

Mark A. Barbino



10/22/2010
Date

Michael Souranis, P.D., President
Maryland Board of Pharmacy
4201 Patterson Avenue
Baltimore, Maryland 21215

Re: Surrender of Pharmacist License
License No. 18402

Dear Mr. Souranis and Members of the Board:

Please be advised that I have decided to surrender my license to practice pharmacy in the State of Maryland, License Number 18402. I understand that I may not give pharmacy advice to any individual, with or without supervision and/or compensation, cannot dispense or administer drugs or assist in the dispensing or administration of drugs or otherwise engage in the practice of pharmacy, as it is defined in the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. Art. § 12-101 *et seq.* In other words, as of _____, 2010, the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual.

I understand that this Letter of Surrender is a PUBLIC document and upon the Board's acceptance and execution, becomes a FINAL ORDER of the Board.

My decision to surrender my license to practice pharmacy in Maryland has been prompted by my expectation of an investigation of my license by the Maryland Board of Pharmacy (the "Board"). In lieu of proceeding with disciplinary action by the Board, I have decided to surrender my license to practice pharmacy in the State of Maryland.

The Board's investigation would have resulted in charges under the Act. Specifically, the Board would have charged me with the commission of the following prohibited acts which are subject to disciplinary action under § 12-313:

(b) 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:

...

(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 therapeutic amounts without valid medical indication;

(7) Willfully makes or files a false report or record as part of practicing pharmacy;

(14) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;

(22) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(24) Violates any rule or regulation adopted by the Board;

The Board would have further charged me with the following violations of its Pharmacist and Pharmacy Technician Code of Conduct, Code of Maryland Regulations, Title 10, Subtitle 34, Chapter 10:

.01 Patient Safety and Welfare

A. A pharmacist shall:

(1) Abide by all federal and State laws relating to the practice of pharmacy and the dispensing, distribution, storage, and labeling of drugs and devices, including by not limited to:

- (a) United States Code, Title 21,
- (b) Health General Article, Titles 21 and 22, Annotated Code of Maryland,
- (c) Health Occupations Article, Title 12, Annotated Code of Maryland,
- (d) Criminal Law Article, Title 5, Annotated Code of Maryland,
- (e) COMAR 10.19.03.

...

B. A pharmacist may not:

(1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist;

...

(3) Engage in unprofessional conduct.

The above charges would have been based upon the following:

1. I graduated from Shenandoah School of Pharmacy in 2007.
2. At all times relevant, I practiced pharmacy at CVS in La Plata, Maryland.
3. In July 2009, CVS, through an internal investigation, determined that I had been falsifying prescriptions for controlled dangerous substances, specifically Oxycodone, from approximately November 2008 through July 2009.
4. In addition, in return for filling false prescriptions presented by others, I would receive a certain number of the pills for my own use.
5. The pharmacy estimate of the value of the drugs fraudulently dispensed over the above period was approximately \$21,000, most of which was paid for in cash by me and the other patients presenting false prescriptions.
6. I perpetuated the above offenses due to serious substance abuse impairment.
7. After being discovered, I entered and successfully completed inpatient treatment at Father Martin's Ashley and I attended 90 AA/NA meetings in 90 days. I currently am in outpatient treatment at the Kolmac clinic, continue to attend AA/NA meetings, and see a therapist biweekly.
8. I also have entered into a three-year contract with Pharmacists Education and Advocacy Council ("PEAC"), effective July 29, 2009.
9. On January 29, 2010, I pled guilty to three misdemeanors: (a) conspiracy to commit grand theft, (b) conspiracy to distribute Oxycodone, and (c) obtaining controlled dangerous substances by fraud.
10. I was sentenced to ten years incarceration with all but 14 months suspended. I am authorized to have work release and I am currently employed at a local country club. Further, I am permitted to continue my outpatient treatment at Kolmac during my period of incarceration.

I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender to avoid prosecution under the Act and to resolve this matter. I understand that by executing this Letter of Surrender, I am waiving any right to contest these findings in a formal evidentiary hearing at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf and to all other substantive and procedural protections provided by law, including the right to appeal. I acknowledge that if the Board were to issue charges against me, the Office of the Attorney General could prove by a preponderance of the evidence at an administrative hearing that I violated the Act as set forth above.

I understand that the Board will advise the Health Integrity and Protection Data Bank of this Letter of Surrender, and in response to any inquiry, will advise that I have surrendered my license. I understand that this Letter of Surrender will be posted on the Board's website along with all other formal disciplinary actions. I understand that, in the event that I would apply for licensure in any form in any other state or jurisdiction, that this Letter of Surrender, and all underlying investigative documents, may be released by the Board to the same extent as a Final Order that would result from disciplinary action pursuant to Md. Code Ann., State Gov't Art. § 10-611 *et seq.* Finally, I understand that this Letter of Surrender is considered disciplinary action by the Board.

I affirm that enclosed with this Letter of Surrender is my original Maryland pharmacist's license, number 18402, and my recent wallet-sized renewal card.

I acknowledge that I am currently incarcerated and therefore am unable to practice pharmacy. I understand and agree that upon my release, I must fulfill the following conditions before the Board may act upon my application for reinstatement of my Maryland license to practice pharmacy:

1. I may not have my license reinstated for a minimum of three (3) years after July 29, 2009, the date I surrendered my license to the Pharmacists Education and Advocacy Council ("PEAC");

2. Prior to any possible reinstatement, I must submit to a substance abuse evaluation by a Board-appointed evaluator, at my expense, to determine my fitness to practice;

3. I must submit documentation of my continued substance abuse treatment, AA/NA participation, and full compliance with my PEAC contract, with my petition for reinstatement;

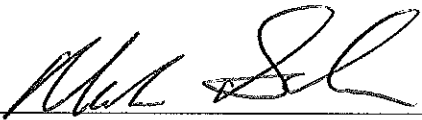
4. I must comply with the minimum licensure requirements for reinstatement, which will include, fees, continuing education credits, and reexamination.

In the event that I apply for reinstatement to practice pharmacy, I fully understand that the Board has full and absolute discretion to grant or deny my application for

reinstatement, even after my fulfillment of the conditions above. If the Board does grant my petition for reinstatement, I understand that the Board will set terms and conditions that shall apply to my receiving a reinstated Maryland license, which may include but not be limited to a probationary period and limited practice settings. I also understand that if I petition for reinstatement that I bear the burden of demonstrating to the Board that I am competent to practice pharmacy and possess good moral character, as specified in Health Occ. §§ 12-302 and 12-310. I understand that if I determine that I would like to once again practice in Maryland, I will approach the Board in the same posture as one whose license has been revoked for violation of the Act.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have been advised and given an opportunity to consult with an attorney before signing this Letter of Surrender. I fully understand both the nature of the Board's actions and this Letter of Surrender. I acknowledge that I understand and comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

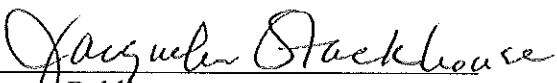
I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing Letter are true:



Mark A. Barbino

STATE OF MARYLAND
COUNTY/CITY OF Montgomery:

I hereby certify that on this 22nd day of October, 2010, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared MARK A. BARBINO, and made an oath in due form that the foregoing Consent was his voluntary act and deed.

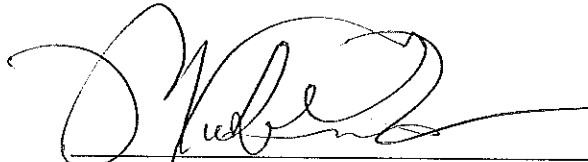


Notary Public
My commission expires: 6/21/2012

JACQUELINE STACKHOUSE
NOTARY PUBLIC
MONTGOMERY COUNTY
MARYLAND
MY COMMISSION EXPIRES 6/21/2012

ACCEPTANCE

On behalf of the Maryland State Board of Pharmacy, on this 17th day of November, 2010, I accept Mark A. Barbino's PUBLIC SURRENDER of his license to practice pharmacy in the State of Maryland.

A handwritten signature in black ink, appearing to read "Michael Souranis", written over a horizontal line.

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