

IN THE MATTER OF * BEFORE THE
RAMON JUTA, P.D. * STATE BOARD
License No. 10535 * OF
Respondent * PHARMACY
* Case No. 08-076

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Ann. § 12-101, *et seq.*, (2005 Repl. Vol. and 2008 Supp.) (the "Act"), the Board charged Ramon Juta, P.D., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of §12-313:

(a) In this section, "convicted" includes a determination of guilt, a guilty plea, or a plea of nolo contendere followed by a sentence.

(b) 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, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (2) Fraudulently or deceptively uses a license;
- (14) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;
- (16) Except as provided in § 12-506 of this title, unless an authorized prescriber authorizes the refill, refills a prescription for any drug, device, or diagnostic for which a prescription is required;

- (17) Violates any provision of § 12-505 of this title, which concerns the labeling requirements for prescriptions for drugs, devices, or diagnostics;
- (21) Is professionally, physically, or mentally incompetent;
- (22) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (24) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (25) Violates any rule or regulation adopted by the Board;
- (27) Violates any provision of § 12-507 of this title;

§12-505 of the Act states:

(a) Except for a drug or device dispensed to an inpatient in a hospital or related institution, each container of a drug or device dispensed shall be labeled in accordance with this section.

(b) In addition to any other information required by law, the label shall include:

- (1) The date the prescription is filled; and
- (2) Unless otherwise required by the prescriber:
 - (i) An expiration date of the drugs or devices which shall be the lesser of:
 - 1. 1 year from the date of dispensing;
 - 2. The month and year when the drugs or devices expire;
 - 3. The appropriate expiration date for repackaged drugs or devices; or
 - 4. A shorter period as determined by the pharmacist;
 - (ii) Any appropriate special handling instructions regarding proper storage of the drugs or devices; and
 - (iii) Subject to the provisions of subsection (c) of this section, the name and strength of the drugs or devices.

(c) (1) Except as provided in paragraph (2) of this subsection, the label shall indicate the same name for the drug or device as that used by the authorized prescriber.

§12–506 of the Act states:

(a) A pharmacist may refill a prescription for a drug or device for which the refill has not been authorized if:

- (1) The pharmacist:
 - (i) Attempts to obtain an authorization from the authorized prescriber; and
 - (ii) Is not able readily to obtain the authorization;
- (2) The refill of the prescription is not for a controlled dangerous substance;
- (3) The drug or device is essential to the maintenance of life;
- (4)
 - (i) The drug or device is essential to the continuation of therapy in chronic conditions; and
 - (ii) In the pharmacist's professional judgment, the interruption of the therapy reasonably might produce an undesirable health consequence, be detrimental to the patient's welfare, or cause physical or mental discomfort;
- (5) The pharmacist:
 - (i) Enters on the back of the prescription or on another appropriate uniformly maintained, readily retrievable record, such as a medication record, the date and the quantity of the drug or device dispensed; and
 - (ii) Signs or initials the record; and
- (6) The pharmacist notifies the authorized prescriber of the refill of the prescription within 72 hours of dispensing the drug or device.

(b) If a pharmacist refills a prescription under subsection (a) of this section, the pharmacist may provide only 1 refill of the prescription and the refill quantity dispensed shall be in conformity with the prescriber's directions for use and may not exceed a 14-day supply or unit of use.

§12–507 of the Act states:

(a) A pharmacist who provides prescription services to medical assistance recipients shall offer to discuss with each medical assistance recipient or caregiver who presents a prescription order for outpatient drugs any matter which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant, which may include the following:

- (1) The name and description of the medication;

(2) The route, dosage form, dosage, route of administration, and duration of drug therapy;

(3) Special directions and precautions for preparation, administration, and use by the patient;

(4) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(5) Techniques for self-monitoring drug therapy;

(6) Proper storage;

(7) Prescription refill information; and

(8) Action to be taken in the event of a missed dose.

(b) The offer to discuss may be made in the manner determined by the professional judgment of the pharmacist, which shall include either:

(1) A face-to-face communication with the pharmacist; or

(2) At least 2 of the following:

(i) A sign posted so it can be seen by patients;

(ii) A notation affixed to or written on the bag in which the prescription is to be dispensed;

(iii) A notation contained on the prescription container; or

(iv) Communication by telephone.

(c) Nothing in this section shall be construed as requiring a pharmacist to provide consultation if the medical assistance recipient or caregiver refuses the consultation.

(d) A pharmacist must make a reasonable effort to obtain, record, and maintain, at the individual pharmacy, at least the following information regarding a medical assistance recipient:

(1) Name, address, telephone number, date of birth or age, and gender;

(2) Individual history when significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and

(3) Pharmacist comments relevant to the individual's drug therapy which may be recorded either manually or electronically in the patient's profile.

(e) This section shall apply only to medical assistance recipients presenting prescriptions for covered outpatient drugs.

(f) The requirements of this section do not apply to refill prescriptions.

The Board further charges the Respondent with a violation of its Pharmacist and Pharmacy Technician Code of Conduct, Code Md. Regs tit. 10. § 34.10 (2/12/99):

.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 22¹, Annotated Code of Maryland,

(c) Health Occupations Article, Title 12, Annotated Code of Maryland,

(d) Criminal Law Article, Title 5², Annotated Code of Maryland, and

(e) COMAR 10.19.03;³

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.

C. Therapeutic Interchange.

(1) A pharmacist may not perform a therapeutic interchange without the prior approval of the authorized prescriber except as provided in §C (2) of this regulation.

The Respondent was given notice of the issues underlying the Board's charges by letter dated December 23, 2008. Accordingly, a Case Resolution Conference was held on April 29, 2009, and was attended by Harry Finke, P.D. and Mayer Handelman, P.D., Board

¹Title 21 refers to, *inter alia*, the dispensing and labeling of drugs.

²Title 5 refers to Controlled Dangerous Substances (CDS), Prescriptions and other substances.

³These regulations deal with CDS.

members, Linda Bethman and Francesca Gibbs, Counsel to the Board, and Steven Kriendler, Board staff. Also in attendance were the Respondent and his attorney, Marc Zayon, and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on July 31, 1985. The Respondent's license expires on July 31, 2009.

2. At most times relevant hereto, the Respondent was employed as a dispensing pharmacist at the CVS pharmacy on Compass Road in Baltimore County, Maryland.

3. On or about March 12, 2008, the Respondent was arrested and accused of trading drugs for sex and covering up the paper trail for the medicines illegally dispensed.

4. The bases for the arrest and charges are as follows:

A. Detectives Arciaga and Ruffino of the Baltimore County Police Department's Narcotics Diversion and Pharmaceuticals Squad were conducting an investigation into the illegal distribution of prescription medications, such as Lortab, a

Schedule III Controlled Dangerous Substance (CDS), and Xanax, a Schedule IV CDS, when they were contacted in February by an individual that was later referred to as a Confidential Informant (CI)⁴, who advised them that a pharmacist at the CVS on Compass Road was asking her to exchange sex for pills;

B. The CI further indicated that the pharmacist stated that he would pay for the prescriptions in exchange for sex. She also stated that the pharmacist told her that he knew that the prescriptions she had used were fraudulent;

C. The CI agreed to testify in court and to wear a recording device. The pharmacist was identified as the Respondent. Accordingly, the CI wore the device on several occasions when she met with the Respondent.

D. At the Silver Moon Diner on 2/20/08, the Respondent stated that he would help her get prescriptions and suggested Lortab. The Respondent told the CI how to write out a script for the Lortabs, e.g., for 7.5, and to make it for 50 or 100, and that she needn't worry about paying for it—"I'll take care of the numbers side...I'll take care of you, you take care of me;"

E. During that same conversation, the Respondent suggested that they should get a hotel so that "we can stay longer;"

F. On 2/24/08, the Respondent told the CI to meet him at the CVS parking lot. At approximately 12:01 P.M., the CI met the Respondent on the CVS parking lot where the Respondent took the fraudulent prescription from the CI that she had filled out. He told her that, due to a pharmacy inventory, he could only give her five tablets now and would give her the rest when they met later. The Respondent gave the

CI an unlabelled prescription bottle containing five tablets;

G. On 2/26/08, the CI told the Detectives that she had received a phone call from the Respondent stating that he could bring her the other "30" (Lortabs).

H. The Detectives observed that, on the rear seat of the Respondent's car (which he had used to meet the CI at the diner), there were empty stock bottles and blister packs that meds came in.

5. After the televised report of the Respondent's arrest, the Respondent called the Board and spoke to the Board's Compliance Officer and to its Investigator, wherein the Respondent informed them that he had a "sexual perversion" and needed counseling. He called to find out if the Board could refer him for counseling.

6. During the months of March and April 2008, Detectives Arciaga and Ruffino met with another individual, Patient A, who provided a written statement, summarized as follows:

A. In July and August 2007, the Respondent came to her house on several occasions. On the first occasion, the Respondent had called the patient to see if she was still up at 11:00 P.M. After telling the Respondent that he had awakened her, the Respondent came to the house to drop off her medications for Percocet and Oxycontin, and told her not to worry about the co-pay to Amerigroup;

B. On the second occasion, the Respondent called, stating that he had gotten her cell phone number from her patient profile at the pharmacy and he stopped by after receiving permission from the patient;

C. The Respondent stated that he could do a therapeutic massage on

⁴The names of all confidential informants and/or patients are confidential.

Patient A to help her neck and back problems, but her son would have to be in school. He added that he could rub her down all over her body, smirking as he made the statement;

D. On another occasion, the Respondent again visited Patient A late and, as he was leaving, he asked for a kiss, and when that was rebuffed, asked for a hug;

E. On one or two other times, the Respondent dropped off Patient A's medications and took no copays;

F. On a couple of occasions, the Respondent gave Patient A a generic form of medication which had made her sick before, but she noticed it before leaving the store and immediately brought it back to him. He told her he would have to give her a different strength of the Oxycontin, which is not legal, and shorted her, accusing her of taking eight pills out of the bottle;

G. On January 9 and 10, 2008, Patient A called the police and the store manager because the Respondent was not waiting on her but taking other customers before her, and ignoring her, telling her that there was a wait when the Pharm Tech said that there was not. After about two hours, he told the Pharm Tech to give her the meds for her son and her, which turned out to be not the ones prescribed for them;

H. After this incident, the Respondent filled a prescription, Topomax, that was never prescribed for her son, which if he had taken them, as filled by the Respondent, he might have died. The Respondent also triple-filled Patient A's son's nightly medication, putting on one of the prescription bottles the name of a prescriber, which Patient A had never heard of.

7. On 3/14/08, the Detectives interviewed Patient B, who made the following statements:

A. Patient B stated that she first visited the Respondent at the Rite Aid pharmacy located in the Perry Hall shopping Center prior to her back surgery in 2001-02, and on one of those occasions the Respondent gave her free samples, such as pens and eye drops;

B. There came a time that Patient B started needing regular prescription pain medication, for which her doctor prescribed Oxycontin. Around this time, Patient B and the Respondent went to lunch in the Hunt Valley Mall and told her that he had a big penis;

C. Thereafter, the Respondent told Patient B that he could get pills and give them to her for no money. Shortly thereafter, the Respondent called her to tell her that he had relocated to the CVS pharmacy;

D. In the Spring of 2004, Patient B had a prescription for Oxycontin that needed to be filled, which she took to the CVS where the Respondent was working; but, the Respondent told her that it wouldn't be filled unless she "did something" for him. She left, but being in pain, came back into the pharmacy, where the Respondent gave her only a couple of the pills. She was told to meet him at the Weis Supermarket at Joppa Road, advising her that he had a new white Lexus;

E. The Respondent then instructed Patient B to lie down across the back seat so no one would see her and drove to his residence on Trumpet Road, where she stated that he drove his vehicle into the garage, punched in his security code and

entered the residence. Patient B described the layout of the Respondent's residence. He then took her to a bedroom and told her to get undressed. When she stated that she was scared, he told her that she would not get her prescriptions unless she had sex with him. Patient B complied, with the Respondent engaging in vaginal sex with her;

F. The Respondent continued to refuse to provide Patient B with her medication unless she had sex with him. At his house he would offer Patient B wine or give her some pills to relax her. He offered Xanax a lot, stating that it was "always something he had, " but she would refuse them;

G. The Respondent would give Patient B other milligram amounts of Oxycontin in between her authorized ones. After performing oral and vaginal sex on Patient B, the Respondent would throw her prescription bottle at her. He also tried to withhold her children's legal prescription for Adderall;

H. When Patient B was shown her pharmacy patient profile, she pointed out that the list contained entries from doctors that she's never heard of, or prescriptions she'd never received or medication that was never prescribed to her: all of these entries were made by the Respondent.

I. Patient B stated that the last time she had sex with the Respondent was about a week before the Respondent was arrested.

8. During the month of April 2008, Patient C informed the Detectives of the following:

A. In July 1987, Patient C first met the Respondent when he worked at the Rite Aid on Merritt Boulevard;

B. One time after leaving the pharmacy, Patient C was incapacitated due to the medications she was taking. Consequently, the Respondent followed Patient C home and engaged in a non-consensual sexual relationship while Patient C was in a medicated fog, also forcing her to do oral sex on him. The next morning, Patient C awakened, hurting and bleeding very badly, and the Respondent called later that day and said he was "very sorry".

9. As a result of the criminal charges and the arrest, on March 26, 2008 the Board issued a Summary Suspension of the Respondent's license.

10. On 12/18/08, the Respondent plea-bargained and received the following verdict:

A. Counts 1-4 (CDS manufacture/distribute, CDS possession with intent to distribute, CDS possession with intent to distribute, and prostitution-general, respectively) were *nolle prosequed* and the Respondent pled "not guilty" but was found guilty of CDS prescription obtained by fraud, in violation of Criminal Code, under § 5-701 (d) (4).⁵

B. The Respondent received Probation Before Judgment (PBJ), and was to pay court costs and be supervised, with a fee, through the Parole and Probation Department.

11. As set forth above, the Respondent violated the Act and regulations thereof.

CONCLUSIONS OF LAW

⁵(d) Except as otherwise provided under this title, a person may not:
(4) obtain or attempt to obtain a prescription drug by:

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §12-313 (a), (b) (2), (14), (16), (17), (21), (22), (24), (25) and (27); §12-505 (a), (b) (1), (2), (c) (1); §12-506 (a) (1), (2), (3), (4), (5), (6), (b); §12-507 (a) (1), (2), (3), (4), (5), (6), (7), (8), (b) (1), (2), (c), (d) (1), (2), (3), (e), (f); and Tit 10 §34.10/01 A (1) (a), (b), (c), (d), (e), B(1), (2), (3), and C (1).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 20th day of MAY, 2009, by a majority of a quorum of the Board,

ORDERED that the Respondent's license to practice pharmacy is hereby continued on suspension until October 26, 2009 or eighteen (18) months from the effective date of same, March 26, 2008, subject to the following conditions:

1. During the suspension period, the Respondent shall successfully pass the Maryland Pharmacy Jurisprudence Examination (MPJE);
2. After serving 18 months suspension and successfully passing the MPJE, the Respondent may petition the Board to terminate the suspension.

It is further **ORDERED** that, upon termination of the Suspension, the Respondent shall be placed on immediate Probation for at least three years, during which he:

1. Shall enroll in and successfully complete six college-level credits in a Board-approved ethics course(s) to be completed by September 30,

2010;

2. Practice under the supervision of a licensed pharmacist;
3. Insure that the pharmacist supervisor submits to the Board monthly progress reports for the first year of Probation. Provided that the progress reports are satisfactory to the Board, the frequency of the supervisory reports shall be modified to quarterly submissions for the remainder of the Probationary period;
4. Shall not work as a "floater";
5. Shall comply with all licensure renewal requirements, to include maintaining up-to-date continuing education credits;
6. Shall immediately engage in individual therapy with a Board-approved therapist, at a frequency determined by the therapist, focusing on issues relating to sexual addiction and professional boundaries;⁶
7. Shall comply with all therapist's recommendations;
8. Shall insure that the therapist submits to the Board monthly therapy reports; and,
9. Shall fully comply with the Board in its monitoring of the terms of the Order.

It is further **ORDERED** that the Respondent shall bear the costs of complying with

⁶ The Respondent's attorney informed the Board, via letter dated 5/4/09, that the Respondent was currently seeing a therapist who was addressing the issues of concern to the Board. The Board will have to determine if that therapist is acceptable and whether the Respondent may continue in treatment with him.

the Consent Order.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

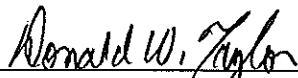
ORDERED that ,should the Board receive a report that the Respondent's practice has violated the Act or if the Respondent violates any conditions of this Order or of Suspension or Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation/Suspension shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and be it further

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2004), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order, and that the Board may also

disclose same to any national reporting data bank that it is mandated to report to.



Don Taylor, P.D., President
State Board of Pharmacy

CONSENT OF RAMON JUTA, P.D.

I, Ramon Juta, License Number 10535, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel and have reviewed this Consent Order with my attorney, Marc L. Zayon;

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 12-313 (2005 Repl. Vol. and 2008 Supp.) and Md. State Govt. Code Ann. §§ 10-201, *et seq.*, (2004 Repl. Vol.).

3. I acknowledge the validity and enforceability of this Consent Order as if entered into after a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other procedural and substantive protections to which I am entitled by law. I am waiving those procedural and substantive protections.

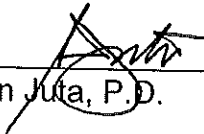
4. I voluntarily submit to the foregoing Findings of Fact, Conclusions of Law and Order and submit to the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of

Law and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.

5. I acknowledge that, by failing to abide by the conditions set forth in this Consent Order, I may suffer disciplinary actions, which may include revocation of my license to practice pharmacy in the State of Maryland.

6. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

MAY 18, 2009
Date



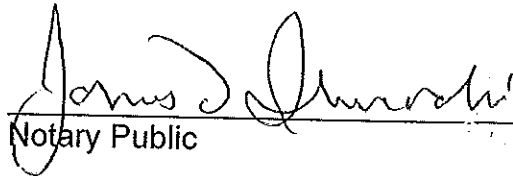
Ramon Jafa, P.D.

STATE OF MARYLAND

CITY/COUNTY OF Harford:

I HEREBY CERTIFY that on this 18th day of MAY, 2009, before me, JAMES D. SHAOCHIS, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared RAMON B JAJA, License No. 10535, and made oath in due form of law that signing the foregoing Consent Order was his/her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.



Notary Public

My Commission Expires: April 27, 2011

JAMES D. SHAOCHIS
Notary Public
Harford County, Maryland
My Commission Expires April 27, 2011