

IN THE MATTER OF \* BEFORE THE  
MELISSA SKARBELIS, P.D. \* STATE BOARD  
License No.: 13546 \* OF PHARMACY  
Respondent \* CASE NUMBER: 07-051

\* \* \* \* \*

**ORDER FOR SUMMARY SUSPENSION**

Pursuant to Md. State Govt. Code Ann. § 10-226 (c)(2004 Repl. Vol.), the State Board of Pharmacy (the "Board") hereby suspends the license to practice pharmacy in Maryland issued to Melissa Skarbelis, P.D. (the "Respondent"), under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. § 12-101, et seq., (2005 Repl. Vol.). 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 August 3, 1994. The Respondent's license expires on March 31, 2008.
2. At all times relevant herein, the Respondent was employed at the CVS pharmacy in Lexington Park, Maryland in St. Mary's County. The Respondent was hired as a staff pharmacist on or about August 21, 2006.
3. By memo dated November 13, 2006, Chandra Mouli, P.D., Deputy Chief of the Division of Drug Control (DDC), sent to the Board a copy of a Drug Enforcement Administration (DEA) -106 form, reporting the theft or loss of controlled substances.

Specifically, the form indicated that on November 11, 2006, CVS reported the following thefts:

Trade Name of Substance or Preparation	Name of Controlled Substance in Preparation	Dosage Strength and Form	Quantity
Examples: Desoxyn <sup>1</sup>	Methamphetamine Hydrochloride	5 mg Tablets	3 x 100
Demerol <sup>2</sup>	Meperidine Hydrochloride	50 mg/ml Vial	5 x 30 ml
Robitussin A-C <sup>3</sup>	Codeine Phosphate	2 mg/cc Liquid	12 Pints
Hydrocodone/APAP <sup>4</sup>	Hydrocodone/APAP	10/325 mg	1000 tablets

4. The report went on to state that the total value of the controlled substances taken equaled \$826; \$25 in merchandise was also taken; and, that it was a result of employee pilferage. The report further stated that the following security measures had been taken to prevent future thefts or losses: DVR system with 5 cameras in the Pharmacy Dept; termination of pharmacist's employment; background checks; and, drug testing all pharmacy employees.

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1 Desoxyn® CII is a brand pharmaceutical form of methamphetamine hydrochloride (also known as desoxyephedrine, hence the name "Desoxyn"), indicated for treatment of Attention Deficit Disorder/Attention Deficit/Hyperactivity Disorder (ADD/ADHD), narcolepsy, and exogenous obesity. Desoxyn is a Schedule II medication under the U.S. DEA Schedule system.

2 Pethidine (INN) or meperidine (USAN) (also referred to as: isonipecaine; lidol; pethanol; piridosal; Algil®; Alodan®; Centralgin®; Demerol®; Dispadol®; Dolantin®; Dolargan® (in Poland),<sup>(1)</sup> Dolestine®; Dolosal®; Dolsin®; Mefedina®) is a fast-acting opioid analgesic drug. In the United States, it is more commonly known as meperidine or by its brand name Demerol. Pethidine is indicated for the treatment of moderate to severe pain, and is delivered as hydrochloride salt in tablets, as a syrup, or by intramuscular or intravenous injection.

3 Robitussin is a brand of cold and cough medicine.

4 Hydrocodone or dihydrocodeinone (marketed as Vicodin, Anexsia, Dicodid, Hycodan (or generically Hydromet)) is a semi-synthetic opioid derived from two of the naturally occurring opiates, codeine and thebaine. Hydrocodone is an orally active narcotic analgesic and antitussive.

5. Upon receipt of the above information, the Board began an investigation, which disclosed the following:

A. On October 22, 2006, an Assistant Store Manager at CVS was conducting a routine package check at the front door entrance and the Respondent was attempting to leave with a CVS bag. The Assistant asked to check the Respondent's package and noticed that the Respondent had one Zicam Cold Cream in it, valued at \$11.99. When the Assistant asked the Respondent where her receipt was, the Respondent replied that she had "lost" the receipt;

B. Because the item was already opened, the Assistant removed the UPC label from the item and informed the Respondent that she would find the receipt for her tomorrow, and the Respondent left without incident;

C. The Store Manager was notified of the incident the following day and she conducted an item movement on the item in question and found that the Zicam had not been purchased on the day the package check occurred. The Store Manager notified the Loss Prevention Manager of her findings;

D. The Loss Prevention manager reviewed the DVR on October 23, 2006 and determined that it appeared that the Zicam was not purchased on the preceding day. A further check was made and it was determined that, within the last 90 days, two of the four Zicams sold within that period had been purchased by non-employees, but two others, taken on October 14 and October 20, 2006, had not been purchased at all. Further review disclosed that the Respondent, a new hire, had numerous traffic violations, tort judgments and one criminal violation of making a false statement to a police officer;

E. Based upon that information, it was determined that an interview with the Respondent would be conducted with the Pharmacy Supervisor, the District Manager and the Prevention Loss Manager;

F. Accordingly, on November 10, 2006, the interview took place and the Respondent admitted verbally and in writing to stealing the Zicams, as well as 10 bottles of 10/324 Hydrocodone;

G. As a result of the above admissions, the Respondent was immediately terminated from her position;

H. The Board reviewed the Respondent's signed/dated statement which contained the following, *inter alia*:

(1) The Respondent acknowledged that she started her employment with CVS on September 15, 2006;

(2) The Respondent admitted that she had stolen 10 bottles hydrocodone/APAP 10/235, 100 pills per bottle, from the CVS store where she was employed;

(3) The Respondent admitted that she had stolen other merchandise from the store by placing it in her purse;

(4) The Respondent stated that her last theft from CVS occurred on November 8, 2006 at about 8:15 a.m.;

(5) The Respondent acknowledged that she knew that what she had done was wrong and was considered a criminal act;

(6) The Respondent stated that she would be willing to pay CVS back for what she had stolen;

(7) The Respondent stated that she felt that she had been treated fairly during the interview and that she did not want to add to the statement;

I. On November 19, 2006, the Respondent signed a Promissory Note of \$850.96, which contained an explanation that the information pertaining to the incident may "be provided to Choicepoint™ for inclusion in the Esteem database. Esteem is a retail theft database which tracks and reports incidents of employee theft and shoplifting to be used for employment screening purposes." It also contained a notice that the document "shall not affect other rights and remedies which CVS may have against" the Respondent;

J. On April 30, 2007, the Board's investigator interviewed the Respondent, who promised to answer truthfully, accurately and correctly. The Respondent stated the following:

(1) The Respondent claimed that she felt that she was coerced into confessing, and claimed that she had diverted the hydrocodone only and that CVS told her that, if she did not admit to taking all the drugs that were on the loss form, it would press criminal charges against her. She further claimed that her physician was supposed to fax in a prescription for the medication because she had gall stones;

(2) When asked for her physician's telephone number, she gave the investigator a number that turned out to be a non-working number;

(3) The Respondent acknowledged that she was not in any type of rehabilitation program and did not get random urinalyses, except for the drug screening she took to become employed with RPh on the Go in March 2007.

K. In addition, the Respondent failed to provide the Board with her latest address, as required by the Act and the regulations thereunder.<sup>5</sup>

6. Further investigation disclosed that the Respondent filed a false report in order to renew her 2000 license, in that she answered "no" to Question # 5 on her renewal application, dated March 7, 2000, which asked: "(Since your last registration) Have you pled guilty, nolo contendere (sic), or been convicted of, or received probation before judgment of any criminal act (excluding traffic violations)?" The Respondent should have answered "yes" for the following reasons:

A. On March 16, 1998, on behalf of the Maryland Insurance Administration/Insurance Fraud Division, a Statement of Charges was filed in the District Court of Maryland for Washington County against the Respondent;

B. The criminal charges involved filing a false claim of the value greater than \$300, in that, on or about September 28, 1995, the Respondent submitted to an insurer documentation that she knew to be false;

C. The claim arose from an automobile accident on January 25, 1995 in which the Respondent claimed that she was injured and, as a witness, she named a certain individual, whom she claimed had left a note on her car windshield;

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<sup>5</sup> Code Md. Regs. tit. 10. § 34.06 (February 19, 1990).

.03 Mailing Address.

A. Each licensed pharmacist shall report to the Board the pharmacist's current mailing address on the pharmacist's biennial license renewal form. The mailing address may be the pharmacist's residence address.

B. Within 30 days of the date a pharmacist changes the pharmacist's mailing address, the pharmacist shall notify the Board in writing of any change in the information in § A.

D. When the detective hired by the insurer investigated the claim and talked to the individual, he found out that the individual was a tenant of the Respondent and did not know anything about the accident. The individual reviewed the statement purportedly written by her and denied writing or signing that statement. The individual stated that she had never possessed a driver's license;

E. The Respondent sued the driver/owners of the other car and, at a sworn deposition, the attorney for the insurer showed the Respondent the individual's purported written witness statement, which the Respondent stated that she had found on her vehicle's windshield, which included the individual's name and address and that the individual had witnessed the accident;

F. The Respondent further claimed that she did not know the individual prior to discovering the note on her windshield and denied that the individual was a tenant of her and her husband;

G. At that point, the Respondent's attorney refused to let her answer anymore questions and the deposition ended. Less than a month later, the Respondent dismissed the lawsuit;

H. As a result of the statements made by the Respondent, the matter was referred to the Insurance Fraud Division, where an investigator showed the individual the signed statement, which the individual again confirmed that she knew nothing about the statement until she was shown it by the private detective;

I. On October 28, 1998, the Respondent pled guilty to and was found guilty of filing a false claim over \$300, and was given a Probation Before Judgment (PBJ). The Respondent was placed on unsupervised probation and had to pay a fine of \$500 on or before January 29, 1999 at 4:00P.M.

### FINDINGS OF FACT

1. As set forth above, the Resplendent is a threat to the public health and safety in that she stole from her former employer hundreds of pain medications for her own use and is not under any type of drug rehabilitation program.

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

(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, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (7) Willfully fails to file or record any report that is required by law;
- (14) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;
- (20) Is professionally, physically, or mentally incompetent;
- (21) 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;

- (24) Violates any rule or regulation adopted by the Board;
- (28) Fails to cooperate with a lawful investigation conducted by the Board or the Division of Drug Control.

The Respondent also violated the Pharmacist Code of Conduct, Md. Code Regs.

tit. 10, 34.10.01 (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:

(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 24<sup>th</sup> day of August, 2007, 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. 13546, 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 thirty days 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.