

4/27/83

IN THE MATTER OF * * * BEFORE THE
DAVID J. CURRY, P.D. * * * MARYLAND STATE BOARD
* * * OF PHARMACY
* * * * *

FINDINGS OF FACT
CONCLUSION 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 David J. Curry (the "Respondent"). After considering the various reports, the Board determined to charge Respondent pursuant to Health Occupations Article §12-312(4),

"is addicted to any controlled dangerous substance . . .".

Appropriate notice of the charge and the grounds upon which it was based was given to the Respondent by a letter dated January 24, 1983 and a hearing on the charge was scheduled for March 16, 1983. A prehearing conference initially was scheduled for February 4, 1983; however, it was rescheduled to March 1, 1983 on request of Respondent's counsel.

The prehearing conference was attended by Respondent, Richard Shapiro, Esquire, Respondent's attorney, Bernard Lachman, President 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 the Board and agreed to enter into the following consent order.

FINDINGS OF FACT

*** EXHIBIT A ***

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 Commission;
2. At all times pertinent to the charge, Respondent was working at the Randallstown K-Mart Store;
3. On June 22, 1982 Respondent was seen putting a needle away on a shelf in a suspicious manner;
4. After questioning Respondent admitted to the security manager that he had been using cocaine and that he had used cocaine for at least three months prior to June 22, 1982;
5. On June 22, 1982, Respondent was terminated from his position as pharmacist at the Randallstown K-Mart Store because of his drug use;
6. On July 17, 1982, Respondent voluntarily sought admission to the EPOCH House program of drug abuse rehabilitation where he remained until his discharge from the program on December 8, 1982;

CONCLUSION OF LAW

Based on the foregoing Findings of Fact, the Commission hereby finds the Respondent has violated 12-311(4) of the Health Occupations Article, ("is addicted to any controlled dangerous substance").

ORDER

Based upon the foregoing Findings of Fact and Conclusion of Law, it is this 27th day of April, 1983, by the unanimous vote of those members of the Commission considering this case:

ORDERED that the Respondent's license is hereby SUSPENDED, said suspension being immediately STAYED and Respondent is placed on probation commencing from the date of

this Order. Respondent will be subject to the following terms and conditions of probation:

1. That within thirty days of the date of this Order, Respondent shall either enter University of Maryland, Alcohol and Drug Abuse Program, directed by Charles Whitfield, M.D. ("University of Maryland") or start therapy with a psychiatrist who is experienced with dealing with drug abuse problems and who is acceptable to and approved by the Board (hereinafter referred to as "therapist");
2. Respondent shall give a copy of the Findings of Fact, Conclusion of Law and Order immediately to his therapist;
3. Within thirty days from the start of therapy either with the University of Maryland or with the approved Board psychiatrist, the therapist shall submit an evaluation report of Respondent to the Board. In the report the therapist shall evaluate Respondent's capabilities to presently practice pharmacy and outline his/her treatment plan for the Respondent. In this initial report to the Board the therapist shall acknowledge that he/she understands his/her responsibilities to the Respondent and that in the event Respondent discontinues therapy prior to discharge that the therapist shall immediately notify the Board;
4. Respondent shall adhere to and follow any and all recommendations and treatment plans proposed by his therapist.
5. In the event that Respondent's therapist does not consider Respondent capable of practicing pharmacy, the therapist shall immediately notify the Board and Respondent shall immediately discontinue the practice of pharmacy.
6. After the submission of the first written report from the Respondent's therapist, the Respondent shall arrange for the therapist to submit written quarterly reports indicating that Respondent continues to make satisfactory progress towards dealing

with the problems that lead to his abuse of drugs. The first report shall be submitted to the Board by June 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;

7. Respondent shall continue in therapy until such time as he is discharged from treatment by his therapist;

8. Upon discharge from treatment by his therapist, Respondent shall arrange for his therapist to promptly submit a written discharge report to the Board;

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

10. Respondent shall immediately notify all his employers of his drug problem.

11. Respondent shall notify all his employers that he has been placed on probation by the Board and inform his employers as to the terms and conditions of probation;

12. Respondent shall arrange for his employers to submit quarterly reports to the Board evaluating Respondent's job performance and describing the nature and duties of his position. These reports shall commence on June 1, 1983. With the Board's approval, after the first year of probation similar reports shall be submitted on a bi-annual basis;

13. 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;


14. 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;

15. Starting on June 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 June 1, 1983 until the end of Respondent's probation Respondent shall submit similar written bi-annual reports to the Board;

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, 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.



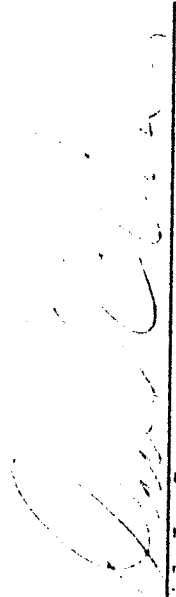
Bernard Lachman
President, State Board of Pharmacy

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.

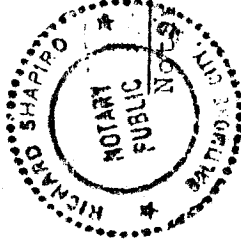


David J. Curry

STATE OF MARYLAND)
CITY/COUNTY OF) ss:

I HEREBY CERTIFY that on this 14th day of March, 1983, before me the subscriber, a Notary Public of the State of Maryland, personally appeared David J. Curry 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:

7/1/81