

IN THE MATTER OF
RAMON JUTA, R.Ph.
LICENSE NO. 10535

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHARMACY
*
* Case No. 08-076

Respondent

* * * * *

FINAL DECISION AND ORDER

Background

On April 28, 2011, the Maryland Board of Pharmacy (the “Board”) issued a notice of Violation of Probation against the pharmacist’s license held by Ramon Juta (the “Respondent”), License No. 10535, based on its monitoring and investigation of the Respondent’s compliance with the Consent Order, dated May 29, 2008.

On June 29, 2011, 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, for the purpose of adjudicating the allegations. Immediately following the hearing, the same quorum of the Board convened to deliberate and voted unanimously to sanction the license held by the Respondent 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. 1 - Summary Suspension Order, dated 3/26/2008
- State’s Exhibit No. 2 - Consent Order, dated 5/20/2009
- State’s Exhibit No. 3 - Letter to the Respondent, dated 8/4/2010

- State's Exhibit No. 4A - Progress Report, dated 10/8/2010
 B - Progress Report, dated 10/29/2010
 C - Progress Report, dated 12/31/2010
 D - Progress Report, dated 1/30/2011
- State's Exhibit No. 5A - Monitoring note, 1st entry dated 10/5/2010
 B - Monitoring note, 1st entry dated 5/20/2009
 C - Email to Robert Gill, dated 6/7/2011
- State's Exhibit No. 6A - Letter of Procedure, dated 4/28/2011
 B - Violation of Probation notice, dated 4/28/2011
- State's Exhibit No. 7 - Email to Roberta Gill, dated 6/13/2011

B. Witnesses.

State: Steven Kreindler, Compliance Monitor

Respondent: Ramon Juta, Respondent

FINDINGS OF FACT

Based upon the testimonial and documentary evidence presented at the evidentiary hearing, the Board finds that the following facts are true:

1. At all relevant times, the Respondent was licensed by the Board to practice pharmacy in Maryland. The Respondent was initially licensed on July 31, 1985.
2. On March 26, 2008, the Board summarily suspended the Respondent's license as a result of allegations that the Respondent exchanged controlled substances for sexual favors. (State's Ex. 1)
3. On December 18, 2008, the Respondent pled not guilty to, but was found guilty of, obtaining CDS prescriptions by fraud, in violation of Criminal Code § 5-701(d)(4). (State's Ex. 2)
4. The Respondent was sentenced to Probation Before Judgment with supervised probation, and was ordered to pay court costs. (State's Ex. 2)

5. On May 29, 2008, the Board entered into a Consent Order with the Respondent as a result of the above criminal conviction. The Consent Order instituted a suspension of the Respondent's license followed by a period of probation for three years. (State's Ex. 2)
6. During the Respondent's probationary period, he was ordered, among other things, to (1) practice under the supervision of a licensed pharmacist, and (2) ensure that the pharmacist supervisor submitted monthly progress reports to the Board. (State's Ex. 2)
7. In August 2010, the Respondent began working part-time as a pharmacist at a pharmacy in Pikesville (the "Pharmacy"). The Pharmacy was not owned by a pharmacist. (T. 18)
8. With the exception of certain overlapping periods during a shift change, the Respondent was the only pharmacist working at the Pharmacy during his shifts. No other pharmacist was present to supervise the Respondent's interactions with patients, including female patients. (State's Ex. 5A; T. 66-67)
9. Two other pharmacists were employed by the Pharmacy. (T. 42) However, the other pharmacists did not have supervisory positions over the Respondent.
10. The Respondent received a power of attorney from the owner of the pharmacy to sign forms to order controlled dangerous substances. (T. 61-62)
11. The Respondent also supervised a pharmacy technician while he was employed the Pharmacy. (T. 45)

12. The Respondent's employer, a non-pharmacist, submitted progress reports to the Board on October 8, 2010; October 29, 2010; December 31, 2010; and January 30, 2011. (State's Exs. 4A-D)
13. The Respondent did not review the terms of his Consent Order at the time he originally executed it on May 18, 2009; nor did he review his terms of probation when his suspension was lifted and his license was placed on probation. (T. 54, 56-57)

OPINION

It is clear from the evidence admitted that the Respondent violated the terms of his probation. The Respondent testified that he did not read the terms of the Consent Order when he executed the document. And, more importantly, he did not review the terms restricting his license when the Board placed his license on probation. The Board is concerned about the Respondent's seemingly cavalier attitude with respect to such serious matters. As set forth above, the Respondent's original offense involved offering a patient controlled dangerous substances from his pharmacy in exchange for sexual favors – a very serious offense. The Board allowed the Respondent to keep his license, after a period of suspension, with the stipulation that he only practice under supervision, among other things. The reason for this is clear – the Board had serious concerns about the Respondent's ability to ethically interact with female patients.

The language of the order requiring supervision is unambiguous. The Board does not find persuasive the Respondent's argument that the other two pharmacists employed at the Pharmacy were his supervisors. The Respondent described their duties, and they were not, in fact, supervisory duties. Rather, they were merely directions or instructions that colleagues would provide to one another during a shift change to insure the continuity of pharmacy services,

or to acclimate a new pharmacist to the pharmacy. The Respondent could not even provide the last name of one of the pharmacists who was supposedly supervising him on a routine basis. The Respondent did not claim that either of the other pharmacists performed any typical supervisory duties, such as evaluating the Respondent's professional performance or creating operational policies for the Pharmacy. Indeed, the owner of the Pharmacy gave the Respondent power of attorney to order controlled substances, which is typically given to pharmacy managers. Given the basis of the Respondent's original disciplinary action, this is of obvious concern to the Board.

In addition, the Consent Order clearly states that the Respondent shall ensure that his "pharmacist supervisor" submits monthly progress reports to the Board. The Respondent argues that the Board sent him a form entitled "Employer Report" and, therefore, he believed that he should have his employer, a non-pharmacist, complete the report. Had the Respondent bothered to review the terms of his Consent Order, he would have understood that the form should have been completed by a pharmacist supervisor, which, as mentioned above the Respondent did not even have. The Respondent's confusion at the title of the form was serendipitous at best and intentional at worst.

Although the Respondent expressed remorse for his actions, the Board must ensure that he maintain strict compliance with the terms of the Order to which he originally agreed. Therefore, the Board has reinstated those same terms but has modified the language in the hope that the Respondent: (1) actually reads this Order; and (2) strictly complies with its terms. Because the Respondent was not in compliance with his original probationary terms from the time probation was initiated, the Board is re-commencing the original probationary term. The Board finds that strict compliance with probationary terms, particularly terms that were

negotiated in exchange for settlement, is vital to assure the Board that the public's health and safety is not compromised.

CONCLUSION OF LAW

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes the Respondent violated the Consent Order dated May 29, 2008, and is therefore subject to disciplinary action.

ORDER

Based on the foregoing Findings of Fact, Opinion, and Conclusion of Law, by a unanimous vote of the Board it is hereby:

ORDERED that the pharmacist's license held by the Respondent is placed on PROBATION for a period of THREE (3) YEARS, beginning on June 29, 2011; and be it further,

ORDERED that during the probationary period, the Respondent:

1. As a dispensing pharmacist, may only practice under the supervision of another pharmacist on site;
2. As a dispensing pharmacist, may not act as a floater or work night shifts;
3. Shall ensure that a supervising pharmacist submit to the Board monthly progress reports;
4. Shall continue individual therapy with a Board-approved therapist, at a frequency determined by the therapist, focusing on issues relating to sexual addiction and professional boundaries;
5. Shall comply with all of the therapist's recommendation; and
6. Shall ensure that the therapist submits to the Board monthly therapy reports and be it further,

ORDERED that the Respondent may petition the Board for modification of probation after one (1) year, provided that the Respondent has been fully compliant with all probationary terms and there are no outstanding complaints against the Respondent; 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,

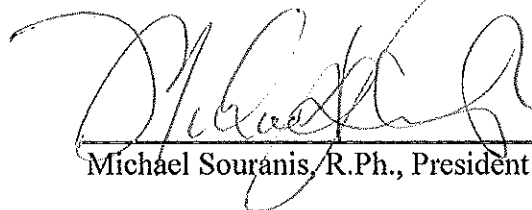
ORDERED that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of his compliance with the terms and conditions of this Order; and be it further,

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.*

9-21-2011
Date



Michael Souranis, R.Ph., 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 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.