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BOARD OF PHARMACY

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY

By: Marianne W. Greenwald
Deputy Attorney General
Division of Law 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Tel. (201) 648-4738

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION :	Administrative Action
OR REVOCATION OF THE LICENSE OF :	
THOMAS CLOUGH, R.P. :	CONSENT ORDER
License No. 16885 :	
TO PRACTICE PHARMACY IN THE :	
STATE OF NEW JERSEY :	

This matter was opened to the New Jersey State Board of Pharmacy by the receipt of information alleging that respondent had diverted Hycomine Syrup from his employer's active drug stock for his own personal use and is presently being treated for a substance abuse problem.

On August 26, 1994, respondent entered into a Consent Agreement with the Board which provided for the suspension of his license to practice pharmacy pending further order of the Board.

Thomas Clough has appeared before the Board with counsel and has testified under oath in response to questions posed to him by the Board. Respondent began removing from his employer's drug stock for his own use Hycomine Syrup sometime in 1990. In June of 1994 his employer discovered the diversion and after a confrontation and an

admission by respondent of these activities, the employer facilitated the respondent's entry into the employee assistance program to begin rehabilitative efforts. Upon reviewing the inventory, the employer, CVS Pharmacy, determined that respondent had diverted in excess of 200 pints of Hycomine Syrup from three separate stores where he had worked.

The Board reviewed documentation submitted by respondent that substantiated the following. Respondent has received and continues to receive psychotherapy from Dr. Thomas J. Hurwitz; he attends support meetings; and he submits to random urine testing under the auspices of the employee assistance program. Respondent is presently employed by CVS in a non-pharmacist capacity and has arranged a repayment schedule for his unlawful diversion that is satisfactory to the employer. CVS has emphasized to the Board that he will be reappointed to a pharmacy position if and when his license is reinstated by the Board.

Upon consideration of respondent's testimony and having reviewed his written submissions, the Board has determined that the following terms and conditions for reinstatement are adequately protective of the public and will serve to ensure respondent's continued participation in rehabilitation.

IT IS THEREFORE, ON THIS *2nd* DAY OF *March*, 1995,

ORDERED:

1. The license of Thomas Clough, R.P., to practice pharmacy in the State of New Jersey is hereby suspended for three years retroactive to June 23, 1994, when he voluntarily refrained from practicing pharmacy. The first seven months of said suspension shall be active i.e., until January 27, 1995; two years and three months of said suspension shall be stayed.

2. Respondent shall be on probation for the duration of the stayed suspension commencing January 27, 1995 subject to compliance with paragraphs 3 through 14 herein. If respondent violates any of the provisions of paragraphs 3 through 14 herein, the Board may initiate proceedings to revoke his probationary status and to actively suspend or revoke his license to practice pharmacy.

3. Respondent shall not be a pharmacist-in-charge or a permit holder of any pharmacy in this State during the entire period of probation.

4. Respondent hereby consents to the entry of an Order of Automatic Suspension of his license without notice upon the Board's receipt of any reliable information such as, but not limited to, a report of a confirmed positive urine from the party responsible for monitoring respondent's urine, or information from any out-patient program or counselor which reveals evidence of substance abuse during the probationary period.

5. Respondent shall have the right to apply for removal of the automatic suspension on two (2) days notice but in such event shall be limited to a showing that urine tested was not his or was a false positive, in the case of urine testing, or that other information submitted was false.

6. Respondent shall have his urine monitored at his own expense on a random, unannounced basis for the entire three (3) year period. Testing shall be performed one time per week for the duration of the suspension. The urine specimens shall be performed with direct witnessing by a Board approved monitor. The initial drug screen will utilize the EMIT technique and all conforming tests and/or secondary

tests will be performed by gas chromatographing/mass spectrometry (GC/MS). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation thereof.

7. The results of all tests shall be reported directly from the testing laboratory to H. Lee Gladstein, Executive Director of the Board or his successor, or his designee in the event he is unavailable. The Board may without notice to respondent at anytime alter or modify the manner of the testing directed herein. In the event of any such alternation or modification the Board shall give timely notice of any new testing requirement to the respondent.

8. In the event respondent is unable to appear for a scheduled urine test due to illness or other impossibility, consent to waive that day's test must be secured from the Board office. The lab or monitor will not be authorized to provide consent. In addition, respondent must provide the Board with; any written substantiation which may be obtained for his inability to appear, e.g. physician's report.

9. Any failure to appear for a urine test for which consent is not secured from the Board and for which no written substantiation is furnished satisfactory to the Board within two (2) days of such failure to appear shall be grounds for activation of the suspension upon short notice.

10. Respondent shall submit quarterly documentation that he attends support group meetings at least three times per week for the duration of the probationary period.

11. Respondent shall give written notice to the Board prior to beginning any job and prior to any change in employment. At no time

shall respondent serve as pharmacist-on-duty for more than ten (10) hours in one day.

12. In connection with any job in which respondent has access to Controlled Dangerous Substances, he shall disclose his prior drug problem to his employer and serve a copy of the within Order on his employer. Respondent shall cause the Board to receive a letter acknowledging the employer's receipt of the notice required by this paragraph.

13. Respondent shall not use or possess any Controlled Dangerous Substances, except for bona fide medical purposes as deemed necessary by a physician or other authorized prescriber during the entire period of probation. In such event, respondent is to serve notice to the Board in writing. Respondent shall advise any and all treating physicians of his history of drug abuse.

14. At an time during the probation period, the Board may require the appearance of respondent at a meeting for a status conference.

STATE BOARD OF PHARMACY

By: 

Sophie Heymann, R.P., President

I have read the within Order and understand it. I agree to be bound by its terms and hereby consent to it being entered by the New Jersey Board of Pharmacy.


Thomas Clough, R.P.