

IN THE MATTER OF \* BEFORE THE  
DAVID CURRY, P.D. \* STATE BOARD  
License No.: 07976 \* OF PHARMACY  
Respondent \*

\* \* \* \* \*

**ORDER FOR SUMMARY SUSPENSION**

Pursuant to Md. State Govt. Code Ann. §10-226 (c)(1999 Repl. Vol.), the State Board of Pharmacy (the "Board") hereby suspends the license to practice pharmacy in Maryland issued to David Curry, P.D., (the "Respondent"), under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. §12-101, et seq., (2002 Vol. and Supplement). This Order is based on the following investigative findings, which the Board has reason to believe are true:

**BACKGROUND**

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on July 10, 1974. The Respondent's license expires on November 30, 2004.
2. The Respondent's license to practice pharmacy was revoked on May 23, 2003, following a hearing before the Nevada State Board of Pharmacy on April 23, 2003, at which the Respondent appeared and represented himself.
3. The basis for the Nevada Board's Order, attached hereto and made a part hereof as Exhibit 1, is the Respondent's admission that he created, without lawful

authorization, prescriptions for controlled dangerous substances, which he then removed from his employer without paying for them.<sup>1</sup>

### FINDINGS OF FACT

1. As set forth above, creating and filling false prescriptions and taking them from one's employer without paying for them is a threat to the public health, welfare or safety.

2. The above actions also constitute violations of the Act. Specifically, the Respondent violated the following provision of Md. Health Occ. Code Ann. § 12-313 of the Act:

(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:

- (23) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

The action committed by the Respondent which would be grounds for discipline under its Act are the following violation of § 12-313:

- (2) Fraudulently or deceptively uses a license;
- (6) Willfully makes or files a false report or record as part of practicing pharmacy;

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<sup>1</sup> The Respondent has a long history with this Board in terms of his being previously summarily suspended/suspended/revoked for substance abuse issues dating as far back as 1982.

- (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;
- (15) Except as provided in § 12-506 of this title, unless an authorized prescriber authorizes the refill, refills a prescription for any drug, device, or diagnostic for which a prescription is required;
- (24) Violates any rule or regulation adopted by the Board [;].

The violations of the Board's regulations committed by the Respondent are of the following Code Md. Regs. tit. 10 § 34.10 (2000):

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 but 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) Article 27, 276-304, Annotated Code of Maryland, and COMAR 10.19.03[;].

**CONCLUSIONS OF LAW**

Based on the foregoing, the Board finds that the public health, safety or welfare imperatively requires emergency action, pursuant to Md. State. Govt. Code Ann. §10-226(c) (2) (1999 Repl. Vol.).

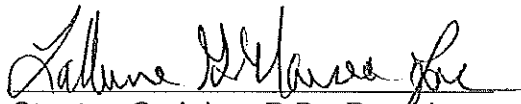
**ORDER**

Based on the foregoing, it is therefore this 4th day of August, 2003, by a majority vote of a quorum of the State Board of Pharmacy, by authority granted by the Board by Md. State Govt. Code Ann. § 10-226(c) (2) (1999 Repl. Vol.), the license held by the Respondent to practice pharmacy in Maryland, License No. 07976, is hereby **SUMMARILY SUSPENDED**; and be it further

**ORDERED**, that upon the Board's receipt of a written request from the Respondent, a Show Cause Hearing shall be scheduled within reasonable time of said request, at which the Respondent will be given an opportunity to be heard as to whether the Summary Suspension should be lifted/terminated, regarding the Respondent's fitness to practice pharmacy and the danger to the public; and be it further

**ORDERED**, that the Respondent shall immediately turn over to the Board's agent his wall certificate and wallet-sized license to practice pharmacy issued by the Board; and be it further

**ORDERED**, that this document constitutes a final Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. State Gov't. Code Ann. §10-617(h) (2002 Supplement).

  
Stanton G. Ades, P.D., President  
Board of Pharmacy

**NOTICE OF HEARING**

A Show Cause hearing to determine whether the Summary Suspension shall be lifted/terminated will be held before the Board at 4201 Patterson Avenue, Baltimore, 21215 following a written request by the Respondent for same.

## BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

v.

Petitioner,

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDERDAVID C. CURRY, R.Ph.,  
Certificate of Registration #15466,

Case No. 03-022-RPH-S

Respondent.

THIS MATTER was heard by the Nevada State Board of Pharmacy (hereinafter Board) at its regular meeting on April 23, 2003 in Las Vegas, Nevada. The Board was represented by Louis Ling, General Counsel to the Board. Respondent David C. Curry appeared and represented himself. Based on the presentations of the parties and the public records in the possession and control of the Board, the Board issues the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. At hearing, Board staff presented the testimony of Roxann Soliz, R.Ph. Board staff introduced three documents that were accepted into evidence without objection. Mr. Curry appeared and testified on his own behalf. Based on the presentations of the parties and the public records in the possession and control of the Board, the Board finds the following to be the facts of this matter,

2. Ms. Soliz is the Pharmacy Development Manager for Rite Aid pharmacies in the Las Vegas region. Ms. Soliz received information from a pharmaceutical technician at Rite Aid Pharmacy #8530 that prescriptions filled for Mr. Curry or his wife were



showing up on a regular report as not having been scanned but also not having been dispensed or returned to stock. Based upon the information received, Ms. Soliz investigated Mr. and Mrs. Curry's prescription records.

3. Ms. Soliz' research showed that Mr. Curry had purportedly transferred a prescription for hydrocodone/APAP 7.5/500 that his wife had previously had filled at another Rite Aid pharmacy. The original prescription was legitimately written by Dr. Corey Russell for Mrs. Curry for hydrocodone/APAP 7.5/500 #20 with 0 refills. What Mr. Curry actually did was to create a new prescription under the guise of a transfer wherein he changed the quantity to #30 and added two refills. The new prescription was not known to or authorized by Dr. Russell.

4. Mr. Curry filled for and dispensed to his wife the three fills of the hydrocodone/APAP 7.5/500 #30 that he had created without authorization. Mr. Curry did not pay for any of the three fills of the hydrocodone/APAP 7.5/500 #30 that he created without authorization for his wife. Through this scheme, Mr. Curry obtained a total of 90 units of hydrocodone/APAP 7.5/500 without lawful authorization and without paying for them.

5. At hearing, Mr. Curry admitted that he did create without lawful authorization the prescription for his wife for hydrocodone 7.5/500 #30 which he filled three times. Mr. Curry also admitted that he removed the three fills of this prescription without paying for them. Mr. Curry explained that his wife had a chronically painful back condition and that he created the false prescription to assist his wife's pain. Mr. Curry offered no coherent explanation as to why he created the false prescription rather than referring his wife to a Las Vegas physician or why he removed the controlled

substances without paying for them. Mr. Curry also explained that he felt that Ms. Soliz' actions in terminating him were "petty" in his view because he did not feel that his actions merited such harsh action. Based upon Mr. Curry's demeanor and testimony, we find that Mr. Curry was incredible and that his explanations were similarly incredible.

6. Ms. Soliz also discovered that Mr. Curry had created in the pharmacy's computer five controlled substances prescriptions (alprazolam, clonazepam, and hydrocodone 7.5/600) allegedly telephoned in by an APN in Maryland named Barbara Frederick. Ms. Soliz attempted to contact Ms. Frederick at the telephone numbers created by Mr. Curry, but never spoke with Ms. Frederick, so Ms. Soliz could not confirm the validity of any of Ms. Frederick's prescriptions that were contained on Mrs. Curry's patient profile.

7. At hearing, Mr. Curry explained that Ms. Frederick was a friend of Mrs. Curry's, which friendship was the result of Ms. Frederick's and Mrs. Curry's working together in Maryland before Mrs. Curry moved to Nevada. Mr. Curry admitted that Ms. Frederick had never been Mrs. Curry's treating practitioner. Mr. Curry could not explain why his wife had not sought to establish a relationship with a Nevada physician from which to obtain the controlled substances, but, instead, asked Mr. Curry to obtain the prescriptions from Ms. Frederick, a person who had never treated Mrs. Curry. Mr. Curry produced no evidence other than his testimony regarding the *bona fides* of any of the prescriptions allegedly authorized by Ms. Frederick. Based upon our earlier finding that Mr. Curry was incredible and that his explanations regarding Ms. Frederick's prescriptions depended solely upon his credibility, we find that the prescriptions filled by Mr. Curry that purported to be called in by Ms. Frederick were, in fact, unlawful



prescriptions that allowed Mr. Curry to divert yet more controlled substances to his wife without lawful authorization.

### CONCLUSIONS OF LAW

1. The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondent David C. Curry is a pharmacist licensed by the Board.
2. In creating and filling prescriptions for controlled substances, namely hydrocodone/APAP 7.5/500, alprazolam, and clonazepam, which Mr. Curry knew to be false and without valid physician authorization, Mr. Curry violated NRS 453.331(1)(a), (d), and (f) and 639.210(1), (4), and (12) and NAC 639.945(1)(g), (f), and (i).
3. In making the conclusion of law #2 above, the Board intends to conform the conclusion of law to the evidence adduced,

### ORDER

Based upon the foregoing, the Board hereby orders the following:

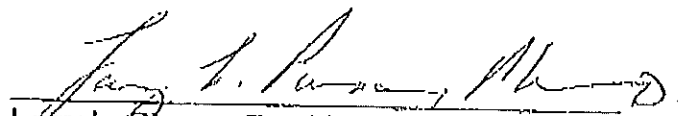
1. Mr. Curry's pharmacist license (#15466) is revoked. Mr. Curry may not be employed in any business or facility licensed by this Board in any capacity unless and until his registration as a pharmacist has been reinstated.
2. Mr. Curry shall return to the Board's Reno office his wallet card(s) and wall certificate within 10 days of his receipt of this Order. His failure to do so will result in a fine of \$1,000 per day until the wallet card(s) and wall certificate are received by the Board office.
3. Mr. Curry shall pay the Board's administrative fee of \$250.00 by cashier's or certified check or money order made payable to "Nevada State Board of Pharmacy" to

be received by the Board's Reno office within 90 days of the effective date of this Order.

4. Pursuant to NRS 639.257, Mr. Curry may apply for reinstatement of his license no sooner than one year from the effective date of this Order. The Board will not consider Mr. Curry's application for reinstatement unless Mr. Curry has fully complied with the other terms of this Order.

5. Any failure to pay sums due under this Order may result in such further administrative and legal action as the Board and its staff deem necessary and appropriate.

Signed this 23<sup>rd</sup> day of May, 2003.

  
Larry L. Pinson, President  
Nevada State Board of Pharmacy