

IN THE MATTER OF	*	BEFORE THE
DEVON SCHLIEPER, Pharm.D.	*	STATE BOARD
License No.: 17864	*	OF
Respondent	*	PHARMACY
	*	Case No. 08-025

* * * * *

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 Devon Schlieper, Pharm. D., (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 February 28, 2006. The Respondent's license expires on March 31, 2011.

2. On May 8, 2007, the Board received notice from the Division of Drug Control that, during its inspection of Kmart pharmacy #3172, it was informed that the Respondent had been terminated by Kmart for misappropriation of prescription drugs. As a result, the Board conducted an investigation into the matter which confirmed that the Respondent had been terminated by Kmart on February 27, 2007 for diverting

controlled dangerous substances, namely Phentermine.

3. In lieu of instituting formal proceedings against the Respondent, the Board held a Pre-Charge Resolution Conference with the Respondent on September 3, 2008, which resulted in a Pre-Charge Consent Order which contained the following terms:

A. The Respondent's license was suspended for one year, all of which was stayed;

B. The Respondent was placed on immediate Probation for a minimum of one year, subject to the following terms:

(1) Subject to bi-weekly (every two weeks) urines;

(2) Immediately participate in monthly individual therapy sessions focusing on substance abuse and relapse prevention and fully cooperate with the recommendations of the therapist;

(3) Insure that the therapist submit quarterly progress reports to the Board;

(4) Within 90 days of the date of the Order, the Respondent shall submit an anonymous article for possible publication in the Board's newsletter regarding personal and professional consequences of drug diversion.

4. The Order was signed November 5, 2008 and contained the following:

Ordered...that if the Respondent "fails to fully cooperate with the Board, violates any condition of probation, or if the Board receives credible evidence that [the Respondent] has relapsed, [the Respondent] shall be immediately summarily suspended with an opportunity for a post-deprivation show cause hearing..."

CURRENT ACTIONS WARRANTING SUMMARY SUSPENSION

5. On or about December 8, 2008, the Respondent was offered employment as Pharmacy Assistant Manager for a Walmart in Frederick, Maryland. On February 13, 2009, the Respondent was terminated from employment for diversion of drugs by forgery. The Respondent wrote false "telephone prescriptions" purportedly from her dog's veterinarian for her two dogs; one for Atarax¹ and the other for Tramadol¹.

6. On March 3, 2009, the Board received a facsimile notification from Walmart Pharmacy Division in Arkansas stating the reason for the Respondent's termination, including a letter from her veterinarian that he did not order the meds dispensed by the Respondent.

7. In addition, the Board received notice from the laboratory where the Respondent was required to submit random urines that the Respondent had tested positive on 5/14/09, for Ativan/Dalmane².

8. The Board also received notice from the Respondent's Physician's Assistant that she had not prescribed Ativan or Dalmane for the Respondent.

9. By testing positive for a non-prescribed drug, the Respondent is in violation of her Consent Order of Reinstatement, in that she demonstrated evidence of relapse, by testing positive for a non-prescription drug.

¹Atarax is an antihistamine used to relieve the symptoms of common anxiety and tension. It also relieves itching from allergic reactions and can be used as a sedative before and after general anesthesia. Tramadol is a narcotic-like pain reliever. Tramadol is used to treat moderate to severe pain.

²Ativan is in a group of drugs called benzodiazepines which affects chemicals in the brain that may become unbalanced and cause anxiety. Ativan is used to treat anxiety disorders. Dalmane, also a benzodiazepine, is used for insomnia.

10. By forging prescriptions, the Respondent is a threat to the public health, welfare and safety.

FINDINGS OF FACT

1. As set forth above, by failing to remain drug-free and by forging prescriptions to steal drugs from her employer, the Respondent is a threat to the public health, welfare and safety.

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

(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;
- (7) Willfully makes or files a false report or record as part of practicing pharmacy;
- (15) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;
- (21) Is professionally, physically, or mentally incompetent;
- (25) Violates any rule or regulation adopted by the Board;

The Board also finds that the Respondent violated the Pharmacist and Pharmacy Technician's Code of Conduct, 10.34.10. (November 12, 2001):

.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;

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.

.09 Sanctions.

A. The Board may take action to reprimand a licensee, place the
licensee on probation, or suspend or revoke the licensee's license if the
licensee commits a violation of this chapter.

C. The Board may impose a monetary penalty as authorized under
Health Occupations Article, §§12-314, 12-410, and 12-6B-10, Annotated
Code of Maryland.

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. and 2008 Supp).


ORDER

Based on the foregoing, it is therefore this 25th day of June, 2009, by a majority vote of a quorum of the State Board of Pharmacy, by authority granted by the Board by Md. St. Govt. Code Ann. § 10-226(c) (2) (2004 Repl. Vol.), the license held by the Respondent to practice pharmacy in Maryland, License No. 17864, 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 her 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.).



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 for same.