

IN THE MATTER OF
NORTON GROSSBLATT, P.D.
LICENSE NO. 06165

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHARMACY

Respondent

* Case No. 08-106

* * * * *

FINAL DECISION AND ORDER

Background

On November 19, 2008, the Maryland Board of Pharmacy (the “Board”) issued a Notice of Intent to Revoke the pharmacist’s license held by Norton Grossblatt (the “Respondent”), Licence No. 06165, based on its investigation that indicated that Mr. Grossblatt pled guilty to one count of felony Medicaid fraud by conversion. The pharmacy owned by Mr. Grossblatt, Purdum Pharmacy, ceased operations on or about July 21, 2008.

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 April 22, 2009, for purposes of adjudicating the charges. After the conclusion of the hearing on the same date, April 22, 2009, the same quorum of the Board convened to deliberate and voted unanimously to sanction the license held by Mr. Grossblatt as set forth in this Final Decision and Order.

SUMMARY OF THE EVIDENCE

A. Documents.

The following documents were admitted into evidence by stipulation of the parties.

- State's Exhibit No. 1A - Licensure printout for Mr. Grossblatt
- B - Other licensing information re: Mr. Grossblatt
- C - Computer printout of Purdum Pharmacy

- State's Exhibit No. 2A - Charges/Criminal Information
- B - Statement of Facts
- C - Case History
- D - Case Information
- E - Probation/Supervision Order
- F - Attorney General's Press Release, dated 4/24/08

- State's Exhibit No. 3A - Request to close pharmacy
- B - Further information re: closure
- C - Closing Inspection, dated 8/8/08
- D - Polek Memorandum re: closure

- State's Exhibit No. 4 - Investigative report

- State's Exhibit No. 5 - Undated note re: "surrender" of pharmacist's license

- State's Exhibit No. 6A - Letter of Procedure, dated 11/19/08
- B - Notice of Intent to Revoke
- C - Letter requesting hearing, dated 12/2/08
- D - Board's Hearing notice, dated 2/9/09

- Respondent's Ex. No. 1 - Court Clerk's Worksheet re: Motion for Modification, dated April 14, 2009

- Respondent's Ex. No. 2A - S. Grossblatt letter to Judge Turnbull, dated 7/29/08
- B - A. Grossblatt Pessah letter to Judge Turnbull, dated 7/21/08
- C - J. Grossblatt Saunders letter to Judge Turnbull, dated 8/3/08
- D - D. Grossblatt letter to Judge Turnbull, undated
- E - Y. Caplan letter to Judge Turnbull, dated 7/14/08
- F - A. Honkofsky letter to Judge Turnbull, dated 8/2/08
- G - H. Barry Meyer letter to Judge Turnbull, dated 7/29/08
- H - H. Stanley Levin letter to Judge Turnbull, dated 7/26/08
- I - A. Shoumer letter to Judge Turnbull, dated 7/24/08

B. Witnesses.

Respondent: Joseph S. Kaufman, Esquire
Dale Grossblatt
Norton Grossblatt, Respondent

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. At all times relevant, the Respondent was licensed by the Board to practice pharmacy in Maryland. The Respondent was initially licensed on December 30, 1961. The Respondent's license expires on July 31, 2009. (State's Ex. 1A)
2. At all times relevant herein, the Respondent was the owner and dispensing pharmacist at Purdum Pharmacy located in Baltimore, Maryland. (State's Ex. 1C)
3. On April 24, 2008, the Attorney General's office issued a press release announcing that the Respondent, and another pharmacist, Harry Rapkin, had pled guilty to Medicaid fraud. (State's Ex. 2F)
4. On November 26, 2007, the Respondent pled guilty in the Circuit Court for Baltimore County of one count of felony Medicaid fraud by conversion. (State's Ex. 2D)
5. On August 7, 2008, the Respondent was sentenced to 2 years incarceration with all suspended, 2 years unsupervised probation, 120 hours of community service, and \$300,000 in restitution. (State's Ex. 2D)

6. On or about July 2008, the Respondent sold the assets of Purdum Pharmacy to another pharmacy. Purdum Pharmacy has since ceased operations. (State's Ex. 3C, 3D)
7. In September 2008, the Respondent wrote to the Board attempting to surrender his license. In that correspondence, the Respondent did not advise the Board about his felony conviction. (State's Ex. 5)
8. The fraudulent scheme between the Respondent and Mr. Rapkin entailed the following:
 - a. The Respondent and Mr. Rapkin were long-time friends from pharmacy school. (T. 59)
 - b. Mr. Rapkin practiced at an outpatient mental health clinic which dispensed certain psychotropic medications to patients, many of whom were drug users. Thus, patients were not dispensed medications in one-month quantities, but rather, one dose at a time. This required patients to return to the clinic on a daily basis to obtain their medication. (State's Ex. 2B; T. 68)
 - c. The Respondent, through the Respondent's pharmacy, provided pharmaceutical services to the clinic by providing medications to Mr. Rapkin at the clinic for dispensing to the clinic's patients. (T. 67)
 - c. For various reasons, some patients did not return to the clinic which caused the clinic to have an inventory of unclaimed medications. As these medications had been paid for by Medicaid, the unclaimed medications should have been credited back to Medicaid. (State's Ex. 2B)

d. Instead, Mr. Rapkin offered to sell the unclaimed medications to the Respondent at half price.¹ The Respondent accepted Mr. Rapkin's offer in order to negate financial burdens on his pharmacy. The Respondent would thereafter re-dispense these same medications back to the clinic's patients and bill Medicaid, again, for the full price of the medication. (T. 45-47)

e. Mr. Rapkin would take the labels off of the unclaimed medications that were sold back to the Respondent. The unclaimed medications may have been originally filled by the Respondent's pharmacy or other pharmacies. (T. 69-71)

f. The scheme was discovered when a Medicaid audit revealed that the Respondent was dispensing significantly more medications than he was purchasing from his distributor. (T. 47)

g. This scheme resulted in approximately \$200,000 in illegal profits for the Respondent. (State's Ex. 2F)

9. On or about April 14, 2009, the Circuit Court for Baltimore County modified the Respondent's criminal sentence by granting the Respondent probation before judgment in exchange for continuing and extending his probationary period to 5 years during which time the Respondent was ordered that he could not "practice as a pharmacist".² (Respondent's Ex. 1)

¹ There were no controlled dangerous substances involved in this scheme. The medications were psychotropic drugs, primarily Zyprexa, Geodon, and Risperdal. (T. 65)

² During the hearing before the Board, there was argument presented whether the court intended to allow the Respondent to practice in non-retail settings. In light of the facts presented to the Board, the Board finds this restriction, or lack therefore, irrelevant to the Board's consideration.

OPINION

Pharmacists play an integral part in the provision of quality healthcare services. In their clinical capacity, pharmacists insure that patients receive the proper and most effective medications. In addition, some pharmacists also choose to engage in business practices by owning and operating pharmacies. And as with any other business, pharmacists operate their pharmacies for the purpose of making a profit. The Respondent in this matter sets forth a perfect example of what happens when a pharmacist allows the potential for profit to outweigh his sense of ethics and concern for patient care. While the Respondent was able to rationalize this scheme by arguing that the profit from the scheme would enable him to operate his pharmacy for a few more years, the Respondent clearly testified that he knew the scheme was patently fraudulent. In addition, the Respondent asserts that patient care was never compromised. To the contrary, the Respondent bought the stolen medications from Mr. Rapkin without knowing where the medications came from, or the lot numbers, or any other identifying information for the medication. Therefore, in the event of a recall or other emergency, there would be no way that the Respondent would be able to track what he dispensed to the clinic's patients. In addition, the Respondent, without a prescription label, would not know the expiration date of the medication. Therefore, the Board has concerns regarding the integrity of the medications re-dispensed by the Respondent. Lastly, stealing from government programs is no less egregious than stealing directly from an individual. In the end, the Maryland taxpayers and Maryland patients must ultimately suffer for the corrupt actions of those like the Respondent.

The Board understands that these patients were possibly drug abusers, indigent, and had serious mental health problems. Since this patient population was certainly more vulnerable than the average patient, the Respondent should have made additional efforts to insure that they were

provided with the proper medications rather than taking advantage of their vulnerability. Certainly, this patient population was entitled to the same level of care to which any other Maryland citizen would be entitled.

Although the Respondent expressed remorse for his actions, it is unclear to the Board that he is not remorseful more for the consequences of his actions than the actions themselves. The Board has serious concerns whether the Respondent has the ability to practice pharmacy in an ethical and legal manner. And based on the egregiousness of the Respondent's misconduct, the Board finds that a significant sanction is necessary to address the violations committed by the Respondent 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 the Respondent is subject to disciplinary action based on Md. Code Ann., Health Occ. §§ 12-313(b)(22).

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 Norton Grossblatt is **SUSPENDED** for a period of **FIVE (5) YEARS**, beginning on August 7, 2008; and be it further,

ORDERED that during the suspension period, Mr. Grossblatt:

1. May not own or operate, in whole or in part, a pharmacy or work for a pharmacy owned by a family member;
2. May not own or operate, in whole or in part, a wholesale distributor, or work for a wholesale distributor owned by a family member;
3. May not work as a pharmacy technician;
4. Shall successfully complete six (6) credits in a Board-approved college-level healthcare ethics course;
5. Shall comply with all licensure renewal requirements; and be it further,

ORDERED that on or after August 7, 2013, Mr. Grossblatt may petition the Board to lift the suspension provided that he:

1. Has fully complied with all of the terms of suspension; and
2. Has successfully passed the Maryland Pharmacy Jurisprudence Examination; and be it further,

ORDERED that upon the Board's lifting of the suspension, Mr. Grossblatt shall be placed on immediate PROBATION for at least THREE (3) YEARS during which Mr. Grossblatt:

1. May not own or operate, in whole or in part, a pharmacy or work for a pharmacy that is owned by a family member;
2. May not practice in a retail pharmacy; and be it further,


ORDERED that the Respondent may petition the Board for release from probation after completing three (3) years of probation provided that the Respondent has been compliant with all of the terms of probation and there are no outstanding complaints against the Respondent; and be it further,

ORDERED that should the Respondent violate 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 the Respondent shall bear all costs of complying with this Order; and be it further,

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

7/1/09
Date



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

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.