

IN THE MATTER OF	*	BEFORE THE STATE
ATABONGNKENG M. FUANGUNYI	*	BOARD OF PHARMACY
APPLICANT	*	CASE NO.: 10-098

* * * * *

FINAL CONSENT ORDER

The State Board of Pharmacy ("the Board") notified **Atabongnkeng M. Fuangunyi**, ("the Applicant"), d/o/b. 03/06/1970, of the Board's intent to **DENY** his Application for Pharmacist Reciprocity under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 12-101 *et seq.* (2009 Repl. Vol. & 2010 Supp.). The pertinent provisions state:

H.O. § 12-302. Qualifications for applicants.

(a) *In general.* – To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) *Moral character.* - The applicant shall be of good moral character.

H.O. § 12-313. Denials, reprimands, suspensions, and revocations.

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:

(22) Is convicted of or pleads nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction set aside.

FINDINGS OF FACT

The Board finds that:

1. On or about October 10, 2009, the Board received the Applicant's Application for Pharmacist Reciprocity ("Application").
2. On his Application, the Applicant indicated that he held a valid license to practice pharmacy in Arizona.¹
3. On his Application, the Applicant answered "Yes" to question 3E:

Have you pled guilty, nolo contendere, or been convicted of a felony or a crime involving moral turpitude or received probation before judgment of any criminal act?
4. On his Application, the Applicant answered "Yes" to question 3F:

Have you pled guilty, nolo contendere, or been convicted of, or received probation before judgment of driving while intoxicated or of a controlled dangerous substance offense?
5. A subsequent Board investigation revealed the following:
6. In or around August 2004, the Applicant was indicted by the Grand Jury of the State of Maryland for the Body of Prince George's County, for one (1) count of manslaughter by vehicle, in violation of Md. Crim. L. Code Ann. § 2-209; one (1) count of homicide by motor vehicle while under the influence of alcohol, in violation of Md. Crim. L. Code Ann. § 2- 503; one (1) count of homicide by motor vehicle while impaired by alcohol, in violation of Md. Crim. L. Code Ann. § 2- 504; one (1) count of driving a vehicle on a highway in excess of the posted miles per hours limit, in violation of Md. Trans. Code Ann. § 21- 801.1; one (1) count of failure to come a stop when a pedestrian crossing the roadway in a

¹ The Applicant was licensed in Arizona in April 2007. He was licensed in West Virginia in November 2009.

crosswalk is (i) on the half of the roadway on which the vehicle is traveling or (ii) approaching from an adjacent lane on the other half of the roadway, in violation Md. Trans. Code Ann. § 21- 502 (2) (i) and (ii); one (1) count of failure to control speed of motor vehicle to avoid a collision with pedestrian in violation of Md. Trans. Code Ann. § 21- 801(B); and one (1) count of driving a motor vehicle in wanton and willful disregard for the safety of persons and property, in violation of Md. Trans. Code Ann. § 21-901.1A ²

7. On or about January 26, 2005, the Applicant was found guilty by a jury in Prince Georges County, Maryland of one (1) count of manslaughter by vehicle, in violation of Md. Crim. L. Code Ann. § 2-209; one (1) count of homicide by motor vehicle while impaired by alcohol, violation of Md. Crim. L. Code Ann. § 2- 504; one (1) count of driving a vehicle on a highway in excess of the posted miles per hours limit, in violation of Md. Trans. Code Ann. § 21- 801.

8. On or about April 1, 2005, the Applicant was sentenced to a four (4) year suspended sentence. The Applicant was also placed on supervised probation for a period of three (3) years and ordered to pay court costs.

9. The Applicant was convicted of crimes that are felonies.

10. The allegations set forth above are grounds for discipline in Maryland and constitute grounds for denial of the Applicant's application for a license to practice pharmacy under H.O. §12-313 (b) (24).

² The name Michael A. Fuangynyi appears on the Applicant's official court records. The Applicant's name on his 2006 Maryland driving record was listed as Michael A. Fuangunyi.

CONCLUSIONS

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated Md. Health Occ. Code Ann § 12-313 (22).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 22nd day of December 2010, that a majority of the Board hereby:

ORDERED that Applicant shall be issued a license to practice pharmacy in the State of Maryland; and it is further

ORDERED that the license issued to the Applicant shall be placed on **PROBATION** for a period of one (1) year; and it is further

ORDERED that during the period of Applicant's license is on probation:

1. The Applicant shall enroll in and successfully complete a Board pre-approved college level ethics course;
2. The Applicant shall consent to the release of the Board's investigative files to the ethics supervisor for use in developing an appropriate tutorial;

ORDERED that at the end of Applicant's probationary period, the Applicant shall file a written petition to the Board for termination of the probationary status and the removal of any conditions or restrictions that resulted from this disciplinary action, provided that he has fulfilled all the terms and conditions set forth herein, is not in violation of this order, and there are no outstanding complaints against the Applicant; and it is further

ORDERED that if the Applicant fails to make any such petition, then the probationary period status shall continue indefinitely, subject to the conditions set forth in this order; and it is further

ORDERED that if the Board determines that the terms or conditions of this order have not been successfully completed, the Board may modify one or more terms or conditions upon which the Applicant was placed on probation, upon notice to the Applicant; and it is further


ORDERED that if the Applicant violates any of the terms of this order, the Board, after notice and a hearing, and a determination of violation, may impose any other disciplinary sanctions it deems appropriate, said violation being proved by a preponderance of evidence; and it is further

ORDERED that the Applicant shall be responsible for all costs incurred under this Order; and it is further

ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

ORDERED that this order is a public document pursuant to Md. State Govt. Code Ann. §§ 10-611 et seq. (2009 Repl. Vol. & 2010 Supp.).

12-22-2010
Date



Michael N. Souranis, P.D.
President
State Board of Pharmacy

CONSENT OF ATABONGNKENG M. FUANGUNYI

I, ATABONGNKENG M. FUANGUNYI by affixing my signature hereto, I acknowledge that:

1. I choose not to be represented by an attorney.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 12-411 (Repl. Vol. 2009 & 2010 Supp.) and Md. State Govt. Code Ann. §§ 10-201 et seq. (Repl. Vol. 2009 & 2010 Supp.).
3. I acknowledge the validity and enforceability of this Consent Order as if entered after 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 provided by law. I am waiving those procedural and substantive protections.
4. I voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and Order and agree to abide by the terms and conditions set forth herein, as a resolution of the Board's case, based on the findings set forth herein.
5. I waive my right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, and any right to appeal this Consent Order as set forth in Md. Health Occ. Code Ann. § 12-412 (Rep. Vol. 2009 & 2010 Supp) and Md. State Govt. Code Ann. §§ 10-201 et seq. (Rep. Vol. 2009 & 2010 Supp.).

6. I acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action, which may include revocation of the pharmacy permit operate in the State of Maryland.

7. I sign this Consent Order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

12/16/2010
Date

ATABONGNKENG M. FUANGUNYI
ATABONGNKENG M. FUANGUNYI

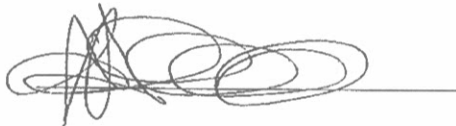
NOTARY

STATE OF

CITY/COUNTY OF

I hereby certify that on this 16th day of December, 2010, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared ATABONGNKENG M. FUANGUNYI and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.



Notary Public

My Commission Expires: 04/27/2011