

IN THE MATTER OF
JOHN SCHLOSBERG, P.D.
LICENSE NO. 15210

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BEFORE THE
STATE BOARD
OF PHARMACY

Respondent

Case Number: 99-901

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FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Ann. § 12-101, *et seq.*, (2000 Repl. Vol. and 2004 Supp.) (the "Act"), the Board charged John Schlosberg, P.D., (the "Respondent"), with a Violation of Probation of certain provisions of Probation and of his Consent Order of Reinstatement signed on August 16, 2000.

The Respondent was given notice of the issues underlying the violations by notice dated February 22, 2005. Accordingly, a Case Resolution Conference was held on March 16, 2005, and was attended by Mayer Handelman, P.D., and Mark Levi, P.D., Board members; LaVerne Naesea, Executive Director of the Board; and, Linda Bethman, Assistant Attorney General, Counsel to the Board. Also in attendance were the Respondent, who waived his right to an attorney, and, Roberta Gill, Assistant Attorney General, Administrative Prosecutor.

Following the Case Resolution Conference, despite the State's protest, the Respondent and the Board agreed to the following, over the State's continuing objection:

FINDINGS OF FACT

Background

1. The Respondent is licensed as a pharmacist in Maryland. The Respondent was first licensed on October 21, 1998. The Respondent's license expires on January 31, 2006.

2. Prior to April 1999, while the Respondent was employed as a dispensing pharmacist at K-Mart in Glen Burnie, Maryland, the Respondent was observed on videotape by K-Mart loss prevention personnel. At that time, he was observed pouring liquid hydrocodone into small bottles. Subsequent investigation revealed that the Respondent had diverted a significant amount of Controlled Dangerous Substances (CDS) for his personal use and taken other items from the store without paying for them.

3. On or about April 4, 1999, the Respondent admitted in a written statement that he had diverted \$1,134 of CDS for his own use and had stolen \$400 of general merchandise from K-Mart. On that date, K-Mart terminated the Respondent.

4. On or about April 8, 1999, the Respondent signed a rehabilitation contract with the Pharmacist Education and Assistance Committee (PEAC), and began therapy with John Davis, Ph.D.

5. On or about May 17, 1999, K-Mart reported the Respondent to the Board. Subsequently, the Board contacted the Respondent on June 17, 1999, and asked him to voluntarily surrender his license, which he did, via a letter dated July 12, 1999.

6. On June 21, 2000, the Respondent appeared before the Board with his PEAC monitor, requesting reinstatement of his license. That request was opposed by the Administrative Prosecutor, Roberta Gill. Thereafter, the Board referred the Respondent for

an independent psychiatric evaluation and required that the Respondent personally submit a petition for reinstatement, as opposed to PEAC's submitting one. Ellen McDaniel, M.D., evaluated the Respondent and concluded that with continuation of treatment, the Respondent could safely return to the practice of pharmacy.

7. Based upon said report, the Board and the Respondent entered into a Consent Order of Reinstatement, dated August 16, 2000. That Order placed the Respondent on indefinite probation, subject to the following conditions.

FINDINGS AS TO THE VIOLATION OF BOARD ORDER AND PROBATION

8. The Order stated, in part, that the Respondent shall:

A. Remain in therapy under Dr. Davis' care or another therapist who is a licensed mental health professional and shall follow all treatment recommendations until termination of therapy is recommended by the therapist;

B. Assure that his therapist submits quarterly reports to the Board regarding his progress in therapy;

C. Be monitored by PEAC and he shall abide by all recommendations made by PEAC;

D. Notify his employer that his license is on probation and that the employer must provide the Board with quarterly reports detailing his work habits and any complaints or incidents. The Respondent is solely responsible to insure that the employer submits these reports to the Board in a timely fashion. The Respondent shall provide the employer with a copy of this Consent Order of Reinstatement and shall insure that the employer notifies the Board the Consent Order has been received by the employer and that the employer agrees to abide by the Consent

Order's probationary conditions regarding the supervision of the Respondent and the submission of quarterly reports to the Board.

9. By letter dated March 26, 2001, the Board's then Compliance Officer, Michelle Andoll, P.D., informed the Respondent that he was out of compliance in that he was required to: ensure that his therapist submitted quarterly reports to the Board regarding his progress; notify his employer that his license is on probation and have his employer submit quarterly reports detailing his work habits and any complaints or incidents. On April 26, 2001, the Respondent acknowledged that he had received Ms. Andoll's letter and provided her with a new address.

10. On June 21, 2001, HMIS wrote to the Board informing it that the Respondent's employment had been terminated on June 6, 2001, because the Respondent failed to provide urine for testing, as required.

11. On April 30, 2002, the Board received a letter from NeighborCare pharmacy informing it that the Respondent's performance was not acceptable, which resulted in a corrective action notice on December 2, 2001 and March 20, 2002, suspension on March 26, 2002, and termination on March 29, 2002 for inappropriate behavior.

12. PEAC sent a report covering the period of March 2002-June 2002, which stated that the Respondent failed to attend any session in March 2002 and attended only one therapy session in April 2002.

13. On December 10, 2004, Cardinal Health in Timonium, Maryland was inspected during which the procedures used in the compounding of Cardiolite and a blood product called In-Tropolone Leukocyte were questioned. During the course of that inspection, the license status of all of the pharmacists working at the Timonium facility was

checked and it was discovered that the Respondent was found to be working under an indefinite probationary status since August 2000, but had failed to notify his employer of such or ensure that his employer sent in quarterly reports.

14. By failing to meet the following requirements, the Respondent is in violation of the Consent Order of Reinstatement and in violation of the conditions of Probation in that for three years:

A. The Respondent did not remain in therapy until termination of therapy as recommended by the therapist and did not attend therapy on a scheduled basis, as required;

B. The Respondent did not assure that his therapist submit quarterly reports to the Board regarding his progress, as required;

C. The Respondent did not abide by all recommendations made by the PEAC contract, including failure to submit random observed urines and, in fact, despite being obligated under the Consent Order of Reinstatement to do so, the Respondent failed to extend his PEAC contract;

D. The Respondent failed to notify the Board of the change in his employment and failed to provide that employer with a copy of the Order, as well as to ensure that quarterly reports were submitted by his employer and, furthermore, deliberately failed to advise his employer of his probationary status because he feared adverse repercussions would result from that information;

E. The Respondent failed to submit quarterly progress reports, as required.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated all of the Conditions of Probation and of the Consent Order of Reinstatement signed on August 16, 2000.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the Board and the Respondent, it is this 21st day of September, 2005, by a majority of a quorum of the Board,

ORDERED that the Respondent's license to practice pharmacy is hereby **SUSPENDED** for a period of six months with all but three months Stayed, subject to the following conditions:

1. The Respondent shall enter into a contract with the Pharmacists Education and Rehabilitation Committee (PEAC), which contract shall include random urine screening at least monthly;
2. The Respondent shall not practice in a pharmacy as a pharmacy technician or in any other unlicensed capacity during the active suspension;
3. The Respondent may petition the Board to lift the Suspension after three months, provided he has complied with the terms of the Suspension; and
be it further

ORDERED that upon the lifting of the Suspension, the Respondent shall be placed on indefinite Probation, with any terms that the Board feels are appropriate to insure compliance with the Board's Order.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

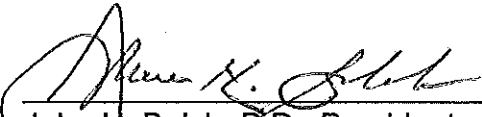
ORDERED that should the Board receive information that the Respondent has violated the Act or if the Respondent violates any conditions of this Order or of Suspension/Probation, after providing the Respondent with notice, the Board may take further disciplinary action against the Respondent prior to a hearing, including lifting the suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation/Suspension shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and be it further

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 1999), this document consists of the contents of the

foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.



John H. Balch, P.D., President
State Board of Pharmacy

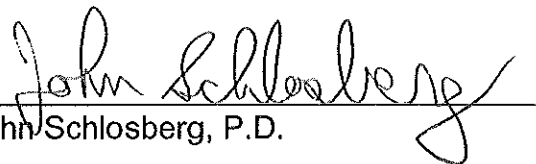
CONSENT OF JOHN SCHLOSBERG, P.D.

I, John Schlosberg, by affixing my signature hereto, acknowledge that:

1. I have decided not to be represented by an attorney;
2. I am aware that without my consent, my license to practice pharmacy in this State cannot be limited except pursuant to the provisions of § 12-313-of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2004 Repl. Vol.).
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 12-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 12-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice pharmacy in the State of Maryland.

9-16-05
Date


John Schlosberg, P.D.

STATE OF Maryland
CITY/COUNTY OF Baltimore Co. :

I HEREBY CERTIFY that on this 16th day of September, 2005, before me, Melissa Green, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared John Schlosberg, License Number 15210, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Melissa Green
Notary Public

My Commission Expires: 10/04/05

