

Handing; Facts file

IN THE MATTER OF * BEFORE THE MARYLAND
LEONARD GOLDBERG, R.Ph. * BOARD OF PHARMACY

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FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER

Certain information having come to its attention, the Maryland Board of Pharmacy (the "Board") determined to charge Leonard Goldberg (the "Respondent"), a person licensed to practice pharmacy in the State of Maryland, with violation of Article 43, §266A(c)(1)(xiv) of the Annotated Code of Maryland.

The particular charge is:

(xiv) Wilful making or filing of any false report or record in his practice as a pharmacist.

Appropriate notice of the charges and the grounds upon which they were based was given to the Respondent, and a hearing was held on August 19, 1981 at 1:00 p.m. The following members of the Board were present at the hearing: Leonard J. Demino, B.S.; Paul Freiman, B.S.; Bernard B. Lachman, B.S.; Robert E. Snyder, B.S.; and Phyllis K. Trump, B.F.A. Mr. Lachman presided at the hearing as President of the Board. A quorum of the Board was present.

The Respondent was represented by I. Marshall Seidler, Esquire, his attorney. Nancy E. Gregor, Assistant Attorney General, presented the case on behalf of the Board. Ronald S. Gass, Assistant Attorney General, was present to advise the Board regarding the rules of evidence.

Following introductions and a statement by Mr. Lachman regarding the purpose of the hearing, Ms. Gregor was requested to present her case. In lieu of an opening statement, Ms. Gregor introduced an Agreed Statement of Facts as State's Exhibit #1 and then rested the case on behalf of the Board.

Mr. Seidler then presented the case on behalf of the Respondent. After an opening statement by Mr. Seidler, the Respondent took the stand and testified on his own behalf. Mr. Seidler introduced as Respondent's Exhibit #1 a memorandum from Mrs. Leone Marks, Pharmacist II, to Mr. Samuel Gelblum/To whom it may concern, dated August 4, 1981. After closing arguments by Ms. Gregor and Mr. Seidler, the hearing was concluded.

FINDINGS OF FACT

The Board finds:

1. That the Respondent is a person licensed by the Maryland Board of Pharmacy to practice pharmacy in Maryland.
2. That the Respondent was a salaried employee of Gitomer's Pharmacy, Glen Burnie, Maryland at all times relevant to this case.
3. That the Respondent submitted to the Medical Assistance Program of the Maryland Department of Health and Mental Hygiene invoices for reimbursement for the following prescriptions:

No. 403-696 -- Ser-apes for Louis Roemer,
dispensed on December 20, 1979;

No. 403-697 -- Vasolidan for Louis Roemer,
dispensed on December 28, 1979;

No. 404-350 -- Aldactazide for Veronica
Montgomery, dispensed on January 23, 1980;

No. 404-351 -- Librax for Veronica
Montgomery, dispensed on January 23, 1980;

No. 404-352 -- Vasolidan for Veronica
Montgomery, dispensed on January 23, 1980;

No. 403-711 -- Elavil for Carol Hill,
dispensed on December 28, 1979;

No. 403-712 -- Aldactazide for Carol Hill,
dispensed on December 28, 1979;

No. 404-299 -- Vasolidan for Carol Hill,
dispensed on January 22, 1980; and

No. 404-300 -- Aldactazide for Carol Hill,
dispensed on January 22, 1980.

4. That claims for reimbursement submitted by the Respondent were for brand name drugs although he knew that generic drugs had been dispensed.
5. That on August 12, 1980, the Respondent was indicted by the Grand Jury for Baltimore City on twenty-eight (28) counts of theft, attempted theft, and Medicaid fraud.
6. That the Respondent pled guilty in the Criminal Court of Baltimore City (the "Court") on November 12, 1980 to Counts 4, 7, 10 and 16 of the Indictment, all for Medicaid fraud.
7. That the Court stayed judgment under Article 27, §641 of the Annotated Code of Maryland for a period of two (2) years and placed the Respondent under the supervision of the Probation Department.
8. That the Court ordered the Respondent to perform six hundred (600) hours of unpaid community service and to pay \$90.00 in court costs.
9. That since January, 1981, the Respondent has worked without compensation as a pharmacist at the Maryland House of Correction.
10. That the Respondent works in the Maryland House of Correction's pharmacy approximately once a week for six (6) hours per day and is on-call for emergencies.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board unanimously concludes that the Respondent willfully made and filed false reports in his practice as a pharmacist. Accordingly, the Board, by an unanimous vote, hereby adjudicates the Respondent GUILTY of violating Article 43, §266A(c)(1)(xiv)

ORDER


Upon the foregoing Findings of Fact and Conclusions of Law, it is this 14th day of September, 1981, by an unanimous vote of the members of the Board,

ORDERED that the Respondent's license to practice pharmacy in Maryland is hereby SUSPENDED for a period of one (1) year from the date of this Order or until such time as he completes his unpaid community service, whichever is later; and be it further

ORDERED that the foregoing suspension shall be immediately STAYED, with the Respondent placed on PROBATION subject to the following conditions:

1. That the Respondent shall complete six hundred (600) hours of unpaid community service as ordered by the Criminal Court of Baltimore City; and
2. That the Respondent shall practice in accordance with the laws governing the practice of pharmacy in Maryland; and be it further

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


Paul Freiman, Secretary
Maryland Board of Pharmacy

Notes Exhibit #1

IN THE MATTER OF * BEFORE THE MARYLAND STATE
LEONARD GOLDBERG * BOARD OF PHARMACY

* * * * *

AGREED STATEMENT OF FACTS

1. Leonard Goldberg is a person licensed by the Maryland Board of Pharmacy to practice pharmacy in Maryland.
2. Mr. Goldberg at all times relevant to this case was an employee of Gitomer's Pharmacy, Glen Burnie, Maryland.
3. Gitomer's Pharmacy at all times relevant to this case was an approved Medicaid provider under the State's Medicaid Program.
4. In order to be reimbursed after filling a prescription for a Medicaid patient, the provider pharmacist submits a prescription invoice form to the Department of Health and Mental Hygiene (the "Department"). This invoice includes information identifying the patient, the prescriber, the drug, the National Drug Code of the drug, the pharmacy, the date of dispensing the drug, and the pharmacist's usual and customary charge. Each invoice also has a line for the pharmacist's signature, following a certification of the accuracy of the information on the invoice.
5. Mr. Goldberg signed and submitted to the Department invoices for reimbursement for the following prescriptions:
 - No. 403-696 - Ser-apes for Louis Roemer, dispensed on December 20, 1979
 - No. 403-697 - Vasolidan for Louis Roemer, dispensed on December 28, 1979
 - No. 404-350 - Aldactazide for Veronica Montgomery, dispensed on January 23, 1980
 - No. 404-351 - Librax for Veronica Montgomery, dispensed on January 23, 1980
 - No. 404-352 - Vasolidan for Veronica Montgomery, dispensed on January 23, 1980
 - No. 403-711 - Elavil for Carol Hill, dispensed on December 28, 1979

No. 403-712 - Aldactazide for Carol Hill,
dispensed on December 28, 1979

No. 404-299 - Vasolidan for Carol Hill,
dispensed on January 22, 1980

No. 404-300 - Aldactazide for Carol Hill,
dispensed on January 22, 1980

6. The claims for reimbursement submitted by Mr. Goldberg were for brand name drugs although he knew that generic drugs had been dispensed.


7. On August 12, 1980 Mr. Goldberg was indicted by the Grand Jury for Baltimore City on 28 counts of theft, attempted theft and Medicaid Fraud.

8. Mr. Goldberg pled guilty in the Criminal Court of Baltimore City on November 12, 1980 to Counts 4, 7, 10 and 16 of the Indictment, all for Medicaid Fraud.

9. The Court stayed judgment under Article 27, §641 of the Annotated Code of Maryland for a period of two years and placed Mr. Goldberg under the supervision of the Probation Department.

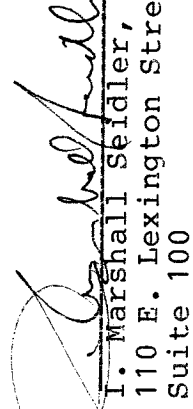
10. The Court ordered Mr. Goldberg to perform 600 hours of unpaid community service and to pay \$90.00 in court costs.

11. Since January, 1981, Mr. Goldberg has worked without compensation as a pharmacist at the Maryland House of Correction. Mr. Goldberg works in the facility's pharmacy approximately once a week, six hours per day, and is on call for emergencies.


Nancy E. Gregor
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Attorney for the Maryland
Board of Pharmacy


Leonard Goldberg
Respondent


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(301) 752-7474

Attorney for Respondent

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* BEFORE THE MARYLAND

LEONARD GOLDBERG, R.Ph.

* BOARD OF PHARMACY

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Montgomery, dispensed on January 23, 1980;

No. 404-351 -- Librax for Veronica
Montgomery, dispensed on January 23, 1980;

No. 404-352 -- Vasolidan for Veronica
Montgomery, dispensed on January 23, 1980;

NC 402-711

ORDER

Upon the foregoing Findings of Fact and Conclusions of Law, it is this 16th day of September, 1981, by an unanimous vote of the members of the Board,

ORDERED that the Respondent's license to practice pharmacy in Maryland is hereby SUSPENDED for a period of one (1) year from the date of this Order or until such time as he completes his unpaid community service, whichever is later; and be it further

ORDERED that the foregoing suspension shall be immediately STAYED, with the Respondent placed on PROBATION subject to the following conditions:

1. That the Respondent shall complete six hundred (600) hours of unpaid community service as ordered by the Criminal Court of Baltimore City; and
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ORDERED that if the Respondent violates any of the terms of his probation or fails to practice in accordance with the laws governing the practice of pharmacy in Maryland, the Board, after notification and a hearing, may withdraw the stay of the suspension or may impose any other disciplinary sanction it deems appropriate.



Paul Freiman, Secretary
Maryland Board of Pharmacy