

IN THE MATTER OF
MICHAEL K. FLYNN, P.D.

* BEFORE THE
* MARYLAND STATE BOARD
* PHARMACY

* * * * *

FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

BACKGROUND

Based upon certain information having come to the attention of the Maryland State Board of Pharmacy (the "Board"), the Board directed an investigation of the pharmacy practice of MICHAEL K. FLYNN, P.D. (the "Respondent"). Following the investigation and after considering various reports the Board determined to charge Respondent pursuant to Sections 12-311(b)(23) and (14) of the Health Occupations Article, Annotated Code of Maryland, (the "Act").

Respondent was notified of the charges by letter dated June 17, 1985. A prehearing conference was scheduled July 8, 1985. A prehearing conference telephone call was held on several occasions in which Respondent, Bernard B. Lachman, President of the Board, Roslyn Scheer, Executive Director of the Board, and Barbara Hull Foster, Assistant Attorney General, Administrative Prosecutor participated. Respondent at all times was notified of his right to be represented by an attorney. Respondent knowingly, willingly, intelligently and voluntarily waived his right to be represented by an attorney. Subsequent to the

prehearing conferences Respondent wrote the Board and requested that this matter be resolved by entering into a Disposition Agreement. The Board agreed to enter into the Disposition Agreement, and this Consent Order is part of the Disposition Agreement, and will not be executed by the Board unless Respondent violates the conditions of the Disposition Agreement.

FINDINGS OF FACT

The Board finds that:

1. At all times pertinent to the charges of June 17, 1985, Respondent was a pharmacist licensed in Maryland;
2. At all times pertinent to the charges Respondent was a pharmacist licensed and employed in the State of Florida; and
3. On August 17, 1984, the Florida Board of Pharmacy placed Respondent on probation for two (2) years for taking without a prescription, two (2) bottles of Valium from his employer;
4. Respondent entered into a Disposition Agreement with the Board; and
5. Respondent has violated the conditions of the Disposition Agreement.

CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated Sections 12-311(b)(23) of the Act:

Is disciplined by a licensing or disciplinary authority of any other state ... for an act that would be grounds for disciplinary action under the Board's disciplinary statute; §12-311(b)(23)

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.
§12-311(b)(14)

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law it is this _____ day of _____, 198 by a unanimous vote of the quorum of those members of the Maryland State Board of Pharmacy considering this case:

ORDERED that the license of MICHAEL K. FLYNN, an individual licensed to practice pharmacy in Maryland, is hereby **SUSPENDED.**

Bernard B. Lachman, P.D.
President
Board of Examiners Pharmacy

CONSENT

By this Consent, I agree that in the event that I violate the terms of the Disposition Agreement signed this same day that, without **PRIOR NOTICE AND AN OPPORTUNITY TO BE HEARD**, the Board may sign this Consent Order, and disseminate it to the various State licensing Boards. I admit to the truth of the Findings of Fact, and 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 had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I also recognize that I am waiving my right 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 that by my failure to abide by the conditions of the Order, I may suffer disciplinary action against my license to practice ~~medicine~~^{pharmacy} in the State of Maryland. I sign this Order after having an opportunity to consult with an attorney, without reservation, and I fully understand its meaning.

Michael K. Flynn
MICHAEL K. FLYNN, P.D.

NEW HAMPSHIRE
STATE OF ~~MASSACHUSETTS~~
CITY/COUNTY OF CONCORD

I HEREBY CERTIFY that on this 13th day of January, 1987, before me, a Notary Public of the State and City/County aforesaid, personally appeared MICHAEL K. FLYNN, P.D., and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed. AS WITNESSETH my hand and notarial seal.

Barbara Deborah Parkham
Notary Public and

My Commission Expires: My Commission Expires September 23, 1990
Justified by the
paper

Maryland State Board of Pharmacy by its President, Anthony Padussis, P.D., and Respondent, Michael K. Flynn, P.D.

Anthony Padussis P.D.

Anthony Padussis, P.D.
President
Maryland State Board of Pharmacy

FEB. 25, 1987

Date

I, MICHAEL K. FLYNN, P.D., have read this Disposition Agreement and have had an opportunity to review each and every part with my attorney. I fully understand its meaning and voluntarily agree to it.

Michael K. Flynn
MICHAEL K. FLYNN, P.D.

NEW HAMPSHIRE
STATE OF ~~MASSACHUSETTS~~
CITY OF CONCORD

)
) ss:

I HEREBY CERTIFY that on this 13th day of January, 1987, before me, a Notary Public of the State and City aforesaid, personally appeared MICHAEL K. FLYNN, P.D. and he made oath in due form of law that the execution of the foregoing Disposition Agreement is his voluntary act and deed.

As witness my hand and notarial seal.

Barbara School Markham
Notary Public and
Justice of the Peace

My Commission Expires:

My Commission Expires September 25, 1990

IN THE MATTER OF
MICHAEL K. FLYNN, P.D.

* BEFORE THE MARYLAND
* STATE BOARD OF
* PHARMACY

* * * * *

DISPOSITION AGREEMENT

THIS DISPOSITION AGREEMENT (the "Agreement"), made this 25 day of ~~January~~ ^{February}, 1987, by and between the Maryland State Board of Pharmacy (the "Board") and MICHAEL K. FLYNN, P.D. (the "Respondent").

W I T N E S S E T H

WHEREAS, the Board received information indicating that formal disciplinary action had been taken against the Respondent by the Florida Board of Pharmacy; and

WHEREAS, the Board investigated this matter with the full cooperation of Respondent; and

WHEREAS, Respondent initiated action to confront and correct the problem which led to the Florida Board's action; and

WHEREASE, the underlying act resulting in the Florida Board's act was a one time occurrence, the abuse of the drug valium, and Respondent has successfully completed a rehabilitation program, and a Board approved psychiatric specializing in drug addiction has so attested that Respondent has no present problems with drug abuse; and

WHEREAS, State and Federal policies are such to foster confidentiality in cases where an individual has successfully dealt with a drug program in order to enable the individual to successfully re-enter the work place; and

WHEREAS, Respondent has voluntarily resigned his license in Florida, and has entered a new career which does not necessitate his having a pharmacy license; and

WHEREAS, the Board and Respondent mutually desire to resolve this disciplinary action without holding a formal hearing or imposing a sanction on Respondent that would become part of his permanent licensure record with the Board; and

WHEREAS, Respondent expressed his willingness to undertake certain obligations in exchange for the Board's agreement to dismiss the pending charges;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, as hereinafter set forth, the Board and Respondent agree as follows:

1. Respondent shall execute the attached Consent Order simultaneously with the execution of the Agreement;

2. The Board shall defer executing the attached Consent Order; provided, however, that the Board may execute the Consent Order, without prior notice to Respondent or a hearing, upon the occurrence of Respondent's failure to comply with the following conditions during a two (2) year period:

- a. The Respondent shall keep his license in Maryland current for a two (2) year period, after which time Respondent shall voluntarily resign his Maryland license;
- b. Respondent shall not use his Maryland license to practice pharmacy in Maryland or in any other jurisdiction during this two (2) year period;
- c. In the event that Respondent returns to Maryland during this two (2) year period in order to practice pharmacy he shall immediately notify the Board and petition the Board for use of his Maryland license;
- d. Prior to granting Respondent use of his Maryland license during this two (2) year period the Board may request that Respondent is re-evaluated by a Board approved physician and pharamcist as to his competency to practice pharmacy in Maryland;
- e. Prior to granting Respondent use of his license in Maryland during this two (2) year period the Board may hold a hearing to address Respondent's right to practice pharmacy in Maryland and to address the issues that led to Respondent's being disciplined in Florida;
- f. In the event that Respondent returns to Maryland after he has voluntarily resigned his license in order to practice pharmacy Respondent shall immediately notify the Board and petition the Board for reinstatment of his Maryland license;
- g. Prior to reinstating Respondent's Maryland license the Board may request that Respondent is re-evaluated by a Board approved physician and pharamcist as to his competency to practice pharmacy in Maryland;
- h. Prior to reinstating Respondent's Maryland license in Maryland during this two (2) year period the Board may hold a hearing to address Respondent's right to practice pharmacy in Maryland and to address the issues that led to Respondent's being disciplined in Florida;
- i. On the first of February for one year, 1987, and on the first of January of 1988 Respondent shall notify the Board in writing of his present status, including his present address, the identity of his present job, and how Respondent is coping with the problems that led to

his drug problem; and

3. On January 1, 1989, Respondent may petition the Board demonstrating that he has fulfilled the terms of this Agreement, submitting to the Board a status report with his petition;

4. If Respondent has complied with all of the terms of this Agreement, the Board shall dismiss all of the charges set forth in the attached Consent Order, and all records relating to those charges shall be expunged, including the attached Consent Order; however, nothing in this Agreement shall be construed to require the expungement of this Agreement which shall remain in Respondent's permanent licensure record as a professional licensing record not subject to public disclosure under the Maryland Public Information Act, State Government Article, §§10-611 - 629, of the Annotated Code of Maryland because it is not an order of finding that resulted from a formal disciplinary action; and be it further

5. If, in the future, the Board charges the Respondent with a violation of its Act, this Agreement can NOT BE used or considered as evidence against you. However, if the charge results in a the Board's finding of guilty, then this Agreement CAN BE used in considering what penalty, i.e. probation, reprimand, suspension, revocation, may be appropriate.

WITNESS THE HANDS AND SEALS of the parties hereto, the