

IN THE MATTER OF	*	BEFORE THE
BRENDA JACKSON, Pharm.D.	*	STATE BOARD
License No. 09955	*	OF PHARMACY
Respondent	*	CASE NUMBER: 07-044
* * * * *	*	* * * * *

ORDER FOR SUMMARY SUSPENSION

Pursuant to Md. State Govt. Code Ann. §10-226 (c) of the Administrative Procedure Act (APA)(2004 Repl. Vol. and 2007 Supp.), the State Board of Pharmacy (the "Board") hereby suspends the license to practice pharmacy issued to Brenda Jackson, Pharm.D., (the "Respondent"), License No. 09955, under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. §§ 12-101, et seq., (2005 Repl. Vol. and 2007 Supp.). This Order for Summary Suspension is based on the following investigative findings which the Board has reason to believe are true:

FINDINGS OF FACT

1. At all times relevant, the Respondent was licensed to practice pharmacy in the State of Maryland. The Respondent was initially licensed on March 3, 1983. The Respondent's license expires on November 30, 2007.
2. On or about June 19, 2007, the Respondent entered a plea of guilty in the Circuit Court for Prince George's County, Maryland, to one count of possession with intent to distribute¹ Phentermine² 30 mg; one count of possession with intent to

¹ A violation of Md. Criminal Law Article Code Ann. § 5-602(2). A person convicted of a violation of § 5-602 of the Criminal Law Article is guilty of a felony. *See* Md. Criminal Law Article Code Ann. § 5-607(a).

² Phentermine is a Schedule IV Controlled Dangerous Substance ("CDS").

distribute Flonase;³ possession with intent to distribute Lipitor;⁴ possession with intent to distribute Prevacid;⁵ and, one count of aggregate theft over \$500.00.⁶

3. During the hearing held on June 19, 2007, the following facts served as the factual basis for the Respondent's plea of guilty:

Had this case gone to trial, the State would have proven that during the week of October 2nd, 2006, investigators received information from Kaiser Permanente that one of their pharmacists, [the Respondent], sitting before you, had been captured on video surveillance stealing quantities of Phentermine in the pharmacies.

The video surveillance caught her on October 3rd, 2006, stealing one hundred ounces of Phentermine and one hundred quantities Adippx. Phentermine is a Schedule IV controlled dangerous substance. Adippx is a narcotic.

On October 24th, 2006, the day in question here in the indictment, at approximately six a.m., members of the narcotics enforcement division were conducting surveillance detail at Kaiser Permanente at 6104 Old Branch Avenue, Temple Hills, Prince George's County, Maryland.

Miss Jackson was scheduled as the opening pharmacist. She was observed entering the facility, and while this was happening, live surveillance was being conducted. She entered the facility and began to steal the drugs, the pharmaceutical drugs.

The [Respondent] was observed placing various types of drugs into a tray. And at 650 hours she was observed taking the drugs from the tray and placing them in a dark colored draw string bag. She exited the pharmacy area and entered the rest room.

The rest room was in fact searched before her entry and after she exited the rest room. No contraband was found.

At about 715 hours, surveillance units observed [the Respondent] exit the front doors of the facility. At that time she was detained and a search of her bag revealed Seroquel, 25 milligram tablets, Phentermine, Prevacid, Lipitor, Flonase, and three other prescription drugs. And she was placed under arrest at that time.

³ Flonase is a non-CDS prescription medication.

⁴ Lipitor is a non-CDS prescription medication.

⁵ Prevacid is a non-CDS prescription medication.

⁶ A violation of Md. Criminal Law Article Code Ann. § 7-104. A person convicted of a violation of § 7-104 of the Criminal Law Article of property with a value of over \$500 or more is guilty of a felony. See Md. Criminal Law Article Code Ann. § 7-104(g).

4. During the time that the Respondent was stealing medications, she was actively employed as a pharmacist with Kaiser Permanente. The Respondent was terminated from her employment at Kaiser Permanente on or about November 1, 2006, for gross misconduct due to misappropriation of company assets.

5. At that same hearing, the Respondent agreed, as part of the Plea Bargain, to turn in her Pharmacy license to the Board within 90 days. Ninety days has passed and the Respondent has not surrendered her pharmacy license as agreed. She also agreed to pay Kaiser Permanente \$85,000 prior to the sentencing hearing in exchange for less prison time. However, the September sentencing hearing was postponed and is to be rescheduled.⁷

6. Based upon the Respondent's theft and possession of various un-prescribed prescription medications, including the potentially addictive and habit-forming CDS Phentermine, with the intent to distribute, there is a substantial likelihood that her continued ability to practice pharmacy in the State of Maryland poses a risk of harm to the public health, safety, or welfare.

7. The above actions also constitute a violation of the Act. Specifically, the Respondent violated § 12-313 of the Act as follows:

(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:

(22) 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[;].

⁷ The Plea Bargain called for differing amounts of incarceration, depending upon whether the Respondent made a repayment or not before the sentencing hearing.

CONCLUSIONS OF LAW

Accordingly, the Board concludes that the public health, safety or welfare imperatively requires emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c).

ORDER

Based on the foregoing, it is this 6th day of November 2007, by a majority vote of a quorum of the Board, hereby:

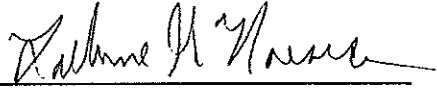
ORDERED that pursuant to the authority vested by the APA, § 10-226(c) and the Act, the Respondent's license to practice pharmacy in Maryland, is hereby **SUMMARILY SUSPENDED**; and be it further

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 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 this document constitutes a formal disciplinary action of the Board and is therefore a public document for purposes of public disclosure, pursuant to the Public Information Act, State Gov't § 10-611, *et seq.*, and COMAR 10.34.10.12.

11/6/07
Date



LaVerne Naesea, Executive Director
State Board of Pharmacy