

IN THE MATTER OF
MEDICINE SHOPPE #1183
PERMIT NO. P01686
Respondent-Pharmacy

*** BEFORE THE**
*** STATE BOARD**
*** OF PHARMACY**

* * * * *

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 permit to operate as a pharmacy in Maryland issued to The Medicine Shoppe #1183 (the "Respondent-Pharmacy"), 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-Pharmacy was permitted to operate as a pharmacy in Maryland. The Respondent-Pharmacy was first issued a permit on July 2, 2001. The Respondent-Pharmacy's permit expires on December 31, 2009.

2. The Respondent-Pharmacy is located at 11813 ½ Reisterstown Road in Baltimore County, Maryland. The Respondent-Pharmacy is owned by Ketankumar Patel.

3. From on or about late 2007, a confidential source (CS) bought thousands of

Oxycontin tablets from the Respondent-Pharmacy, using forged prescriptions. With regard to those forged prescriptions, Mr. Patel gave the CS a note on how to write the prescriptions better.

4. The CS used not only his/her name, but names of other persons to buy drugs. The CS also used names of various physicians. For some of these prescriptions, the Respondent-Pharmacy billed insurers, including Medicaid.

5. The Respondent-Pharmacy initially charged the CS \$750 cash per 60 tablets of 80 mg of OxyContin, but increased the price by March 2009 to \$1800 per prescription. By March 2009, the CS was passing five fraudulent prescriptions per week in exchange for \$7500 cash. The CS purchased as many as 600 OxyContin pills per week from the Respondent-Pharmacy. The CS also purchased Percocet/oxycodone and other controlled drugs from the Respondent-Pharmacy. The CS paid the Respondent-Pharmacy approximately \$310,170 for the oxycodone products over the course of his relationship with the Respondent-Pharmacy. The Respondent-Pharmacy did not fill any legitimate prescriptions for Oxycontin for other customers, because it only filled same for the CS. In addition, Mr. Patel informed the CS that he did not keep the forged prescriptions that the CS gave him, as required to by law.

6. On June 30, 2009, the DEA served a search warrant on the Respondent-Pharmacy and arrested Mr. Patel for illegal distribution of Oxycontin and other Controlled Dangerous Substances (CDS).

7. A grand jury issued a six-count indictment against the Respondent-Pharmacy and Mr. Patel on that date, as follows:

Count One: from at least in or the beginning of 2008 up to and including

the date of the indictment, the Defendant (the Respondent-Pharmacy) and Mr. Patel did knowingly and unlawfully agree to willfully distribute and possess, with intent to distribute, a mixture of substance which contains oxycodone, also known as OxyContin and Percocet, a Schedule II controlled substance, in violation of the Federal law;

Count Two: On or about March 26, 2009, the Defendants distributed a mixture or substance containing oxycodone;

Count Three: On or about March 27, 2009, the Defendants did knowingly distribute a mixture or substance containing oxycodone;

Count Four: On or about April 1, 2009, the Defendants knowingly distributed a substance containing oxycodone;

Count Five: On or about May 21, 2009, the Defendants did knowingly distribute a quantity of a mixture or substance containing Alprazolam, also known as Xanax, a scheduled substance;

Count Six: On or about June 5, 2009, the Defendants did knowingly distribute a quantity of a mixture or substance containing Alprazolam, also known as Xanax.

8. Forfeiture was also instituted against the Defendants for \$310,170 by seizing Mr. Patel's property, including his residence, the Respondent-Pharmacy, bank accounts, and automobiles.

9. The Respondent-Pharmacy faces closure; Mr. Patel faces a sentence of 20 years and a \$1 million fine.

10. The DEA revoked the Respondent-Pharmacy's DEA registration and confiscated all of the controlled drugs.

FINDINGS OF FACT

1. As set forth above, by distributing Oxycontin and other controlled substances based on obviously forged prescriptions and, at times, billing insurers for those drugs, including Medicaid, the Respondent-Pharmacy is a threat to the public health, safety or welfare.

2. The above actions also constitute violations of the Act. Specifically, the Respondent-Pharmacy violated the following provision § 12-409:

- (a) Subject to the hearing provisions of § 12-411¹ of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:
- (1) Is conducted so as to endanger the public health or safety;
 - (2) Violates any of the standards specified in § 12-403 of this subtitle; or
 - (3) Otherwise is not conducted in accordance with the law.

The Respondent-Pharmacy also violated § 12-403, Required standards:

¹ § 12-410.

(a) If after a hearing under § 12-411 of this subtitle the Board finds that there are grounds under § 12-409 of this subtitle to suspend or revoke a permit, the Board may impose a penalty not exceeding \$10,000:

- (1) Instead of suspending the permit; or
- (2) In addition to suspending or revoking the permit.

(b) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

- (1) Shall be operated in compliance with the law and with the rules and regulations of the Board;
- (5) Shall provide complete pharmaceutical service by preparing and dispensing all prescriptions that reasonably may be expected of a pharmacist;
- (6) Shall provide services to the general public and may not restrict or limit its services to any group of individuals unless granted a waiver from this requirement by the Board;
- (7) May not offer pharmaceutical services under any term or condition that tends to interfere with or impair the free and complete exercise of professional pharmaceutical judgment or skill;
- (9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12-313 of this title;
- (13) Shall:
 - (i) Make and keep on file for at least 5 years a record of each prescription prepared or dispensed in the pharmacy;

The Respondent-Pharmacy also violated 12-313 of the Act:

(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;
- (21) Is professionally...incompetent;
- (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 [;].

In addition, the Board charges the Respondent-Pharmacy with a violation of its Pharmacy 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,

(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

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.).

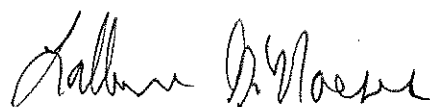
ORDER

Based on the foregoing, it is therefore this 12/14 day of **July, 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 permit held by the Respondent-Pharmacy to operate as a pharmacy in Maryland, Permit No. 1183, is hereby **SUMMARILY SUSPENDED**; and be it further

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

ORDERED, that the Respondent-Pharmacy shall immediately turn over to the Board its wall certificate and wallet-sized permit to operate as a 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.).



LaVerne G. Naesea, Executive Director
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-Pharmacy for same.

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