

IN THE MATTER OF \* BEFORE THE MARYLAND  
CASHMIR LUKE, Pharm.D. \* STATE BOARD OF PHARMACY  
FORMER LICENSE NO. 19006 \* Case Number: 10-009

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**FINAL ORDER ON PETITION FOR REINSTATEMENT**

**INTRODUCTION**

On January 18, 2012, a Reinstatement Hearing was held before the Maryland State Board of Pharmacy (the "Board") to consider whether to reinstate the revoked pharmacist's license of Cashmir Luke, Pharm.D. (the "Petitioner"). Following oral presentations by the Petitioner, Petitioner's counsel, and the Administrative Prosecutor, the Board voted to deny the Petitioner's petition for the reasons stated herein. This Order constitutes the Board's final decision on the Petitioner's reinstatement petition.

**PROCEDURAL AND FACTUAL HISTORY**

The Petitioner was initially licensed to practice pharmacy in Maryland by the Board on November 18, 2008. On October 29, 2009, the Board sent the Petitioner a Notice of Intent to Revoke his pharmacist's license based on his being convicted of a felony and a crime of moral turpitude, in violation of the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-313(b)(22) (2009 Repl. Vol. and 2011 Supp.). The Notice of Intent to Revoke noted that a jury in federal court found the Petitioner guilty of conspiracy to commit identification document fraud and aggravated identity theft on March 23, 2009. The Notice of Intent to Revoke recounted the evidence produced at the trial, which showed that, while working as a respiratory therapist at a rehabilitation hospital, the Petitioner stole the identity of a traumatic brain injury victim and helped another man apply for a U.S. passport in the name of the victim. The evidence also

showed that the Petitioner had submitted a second fraudulent passport application, unlawfully using the identity of his estranged son, in Pennsylvania. Finally, the evidence showed that the Petitioner fraudulently used his long-deceased daughter's identity on behalf of his brother. The Notice of Intent to Revoke stated that the Petitioner was sentenced to 27 months in prison and supervised probation for these offenses.

The Notice of Intent to Revoke issued to the Petitioner gave him thirty days from receipt of the notice to request a hearing before the Board made its final decision. The Petitioner failed to request a hearing, and on February 17, 2010, the Board issued a Final Order of Revocation. The Final Order of Revocation recounted the same facts as the Notice of Intent to Revoke. The Petitioner did not appeal the Final Order of Revocation.

On June 17, 2011, the Petitioner submitted a petition for reinstatement of his pharmacist's license. The Board then posed several questions to the Petitioner to determine his fitness to practice pharmacy. The Petitioner submitted a reply on August 9, 2011. The Attorney General's Office, Health Occupations Prosecution and Litigation Division, submitted a position opposing reinstatement on September 20, 2011. A hearing was held on January 18, 2012, for the Board to consider the petition.

#### **CONSIDERATION OF THE APPLICATION FOR REINSTATEMENT**

Reinstatement following revocation is a discretionary act on the part of the Board. COMAR 10.34.01.15(B). Thus, the burden is on the Petitioner to demonstrate to the Board that he possesses the requisite qualities to be reinstated. In determining whether to reinstate a licensee, the Board considers the following four factors:

1. The nature and circumstances of the Petitioner's original misconduct;

2. The Petitioner's subsequent conduct and reformation;
3. The Petitioner's present character; and
4. The Petitioner's present qualifications and competence to practice pharmacy.<sup>1</sup>

The Board relied upon the Petitioner's written response to its questions regarding his fitness to practice, as well as the oral argument presented at his hearing before the Board on January 18, 2012, to reach its decision.

1. **The nature and circumstances of the Petitioner's original misconduct.**

The Petitioner's actions were clear violations of the Maryland Pharmacy Act. Specifically, the Act provides that the Board may discipline a pharmacist if the pharmacist "[i]s convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude . . . ." Md. Code Ann., Health Occ. § 12-313(b)(22). As noted above, the Petitioner was convicted of conspiracy to commit identification document fraud and aggravated identity theft, both felonies. The Petitioner's crimes were also crimes of moral turpitude in that they involved misappropriating other people's personal identifying information, including, in one instance, a patient of the rehabilitation hospital where the Petitioner worked as a respiratory therapist. The Petitioner clearly valued the personal gains to him and his co-conspirators above both the patient's rights and property and any relevant ethical considerations. These actions reveal the Petitioner's lack of professional judgment and competence to practice pharmacy. The Petitioner admitted in his August 2011 letter to the Board that he made some "disastrous

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<sup>1</sup> The Board notes that the Maryland Court of Appeals has considered these four factors in attorney discipline cases involving reinstatement. See *In re Reinstatement of Wyatt*, 342 Md. 117, 118 (1996) (citing *In re Braverman*, 271 Md. 196, 199-200 (1974)); *In re Reinstatement of Murray*, 316 Md. 303, 305 (1989).

decisions” and acted with “disrespect and disregard for [his] position and the lives of those for whom [he] care[s].” The Petitioner also admitted that he “exercised very poor judgment – unethical and unworthy of a pharmacist,” although he states that, at the time, his actions did not “seem nefarious.”

## **2. The Petitioner’s subsequent conduct and reformation.**

The Petitioner has failed to provide the Board with sufficient evidence that he has reformed. Although the Petitioner’s letter to the Board acknowledged some wrongdoing, the Petitioner’s presentation at the January 18, 2012 hearing displayed a failure to take full responsibility for his actions. The Petitioner admits that he made mistakes, but he maintains that he was a pawn in an overall conspiracy conjured up by his brothers. In his letter to the Board, the Petitioner states he cannot explain “how and why [he] let [himself] be associated with this scheme,” again suggesting that his biggest crime was becoming involved in other people’s wrong-doing. He also suggests that he only participated in the conspiracy because his “specialized knowledge did not include a wealth of understanding on law or policy.” The Petitioner also maintains his innocence as it relates to stealing a patient’s identity, only going so far as to say he was guilty of “aiding and abetting” identity theft.

The Petitioner provided no convincing evidence that he would not commit the same or similar offenses again if the Board reinstated his license. In fact, the Petitioner did not even prepare a re-entry plan for where or how he would begin practicing again; he only stated that he “hoped to find a job in whatever practice setting is willing to give me a second chance.” The Board is concerned that, if Petitioner is reinstated, he will have access to pharmacy patients’ personal identifying, financial, and medical

information, and the Petitioner has not persuaded the Board that he will not misappropriate that information, as he has done in the past.

### **3. The Petitioner's present character.**

While the Petitioner admits to having committed a felonious act, being a "conspirator in the commission of document fraud," and "aiding and abetting in aggravated identity theft" in his August 2011 letter to the Board, he provides scant evidence of his current moral and ethical fiber. Although he quotes the Bible and provides platitudes regarding his shame and failings to his family, he fails to specifically acknowledge why what he did was wrong or convince the Board that he will not do it again. Additionally, he discusses classes he plans on taking in ethics and confidentiality of patients' personal information, but does not demonstrate that he has already learned anything on these topics. Moreover, his presentation to the Board did not demonstrate that he has reformed or fully accepted his role in the document fraud and identity theft conspiracy. It appears the Petitioner is primarily interested in reinstatement of his pharmacist's license for monetary gain to provide for himself and his family, not because he is genuinely interested in providing quality patient care.<sup>2</sup> Again, as stated above, the Petitioner continues to blame others for his behavior, and the Board is not convinced he is fully reformed or can safely handle his patients' personal information

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<sup>2</sup> Although a desire to provide for one's family is not ignoble in and of itself, the Board notes that according to the Petitioner, his "desire to help [his] family attain the same level of happiness and security that [he] enjoyed" is what led him to become involved in the document fraud and identity theft conspiracy in the first place.

#### **4. The Petitioner's present qualifications and competence to practice pharmacy.**

The Petitioner states he kept abreast of the developments in pharmacy by reading articles and journals sent to him by friends while he was incarcerated and upon his release, and says that while incarcerated, he taught classes to the aging inmate population on diabetes management, hypertension, infectious disease prevention, and medication therapy management. The Petitioner also states that he recently completed a home-study course approved by the American Public Health Association, consisting of 30 continuing education hours in pharmacy practice.<sup>3</sup> However, the Petitioner has not practiced pharmacy since June 2009, and he was only licensed to practice as a pharmacist for eleven months before the Board issued the Notice of Intent to Revoke in October 2009.<sup>4</sup> More importantly, however, regardless of the Petitioner's practical knowledge, his criminal conduct and his failure to fully acknowledge accountability for his transgressions demonstrate that he does not possess the moral or ethical character to practice pharmacy.

#### **CONCLUSIONS AND FINDINGS**

Based on the Board's review of the Petitioner's petition, his statements before the Board, and the factors discussed above, the Board finds that the Petitioner has not demonstrated that his license should be reinstated. The Petitioner has not satisfactorily demonstrated that he accepts responsibility for his criminal acts, and his subsequent

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<sup>3</sup> The Petitioner did not present the Board with any documentation regarding this continuing education.

<sup>4</sup> The Petitioner had only been licensed to practice as a pharmacist for four months when he was convicted in March 2009.

conduct since his revocation shows that he has not yet come to terms with the seriousness of his fraudulent and criminal conduct.

The Board remains unconvinced that the Petitioner truly appreciates the dishonesty and lack of integrity that his conduct displayed. Moreover, the Board is not persuaded that reinstatement at this time would reflect honorably on the profession. Most importantly, the Board is not convinced that it can safely allow the Petitioner to access pharmacy patients' personal information. Given the foregoing, the Board concludes that the Petitioner has failed to demonstrate that he is fit to practice pharmacy at this time.

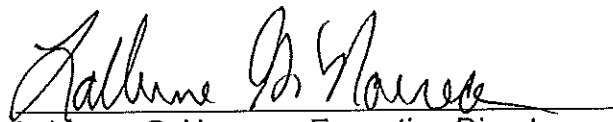
**ORDER**

Accordingly, the Board hereby **ORDERS** that the Petition for Reinstatement of CASHMIR LUKE, former license number 19006, be **DENIED**; and it is further

**ORDERED** that upon any further petition for reinstatement, the Petitioner shall demonstrate to the Board that he has met the standards set out above in this Order; and it is further

**ORDERED** that this **FINAL ORDER ON PETITION FOR REINSTATEMENT OF LICENSE TO PRACTICE PHARMACY** is a **PUBLIC** document under Md. Code Ann., State Gov't, § 10-611 *et seq.* (2009 Repl. Vol. and 2011 Supp.).

So **ORDERED** this 27<sup>th</sup> day of February, 2012.

  
LaVerne G. Naesea, Executive Director  
Maryland State Board of Pharmacy