

**IN THE MATTER OF**  
**IP KWOK CHEUNG, P.D.,**  
**AKA DAVID CHEUNG, P.D.**  
**LICENSE NO. 10797**

**\* BEFORE THE**  
**\* MARYLAND STATE**  
**\* BOARD OF PHARMACY**  
**\***   
**\* Case No. 07-073**

**Respondent**

\* \* \* \* \*

**FINAL DECISION AND ORDER**

**Background**

On December 3, 2007, the Maryland Board of Pharmacy (the “Board”) summarily suspended the pharmacist’s license held by Ip Kwok Cheung, aka David Cheung, License No. 10797, based on its investigation that indicated, among other things, that Mr. Cheung dispensed large amounts of controlled dangerous substances based on false or invalid prescriptions. On January 30, 2008, the Board scheduled a Show Cause hearing on the summary suspension. Mr. Cheung appeared with counsel but opted not to contest the summary suspension at that time. On July 23, 2008, the Board issued Charges against Mr. Cheung based on the same underlying conduct.

A contested case hearing was held under the Administrative Procedure Act, Md. Code Ann., State Gov’t §10-201 *et seq.*, and COMAR 10.34.01, before a quorum of the Board on October 15, 2008, for purposes of determining the propriety of the summary suspension and adjudicating the charges. After the conclusion of the hearing on the same date, October 15, 2008, the same quorum of the Board convened to deliberate and voted unanimously to sanction the license held by Mr. Cheung for the reasons set forth in this Final Decision and Order.

## SUMMARY OF THE EVIDENCE

### **A. Documents.**

The following documents were admitted into evidence.

- State's Exhibit No. 1A - Licensure printout for Mr. Cheung
- B - Computer printout of NatureCare Permit Information
  
- State's Exhibit No. 2A - 12/2/03 HHS/OIG Interview of Mr. Cheung
- B - 12/3/03 Search warrant of Mr. Cheung's residence
- C - 12/3/03 Search warrant of Nature Care Pharmacy
- D - 12/3/03 List of items seized in Pharmacy
- E - 12/10/03 DEA Report
- F - 12/10/03 DEA Report
- G - 2/04/04 DEA Report
- H - 5/19/04 Interview w/ Patient J.G.
- I - 2002-2003 Pharmacy printout of C-II's
- J - Pharmacy Printouts from 1/10/03-1/10/04
- K - Printouts w/ dummy DEA numbers (BCBS)
- L - Printouts w/ dummy DEA numbers (SW)
- M - Printout of known addicts
- N - Printout of Rx's for Patient D.M.
- O - AUSA notes
- P - Justice Dept. Press Release and 1/11/07 Settlement Agmt.
  
- State's Exhibit No. 3A - 1/30/07 Investigative notes, w/ attachment
- B - 10/23/07 Investigative Report
  
- State's Exhibit No. 4A - 12/03/07 Order of Summary Suspension
- B - 7/23/08 Letter of Procedure
- C - Charges
- D - Summons
- E - Return receipt for service, dated 7/25/08
  
- State's Exhibit No. 5A-D - Hard-copy prescriptions by Dr. Little

### **B. Witnesses.**

*State:* Christopher Grush – Diversion Investigator, Drug Enforcement Agency  
Brian Wolf – Detective, Baltimore County Police Department

Donald Tush -- Diversion Investigator, Drug Enforcement Agency  
E. Troy Yeager -- Special Agent, HHS Office of the Inspector General  
Colin Eversley -- Compliance Investigator, Board of Pharmacy

*Respondent:* Ip Kwok Cheung, P.D.

### **FINDINGS OF FACT**

Based upon the testimony and documentary evidence presented at the evidentiary hearing, the Board finds that the following facts are true:

1. Mr. Cheung was first licensed to practice pharmacy in Maryland on July 31, 1986. Mr. Cheung's license expired on June 30, 2008. (State's Ex. 1A)
2. At all times relevant herein, Mr. Cheung was the owner and sole dispensing pharmacist at NatureCare Pharmacy located in Catonsville, Maryland. (State's Ex. 2C)
3. Based on information from confidential informants regarding the illegal purchase of prescriptions for controlled substances from a physician, Dr. X, a joint task force was created between the DEA, the Baltimore County Police Department and the Department of Health and Human Services Office of the Inspector General to investigate the prescribing practices of Dr. X. Further investigation led the task force to target NatureCare Pharmacy and Mr. Cheung because most of Dr. X's invalid prescriptions for controlled substances were being filled at NatureCare. (T. 43-46)
4. On December 3, 2003, the Drug Enforcement Agency ("DEA") executed a search warrant on NatureCare Pharmacy. As a result of the search warrant, pre-signed prescription blanks from the office of Dr. X were seized as well as approximately \$55,000 in cash found in boxes. (State's Exs. 2C, 2D, 2E, 2F; T. 159, 173, 214)

5. Dr. X's prescriptions for narcotics constituted approximately thirty percent (30%) of NatureCare Pharmacy's overall dispensing business. (T. 222) Dr. X's prescriptions for Oxycontin constituted approximately eighty percent (80%) of NatureCare's Oxycontin sales. (State's Ex. 2F)
6. Mr. Cheung told a federal investigator that he charged patients of new patients of Dr. X more for their prescriptions when he was unable to verify them. (State's Ex. 2F; T. 22, 101)
7. Mr. Cheung provided Dr. X with a stamp that stated, "To be filled only at: NatureCare Pharmacy, 1140 N. Rolling Road, Baltimore, MD 21228, Tel: 410-869-9833" for the purposes of increased referrals. (State's Ex. 2B, Bates 7 and 10C)
8. NatureCare Pharmacy is located in Catonsville, Maryland, approximately 8 miles from Dr. X's office, which is located in Reisterstown, Maryland. (T. 40)
9. Mr. Cheung dispensed large amounts of Schedule II controlled substances for Patient J.G. which were prescribed by different physicians within short spans of time, knowing that Patient J.G. had a substance abuse addiction. (State's Ex. 2M; T. 115, 209)
10. Mr. Cheung frequently dispensed controlled substances pursuant to numerous prescriptions by Dr. X, all dated with the same date and sometimes for the same drug. Some of the individuals named on the prescriptions were fictitious. For example, Patient E.M. would also present prescriptions for another individual using her maiden name. (T. 113, 118) These prescriptions were frequently paid for by cash. (State's Ex. 2M))

11. Mr. Cheung provided federal investigators with two different versions of a printout from NatureCare Pharmacy detailing Percocet prescriptions filled from Dr. X's office. (State's Exs. 2I and 2J)
12. Mr. Cheung assigned false DEA numbers to approximately 246 of Dr. X's prescriptions for Schedule II when submitting claims for reimbursement. (State's Ex. 2K; T. 107)
13. On January 11, 2007, Mr. Cheung entered into a Settlement Agreement with the U.S. Department of Justice in which he agreed to pay \$500,000 to settle allegations of Oxycodone-based violations of the Controlled Substances Act.<sup>1</sup> (State's Ex. 2P, Bates 137)
13. Mr. Cheung sold NatureCare Pharmacy for approximately \$130,000. The proceeds of the sale were forfeited to the federal government. (T. 183-84)

### OPINION

A pharmacist's ethics must be beyond the pale. Pharmacists play an integral part in the provision of quality healthcare services to patients. In addition, pharmacists act as gatekeepers, allowing or prohibiting access to highly addictive drugs that have significant street value. Mr. Cheung did not take his professional responsibilities seriously and his failure resulted in the provision of highly addictive and dangerous drugs to individuals who were either clearly impaired or were further distributing these drugs to addicts on the street. The danger posed by Mr. Cheung's unprofessional actions is of great concern to the Board.<sup>2</sup>

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<sup>1</sup> Dr. X. was criminally prosecuted and lost his physician's license to practice in Maryland. (T. 124)

<sup>2</sup> In fact, the Administrative Prosecutor proffered that indeed one of Mr. Cheung's former patients has since died of a drug overdose. (T. 121)

Mr. Cheung concedes that he knew at least one of his patients had a substance abuse addiction, yet he continued to dispense narcotics to him without verifying the prescriptions. The Board, as a body of pharmacists, is acutely aware of the “red flags” that should cause suspicion by any community pharmacist. Mr. Cheung was presented with a cadre of red flags yet he chose to ignore them in favor of continuing his lucrative business relationship with Dr. X’s office. In doing so, Mr. Cheung dispensed highly addictive and dangerous narcotics in high dosages and quantities, without any medical necessity. A pharmacist bears corresponding liability for insuring that prescriptions for controlled substances are valid. The Board finds that Mr. Cheung failed to exercise even a minimum amount of professional judgment with respect to responsible dispensing of controlled substances.

In addition, Mr. Cheung submitted false DEA numbers for hundreds of CDS prescriptions written by Dr. X. Although Mr. Cheung denied that he altered Dr. X’s DEA number in order to avoid detection by the DEA, the Board does not find his testimony to be credible. Given the volume of prescriptions NatureCare Pharmacy filled for Dr. X, and the fact the Mr. Cheung provided Dr. X with a stamp for NatureCare Pharmacy for business referrals, it is clear that Mr. Cheung was willing to bend the rules in order to sustain this very profitable business relationship.

At this juncture, the Board has no confidence that Mr. Cheung has the capability to operate a pharmacy in an ethical and legal manner. And based on the egregiousness of Mr. Cheung’s misconduct, the Board finds that continued suspension of Mr. Cheung’s license is warranted. The Board feels that a significant sanction is necessary to address the violations committed by Mr. Cheung as well as to provide a deterrent to other pharmacists who may be tempted to engage in similar unethical and illegal acts.

## CONCLUSION

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes that the Order for Summary Suspension, dated December 3, 2007, was properly issued. Further, the Respondent violated Md. Code Ann., Health Occ. §§ 12-313(b)(1), (6), (7), (11), (12) and (14), and Code Md. Regs. tit. 10, § 34.10.01A(1). The Board dismisses the charge based on Health Occ. § 12-313(b)(13).

## ORDER

Based on the foregoing Findings of Fact, Opinion, and Conclusion, by a unanimous decision of a quorum of the Board it is hereby:

**ORDERED** that the pharmacist's license held by Mr. Cheung is **SUSPENDED** for a period of TWO (2) YEARS, beginning on December 3, 2007; and be it further,

**ORDERED** that during the suspension period, Mr. Cheung:

1. May not own or operate, in whole or in part, a pharmacy;
2. Shall successfully complete two (2) credits in a college-level healthcare ethics course;
3. Shall successfully complete the Maryland Pharmacy Jurisprudence Examination;
4. Shall complete 200 hours of documented community service at a substance abuse rehabilitation facility;

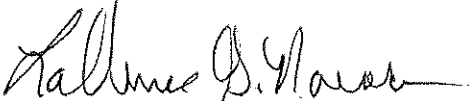
**ORDERED** that on or after December 8, 2009, Mr. Cheung may petition the Board for lifting of the suspension provided that he has fully complied with all of the terms of suspension; and be it further,

**ORDERED** that upon lifting of the suspension, Mr. Cheung shall be placed on immediate PROBATION for at least FIVE (5) YEARS during which Mr. Cheung:

1. May not own or operate, in whole or in part, a pharmacy, nor work for a pharmacy that is owned or operated by a family member;
2. May not be a director of pharmacy or pharmacy manager;
3. Shall insure that his pharmacy employer(s) submit quarterly progress reports;
4. Shall successfully complete 3 continuing education credits in pain management, which shall be in addition to the continuing education credits required for renewal;
5. Shall successfully complete 3 continuing education credits in substance abuse and addiction, which shall be in addition to the continuing education credits required for renewal; and be it further,

**ORDERED** that this is a final order of the State Board of Pharmacy and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't Art., §§10-611, *et seq.*

2/13/2009  
Date

  
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LaVerne G. Naesea, Executive Director  
for  
Donald Taylor, P.D.  
President, Board of Pharmacy



**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. Art., §12-316, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Act, Md. Code Ann., State Gov't Art., §§10-201, *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.