

IN THE MATTER OF * **BEFORE THE**
CASHMIR LUKE, * **MARYLAND STATE BOARD**
Pharm.D. * **OF PHARMACY**
Former Licensee No. 19006 * **Case No.: 10-009**

* * * * *

FINAL ORDER ON PETITION FOR REINSTATEMENT

INTRODUCTION

On October 21, 2020, the Maryland Board of Pharmacy (the “Board”) held a Reinstatement Hearing in front of a quorum of the Board to consider whether to reinstate the pharmacist’s license formerly held by Cashmir Luke, Pharm.D. (the “Petitioner”), which had been revoked on February 17, 2010. Following oral presentations by the Petitioner and the Administrative Prosecutor, the Board voted to deny the Petitioner’s petition for the reasons stated forth herein. This Order constitutes the Board’s final decision on the Petitioner’s reinstatement petition.

PROCEDURAL AND FACTUAL HISTORY

The Board initially issued the Petitioner a license to practice pharmacy in Maryland on November 18, 2008. On October 29, 2009, the Board notified the Petitioner of its intent to revoke his license because he had been convicted of a felony and a crime of moral turpitude, in violation of Md. Code Ann., Health Occ. § 12-313(b)(22). Specifically, the Notice of Intent to Revoke noted that the Petitioner had been found guilty in federal court of conspiracy to commit identification document fraud and aggravated identity theft on March 23, 2009. The evidence produced at the Respondent’s federal trial showed that the Petitioner stole the identity of a traumatic brain injury victim and helped another man apply for a U.S. passport in the victim’s

name, while the Petitioner was working as a respiratory therapist at a rehabilitation hospital. In addition, the Petitioner submitted a second fraudulent passport application using his estranged son's name and fraudulently used his deceased daughter's identity on behalf of his brother. The Petitioner was sentenced to 27 months in prison and supervised probation.

The Notice of Intent issued by the Board recounted the details of the Petitioner's criminal history as set forth above and gave him notice that he had 30 days to request a hearing before the Board issued an order revoking his license. The Petitioner never requested a hearing, so the Board issued a Final Order of Revocation, recounting the same facts as the Notice of Intent to Revoke, on February 17, 2010. The Petitioner did not appeal the Final Order of Revocation.

On June 17, 2011, the Petitioner petitioned the Board for reinstatement of his pharmacist's license. The Board held a hearing on the Petitioner's 2011 petition on January 18, 2012. After the hearing, the Board issued an Order denying the Petitioner's petition for reinstatement. The February 27, 2012 Order noted that "upon any further petition for reinstatement, the Petitioner shall demonstrate that he has met the standards set out above in this Order."

On July 14, 2017, the Board received an email from the Petitioner that included a second request to reinstate his license. On July 31, 2017, the Board sent the Petitioner a letter posing several questions to determine his fitness to practice pharmacy.¹ The Petitioner did not respond to the Board's letter until July 11, 2019, at which point he formally petitioned for reinstatement and responded to the Board's questions. The Health Occupations Prosecution and Litigation Division of the Attorney General's Office submitted a letter opposing the Petitioner's reinstatement on August 30, 2019. A hearing was held on October 21, 2020, for the Board to consider the petition.

¹ The Board sends the same letter to every revoked licensee who petitions for reinstatement, and had sent the same questions in response to the Petitioner's 2011 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. As noted in the Board's 2012 Order, the Board considers four factors in determining whether to reinstate a license: the nature and circumstances of the Petitioner's original misconduct; the Petitioner's subsequent conduct and reformation; the Petitioner's present character; and the Petitioner's present qualifications and competence to practice pharmacy. *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). The Board relied on the Petitioner's written response to its questions regarding his fitness to practice as well as the oral argument presented at the October 21, 2020 hearing to reach its decision.

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

The Petitioner's original misconduct was a clear and serious violation of the Maryland Pharmacy Act. The Act provides that the Board may "reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist" who "[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). The Petitioner was convicted of two felonies: conspiracy to commit identification document fraud and aggravated identity theft. Both convictions involved the misappropriation of other people's personal identifying information and are thus crimes of moral turpitude; in addition, one of the crimes involved a patient at a rehabilitation hospital the Petitioner worked in as a respiratory therapist, an especially egregious violation for a health care

practitioner.² The Practitioner's participation in this conspiracy was based only on the interests of himself and his co-conspirators and showed a clear lack of regard for the victims.

The Petitioner does not deny his criminal history. In fact, he recognizes that based on his convictions the Board had "every reason at the time to take whatever steps it deemed necessary to protect the public." The Petitioner, however, still fails to recognize his personal gains that motivated him to break the law; he still says, for example, that he had "nothing to gain by participating in" the conspiracy. He also continues to suggest that he only wanted to help a family member and that he did not appreciate the consequences of his actions. He also suggests that he only committed his crimes because he did not appreciate "the full details of the scheme."

2. The Petitioner's subsequent conduct and reformation.

The Petitioner clearly regrets the consequences he has faced as a result of his actions. He talks at length, as he did in his 2011 petition, about the shame he has brought his family, his own embarrassment, and the fact that his criminal activity cost him his career as a pharmacist. He refers to his criminal activities as a "self-created albatross with unending ramifications." As noted above, however, the Petitioner continues to abdicate his own personal responsibility for his actions.

The Petitioner has not provided any evidence that he would not commit the same or similar offenses in the future if the Board reinstated his license. He notes in his petition that he does not have a return to the profession planned out. He states he wants to be reinstated to seek employment "that will give me the ability to provide for myself, my children, and my aging parents." The Petitioner suggests that his motivation for seeking reinstatement is entirely financial. The Board is concerned that, if the Petitioner is reinstated, he will find himself in a

² The Maryland Board of Physicians issued an order on April 2, 2014, denying the Petitioner's application to reinstate his license to practice respiratory care due to his conviction for crimes of moral turpitude.

position where he can once again misappropriate patients' personal identifying and financial information for his own monetary gain. The Petitioner has not persuaded the Board that he would refrain from such misappropriation if given the opportunity.

3. The Petitioner's present character.

The Petitioner claims, multiple times, that he would never violate the Board's laws and regulations, or the public trust, again. He also notes that he is volunteering with at-risk teenagers and completing a Ph.D. in Public Health. Nothing in his Petition for reinstatement, however, provides evidence for his current moral and ethical fiber. As noted above, the Petitioner talks about the shame he feels for the consequences of his actions on himself and his family, but he fails to fully acknowledge why his actions were wrong or convince the Board that they will not happen again. The Petitioner lists a number of continuing education credits he has taken on clinical issues related to pharmacy practice, but he does not list any courses or trainings he has taken on ethics of maintaining confidentiality of patients' personal information. As further noted above, the Petitioner focuses on the personal financial and social benefits to himself and his family if he is reinstated. He had a similar focus in his presentation to the Board, where he spoke mostly about needing help and a second chance. The Board is not convinced that the Petitioner's present character is such that he is fully reformed or can be trusted with patients' personal information.

4. The Petitioner's present qualifications/competence to practice pharmacy.

The Petitioner mentions in his petition that he is active in several pharmacists' organizations and regularly attends conferences for those organizations. He also states that he subscribes to and reads several pharmacy-related journals and provides a list of 25 continuing education courses he participated in in the two years prior to his petition for reinstatement.

Because the Petitioner is not actively engaged in the practice of pharmacy and his license was revoked by the Board more than 10 years ago, the Board's reinstatement regulations would require extensive re-education – including retaking and passing the North American Pharmacist Licensure Examination (“NAPLEX”) – even if the Petitioner's license had expired for non-disciplinary reasons. COMAR 10.34.13.03B(7). The Petitioner has not practiced pharmacy since June 2009, and because his criminal activities took place while he was still in pharmacy school, he was only a licensed pharmacist for 11 months before the Board issued the Notice of Intent to Revoke in October 2009.³ At this point, the Petitioner would essentially have to go through his entire education as a pharmacist again to reach a level of competence to safely practice. More importantly than that, however, the Petitioner's criminal conduct and level of self-reflection indicate that he does not possess the moral or ethical character necessary to practice pharmacy.

CONCLUSION AND FINDINGS

Based on the Board's review of the Petitioner's petition, his statement 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 continues to deflect responsibility for and an understanding of his criminal conduct and focuses instead on his regret for the consequences of his actions. The entirety of the Petitioner's petition focuses on what reinstatement would mean for him and his family, not what it would mean for the victims of his crimes or for the integrity of the profession.

As was the case in 2012, the Board remains unconvinced that the Petitioner fully appreciates the dishonesty and lack of integrity that his criminal conduct displayed. The Board is not convinced that Petitioner's reinstatement would reflect honorably on the profession or that he would practice ethically going forward. Moreover, the Board does not believe the Petitioner is

³ The Petitioner had only been licensed to practice pharmacy for four months when he was convicted in March 2009.

clinically, professionally, or ethically competent to practice pharmacy in Maryland. Given all of the foregoing, the Board concludes that the Petitioner has failed to demonstrate that he is fit to practice pharmacy in Maryland at this time.

ORDER

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

ORDERED that upon any future petition for reinstatement, the Petitioner shall demonstrate to the Board that he has met the standards set out above in 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., Gen. Provision § 4-333(b).

8-31-22
Date

Deena Speights Napata
Deena Speights-Napata, M.A.
Executive Director
for
Jennifer Hardesty, Pharm.D., President
Maryland Board of Pharmacy