

IN THE MATTER OF  
MOHAMED ELBERRY, R.Ph.  
LICENSE NO. 14144

BEFORE THE MARYLAND  
STATE BOARD OF  
PHARMACY

\* \* \* \* \*

**CONSENT ORDER**

**HISTORY**

On June 8, 2011, the Maryland Board of Pharmacy (the "Board") received credible information indicating that Mohamed Elberry, License Number 14144, had been terminated from his position as a pharmacist in Kansas due to the theft of drugs from his employer. The Board's investigation into this matter revealed that Mr. Elberry entered into consent orders with two different boards of pharmacy based on the misconduct. The Board subsequently learned that Mr. Elberry signed a five-year monitoring agreement with the Pharmacists' Education and Advocacy Council of Maryland ("PEAC").

In lieu of instituting formal proceedings against Mr. Elberry, in accordance with the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-313, and Board regulations, COMAR 10.34.01, a Pre-charge Case Resolution Conference ("CRC") was held with members of the Board, Board Counsel, Mr. Elberry, and his counsel on May 23, 2012. Thereafter, the Board and Mr. Elberry agreed to resolve this matter as set forth in this Consent Order.

**FINDINGS OF FACT**

1. At all times relevant hereto, Mr. Elberry was a licensed pharmacist with the Board, Pharmacist License No. 14144. He was originally licensed by the Board on April 23, 1996.
2. On June 8, 2011, the Board received notification from the Kansas State Board of

Pharmacy that it planned on filing a case against Mr. Elberry following receipt of a report from his chain pharmacy employer that Mr. Elberry was terminated for the suspected theft of Tussionex, a Hydrocodone-based cough syrup. The Kansas State Board of Pharmacy also informed the Board that a police report was filed and Mr. Elberry was referred to that state's impaired professionals program.

3. On August 29, 2011, Mr. Elberry entered into a diversion agreement with the State of Kansas, pursuant to which he was not prosecuted for the theft provided he pay a fine and enter into a drug monitoring program.
4. On or about September 7, 2011, Mr. Elberry entered into a consent agreement with the Kansas State Board of Pharmacy. Mr. Elberry was placed on five years of supervised probation, during which he agreed to enter into a five-year agreement with that state's impaired professionals program and comply with random drug testing.
5. On or about January 17, 2012, Mr. Elberry entered into a consent order with the District of Columbia Board of Pharmacy based on the reciprocal discipline from Kansas. The D.C. Board of Pharmacy placed Mr. Elberry on five years of probation, effective September 7, 2011, during which he is required to participate in an impaired professionals program that includes random drug testing and counseling, and ensure quarterly reports are submitted to that board by the impaired professionals program and his employer.
6. On May 23, 2012, a Pre-Charge CRC was held with two Board members, Board counsel, Mr. Elberry, and his counsel, to determine if the matter could be resolved without the need to initiate formal proceedings.
7. At the CRC, Mr. Elberry revealed that a medical problem in 2007 led to severe joint pain

which caused him to take the Tussionex from his employer on eight occasions in 2011. Mr. Elberry stated that a change in his other medications has eased the pain considerably and that he now manages pain with a non-controlled NSAID, similar to a stronger Advil.

8. At the CRC, Mr. Elberry confirmed that he has moved back to Maryland from Kansas and would like to work as a pharmacist in Maryland.
9. At the CRC, Mr. Elberry also informed the Board that he entered into a five-year contract with PEAC on December 13, 2011.

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that Mr. Elberry is subject to discipline pursuant to Md. Code Ann., Health Occ. §§ 12-313(b)(21), (24), and (25).

### ORDER

It is this 30<sup>th</sup> day of July, 2012, by an affirmative vote of the Maryland Board of Pharmacy, hereby:

**ORDERED** that Mr. Elberry's license be placed on immediate PROBATION for at least FIVE (5) YEARS, *nunc pro tunc* to September 7, 2011, during which:

1. Mr. Elberry shall continue to participate in group therapy for the duration of need as determined by his therapist and shall ensure that his therapist submit quarterly progress reports to the Board;
2. Mr. Elberry shall submit to random, Board-ordered urine screens, on a monthly basis until he returns to work in a pharmacy, and on a weekly basis once he returns to work in a pharmacy;
3. Mr. Elberry shall inform the Board in writing before he begins working in a pharmacy;

4. Mr. Elberry shall provide a copy of this Consent Order to his pharmacy employer(s) and ensure that his pharmacy employer(s) provide the Board with signed verification that a copy of this Consent Order has been received;

5. As a dispensing pharmacist, Mr. Elberry:

a. May not work more than 40 hours a week;

b. Must only work during day shifts; and

c. May not work as a floater;

6. Mr. Elberry shall ensure that his supervising pharmacist employer submit quarterly employer performance reports to the Board; and

7. Mr. Elberry shall continue medical management of his underlying medical issues; and be it further,

**ORDERED** that after one (1) year of probation, Mr. Elberry may petition the Board for modification of the probationary terms herein, provided that he has been fully compliant with the terms of probation and does not have any pending complaints filed against him; and be it further,

**ORDERED** that after five (5) years of probation, Mr. Elberry may petition the Board to terminate probation, provided that he has been fully compliant with the terms of probation and does not have any pending complaints filed against him; and be it further,

**ORDERED** that all urine screens under this Order shall be:

1. Submitted by Mr. Elberry within 24 hours of the Board staff instructing him to submit a urine sample;

2. Submitted at a CLIA-certified laboratory; and

3. Negative for any controlled dangerous substance, narcotics, cocaine, or other mood-altering substance, except as provided below; and be it further,

**ORDERED** that Mr. Elberry shall abstain from the ingestion of controlled dangerous substances, narcotics, cocaine, or other mood-altering substances, except that Mr. Elberry may ingest prescribed controlled dangerous substances for legitimate medical reasons under the following conditions:

1. Mr. Elberry must be a bona fide patient of a licensed Maryland prescriber who is aware of this order;
2. The medication must be lawfully prescribed by Mr. Elberry's physician or other authorized medical practitioner; and
3. Mr. Elberry must provide the Board, in writing, within seventy-two (72) hours of receiving the medication:
  - a. The name and address of the prescriber;
  - b. The illness or medical condition diagnosed;
  - c. The type, strength, amount, and dosage of the medication; and
  - d. A signed statement consenting to the release of all medical information about Mr. Elberry from the prescriber to the Board; and be it further,

**ORDERED** that Mr. Elberry's execution of this Order shall constitute a release of any and all medical records, substance abuse treatment records, and psychological/psychiatric records pertaining to Mr. Elberry to the Board in complying with the terms and conditions set forth herein; and be it further,

**ORDERED** that Mr. Elberry shall agree and consent to the release by the Board of any information or data produced in relation to this Order to any treatment provider; and be it further,

**ORDERED** that Mr. Elberry shall at all times cooperate with the Board in the monitoring, supervision, and investigation of Mr. Elberry's compliance with the terms and

conditions of this Order; and be it further,

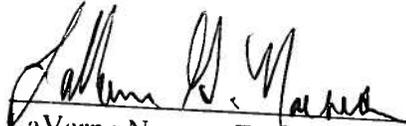
**ORDERED** that Mr. Elberry's failure to fully cooperate with the Board shall be deemed a violation of the probationary terms and a violation of this Order; and be it further,

**ORDERED** that in the event the Board finds in good faith that Mr. Elberry has violated any of the conditions of probation herein, or in the event the Board finds in good faith that Mr. Elberry has committed a violation of Title 12 of the Health Occupations Article or regulations adopted thereunder, the Board may immediately summarily suspend Mr. Elberry's license prior to a hearing, provided that Mr. Elberry is given the opportunity for a show cause hearing within a reasonable time of such action; and be it further,

**ORDERED** that Mr. Elberry shall bear the expenses associated with this Order; and be it further,

**ORDERED** that this is a formal 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).

Date 7/30/12

  
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LaVerne Naesea, Executive Director  
For  
Michael Souranis, P.D.  
President, Board of Pharmacy

CONSENT

1. By signing this Consent, I hereby affirm the findings of fact contained herein and agree to be bound by the foregoing Consent Order and its conditions.
2. 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 and determinations contained in this Consent Order.
3. I acknowledge that this is a formal order of the Board and as such is a public document.
4. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.
5. 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.

7/16/2012  
Date

Mohamed Elberry  
Mohamed Elberry, R.Ph.

STATE OF MARYLAND  
COUNTY/CITY OF HYATTSVILLE/PRINCE GEORGE'S

I hereby certify that on this 16<sup>th</sup> day of JULY, 2012, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared MOHAMED ELBERRY, and made an oath in due form that the foregoing Consent was his voluntary act and deed.

**VERONICA ANNE NARAINÉ**  
**NOTARY PUBLIC**  
**PRINCE GEORGE'S COUNTY, MD**  
**COMMISSION EXPIRES 10-11-2012**

Veronica Anne Naraine  
Notary Public  
My commission expires: Oct. 11, 2012