

IN THE MATTER OF
BARBARA KIRBY, P.D.

BEFORE THE MARYLAND
BOARD OF PHARMACY

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ORDER FOR EMERGENCY SUSPENSION
OF PHARMACY LICENSE

Based on information received from the Division of Drug Control of the Maryland Department of Health and Mental Hygiene (the "Division") regarding the pharmacy practice of Barbara Kirby, P.D. (the "Respondent") and further investigation by the Maryland Board of Pharmacy (the "Board"), the Maryland Board makes the following findings:

1. Respondent is a pharmacist licensed by the Board to practice in Maryland.
2. Respondent is the owner and sole pharmacist at Silver Spring Professional Pharmacy (the "Pharmacy") located at 808 Pershing Drive, Silver Spring, Maryland 20910.
3. Silver Spring Professional Pharmacy was at all times relevant to this Order registered, pursuant to Article 27, §281 of the Annotated Code of Maryland, to dispense controlled dangerous substances under Registration #415120 (See Exhibit A);
4. On December 6, 1984 Division Inspector Robert Chang and Federal Drug Enforcement Administration Agent

Mozelle Early conducted an inspection of the pharmacy's controlled dangerous substances records of Dilaudid 4mgm, a Schedule II controlled dangerous substance, received and dispensed during the period April 19, 1983 to November 27, 1984 (See Exhibit B);

5. The inspection of the pharmacy records revealed a shortage of 3400 tablets of Dilaudid 4mgm (See Exhibit B);
6. The shortage of Dilaudid 4 mgm tablets was not adequately accounted for by the pharmacy and Respondent because complete and accurate records of the disposition of this controlled dangerous substance were not maintained as required by Article 27, §283 of the Annotated Code of Maryland and COMAR 10.19.03.05;
7. On November 27, 1984 1000 tablets of Dilaudid 4 mgm were dispensed with Respondent's knowledge and consent and without the written prescription of an authorized prescriber as required by Article 27, §300 and Title 4, §220 of the Annotated Code of Maryland;
8. The 1000 tablets of Dilaudid 4 mgm dispensed on November 27, 1984 were dispensed with Respondent's knowledge and consent to an unauthorized person in violation of Article 27, §286(a)(1) of the Annotated

Code of Maryland;

9. The pharmacy had on its premises 99 prescriptions for the 1983 calendar year and 106 prescriptions for the 1984 calendar year in the names of Henry J. Smith, M.D., and Eugene W. Williams, Jr., M.D., which were not valid prescriptions but were false or forged prescriptions as evidenced by subject physicians (See Exhibits C and D) and therefore, the actual number of Dilaudid tablets received and dispensed which are unaccounted for in the pharmacy's records is 24,000 rather than 3400 tablets;
10. Respondent was aware of the fact that the prescriptions referred to in §9 were false or forged and of the actual total shortage of controlled dangerous substances;
11. The records referred to above were obtained as a result of a Search and Seizure Warrant documented by Montgomery County Police Officer Fred B. Ailes and duly signed and authorized by Honorable William C. Miller, Circuit Court for Montgomery County, MD on November 27, 1984 (See Exhibit E);
12. Based on the foregoing information the Board has good cause to believe:
 - A. That during the period of April 19, 1983 to

November 27, 1984 Respondent received controlled dangerous substances for the purpose of dispensing such substances to various persons without prescriptions from authorized prescribers.

- B. That during the period of April 19, 1983 to November 27, 1984 Respondent did dispense controlled dangerous substances without written or oral prescriptions of authorized prescribers.
- C. That on November 27, 1984 controlled dangerous substances were dispensed to an unauthorized person with Respondent's knowledge and consent.
- D. That during 1983 and 1984, Respondent willfully and knowingly filed in the pharmacy records false and forged prescriptions for controlled dangerous substances for the purpose of avoiding detection of the illegal distribution of these substances to unauthorized persons.

For the reasons set forth above, the Board concludes that emergency action is required in this case pursuant to State Government Article, §10-405(b), Annotated Code of Maryland, because Respondent's continued access to controlled dangerous substances and continued practice as a pharmacist poses an imminent and grave danger to the public health, welfare and

safety and that that situation imperatively requires emergency action by the Board prior to its filing and considering charges against Respondent's license to practice pharmacy.

ORDER

IT IS THIS 10 day of January, 1985, by the Maryland Board of Pharmacy,

ORDERED that pursuant to the authority vested in the Board by State Government Article, §10-405(b) Respondent's license to practice pharmacy is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that on presentation of this Order, Respondent shall immediately deliver to the Board's investigator (1) her diploma-sized Certificate of the Maryland Board of Pharmacy, (2) her current Department of Health and Mental Hygiene License Renewal Certificate, and (3) her current wallet-size license renewal card; and be it further

ORDERED that a hearing to consider his emergency suspension shall be held before the Board within ten (10) business days of the date upon which the Board receives a request for such a hearing from Respondent. Such request must be in writing.

Bernard B. Lachman, P.D.
Bernard B. Lachman, P.D. /RLS
President
Maryland Board of Pharmacy