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AUG 30 1995

BOARD OF PHARMACY

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

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF :

LARRY HACKER, R.P. :

TO PRACTICE PHARMACY IN THE
STATE OF NEW JERSEY *RI 20154* :

Administrative Action

ORDER FOR SURRENDER
OF LICENSE

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of information that on or about August 1, 1995, Larry Hacker had allegedly diverted controlled dangerous substances, to wit Roxicet, a generic form of Percocet, and MS Contin, both Schedule II CDS, from the active drug stock of his employer, Cropwell Pharmacy of Marlton, New Jersey, and had previously sold and used these medications.

It appearing that in lieu of a proceeding seeking to temporarily suspend respondent's license to practice pharmacy pursuant to N.J.S.A. 45:1-22, respondent, without admitting to any of the allegations, has voluntarily agreed to surrender his license to practice pharmacy and refrain from further practice of pharmacy pending a plenary hearing before the Board.

IT IS THEREFORE, ON THIS *30th* DAY OF *August*, 1995,

ORDERED AND AGREED, that the license of Larry Hacker, R.P. to practice pharmacy in the State of New Jersey is hereby suspended, pending further order of the Board, and it is further

ORDERED AND AGREED, effective upon the execution of this Order by respondent, and pending further order of the Board, respondent shall cease and desist from engaging in the practice of pharmacy including the following: respondent shall not handle, order, inventory, compound, count, fill, refill or dispense any drug; he shall not handle anything requiring a prescription including devices and medications; he shall not handle prescriptions; he shall not advise or consult with patients, and he is prohibited from being present within a prescription filing area of a pharmacy, and it is further,

ORDERED AND AGREED, that respondent shall, upon execution of the within Order, surrender his original wall certificate, and the most recent renewal card of his license to an authorized representative of the Board, and it is further

ORDERED AND AGREED, nothing herein shall preclude the Board from taking any additional action in this matter permitted by law.

NEW JERSEY STATE BOARD OF PHARMACY

By: [Signature]
Gary Angelo, Treasurer [Signature] 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.

[Signature]
Larry Hacker, R.P.

Dated: 8-11-95

The Order is approved as to form and entry

[Signature]
Jeffrey Gladden, Esq., attorney for Larry Hacker, R.P.

a \$2,000.00 fine, as well as a period of supervised release of three years immediately following the imprisonment.

Prior to his surrender for incarceration, respondent suffered an acute bout of alcohol abuse and on May 3, 1994 commenced a course of in-patient alcohol treatment. Respondent was discharged on July 12, 1994 and began serving his two month custodial sentence on July 27, 1994.

Respondent testified before this Board on January 11, 1995 that he believed his ongoing alcoholism, dating back to his early twenties, had been at the root of his criminal conduct. Although he had undertaken rehabilitative efforts in the past, respondent submitted that the most recent treatment had been by far the most intense and effective. Moreover, respondent had testified as to his dramatic and positive change in lifestyle, his commitment to sobriety and had submitted in support of these affirmations numerous letters from therapists and counselors. His probation officer had confirmed in writing that the terms of his supervised release include urine monitoring, attendance at AA/12 Step Meetings and counselling for the entire three year term of supervised release, through September 22, 1997.

Respondent further testified that he was unable to practice pharmacy for six of the last eight months and paid replacement pharmacists in excess of \$40,000.00 to maintain his practice in his store in Asbury Park. In addition, respondent had made full payment of all taxes and fines due and owing in the criminal matter. Moreover, he appeared to be progressing satisfactorily in his rehabilitative

effort and had presumably cooperated with the Board's request to refrain from practice until further order of the Board.

However, on February 21, 1995, an inspection of Home Drug Store in Asbury Park revealed that in fact respondent had worked in the store as a pharmacist on eight different occasions in December of 1994, and further again on eight different days in February 1995.

Respondent appeared before the Board again on May 24, 1995, seeking an opportunity to account for his unlicensed practice in December and February. Mr. Kenny testified that he was clearly remiss in not adhering to the directives of the prior Order. Further, Mr. Kenny submitted documentation from the probation office that his supervised release status was clearly at risk unless he resumed employment in the near future.

In consideration of all of the above, and it further appearing that the parties wish to resolve this matter without the necessity of further formal proceedings, and for good cause shown,

IT IS THEREFORE, ON THIS *14th* DAY OF *June* 1995,

ORDERED:

1. The license of E. Thomas Kenny, R.P., to practice pharmacy in the State of New Jersey is hereby suspended for two (2) years and nine (9) months retroactive to March 1, 1995, at which time respondent actually began complying with the December 2, 1994 order. The first three (3) months and 16 days of said suspension shall be active; the remaining two (2) years and five (5) months and 14 days of said suspension shall be stayed and shall serve as a period of probation.

2. Respondent shall be on probation for the duration of the stayed suspension commencing no sooner than June 17, 1995, subject to

compliance with paragraphs 3 through 11 herein. If respondent violates any of the provisions of paragraphs 3 through 11 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 pay the Board for costs of the investigation and proceedings in this matter in the amount of \$1,250 prior to the commencement of the probationary period. At any time during the probation period, the Board may require the appearance of respondent at a meeting for a status conference.

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, 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 the 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 stayed suspension period on a weekly basis with direct witnessing of the samples. 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 documentation thereof.

7. The result of all tests shall be reported directly to H. Lee Gladstein, Executive Director of the Board, or his designee in the event he is unavailable. The Board may at anytime alter or modify the manner of the testing directed herein. In the event of any such alteration or modification the Board shall give timely notice of any new testing requirement to the respondent.

8. In the event E. Thomas Kenny 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 will not be authorized to provide consent. In addition, respondent must provide the Board with an written substantiation of 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 one time per week for the duration of the probationary period.

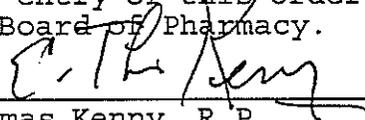
11. Respondent shall not use or possess any controlled dangerous substances, except for bona fide medical purposes as deemed necessary by a physician or other authorized prescriber during the entire period of probation. In such event, respondent is to serve notice to the

Board in writing. Respondent shall advise any and all treating physicians of his history of alcoholism.

STATE BOARD OF PHARMACY

By: 
Sophie Heymann, ~~Ph.D.~~, President

I have read the above Order and I understand its terms. I consent to the entry of this Order by the State Board of Pharmacy.


E. Thomas Kenny, R.P.

The above Order is agreed as to form and entry and I acknowledge that my client has read each of the individual terms of the within Order.


Lawrence S. Lustberg, Esq.