



IN THE MATTER OF
KATHERINE EMERY
LICENSE NO. 11691

* BEFORE THE MARYLAND
* STATE BOARD OF
* PHARMACY

* * * * *

CONSENT ORDER IN LIEU OF SUMMARY SUSPENSION

HISTORY

On October 9, 2007, the Maryland State Board of Pharmacy (the "Board") issued an Order for Summary Suspension, in which it summarily suspended the pharmacist's license held by Katherine Emery, P.D. (the "Respondent"). Specifically, the Board found that Respondent's substance abuse affected the public's health, safety and welfare and required emergency action pursuant to Md. Code Ann., State Gov't § 10-226(c)(2) (2004 Repl. Vol.).

On November 28, 2007, a quorum of the Board held a hearing to allow Respondent to show cause why she did not pose an imminent threat to the health, safety and welfare of the public. On July 23, 2008, in lieu of a continued summary suspension, Respondent signed a Consent Order Terminating Summary Suspension, which suspended her license for at least one year, effective October 9, 2007, and which required her to satisfy certain conditions that monitored Respondent's abstinence from drugs and alcohol.

On September 10, 2008, Respondent petitioned for an Order terminating the suspension. On March 12, 2009, Respondent and the Board entered into a Consent Order lifting the suspension of Respondent's license. The Consent Order for Lifting Summary

Suspension placed Respondent's license on probation for at least three years and specified the terms of that probation. These terms included random weekly urine screenings to ensure abstinence from drugs and alcohol, as well as continued therapy and after-care for her addiction.

On or about April 21, 2009, the Board received the results of a toxicology report indicating that Respondent had tested positive for the presence of alcohol in her system. The urinalysis was conducted at the order of Respondent's therapist, who reported that Respondent had admitted having ingested alcohol on March 16, 2009, April 7, 2009, and April 16, 2009. As a result, the Board sent Respondent an unexecuted Order for Summary Suspension on June 16, 2009.

On July 8, 2009, a quorum of the Board held a hearing to allow Respondent to show cause why she did not pose an imminent threat to the health, safety and welfare of the public. Thereafter, the Board and Respondent have agreed to resolve this matter as set forth in this Consent Order.

FINDINGS OF FACT

This Order is based on the following investigative findings, which the Board has reason to believe are true:

1. The suspension of Respondent's pharmacist license per the July 23, 2008 Order was lifted on March 12, 2009. The Board and Respondent entered into a Consent Order at that time placing Respondent's license on probation and specifying the terms of that probation, to include random weekly urine screenings to monitor Respondent's abstinence from drugs and alcohol and continued cooperation with an addiction recovery program.

2. Respondent disclosed her relapse with alcohol to her therapist, indicated that she had ingested alcohol in the form of vanilla extract on March 16, 2009, April 7, 2009, and April 16, 2009.
3. On or about April 21, 2009, the Board received the results of a toxicology report indicating that Respondent had tested positive for the presence of alcohol in her system.
4. Respondent continues to struggle with alcohol abuse and addiction.
5. Respondent has begun weekly therapy sessions since her relapse and continues to be active in rehabilitation treatment.
6. Respondent has not yet practiced pharmacy since the suspension of her license was lifted on March 12, 2009.

DICUSSION

Respondent has been in substance abuse treatment and psychotherapy since August 2007. Respondent's therapist had indicated that she was compliant with treatment prior to her relapse in March and April, 2009. However, Respondent's relapse occurred a mere four days after Board approved her to re-enter the practice of pharmacy.

Although the Board finds Respondent is making an earnest attempt at recovery, the Board believes that Respondent's recovery is not solid enough to enable her to practice in a pharmacy where the temptation to divert drugs may overwhelm her during this critical time in her recovery. In addition, the stress associated with pharmacy practice is simply not helpful to Respondent's focus on her rehabilitative efforts. The Board finds that it is in the best interests of both the public and Respondent to require that

Respondent establish a substantial period of successful abstinence from drugs and alcohol before returning to pharmacy practice.

CONCLUSIONS OF LAW

Based upon the foregoing, the Board concludes that Respondent is not an imminent threat to the public health, safety and welfare with the restrictions placed on her license as set forth below. Respondent is subject to disciplinary action in accordance with Md. Code Ann., Health Occ. § 12-313(b)(21).

ORDER

Based on an affirmative vote of the Board, it is this 17th day of AUGUST, 2009, hereby:

ORDERED that Respondent's license shall be immediately placed on PROBATION for at least FIVE (5) YEARS, beginning July 8, 2009, subject to the following conditions:

1. Respondent shall submit to random weekly enhanced urine screenings for both drugs and alcohol to be ordered by the Board and conducted at a CLIA-certified laboratory;
2. Respondent shall submit to urinalysis within 24-hours of being instructed by the Board's Compliance staff to do so;
3. All urine screening results shall be negative for drugs and alcohol. Any positive result for prescription drugs shall be corroborated by Respondent by submitting proof of a valid prescription.

4. Respondent shall continue weekly participation in individual or group psychotherapy and shall cooperate with the therapist's recommendations;
5. Respondent shall ensure that her therapist submits quarterly reports to the Board;
6. Respondent shall continue weekly participation in a 12-step aftercare or other group substance abuse program that is comprised of healthcare professionals and shall provide the Board with verification of attendance on a weekly basis;
7. Respondent shall not practice in a retail setting;
8. Respondent shall not work in a pharmacy during the night shift;
9. Respondent shall not work more than forty (40) hours per week;
10. Respondent shall not work longer than an eight (8) hour shift; and
11. Respondent shall ensure her employer(s) submit to the Board quarterly performance reports.

ORDERED that Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of her compliance with the terms and conditions of this Consent Order, including notifying the Board prior to leaving the State; and be it further,

ORDERED that Respondent's failure to fully cooperate with the Board in its monitoring of this Order shall be deemed a violation of the probationary terms and a violation of this Consent Order; and be it further,

ORDERED that should Respondent violate this Order or any of the terms and/or conditions of this Order, the Board, in its discretion, after notice and an opportunity for a hearing, may impose any additional sanctions, including revocation and/or a monetary penalty authorized under the Maryland Pharmacy Act; and be it further,

ORDERED that Respondent may petition the Board for modification of the terms of this Order after three (3) years of its effective date if she has remained compliant with its terms and conditions; and be it further,

ORDERED that Respondent may petition the Board for release from probation no earlier than five (5) years after the effective date of this Order provided that she has been fully compliant with all of the terms of probation and there are no pending complaints against her; and be it further,

ORDERED that this is a formal order of the Maryland Board of Pharmacy and as such is a public document pursuant to the Md. Code Ann., State Gov't, § 10-617(h).

August 17, 2009
Date

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

CONSENT

1. By signing this Consent, I hereby affirm the findings of fact contained herein and agree to be bound by the foregoing Consent Order and its conditions.
2. By this Consent, I submit to the foregoing Consent Order as a resolution of this matter. By signing this Consent, I waive any rights I may have had to contest the findings and determinations contained in this Consent Order.
3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.
4. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

8/10/09
Date

Katherine Emery
Katherine Emery

STATE OF MARYLAND
COUNTY/CITY OF Montgomery

I hereby certify that on this 10 day of Aug, 2009, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared KATHERINE EMERY, and made an oath in due form that the foregoing Consent was her voluntary act and deed.

Jae H. Kang
Notary Public
My commission expires: _____

JAE H. KANG
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires June 6, 2011