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FILED

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BOARD OF PHARMACY

By: Megan Cordoma
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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	:	Administrative Action
OR REVOCATION OF THE LICENSE OF	:	
	:	
	:	ORDER OF REINSTATEMENT
MARK PYATAK, R.P.	:	
License No. 28RIO1538100	:	
	:	
TO PRACTICE PHARMACY IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Pharmacy ("the Board") upon receipt of respondent Mark Pyatak's application for reinstatement of his license to practice pharmacy in this State.

In October 2007, respondent was arrested and charged with third degree possession of Controlled Dangerous Substances (CDS)

with intent to distribute. Respondent pled guilty and a Judgment of Conviction was filed on September 9, 2008 including a sentence of one year probation and forfeiture of respondent's pharmacy license. In June 2009, respondent entered into a Consent Order with the Board of Pharmacy which provided that respondent could not apply for reinstatement of his license to practice pharmacy until completion of his probation and demonstration of six months of sobriety.

In support of his application for reinstatement, respondent appeared and testified under oath before the Board on December 9, 2009. Respondent has been attending Gambler's Anonymous (GA) meetings since February 2008, receiving therapy two times a month with psychologist Dr. George McDermott since February 2009, and participating in the Professional Assistance Program of New Jersey (PAP) since October 2008, including urine monitoring. Respondent's urine monitoring has been negative for illicit drug use from October 2008 to present. Respondent has successfully completed his sentence of one year of probation.

Dr. Edward Reading of the Professional Assistance Program also appeared on December 9, 2009 and testified that the PAP supports the reinstatement of respondent's pharmacy license with certain monitoring restrictions.

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;

ACCORDINGLY, IT IS on this *3rd* day of *February*, 2010,

ORDERED THAT:

1. Respondent's license shall be reinstated following his provision to the Executive Director of the Board of the following documents which shall all be to the satisfaction of the Board:

- a. Proof of successful completion of all application requirements including a criminal history background check and payment of all reinstatement fees.
- b. Proof of six (6) consecutive months of weekly urine screens showing 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.

2. After respondent has complied with all of the requirements of paragraph one (1) of this Order to the satisfaction of the Board, respondent's license to practice pharmacy shall be reinstated subject to the conditions in paragraphs three through eight of this Order.

3. For a five year period following reinstatement of his license to practice pharmacy, respondent shall not act as a preceptor or pharmacist-in-charge (RPIC) at any pharmacy and shall not own or have an ownership interest in any pharmacy.

4. For a five year period following reinstatement of his license to practice pharmacy, respondent shall comply fully with the monitoring program established for him 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. Respondent shall remain in therapy with Dr. George McDermott, at a frequency of not less than one visit per month, for a minimum of one year after return to practice to assist in the transition issues of returning to a professional work environment. Respondent shall not terminate therapy without the permission of Dr. McDermott and the PAP and without notification to this Board. Dr. McDermott shall notify the PAP of any missed sessions and provide the date of the rescheduled appointments. Respondent shall be responsible to ensure that Dr. McDermott shall supply reports to the PAP every ninety (90) days beginning on the "filed" date of this Order

regarding his progress with the monitoring program with immediate notification to the PAP and the Board of any return to illicit drug use, illegal activity, or a relapse of his gambling addiction.

- c. Respondent shall attend support group meetings of Gambler's Anonymous and/or Narcotics Anonymous at a frequency of not less than one meeting per week. 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 witnessed urine monitoring under the supervision of the PAP on a random, unannounced basis, at a frequency of no less than two times per month for the first six months following respondent's return to practice, then at a frequency of no less than one time per month for the next six months. Subsequent reductions in the frequency of urine screens shall be at the direction of the executive medical director of the PAP consistent with respondent's duration in recovery with prior notification to the State Board of Pharmacy. 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.
- 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 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 for a minimum of one year following respondent's return to practice and then at least once every two months, with subsequent reductions at the direction of the executive medical director of the PAP consistent

with respondent's duration in recovery and with prior notification to the State Board of Pharmacy.

- k. Respondent shall be responsible to ensure that the PAP shall supply reports to the Board every ninety (90) days beginning on the "filed" date of this Order regarding his progress with the monitoring program with immediate notification of any return to illicit drug use, illegal activity, or a relapse of his gambling addiction.
- 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. All costs associated with the monitoring outlined above shall be the responsibility of, and paid directly by, Respondent.

5. For a five year period following reinstatement of his license to practice pharmacy, respondent shall provide a copy of this Order to all employers where a pharmacy license is required for employment and/or where the respondent has access to medication, prescriptions or patient profiles. The respondent shall ensure that each employer notifies the Board in writing that he or she has received this Order prior to respondent beginning employment. Respondent shall inform the Board in writing of any employment and changes thereto, including periods of unemployment, and shall also provide a detailed description of his job, role and responsibilities.

6. 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 relapsed into drug abuse, illegal activity, and/or gambling. Such information may include respondent's failure to comply with any of the conditions set forth above, any other provision of this Order, any report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of his gambling addiction or the use of alcohol or any psychoactive substance which is not prescribed by a treating health care professional aware of respondent's substance abuse history, for a documented medical condition, and with notification to the PAP as described in ordered paragraph four (4).

7. Respondent shall have the right to apply for removal of the automatic suspension on five (5) days notice but in such event shall be limited to a showing that the urine tested was not his or was a false positive, or that other information submitted was false.

8. Respondent expressly waives any claim to privilege or confidentiality that he 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.

NEW JERSEY STATE BOARD OF PHARMACY

By: Thomas F.X. Bender, Jr., R.P.
Edward McGinley, R.P.,
President *V.P.*

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.

I have read the within Order and agree on behalf of the Professional Assistance Program to the monitoring and reporting requirements above.

Mark Pyatak, R.P.

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

I have read the within Order and consent as to form and entry.

I have read the within Order and agree to the monitoring and reporting requirements above.

Angelo J. Cifaldi, Esq.
Counsel for respondent

Dr. George Mc Dermott
George McDermott, Ph.D.

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George McDermott, Ph.D.
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