

IN THE MATTER OF

\* BEFORE THE MARYLAND BOARD

MARIAN BUTLER, P.D.

\* OF PHARMACY

\* \* \* \* \*

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND ORDER

Based upon certain information having come to the attention of the Maryland Board of Pharmacy (the "Board") regarding the pharmacy practice of Marian Butler, P.D. (the "Respondent"), the Board determined to charge Respondent with violation of § 12-311(b)(6) and (21) of the Health Occupations Article of the Maryland Annotated Code, formerly Maryland Annotated Code Article 43, § 266A(c)(1)(i) and (xiv). The specific charges are as follows:

Subject to the hearing provisions of § 12-312 of this subtitle, the Board, on the affirmative vote of a two-thirds majority of its members then serving, may . . . reprimand any licensee, or suspend or revoke a license if the . . . licensee:

\* \* \*

(6) Willfully makes or files a false report or record as part of practicing pharmacy;

\* \* \*

(21) Is convicted of a crime involving moral turpitude.

Respondent was notified of the charges by letter dated October 15, 1981. A hearing was held on December 9, 1981 before the following members of the Board: Leonard J. DeMino, P.D.; Paul Freiman, P.D.; Bernard B. Lachman, P.D.; Anthony G. Padussis, P.D.; and Ralph T. Quarles, P.D. Mr. Lachman presided at the hearing as President of the Board. A quorum of the Board was present.

Respondent was represented by Thomas E. Grzech, Esquire, her attorney. Marc K. Cohen, Assistant Attorney General, presented the case against Respondent on behalf of the

Board. Ronald S. Gass, Assistant Attorney General, was present to advise the Board on procedural matters and rules of evidence. Following introductions and a statement by Mr. Lachman regarding the purpose of the hearing, Mr. Cohen presented his case. After an opening statement, Mr. Cohen introduced the following documentary evidence:

State's Exhibit #1: Certified copies of the indictment, docket entries and Order for Probation in State v. Butler, Criminal Court of Baltimore, Case No. 1980/18036412.

State's Exhibit #2: Certified copies of indictment and docket entries without Order for Probation in State v. Butler, Criminal Court of Baltimore, Case No. 1980/18036412.

After these exhibits were received into evidence, Mr. Cohen rested the case on behalf of the Board.

After an opening statement, Mr. Grzech called Respondent to testify on her own behalf. Mr. Grzech also introduced into evidence as Respondent's Exhibit #1, a copy of a Stipulated Agreement between the Maryland Department of Health and Mental Hygiene ("DHMH") and Respondent dated April 24, 1981 and signed by Respondent and Lawrence R. Payne, Acting Director, Medical Assistance Compliance Administration.

After closing arguments by Mr. Cohen and Mr. Grzech, the hearing was adjourned.

#### FINDINGS OF FACT

The Board finds:

1. That Respondent is a person licensed by the Maryland Board of Pharmacy to practice pharmacy in Maryland.
2. That at all times relevant to this Order, Respondent was employed as a part-time pharmacist at Hammonds Lane Pharmacy in Baltimore City.
3. That Respondent was indicted for thirty (30) counts of theft or Medicaid fraud in State v. Butler, Criminal Court of Baltimore, Case No. 1980/18036412.

4. That Respondent pled nolo contendere to five (5) counts (Counts 10, 12, 14, 16 and 18 of the indictment) of theft or Medicaid fraud in State v. Butler, Criminal Court of Baltimore, Case No. 198C/18036412.

5. That on February 10, 1981, the Criminal Court of Baltimore (the "Court") entered the verdict of nolo contendere against Respondent.

6. That the Court ordered Respondent to pay a fine of \$1,000.00 (\$200.00 for each count) and to reimburse DHMH in the amount of \$61.92.

7. That the Court placed Respondent on two (2) years supervised probation and required her to perform 150 hours of unpaid community service through pre-trial release.

8. That Respondent has satisfactorily completed the 150 hours of community service ordered by the Court.

9. That Respondent was instructed by her employer at Hammonds Lane Pharmacy to file fraudulent Medicaid prescription claims.

10. That Respondent did not receive any personal financial benefit from filing any of the fraudulent Medicaid prescription claims.

11. That Respondent willingly cooperated with the Medical Assistance Compliance Administration of DHMH in its investigation of her employer in exchange for which she was not terminated from the Maryland Medical Assistance Program.

#### CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board unanimously concludes:

1. That Respondent willfully filed fraudulent Medicaid prescription claims as part of her practice of pharmacy while employed at Hammonds Lane Pharmacy.

2. That Respondent's plea of nolo contendere constitutes a "conviction" for the purposes of the Maryland Pharmacy Act pursuant to § 12-311(a) of the Health Occupations Article.

3. That Respondent was convicted of a crime involving moral turpitude, namely theft and Medicaid fraud.

Accordingly, the Board, by unanimous vote, hereby adjudicates Respondent GUILTY of violating § 12-311(b)(6) and (21) of the Health Occupations Article of the Maryland Annotated Code, formerly Maryland Annotated Code Article 43, § 266A(c)(1)(i) and (xiv).

ORDER

Upon the foregoing Findings of Fact and Conclusions of Law, it is this 23<sup>rd</sup> day of February, 1982, by unanimous vote of the members of the Board considering this case,

ORDERED that Respondent's license to practice pharmacy in Maryland is hereby SUSPENDED for a period of two (2) years from the date of this Order; and be it further

ORDERED that the foregoing suspension shall be immediately STAYED with Respondent placed on PROBATION for a period of two (2) years from the date of this Order and subject to the following conditions:

1. That Respondent shall inform any and all of her pharmacy employers about the probationary status of her license; and
2. That Respondent shall promptly notify the Board in writing of any and all of her pharmacy employers; and
3. That Respondent shall promptly notify the Board of her current address and telephone number and of any subsequent change of address; and
4. That Respondent shall arrange for each and every owner of a pharmacy at which she is employed to provide the Board

with written quarterly reports evaluating her pharmacy practice;  
and

5. That Respondent shall arrange for her probation officer from the Division of Parole to provide the Board with written quarterly reports regarding her compliance with the terms of probation imposed by the Criminal Court of Baltimore; and

6. That at the conclusion of her court-imposed probation, Respondent shall arrange for her probation officer to submit a final written report regarding her compliance with the terms of her probation; and

7. That Respondent shall practice in accordance with the laws governing pharmacy in Maryland; and be it further ORDERED that two (2) years from the date of this Order, the Board will entertain a petition for termination of Respondent's probationary status and for reinstatement of her license to practice pharmacy without any condition or restriction whatsoever. If the Board determines that termination of probation and complete reinstatement would not be appropriate at that time, it may modify one or more of the conditions upon which Respondent was placed on probation; and be it further

ORDERED that if Respondent violates any of the terms of her probation or fails to practice in accordance with the laws governing the practice of pharmacy in Maryland, the Board, after notification, a hearing, and determination of violation, may withdraw the stay of the suspension of her license or may impose any other disciplinary sanction it deems appropriate.



Paul Freiman, P.D., Secretary  
Maryland Board of Pharmacy