

IN THE MATTER OF	*	BEFORE THE
JULIAN I. MIDEN	*	MARYLAND STATE
Respondent	*	BOARD OF
LICENSE NO. 5139	*	PHARMACY
* * * * *	*	* * * * *

ORDER FOR SUMMARY SUSPENSION
OF PHARMACIST LICENSE

Based upon information received by the Maryland State Board of Pharmacy (the "Board"), the Board notified Julian I. Miden (the "Respondent") by letter dated September 14, 1994 that it intended to issue an order summarily suspending the pharmacist license held by the Respondent and provided him with a draft copy of that unexecuted order. The Board gave the Respondent the opportunity to appear before the Board on September 21, 1994 for an informal hearing to show cause as to why that proposed summary suspension order should not be issued. The Board also notified the Respondent that a formal contested case hearing on the merits of issuing the summary suspension order had been scheduled for October 19, 1994.

In response to the Board's notice, the Respondent declined to appear at the show cause hearing scheduled for September 21, 1994. The Respondent instead surrendered his pharmacist license to the Board on September 16, 1994. The Board then issued its executed order summarily suspending the Respondent's pharmacist's license on September 21, 1994. (State Exhibit No. 2A) On October 19, 1994 an evidentiary hearing was held regarding the merits of the summary suspension.

The following members of the Board, constituting a quorum, were present at the hearing: Steven Cohen, president, Melvin Rubin, secretary, George Voxakis, David Russo, Barbara Faltz Jackson, Theodore Litwin, and Robert Kabik. Roberta Gill, Assistant Attorney General, was administrative prosecutor in this matter. Harold Glaser, Esquire, represented the Respondent. Paul Ballard, Assistant Attorney General, was counsel to the Board.

State Trooper David Hammel and Corporal Tom McElroy, both assigned to the Maryland State Police Bureau of Drug Enforcement, Drug Diversion Unit, testified on behalf of the State. The Respondent presented no testimony on his own behalf.

Deliberations regarding the case were conducted on October 19, 1994. Based on the evidence in the record and its collective knowledge in the field of pharmacy, the Board voted unanimously to continue in force its emergency order summarily suspending the Respondent's pharmacist license.

FINDINGS OF FACT

Based upon the evidence in the record, the Board makes the following findings of fact:

1. Prior to the Respondent's voluntary surrender of his license on September 16, 1994 and the Board's summary suspension of his license on September 21, 1994, the Respondent was a pharmacist licensed to practice pharmacy in the State of Maryland.

2. At all times pertinent hereto, Respondent has been practicing pharmacy in the State of Maryland at Beeli's Pharmacy, 5145 Park Heights Avenue, Baltimore, Maryland 21215 (the

"Pharmacy").

3. Respondent is the owner of the pharmacy.

4. Based on information provided to the Maryland State Police by an informant, the State Police initiated an investigation of the Respondent's pharmacy practices in May of 1994.

5. The State Police conducted the investigation of the Respondent by means of controlled purchases in which police would meet with the informant and search him thoroughly to insure that he had no controlled substances or money or any other items on his person or in his clothing or in his shoes or socks or anywhere else secreted on him. The informant would then be sent into the pharmacy accompanied by an undercover police officer and would talk with the Respondent, which conversations were recorded by various forms of electronic surveillance equipment. The police would then observe the informant walk directly towards them and present them with what he purchased from the pharmacist. The police would then repeat the search of the informant to insure he was not secreting any evidence on his person.

6. Using the above described procedures, on May 27, 1994 the informant presented the Respondent with forged prescriptions, including a prescription for Demerol written by the informant in felt tip pen and supposedly written by a fictitious physician, Dr. Norman Mandel. When first presented with these forged prescriptions, the Respondent returned them to the informant, telling him they didn't look that good written in felt tip pen and that the informant used to be better at writing these

prescriptions. The informant and Trooper Hammel then rewrote the prescriptions with a blue ink pen with the identical information and the Respondent subsequently filled the forged prescriptions for Demerol on May 27, 1994. (State's Exhibit No. 3)

7. Using the same controlled purchase procedures described in Paragraph 5 herein, on June 6, 1994 the informant purchased Percocet from the Respondent, using a forged prescription supposedly written by a Doctor Goldenburg of Sinai Hospital of Baltimore. (State's Exhibit No. 4).

8. Using the same controlled purchase procedures described in Paragraph 5 herein, on June 10, 1994 the informant purchased Dilaudid from the Respondent, using a forged prescription supposedly written by a Doctor Mortyn of Sinai Hospital of Baltimore. (State's Exhibit No. 6).

9. Using the same controlled purchase procedures described in Paragraph 5 herein, on July 18, 1994 the same informant purchased Demoral from the Respondent, using a prescription supposedly written by Doctor Clarence Smith, Jr, but which was actually forged by the informant (State's Exhibit No. 7).

10. Using the same controlled purchase procedures described in Paragraph 5 herein, on August 16, 1994 the Respondent refused to dispense drugs to the informant because the forged prescription forms had not been properly completed. The informant then rewrote the prescriptions for the same drugs and the Respondent filled those prescriptions without question. Through the use of these forged prescriptions, the informant was able to purchase Valium

from the Respondent. (State's Exhibit No. 8).

11. Based upon the above evidence showing repeated instances of unauthorized distribution of controlled dangerous substances, the Board believes that Respondent's retention of a Maryland pharmacist license for the practice of pharmacy would pose a risk to the health, safety and welfare of the citizens of Maryland.

CONCLUSIONS OF LAW

Based upon the foregoing, the Board finds that the public health, safety and welfare imperatively requires emergency action in this case pursuant to Maryland State Government Code Annotated, Section 10-226(c)(2) (1994 Cum. Supp.)

ORDER

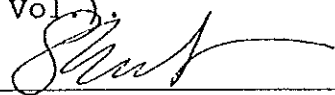
It is this 19 day of NOV, 1994, by the Board of Pharmacy:

ORDERED that pursuant to the authority vested in the Board by the Maryland State Gov't Code Ann. Section 10-226(c)(2) (1994 Cum. Supp.), Respondent's pharmacist's license for the practice of pharmacy in the State of Maryland hereby continues to be **SUMMARILY SUSPENDED**; and be it further

ORDERED that a copy of this Order shall be filed with the Maryland State Board of Pharmacy; and be it further

ORDERED that this is a final order and as such is considered a public record pursuant to the Public Information Act, Sections 10-611 through 10-628 (1993 Repl. Vol.).

11/19/94
Date



Steven Cohen, P.D.
President
Board of Pharmacy