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FILED

FEB 27 2013

BOARD OF PHARMACY

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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	:	
OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
Keith Nisonoff, R.P.	:	CONSENT ORDER
License No. 28RI02091200	:	
	:	
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upon receipt of information that the authority of Keith Nisonoff ("Respondent"), to engage in the practice of pharmacy was revoked by the Colorado and California State Boards of Pharmacy. Specifically, on or about January 4, 2011, Respondent and the Colorado Board entered into an Order revoking Respondent's license to practice pharmacy (the "2011 Colorado Order"). In addition, on or about March 30, 2010, the California Board revoked Respondent's license to practice pharmacy, effective April 29, 2010, based on Respondent's admitted violations and discipline in Colorado (the "California Order").

The 2011 Colorado Order recited in some detail Respondent's history of involvement with the Colorado Board, and the facts as recited were admitted by respondent. The history included that on July 17, 2001, a Stipulation and Final Agency Order was entered as a result of Respondent's dispensing controlled substances and prescription drugs from a Colorado Pharmacy without prescriber authorization. A second Stipulation and Final Agency Order effective August 3, 2004 (the "2004 Colorado Order") was entered as a result of respondent's diversion of controlled substances and prescription drugs for personal use. Among other provisions, the 2004 Colorado Order suspended respondent and placed him on five years of probation. On June 9, 2009, the Colorado Board received information that respondent had admitted stealing products from the pharmacy at his employer, HealthTrans. Respondent entered the pharmacy on at least four separate occasions after the pharmacy was closed and took Schedule II controlled drugs. Respondent later admitted that he had taken pills from the pharmacy and that he had a drug dependence problem.

By the terms of the 2011 Colorado Order, the Colorado Board revoked respondent's license to practice pharmacy, with no right to reapply for licensure for a minimum of two years, and no guarantee that a license would be granted upon any such future application. Respondent was also required to cease working in any capacity for

any business requiring licensure or registration under Colorado's Pharmaceuticals and Pharmacists Act.

The California Order revoked respondent's license to practice pharmacy in California, with no right to reapply for licensure for three years from its effective date. The facts that were admitted by respondent all involved his conduct and disciplinary history in Colorado.

In response to a Board request for information regarding these disciplinary actions and his ability to practice, respondent's May 21, 2011 submission explained that he had painful back and neck aches and he became dependent on prescription pain medications to alleviate them. In May of 2003 he voluntarily entered a five-year program with Peer Assistance Services, from which he successfully graduated in May of 2008. Respondent recounted stressful circumstances which caused a relapse during his employment at HealthTrans. Respondent asserted that he entered into treatment of his own accord after self-reporting his relapse, and has continued to attend NA/AA meetings and submit to random urine testing. He asserts that he was drug-free as of the date of his letter to the Board. Respondent also explained that he answered "no" to questions relating to whether actions were taken by other Boards against his license because he believed he had already notified the Board in December 2010, though the Board file contains no record of any notification.

Respondent submitted letters of support and documentation of his regular attendance of meetings at Peer Assistance Services for the period June 2009 through March 2010, and results of drug screens for the period June 30, 2009 through March 17, 2010.

The Board, having reviewed all of the information presented, finds that Respondent's actions establish a basis for disciplinary action against Respondent's license pursuant to N.J.S.A. 45:1-21(a), (b), (e), (g) and (h) in that Respondent has had his authority to engage in the activity regulated by the Board suspended by another state for reasons consistent with N.J.S.A. 45:1-21, and he misrepresented to the Board on his renewal applications by failing to disclose the discipline in other states.

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 on this 27th day of FEBRUARY, 2013,

HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice pharmacy in the State of New Jersey is hereby actively suspended for a minimum of three years, retroactive to and effective March 30, 2010, the date his license was suspended in California, and until further Order of the Board.

2. Respondent shall immediately cease and desist from engaging in the practice of pharmacy in New Jersey, 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 immediately surrender his original wall certificate and wallet certificate and all renewal cards of his license to Anthony Rubinaccio, Executive Director, Board of Pharmacy, P.O. Box 45013, 124 Halsey Street, Newark, New Jersey 07101.

4. Respondent is hereby assessed civil penalties, pursuant to N.J.S.A. 45:1-22, in the amount of \$1,000, for the conduct described herein. In payment of the \$1,000 in civil penalties, respondent shall make ten monthly payments of \$100 per payment. The first payment shall be due by March 1, 2013, and subsequent payments shall continue to be due by the first of each month until all ten payments are completed. In the event that respondent does not make a timely payment, the full balance will immediately become due. Payments shall be submitted by certified check or money order made payable to the State of New Jersey and shall be sent to Anthony Rubinaccio, Executive Director, Board of Pharmacy, at the

address listed in paragraph 3 above. Respondent may not seek reinstatement of his New Jersey license until the civil penalties have been paid in full.

5. In the event that Respondent seeks to reinstate his New Jersey pharmacy license at any time in the future, and prior to Board consideration of any application for reinstatement of his license, Respondent shall:

a. Provide documentary proof of an active license to practice pharmacy in California.

b. Obtain a complete evaluation from the Professional Assistance Program of New Jersey ("PAPNJ"), which shall be provided to the Board. The evaluation should include an opinion as to whether respondent is competent to return to practice, and include any suggested limitations on his practice as well as treatment recommendations. Respondent understands that he will be required to comply with any treatment recommended by the PAPNJ.

c. Provide the Board with discharge summaries from any in-patient programs and reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in respondent's care and/or treatment during the period of time from the date the within Order is filed to his appearance before the Board.

d. 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.

e. If requested by the Board, 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 propose his plans for future practice in New Jersey and demonstrate he is fit and competent to practice.

6. In the event PAPNJ concludes that respondent is fit to resume practice and the Board grants reinstatement of respondent's license, respondent shall:

a. Successfully complete an ethics course such as ProBe, PRIM-E or other similar course approved by the Board;

b. Complete an internship of 1,440 hours under an approved preceptor;

c. Take and pass the MPJE;

d. Provide documentation of successful completion of 75 credits of continuing education required by N.J.A.C. 13:39-3A.1 through 13:39-3A.7; and

e. Provide documentation of successful completion of all application requirements including but not limited to a completed application for reinstatement along with the requisite fees, and required criminal history background check.

7. Respondent understands and agrees that the Board, in its discretion, may impose any conditions or restrictions on licensure it deems necessary to protect the public health, safety and welfare.

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 any urine monitoring program, any mental health professional, or any person or entity involved in his treatment or rehabilitation program.

9. Failure to comply with any of the terms of this Consent Order may result in further disciplinary action, including a longer

suspension or revocation of license and any additional relief determined by the Board to be appropriate based on the conduct found.

NEW JERSEY STATE BOARD OF PHARMACY

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

I have read and understood the foregoing Order and agree to be bound by its terms. Consent is hereby given to the Board of Pharmacy to enter this Order. I understand that this Order has serious professional and legal import, and I have decided to enter into this agreement without legal counsel.

Keith Nisonoff 1/22/2013
Keith Nisonoff, R.P. Date