

IN THE MATTER OF

HOWARD DICKTER, P.D., Ph.D.

License No. 14713

Respondent

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BEFORE THE
MARYLAND STATE
BOARD OF PHARMACY

RECEIVED
FEB 6 - 2004
Board of Pharmacy

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CONSENT ORDER

PROCEDURAL HISTORY

PAID
\$2,500.00
ck. 437526878-8

Based on information received and a subsequent investigation by the Maryland State Board of Pharmacy (the "Board"), and subject to Md. CODE ANN., HEALTH OCC. ("Health Occupations") § 12-411, the Board charged **Howard Dickter, P.D., Ph.D.**, License No. 14713, D.O.B 02/14/64 (the "Respondent"), with violations of certain provisions of the Maryland Pharmacy Act (the "Act"), codified at Health Occupations §§ 12-101 et seq. (1994 Repl. Vol. and 1999 Supp.).

Specifically, the Board charged the Respondent with violating the following provisions of § 12-313 of the Act:

(b) *In general.* -- Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation; or suspend or revoke a license if the applicant or licensee:

- (2). Fraudulently or deceptively uses a license;
- (5) Submits a false statement to collect a fee[.]

In addition, the Board charged the Respondent with violating § 12-602(c) of the Act, which states:

(c) *Distribution permit required.* -- A person shall hold a distribution permit issued by the Board before the person may

distribute prescription drugs or devices as a distributor, jobber, manufacturer, or wholesaler.

The Respondent was given notice of the charges and the issues underlying those charges by letter and Charging Document sent to him via certified mail. A Case Resolution Conference ("CRC") on those charges was held on June 27, 2000, and was attended by the Respondent, John P. Downs, Esquire, attorney for the Respondent, James C. Anagnos, Administrative Prosecutor, Laura Schneider, Board member, Laura Schneider, Board member, Paul Ballard, Board Counsel, and Linda Bethman, Board Counsel. Following the CRC, the Respondent and the Board agreed to resolve the charges pending against the Respondent by entering into the following Consent Order, consisting of Procedural History, Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board makes following Findings of Fact:

1. The Respondent was initially licensed by the Board on August 19, 1997, and issued License Number 14713.
2. At all times relevant to the charges herein, the Respondent was licensed to practice pharmacy in the State of Maryland.
3. At all times relevant to the charges, the Respondent was the director of pharmacy at Union Hospital in Elkton, Maryland until his termination from that position in August 1999.

4. The Respondent was terminated from his position at Union Hospital after the hospital determined that the consulting work that the Respondent was doing for Chesapeake Infusion, a waiver pharmacy and distributor also located in Elkton, Maryland, posed a conflict of interest.

5. Between October 1998, and February 1999, the Respondent ordered approximately \$93,250 worth of Intravenous Immunoglobulin ("IVIg"), all of which was shipped to Union Hospital, while some was billed to Chesapeake Infusion and the rest billed to Union Hospital.

6. Of the \$93,250 of IVIg billed and shipped to Union Hospital, the Respondent brokered sales of \$13,750 worth of IVIg to Chesapeake Infusion and \$12,500 worth of IVIg to another company.

7. Chesapeake Infusion and the other company made payments to Union Hospital for these sales.

8. Of the remaining \$67,000 worth of IVIg, only \$4,510 worth was used by Union Hospital for its patients, while the rest was paid for and sent by the Respondent to various medical facilities throughout the United States between November 1998, and August 1999.

9. The recipients of the IVIg not used at Union Hospital believed that they were purchasing overstock IVIg from Union Hospital. However, the recipients were advised to remit payment to BKM, c/o Chesapeake Infusion.

10. BKM is a pharmacy consulting and staffing service owned and operated by the Respondent and his wife, who is also a licensed pharmacist. BKM's address is also the Respondent's residence.

11. BKM is not a licensed pharmacy or distributor.

12. BKM periodically provided staff to Chesapeake Infusion.

13. Between April 1999, and May 1999, the Respondent ordered \$67,510 worth of IVIg billed to Union Hospital and shipped to Chesapeake Infusion's address.

14. Between June 1999, and August 1999, the Respondent ordered \$27,411.67 worth of IVIg from FFF Enterprises ("FFF"), one of Union Hospital's pharmaceutical suppliers, billed to BKM, but on Union Hospital's account, and shipped to Union Hospital.

15. These purchases involved a special pricing program made available to "Premier" purchasing contract members. Union Hospital was eligible, but BKM and Chesapeake Infusion were not.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Respondent fraudulently and deceptively used his license in violation of § 12-313(b)(2) of the Act, and distributed prescription drugs without a permit in violation of § 12-602(c) of the Act.

ORDER

Based on the foregoing Procedural History, Findings of Fact, Conclusions of Law, and agreement of the parties, it is this

18th day of February 2007⁴,
by a majority of a quorum of the Board, hereby

ORDERED that the Respondent's license to practice pharmacy in the State of Maryland shall be **SUSPENDED** for a period of six months, immediately stayed; and be it further

ORDERED that the Respondent shall serve an indefinite period of probation, subject to the following provisions:

1. The Respondent shall pay a civil monetary penalty of Two Thousand Five Hundred Dollars (\$2,500.00) to the Board for payment into the General Fund of the State of Maryland. The fine may, at the Respondent's election, be paid in installments; however, it must be paid in full before the Respondent may petition the Board to be released from probation.

2. If after paying the civil monetary penalty in full the Respondent petitions the Board to be released from probation, the Board, at its discretion, may either release the Respondent from probation or continue probation.

3. During the probationary period, for employment that requires licensure as a pharmacist, the Respondent must notify any and all employers regarding the existence of this Consent Order, and all such employers must provide the Board with quarterly reports detailing the Respondent's job performance; and be it further

ORDERED that if the Respondent gains employment that requires licensure as a pharmacist, the Respondent shall practice pharmacy in accordance with the Maryland Pharmacy Act; and be it further; and be it further

ORDERED that in the event that the Board receives an unsatisfactory report from an employer who has employed the Respondent in a capacity that requires licensure as a pharmacist which the Board believes in good faith to be accurate, or in the event that the Board finds any good faith reason that the Respondent has violated any of the conditions of probation herein, the Board may take immediate action, including, but not limited to, REVOCATION OR SUSPENSION OF THE RESPONDENT'S LICENSE TO PRACTICE PHARMACY IN THE STATE OF MARYLAND. However, the Respondent shall receive written notice of such action and an opportunity to be heard in accordance with MD. CODE ANN., STATE GOV'T §§ 10-201 et seq.

ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Consent Order; and be it further

ORDERED that this Consent Order, upon execution, is subject to public inspection as a public document under the Maryland Public Information Act, codified at MD. CODE ANN., STATE GOV'T §§ 10-611 et seq.


~~Stanton G. Ades, P.D., President.~~
Maryland State Board of Pharmacy
Jeanne G. Furman, P.D., Treasurer

CONSENT OF HOWARD DICKTER, P.D., Ph.D.

I, Howard Dickter, P.D., Ph.D., by affixing my signature to this Consent Order, hereby admit to the truth of the foregoing Procedural History, Findings of Fact, and Conclusions of Law, and agree to be bound by this Consent Order and its conditions.

I am aware that without my consent my license to practice pharmacy in the State of Maryland cannot be limited except pursuant to the provisions of the Maryland Pharmacy Act, codified at MD. CODE ANN., HEALTH OCC. §§ 12-101 *et seq.*, and the Maryland Administrative Procedure Act, codified at MD. CODE ANN., STATE GOV'T §§ 10-201 *et seq.*

I am aware that I am entitled to a formal evidentiary hearing before the Board. However, by entering into this Consent Order with the Board, I am waiving my right to have a formal hearing as set forth in MD. CODE ANN., STATE GOV'T §§ 10-201 *et seq.*, and any right to appeal as set forth in MD. CODE ANN., HEALTH OCC. § 12-412 and MD. CODE ANN., STATE GOV'T § 10-222.

I acknowledge that by my failure to abide by the conditions set forth in this Consent Order and following proper procedures, I may suffer disciplinary action, possibly including revocation of my license to practice pharmacy in the State of Maryland.

I acknowledge that I have read this Consent Order in its entirety. I have consulted with my attorney, John P. Downs, Esquire, and reviewed with him each and every part of this Consent

Order. I understand this Consent Order and, voluntarily and without any coercion or undue influence agree to sign it with full comprehension of its meaning and effect.

1/31/04
Date

Howard Dickter
Howard Dickter, P.D., Ph.D.

STATE OF Delaware

CITY/COUNTY OF New Castle

I HEREBY CERTIFY that on this 31st day of Jan
2004 before me, a Notary Public of the State of Delaware
~~2003~~

and City/County aforesaid, personally appeared Howard Dickter, P.D., Ph.D., License No. 14713, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESS my hand and Notarial Seal.

[Signature]
Notary Public

My Commission Expires: Nov 13, 2004

THE BACK OF THIS DOCUMENT HAS AN ARTIFICIAL WATERMARK PRINTED IN A SPECIAL WHITE INK

OFFICIAL CHECK

HOLD THE DOCUMENT AT A SMALL ANGLE TO SEE THIS SECURITY FEATURE



CITIZENS BANK
Citizens Bank (Delaware)

Citizens Bank (Delaware)

PAY

CITIZENS BANK

\$2,500.00 **Two Thousand Five Hundred Dollars and 00/100**

TO THE ORDER OF

***** MARYLAND BOARD OF PHARMACY *****

01-31-04

NEWARK 335

2009

437526878-8

MEMO:

Drawer: Citizens Bank (Delaware)

Issued By Integrated Payment Systems Inc., Englewood, Colorado
Bank One: NA, Denver, Colorado

AUTHORIZED SIGNATURE

⑈ 225129⑈ ⑆ 102000979⑆ ⑆ 8800437526878⑈

THE VARIABLE TONE BACKGROUND AREA OF THIS DOCUMENT CHANGES COLOR GRADUALLY AND SMOOTHLY FROM DARKER TONES AT BOTH TOP AND BOTTOM TO THE LIGHTEST TONE IN THE MIDDLE