

IN THE MATTER OF  
JOHN HOELSCHER, P.D.  
License No. 11115

\* BEFORE THE  
\* MARYLAND STATE  
\* BOARD OF PHARMACY

\* \* \* \* \*

ORDER

Based on an unsatisfactory report from the Pharmacists' Education and Assistance Committee ("PEAC")<sup>1</sup> that the Board of Pharmacy ("Board") has reason to believe is accurate, a unanimous quorum of the Board finds that John Hoelscher, P.D., License No. 11115 ("Respondent"), has violated the terms of the attached consent order entered into with the Board on April 29, 1996. ("Consent Order"), by taking unprescribed drugs. Specifically, the Respondent has admitted to taking Soma, a psychoactive prescription drug which impairs judgment necessary to safely practice pharmacy. In addition, urine screens have revealed that the Respondent is taking both Soma and meprobamate, a Schedule IV controlled dangerous substance that is also a psychoactive drug that impairs judgment. Under the terms of the Consent Order the Respondent was required to refrain from the same conduct that which resulted in the voluntary surrender of his license in June 1995, namely the

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<sup>1</sup>The Pharmacists' Education and Assistance Committee was formerly named the Pharmacists' Rehabilitation Committee ("PRC").

taking of unprescribed controlled dangerous substances. In addition, under the Consent Order the Respondent agreed to "forward to the Board a signed, notarized letter authorizing the Board to revoke Respondent's license should the Board receive confirmation of a relapse of the conduct which resulted in the voluntary surrender of Respondent's license in June 1995." (See Consent Order, p. 3). A copy of this letter is attached to this order for the Respondent's signature.

#### FINDINGS OF FACT

The Board makes the following findings of fact:

1. At all times relevant to the facts herein, Respondent was licensed to practice pharmacy in the State of Maryland.
2. At all times relevant to the facts herein, Respondent was the sole pharmacist and co-permit holder of the Medicap Pharmacy at 19 East Frederick Street in Walkersville, Maryland.
3. On June 26, 1995, the Board received a verbal report from the PRC that Respondent was practicing under the influence of unprescribed controlled dangerous substances.
4. The report from PEAC indicated that Respondent had been repeatedly non-compliant with his contract with the PEAC, which required that Respondent refrain from taking unprescribed controlled dangerous substances.

5. The unprescribed controlled dangerous substance which the Respondent was taking was Darvocet N-100, a schedule IV controlled dangerous substance.

6. From June 30, 1995 until April 23, 1996, Respondent abided by the terms of the voluntary surrender of his license to practice pharmacy and abided by his contract with the PEAC.

7. Following a meeting before the Board on April 23, 1996 at which Respondent requested reinstatement of his license, the Board granted reinstatement by way of issuing the attached Consent Order that was signed by Respondent.

8. Under the terms of the Consent Order Respondent was required to enter into a contract with the PEAC and submit to random observed urine screens at least three times weekly, the results to be reported to the PEAC. All positive results were to be reported to the Board immediately. In addition, his progress in group therapy was to be reported by his group therapist.

9. The Respondent was required to "forward to the Board a signed, notarized letter authorizing the Board to revoke Respondent's license should the Board receive confirmation of a relapse of the conduct which resulted in the voluntary surrender of Respondent's license in June 1995." (See Consent Order, p. 3).

10. The Respondent was required to refrain from engaging in the conduct which led to the voluntary surrender of his license and to practice pharmacy in a competent manner in accordance with the Maryland Pharmacy Act.

11. The Consent Order provides "that in the event the Maryland Board of Pharmacy receives an unsatisfactory report which it believes in good faith to be accurate, or in the event that the Maryland Board of Pharmacy finds for any reason in good faith that Respondent has violated any provision of Title 12 of the Health Occupations Article or regulations thereunder or violated any of the conditions of Probation thereunder, the Board may take immediate action, including, but not limited to, revocation or suspension of the Respondent's license to practice pharmacy, prior to giving Respondent an opportunity for a hearing." (Consent Order, p. 5).

12. On May 7, 1997, PEAC President, Tony Tommasello, notified the Board by letter that Respondent had been self-medicating by taking unprescribed Carisoprodol (Soma) and unprescribed meprobamate as demonstrated by positive urine reports for those substances on April 14, 1997 and April 29, 1997. Mr. Tommasello wrote that Respondent's "continued use of self-prescribed psychoactive medications is in direct violation of his contract with the PEAC

and he continues in this behavior despite efforts by the committee to confront him and remind him of his contract requirements." (See letter).

13. In addition to the positive urine screens for Soma and meprobamate (see lab reports), Respondent acknowledged to his group therapist Barbara Harrington that he had used Soma on April 11, 1997 and at various times since November 1996. (See Ms. Harrington's memo dated April 14, 1997 and addressed to Pharmacists' Rehabilitation Committee). In addition, Ms. Harrington reported that on Tuesday, April 8, 1997, Respondent had arrived late for group therapy and appeared to be slurring slightly, and when confronted on this he stated he had been napping. On April 12, 1997, Ms. Harrington noticed that Respondent had obvious difficulty walking and after some discussion admitted that he had used Soma the night before to help him sleep.

14. On May 8, 1997, Respondent admitted to Norene Pease, Executive Director, that he had taken Soma without a prescription and offered no explanation for the positive urine screen regarding meprobamate. Gilbert Cohen, P.D., Mr. Hoelscher's contact with PEAC, also stated to Ms. Pease that Respondent had admitted to taking soma without a prescription.

15. On April 29, 1997, the Board received a letter from Michael

Lerner, M.D., complainant, who stated that he had given his patient a prescription for lorazepam 0.5 mg #15 and that Respondent had instead dispensed a bottle of the drug Librax, containing 15 pills. Dr. Lerner then reported that his patient told him that the Respondent refilled the Librax without his authorization.

16. Gerard A. Delgrippe, Jr., M.D. wrote a letter to the Board on May 8, 1997, in which he complained that Respondent had substituted generic cefaclor for Vantin without his authorization, resulting in the patient's failure to improve. Dr. Delgrippe also complained that Respondent had substituted Tavist syrup for Claritin syrup for a child and had filled a prescription for Bactrim DS for a patient that had told Respondent he was to see Dr. Delgrippe later that day.

#### CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes that it has reason to believe that Respondent has violated the Maryland Pharmacy Act, Health Occupations Article §12-313(4)(ii), 12-313(14), and 12-313(15), and has violated the conditions of probation contained in the Board's Consent Order. The Board bases this conclusion on Respondent's positive urine screens indicating the presence in his system of the unprescribed psychoactive medications Soma and meprobamate (a Schedule IV controlled

dangerous substance), his repeated admissions to taking Soma without a prescription, his slurred speech and difficulty walking, his violation of his contract with the PEAC, his filling and refilling prescriptions without authorization, and his dispensing errors. All of these factors authorize the Board under the Consent Order to "take immediate action, including, but not limited to, revocation or suspension of the Respondent's license to practice pharmacy, prior to giving Respondent an opportunity for a hearing." (See Consent Order, p. 5). The Board finds that immediate suspension of the Respondent's license is required to protect the public health from the dangers presented by Respondent's unauthorized drug use.

#### ORDER

Based on the foregoing findings of fact and conclusions of law, it is hereby

**ORDERED** that the Respondent's license to practice pharmacy is hereby **SUSPENDED** upon Respondent's receipt of this Order; and be it further

**ORDERED** that the Respondent must return his pharmacist's wallet license and wall certificate upon presentation of this

Order; and be it further

ORDERED that the Respondent shall forward to the Board a signed and notarized letter authorizing the Board to revoke his license because the Board has received confirmation of a relapse of the conduct which led to his voluntary surrender (see attached letter for Respondent's signature), unless Respondent requests a hearing in accordance with the Administrative Procedure Act, Annotated Code of Maryland, State Government Article, Sections 10-201 et seq., within ninety days of receipt of this Final Order; and be it further

ORDERED that if the Respondent fails to request a hearing within 90 days of his receipt of this Order, the Board shall issue an Order revoking Respondent's license; and be it further



ORDERED that this document constitutes an order of the Board and is therefore a public document for purposes of public disclosure as required by the Annotated Code of Maryland, State Government Article, §10-617(h).

David Russo P.D.

David Russo, P.D., M.B.A.  
President of the Maryland Board  
of Pharmacy