

IN THE MATTER OF	*	BEFORE THE MARYLAND
JOHN L. FLOWERS, M.D.	*	STATE BOARD OF PHYSICIANS
FORMER LICENSE NO. D40524	*	Case Number: 2003-0027

.....

**FINAL ORDER ON APPLICATION FOR  
REINSTATEMENT OF MEDICAL LICENSURE**

**I. INTRODUCTION**

A Reinstatement Inquiry Panel (the "Panel"), a subcommittee of the Maryland State Board of Physicians (the "Board"), considered the application for reinstatement of medical license, dated January 15, 2005, submitted to the Board by John L. Flowers, M.D. Dr. Flowers appeared before the Panel on September 7, 2005 with his counsel. An Administrative Prosecutor also appeared before the Panel on behalf of the State. In addition to oral presentations made by Dr. Flowers, his counsel, and the Administrative Prosecutor, the Panel considered Dr. Flowers' prior disciplinary history with the Board including two prior public disciplinary orders -- a 2003 Letter of Surrender and a 1990 Consent Order. The Panel also considered Dr. Flowers' prior criminal offenses of writing fraudulent prescriptions on two separate occasions in 1988 and 2001 that led to the issuance of the two prior Board disciplinary orders.

The Panel also considered many written materials submitted by Dr. Flowers along with his reinstatement application and materials submitted by others on Dr. Flowers' behalf. These materials included, but were not limited to, written comments and recommendations submitted by the Administrative Prosecutor, an ethics paper written by Dr. Flowers, materials from the Physician Rehabilitation Committee of the Medical and Chirurgical Faculty of Maryland ("MedChi") and the Board's Professional Rehabilitation Program, a report of a psychiatric evaluation, letters and reports from Dr. Flowers' treating psychologist, the status of HCAO

claims pending against Dr. Flowers, court orders related to Dr. Flowers divorce, and documents regarding Dr. Flowers' re-payment plan for state and federal tax liabilities resulting from unpaid federal and state taxes over a period of years. The Panel decided to recommend to the full Board that Dr. Flowers' medical license be reinstated subject to a three-year probationary period and compliance with numerous probationary terms and conditions.

The full Board considered Dr. Flowers' reinstatement application, taking into consideration the Panel's recommendation, Dr. Flowers' prior disciplinary history with the Board, and all of the written materials considered by the Panel. After considering Dr. Flowers' reinstatement case, the Board issues this Final Order on Dr. Flowers' application for reinstatement of his medical license.

## **II. PROCEDURAL AND FACTUAL HISTORY**

### **A. Prior Criminal and Disciplinary History 1988-1996**

Dr. Flowers was first implicated in a prescription drug fraud case with his wife in 1988, while he was still a resident in the University of Maryland Medical System's ("UMMS") general surgery residency program. At that time, Dr. Flowers was charged with, and admitted to obtaining controlled dangerous substances ("CDS") by fraud after writing prescriptions from 1985 to 1988 for narcotic substances for himself and his wife using fictitious names and taking the prescriptions to pharmacies to obtain the drugs. Dr. Flowers admitted to "recreational use" of drugs which included Hycodan syrup, Oxycodone, and Vicodin. Dr. Flowers was fined \$1000, and received probation before judgment in the criminal case. In 1990, Dr. Flowers also tested positive for marijuana and received treatment as an inpatient for chemical dependence, followed by outpatient treatment and monitoring.

Dr. Flowers entered into a Consent Order with the Board in 1990 in which the Board concluded that he had violated the Maryland Practice Act by practicing medicine other than in connection with the university's unlicensed medical practitioner's postgraduate training program and by willfully making and filing reports or records in the practice of medicine. Under the terms of the Consent Order, Dr. Flowers was granted a medical license and was placed on probation for five years. He agreed to comply with all conditions of a five-year Physician Rehabilitation Advocacy Contract with MedChi, and a five-year Professional Assistance Treatment Contract with the UMMS, which included urine screening and frequent attendance at Alcoholics Anonymous and/or Narcotics Anonymous meetings. Following Dr. Flowers' successful completion of the probationary conditions, the Board terminated his probation in 1996.

**B. Criminal Proceedings 2001-2003**

In June 2002, however, Dr. Flowers was again charged with prescription drug fraud following a criminal investigation in 2001 by the Anne Arundel County Police Department. The investigation revealed that Dr. Flowers had written numerous prescriptions over a long period of time using fictitious names for Oxycontin, Percocet and Phentermine, all of which are CDS. These illegal prescriptions were intended for his drug-addicted wife and another individual, whom Dr. Flowers knew to be his wife's drug-supplier.<sup>1</sup> Dr. Flowers entered an Alford plea to one count of prescription drug fraud, received a six-month suspended sentence and a fine of \$1000, and was placed on supervised probation for one year.

---

<sup>1</sup> In his ethics paper, Dr. Flowers noted that his wife's drug addiction cost \$150,000 a year.

### **C. Letter of Surrender 2003**

Based on the criminal proceedings against Dr. Flowers, the Board conducted an investigation of Dr. Flowers' medical practice. In lieu of further prosecution and Board disciplinary proceedings, Dr. Flowers voluntarily surrendered his medical license by a Letter of Surrender (the "Surrender") that was accepted by the Board in April 2003. Dr. Flowers admitted that the Board's investigation and findings were sufficient to justify legal conclusions that Dr. Flowers had engaged in immoral and unprofessional conduct in the practice of medicine, in violation of Md. Health Occ. Code § 14-404(a)(3); had prescribed drugs for illegal or illegitimate purposes, in violation of § 14-404(a)(27); and had pleaded guilty to a crime involving moral turpitude, in violation of § 14-404(b). Dr. Flowers also agreed not to petition for reinstatement of his medical license before December 31, 2003, and that he could not be reinstated until he appeared before a panel of the Board, and the full Board determined that he was fit to return to the practice of medicine. The Surrender also provided that if Dr. Flowers applied for reinstatement, he had the burden of demonstrating to the Board that he was competent to practice medicine and possessed good moral character.

### **III. 2004 APPLICATION FOR REINSTATEMENT**

On January 8, 2004, Dr. Flowers filed an application for reinstatement with the Board. On August 24, 2004, the Board issued its Final Order denying Respondent's petition for reinstatement. In its decision to deny reinstatement, the Board cited several reasons, including the fact that Dr. Flowers had numerous ongoing stressors in his life. The Board expressed its concern over the fact that Dr. Flowers still had an ongoing fractious relationship with his wife in connection with their separation, legal divorce and custody proceedings. Dr. Flowers also had financial debt stemming from federal and state income tax liabilities resulting from unpaid taxes

from previous years. The Board believed that such stressors posed an existing threat to Dr. Flowers' professional judgment and created the potential for egregious misconduct.

#### **IV. CURRENT APPLICATION FOR REINSTATEMENT**

On January 15, 2005, Dr. Flowers filed an application for reinstatement. The Board then sent Dr. Flowers a series of questions which the Board routinely asks applicants for reinstatement following surrender of a medical license. These questions were:

1. What is your understanding of the nature and circumstances of your conduct which resulted in the surrender of your medical license, and what is your understanding of the concerns of the Board with respect to your conduct?
2. Have you accepted responsibility for the action(s) resulting in the surrender of your license, what is your understanding of the concerns of the Board with respect to your practice, and what steps have you taken to lessen the likelihood of recurrence?
3. What are your plans for returning to the practice of medicine in the State of Maryland and what are the circumstances of your proposed practice setting?
4. Have you been able to, and/or what efforts have you made to maintain your competency to practice medicine in your area of specialty (e.g. Continuing Medical Education (CME) credits)?

In his written response, Dr. Flowers stated that he has accepted responsibility for his actions by acknowledgement and admission of his mistakes to all concerned, adding that he has never tried to minimize the nature of his errors. He fully acknowledged that his behavior that prompted the surrender of his license included professional fraud and deception, inappropriate treatment of a family member, and violation of the public trust. Dr. Flowers noted that he has completed all terms and conditions imposed as a result of the criminal proceedings against him and that his divorce has been finalized. Additionally, Dr. Flowers added that he voluntarily received monitoring, psychological evaluation and treatment from February 2002 to the present,

from the Maryland Physician Health Program (formally known as MedChi Physician Rehabilitation Program), and the Board's Professional Rehabilitation Program. Finally, Dr. Flowers stated that that his financial obligations have been resolved, including alimony/child support, payment plans for State and Federal taxes owed, student loan, and personal debt.

## **V. CONSIDERATION OF APPLICATION**

Reinstatement of a physician's medical license is a discretionary act on the part of the Board. *See* Md. Health Occ. Code Ann. § 14-409. As the Board has often ruled, and as acknowledged by Dr. Flowers in his Surrender, the burden is on the applicant to demonstrate to the Board that he or she possess the requisite qualities to be reinstated. *See, e.g., Matter of Abbas*, Board Case No. 92-0198 (July 25, 2001). To that end, in assessing the propriety of reinstating a licensee, the Board considers the following four factors:<sup>2</sup>

1. The nature and circumstances of the applicant's original misconduct;
2. The Applicant's subsequent conduct and reformation;
3. The Applicant's present character; and
4. The Applicant's present qualifications and competence to practice.

Dr. Flowers has completed the minimal continuing medical education requirement, and exceeded it by 30 credit hours. He has also completed a tutorial course on medical ethics and professionalism.

Dr. Flowers contemplates resuming the clinical practice of general surgery in the Baltimore area. The Board received a letter of support from an Executive Vice President of a Baltimore-area hospital stating that the hospital would consider employing Dr. Flowers if the Board reinstates his medical license and if the hospital grants him hospital privileges. The letter further stated that if Dr. Flowers were to be employed, he would not be able to perform clinical functions or surgical procedures except under the direct supervision and in the physical presence of surgeons currently on staff at the hospital.

---

<sup>2</sup> The Board notes that the Maryland Court of Appeals has considered these four factors in attorney discipline cases involving reinstatement.

The psychiatrist who evaluated Dr. Flowers in 2002 and again in January 2005, stated that Dr. Flowers has shown enormous personal growth over the past two and half years, has an excellent support system in place, and is not using drugs nor abusing alcohol. The evaluating psychiatrist also offered complete confidence in Dr. Flowers' ability to return to the practice of medicine from a psychological and ethical standpoint.

In a July 13, 2005 letter from Dr. Flowers' psychotherapist, the therapist stated there was no indication that Dr. Flowers has had any problems with substance abuse since he began treatment with him in 1990. The therapist further stated that Dr. Flowers has successfully treated his personality problems through therapy and does not have a mental disorder that requires psychological or psychiatric treatment. The Director of Community Outreach Program of the Maryland Physician Health Program and the Medical Director of the Boards' Professional Rehabilitation Program have both submitted letters to the Board fully supporting Dr. Flowers' reinstatement petition.

Prior to the Board even considering his reinstatement application, Dr. Flowers was required to comply with certain conditions set forth in the Letter of Surrender. Dr. Flowers provided the necessary documentation to show that he has complied with the terms of the Letter of Surrender with respect to his participation and compliance with a Board approved impaired physician substance abuse rehabilitation program for a minimum of one year. The Letter of Surrender provided that in order for the Board to reinstate Dr. Flowers' license, he must have demonstrated to the Board that he is competent to practice medicine. Based on the above considerations, the Board believes that Dr. Flowers is competent to practice medicine as he has established a vigorous monitoring and treatment plan through a strong network of support with a therapist, two rehabilitation programs, family and friends.

At the Reinstatement Inquiry Panel meeting on September 7, 2005, Dr. Flowers reiterated that his divorce has been final, effective January 20, 2005, and his contact with his ex-wife is infrequent, limited only to issues of his son's care. Dr. Flowers stated that his federal and state tax liabilities have been resolved by formal repayment agreements and that he has begun repayment of his tax debt. Through therapy, Dr. Flowers noted that he has developed an understanding of the underlying personality traits that helped create the potential for his misconduct.

Based on the documentary evidence submitted by Dr. Flowers and others on his behalf, and his personal appearance before the Panel, the Board is persuaded that Dr. Flowers has taken full responsibility for the root causes of his criminal actions, is truly remorseful, no longer minimizes his guilt for the crimes he committed, and recognizes the seriousness of his past offenses. It is clear to the Board that Dr. Flowers has developed more insight and understanding regarding: (1) the importance of honesty, and (2) his own moral responsibilities as a physician. The Board believes that Dr. Flowers has made sincere and successful efforts at rehabilitation and reeducation, has matured and grown as a person, and has reformed his character sufficiently to practice medicine with integrity.

Based on the above considerations, the Board will exercise its discretion pursuant to Md. Health Occ. Code Ann. § 14-409 and reinstate Dr. Flower's medical license, subject to certain conditions that the Board believes are necessary to ensure that the public is protected.

### **ORDER**

Accordingly, the Board hereby **ORDERS** that the medical license of John L. Flowers, M.D. be **REINSTATED**, and it is further



**ORDERED** that Dr. Flowers will be placed on **PROBATION for a MINIMUM of THREE (3) YEARS AND UNTIL** he fully and satisfactorily complies with the following terms and conditions:

For the entire duration of the probationary period, Dr. Flowers shall not practice medicine unless and until he obtains prior Board approval of every proposed medical practice position/setting and prior Board approval of a Board-approved supervisor for every proposed practice setting/position, subject to the following terms and conditions:

**Prior Approval of Work Setting:**

- a. To obtain prior Board approval of a practice setting/position, Dr. Flowers shall submit written documentation to the Board regarding each proposed practice setting which shall include, but not be limited to, the name and addresses of all places where Dr. Flowers is employed and/or will be practicing medicine, *e.g.* hospitals, educational institutions, universities, health care facilities, outpatient offices, clinics and surgical centers, a description of job functions and responsibilities, a list of specific procedures he will be performing or assisting with, level of supervision and name(s) of supervising physician(s).

Dr. Flowers shall be responsible for assuring that any proposed employer sends directly to the Board written documentation confirming and describing Dr. Flowers' proposed employment position, practice setting, job duties, and the specific procedures with which Dr. Flowers will be assisting and performing. Dr. Flowers shall also be responsible for providing a copy of this Order of Reinstatement to every employer throughout the entire probationary period and for assuring that the Board receives written confirmation from the employer that Dr. Flowers has provided the employer with a copy of this Order of Reinstatement. The Board reserves the right to request additional information and documentation regarding any proposed practice position/setting and the right to reject the proposed practice setting.

**Prior Approval of Supervisor:**

- b. For every practice setting approved by the Board in the preceding paragraph (a.), Dr. Flowers' medical and surgical practice shall be supervised by a prior Board-approved physician licensed to practice medicine in the State of Maryland. This supervision shall encompass all aspects of Dr. Flowers' medical and surgical care. Dr. Flowers shall obtain prior Board approval of any proposed supervisor before

beginning the supervisory arrangement. To obtain the Board's approval of a supervisor, Dr. Flowers shall be responsible for ensuring that the proposed supervisor's curriculum vitae and a letter of commitment written by the proposed supervisor are submitted to the Board. Dr. Flowers shall also be responsible for providing a copy of this Order of Reinstatement to the proposed supervisor and assuring that the proposed supervisor acknowledges receipt of this Order of Reinstatement in the letter of commitment.

Dr. Flowers shall be responsible for assuring that the prior Board approved supervisor submits quarterly written reports which shall include, but not be limited to, Dr. Flowers current position title, job functions, job duties and responsibilities, list of specific surgical procedures that Dr. Flowers will be performing or assisting with, the number of those procedures performed during the quarter, level of supervision by other physicians/surgeons in the practice setting, assessment of current skill level and the quality of medical and surgical care rendered to his patients, and the quality of his medical records.

Dr. Flowers shall be supervised by a Board-approved supervisor for the entire duration of the probationary period unless the supervisory requirement of this Order of Reinstatement is terminated earlier by the Board; and it is further

**ORDERED** that Dr. Flowers shall meet the standard of quality care in his treatment of all patients; and it is further

**ORDERED** that Dr. Flowers' medical practice shall be subject to a peer review by an appropriate peer review entity, to be determined at the discretion of the Board. Dr. Flowers shall fully and promptly cooperate with medical record collection during the peer review process. Any peer review performed shall include review of records of medical/surgical care rendered by Dr. Flowers after the date of this Order of Reinstatement although the previous history and previous care of any patient seen prior to the date of this Order may be considered. If, in the judgment of the Board, a peer review performed pursuant to this paragraph appears to show that Dr. Flowers has practiced below the standard of quality care, Dr. Flowers will be given an appropriate opportunity

to respond in writing and to be heard before any final decision is made regarding the peer review; and it is further

**ORDERED** that within twenty (20) business days (excluding Saturdays, Sundays, and holidays) of the date of this Order of Reinstatement, Dr. Flowers shall enter into the Maryland Board of Physicians Professional Rehabilitation Program (the "Program") as a participant and fully and satisfactorily comply with all of the following terms and conditions:

- a. Dr. Flowers shall have scheduled and personally appeared for an appointment with the Program for the purpose of entering into a Rehabilitation Agreement that will be monitored by the Board.
- b. Dr. Flowers shall be under a Rehabilitation Agreement for the entire length of the probationary period, or longer if recommended by the Program. Dr. Flowers shall enter into any extensions of the initial Rehabilitation Agreement or enter into any new Rehabilitation Agreements as recommended by the Program. Dr. Flowers shall fully, timely, and satisfactorily comply with all terms and conditions of any Program Rehabilitation Agreement(s) and Plan(s).
- c. Dr. Flowers shall sign any written release/consent forms, and update them, as required by the Board and the Program. Specifically, Dr. Flowers shall sign any written release/consent forms required by the Board to authorize the Program to make verbal and written disclosures to the Board, including disclosure of all Program records and files, including confidential drug and alcohol abuse information about Dr. Flowers. If applicable, Dr. Flowers shall also sign any written release/consent forms required by the Program to authorize the Program to exchange with (*i.e.* disclose to and receive from) Dr. Flowers' current health care providers, treatment providers, and therapists, verbal and written information about Dr. Flowers, including confidential drug and alcohol abuse information.
- d. For the entire duration of the probationary period, Dr. Flowers shall completely abstain from the ingestion of alcohol, Controlled Dangerous Substances ("CDS"), any narcotics, cocaine, or other mood-altering substances unless prescribed for legitimate medical reasons.
- e. A violation of any of the requirements in the preceding sub paragraphs (a.)-(d.) and/or a conviction, plea of guilty or nolo contendere to any criminal offense, other than a minor traffic violation, during the probationary period

shall constitute a violation of probation and a violation of this Order of Reinstatement and, the Board, in its discretion, after notice and opportunity for a hearing, may impose additional sanctions authorized under §§ 14-404(a) and 14-405.1 of the Medical Practice Act, including suspension, additional probation, a monetary fine or permanent revocation of medical licensure; and it is further

**ORDERED** that if Dr. Flowers violates any of the terms and conditions of probation and/or of this Order of Reinstatement and/or probation, the Board, after giving Dr. Flowers notice and an opportunity to be heard, may impose any sanction which the Board may have imposed in this case under Health Occ. §§ 14-404(a) and 14-405.1 of the Medical Practice Act, including additional probation, suspension, a monetary fine, and permanent revocation of licensure. If the Board has reasonable cause to believe that Dr. Flowers has violated any of the conditions of probation and/or of this Order of Reinstatement, Dr. Flowers shall have the burden of demonstrating his compliance with the conditions; and it is further

**ORDERED** that Dr. Flowers shall be responsible for all costs incurred to fulfill the terms and conditions of this Order of Reinstatement; and it is further

**ORDERED** that no earlier than three (3) years from the date of this Order of Reinstatement, Dr. Flowers may submit a written petition to the Board requesting termination of probation, but only if he has fully and satisfactorily complied with all conditions of the Order of Reinstatement, including all terms and conditions of probation and there are no pending complaints against Dr. Flowers; and it is further

**ORDERED** that this **Final Order on Application for Reinstatement** of Medical Licensure shall be considered a **Public Document** pursuant to Md. State Gov't Code Ann. §10-617(h).

this 8<sup>th</sup> day of November, 2005.

A handwritten signature in black ink, appearing to read 'C. Irving Pinder, Jr.', written over a horizontal line.

C. Irving Pinder, Jr., Executive Director  
Maryland State Board of Physicians