

IN THE MATTER OF
KETANKUMAR PATEL, P.D.
License No. 10301

Respondent

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHARMACY**
*** Case No. 10-001**

* * * * *

FINAL DECISION AND ORDER

Background

On or about July 14, 2009 the Maryland Board of Pharmacy (the "Board") summarily suspended the pharmacist license (License No. 10301) held by the Respondent, Mr. Ketankumar Patel ("Mr. Patel"), for dispensing large amounts of controlled dangerous substances ("CDS") based on forged prescriptions he knew to be invalid. Mr. Patel failed to request a Show Cause hearing on the Order for Summary Suspension. Thereafter, on September 9, 2010 the Board issued a Notice of Intent to Revoke Mr. Patel's pharmacist license based upon his guilty plea in U.S. District Court for conspiracy to distribute and possession with the intent to distribute a mixture containing Oxycodone, a Schedule II CDS. On January 19, 2011, a contested case hearing was held before a quorum of the Board in accordance with the Administrative Procedure Act, Md. Code Ann., State Gov't, § 10-201 *et seq.* and COMAR 10.34.01. Upon conclusion of the hearing, the same quorum of the Board convened to deliberate and voted unanimously to revoke Mr. Patel's pharmacist license for the reasons set forth in this Order.

SUMMARY OF THE EVIDENCE

A. Documents.

The following documents were admitted into evidence.

- State's Exhibit No. 1A – Letter of Procedure, dated 7/14/09
- 1B – Order for Summary Suspension, 7/14/09

State's Exhibit No. 2 – Press Release from the United States Department of Justice, 2/19/10¹

State's Exhibit No. 3 –United States District Court for the District of Maryland Judgment,
4/19/10

State's Exhibit No. 4 – Notice of Intent to Revoke, 9/9/10

State's Exhibit No. 5 – Request for Hearing, 10/6/10

State's Exhibit No. 6 – Notice of Hearing, 10/19/10

B. Witnesses.

Respondent: Ketankumar Patel, P.D., Respondent and owner of The Medicine Shoppe,
1183²

PRELIMINARY MOTION

At the start of the hearing Mr. Patel moved for a postponement until the completion of his prison sentence based on his lack of access to the State's exhibit notebook. (Hrg. Tr. at 12). However, Mr. Patel withdrew his motion, and prison staff located the exhibit notebook for him to review during the hearing. (Hr. Tr. at 19).

FINDINGS OF FACT

Based upon the testimony and documentary evidence presented at the evidentiary hearing, the Board finds that the following facts are true:

1. Mr. Patel was first licensed to practice pharmacy in Maryland on August 2, 1984.
(State's Ex. 1B).
2. At all times relevant hereto, Mr. Patel was the owner and sole pharmacist at Deepa, Inc., doing business as The Medicine Shoppe #1183, located at 11813 ½ Reisterstown

¹ Mr. Patel noted an objection to the admission of this document into evidence. While the USDOJ press release reports he sold 34,000 pills to the confidential source, Mr. Patel maintains the actual amount was 19,000 pills. (Hrg. Tr. at 44)

² Mr. Patel participated telephonically from the U.S. Penitentiary in Lewisburg, PA.

Road in Baltimore County, Maryland. (State's Ex. 1B). Mr. Patel purchased the pharmacy in 2004. (Hrg. Tr. at 45).

3. Although he did not have a valid prescription, Mr. Patel began taking Fioricet, classified as a CDS in Maryland, from his pharmacy's stock. (Hrg. Tr. at 45 – 47). Mr. Patel testified his addiction to Fioricet “hindered [his] judgment quite a bit.” (Hrg. Tr. at 38). Mr. Patel also testified that he stopped taking Fioricet prior to entering prison in May 2010. (Hrg. Tr. at 36).
4. Beginning in late 2007, a confidential source (“CS”) bought thousands of Oxycontin tablets from Mr. Patel using forged prescriptions. (Hrg. Tr. at 48 – 52). Mr. Patel gave the CS a note on how to best forge the prescriptions. (State's Ex. 1B).
5. The CS used his name and the names of other persons to buy prescription drugs. The CS also used the names of various physicians. (State's Ex. 1B).
6. The CS had hired someone at a pain management clinic to verify his forged prescriptions. (Hrg. Tr. at 51 – 52). Most of the prescriptions Mr. Patel dispensed to the CS came from that clinic. (Hrg. Tr. at 54).
7. Mr. Patel initially charged the CS \$750 in cash for 60 tablets of 80mg 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 in cash. The CS also purchased Percocet/Oxycodone and other controlled drugs from Mr. Patel. The CS paid Mr. Patel approximately \$310,170 for the forged prescriptions over the course of his relationship with Mr. Patel. (State's Ex. 1B; Hrg. Tr. at 48-49).

8. On June 30, 2009, the Drug Enforcement Agency (“DEA”) served a search warrant on Mr. Patel and arrested him for illegal distribution of Oxycontin and other controlled dangerous substances (“CDS”). (State’s Ex. 1B).
9. On June 30, 2009, a grand jury issued a six-count indictment against Mr. Patel. (State’s Ex. 4).
10. On April 12, 2010, Mr. Patel pled guilty to Count 1 of the indictment for knowingly and unlawfully agreeing to willfully distribute and possess with the intent to distribute a mixture of substance which contains Oxycodone, also known as OxyContin and Percocet, a Schedule II CDS, in violation of the Federal law. (State’s Ex. 3).
11. Mr. Patel agreed to forfeit \$400,000 as part of his plea agreement. (State’s Ex. 2).
Mr. Patel characterizes his forfeiture as a “fine.” (Hrg. Tr. at 21)
12. Mr. Patel was sentenced to imprisonment for 72 months, followed by supervised release for three years. (State’s Ex. 3).
13. On July 14, 2009, the Board summarily suspended Mr. Patel’s pharmacist license. (State’s Ex. 1B).
14. Mr. Patel’s Order for Summary Suspension provided notice that, upon his request, the Board would hold a Show Cause hearing to determine whether to continue the summary suspension. (State’s Ex. 1B). Mr. Patel did not request a Show Cause hearing.
15. On September 9, 2010, the Board issued a Notice of Intent to Revoke Mr. Patel’s pharmacist license. (State’s Ex. 4)
16. Mr. Patel timely requested an evidentiary hearing on the Notice of Intent to Revoke, which was held before a quorum of the Board on January 19, 2011. (State’s Ex. 5).

OPINION AND SANCTION

The Board's primary duty is protection of the public. Md. Code, Health Occ. § 12-205. To that end, the Board is granted the authority to revoke the license of a pharmacist who pleads guilty to a felony or crime involving moral turpitude. Health Occ. § 12-313(b)(22). It is undisputed that Mr. Patel pled guilty in U.S. District Court for knowingly and unlawfully agreeing to willfully distribute and possession with the intent to distribute a mixture of substance which contains Oxycodone, also known as OxyContin and Percocet, a Schedule II CDS, in violation of the Federal law. (State's Ex. 3). Mr. Patel's unlawful conduct is inexcusable and warrants revocation.

Mr. Patel blatantly disregarded the law and is currently serving a six-year prison sentence as a result of his conviction. Mr. Patel used his pharmacist license purely for monetary gain and the illegal distribution of Schedule II drugs, the most addictive substances.

Further, Mr. Patel failed to take accountability for his current predicament. Rather, he criticized the DEA for taking everything away from him (Hrg. Tr. at 36) and forcing him to plead guilty despite his alleged discrepancies in the amount of drugs he illegally dispensed. (Hrg. Tr. at 42 – 44). Whether the amount of illegally dispensed doses was 19,000 or 34,000 is irrelevant. The fact remains that Mr. Patel was dispensing forged prescriptions in exchange for money. Further, Mr. Patel blames his conduct on his addiction to Fioricet. (Hrg. Tr. at 38 – 39) While the Board is sympathetic to those suffering from addiction, Mr. Patel's assertion does not excuse him from conduct which blatantly violated the law and funneled large amounts of highly addictive and dangerous drugs onto the streets. The Board finds that Mr. Patel did this primarily for profit and not due to his addiction.

Mr. Patel demonstrated a severe lack of professional and ethical competence by pursuing financial gain over the safe and legal operation of a pharmacy. Owning and operating a pharmacy is a serious responsibility, and Mr. Patel's actions show a disregard for the commitment necessary to function professionally, competently and within the requirements of the law as a licensed pharmacist.

CONCLUSIONS OF LAW

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes that Mr. Patel's pharmacist license is subject to revocation pursuant to Md. Code Ann., Health Occ., §§ 12-313(b)(22).

ORDER

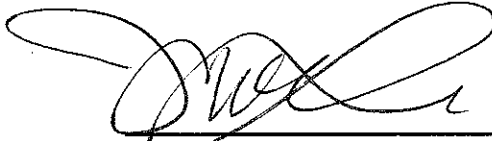
Based on the foregoing Findings of Fact, Opinion, and Conclusion, and by a unanimous decision of the Board, it is hereby:

ORDERED that the pharmacist's license held by Mr. Patel is REVOKED for a period of at least FIVE (5) YEARS from the date of this Order, and be it further,

ORDERED that should Mr. Patel petition for reinstatement of his pharmacist license, he shall first comply with the Pharmacy Act and its corresponding regulations set forth at COMAR 10.34.13, *et seq.*, and be it further,

ORDERED that this is a final order of the State Board of Pharmacy and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't §§ 10-611, *et seq.*

MARCH 16, 2011
Date



Michael N. Souranis, P.D.
President, Board of Pharmacy

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 12-316, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days from the date of mailing of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201, *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.