

IN THE MATTER OF	*	BEFORE THE
VIDHYANAND MAHASE, Pharm.D.,	*	STATE BOARD
a/k/a VICK MAHASE	*	OF
License No.: 17711	*	PHARMACY
Respondent	*	Case No. 09-034

\* \* \* \* \*

**ORDER FOR SUMMARY SUSPENSION**

Pursuant to Md. State Govt. Code Ann. §10-226 (c) (2004 Repl. Vol. and 2008 Supp.), the State Board of Pharmacy (the "Board") hereby suspends the license to practice Pharmacy in Maryland issued to Vidhyanand Mahase, Pharm.D., a/k/a Vick Mahase (the "Respondent"), under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. § 12-101, et seq., (2005 Repl. Vol. and 2008 Supp.). This Order is based on the following investigative findings, which the Board has reason to believe are true:

**BACKGROUND**

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on September 13, 2005. The Respondent's license expires on September 30, 2009.
2. At all times herein, the Respondent was a dispensing pharmacist at the Safeway store in Silver Spring, Maryland, in Montgomery County.
3. On or about March 11, 2008, the Regional Pharmacy Manager of Safeway conducted a routine audit of the pharmacy where the Respondent worked, while the

Respondent was out on medical leave. When she checked the CII scripts,<sup>1</sup> the Manager discovered the following:

A. She saw four prescriptions with two different sets of initials from a couple of days before: three were for Oxycontin and one was for Percocet.<sup>2</sup> She later determined that the Respondent's initials were on those drugs, even though he was supposedly off work;

B. As a result, the Manager conducted a further investigation, which led to referring the matter to the Federal authorities, who set up surveillance;

C. As a result of the findings of gross irregularity in the CII and the Respondent's role therein, the Manager requested that the Respondent meet with her, before he could return to work. The Respondent refused to do so and never returned to work. Consequently, he was terminated.

4. As a result of the referral to the Federal Authorities, the following occurred:

A. On 9/18/08, the Respondent signed a Plea Agreement in the United States District Court for the Eastern District of Virginia, Alexandria Division, whereby he agreed to waive indictment and to plead guilty to a single-count criminal information charging him with conspiracy to distribute oxycodone, also known as Oxycontin, in violation of Title 21, United States Code, Sections 841

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<sup>1</sup>Schedule II of Controlled Dangerous Substances (CDS" or CII) are the most addictive and habit-forming types.

<sup>2</sup>Oxycontin is a controlled-release form of the narcotic painkiller oxycodone. It is prescribed for moderate to severe pain when continuous, around-the-clock relief is needed for an extended period of time. Percocet, a narcotic analgesic, is used to treat moderate to moderately severe pain. It contains two drugs-acetaminophen and oxycodone. Acetaminophen is used to reduce both pain and fever. Oxycodone, a narcotic analgesic, is used for its calming effect and for pain.

(a) (1) and 846.<sup>3</sup>

B. The agreed Statement of Facts that comprised the Plea Agreement was as follows:

(1) From in or about October 2007, to in or about March 2008, within the Eastern District of Virginia and elsewhere, the defendant, Vidhyanand Mahase, a/k/a Vick Mahase, did unlawfully, knowingly, and intentionally combine, conspire, confederate, and agree together with others to unlawfully, knowingly, and intentionally distribute a mixture and substance containing a detectable amount of oxycodone, also known as "OxyContin," "Oxy," "O.C.," "Hillbilly Heroin," "Killer," and "Coffin," a Schedule II controlled substance, in violation of Title 2, United States Code, Sections 841(a) and 846.

(2) During the period of the defendant's involvement in the conspiracy, that defendant was employed as a pharmacist for a Safeway Grocery Store pharmacy. In his capacity as a licensed pharmacist, the defendant was approached by coconspirator 1 ("CC-1") who offered to pay the defendant to fill fraudulent prescriptions for OxyContin, which the defendant knew were fraudulent.

(3) The defendant agreed to accept from CC-1 approximately \$300 per prescription for filling the prescriptions the defendant knew were fraudulent. From in or about October 2007, through in or about December 2007, CC-1 provided the

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<sup>3</sup>§841:(a) Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally --

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance;

§ 846 Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of

defendant with approximately three to four fraudulent prescriptions for OxyContin tablets at least one to two times per week, which the defendant would fill for \$300 per prescription. The fraudulent prescriptions were most often for 80 milligram tablets of OxyContin, although sometimes they were for 40 milligram tablets of OxyContin.

(4) When CC-1 provided the defendant with the fraudulent prescriptions, CC-1 also provided photocopies of various individuals' insurance cards along with photocopies of those individuals' identification cards. CC-1 instructed the defendant to fraudulently bill the insurance companies on behalf of the individuals whose medical and identification information he provided for the fraudulent prescriptions, filled by defendant, which the defendant did.

(5) In addition, on some occasions, CC-1 would provide the defendant blank prescriptions, which the defendant would fraudulently write for Oxycontin tablets and then fill for CC-1.

(6) During this period, the defendant often spoke on the phone with coconspirator 2 ("CC-2") and coconspirator 3 ("CC-3"), both of whom helped to arrange the times for CC-1 to drop-off the fraudulent prescriptions, and the times for CC-1 to pick up the Oxycontin tablets, CC-1 explained to the defendant that the CC-2 and CC-3, with whom CC-1 lived, sold the OxyContin tablets that the defendant provided from the fraudulent prescriptions to other coconspirators. The coconspirators that purchased the OxyContin tablets from CC-2 and CC-3, and occasionally CC-1, distributed them in Prince William and Stafford Counties, within the Eastern District of Virginia, and elsewhere.

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which was the object of the attempt or conspiracy.

(7) In or about December 2007, CC-1 stopped paying defendant \$300 per fraudulent prescription filled by defendant. The defendant pressured CC-1, CC-2, and CC-3 for payment and threatened to stop filling the fraudulent prescriptions unless he was paid. On or about the night of January 2, 2008, CC-1 and five other individuals confronted the defendant with guns in the parking lot of the Safeway at which the defendant was a pharmacist. CC-1 hit the defendant with the butt of his gun and told the defendant that if he didn't continue to fill the fraudulent prescriptions, CC-1 knew where the defendant and his wife lived.

(8) From in or about January 2008, through in or about April 2008, when the defendant was resigned from his position as a pharmacist at Safeway, the defendant continued to fill fraudulent prescriptions for OxyContin for CC-1 approximately two or three times per week. During this time period, the defendant was paid only \$150 per fraudulent prescription that he filled for CC-1.

(9) The defendant was personally involved in the distribution of, or it was reasonably foreseeable to the defendant that his coconspirators distributed in furtherance of the conspiracy, at least 3235 tablets of 80 milligram OxyContin and 1,520 tablets of 40 milligram OxyContin, which converts to at least 1,000 kilograms but less than 3,000 kilograms of marijuana.

(10) The actions of the defendant, as recounted above, were in all respects knowing and deliberate, and were not committed by mistake, accident, or other innocent reason.

5. As a result of the above, the Respondent was sentenced to 78 months incarceration, a \$100 fine, and three years of supervised probation.

### **FINDINGS OF FACT**

1. As set forth above, by conspiring to and selling addictive medication without valid prescriptions, which he stole from the Safeway where he was employed, the Respondent is a threat to the public health, safety or welfare.

2. The above actions also constitute violations of the Act. Specifically, the Respondent violated the following provisions of § 12-313 of the Act:

(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 for a pharmacist's license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:

- (2) Fraudulently or deceptively uses a license;
- (8) Willfully fails to file or record any report that is required by law;
- (21) Is professionally...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;
- (25) Violates any rule or regulation adopted by the Board;

The Respondent also violated the Pharmacist and Pharmacist Technician Code of Conduct, Code Md. Regs. tit. 10 §.34.10 (January 28, 2008)

.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,<sup>4</sup>

- (b) Health-General Article, Titles 21 and 22, Annotated Code of Maryland,

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

- (d) Criminal Law Article, Title 5, Annotated Code of Maryland, and

- (e) COMAR 10.19.03;

- (2) Verify the accuracy of the prescription before dispensing the drug or device if the pharmacist has reason to believe that the prescription contains an error; and

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<sup>4</sup> § 1306.04 Purpose of issue of prescription.

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

(b) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription may not be issued for "detoxification treatment" or "maintenance treatment," unless the prescription is for a Schedule III, IV, or V narcotic drug approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment and the practitioner is in compliance with requirements in §1301.28 of this chapter.

B. A pharmacist may not:

(1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist;

(3) Engage in unprofessional conduct.

### CONCLUSIONS OF LAW

Based on the foregoing, the Board finds that the public health, safety or welfare imperatively requires emergency action, pursuant to Md. St. Gov't. Code Ann. §10-226(c)(2) (2004 Repl. Vol.).

### ORDER

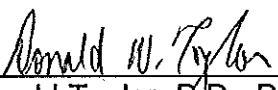
Based on the foregoing, it is therefore this 18<sup>th</sup> day of MARCH, 2009, by a majority vote of a quorum of the State Board of Pharmacy, by authority granted by the Board by Md. St. Gov't. Code Ann. §10-226(c)(2) (2004 Repl. Vol.), the license held by the Respondent to practice pharmacy in Maryland, License No. 17711, is hereby **SUMMARILY SUSPENDED**; and be it further

**ORDERED**, that upon the Board's receipt of a written request from the Respondent, a Show Cause Hearing shall be scheduled within a reasonable time of said request, at which the Respondent will be given an opportunity to be heard as to whether the Summary Suspension should be continued, regarding the Respondent's fitness to practice pharmacy and the danger to the public; and be it further

**ORDERED**, that the Respondent shall immediately turn over to the Board his wall certificate and wallet-sized license to practice pharmacy issued by the Board; and be it further



**ORDERED**, that this document constitutes a final Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. State Gov't Code Ann. §10-617(h) (2004 Repl. Vol.).

  
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Donald Taylor, P.D., President  
Board of Pharmacy

**NOTICE OF HEARING**

A Show Cause hearing to determine whether the Summary Suspension shall be continued will be held before the Board at 4201 Patterson Avenue, Baltimore, 21215 following a written request by the Respondent for same.