

IN THE MATTER OF  
MICHAEL D. BALL, SR.  
LICENSE No: 09572  
Respondent

\* BEFORE THE  
\* STATE BOARD  
\* OF  
\* PHARMACY

\* \* \* \* \*

**ORDER FOR SUMMARY SUSPENSION**

Pursuant to Md. State Govt. Code Ann. §10-226 (c) (2004 Repl. Vol. and 2007 Supp.), the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. §§ 12-101 *et seq.* (2005 Repl. Vol. and 2007 Supp.), and Code Md. Regs. tit. 10, § 34.01.12, the State Board of Pharmacy (the "Board") hereby summarily suspends the license of Michael D. Ball, Sr. P.D., License Number 09572, (the "Respondent"), to practice pharmacy under the Act. This Order is based on the following investigative findings, which the Board has reason to believe are true:<sup>1</sup>

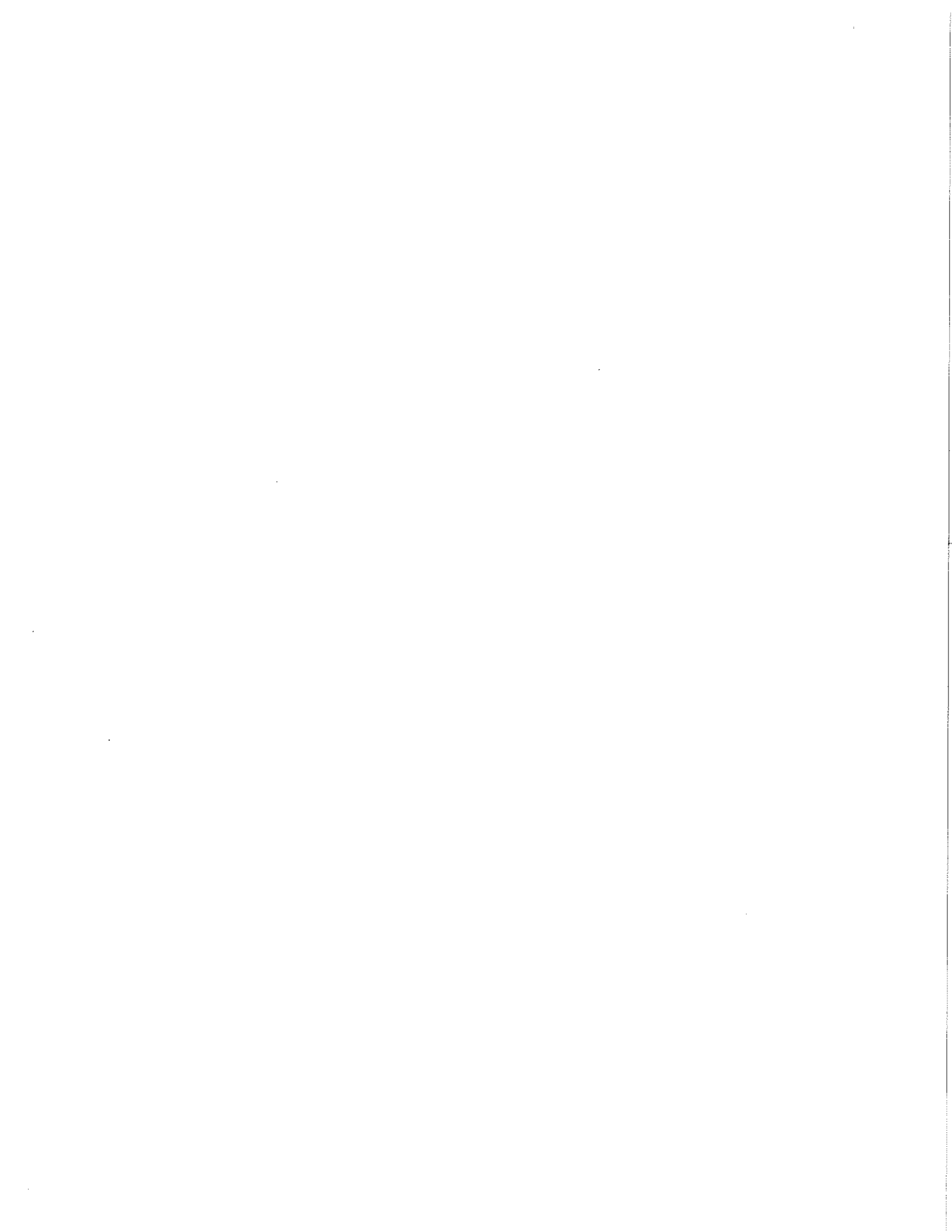
**FINDINGS OF FACT**

1. The Respondent is licensed to practice pharmacy in the State of Maryland under License Number 09572. The Respondent was first licensed on October 30, 1981. The Respondent's license expires in May of 2010.

2. At all times relevant, Respondent was employed as a pharmacist at Suburban Hospital ("Suburban") in Bethesda, Maryland.

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<sup>1</sup> The statements regarding the Respondent's conduct are only intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a completed description of the evidence, either documentary or testimonial, to be offered against the Respondent in this matter.



3. On or about June 18, 2008, the Board received a complaint from Suburban regarding the Respondent. The complainant<sup>2</sup> reported that on June 13, 2008 at approximately 1:30 a.m., a pharmacy technician found the Respondent unresponsive on the floor of the pharmacy.

4. The pharmacy technician initiated a "code blue" call and CPR. The Code Team responded and found the Respondent on the floor, unresponsive, with "agonal breathing, snoring respirations with pulses." The Code Team administered bag respirations, started an intravenous line, and placed the Respondent on a cardiac monitor. Respondent's blood sugar was 240.

5. A 10cc syringe with bloody needle, one empty vial of Versed 5mg/5cc, and two empty vials of Ultiva 1 mg each were found in the Respondent's left pocket.<sup>3</sup> A Ziplock bag filled with additional controlled dangerous substances was found in the Respondent's personal bag. The Ziplock bag contained 15 Remifentanil 1 mg vials, 10 Diazepam 10 mg carpupets, 1 Morphine 10 mg carpupet, 10 Cocaine 4% vials.<sup>4</sup>

6. The Respondent was observed to have a hematoma on the left side of his forehead, as well as multiple large, red and bloody needle markings on the right side of his abdomen. When the Respondent was later questioned about the needle markings on his abdomen, he stated that he is a diabetic and takes insulin.

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<sup>2</sup> The Respondent may obtain the identity of the people referred to in this Order by contacting the Administrative Prosecutor.

<sup>3</sup> Versed (generic: Midazolam) is an anesthetic used to produce sleepiness or drowsiness and to relieve anxiety prior to surgical procedures. Ultiva (generic: Remifentanil) is a narcotic analgesic used in induction and maintenance of general anesthesia.

<sup>4</sup> Diazepam (brand name: Valium) is a benzodiazepine used in the treatment of anxiety disorders. Morphine is a narcotic analgesic used to treat moderate to severe pain. Cocaine is used as a local anesthetic.



7. The Respondent was transported to Suburban's Emergency Department ("ED"), where he was medically stabilized.

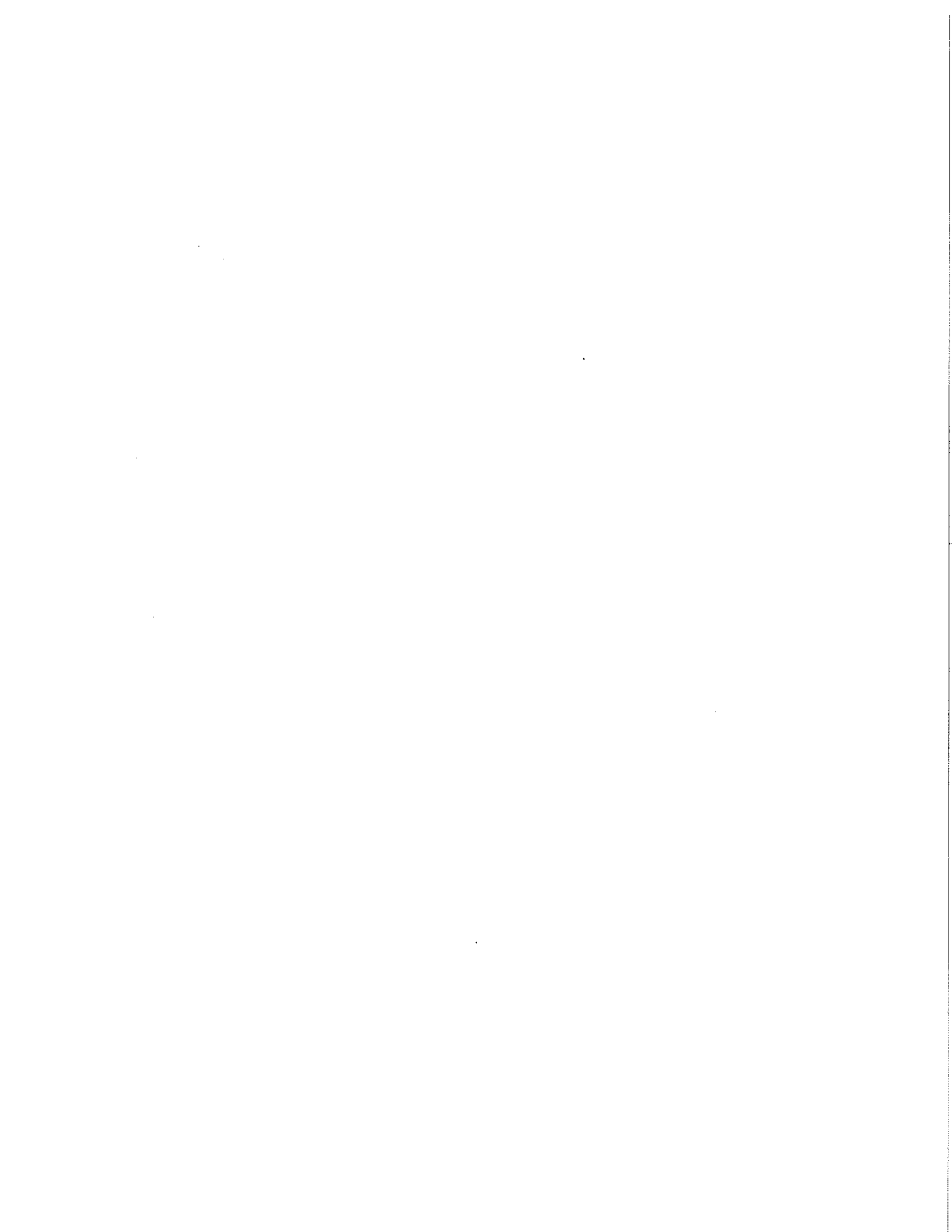
8. While the Respondent was a patient in the ED, the Respondent consented to substance abuse testing. On the form entitled, "Consent for Substance Abuse Testing for Current Employees," the Respondent was asked to list any medications taken in the last 30 days, including the type of medication, dates taken and reason/circumstances for the medication. The Respondent disclosed that he took Midazolam 2 mg (Versed) and Ultiva 2 mg (Remifenanil) but did not provide any further information.

9. The results of the urine drug screen revealed that the Respondent tested positive for presumptive benzodiazepines.

10. Based upon the finding of assorted controlled dangerous substances in the Respondent's personal bag, Suburban ran a CII Safe Compare report and it was discovered that the Respondent had been outdating medications and not returning the medications to the vault.<sup>5</sup> However, the Respondent's activity was not at a level to be flagged on transaction audit reports. The following is a list of the Respondent's outdate transactions:

<b>Date</b>	<b>Drug</b>	<b>Strength</b>	<b>Quantity Outdated</b>
5/20/2008	Morphine, epidural	10 mg	2
5/29/2008	Fentanyl	100 mcg amp	1
5/30/2008	Morphine, epidural	10 mg	3
5/30/2008	Morphine, epidural	10 mg	1
5/30/2008	Midazolam	5 mg vial	4

<sup>5</sup> A CII Safe Compare Report compares the medications dispensed to patients on the hospital units with the medications that were dispensed from the pharmacy. At Suburban, this report is usually generated on a weekly/daily basis by a pharmacy technician. However, in the month of May 2008, the pharmacy technician was pulled from all other activities and asked to focus on a different task. The Respondent's outdating activity began in May, coincidentally the same time that the report was not being generated.



5/30/2008	Morphine, epidural	10 mg	4
5/30/2008	Morphine, epidural	10 mg	3
6/3/2008	Remifentanil	1 mg vial	10
6/5/2008	Remifentanil	1 mg vial	8
6/9/2008	Remifentanil	1 mg vial	10
6/12/2008	Remifentanil	1 mg vial	3
6/12/2008	Remifentanil	1 mg vial	2
6/12/2008	Remifentanil	1 mg vial	7
6/12/2008	Remifentanil	1 mg vial	5
6/12/2008	Cocaine	4% vial	10
6/12/2008	Diazepam	10 mg carpujet	10

11. The Respondent admitted to diverting and using narcotics while on duty, but stated that the drugs were "expired." The drugs found in the Respondent's personal belongings were not expired. The Respondent admitted to a substance abuse problem, but stated that the problem had only been going on for a month due to hip pain.

12. The Respondent participated in a Behavioral Health Intake Assessment, during which he stated that he suffered from chronic hip pain and attempted to self-medicate due to financial concerns. The Respondent denied abusing drugs outside of the work setting. Outpatient substance abuse treatment was recommended.

13. The Respondent took a six week leave of absence from his employment, but was subsequently terminated.

#### **Prior Board History**

14. In March 1996, the Board received a communication from the Office of Occupational Health and Safety at Johns Hopkins Hospital regarding the circumstances of the Respondent's resignation. The Respondent was accused of sexual harassment, mood swings and behavior changes, and had threatened to "bring





a gun to the work place to settle things.” The investigation into these allegations included a random drug screen that was positive for benzodiazepines. The Respondent was permitted to resign.

15. The allegations against the Respondent were resolved after the Respondent met informally with two Board members and the Board’s Executive Director in April 1996. The Board’s case was closed in September 1996.

16. The Board received information that on May 31, 1997, the Respondent was noted to be “confused, disoriented, and not lucid” while on duty at Kmart Pharmacy. Errors were found in 9 of the 17 prescriptions filled by the Respondent on that date, and there were numerous consumer complaints. The Respondent was observed with impaired motor skills, slow reaction time and slurred speech. The Respondent was terminated from his employment at Kmart Pharmacy on June 2, 1997. The Board did not take action against the Respondent.

17. On August 31, 2000, a representative from Rite Aid Corporation notified the Board of the Respondent’s termination pursuant to his admission that he forged controlled dangerous substance prescriptions for personal use. The Respondent’s ex-wife also contacted the Board to report concerns regarding the Respondent’s substance abuse. The Board did not take action against the Respondent.

#### **CONCLUSIONS OF LAW**

Accordingly, the Board concludes that the public health, safety or welfare imperatively requires emergency action in this case, pursuant to Md. State Gov’t Code Ann. § 10-226(c)(2)(i) (2004 Repl. Vol.).



**ORDER**

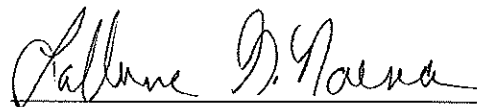
Based on the foregoing, it is this 11<sup>th</sup> day of December 2008, by a majority vote of a quorum of the Board, hereby:

**ORDERED** that pursuant to the authority vested by Md. State Gov't Code Ann., § 10-226(c)(2) License No. 09572, the Respondent's license to practice pharmacy in Maryland, is hereby **SUMMARILY SUSPENDED**; and be it further

**ORDERED** that a post-deprivation show cause hearing in accordance with Code Md. Regs. tit. 10, § 34.01.12.F (2) on the summary suspension shall be scheduled for **January 14, 2009, at 10:00 AM** at the Board's offices, 4201 Patterson Avenue, Baltimore, Maryland 21215; and be it further

**ORDERED** that the Respondent shall immediately turn over to the Board his wall certificate and wallet-sized license to practice pharmacy issued by the Board; 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. State Gov't Code Ann. § 10-617(h) (2004 Repl. Vol.).

  
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LaVerne G. Naesea, Executive Director  
Maryland Board of Pharmacy

**NOTICE OF HEARING**

A Show Cause Hearing to determine whether the Summary Suspension shall be lifted will be held before the Board at 4201 Patterson Avenue, Baltimore, Maryland 21215 on **Wednesday, January 14, 2009 at 10:00 a.m.**