

IN THE MATTER OF * **BEFORE THE**
STEFANY OVERBECK, R.PH. * **MARYLAND BOARD**
RESPONDENT * **OF PHARMACY**
LICENSE NO.: 13193 * **Case No.: 19-199**

* * * * *

CONSENT ORDER

On March 12, 2019, the Maryland State Board of Pharmacy (the “Board”) issued an Order for Summary Suspension to **STEFANY OVERBECK, R.PH.** (“the Respondent”), License No.: **13193**, pursuant to its authority under Md. Code Ann., State Gov’t § 10-226(c)(2) (2014 Repl. Vol. and 2018 Supp.) concluding that the public health, safety, and welfare imperatively required emergency action in the case.

On August 8, 2019, the Board charged the Respondent under the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.) and the Code of Maryland Regulations (“COMAR”).

The Board charged the Respondent with violating the following provisions of the Act:

§ 12-313. Denials, reprimands, suspensions, and revocations – Grounds

....

(b) *In general* — 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 . . . reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the . . . licensee:

....

(2) Fraudulently or deceptively uses a license;

....

(7) Willfully makes or files a false report or record as part of practicing pharmacy;

....

(23) Is convicted of a violation of this title;

(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[.]

The Board also charged the Respondent with violating the following COMAR provisions:

COMAR 10.34.10.01. Pharmacist Code of Conduct – 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:

....

(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.

....

B. A pharmacist may not:

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

(2) Practice pharmacy under circumstances or conditions which prevent the proper exercise of professional judgment; or

- (3) Engage in unprofessional conduct.

With respect to COMAR 10.34.10.01(A)(1)(e), the pertinent provisions of COMAR 10.19.03 provide as follows:

COMAR 10.19.03.09. Controlled Substances Listed in Schedules III, IV, and V.

- A. Requirement of Prescriptions Listed in Schedules III, IV, and V (21 CFR §1306.21).
 - (1) A pharmacist may dispense directly a controlled dangerous substance listed in Schedules III, IV, or V, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, or State Law, only pursuant to either a written prescription signed by a prescribing individual practitioner or a facsimile received by facsimile equipment of a written, signed prescription transmitted by the practitioner or the practitioner's agent to the pharmacy or pursuant to an oral prescription made by a prescribing individual practitioner and immediately reduced to writing by the pharmacist containing all information required in Regulation .07 of this chapter, except the signature of the prescribing individual practitioner.

On September 11, 2019, the Respondent, along with her attorney Carolyn Jacobs, Esquire, and Kelly Cooper, Administrative Prosecutor, attended a Case Resolution Conference ("CRC") with members of the Board in an effort to resolve the pending charges and summary suspension in lieu of an evidentiary hearing. As a result of the CRC, the Respondent and the State agreed to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

I. FINDINGS OF FACT

The Board finds:

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in the State of Maryland. The Respondent was originally licensed to practice pharmacy in Maryland on or about July 28, 1993. The Respondent's license is currently suspended.¹

2. At all times relevant hereto, the Respondent was employed as a pharmacist at a national chain pharmacy (the "Pharmacy").

3. On or about August 2, 2018, the Board received notification from the Pharmacy that it had identified a "potential loss of Zaleplon^[2] 5mg and 10mg" and would "be conducting an investigation to confirm the loss and determine the reason for the loss."

4. On or about November 20, 2018, the Board received a follow-up notification from the Pharmacy stating it had "confirmed the loss was a result of employee pilferage" by the Respondent. The Pharmacy further reported that in addition to zaleplon, it had also confirmed that the Respondent "pilfered Zolpidem^[3] and Alprazolam.^[4]"

5. By correspondence dated December 3, 2018, the Board received a DEA (Drug Enforcement Agency) - 106 – Report of Theft or Loss of Controlled Substances (the "Report") from the Pharmacy related to the loss of zaleplon, zolpidem, and alprazolam.

6. The Report listed the controlled dangerous substances ("CDS") that were stolen as:

¹ On March 12, 2019, the Board issued an Order for Summary Suspension of the Respondent's license to practice pharmacy pursuant to its authority under Md. Code Ann., State Gov't § 10-226(c)(2) (2014 Repl. Vol. and 2018 Supp.) concluding that the public health, safety, and welfare imperatively required emergency action in the case.

² Zaleplon is a sedative, also called a hypnotic. Zaleplon is a Schedule IV CDS.

³ Zolpidem is a sedative, also called a hypnotic. Zolpidem is a Schedule IV CDS.

⁴ Alprazolam is a benzodiazepine used to treat anxiety and panic disorder. It is a Schedule IV CDS.

Trade Name	NDC Number	Dosage Str.	Quality Lost/Stolen
Zolpidem Tartrate 10 mg Tablet	00093007401	10 mg	25
Zaleplon 10 mg Capsule	00093526901	10 mg	600
Alprazolam 0.25 mg Tablet	00228202750	0.25 mg	3
Alprazolam 1 mg Tablet	00228203150	1 mg	334
Alprazolam 2 mg Tablet	00228203910	2 mg	220
Zolpidem Tartrate 10 mg Tablet	00378531005	10 mg	500
Zolpidem Tartrate 10 mg Tablet	13668000805	10 mg	90
Zolpidem Tartrate 10 mg Tablet	16714062202	10 mg	3
Zaleplon 5 mg Capsule	29300013101	5 mg	100
Zaleplon 10 mg Capsule	29300013201	10 mg	400
Alprazolam 0.5 mg Tablet	67253090150	0.5 mg	38
Alprazolam 1 mg Tablet	67253090250	1 mg	73

7. The Report listed the value of the lost CDS as \$519.00.

The Pharmacy's Internal Investigation

8. In July 2018, the Pharmacy's corporate office alerted the Pharmacy that there had been a potential diversion of zaleplon. The regional pharmacy manager ("Regional Pharmacy Manager") discovered that the zaleplon ordered on July 2, 2018, was not on the shelf at the Pharmacy, and there had not been any prescriptions filled for the medication.

The cameras in the Pharmacy's lab revealed on May 25, 2018, the Respondent:

remove[d] a drug consistent in the bay w[h]ere the drug is stored. [The Respondent] is then seen placing the drug in the out of date bin and then approximately 45 minutes later removing a drug from the out of date bin and putting them in the pill counter. [The Respondent] is then seen placing the

pills in a [sic] empty yellow pill bottle with no label and going out of view of the camera.

9. The Pharmacy installed several covert cameras in the Pharmacy, and then, on November 18, 2018, the Pharmacy's special police detective ("Special Police Detective") conducted surveillance of the Pharmacy which revealed at approximately 2:29 p.m., the Respondent removed a drug from the lab and placed the drug in the out of date bin. Later, at 4:49 p.m., the Respondent took a pill bottle from the out of date bin and concealed it in her smock pocket. The Respondent was later observed placing something in her purse and throwing an empty pill bottle away in the trashcan.

10. On November 18, 2018, at approximately 6:05 p.m., the Special Police Detective interviewed the Respondent and collected a written statement from the Respondent.

11. As part of her written statement the Respondent provided, in part:

I Stefany Carol Overbeck in the course of working at [the Pharmacy] have been taking medication out of the pharmacy over the course of 2 ½ years. Medications include zolpidem, zalpelon and alprazolam and using for my own purpose self medicating for nerves and sleep. Today 11-18-18 I put about 30 tablets of zolpidem in the return bin then in my jacket then in my purse then gym bag. I have on a few instances had medication for my dog and added zolpidem and zalpelon and alprazolam in filling and used them for myself. This has been a pattern I have tried to hide by changing quantities in computer [sic] and in ordering system [sic]. I was able to order zalpelon from warehouse [sic] recently but decided I wanted to stop doing this as I know it is a criminal act.

12. On November 18, 2018, the Pharmacy terminated the Respondent's employment.

Criminal Charges

13. On or about November 19, 2018, the Respondent was charged in the District Court for Baltimore County, Maryland with five (5) criminal misdemeanor counts related to the theft from the Pharmacy. The Respondent was charged with the following: one (1) count of Theft Scheme: \$100 to <\$1,500; one (1) count of Theft Less Than \$100.00; and three (3) counts of CDS: Possession-Not Marijuana.

14. On or about February 13, 2019, the Respondent was found guilty of one (1) count of CDS: Possession-Not Marijuana.⁵ A nolle prosequi was entered for the remaining counts. After filing a *de novo* appeal, on or about July 19, 2019, the Respondent was sentenced to one (1) year of incarceration with the entire term suspended, and was placed on supervised probation for eighteen (18) months, and ordered to pay a \$1,000 fine.⁶

15. Based on the above information, the Board has reason to believe that the Respondent diverted multiple CDS and prescription-only medications over an extended time period.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provisions of the Act:

§ 12-313. Denials, reprimands, suspensions, and revocations – Grounds

....

⁵ The specific statute the Respondent was convicted of violating was Md. Code Ann., Crim. Law § 5-601(a)(1), which provides a person may not “possess or administer to another a controlled dangerous substance, unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice.”

⁶ Prior to filing a *de novo* appeal, the Respondent was originally sentenced to thirty (30) days of incarceration on or about February 13, 2019.

- (b) *In general* — 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 . . . reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the . . . licensee:

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- (2) Fraudulently or deceptively uses a license;

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- (7) Willfully makes or files a false report or record as part of practicing pharmacy;

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The Board also concludes that the Respondent violated the following COMAR provisions:

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A. A pharmacist shall:

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- B. A pharmacist may not:
 - (1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist;
 - (2) Practice pharmacy under circumstances or conditions which prevent the proper exercise of professional judgment; or
 - (3) Engage in unprofessional conduct.

With respect to COMAR 10.34.10.01(A)(1)(e), the Board concludes that the Respondent violated the following provisions of COMAR 10.19.03:

COMAR 10.19.03.09. Controlled Substances Listed in Schedules III, IV, and V.

- A. Requirement of Prescriptions Listed in Schedules III, IV, and V (21 CFR §1306.21).
 - (1) A pharmacist may dispense directly a controlled dangerous substance listed in Schedules III, IV, or V, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, or State Law, only pursuant to either a written prescription signed by a prescribing individual practitioner or a facsimile received by facsimile equipment of a written, signed prescription transmitted by the practitioner or the practitioner's agent to the pharmacy or pursuant to an oral prescription made by a prescribing individual practitioner and immediately reduced to writing by the pharmacist containing all information required in Regulation .07 of this chapter, except the signature of the prescribing individual practitioner.

III. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 19 day of September, 2019, by the affirmative vote of a majority of the members of the Board then serving:

ORDERED that the Board's *Order for Summary Suspension* of the Respondent's license to practice pharmacy in the State of Maryland, issued on March 12, 2019, is hereby **TERMINATED**; and it is further

ORDERED that the Respondent's license to practice pharmacy in the State of Maryland shall be **SUSPENDED** for a minimum of **TWENTY-FOUR (24) MONTHS** beginning on March 12, 2019; and it is further

ORDERED that during the suspension period, the Respondent shall satisfy the following conditions:

1. The Respondent shall submit to a substance abuse evaluation by a Board-approved qualified evaluator;
2. The Respondent shall provide the Board with a signed release to allow the Board-approved qualified evaluator to release information regarding the evaluation to the Board;
3. The Respondent shall provide the Board with a signed release to allow the Board-approved qualified evaluator to speak to the Respondent's practitioner regarding information relevant to the evaluation;
4. The Respondent shall follow any and all recommendations of the Board-approved qualified evaluator from the substance abuse evaluation. Failure to follow all recommendations of the Board-approved qualified evaluator, in the sole determination of the Board, shall constitute a violation of this Consent Order;
5. The Respondent shall submit to random, Board-ordered enhanced drug and alcohol urine screenings and breathalyzer tests on a weekly basis;
6. All urine screens submitted under this Consent Order shall be:
 - a. Submitted by the Respondent within 24 hours of Board staff instructing her to submit to the test;
 - b. Submitted at a CLIA-certified Laboratory;
 - c. Observed; and

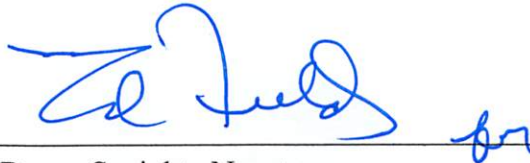
- d. Negative for any controlled dangerous substances, narcotics, cocaine, alcohol, or other mood-altering substances or drugs of concern, except as provided in paragraph (6);
- 7. The Respondent shall completely abstain from the ingestion of alcohol, unprescribed controlled dangerous substances ("CDS"), narcotics, illegal drugs and other mood-altering substances. The Respondent may take CDS, but only if prescribed by a licensed health care provider for a legitimate medical purpose and only as prescribed. Prior to accepting any CDS medication prescription from a licensed health care provider, the Respondent shall provide the licensed health care provider with a copy of the Consent Order. Within 48 hours of being prescribed CDS, the Respondent shall notify the Board of the CDS prescribed, the prescriber, the medical conditions prescribed for, the pharmacy at which the prescription was filled, and the amount and dosage prescribed; and it is further

ORDERED that the Respondent may petition the Board to lift the suspension no earlier than **TWENTY-FOUR (24) MONTHS** from March 12, 2019, provided that the Respondent has fully complied with all of the conditions set forth herein during the suspension period; and it is further

ORDERED that the Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014).

9/19/19

Date



Deena Speights-Napata
Executive Director, for
Kevin Morgan, Pharm.D., President
State Board of Pharmacy

CONSENT


I, Stefany Overbeck, acknowledge that I have had the opportunity to consult with legal counsel before signing this document. By this Consent, I accept, to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its behalf and to all other substantive and procedural protections as provided by law.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order and understand its meaning and effect.

9/16/2019
Date



Stefany Overbeck, R.P.H., 13193


NOTARY

STATE OF Maryland

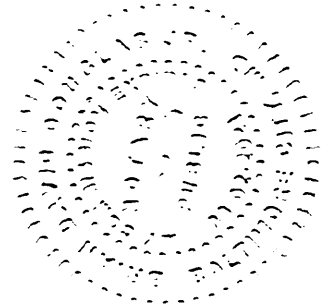
COUNTY/CITY OF: Baltimore

I hereby certify that on this 16th day of September, 2019, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared **Stefany Overbeck**, and made an oath in due form that the foregoing Consent was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.



Notary Public



My Commission Expires: March 2nd 2021

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