

IN THE MATTER OF * BEFORE THE MARYLAND
ALFRED M LAWSON, P.D. * BOARD OF PHARMACY

* * * * *

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER

Based upon certain information having come to the attention of the Maryland Board of Pharmacy (the "Board") regarding the pharmacy practice of Alfred M. Lawson, P.D. (the "Respondent"), the Board determined to charge Respondent with violation of Maryland Annotated Code Article 43, §266A(c)(1)(i), (ii) and (xvi) (recodified at §12-311(b)(20), (21) and (22) of the Health Occupations Article of the Maryland Annotated Code). The specific charges are as follows:

The Board may withhold, deny, suspend, revoke, or refuse to renew the license of any pharmacist or issue a reprimand for any of the following causes:

(i) Conviction of a crime involving moral turpitude;

(ii) Conviction of a crime involving professional misconduct respecting the pharmacy laws of this or any other state;

* * *

(xvi) Professional, physical, or mental incompetence.

Respondent was notified of the charges by letter dated September 17, 1981. A hearing was scheduled for October 21, 1981; however, it was postponed at the request of Respondent's counsel. A hearing was subsequently held on January 20 and February 17, 1982 before the following members of the Board: Estelle G. Cohen, B.S., M.A.; Leonard J. DeMino, P.D.; Paul Freiman, P.D.; Bernard B. Lachman, P.D.; Ralph T. Quarles, P.D.; Robert E. Snyder, P.D.; and Phyllis K. Trump, B.F.A. Dr. Lachman presided at each session as President of the Board. A quorum of the Board was present at each session.

Respondent was represented by Bruce C. Bereano, Esquire and Martha F. Rasin, Esquire, his attorneys. Thomas J. Kwiatkowski, Jr., Assistant Attorney General, presented the case against Respondent on behalf of the Board. Ronald S. Gass, Assistant Attorney General and counsel to the Board, was present to advise the Board on procedural matters and rules of evidence. Following a statement by Dr. Lachman regarding the purpose of the hearing, the Board introduced into the record as Board's Exhibit #1 a memorandum, dated October 23, 1981, from Dr. Lachman to Mr. Gass regarding an ex parte communication between Respondent and Dr. Lachman that occurred on October 1, 1981.

As a preliminary matter, Respondent's attorneys moved to dismiss the administrative action against Respondent and introduced a memorandum in support of that motion. After hearing argument from both sides, the Board denied Respondent's Motion to Dismiss.

After opening statements by Mr. Kwiatkowski and Ms. Rasin, Mr. Kwiatkowski introduced the following documentary evidence:

State's Exhibit #1: U.S. District Court Criminal Docket in United States v. Lawson, U.S. Dist. Ct. for the Dist. of Md., Case No. M-80-0391.

State's Exhibit #2: Certified copy of indictment in United States v. Lawson et al., U.S. Dist. Ct. for the Dist. of Md., Criminal No. M-80-0391.

State's Exhibit #3: Certified copy of docket entries in United States v. Lawson et al., U.S. Dist. Ct. for the Dist. of Md., Criminal No. M-80-0391.

Following the introduction of these exhibits into evidence, Mr. Kwiatkowski rested the case on behalf of the Board.

Respondent's attorneys introduced the following documentary evidence:

Respondent's Exhibit #1: Copy of brief for Appellant in United States v. Lawson, U.S. Ct. of App. for the 4th Cir., Case No. 81-5103.

Respondent's Exhibit #2: Copy of excerpts from certified transcript in United States v. Lane et al., U.S. Dist. Ct. for the Dist. of Md., Criminal No. M-80-0391, pp. 86-129.

Respondent's Exhibit #3: Copy of Report of Polygraph Examination prepared by Billy H. Thompson, dated January 14, 1982.

Respondent's Exhibit #4: Copy of letter from Paul Freiman, R.Ph., Maryland Board of Pharmacy to Mr. Alfred M. Lawson, dated November 25, 1977.

Respondent's Exhibit #5: Booklet entitled "The defendant, Alfred M. Lawson, prepared the attached report which he requested be submitted to the Court", no date.

Respondent's Exhibit #6: Copy of journal article: Keown, Gumbhir & Vaughn, Prescription Fraud, NS21 American Pharmacy 15, 15-19 (Dec., 1981).

Respondent's Exhibit #7: Letter from Sue Boe, Assistant Vice President, Consumer Affairs, Pharmaceutical Manufacturers Association, to Alfred Lawson, R.Ph., dated April 7, 1981.

Respondent's Exhibit #8: Letter from William Webber, R.Ph., Professional Information, Astra Pharmaceutical Products, Inc., to A.M. Lawson, dated December 8, 1981.

Respondent's Exhibit #9: Copy of certified transcript of United States v. Lane et al., U.S. Dist. Ct. for the Dist of Md., Criminal No. M-80-0391, vols. 1-9.

Respondent's Exhibit #10: Copy of Appellee's Brief in United States v. Lawson, U.S. Ct. of App. for the 4th Cir., Case No. 81-5103.

Respondent's attorneys also called the following witnesses:
Marvin Freedenberg, P.D.; Marvin Schneider, M.D.; Billy H.

Thompson, M.A.; and Respondent who testified on his own behalf.
After closing arguments by Mr. Kwiatkowski, Ms. Rasin and Mr. Bereano, the hearing was adjourned.

FINDINGS OF FACT

The Board finds:

1. That Respondent is licensed to practice pharmacy in Maryland.
2. That Respondent has been a pharmacist for the past thirty-five (35) years, graduating from pharmacy school in 1947.
3. That at all times relevant to this Order, Respondent was part-owner of Lawson & Sons Pharmacy in Hyattsville, Maryland and Fenwick Pharmacy in Ocean City, Maryland.
4. That on January 21, 1981 Respondent was found guilty of and convicted of one (1) count of conspiracy to distribute unlawfully large quantities of Schedule II Narcotic and Non-Narcotic Drug Controlled Substances in violation of 21 U.S.C. §846 and 21 C.F.R. §1306.04(a) (Count 1) and eighteen (18) counts of unlawfully distributing quantities of Schedule II Narcotic and Non-Narcotic Drug Controlled Substances (Counts 2 through 8 and 12 through 22) in violation of 21 U.S.C. §841(a)(1) and 18 U.S.C. §2. United States v. Lawson et al., United States Dist. Ct. for the Dist. of Md., Criminal No. M-80-0391 (Jan. 21, 1981).
5. That on March 31, 1981, the federal court sentenced Respondent to five (5) years imprisonment on Count 1; however, all but 179 days of that sentence was suspended on the condition that Respondent be confined in a jail-type or treatment institution, and Respondent placed on probation for five (5) years to commence upon Respondent's release from confinement upon the usual terms of probation and subject to the following special conditions:
 - a. That Respondent perform three hundred hours (300) of community service to be approved by the Probation Department, and

b. That Respondent comply with all state, federal, and local laws.

6. That on March 31, 1981, the federal court also sentenced Respondent to the same term of imprisonment and probation specified in Paragraph 5 as to each of Counts 2 through 8 and 12 through 22. The sentence and period of probation are to run concurrently with the sentence imposed as to Count 1, making a total term of five (5) years imprisonment and five (5) years probation.

7. That the jury found Respondent not guilty as to Counts 9, 10, and 11, and a judgment of acquittal was entered on those counts.

8. That by order of the federal court on April 10, 1981, the foregoing sentence was stayed, and Respondent was permitted to remain free on bond pending the outcome of his appeal to the United States Court of Appeals for the Fourth Circuit. United States v. Lawson, Case No. 81-5103.

9. That Respondent was convicted of filling or conspiring to fill a large number of prescriptions for fictitious persons between 1976 and 1979 resulting in the distribution of 50,960 dosage units of Dilaudid (Hydromorphone), a Schedule II narcotic drug controlled substance; 6,405 dosage units of Preludin (Phenmetrazine), a Schedule II non-narcotic drug controlled substance; and 4,770 dosage units of Tuinal (Amobarbital and Secobarbital), a Schedule II non-narcotic drug controlled substance.

10. All of these fraudulent prescriptions were filled at either Lawson & Sons Pharmacy or Fenwick Pharmacy by either Respondent or the pharmacist-manager of Lawson & Sons Pharmacy, an indicted co-conspirator.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, a two-thirds majority of the Board concludes:

1. That the 1981 conviction of Respondent of one (1) count of conspiracy to distribute drug controlled substances and eighteen (18) counts of distributing drug controlled substances constitutes a "conviction" pursuant to Maryland Annotated Code Article 43, §266A(c)(2) of the Maryland pharmacy statute (recodified at §12-311(a) of the Health Occupations Article).
2. That Respondent was convicted of a crime involving moral turpitude, namely one (1) count of conspiracy to distribute controlled dangerous substances and eighteen (18) counts of distributing controlled dangerous substances.
3. That Respondent was convicted of a crime involving professional misconduct respecting the pharmacy laws of this or any other state.
4. That based on his extensive experience as a pharmacist, Respondent knew or should have known that the prescriptions he filled or conspired to fill between 1976 and 1979 for huge quantities of narcotic and non-narcotic Schedule II drug controlled substances were for illicit purposes and that his conduct during that time was below the standards of a competent practitioner of pharmacy.

Accordingly, the Board, by a majority vote, hereby adjudicates Respondent GUILTY of violating Maryland Annotated Code Article 43, §266A(c)(1)(i), (ii) and (xvi) (recodified at §12-311(b)(20), (21) and (22) of the Health Occupations Article).


ORDER

Upon the foregoing Findings of Fact and Conclusions of Law, it is this 14th day of May, 1982, by a two-thirds majority of the members of the Board considering this case,

ORDERED that Respondent's license to practice pharmacy in Maryland is hereby REVOKED; and be it further

ORDERED that this Order shall take effect thirty (30) days from the date of this Order; and be it further

ORDERED that five (5) years from the date of this Order the Board will entertain a petition for reinstatement of Respondent's license to practice pharmacy in Maryland. If the Board determines that complete reinstatement would not be appropriate at that time, it may impose any conditions or restrictions on Respondent it deems appropriate.


Paul Freiman, P.D.

Secretary
Maryland Board of Pharmacy