

IN THE MATTER OF

FARANGIS EMAMHOSSEINI, P.D.

Respondent

License Number: 16775

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BEFORE THE

MARYLAND STATE

BOARD OF PHARMACY

Case Number: 13-059

CONSENT ORDER

PROCEDURAL BACKGROUND

On April 17, 2013, the Maryland State Board of Pharmacy (the "Board") charged **FARANGIS EMAMHOSSEINI, P.D. ("the Respondent")**, License Number 16775, under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 12-101 *et seq.* (2009 Repl. Vol. and 2012 Supp.) and the Code of Maryland Regulations ("COMAR").

The Board charged the Respondent under the following provisions of the Act:

**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 . . . reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the . . . licensee:

- (2) Fraudulently or deceptively uses a license;
- (3) Aids an unauthorized individual to practice pharmacy or to represent that the individual is a pharmacist or a registered pharmacy technician; [and/or]
- (25) Violates any rule or regulation adopted by the Board[.]

The Board also charged the Respondent under the following COMAR provisions:

**COMAR 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
    - (e) COMAR 10.19.03.
- B. A pharmacist may not:
- (1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist;
  - (2) Practice pharmacy under circumstances or conditions which prevent the proper exercise of professional judgment; or
  - (3) Engage in unprofessional conduct.

**COMAR 10.34.10.08. Refusing to Dispense a Controlled Substance.**

- A. If, based on generally accepted standards for the practice of pharmacy, a pharmacist has reason to believe, or should have reason to believe, that a prescription for a controlled dangerous substance was not issued for a legitimate medical purpose in the usual course of the prescriber's practice, the pharmacist may not dispense the controlled dangerous substance until the pharmacist:
- (1) Consults with the prescriber; and
  - (2) Verifies the medical legitimacy of the prescription.
- B. If, after consulting with the prescriber, and based on generally accepted professional standards for the practice of pharmacy, a

pharmacist has reason to believe that the prescription for a controlled dangerous substance was not issued for a legitimate medical purpose in the usual course of the prescriber's practice, the pharmacist shall:

- (1) Refuse to dispense the drug; and
- (2) Report the incident to the regulatory board that licenses the prescriber.

**COMAR 10.34.21.04. Duties of a Pharmacist.**

- A. The pharmacist shall provide supervision to unlicensed personnel.
- B. The pharmacist may not delegate any pharmacy acts to unlicensed personnel.

**COMAR 10.19.03.07C. Purpose of Issue of Prescription.**

- (1) A prescription for a controlled dangerous substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of the individual practitioner's professional practice. The responsibility for the proper prescribing and dispensing of controlled dangerous substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of the Maryland Controlled Dangerous Substances Act Criminal Law Article, §§ 5-501 – 5-505, Annotated Code of Maryland, and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violation of the provisions of the law relating to controlled dangerous substances.

On June 26, 2013, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, which consists of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

## FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. At all times relevant hereto, the Respondent was and is licensed to practice pharmacy in the State of Maryland. The Respondent was originally licensed to practice pharmacy in the State of Maryland on August 27, 2003, under License Number 16775. The Respondent's license is currently active until January 31, 2015.
2. On or about January 3, 2011, the Respondent applied to the Board for a permit to operate a retail pharmacy named the Thomas Johnson Pharmacy ("Thomas Johnson"), located at 177 B Thomas Johnson Drive, Frederick, Maryland 21702. In her application, the Respondent identified herself as the owner of Thomas Johnson. The Board subsequently issued a permit for Thomas Johnson that is currently active.
3. At all times relevant hereto, the Respondent practiced pharmacy at Thomas Johnson.
4. The Board initiated an investigation of the Respondent after reviewing the findings of an annual inspection of Thomas Johnson that was conducted by Board inspectors in or around late 2012/early 2013. This investigation revealed that the Respondent/Thomas Johnson filled a large number of Schedule II controlled dangerous substances ("CDS") prescriptions for opiates that were written by physicians whose licenses the Maryland State Board of Physicians (the "Board of Physicians") subsequently suspended or revoked for inappropriate/illegitimate prescribing practices and unprofessional conduct relating to prescribing improprieties. The Board of Physicians took such action after investigating complaints from a variety of sources

including law enforcement agencies and pharmacists who refused to fill opioid prescriptions that were written by the physicians the Board disciplined.

**The pharmacy inspection/survey**

5. Beginning in or around late 2012/early 2013, the Board conducted an annual inspection of Thomas Johnson. The Board reviewed the Respondent's filling of prescriptions from 2011 to 2012. The inspection revealed the following:

**Charles J. Kessler, M.D.**

(a) The Respondent/Thomas Johnson filled a large number of opioid prescriptions for out-of-state patients that were written by Charles J. Kessler, M.D. ("Dr. Kessler"), a physician who was then practicing in an office located in Gaithersburg, Maryland.

(b) On November 15, 2012, the Maryland State Board of Physicians ("Board of Physicians") issued an Order for Summary Suspension in which it summarily suspended Dr. Kessler's Maryland medical license after it determined that his continued practice constituted a substantial likelihood of a risk of serious harm to the public health, safety and welfare. Dr. Kessler also permanently relinquished his license to practice medicine in Florida while under investigation for inappropriate prescribing practices.

(c) The Board of Physicians also charged Dr. Kessler with violating various provisions of the Maryland Medical Practice Act. H.O. § 14-101 *et seq.* Pursuant to a Consent Order, dated March 20, 2013, the Board of Physicians revoked Dr. Kessler's Maryland medical license. Dr. Kessler also has pending criminal charges against him in Florida for operating/practicing at an unregistered pain management clinic.

(d) From in or around June 2012 to December 2012, the Respondent/Thomas Johnson filled approximately 551 prescriptions that were written by Dr. Kessler. Many of these prescriptions were written for patients from Ohio, Kentucky, Tennessee and North Carolina. A smaller number of patients who filled opioid prescriptions came from Maryland. These prescriptions were for oxycodone 30 mg<sup>1</sup>, oxycodone 15 mg, methadone 10 mg<sup>2</sup> and carisoprodol 350 mg,<sup>3</sup> often in combination.

(e) The survey revealed that the Respondent/Thomas Johnson filled a disproportionate number of prescriptions that were written by Dr. Kessler relative to the prescriptions it filled for opioid medications for other physicians. For example, of the 315 prescriptions for oxycodone 30 mg that the Respondent/Thomas Johnson filled during the above time period, 209 prescriptions, or 66 %, were written by Dr. Kessler. Of the 311 prescriptions for oxycodone 15 mg that the Respondent/Thomas Johnson filled, 215 prescriptions, or 69 %, were written by Dr. Kessler. Of the 54 prescriptions for carisoprodol 350 mg that the Respondent/Thomas Johnson filled, 25 prescriptions, or 46 %, were written by Dr. Kessler. Of the 58 prescriptions for methadone 10 mg that the Respondent/Thomas Johnson filled, 14 prescriptions, or 24 %, were written by Dr. Kessler.

**N. David Tzou, M.D.**

(f) The survey determined that from May 11, 2011 to October 18, 2012, the Respondent/Thomas Johnson also filled approximately 75 prescriptions for various

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<sup>1</sup> Oxycodone is an opioid analgesic and Schedule II CDS.

<sup>2</sup> Methadone is a synthetic opioid and Schedule II CDS.

<sup>3</sup> Carisoprodol is muscle relaxant and Schedule IV CDS.

opioid Schedule II CDS medications (including oxycodone, methadone, hydromorphone<sup>4</sup> and morphine<sup>5</sup>) that were written by N. David Tzou, M.D., whose office address at the time was in Laurel, Maryland.

(g) On September 24, 2012, the Board of Physicians issued an Order for Summary Suspension in which it summarily suspended Dr. Tzou's Maryland medical license after it determined that his continued practice constituted a substantial likelihood of a risk of serious harm to the public health, safety and welfare. The Board of Physicians also charged Dr. Tzou with violating various provisions of the Maryland Medical Practice Act, including unprofessional conduct in the practice of medicine, professional incompetence, and prescribing drugs for illegal or illegitimate medical purposes. Pursuant to a Consent Order, dated January 23, 2013, the Board suspended Dr. Tzou's Maryland medical license for a minimum period of one year, and imposed other probationary conditions.

#### **Healthy Life Medical Group**

(h) The survey also found that the Respondent/Thomas Johnson filled prescriptions for various opioid analgesics that were written by several physicians and a physician assistant who worked in a practice known as Healthy Life Medical Group ("Healthy Life"), which had offices in Timonium, Maryland and Reisterstown, Maryland.

(i) In March through August, 2012, the Board of Physicians issued a series of Orders for Summary Suspension in which it summarily suspended the medical licenses of three physicians from Healthy Life, Michael Q. Durry, M.D., William J. Crittenden, III, M.D., and Daniel J. Alexander, M.D., and a physician assistant, Marina Gadjuko, P.A.,

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<sup>4</sup> Hydromorphone is an opioid analgesic and Schedule II CDS.

<sup>5</sup> Morphine is an opiate analgesic and Schedule II CDS.

after it determined that their continued practice constituted a substantial likelihood of a risk of serious harm to the public health, safety and welfare.

(j) The Board of Physicians also charged Drs. Durry, Crittenden and Alexander, and Ms. Gajduko with violating various provisions of the Maryland Medical Practice Act and the Maryland Physician Assistants Act, respectively, relating to their inappropriate prescribing of opioid analgesic medications, some of which were filled by the Respondent/Thomas Johnson.

(k) Pursuant to two Consent Orders, dated June 27, 2012, the Board suspended Dr. Durry's Maryland medical license for a minimum period of two years and revoked Dr. Crittenden's Maryland medical license. By a Consent Order dated October 25, 2012, the Board suspended Dr. Alexander's Maryland medical license for two months, subject to several probationary conditions. By a Consent Order, dated August 22, 2012, the Board suspended Ms. Gajduko's physician assistant license for one month, subject to several probationary conditions.

6. The Respondent violated a rule and regulation of the Board, in violation of H.O. § 12-313(b)(25). The Respondent failed to exercise her corresponding responsibility when filling prescriptions for physicians who issued prescriptions which, under the circumstances, were not issued for a legitimate medical purpose, in violation of COMAR 10.19.03.07C, 10.34.10.01 and 10.34.10.08.

#### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provision of the Act: H.O. § 12-313(b)(25), Violates any rule or regulation of the Board. The Board concludes as a matter of law



that the Respondent violated the following COMAR provisions: 10.19.03.07C (Purpose of Issue of Prescription—Corresponding Responsibility); 10.34.10.01 (Patient Safety and Welfare); and 10.34.10.08 (Refusing to Dispense a Controlled Substance);

### ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 26<sup>th</sup> day of August, 2013, by the affirmative vote of a majority of the members of the Board then serving:

**ORDERED** that the Respondent's license to practice pharmacy in the State of Maryland shall be **SUSPENDED** for **THIRTY (30) DAYS**, which shall be **STAYED**; and it is further

**ORDERED** that the Respondent shall be placed on **PROBATON** for a minimum period of **TWO (2) YEARS**, to commence on the date the Board executes this Consent Order, and continuing until the Respondent successfully complies with the following terms and conditions:

1. Within one (1) year of the date the Board executes this Consent Order, the Respondent shall successfully complete six (6) continuing education (CE) credits in substance abuse treatment and detection. The Respondent understands and agrees that she may not use this coursework to fulfill any requirements mandated for licensure renewal. The Respondent shall be solely responsible for furnishing the Board with adequate written verification that she has completed the course according to the terms set forth herein.

2. Within sixty (60) days of the date the Board executes this Consent Order, the Respondent shall submit to the Board written policies and procedures regarding verification of controlled dangerous substance prescriptions.

3. Within sixty (60) days of the date the Board executes this Consent Order, the Respondent shall pay a civil fine in the amount of **ONE THOUSAND AND FIVE HUNDRED DOLLARS (\$1500.00)**, by certified check or money order, payable to The Maryland State Board of Pharmacy.

**AND IT IS FURTHER ORDERED** that the charges under H.O. § 12-313(b)(2)(Fraudulently or deceptively uses a license), H.O. § 12-313(b)(3)(Aids an unauthorized person to represent that the individual is a pharmacist or a registered pharmacy technician) and COMAR 10.34.21.04 (Duties of a pharmacist) are hereby **DISMISSED**; and it is further

**ORDERED** that after the conclusion of the entire **TWO (2) YEAR** period of **PROBATION**, the Respondent may file a written petition to the Board requesting termination of her probation, provided that she has fully and satisfactorily complied with all of the probationary terms and conditions of this Consent Order, including the expiration of the **two (2) year** period of probation, and if there are no outstanding complaints against her before the Board; and it is further

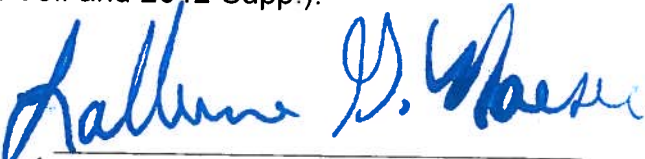
**ORDERED** that if the Respondent violates any of the terms or conditions of this Consent Order or of probation, the Board, in its discretion, after notice and an opportunity for a hearing, may impose any other disciplinary sanctions the Board may have imposed, including a reprimand, probation, suspension, revocation and/or a monetary fine, said violation being proven by a preponderance of the evidence; and it is

Further

**ORDERED** that the Respondent shall not apply for early termination of probation; and it is further

**ORDERED** that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of the Consent Order; and it is further this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't. Code Ann. § 10-611 *et seq.* (2009 Repl. Vol. and 2012 Supp.).

Date 8/26/13

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

**CONSENT**

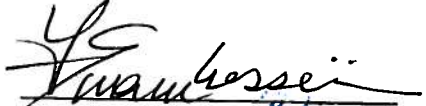
I, Farangis Emamhosseini, P.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am

waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

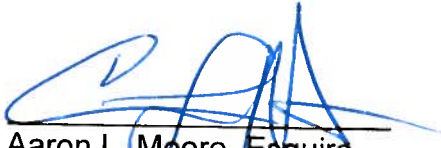
I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

Aug 3, 2013  
Date

  
Farangis Emamhosseini, P.D.  
Respondent

Read and approved:

August 19, 2013  
Date

  
Aaron L. Moore, Esquire  
Counsel for Respondent


**NOTARY**

STATE OF Maryland

CITY/COUNTY OF: Montgomery

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of August, 2013, before me, a Notary Public of the State and County aforesaid, personally appeared Farangis Emamhosseini, 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.

  
Notary Public

My commission expires: 9/9/13

LAURIE A. OUTSA  
NOTARY PUBLIC  
MONTGOMERY COUNTY  
MARYLAND  
MY COMMISSION EXPIRES SEPT. 9, 2013