

IN THE MATTER OF * BEFORE THE MARYLAND
MICHAEL WEISBURGH, P.D. * STATE BOARD OF
LICENSE NO. 16582 * PHARMACY

* * * * *

**CONSENT ORDER IN LIEU OF
CONTINUED SUMMARY SUSPENSION**

Background

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. §§ 12-101, *et seq.*, (2005 Repl. Vol.), and the Maryland Administrative Procedure Act, Md. Code Ann., Health Occ. §§ 10-201 *et seq.*, the Board issued an Order for Summary Suspension dated March 13, 2013, in which it summarily suspended the pharmacist's license held by Michael Weisburgh, P.D. (the "Respondent"). Specifically, the Board found reliable evidence demonstrated that the public health, safety or welfare imperatively required emergency action. pursuant to Md. Code Ann., State Gov't §10-226(c)(2)(2009 Repl. Vol.).

On April 17, 2013, the Board held a hearing before a quorum of the Board to allow the Respondent the opportunity to show cause why the Respondent did not pose an imminent threat to the health, safety and welfare of the public. In lieu of a continued summary suspension, the Respondent and the Board agreed to resolve the matter by way of this Consent Order with the terms contained herein.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was originally licensed to practice pharmacy in Maryland on September 18, 2002. The Respondent's license expires on April 30, 2014.

2. At all times relevant herein, the Respondent was employed as a pharmacist at a community pharmacy in Calvert County, Maryland (“Pharmacy A”).
3. In or around October 2012, the Board was notified by the Pharmacy Compliance Manager of Pharmacy A that the Respondent had stolen a controlled dangerous substance from Pharmacy A.
4. The Pharmacy Compliance Manager reported to the Board that on October 5, 2012 and October 8, 2012, the Respondent was caught on a surveillance camera removing drugs from the pharmacy shelf and placing the drugs in his pocket.
5. The surveillance camera was placed in the pharmacy area after recent audits showed shortages of Buprenorphine.
6. When confronted by the pharmacy supervisor, the Respondent admitted that he had taken Buprenorphine 8 mg, a controlled dangerous substance, from the pharmacy for his personal use.
7. The Respondent took approximately \$1,280 of Buprenorphine from Pharmacy A.
8. The Respondent was terminated from Pharmacy A due to the Respondent’s diversion of controlled dangerous substances from Pharmacy A.
9. Criminal charges are pending against the Respondent in Calvert County Circuit Court for: (1) theft-scheme \$1,000-\$10,000; and, (2) CDS: possession – not marijuana (Case Number 04K13000163).
10. The Respondent entered into a substance abuse treatment contract with the Pharmacists Education and Advocacy Council (“PEAC”) on November 3, 2012.
11. The Respondent completed an intensive outpatient program at Calvert Substance Abuse Services on February 27, 2013. The Respondent is currently receiving aftercare treatment

at Calvert Substance Abuse Services to include group therapy, individual therapy and urinalysis.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that the Respondent is subject to disciplinary action in accordance with Md. Code Ann., Health Occ. §§ 12-313(b)(15), (21) and (25), and COMAR 10.34.10.01A(1) and B(3).

ORDER

Based on agreement of the parties, it is this 27th day of June, 2013, by an affirmative vote of the Board, hereby:

ORDERED that the Respondent's license be **SUSPENDED** for **ONE (1) YEAR**, beginning March 13, 2013; and be it further,

ORDERED that during the suspension period, the Respondent may not work as a pharmacy technician, or in any other capacity, in a pharmacy or other setting that stores, distributes or dispenses prescription medication; and be it further,

ORDERED that during the suspension period, the Respondent shall comply with any and all licensure renewal requirements; and be it further,

ORDERED that after March 13, 2014, the Respondent may petition to lift the suspension of his license provided that the Respondent:

- (1) Has fully complied with all terms of suspension;
- (2) Submits to a substance abuse evaluation by a Board-appointed evaluator; and
- (3) Submits evidence of participation and compliance with all requirements of a 12-step substance abuse treatment program which includes, at minimum, routine urine screenings, and individual and group therapy sessions; and be it further,

ORDERED that in the event that the Board lifts the suspension of the Respondent's license, the Board shall place the Respondent's license on immediate PROBATION for THREE (3) YEARS with terms and conditions it deems appropriate based on the Respondent's compliance with this order, the evaluation, and other relevant information received by the Board; and be it further,

ORDERED that the Respondent's execution of this Consent Order shall constitute a release of any and all medical records, substance abuse treatment records, and psychological/psychiatric records pertaining to the Respondent to the Board in complying with the terms and conditions set forth herein. Further, the Respondent agrees and consents to the release by the Board of any information or data produced in relation to this Consent Order to any treatment provider; and be it further,

ORDERED that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Consent Order; and be it further,

ORDERED that in the event the Board finds for any good faith reason that the Respondent has violated any of the conditions of suspension herein, or in the event that the Board finds for any good faith reason that the Respondent has relapsed or committed a violation of Title 12 of the Health Occupations Article or regulations adopted thereunder, the Board may take further disciplinary action against the Respondent, after notice and an opportunity for a hearing; and be it further,

ORDERED that the Respondent shall bear the expenses associated with this Order; and be it further,

ORDERED that this document constitutes a formal order of the Maryland State Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to the Public Information Act., State Gov't § 10-611 *et seq.* and COMAR 10.34.01.12G(3).

6/27/2013
Date

for Michael D. Souranis
Michael Souranis, P.D.
President, Board of Pharmacy

CONSENT

By signing this Consent, I hereby consent to the foregoing Findings of Fact and Conclusions of Law, and agree to be bound by the foregoing Consent Order and its conditions.

1. By this Consent, I submit to the foregoing Consent Order as a resolution of this matter. By signing this Consent, I waive any rights I may have had to contest the findings of fact and conclusions of law contained in this Consent Order.

2. I acknowledge the validity of this Consent Order as if it were made after an evidentiary hearing in which I would have had the right to counsel, to confront witnesses on my own behalf, and to all other substantial procedural protections provided by law.

3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.

4. I acknowledge that, by entering into this Consent Order, I am waiving my right to appeal any adverse ruling of the Board that might have followed an evidentiary hearing.

5. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

6/15/13
Date

Michael Weisburgh
Michael Weisburgh, P.D.

STATE OF MARYLAND
COUNTY/CITY OF Calvert:

I hereby certify that on this 5 day of June, 2013, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared MICHAEL WEISBURGH, and made an oath in due form that the foregoing Consent was his voluntary act and deed.

Alicia J. Denton

Notary Public

My commission expires: 10/20/14

