

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law, 5<sup>th</sup> Floor  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101

**FILED**

NOV 19 2007

**BOARD OF PHARMACY**

By: Jodi Krugman  
Deputy Attorney General  
(973) 648-2975

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

IN THE MATTER OF THE	:	Administrative Action
APPLICATION OF	:	
	:	
ERIK JERZY JODELKA, R.P.	:	ORDER OF REINSTATEMENT
	:	
FOR REINSTATEMENT OF LICENSURE	:	
TO PRACTICE PHARMACY IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of respondent's application for reinstatement of his license to practice pharmacy in this State. Respondent voluntarily surrendered his New Jersey license by way of a Consent Order filed with the Board on March 29, 2006 based upon his diversion of Vicodin, a Schedule III Controlled Dangerous Substance and Phentermine, a Schedule IV Controlled Dangerous Substance, from the active drug stock of his employer, Foodtown Pharmacy Department. Respondent agreed that to be considered for reinstatement he must demonstrate competence to resume the practice of pharmacy, and demonstrate compliance with the terms of the

Consent Order. Respondent has now applied for the reinstatement of his pharmacy license.

On September 26, 2007 respondent appeared at an investigative inquiry before the Board and testified as to his history of involvement with the Professional Assistance Program of New Jersey ("PAPNJ"). The Board considered the testimony of respondent and the statements of Louis E. Baxter, M.D., FASAM, Executive Medical Director of the PAPNJ, and it has reviewed all relevant documentation submitted.

It appears that respondent has now demonstrated sufficient rehabilitation, fitness and ability to practice pharmacy. Respondent is willing to comply with the conditions set forth in this Order, and respondent has complied with the requirements of the prior Board Order - i.e. he has provided the Board with the required treatment records and PAPNJ reports; he has obtained a positive evaluation from a mental health professional; and he continues to have negative drug and alcohol screens.

In addition, Louis E. Baxter, M.D., FASAM, Executive Medical Director of the PAPNJ fully supports the reinstatement of respondent's license at this time, contingent upon his continued treatment and monitoring. Specifically, Dr. Baxter represented that respondent has continued on twice-weekly urine monitoring until the present time, with all results having been reported as negative for the presence of psychoactive substances including alcohol; has undergone the Board required psychological evaluation by Dr. Arnold Washton who is supportive of respondent's return to

practice; is seen in face-to-face followup on a monthly basis; routinely attends weekly Alcoholics Anonymous meetings; and has remained current in his continuing education credits.

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 14<sup>th</sup> DAY OF NOVEMBER , 2007,**

**ORDERED THAT:**

1. Respondent's license to practice pharmacy in the State of New Jersey is hereby reinstated subject to the probationary conditions set forth in this Order.
2. Respondent's license shall be placed on probation for a period of two (2) years to commence on the filing date of this Order. Should respondent violate any of the conditions, 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 twelve (12) months of license reinstatement, and a minimum of one (1) time per week for the twelve (12) 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 also 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 13 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 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 attend Alcoholics Anonymous/Narcotics Anonymous ("AA/NA") meetings or its equivalent at a minimum frequency of three (3) times per week for the duration of the two year probationary period. Respondent shall provide evidence of attendance at such groups directly to the Board on a monthly basis. If respondent discontinues attendance at any of the support groups without obtaining approval of the Board he shall be deemed in violation of this Order.

6. Respondent shall continue to participate in an aftercare program with a Board approved psychologist until such time as the psychologist, in consultation with the Executive Director of the PAPNJ, determines that respondent's participation is no longer required. The Board is to be notified of the respondent's discontinuation in the aftercare program.

7. Respondent shall continue to participate in substance abuse counseling or psychotherapy with an addiction

counselor, psychologist, psychiatrist, or mental health professional, at a minimum frequency of one (1) time per month until such time as the PAPNJ recommends a modification to respondent's participation in counseling. Respondent shall ensure that his therapist or any successor therapist is pre-approved by the Board, provides quarterly reports to the Board regarding his progress in treatment and immediate (within 24 hours) reports to the Board orally and in writing of any indication of a relapse or recurrence of drug or alcohol abuse directly to the Board.

8. Respondent shall be on observed daily administration of Naltrexone for the initial six (6) months of his employment as a pharmacist, with subsequent frequency of administration of Naltrexone to be determined by the PAPNJ and until such time that the PAPNJ determines that Naltrexone is no longer required.

9. Respondent shall maintain continued enrollment and face-to-face follow up with a clinical representative of the PAPNJ for the two (2) year probationary period, with quarterly reports to be provided by the PAPNJ to the Executive Director of the Board.

10. Respondent shall not act as a preceptor or a pharmacist-in-charge (RPIC) at any pharmacy and shall not own or have an ownership interest in any pharmacy for the two (2) year period of probation commencing on the entry of this Order.

11. 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, including but not

limited to his psychotherapist, 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. It is understood that such documents or reports may be made public in any licensing proceeding.

12. Respondent shall serve a copy of this Order on all employers, licensee supervisors, and/or responsible entities or officials at each and every facility where he plans to practice pharmacy, prior to commencing work as a licensee and shall ensure that each employer and licensee supervisor sends documentation to the Board that he or she has reviewed the complete Order.

13. (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.

14. All costs associated with the PAPNJ, urine monitoring and employment monitoring provisions outlined above shall be the responsibility of the respondent and paid directly by the respondent.

15. This Order is effective upon its filing date with the Board of Pharmacy.

NEW JERSEY STATE BOARD OF PHARMACY

By: Edward G. McGinley R.Ph.  
Edward G. McGinley, R.Ph.  
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.

Erik Jerzy Jodelka  
Erik Jerzy Jodelka, R.P.  
Respondent