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**FILED**

AUG 11 2010

**BOARD OF PHARMACY**

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

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

Kyle J. Colalillo  
License No.: 28RI03006300

TO PRACTICE PHARMACY  
IN THE STATE OF NEW JERSEY

**CONSENT ORDER  
OF  
VOLUNTARY SURRENDER  
OF  
LICENSE**

This matter was opened to the New Jersey State Board of Pharmacy ("Board") upon receipt of information from Respondent's lawyer that Respondent has a possible opiate dependency problem as evidenced by an assessment by the Professional Assistance Program ("PAP") of New Jersey. Of his own accord, Respondent voluntarily ceased practicing pharmacy on May 29, 2010.

Respondent seeks leave to voluntarily surrender his license to practice pharmacy in the State of New Jersey without prejudice and in accordance with the terms of this Order. 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 11<sup>th</sup> day of August, 2010

ORDERED THAT:

1. Respondent is hereby granted leave and shall immediately surrender his license to practice Pharmacy in the State of New Jersey for a minimum period of one year effective May 29, 2010, the date he ceased practicing pharmacy.

2. Respondent shall immediately cease and desist from engaging in the practice of pharmacy, which includes, but is not limited to the following: respondent shall not handle, order, inventory, compound, count, fill, refill or dispense any drug; he shall not handle anything requiring a prescription, including devices and medications; he shall not handle prescriptions; he shall not advise or consult with patients, and he is prohibited from being present within a prescription filling area of a pharmacy.

3. Respondent shall surrender his original wall certificate, his wallet certificate, his most recent renewal card of his license ~~and the permit of Family Pharmacy~~ to the Executive Director of the Board immediately upon the entry of this Order by mailing same to Joanne Boyer, Executive Director, Board of Pharmacy, P. O. Box 45013, Newark, New Jersey 07101.

4. Respondent will 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 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. Attendance at 90 meetings of Alcoholics Anonymous or Narcotics Anonymous in 90 days, and thereafter at a frequency to be determined by the Medical Director of 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 Program.
- 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. 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 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. 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.
- i. Respondent shall submit to continued monitoring by the PAP and shall meet with the PAP on a face-to-face basis at a frequency determined by the PAP. 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.
- j. 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 his progress with the monitoring program.
- k. 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.
- l. 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.
- m. All costs associated with the monitoring outlined above shall be the responsibility of, and paid directly by, Respondent.

6. Should Respondent seek licensure in a State other than New Jersey, Respondent authorizes the PAP to inform the licensing Board of that State of the current status of his recovery and his compliance with this Order.

7. Prior to Board consideration of an application for reinstatement of his license, Respondent shall:

- a. Appear before the Board or a committee thereof to discuss his readiness to reenter the practice of pharmacy. At that time Respondent shall

be prepared to affirmatively establish his fitness, competence and capacity to re-enter the active practice of pharmacy and propose his plans for future practice in New Jersey.

- b. Provide the Board with evidence that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare and that he is not then suffering from any impairment or limitation resulting from the use of any addictive substance which could affect his practice.
- c. Provide the Board with documentation of no less than one year of sobriety to include but not be limited to complete treatment records of all diagnostic and rehabilitative therapy and an in-depth, current evaluation from a psychiatrist or psychologist knowledgeable in addiction therapy. In addition, Respondent shall provide reports from each and every mental health professional (including, but not limited to: psychologists, psychiatrists, counselors, and therapists) who have participated in respondent's care and/or treatment during the period of time from when he ceased practicing pharmacy due to recognition of an addiction problem on May 29, 2010, to his appearance before the Board or a committee thereof to discuss his readiness to reenter practice as a pharmacist.
- d. Provide the Board with a report from the Professional Assistance Program with recommendations regarding Respondent's application for reinstatement.
- e. Provide the Board with a full account of his conduct during the intervening period of time from the entry of this Order to his appearance pursuant to this Order.

NEW JERSEY STATE BOARD OF PHARMACY

By: Edward G. McGinley  
Edward G. McGinley, P.  
Board President

I have read the within Order  
and agree to its terms.

Kyle J. Colalillo  
Kyle J. Colalillo

Agreed as to the monitoring and reporting  
requirements of this Order on behalf of the  
Professional Assistance Program

Consent as to form and entry

Angelo J. Cifaldi  
Angelo J. Cifaldi, Esq.  
Attorney for Kyle J. Colalillo

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