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**FILED**

OCT 28 2004

**BOARD OF PHARMACY**

By: Marianne W. Greenwald  
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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

FREDERICK P. MCLEISH, R.P.

TO PRACTICE PHARMACY IN THE  
STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of information that Frederick McLeish, a recovering alcoholic, admitted in April 2002 to wrongfully diverting Controlled Dangerous Substances from his employer, CVS. Respondent surrendered his pharmacy license by way of a Consent Order filed September 30, 2002 (attached hereto and made a part of this Order). Respondent is presently involved in an aftercare program with the Secundum Artem Reaching Pharmacists with Help ("S.A.R.P.H.") Program. Respondent has most recently received in-patient rehabilitation treatment at the Institute for Human Development and has provided an in-depth psychological evaluation from Family Services Association.

Respondent has testified under oath before the Board of Pharmacy in August of 2004 and represented to the Board that he is

actively working at his recovery and has remained alcohol and drug free since his admission to the treatment facility in April of 2002. Respondent having satisfied the Board that he has been sufficiently rehabilitated such that his entry into practice is consistent with the public health and safety and that he intends to continue treatment and it appearing that the respondent wishes to resolve this matter without the necessity of further formal proceedings, and for good cause shown,

IT IS THEREFORE on this 27<sup>th</sup> day of October, 2004,

ORDERED:

1. The license of Frederick McLeish, R.P. to practice pharmacy in the State of New Jersey is hereby reinstated.

2. Respondent's license shall be placed on probationary status for three (3) years from the date of entry of the within Order, subject to compliance with paragraphs 3 through 16 herein. If respondent violates any of the provisions of paragraphs 3 through 16 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 for five years from the date of entry of the within Order.

~~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 of a return to drug abuse 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 employer, 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 probationary period. Testing shall be performed a minimum of two times per week for the initial six (6) months, thereafter, one time per week for the remainder of the probation. 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 result of all tests shall be reported directly from the testing laboratory to Joanne Boyer, Executive Director of the Board or her successor, or her designee in the event she is unavailable. ~~The Board may without notice to respondent at any time~~ 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 Frederick McLeish 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.

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.

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

15. Respondent shall comply with all terms of the S.A.R.P.H. contract (attached hereto and made a part of this Order). If respondent violates any of the provisions of the contract, the Board may initiate proceedings to revoke his probationary status and to actively suspend or revoke his license to practice pharmacy.

16. Contemporaneously with the entry of this Order, respondent shall provide to the Board a copy of the executed release to S.A.R.P.H. allowing for the forwarding of all documentation in the possession of S.A.R.P.H. to the Board regarding any violation of the subject contract, and further, respondent shall renew said release as required by law until the completion of the probationary term set forth herein.

NEW JERSEY STATE BOARD OF PHARMACY

By: Pamela Allen, RPh  
Pamela Allen, R.P., President

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

Frederick McLeish, R.P.  
Respondent