

IN THE MATTER OF
BROOKVILLE PHARMACY
Respondent
PERMIT No: P00923

* BEFORE THE
* MARYLAND BOARD
* OF PHARMACY
* Case No.: PI-13-061/13-461

* * * * *

CONSENT ORDER

The Maryland State Board of Pharmacy (the "Board") charged **BROOKVILLE PHARMACY** ("the Respondent-Pharmacy"), Permit No.: P00923, with various violations under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 12-101 *et seq.* (2009 Repl. Vol. and 2013 Supp.).

The pertinent provisions of the Act are as follows:

H.O. §12-403 Required Standards.

(b) *In general.* – Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

- (1) Shall be operated in compliance with the law and with the rules and regulations of the Board; [and]
- (9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12-313 of this title or a registered pharmacy technician under § 12-6B-09 of this title[.]

H.O. § 12.313. Denials, reprimands, suspensions, and revocations-- Grounds.

(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 for a pharmacist's license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:

- (25) Violates any rule or regulation adopted by the Board.

H.O. § 12-409. Suspensions and revocations --- Grounds.

(a) *In general.* ---- Subject to the hearing provisions of § 12-411 of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:

- (1) Is conducted so as to endanger the public health or safety;
- (2) Violates any of the standards specified in § 12-403, of this subtitle; or
- (3) Otherwise is not conducted in accordance with the law.

The pertinent provisions of Code Md. Regs ("COMAR"), tit. 10, § 34.10 provide as follows:

COMAR tit. 10. § 34.10:

.01 Patient Safety and Welfare.

A. A pharmacist shall:

(1) Abide by all federal and State laws relating to the practice of pharmacy and the dispensing, distribution, storage, and labeling of drugs and devices, including but not limited to:

- (a) United States Code, Title 21,
- (b) Health-General Article, Titles 21 and 22, Annotated Code of Maryland,
- (c) Health Occupations Article, Title 12, Annotated Code of Maryland,
- (d) Criminal Law Article, Title 5, Annotated Code of Maryland, and

B. A pharmacist may not:

(1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist[.]

On March 12, 2014, a Case Resolution Conference was convened regarding this matter. Present at the Case Resolution Conference was Debra A. Smith, Administrative Prosecutor, Robert P. Esgro, counsel for the Respondent-Pharmacy, and Mojgan Hojjati, P.D., the owner of Brookville Pharmacy, the Respondent Pharmacy. As a result of this Case Resolution Conference, the Parties agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board bases its charges on the following facts that the Board has cause to believe are true:

1. The Respondent-Pharmacy is licensed to operate a retail pharmacy in the State of Maryland under permit number P00923. The Respondent-Pharmacy was first licensed in or about October 2002. The Respondent-Pharmacy's permit is currently active and will expire on May 31, 2014.

2. At all times relevant, the Respondent-Pharmacy was operating a retail pharmacy at 7025 Brookville, Road, Chevy Chase, Maryland 20815.

3. On or about August 28, 2012, the Board conducted an annual inspection of the Respondent-Pharmacy which revealed that the Respondent-Pharmacy filled a large number of prescriptions for controlled dangerous substances ("CDS") for out-of-state patients.

4. During the inspection, the Board's inspector observed 128 prescriptions dated on or about June 2012 through August, 2012 for out-of-state patients from

Physician A in Gaithersburg, Maryland.¹ Many of the patients were from Ohio, Kentucky, and West Virginia. All of the prescriptions were for CDS.

5. On or about September 26, 2012, two Board inspectors conducted a follow-up inspection of the Respondent-Pharmacy. The Board Inspector obtained a dispensing report for prescriptions from Physician A for January 1, 2012, through September 25, 2012 which revealed the following:

- a. The Respondent-Pharmacy filled 497 prescriptions from Physician A between January 1, 2012, and September 25, 2012;
- b. Of the 497 prescriptions, 415 of the prescriptions were for controlled dangerous substances
- c. Of the 497 prescription prescriptions, almost all of them were written for patients who reside outside of the state of Maryland, with some addresses in Kentucky, West Virginia and Ohio;
- d. Of the 497 prescriptions, the majority of the patients were prescribed Oxycodone² (15 mg. and 30mg.) Some of the patients were also prescribed methadone³ and Alprazolam.⁴

¹ On or about November 15, 2012, the Maryland Board of Physicians summarily suspended Physician A's license to practice medicine after it determined that his prescribing practices constituted a substantial likelihood of a risk of serious harm to the public health, safety and welfare. Physician A also permanently relinquished his license to practice medicine in Florida while he was under investigation for inappropriate prescribing practices.

² Oxycodone is a Schedule II, narcotic analgesic medication used for the relief of moderate to severe pain.

³ Methadone is a Schedule II, synthetic opioid that is used medically as an analgesic to reduce pain.

⁴ Alprazolam is a benzodiazepine, a class of drugs used to treat anxiety disorders.

The Respondent-Pharmacy in an attempt to verify the legitimacy of some the out of state prescriptions, had several communications with Physician A regarding the prescriptions at issue, and received copies of pain management contracts between Physician A and certain patients.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact the Board concludes that the Respondent-Pharmacy's actions as outlined in pertinent part above constitute violations of H.O. § 12-403(b)(1); §12-403(b)(9); §12-409(a)(1); 409(a)(2); §12-409(a)(3); and COMAR tit. 10 §34.10.01A (1) (a-d); and §34.10.01B(1).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 13th day of May, 2014, by a majority of the quorum of the Board considering this case hereby:

ORDERED that the Respondent-Pharmacy shall be **REPRIMANDED** and shall comply with the following terms and conditions:

1. The Respondent-Pharmacy shall pay a fine in the amount of \$10,000.00 (ten thousand) dollars, payable to the Maryland Board of Pharmacy within 90 days of the effective date of this Consent Order;
2. The Respondent-Pharmacy shall make an anonymous charitable contribution in the amount of \$2,500.00 (two thousand five hundred) dollars to a non-profit organization that provides services related to substance abuse, within 90 days of the effective date of this Consent Order, and submit proof of such contribution to the Board;
3. Within 90 days of the effective date of this Consent Order the Respondent-Pharmacy shall submit to the Board its revised policies and procedures regarding verification of legitimate CDS prescriptions:

4. Within 6 months of the effective date of this Consent Order the Respondent-Pharmacy shall ensure that all of its staff pharmacists complete a Board-approved continuing education course regarding valid prescriber-patient relationships and professional ethics, and shall submit proof of such completion to the Board;
5. The Respondent-Pharmacy shall be subject to monitoring by the Board, for a period of one year from the effective date of the Consent Order, to determine compliance with the Order, including unannounced inspections;
6. The Respondent-Pharmacy shall bear all costs for compliance with the terms of the Order; and
7. Any violation of the terms of the Order shall result in a suspension of the Pharmacy permit, with terms to be determined by the Board, after notice and an opportunity for a show cause hearing.

ORDERED that any violation of the terms/and or conditions of the Consent Order, including failure to complete the conditions described above, shall be deemed a violation of this Consent Order; and be it further

ORDERED that if the Respondent-Pharmacy violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction which the Board may have imposed in this case under H.O. §§ 12-409-410 of the Pharmacy Act, including suspension, revocation and/or a monetary fine, said violation being proven by a preponderance of the evidence; and be it further

ORDERED that the Respondent-Pharmacy shall be responsible for all costs

associated with fulfilling the terms and conditions of this Consent Order; and be it further

ORDERED that the continuing education requirements that the Respondent-Pharmacy's staff pharmacists complete pursuant to this Consent Order may not count towards fulfilling the continuing education requirements the pharmacists must fulfill in order to renew their license to practice as a pharmacist in Maryland; and be it further

ORDERED that the Respondent-Pharmacy shall comply with the Maryland Pharmacy Act and all laws, statutes and regulations pertaining to the practice of medicine; and be it further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol. & 2013 Supp.)

5/13/14

Date

for Lenna Israbian Jamgochian
Lenna Israbian Jamgochian, P.D.
President
Maryland Board of Pharmacy

CONSENT

I, Mojgan Hojjati, the owner of Brookville Pharmacy (Permit No. P00923), by affixing my signature hereto, acknowledge that:

1. I have consulted with counsel, Robert P. Esgro, and I have knowingly and voluntarily elected to enter into this Consent Order on behalf of Brookville Pharmacy. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept that Brookville Pharmacy is bound by the foregoing Consent Order and its conditions.
2. I am aware that Brookville Pharmacy is entitled to a formal evidentiary hearing, pursuant to Md. Health Occ. Code Ann. § 12-411 (2009 Repl. Vol. &

2013 Supp.) and Md. State Gov't Code Ann §§ 10-201 *et seq.* (2009 Repl. Vol. & 2013 Supp.).

3. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing, in which Brookville Pharmacy would have the right to counsel, to confront witnesses, to offer testimony, to call witnesses on its behalf, and all other substantive and procedural protections as provided by law. I am waiving those procedural and substantive protections on behalf of Brookville Pharmacy.
4. I voluntarily enter into and agree to abide by the terms and conditions set forth herein as a resolution of the Charges against Brookville Pharmacy. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive Brookville Pharmacy's right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.
5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, Brookville Pharmacy may be subject to disciplinary actions, which may include revocation of its pharmacy permit.
6. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

5/16/14
Date

M. Hojati
Mojgan. Hojjati P.D
Owner
Brookville Pharmacy

4/16/14
Date

Robert P. Esgro
Robert P. Esgro, R.Ph., Esquire
Counsel for Pharmacy

NOTARY

STATE OF VA

COUNTY OF Fairfax

I HEREBY CERTIFY that on this 6 day of May, 2014, before me, a Notary Public of the State and County aforesaid, personally appeared Mojgan Hojjati, P.D., and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

[Signature]
Notary Public

My Commission expires: 5/31/17

