

IN THE MATTER OF * * * BEFORE THE
GARY A. LESSER, P.D. * * * MARYLAND STATE BOARD
* * * OF PHARMACY
* * * * *

FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

Upon certain information coming to the attention of the State Board of Pharmacy (the "Board"), the Board requested that the Department of Health and Mental Hygiene investigate the pharmaceutical practice of Gary A. Lesser (the "Respondent"). After considering the various reports, the Board determined to charge Respondent pursuant to Health Occupations Article §12-311(b) (4), (7) (14).

(4) "is addicted to any controlled dangerous substance . . .".

(7) "willfully fails to file or record any report that is required by law", and

(14) "without first having received a written or oral prescriptions for the drugs from an authorized prescriber, dispenses any drug for which a prescription is required".

Appropriate notice of the charge and the grounds upon which it was based was given to the Respondent by a letter dated March 8, 1983 and a hearing on the charge was scheduled for May 11, 1983. A prehearing conference was originally scheduled for April 25, 1983; however, it was rescheduled to April 28, 1983 at 9:30 a.m. on request of the Board.

The prehearing conference was attended by Respondent, Respondent's wife, Harry Chase, Esquire, Respondent's attorney, Bernard Lachman, Chair of the Board, Ronald S. Gass, Assistant Attorney General, counsel for the Board and Barbara Hull Foster, Assistant Attorney General, administrative-prosecutor. Respondent and his attorney entered into negotiations with Ms.

Foster and agreed to enter into the following consent order.

FINDINGS OF FACT

The Board finds that:

1. At all times pertinent to the charge, Respondent was a pharmacist licensed and practicing in Maryland, and subject to the jurisdiction of the Board;
2. At all times pertinent to the charge, Respondent was working at Revco Drug Store, No. 1079;
3. Respondent had been advised by his physician to use hycodan syrup, a schedule III drug, to control his cough;
4. From approximately May 1, 1981 to November 11, 1981 Respondent obtained hycodan syrup by taking it from the Revco Drug Store as he determined he needed it. Respondent did not have a prescription for this medication from his treating physician or any other physician;
5. On or about December 30, 1981 Respondent admitted that he had taken hycodan syrup without a prescription.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board hereby:

- (1) dismisses the charges against Respondent based on Health Occupations Article §12-311(b)(4) and
- (2) finds the Respondent has violated §12-311(b)(7) and (14) of the Health Occupations Article.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 3 day of ^{August}~~May~~, 1983, by the unanimous vote of those members of the Board considering this case:

ORDERED that the Respondent is hereby REPRIMANDED and

placed on probation commencing from the date of this Order. Respondent will be subject to the following terms and conditions of probation:

1. Within thirty days from the date of this Order, Respondent shall arrange to be evaluated by the University of Maryland, Alcohol and Drug Abuse Program, directed by Charles Whitfield, M.D. (University of Maryland) or to be evaluated by a psychiatrist who is experienced in dealing with drug abuse problems (impaired professionals) and who is acceptable to and approved by the Board (hereinafter referred to as ("therapist"). Respondent shall bear the cost for this evaluation;
2. Respondent shall give a copy of the Findings of Fact, Conclusions of Law and Order immediately to his therapist;
3. Within thirty days from the evaluation by the therapist the Respondent shall arrange for the therapist to submit an evaluation report. The report shall include the therapist's recommendations, if any, for treatment of Respondent;
4. Respondent shall comply with any and all recommendations made by the therapist in the time suggested by the therapist and agreed to by the Board;
5. In the event that the therapist recommends that Respondent obtain therapy, the Respondent shall arrange for the therapist to submit written quarterly reports indicating that Respondent is making satisfactory progress. The first report shall be submitted to the Board by September 1, 1983. With the Board's approval, after the first year of Respondent's probation the Respondent shall arrange for the therapist to submit bi-annual written reports to the Board indicating that Respondent is making satisfactory progress;
6. If therapy is recommended Respondent shall continue

in therapy until such time as he is discharged from treatment by his therapist. Upon discharge from treatment by his therapist, Respondent shall arrange for his therapist to submit a written discharge report to the Board indicating that Respondent has accomplished the goals set for him by his therapist;

7. In the event that Respondent discontinues therapy prior to his discharge by his therapist, the therapist shall immediately notify the Board;

8. In the event that the therapist at any time reports to the Board that Respondent is incapable of practicing pharmacy, Respondent shall voluntarily discontinue the practice of pharmacy until such a time as the therapist indicates that Respondent is capable of resuming the practice of pharmacy;

9. Respondent shall immediately notify and and all of his pharmacy employers that he has been placed on probation by the Board and inform them about the conditions of his probation;

10. Within thirty (30) days of the date of this Order, Respondent shall submit to the Board written proof that he has notified any and all of his employers of the conditions of probation contained in this Order;

11. Respondent shall arrange for any and all of his employers to submit to the Board written reports every six (6) months evaluating his job performance and describing the nature and duties of his positions. The first such report shall be due on September 1, 1983.

12. Respondent shall notify the Board in the event that he changes jobs, identifying his new employer by name, address, telephone number and describing the new position;

13. Respondent shall notify the Board of his current address. In the event that Respondent moves he shall promptly notify the Board of the change of address or change in telephone

number;

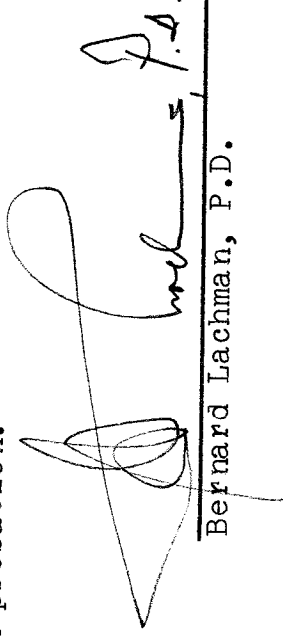
14. Starting on September 1, 1983, Respondent shall send written quarterly reports to the Board describing the progress he felt he has made, what problems he presently faces and how he is coping with those problems. With the Board's approval from September 1, 1984 until the end of Respondent's probation Respondent shall submit similar written bi-annual reports to the Board;

15. Respondent shall refrain from any actions which underlie or were in any way similar to the allegations contained in the charge letter of March 8, 1983; and

16. Respondent shall practice pharmacy in a competent manner and in accordance with the standards set forth in Health Occupations Article, §12-101 and following; and be it further

ORDERED that if Respondent violates any of the foregoing conditions of probation, or if the Board receives an unsatisfactory report from the Respondent's therapist the Board, after notification, a hearing and a determination of violation, may impose any disciplinary action it deems appropriate; and be it further

ORDERED that two years from the date of this Order the Board will entertain a petition for termination of Respondent's probationary status and full reinstatement of his license to practice pharmacy without any conditions or restrictions whatsoever. If the Board determines that termination of the ~~suspension~~ ^{probation} and complete reinstatement would not be appropriate at that time, it may modify one or more of the conditions upon which Respondent was placed on probation.



Bernard Lachman, P.D.

President, State Board of Pharmacy

CONSENT

By this consent, knowing and voluntarily executed by me solely for the purpose of settlement of these administrative proceedings without admission of any of the Findings of Fact, Conclusions of Law and Order contained herein I hereby accept and submit to the Foregoing Findings of Fact and Conclusions of Law and Order.

I acknowledge the validity of the Order as if made after a hearing at which I would have the right to counsel, to confront witnesses against me, to give testimony and call witnesses on my own behalf and to all other substantive and procedural protection provided by law. I also recognize that, by this Consent, I am waiving my right to appeal any adverse ruling of the Maryland State Board of Pharmacy that might have followed such hearing. In addition to waiving all such rights, I acknowledge that I may suffer further disciplinary action against my license to practice pharmacy in the State of Maryland should I fail to fully meet and discharge the above conditions of my probation.

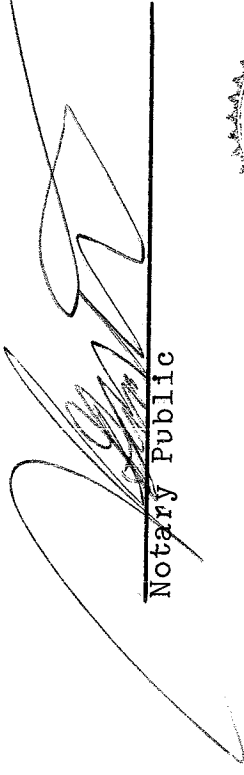


Gary A. Lesser

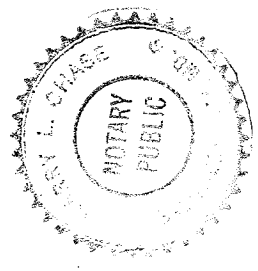
STATE OF MARYLAND)
CITY/COUNTY OF) ss:

I HEREBY CERTIFY that on this 17 day of May, 1983,
before me the subscriber, a Notary Public of the State of
Maryland, personally appeared Gary A. Lesser and made oath in due
form that the foregoing Consent is his voluntary act and deed.

As witness my hand and Notarial Seal.



Notary Public



My Commission expires: May 1, 1987

IN THE MATTER OF

*

BEFORE THE

GARY A. LESSER, P.D.

*

MARYLAND STATE BOARD

* OF PHARMACY

* *

* *

FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

Upon certain information coming to the attention of the State Board of Pharmacy (the "Board"), the Board requested that the Department of Health and Mental Hygiene investigate the pharmaceutical practice of Gary A. Lesser (the "Respondent"). After considering the various reports, the Board determined to charge Respondent pursuant to Health Occupations Article §12-311(b) (4), (7) (14).

(4) "is addicted to any controlled dangerous substance . . .".

(7) "willfully fails to file or record any report that is required by law", and

(14) "without first having received a written or oral prescriptions for the drugs from an authorized prescriber, dispenses any drug for which a prescription is required".

Appropriate notice of the charge and the grounds upon which it was based was given to the Respondent by a letter dated March 8, 1983 and a hearing on the charge was scheduled for May 11, 1983. A prehearing conference was originally scheduled for April 25, 1983; however, it was rescheduled to April 28, 1983 at 9:30 a.m. on request of the Board.

The prehearing conference was attended by Respondent, Respondent's wife, Harry Chase, Esquire, Respondent's attorney, Bernard Lachman, Chair of the Board, Ronald S. Gass, Assistant Attorney General, counsel for the Board and Barbara Hull Foster, Assistant Attorney General, administrative-prosecutor.

Respondent and his attorney entered into negotiations with Ms.

Foster and agreed to enter into the following consent order.

FINDINGS OF FACT

The Board finds that:

1. At all times pertinent to the charge, Respondent was a pharmacist licensed and practicing in Maryland, and subject to the jurisdiction of the Board;
2. At all times pertinent to the charge, Respondent was working at Revco Drug Store, No. 1079;
3. Respondent had been advised by his physician to use hycodan syrup, a schedule III drug, to control his cough;
4. From approximately May 1, 1981 to November 11, 1981 Respondent obtained hycodan syrup by taking it from the Revco Drug Store as he determined he needed it. Respondent did not have a prescription for this medication from his treating physician or any other physician;
5. On or about December 30, 1981 Respondent admitted that he had taken hycodan syrup without a prescription.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board hereby:

(1) dismisses the charges against Respondent based on Health Occupations Article §12-311(b)(4) and

(2) finds the Respondent has violated §12-311(b)(7) and (14) of the Health Occupations Article.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this _____ day of May, 1983, by the unanimous vote of those members of the Board considering this case:

ORDERED that the Respondent is hereby REPRIMANDED and

placed on probation commencing from the date of this Order. Respondent will be subject to the following terms and conditions of probation:

1. Within thirty days from the date of this Order, Respondent shall arrange to be evaluated by the University of Maryland, Alcohol and Drug Abuse Program, directed by Charles Whitfield, M.D. (University of Maryland) or to be evaluated by a psychiatrist who is experienced in dealing with drug abuse problems (impaired professionals) and who is acceptable to and approved by the Board (hereinafter referred to as ("therapist"). Respondent shall bear the cost for this evaluation;
2. Respondent shall give a copy of the Findings of Fact, Conclusions of Law and Order immediately to his therapist;
3. Within thirty days from the evaluation by the therapist the Respondent shall arrange for the therapist to submit an evaluation report. The report shall include the therapist's recommendations, if any, for treatment of Respondent;
4. Respondent shall comply with any and all recommendations made by the therapist in the time suggested by the therapist and agreed to by the Board;
5. In the event that the therapist recommends that Respondent obtain therapy, the Respondent shall arrange for the therapist to submit written quarterly reports indicating that Respondent is making satisfactory progress. The first report shall be submitted to the Board by September 1, 1983. With the Board's approval, after the first year of Respondent's probation the Respondent shall arrange for the therapist to submit bi-annual written reports to the Board indicating that Respondent is making satisfactory progress;
6. If therapy is recommended Respondent shall continue

in therapy until such time as he is discharged from treatment by his therapist. Upon discharge from treatment by his therapist, Respondent shall arrange for his therapist to submit a written discharge report to the Board indicating that Respondent has accomplished the goals set for him by his therapist;

7. In the event that Respondent discontinues therapy prior to his discharge by his therapist, the therapist shall immediately notify the Board;

8. In the event that the therapist at any time reports to the Board that Respondent is incapable of practicing pharmacy, Respondent shall voluntarily discontinue the practice of pharmacy until such a time as the therapist indicates that Respondent is capable of resuming the practice of pharmacy;

9. Respondent shall immediately notify and all of his pharmacy employers that he has been placed on probation by the Board and inform them about the conditions of his probation;

10. Within thirty (30) days of the date of this Order, Respondent shall submit to the Board written proof that he has notified any and all of his employers of the conditions of probation contained in this Order;

11. Respondent shall arrange for any and all of his employers to submit to the Board written reports every six (6) months evaluating his job performance and describing the nature and duties of his positions. The first such report shall be due on September 1, 1983.

12. Respondent shall notify the Board in the event that he changes jobs, identifying his new employer by name, address, telephone number and describing the new position;

13. Respondent shall notify the Board of his current address. In the event that Respondent moves he shall promptly notify the Board of the change of address or change in telephone

number;

14. Starting on September 1, 1983, Respondent shall send written quarterly reports to the Board describing the progress he felt he has made, what problems he presently faces and how he is coping with those problems. With the Board's approval from September 1, 1984 until the end of Respondent's probation Respondent shall submit similar written bi-annual reports to the Board;

15. Respondent shall refrain from any actions which underlie or were in any way similar to the allegations contained in the charge letter of March 8, 1983; and

16. Respondent shall practice pharmacy in a competent manner and in accordance with the standards set forth in Health Occupations Article, §12-101 and following; and be it further

ORDERED that if Respondent violates any of the foregoing conditions of probation, or if the Board receives an unsatisfactory report from the Respondent's therapist the Board, after notification, a hearing and a determination of violation, may impose any disciplinary action it deems appropriate; and be it further

ORDERED that two years from the date of this Order the Board will entertain a petition for termination of Respondent's probationary status and full reinstatement of his license to practice pharmacy without any conditions or restrictions whatsoever. If the Board determines that termination of the suspension and complete reinstatement would not be appropriate at that time, it may modify one or more of the conditions upon which Respondent was placed on probation.



Bernard Lachman, P.D.

President, State Board of Pharmacy

CONSENT

By this consent, knowing and voluntarily executed by me solely for the purpose of settlement of these administrative proceedings without admission of any of the Findings of Fact, Conclusions of Law and Order contained herein I hereby accept and submit to the Foregoing Findings of Fact and Conclusions of Law and Order.

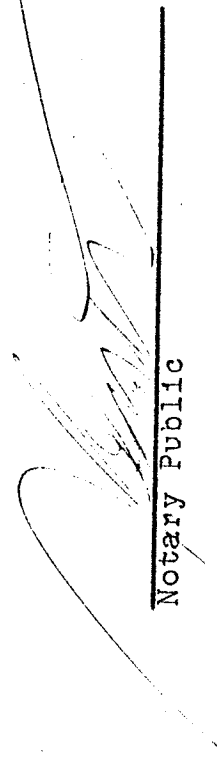
I acknowledge the validity of the Order as if made after a hearing at which I would have the right to counsel, to confront witnesses against me, to give testimony and call witnesses on my own behalf and to all other substantive and procedural protection provided by law. I also recognize that, by this Consent, I am waiving my right to appeal any adverse ruling of the Maryland State Board of Pharmacy that might have followed such hearing. In addition to waiving all such rights, I acknowledge that I may suffer further disciplinary action against my license to practice pharmacy in the State of Maryland should I fail to fully meet and discharge the above conditions of my probation.

Gary A. Lesser

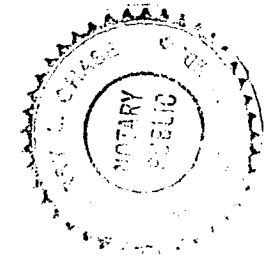
STATE OF MARYLAND)
CITY/COUNTY OF) ss:

I HEREBY CERTIFY that on this 17 day of May, 1983,
before me the subscriber, a Notary Public of the State of
Maryland, personally appeared Gary A. Lesser and made oath in due
form that the foregoing Consent is his voluntary act and deed.

As witness my hand and Notarial Seal.



Notary Public



My Commission expires: 12/31/87