

IN THE MATTER OF

*

BEFORE THE

MEDICAP PHARMACY

*

MARYLAND STATE

Permit No. P01848

*

BOARD OF PHARMACY

* * * * *

ORDER FOR SUMMARY SUSPENSION TO OPERATE A PHARMACY

Pursuant to Md. Code Ann., State Gov't, §10-226(c)(2) (1995), the Maryland State Board of Pharmacy (the "Board") hereby suspends the permit to operate Medicap Pharmacy (the "Pharmacy"), Permit No. P01848, previously issued to John Hoelscher, III (the "Respondent") under the Maryland Pharmacy Act, Md. Code Ann., Health Occ. §12-101 et seq., (1994) (the "Act"). This Order is based on the following information, which the Board has reason to believe is true:

1. At all times relevant hereto, Respondent held a pharmacy permit to operate the Medicap Pharmacy located at 19 East Frederick Street in Walkersville, Maryland.

2. The Respondent's license to practice pharmacy was suspended by the Board on May 9, 1997 due to his "positive urine screens indicating the presence in his system of the unprescribed psychoactive medications Soma and meprobamate (a schedule IV controlled dangerous substance), his repeated admissions to taking Soma without a prescription, his slurred speech and difficulty walking, his violation of his contract with the PEAC [Pharmacy

Education and Assistance Committee], his filling and refilling prescriptions without authorization, and his dispensing errors." (See attached Order dated May 9, 1997).

3. Despite being served with notice of the Board's Order suspending his pharmacist's license, the Respondent continued to dispense prescriptions to patients for one hour on May 13, 1997 and had left four prescriptions outside the pharmacy door overnight on May 12, 1997. (See attached complaint of Sharon Bolger, licensed pharmacist and letter from Corporal Sasse date May 13, 1997).

4. On April 23, 1997, at 6:30 P.M. the Respondent left the Pharmacy unattended and unlocked. Over the past three years State Police Corporal Christopher Sasse stated that he and Trooper First Class William Bergan responded to over 10 calls complaining that the Respondent's Pharmacy was left unlocked. On the occasion of April 23, 1997, the Respondent's wife attempted to lock the door and reset the alarm. She told Corporal Sasse that the Respondent had gone to soccer practice. A patient had told Corporal Sasse that she found the pharmacy unattended and unlocked and further told Corporal Sasse that Respondent had offered to leave her prescription taped to the Pharmacy door, which offer the patient refused. (See Corporal Sasse's complaint).

5. On April 23, 1997, at 10:15 P.M. Corporal Sasse arrested

the Respondent for driving while under the influence of a controlled dangerous substance and while under the influence of a drug after observing the Respondent driving his minivan in an erratic manner and after the Respondent failed standard field sobriety tests, exhibited slurred speech, denied taking any medications, and then tested positive for a controlled dangerous substance on a blood test.

6. Based on the foregoing, the Board finds reason to believe that the Respondent's drug impairment, his dangerous practice of leaving prescriptions unattended on doors accessible to the public, his repeated failure to secure the Pharmacy by leaving it unlocked, and his wilful disregard of the Board's Order suspending his license as demonstrated by his continued practice of pharmacy show that the Respondent's Pharmacy is being operated in a manner which threatens the health, safety and welfare of the public.

CONCLUSIONS OF LAW

Based on the foregoing, the Board finds that the public health, safety and welfare imperatively requires emergency action pursuant to Md. Code Ann., State Gov't §10-226(c)(2) (1995).

ORDER

It is therefore, this 14 day of May, 1997, by the State Board of Pharmacy,

ORDERED, that pursuant to the authority granted by the Board by Md. Code Ann., State Gov't §10-226(c)(2) (1995), the permit held by the Respondent to operate Medicap Pharmacy (Permit No. P01848) is hereby **SUMMARILY SUSPENDED**, and be it further

ORDERED, upon presentation of this Order for Summary Suspension, Respondent shall immediately deliver to the Board, through the Board's designee, the renewal certificate and display permit to operate Medicap Pharmacy previously issued by the Board; and be it further

ORDERED, that upon the Board's receipt of a written request for a hearing, a hearing shall be scheduled at which the Respondent will be given an opportunity to be heard on the issues raised in this Order. Any such hearing will be held before the Board or its designee within 30 days of receiving Respondent's request therefor; and be it further

ORDERED, that this document constitutes an order of the Board and is therefore a public document for purposes of public disclosure as required by Md. Code Ann., State Gov't §10-617(h).

5/14/97
Date

David Russo
David Russo, P.D., M.B.A.
President of the Maryland
Board of Pharmacy

Dear Maryland State Board of Pharmacy:

I, John Hoelscher, P.D., by affixing my signature hereto, hereby authorize you to revoke my license due to the relapse of my conduct of drug abuse as provided in the Board's Consent Order that I signed on April 29, 1996.

Date

John Hoelscher, P.D.

STATE OF MARYLAND

COUNTY OF _____

I HEREBY CERTIFY that on this _____ day of _____, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared John Hoelscher, P.D., License No. 11115, and made oath in due form of law that signing the foregoing Authorization was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSED by my hand and Notarial Seal.

Notary Public

My Commission Expires: _____



Burgess and Commissioners

of

WALKERSVILLE, MARYLAND

5-13-97

TO: Noreen Pease
State Board of Pharmacy..

Subject: Medicap Pharmacy
19 E. Frederick St.
Walkersville, Md. 21793

John D. Hoelscher III

As a result of our conversation this morning regarding the pharmacy, I verified that Sharon J. Bolger of 7023 Ridge Rd. Frederick, Md. 21702 at 301-371-5244 is a licensed pharmacist in the State of Maryland.

In addition I noticed on Saturday 5-10-97 two prescriptions taped to the exterior of the Medicap pharmacy door with a note from Jay.

Mrs. Bolger was questioned and she stated that Jay let her into the pharmacy this morning and stayed there for about one hour, filling Rx's and actually handing them out to customers. She stated he lied about his status, as to being suspended.

While waiting to speak to Mrs. Bolger a customer had come into the pharmacy for some syringes. Bolger had her sign some log book, and commented that Jay doesn't make her sign this book for the needles.

Apparently each day a new pharmacist will be filling in for Hoelscher, and this would be a problem due to him not having a permanent replacement. Each day he would have to meet the replacement and allow them into the pharmacy.

Again I will attempt to communicate activities at Medicap routinely. If you have any questions or comments please don't hesitate contacting me.

Respectfully,

Cpl. Christopher M. Sasse
Maryland State Police - Frederick
Walkersville Resident Trooper

IN THE MATTER OF
MEDICAP PHARMACY
Permit No. PO1848

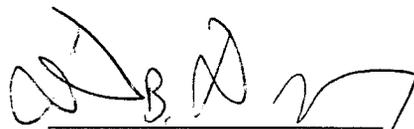
* BEFORE THE
* MARYLAND STATE
* BOARD OF PHARMACY

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AFFIDAVIT

STATE OF MARYLAND, BALTIMORE CITY, to wit: I, David B. Denoyer, am over the age of eighteen and I am not a party to the above captioned action; that on May 15, 1997, I made personal service of a **ORDER FOR SUMMARY SUSPENSION TO OPERATE A PHARMACY** on John D. Hoelscher, Owner, Medicap Pharmacy, Walkersville Maryland. Said **ORDER FOR SUMMARY SUSPENSION TO OPERATE A PHARMACY** was served outside the above named Pharmacy, in Walkersville, Maryland at approximately 10:00 am. Mr. Hoelscher read said **ORDER FOR SUMMARY SUSPENSION TO OPERATE A PHARMACY** in my presence.

I SOLEMNLY AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.


David B. Denoyer, Pharmacist
State Board of Pharmacy

I hereby certify that on this 16th day of May, 1997 before me, a Notary Public of the State of Maryland, personally appeared David B. Denoyer, and he made oath in due form of law that the matters and facts set forth in the foregoing are true and correct to the best of his knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.


NOTARY PUBLIC

My commission expires 1/1/00