Order, and are incorporated by reference as if set forth therein.

7. Respondent successfully completed the 35-day in-patient drug and alcohol abuse program at the Joseph S. Massie Unit in Cumberland, Maryland from September 19, 1983 to October 24, 1983. Pursuant to a consent for disclosure of records signed by Respon-

dent, the Discharge Summary and Discharge Narrative, both completed by Denise Sloan, the Counselor assigned to Respondent, were released and are part of the Board record. On discharge, he was referred to the Allegany County Health Department for further counseling.

8. Since his discharge from the Massie Unit, Respondent has been an active volunteer with the Program; his duties have included supervising recreational and social activities, assisting clinical staff in crisis intervention, and supportive intervention with residents. He has also been a strong supporter of Narcotics Anonymous and Alcoholics Anonymous in the Cumberland area.

9. The Board has received written correspondence on behalf of Respondent from several persons, whose veracity the Board has no reason to question, which reflect positively on Respondent's efforts at rehabilitation and on his future prognosis, including:

- a. Letter of December 14, 1984 to the Board by
Davis M. Dayhoff, M.S., C.A.C., Clinical Coordinator and
Volunteer Coordinator at the Massie Unit;
- b. Letter to the Board by George M. Dignan,
Secretary of the Fort Cumberland Group of Alcoholics
Anonymous;
- c. Letter to the Board of December 12, 1984 by
Patti Jane Dutcher, M.Ed., C.A.C., Program Director at
the Allegany County Health Department, Addictions Out-
patient unit;

- d. Letter to the Board of December 11, 1984 by Jane A. Fiscus, M.D., Health Officer for Allegany County, stating inter alia, that Respondent is highly motivated and hard working, that drug screen urinalyses obtained randomly had been negative, and that resumption of professional status and activity with close supervision, treatment and monitoring is a critically important positive step in the recovery process;
- e. Letter to the Board of December 11, 1984 from Andrea Marquette-Metz, an addictions counselor at the Allegany County Health Department;
- f. Letter to the Board of November 23, 1984 from Jon T. Hann, P.D., President of the Allegany-Garrett County Pharmaceutical Association;
- g. Letter to the Board of February 4, 1985 by Robert J. Martin of Potomac Valley Pharmacy, Inc.
10. Through his written correspondence and his appearance with his wife before the Board on February 20, 1985, the Board has found Respondent to be sincerely engaged in attempts to arrest his dependency on drugs and alcohol. The Board also finds his marital relationship to be improved.
11. Respondent acknowledges that he still has the disease of alcohol addiction, that he will continue to require counseling and other out-patient treatment, and that urinalysis monitoring and other conditions are advisable for this Board to impose

should it decide to allow Respondent to resume his practice of pharmacy in this State.

ORDER

Based on the foregoing Findings of Fact it this 17th day of April, 1985, by unanimous vote of the those members of the Board considering this case:

ORDERED that Respondent's license to practice pharmacy is hereby REINSTATED, and be it further

ORDERED that Respondent be placed on PROBATION subject to the following conditions:

1. Within thirty (30) days from the date of this Order, Respondent shall arrange for the Joseph S. Massie Unit in Cumberland, Maryland (the "program") to submit a complete evaluation to the Board which shall include recommendations for treatment. Respondent shall bear the cost for this evaluation;
2. Respondent shall immediately give a copy of the Procedural Background, Findings of Fact and Order to the program;
3. Respondent shall comply with any and all recommendations made by the program in the time, place and manner suggested by the program;
4. The Respondent shall arrange for the program to submit written quarterly reports indicating that Respondent is making satisfactory progress in drug therapy and in dealing with his problem of abuse of controlled dangerous substances. The first

report shall be submitted to the Board within thirty (30) days after the evaluation. With the Board's approval, after the first year of Respondent's probation the Respondent shall arrange for the program to submit semi-annual written reports to the Board indicating that Respondent continues to make satisfactory progress;

5. If the program discharges Respondent from treatment, Respondent shall arrange for the program to submit a written discharge report to the Board; otherwise Respondent shall continue therapy and other treatment with the program;

6. Respondent shall arrange for weekly observed random urine screenings and arrange for any positive reports to be immediately sent to the Board; one (1) year after the effective date of this Order, Respondent may petition the Board to cease having urine screens. The urinalysis procedure shall be in a time, place and manner satisfactory to the Board;

7. In the event that Respondent discontinues therapy prior to discharge by the program, the program shall immediately notify the Board in writing;

8. In the event that Respondent's program reports to the Board that Respondent is incapable of practicing pharmacy safely or that Respondent's previous problems are interfering with Respondent's ability to practice pharmacy, Respondent shall voluntarily discontinue the practice of pharmacy until such time as the program indicates that Respondent is capable of resuming his practice of pharmacy;

9. Respondent shall contact the Pharmacist Rehabilitation Committee (the "Committee") and make arrangements to meet with this Committee within thirty (30) days of the Order;
10. Respondent shall comply with any and all recommendations made by the Committee in the time, place and manner suggested by the Committee;
11. Respondent shall promptly provide the Board with a copy of any contract entered into by Respondent with the Committee;
12. Respondent shall arrange for the Committee to submit written quarterly reports indicating Respondent is making satisfactory progress in therapy in dealing with his problem of abuse of controlled dangerous substances. The first report shall be submitted to the Board thirty (30) days after the effective date of this Order;
13. After the first year of Respondent's probation, with the Board's approval, the Respondent shall arrange for the Committee to submit semi-annual written reports to the Board indicating that Respondent continues to make satisfactory progress;
14. Respondent shall continue with the Committee until such time as he is discharged from treatment by the Committee. Upon discharge from treatment by the Committee, Respondent shall arrange for the Committee to submit a written discharge report;
15. In the event Respondent discontinues treatment through the Committee prior to his discharge by the Committee, the Committee shall immediately notify the Board in writing;

16. In the event the Committee reports to the Board that Respondent is incapable of practicing pharmacy safely, the Respondent shall voluntarily discontinue the practice of pharmacy until such time as the Committee indicates that Respondent is capable of resuming his practice of pharmacy;
17. Respondent shall arrange for any and all of his pharmacy employers to submit to the Board written quarterly reports evaluating his job performance and describing the nature and duties of his position. The first report shall be due thirty (30) days after the effective date of this Order;
18. In the event that Respondent changes jobs as a pharmacist, or decides not to practice pharmacy, Respondent shall immediately notify the Board, in writing, identifying his new employer by name, address and telephone number and describing his new position;
19. Commencing thirty (30) days from the effective date of this Order, Respondent shall send written quarterly reports to the Board describing the progress he feels he is making, what problems he presently faces and how he is coping with these problems;
20. Respondent shall notify the Board, in writing, of his current address. In the event that Respondent moves he shall promptly notify the Board in writing of the change of address and any change in his telephone number;

21. Respondent shall continue to attend narcotic anonymous or alcoholics anonymous meetings at least once a week and as mandated by the program; and

22. Respondent shall practice in accordance with the Maryland Pharmacy Act and in a competent manner; and be it further

ORDERED that if Respondent violates any of the foregoing conditions of probation or fails to practice in accordance with the laws governing the practice of pharmacy in Maryland or if the Board receives an unsatisfactory report from the Respondent's program or the Committee, the Board may, after notification, opportunity for a hearing, and a determination of violation, withdraw Respondent's probationary status and may impose such disciplinary action as provided by law; and be it further

ORDERED that any time after two (2) years from the date of this Order, the Board shall entertain a petition for termination of Respondent's probationary status without any conditions or restrictions as to the scope of practice. If the Board determines that the termination of probation would not be appropriate at that time, the Board may modify one or more of the conditions upon which Respondent was placed on probation. If Respondent

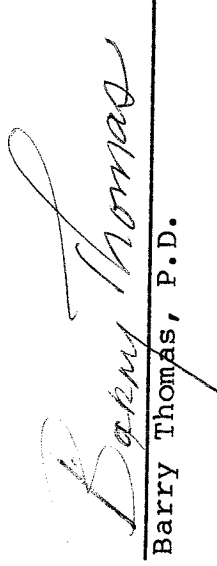
fails to make any such petition, then the probationary status shall continue indefinitely, subject to the conditions set forth in this Order.



Paul Freiman, P.D., Secretary
Maryland Board of Pharmacy

CONSENT

By this Consent, knowingly and voluntarily executed by me, I hereby consent and submit to the foregoing Order and its conditions. I acknowledge the validity of the Order as if made after a hearing at which I would have had the right to counsel, to confront witnesses, to give testimony and to call witnesses on my behalf and to all other substantive and procedural protections provided by law. I also recognize that I am waiving my rights to appeal any adverse ruling of the Maryland State Board of Pharmacy that might have followed such a hearing. By this Consent, I waive all such rights. I acknowledge that if I fail to abide by the conditions set forth in the Order, I may suffer disciplinary action against my license to practice pharmacy in the State of Maryland.



Barry Thomas
Barry Thomas, P.D.

RECORDED

MAY 7 1985

BOARD OF PHARMACY

STATE OF MARYLAND)
CITY OF BALTIMORE) ss:

I HEREBY CERTIFY that on this 1st day of May,
1985 before me, a Notary Public of the State and City aforesaid,
personally appeared Barry Thomas, P.D. and he made oath in due
form of law that the foregoing Consent was his voluntary act and
deed.

AS WITNESS my hand and notarial seal.

Shelville B Dawson
Notary Public

My commission expires: July 1, 1986

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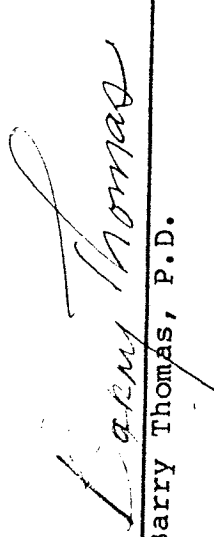
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Paul Freiman, P.D., Secretary
Maryland Board of Pharmacy

CONSENT

By this Consent, knowingly and voluntarily executed by me, I hereby consent and submit to the foregoing Order and its conditions. I acknowledge the validity of the Order as if made after a hearing at which I would have had the right to counsel, to confront witnesses, to give testimony and to call witnesses on my behalf and to all other substantive and procedural protections provided by law. I also recognize that I am waiving my rights to appeal any adverse ruling of the Maryland State Board of Pharmacy that might have followed such a hearing. By this Consent, I waive all such rights. I acknowledge that if I fail to abide by the conditions set forth in the Order, I may suffer disciplinary action against my license to practice pharmacy in the State of Maryland.


Barry Thomas, P.D.

RECORDED

MAY 7 1985

BOARD OF PHARMACY

STATE OF MARYLAND)
CITY OF BALTIMORE) ss:

I HEREBY CERTIFY that on this 1st day of May,
1985 before me, a Notary Public of the State and City aforesaid,
personally appeared Barry Thomas, P.D. and he made oath in due
form of law that the foregoing Consent was his voluntary act and
deed.

AS WITNESS my hand and notarial seal.

Leahelle B Dawson
Notary Public

My commission expires: July 1, 1986