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APR 18 2007

BOARD OF PHARMACY

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law, 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

By: Marianne W. Greenwald
Deputy Attorney General
Tel. No. (973) 648-4876

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	:	
	:	ORDER OF REINSTATEMENT
DAVID DARE, R.P.	:	
	:	
TO PRACTICE PHARMACY IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Pharmacy upon a request for reinstatement of respondent's license to practice pharmacy. Respondent had entered into a Consent Order with the Board of Pharmacy in July of 2006 whereby he voluntarily surrendered his pharmacy license based upon diversion of four (4) vials of Ketamine, a Schedule ~~II~~ ^{IV} Controlled Dangerous Substance, from his employer, Walmart. Respondent agreed that to be considered for relicensure he must demonstrate competence to resume the practice of pharmacy, and compliance with the Consent Order.

On March 28, 2007 respondent appeared before the full Board and testified as to his history of involvement with the Professional Assistance Program ("PAP") and his great remorse for

not having valued his license and thus for diverting medications. It appears that respondent has complied with the requirements of the Board Order i.e. he has submitted six current months of negative urine screens, has obtained a positive evaluation from a psychologist and continues to have negative drug and alcohol screens. The PAP fully supports the reinstatement of respondent's license contingent upon his continued treatment and monitoring. Respondent, being desirous of resolving this matter without the necessity of further formal proceedings, and agreeing to waive any right to same, and the Board having determined that this Order is sufficiently protective of the public health, safety and welfare; and all parties agreeing to the terms of this Order,

IT IS THEREFORE ON THIS 18th DAY OF APRIL 2007,

ORDERED THAT:

1. Respondent's license to practice pharmacy in the State of New Jersey is hereby reinstated, after producing proof of 30 continuing education credits and payment of all past and current fees, and subject to the conditions set forth in this Order.

2. Respondent shall be placed on probation for a period of one (1) year to commence on the filing date of this Order. Should respondent violate any of the conditions of probation, the Board shall take further disciplinary action.

3. (a) Respondent shall submit to directly witnessed random urine monitoring a minimum of two (2) times per week at a laboratory facility approved by the Board for the initial six (6) months of license reinstatement and employment as a pharmacist, a minimum of one (1) time per for the six (6) months thereafter. The

urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen of each sample shall utilize appropriate screening techniques and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge.

(b) All test results including any secondary test results shall be provided directly to Joanne Boyer, Executive Director of the Board, or her designee in the event she is unavailable. The Board will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing. Upon receipt of any positive urine screen, the Board reserves the right to amend the within order or to take action as provided in paragraph 7 below.

(c) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Joanne Boyer or her designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must

provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g. a physician's report attesting that he was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the Board shall be so advised by respondent and PAP so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(e) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.009 shall create a rebuttable presumption of a confirmed positive urine test. Such a specimen shall be immediately subjected to the confirming GC/MS test.

(f) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

4. Respondent shall abstain from all psychoactive substances, including alcohol and controlled dangerous substances, and shall not possess any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication for him which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

5. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treatment or other program as outlined in this Order, as may be required in order that all reports, records, and other pertinent information may be provided to, and utilized by the Board in a timely manner.

6. Respondent shall not be a preceptor or a pharmacist-in-charge and shall be barred from being a permit holder either directly or indirectly through connection with any person related by blood or marriage for the one year period of probation commencing on the entry of this Order.

7. (a) Respondent shall be subject to an Order of automatic suspension of his license for the remainder of the

probation period upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this Order including but not limited to report of a confirmed positive urine or a prima facie showing of a relapse or recurrence of alcohol or drug abuse.

(b) Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the board and to the Attorney General. The Board may hold a hearing on that application before the full Board or before a committee of the Board. In the event a committee hears the application, its action shall be subject to ratification of the full Board at its next scheduled meeting. In a hearing seeking removal of the automatic suspension, any confirmed positive urine shall be presumed valid.

NEW JERSEY STATE BOARD OF PHARMACY

By: Edward G. McGinley RPH
Edward G. McGinley, R.P.H.
President

I have read the within Order, understand its terms and agree to be bound by them. I consent to entry of the Order by the Board of Pharmacy.

David Dare
David Dare, R.P.
Respondent