

FILED

MAY 15 2008

BOARD OF PHARMACY

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

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IN THE MATTER OF THE SUSPENSION	:	Administrative Action
OR REVOCATION OF THE LICENSE OF	:	
	:	<b>CONSENT ORDER</b>
<b>BRIAN PUCCI, R.P. 18913</b>	:	
	:	
TO PRACTICE PHARMACY IN THE	:	
STATE OF NEW JERSEY	:	

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This matter was opened to the New Jersey State Board of Pharmacy ("Board") upon receipt of information that respondent violated the provisions of a prior Consent Order filed with the Board on February 15, 2006 reinstating respondent's license.

Specifically, respondent in violation of provision #7, respondent obtained employment as a pharmacist and purposely did not show a copy of the prior Consent Order between respondent and the Board to the employer prior to securing employment.

The Board, having considered the documentation submitted in mitigation of respondent's conduct, finds that respondent engaged in professional misconduct in violation of N.J.S.A. 45:1-21(e), in that respondent failed to comply with an Order of the Board in violation of N.J.A.C. 13:45C-1.4 as he failed to show his

employer, Terry's Pharmacy, a copy of the Order prior to commencing work.

IT IS THEREFORE on this 14<sup>th</sup> day of May, 2008,

ORDERED that:

1. Respondent's license to practice pharmacy in the State of New Jersey is hereby suspended for six (6) months, all of which shall be stayed, subject to the conditions set forth in this Order. Respondent shall be barred from requesting any changes to the terms or conditions set forth in this Order for a period of two (2) years commencing on the filing date of this Order.

2. Respondent shall pay a civil penalty of \$5,000.00 within ninety (90) days of the date of entry of this Order for violating the terms of the prior Order.

3. Respondent shall fully participate in the S.A.R.P.H. program for a minimum of two (2) years from the date of this Order. Such participation shall include the following and any additional requirements imposed by S.A.R.P.H.:

(a) Respondent shall submit to directly witnessed random urine monitoring a minimum of one (1) time per week through S.A.R.P.H. for the initial six (6) months of license reinstatement. Thereafter, the frequency and type of substance abuse monitoring shall be determined by a representative of S.A.R.P.H. 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 take action as provided in paragraph 9 below.

(c) Any failure of 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 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 after consulting with S.A.R.P.H.

(e) Any urine test result showing creatamine levels below 20mg/d/L and a specific gravity below 1.009 shall create a rebuttable presumption of a confirmed positive urine test. Such 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 participate in either group or individual therapy as recommended by SARPH for a period of no less than six (6) months. Thereafter, the type, frequency, and duration of therapy shall be based upon the recommendation of a representative of S.A.R.P.H. Respondent shall ensure that his counselor(s) and/or therapist(s), or any successors, provide 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.

5. Respondent shall regularly attend Alcoholics/Narcotics Anonymous ("AA/NA") at the frequency recommended by S.A.R.P.H. and have the attendance at those meetings documented. Respondent shall provide evidence of attendance at such groups directly to the Board on a monthly basis. Respondent shall attend other support groups as recommended by his after-care counselor as part of his recovery program. If respondent discontinues attendance at any of the support groups without obtaining approval of S.A.R.P.H. and the Board, he shall be deemed in violation of this Order.

6. 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 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.

7. 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 therapist through S.A.R.P.H. 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.

8. Respondent shall serve a copy of this Order on each new employer prior to commencing work as a licensee and shall ensure that each new employer sends documentation to the Board that he or she has reviewed the complete Order.

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

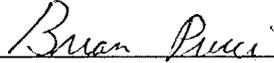
10. (a) Respondent shall be subject to an order of automatic suspension of his license upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions for reinstatement set forth in this Consent 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.

NEW JERSEY STATE BOARD OF PHARMACY

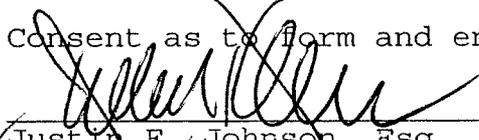
By: Edward G. McGinley  
Edward G. McGinley, R.Ph.  
President

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



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Brian Pucci, R.P.  
Respondent

Consent as to form and entry.



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Justin F. Johnson, Esq.

On behalf of S.A.R.P.H. I agree to monitor respondent and report to the Board as indicated above.

\_\_\_\_\_  
Kathie Simpson  
S.A.R.P.H. Director  
Date \_\_\_\_\_