

IN THE MATTER OF	*	BEFORE THE
JOHN CHARLES NEWTON, P.D.	*	STATE BOARD
LICENSE NUMBER: 09835	*	OF PHARMACY
RESPONDENT	*	CASE NUMBER: 10-010

* * * * *

FINAL ORDER OF REVOCATION

The State Board of Pharmacy ("the Board") notified John Charles Newton, P.D. ("the Respondent"), d/o/b. 9/18/55, license number 09835, of the Board's intent to revoke his license to practice pharmacy under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 12-101*et seq.* (2009 Repl. Vol.). The pertinent provisions state:

Md. Health Occ. Code Ann. § 12-313:

(b) *In general.* - Subject to the hearing provisions of §12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation; or suspend or revoke a license if the applicant or licensee:

- (5) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of the therapeutic amount or without valid medical indication
- (15) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;
- (21) Is professionally, physically, or mentally incompetent;
- (24) Violates any rule or regulation adopted by the Board.

FINDINGS OF FACT

The Board finds that:

1. The Respondent was initially issued a license to practice pharmacy in Maryland on July 7, 1982.

BACKGROUND

2. On or about January 21, 1998, the Board accepted the irrevocable surrender of the Respondent's license to practice pharmacy (a copy of the Irrevocable Letter of Surrender of Pharmacist's License, dated January 21, 1998, is attached hereto and incorporated herein as **Exhibit A**)

3. Prior to accepting the Respondent's Letter of surrender, the Board found that the Respondent had dispensed drugs without a prescription and he that had a substance abuse problem that threatened the public health.

4. On or about June 23, 1999, the Board and the Respondent entered into a Consent Order of Reinstatement ("1999 Reinstatement Order") (a copy of the 1999 Reinstatement Order, dated June 23, 1999, is attached hereto and incorporated herein as **Exhibit B.**)

5. Under the terms of the 1999 Reinstatement Order, the Respondent was required to comply with certain probationary conditions, including but no limited to the following

"9. Applicant shall insure that a perpetual inventory of all controlled dangerous substances is maintained at the any pharmacy in which he practices pharmacy".

6. On October 15, 1999, the pharmacy where the Respondent was employed was inspected by the Division of Drug Control ("DDC"), The DDC Inspector was concerned that the Respondent was being supervised by a licensed pharmacist only 50% of the time and was not keeping a perpetual inventory of controlled dangerous substances ("CDS"), in violation of the terms of his Consent Order. Accordingly, on December 23, 1999 a conference call was held with the Respondent, his employer, and a Board member, wherein it was determined that the Respondent was substantially compliant with the supervisory condition of the Consent Order, but not with the requirement of a perpetual inventory.

7. Based upon that call, the Board voted to modify the Respondent's Consent Order, rather than charging him with a violation of the Consent Order. Specifically, the Board required that the Respondent be supervised 25% of the time and submit a copy of his work schedule and CDS perpetual inventory each month. The modification also extended his probation until August 7, 2000.

8. On or about September 3, 2000, the Respondent applied for termination of his probation and, on September 20, 2000, the Board voted to terminate the Respondent's probationary status and remove all restrictions from his license.

9. On October 8, 2001, the Respondent voluntarily signed a five (5) year contract with the Pharmacist Education and Assistance Committee (PEAC). The Respondent agreed that failure to adhere to the terms of his contract would be grounds for PEAC to inform the Board of non-compliance and to send pertinent records to the Board.

10. On January 7, 2005, the PEAC referred that Respondent to Warwick Manor ("Warwick"), a rehabilitation facility for a substance abuse evaluation, by PEAC. As a result of the evaluation conducted at Warwick, the Respondent was admitted as an inpatient on January 7 and discharged on January 17, 2005.

11. On January 12, 2005, PEAC referred the Respondent to the Board for violation of his 2001 PEAC contract for failure to comply with the requirement that he submit to random urinalysis, based on missed or watered-down urines, as more specifically set forth below:

A. Missed urines:

(a) January 9, 2004

(b) February 11, 2004

(c) April 30, 2004

(d) June 16, 2004

(e) September 30, 2004

(f) October 7, 2004

B. Diluted urines:

(a) September 17, 2004, creatinine 14.7¹

(b) October 8, 2004, creatinine 15.5

(c) November 11, 2004, creatinine 17.3.

12. In addition, the Respondent failed to return the Monthly Employer Evaluation forms to PEAC. While the Respondent was employed at White Marlin Pharmacy in

¹ High levels of Creatinine indicate that the urine has been diluted in an attempt to water down substances, such as alcohol, in the blood.

Ocean City, Maryland, employer reports were not received for November 2003 and December 2003.

13. On or about February 16, 2005, the Board voted to summarily suspend the Respondent's license for failing to abide by the terms of his 2001 PEAC contract.

14. In lieu of summarily suspending the Respondent's license, the Board, on October 25, 2005, charged the Respondent for failing to abide by the terms of his 2001 PEAC contract.

15. In or around March 23, 2006, the Respondent entered into a Consent Order with the Board. Under the terms and conditions of the Consent Order, the Respondent's license was suspended for thirty (30) days and he was placed on probation, for three (3) years.

16. On or about February 21, 2009, the Board voted to terminate the Respondent's probation.

17. On or about July 17, 2009, the Board was informed by the Respondent's employer, that the Respondent had been terminated on July 16, 2009 for dispensing medications to himself, without the proper authorization.

18. At the time of his termination, the Respondent was employed as a pharmacist at Rite Aid, located in Pocomoke City, Maryland.

19. Prior to his termination, the pharmacy staff at Rite Aid reported to the pharmacy manager, that the Respondent always appeared sleepy, drowsy, and unfocused.

20. An investigation conducted by the Rite Aid pharmacy district manager revealed that between April 2009 and June 2009, the Respondent dispensed large amounts of Vicodin and Norco to himself, that were not authorized by the physician, whose name appeared on the prescription.

21. In or around July 17, 2009 the Respondent was charged by the Pocomoke City Police, with one (1) count of obtaining Hydrocodone by using uttering a forged prescription, in violation of Md. Crim. Law Code Ann. § 5-701(d)4(vi), one (1) count of knowingly pass a falsely made counterfeited prescription purporting to be made by a duly licensed practitioner, knowing it to be counterfeit, for Hydrocodone, in violation of Md. Crim. Law Code Ann. § 8-610 (b) (2), and one (1) count of obtaining a prescription drug, to wit: Hydrocodone by fraud, deceit, and misrepresentation, in violation of Md. Crim. Law Code Ann. § 8-610 (b)(3) (a copy of the Statement of Charges and the Application for Statement of Charges in *State of Maryland v. John C. Newton*, Case No. 3100084073, are attached hereto and incorporated herein as **Exhibit C**).

22. On or about October 7, 2009, the Board summarily suspended the Respondent's license (a copy of the Order of Summary Suspension is attached hereto and incorporated herein as **Exhibit D**).

23. The Board concluded that the Respondent's actions that led to criminal charges being filed against in July 2009 caused the Board to believe that the Respondent posed a threat to the public health, welfare or safety.

24. The Respondent's license has remained suspended since October 7, 2009.

25. On or about November 13, 2009, the Respondent pled guilty, in the District Court for Worcester County, Maryland, to one (1) count of obtaining a controlled dangerous substance by using a false name or address, in violation of Md. Crim. Law Code Ann. § 5-701(d) 4(vi) (a copy of the Trial Docket in *State of Maryland v. John C. Newton*, Case No. 3100084073, is attached hereto and incorporated herein as **Exhibit E**).

26. On or about November 13, 2009, the Respondent was sentenced by Gerald Purnell of the District Court for Worcester County, Maryland, to probation before judgment. The Respondent was placed on one (1) year unsupervised probation and ordered to pay criminal fines and costs (a copy of the Defendant Trial Summary in *State of Maryland v. John C. Newton*, Case No. 3100084073, is attached hereto and incorporated herein as **Exhibit F**).

27. The Respondent pled guilty to a crime involving moral turpitude.

28. The Respondent's conduct as set forth above is a violation of the Act.

ORDER

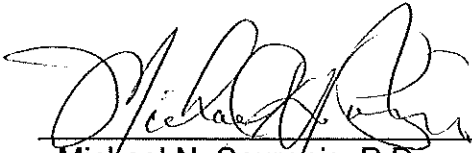
Based on the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of July 2010, that a majority of the Board hereby:

ORDERED that the license issued to John Charles Newton to practice pharmacy is hereby **Revoked**. The Board will not approve, from the Respondent, any future application for licensure and/or registration or any application for reinstatement of a license; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (2009 Repl. Vol.), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this Order is a public document pursuant to Md. State Govt. Code Ann. §§ 10-601 *et seq.* (2009 Repl. Vol.).

July 21, 2010
Date



Michael N. Souranis, P.D.
President, State Board of Pharmacy

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. §12-316 (2009 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of your receipt of this Order and shall be made as provided for judicial review of a final decision in the Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2009 Repl. Vol.), and Title 7, Chapter 200 of the Maryland Rules.