

IN THE MATTER OF

* BEFORE THE

STEVEN J. MARCALUS, P.D.

* MARYLAND STATE

License No. 9830

* BOARD OF PHARMACY

* * * * *

AM

CONSENT ORDER

This Consent Order is entered into by and between the Maryland State Board of Pharmacy and Steven J. Marcalus, P.D.

INTRODUCTION

Based on information coming to its attention, the Maryland Board of Pharmacy (the "Board") determined to charge Steven J. Marcalus, P.D. (the "Respondent") a person licensed to practice pharmacy in the State of Maryland, with violation of §12-311(b)(5), (6) and (23) of the Health Occupations Article, Maryland Annotated Code, which provides that, subject to the hearing provisions of §12-312 of the Act, the Board may reprimand a licensee, place a licensee on probation, suspend or revoke the license of any licensee, or, under §12-311.1 of the Act, may impose a monetary penalty if the licensee:

Submits a false statement to collect a fee. §12-311(b)(5) of the Act.

Willfully makes or files a false report or record as part of practicing pharmacy. §12-311(b)(6) of the Act.

Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section. §12-311(b)(23) of the Act.

Appropriate notice of the charges and the grounds upon which they were based were sent to Respondent on November 13, 1987 and on March 11, 1988.

A prehearing conference was held by speaker telephone in Room 300 by telephone conference call on September 11, 1990. Present in Room 300, 4201 Patterson Avenue, Baltimore, Maryland, for the prehearing conference and sharing a speaker phone were: Ralph Small, P.D., a member of the Board; Roslyn Scheer, Executive Director of the Board, and Alice D. Ike, Assistant Attorney General, Administrative Prosecutor. Respondent was not physically present but attended the prehearing conference by telephone conferenced to the speaker phone in Room 300, 4201 Patterson Avenue, Baltimore, Maryland. At the prehearing conference, Respondent, having waived his right to counsel, agreed to enter into the following Findings of Fact, Conclusions of Law and Consent Order.

FINDINGS OF FACT

1. Respondent is and was at all times relevant to these charges a pharmacist licensed by the Board to practice pharmacy in the State of Maryland.
2. At all times relevant to these charges, Respondent was licensed to practice pharmacy in the State of Delaware.
3. At all times relevant to these charges, Respondent was licensed to practice pharmacy in the State of Pennsylvania.

4. At all relevant times, Respondent practiced pharmacy at the Brandywine Drug Center, 4605 North Market Street, Wilmington, Delaware.

5. By complaint dated August 1, 1987, the Board of Pharmacy of the State of Delaware (the "Delaware Board") charged Respondent with several violations of Delaware law. Each violation involved the actual practice of pharmacy. A copy of the subsequently amended August 1, 1987 complaint is attached and incorporated by reference at Exhibit 1.

6. By Order dated September 9, 1987, the Delaware Board found that Respondent had admitted all the factual allegations in the amended August 1, 1987 complaint and intentionally violated Delaware law. The September 9, 1987 Order revoked Respondent's license to practice pharmacy in the State of Delaware. A copy of the September 9, 1987 Order signed by the Delaware Board is attached and incorporated by reference as Exhibit 2.

7. Based upon the actions of the Delaware Board, the State of Pennsylvania charged Respondent with violations of Pennsylvania law and, ultimately, suspended Respondent's Pennsylvania license for five years from the date of the Delaware Board's Order. A copy of the Pennsylvania Order is attached and incorporated by reference as Exhibit 3.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent has violated §12-311(b)(5), (6) and (23) of the Health Occupations Article of the Annotated Code of Maryland and is subject to discipline under §12-312 of the Act.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 30th day of October, 1990, by a unanimous vote of those members of the Board considering this case:

ORDERED that Respondent's license to practice pharmacy is hereby **SUSPENDED** for five years from the date of September 9, 1987, and until September 9, 1992, at which time the Board will entertain a Petition for Reinstatement (the "Petitioner") from Respondent; and be it further

ORDERED that said Petition must be accompanied by the following:

1. Documentation from the Delaware State Board of Pharmacy attesting to the status of Respondent's pharmacy license in Delaware.
2. Documentation from the Pennsylvania State Board of Pharmacy attesting to Respondent's eligibility to re-apply for licensure in Pennsylvania.

3. A letter from Respondent summarizing his employment and professional experience during the period from September 9, 1987 through September 9, 1992.

4. A letter from Respondent's employer as of the date of submission of the Petitioner, verifying employment and evaluating Respondent's performance.

5. Verification that Respondent has completed a minimum of fifteen (15) hours of continuing education requirements per year for each of the years in which Respondent's license was suspended; and be it further

ORDERED that the Petition must be filed between June 9, 1992 and December 9, 1992. The failure by Respondent to file the Petition between June 9, 1992 and December 9, 1992 will have the effect of a revocation of his license on that date so that if Respondent applies for licensure at a later date any application will be reviewed in light of a prior revocation; and be it further

ORDERED that at the time he files his Petition for Reinstatement, Respondent will tell the Board if and when he intends to resume the active practice of pharmacy in the State of Maryland if reinstatement is granted; and be it further

ORDERED that if the Petition is granted, the Board shall reinstate Respondent's license to practice pharmacy in Maryland, provided Respondent has submitted the Petition as described above with all supporting documentation. If the Board determines that reinstatement without restriction would not be

appropriate, it may impose a probationary period with one or more conditions of probation; and be it further

ORDERED that the failure of Respondent to comply with any of the foregoing terms and conditions or to otherwise comply with the provisions of the Pharmacy Act may result in permanent revocation of Respondent's license to practice pharmacy in Maryland subject to the hearing provisions contained in the Administrative Procedure Act; and be it further

ORDERED that a copy of this Order shall be placed in the Board's file as part of Respondent's licensure file; and be it further

ORDERED that this is a Final Order and as such is a public document pursuant to §10-611 et seq. of the State Government Article, Annotated Code of Maryland; and be it further

ORDERED that Respondent shall not violate any federal, state, or local law.



Steven Cohen, P.D.
President
Maryland Board of Pharmacy

CONSENT

I, Steven J. Marcalus, P.D., by affixing my signature hereto, acknowledge that:

1. I have been informed of my right to consult with counsel before signing this document and knowingly waive my right to counsel.

2. I am aware that without my consent, my license as a pharmacist in this State cannot be limited except pursuant to the provisions of §12-312 of the Act and §10-405 of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland.

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law and Order. By doing so, I waive my right to a formal hearing and acknowledge the validity of the Order as if made after a hearing in which I would have had the right to counsel, to confront witnesses, to give testimony and to call witnesses on my own behalf and to all other substantive and procedural protections provided by law. I also recognize that, with regard to this Order, I am waiving my rights to appeal as set forth in §12-313 of the Act and §10-215 of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland. By this Consent, I waive all such rights and acknowledge that by my failure to abide by the conditions set forth in this Order, I may suffer permanent revocation of my license as a pharmacist in the State of Maryland.


Steven J. Marcalus, P.D.

STATE OF DELAWARE
CITY/COUNTY OF:

I HEREBY CERTIFY that on this 15 day of October,
1990, before me, a Notary Public of the State and City aforesaid,
personally appeared Steven J. Marcalus, P.D., and made oath in
due form of law that the execution of the foregoing Consent Order
is his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Edith K. Wright 10-15-90
Notary Public

My Commission Expires:

4-17-91