

IN THE MATTER OF
MEDICAL PHARMACY OF
CHEVY CHASE
PERMIT NO. P02003

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BEFORE THE
STATE BOARD
OF PHARMACY

Respondent-Pharmacy

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FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Code Ann. tit. 12 (the "Act"), the Board charged Medical Pharmacy of Chevy Chase, Inc. (the "Respondent-Pharmacy"), with violations of the Act. Specifically, the Board charged the Respondent-Pharmacy with violation of the following provisions of §12-409:

Subject to the hearing provisions of §12-411 of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:

(9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12-313 of this title;

§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:

(20) Is professionally, physically, or mentally incompetent[;].

The Respondent-Pharmacy was given notice of the issues underlying the Board's charges by notice dated January 17, 2001. Accordingly, a Case Resolution Conference was held on May 30, 2001 and was attended by Irving Lottier, P.D., Secretary of the

Board, Jeanne Furman, P.D., Board member, LaVerne Naesea, Executive Director of the Board, and Paul Ballard, Counsel to the Board. Also in attendance were Arthur Weinstein, principal, on behalf of the Respondent-Pharmacy, his/its attorney, Louis Fireison, and the Administrative Prosecutor, Roberta L. Gill.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, the Respondent-Pharmacy was permitted to operate as a pharmacy in the State of Maryland. The Respondent-Pharmacy was originally issued a permit by the Board on August 13, 1996. The Respondent-Pharmacy last renewed its permit on December 12, 2000. The Respondent-Pharmacy's permit expires on December 31, 2001.

2. Arthur Weinstein, P.D., is the sole principal and President of the Respondent-Pharmacy, which is a retail pharmacy operated in Chevy Chase, Maryland.

3. On or about November 16, 2000, the Division of Drug Control (DDC) conducted an audit of medicinal cocaine at the Respondent-Pharmacy.¹

4. The audit disclosed a shortage of 14.02 grams of cocaine, a significant amount. Mr. Weinstein explained at the Case Resolution Conference that he

¹ DDC had obtained information that the Respondent-Pharmacy was among the largest purchasers of medicinal cocaine in the United States.

miscalculated the amount of medicinal cocaine that he had used in two prescriptions and that he used more on those two prescriptions than he had recorded.

5. By maintaining records that reflected a significant shortage of medicinal cocaine, the Respondent-Pharmacy violated the Act.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent-Pharmacy violated § 12-409 (9) and § 12-313 (20).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 15th day of August, 2001, by a majority of a quorum of the Board,

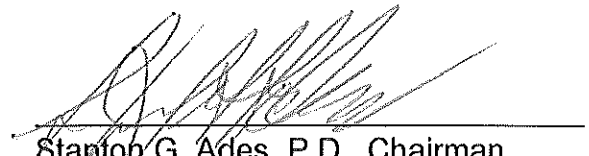
ORDERED that the Respondent-Pharmacy's permit to operate as a pharmacy in Maryland be placed on **PROBATION** for one year, with the condition that DDC conduct three random audits of Schedule IIs during that time period and that there be no problems, e.g., shortages or overages, in those audits.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that should the Board receive a report that the Respondent-Pharmacy's practice is a threat to the public health, welfare and safety, the Board may take immediate

action against the Respondent-Pharmacy, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent-Pharmacy in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent-Pharmacy has substantially violated the Act or if the Respondent-Pharmacy violates any condition of this Order or of Probation, after providing the Respondent-Pharmacy with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent-Pharmacy, including suspension or revocation. The burden of proof for any action brought against the Respondent-Pharmacy as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent-Pharmacy to demonstrate compliance with the Order or conditions.

ORDERED that for purposes of public disclosure, as permitted by §10-617(h) State Government Article, Annotated Code of Maryland, this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may disclose same to any mandatory reporting data bank(s) that it is required to.



Stanton G. Ades, P.D., Chairman
State Board of Pharmacy

CONSENT OF MEDICAL PHARMACY OF CHEVY CHASE

I, Arthur Weinstein, principal of the Respondent-Pharmacy and on behalf of same, affixing my signature hereto, acknowledge that:


1. I am represented by an attorney, Louis Fireison, and have been advised by him of the legal implication of signing this Consent Order.

2. I am aware that without my consent, the pharmacy's permit to operate as a pharmacy in this State cannot be limited except pursuant to the provisions of § 409 of the Act and §10-201, et seq., of the Administrative Procedure Act (APA), Md. State Gov't Code Annotated Code.

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

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 12-411 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 12-412 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my permit to operate a pharmacy in the State of Maryland.

7/19/01
Date


Arthur Weinstein, P.D., principal of
Medical Pharmacy of Chevy Chase

STATE OF MARYLAND

CITY/COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 10 day of JULY, 2001, before me, Amy Tourison (Print Name) Notary Public of the State of Maryland and (City/County), personally appeared Arthur Weinstein, principal of the Medical Pharmacy of Chevy Chase, Permit No. P02003, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Amy Tourison
Notary Public

My Commission Expires: MAR. 24, 2003