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ATTORNEY GENERAL OF NEW JERSEY  
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**FILED**

NOV 19 2009

**BOARD OF PHARMACY**

By: Megan Cordoma  
Deputy Attorney General  
(973) 648-3453

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	:	Administrative Action
LICENSE OF	:	
	:	
	:	<b>CONSENT ORDER</b>
<b>Nicole Cifaloglio</b>	:	
Lic.No. 28RI02994200	:	
	:	
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 upon receipt of Nicole Cifaloglio, R.P.'s (Respondent's) application for renewal of her license to practice pharmacy in this State in which she disclosed that she has a history of addiction to opiates, but that she has been sober for approximately 14 months. Respondent is an active participant in the Professional Assistance Program of New Jersey.

Respondent, being desirous of resolving this matter without the necessity of further formal proceedings, and having waived 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 19<sup>th</sup> day of NOVEMBER, 2009

ORDERED THAT

1. Respondent shall continue to enroll in and comply fully with the monitoring program established for her by the PAP. Such monitoring program shall include but not be limited to:

- a. Absolute abstinence from all psychoactive substances including alcohol unless prescribed by a treating health care professional for a documented medical condition and with notification from the treating health care professional to the executive medical director of the PAP of the diagnosis and treatment regime within five days of issuing the prescription. Respondent shall advise all of his treating health care practitioners, who prescribe medications, of his addiction history and shall be responsible to ensure that the treating health care professional notifies the PAP of any prescription for a psychoactive substance within five days of issuance of the prescription. Respondent shall also personally notify the PAP of any prescription for a psychoactive substance within five days of issuance of the prescription.
- b. Successful completion of an approved treatment program under the supervision of the PAP, including but not limited to enrollment in an inpatient treatment facility if deemed necessary by the PAP.
- c. Respondent shall attend support group meetings of Alcoholics Anonymous at a frequency to be determined by the Executive Director of the PAP. Respondent shall provide evidence of attendance at such groups directly to the PAP on a form or in a manner as required by the PAP.

- d. Respondent shall undergo random urine monitoring under the supervision of the PAP on an unannounced basis, at a frequency to be determined by the PAP, but no less than 2 times per week. All test results shall be provided in the first instance directly to the PAP and any positive result shall be reported immediately by the PAP to the Executive Director of the Board. Any failure by Respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be an act of non-compliance with the terms of this Order absent an excuse satisfactory to the PAP.
- e. The Board reserves the right to require a modification of the manner of the random witnessed urine testing by the PAP in the event technical developments or individual requirements indicate that a different methodology or approach is required to guarantee the accuracy and reliability of the testing.
- f. Respondent's failure to submit to or provide a urine sample within twenty-four hours of a request shall be deemed to be the equivalent of a confirmed positive urine test and shall be deemed a violation of this Order unless Respondent is unable to appear for a scheduled urine test due to illness or other impossibility. Respondent must advise the Board in writing within two (2) days, and cause the PAP to so advise the Board in writing within (2) days, of a claimed illness or impossibility. If Respondent fails to appear for a scheduled urine test due to illness, Respondent shall provide to the Board, written substantiation of the illness in the form of a physician's report, within two (2) days. "Impossibility" means an obstacle beyond the control of Respondent that is insurmountable or that makes his appearance for the urine test so infeasible that a reasonable person would waive Respondent's requirement to give the urine sample that day.
- g. All random witnessed alcohol and drug screens shall be negative for the presence of alcohol or drugs, unless the drugs detected by screening were taken for a documented illness or medical condition pursuant to a valid prescription from a health care practitioner aware of Respondent's substance abuse history. All positive

results shall be confirmed by the Gas Chromatography Mass Spectrometry (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

- h. Any urine test result showing creatinine levels below 20 mg/dl and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test, and shall be followed by a confirming test. The method of the confirming test shall be determined by the PAP.
- i. Respondent shall become familiar 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. Respondent specifically agrees that 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.
- j. Respondent shall submit to continued monitoring by the PAP and shall meet with the PAP on a face-to-face basis at least once a month. Respondent agrees that the PAP shall advise the Board immediately in the event it receives information or evidence of noncompliant behavior and/or further relapse.
- k. Respondent shall be responsible to ensure that the PAP shall supply reports every ninety (90) days beginning on the "filed" date of this Order to the Board regarding her progress with the monitoring program.
- l. Respondent shall obtain the agreement of the PAP via a signature of its representative on this Order to notify the Board within 24 hours of its receipt of information of any noncompliant behavior, slip or relapse of impairment, including but not limited to any positive urine screen or failure to appear for urine monitoring or any scheduled appointment or any discontinuance of the PAP rehabilitation program whether initiated by Respondent or by the PAP.

- m. Respondent expressly waives any claim to privilege or confidentiality that she may have concerning reports and disclosures to the Board, and use by the Board of that information in any license proceedings, including reports and disclosures by the urine monitoring program, or the PAP, or any other person or entity involved in his rehabilitation program.
  - n. All costs associated with the monitoring outlined above shall be the responsibility of, and paid directly by, Respondent.
2. Respondent shall continue to be enrolled in and participate fully in the Professional Assistance Program (PAP) and remain enrolled until such time as the PAP releases her.
  3. Respondent, within 30 days of this Order, shall provide the Board with the PAP recommendations as established for her.
  4. Respondent hereby consents to the entry of an Order of automatic suspension of license without notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable that Respondent has failed to comply with any provision of this Order or any report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of the use of alcohol or a psychoactive substance which is not prescribed by a treating health care professional for a documented medical condition with notification to the PAP as described above.
  5. Respondent may contest the entry of any Order of automatic suspension by submitting, within five (5) days after receiving notice of the Order, a request for a hearing and specifying her reasons to contest the entry of such an Order. At

any such hearing the sole issue shall be whether any information received by the Board was materially false. In addition, the Board reserves the right to bring further disciplinary action.

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

NEW JERSEY STATE BOARD OF PHARMACY

By: Edward L. McGinley  
Edward McGinley, R.P.  
President

I have read the within Order and understand its terms. I consent to the entry of this Order by the New Jersey Board of Pharmacy:

Nicole Cifaloglio  
Nicole Cifaloglio, R.P.

I agree to the monitoring and reporting requirements specified above on behalf of the Professional Assistance Program of New Jersey:

L. E. Baxter  
Louis E. Baxter, Sr., M.D., FASAM  
Medical Director  
Physicians Assistance Program