

IN THE MATTER OF * BEFORE THE STATE
JACKIE MCCALL, JR. PHARM.D. * BOARD OF
RESPONDENT * PHARMACY
LICENSE NUMBER: 21799 * CASE NUMBER: 15-045

* * * * *

FINAL CONSENT ORDER

The State Board of Pharmacy (“the Board”) charged Jackie McCall Jr., Pharm.D. (“the Respondent”), license number: 21799 under the Maryland Pharmacy Act (the “Act”), Md. Health Occ. II Code Ann (“H.O.”) §§ 12-101 *et seq.* (2014 Repl. Vol.). Specifically, the Board charges the Respondent with violating the following provisions:

H. O. § 12- 313. Denials, reprimands, suspensions, and revocations- Grounds.

(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:

(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;

(25) Violates any rule or regulation adopted by the Board [.]

The Board also charged the Respondent with violating:

Code of Md. Regs tit. 10, §34.10

.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:

(c) Health Occupations Article, Title 12, Annotated Code of Maryland.

B. A pharmacist may not:

(3) Engage in unprofessional conduct.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in the State of Maryland. The Respondent was originally licensed to practice pharmacy on or about August 2, 2013.

2. The Respondent's license expired on November 30, 2016.

3. At all times relevant hereto, Respondent worked as a pharmacist at a pharmacy, a national retail chain located in Calvert County, Maryland ("Pharmacy A").¹

4. On or about October 15, 2014, the Board was notified by a Pharmacy A supervisor that the Respondent had been terminated on or about September 9, 2014. The Respondent's termination occurred after Pharmacy A employees discovered that the Respondent had taken money from patients in exchange for filling the patients fraudulent prescriptions.

5. An investigation conducted by Pharmacy A revealed that the Respondent had taken money and filled at least three fraudulent prescriptions for Oxycodone and Alprazolam, both controlled dangerous substances,

¹ Pharmacy A is not identified in this document for privacy reasons, but this information will be provided to the Respondent upon request.

6. On or about August 21, 2014, a Calvert County Sheriff Department detective (“the Sherriff”) originally informed Pharmacy A that the Respondent was involved with filling prescriptions for two suspects under investigation for robbery.

7. During a September 5, 2014, interview with a Pharmacy A loss prevention investigator and the Sherriff, the Respondent admitted verbally and in writing that he had accepted \$150, to knowingly fill a fraudulent prescription for Xanax.

8. During a subsequent interview with the Pharmacy A loss prevention investigator, the Respondent admitted that he had filled fraudulent prescriptions for the two suspects who were involved in the Sherriff’s ongoing robbery investigation in exchange for \$1400.

9. On or about March 18, 2015, the Board summarily suspended the Respondent’s license to practice pharmacy in Maryland. The Board’s summarily suspension of the Respondent’s license was based on the findings set forth in paragraphs 4 through 8.

10. On or about June 26, 2015, the Respondent entered into a Consent Order (“2015 Order”) with the Board,

11. Under the terms of 2015 Order, the Respondent’s was suspended for sixty-five (65) days. Following the suspension, the Respondent’s license was placed on probation for at least five (5) years.

12. Under the 2015 Order, the Board ordered that the Respondent comply with the following conditions: (1) attend at least one gamblers anonymous support group meeting per week and submit attendance slips to the Board; (2) continue therapy with his addiction counselor at least once a week, and ensure that the counselor submits

monthly progress reports to the Board; (3) not practice in a pharmacy more than 40 hours per week;(4) disclose the 2015 Order to his pharmacy employer(s) and executed and submit verification form prior to commencing employment with any pharmacy; (5) ensure that his pharmacist supervisors submits quarterly reports to the Board; (6) successfully complete six; (6) continuing education credits in healthcare ethics within ninety (90) days of the date of the 2015 Order and submit proof of such completion; and (7) not own a pharmacy, in whole or in part, directly or indirectly, nor work for a pharmacy owned, in whole or in part, directly or indirectly, by a family member.

13. On or about April 2, 2015, the Respondent's license to practice pharmacy in the District of Columbia was summarily suspended. The action taken against the Respondent's District of Columbia license was based on the summary suspension of the Respondent's Maryland license.

14. On or about March 3, 2016, the District of Columbia Board of Pharmacy revoked the Respondent's license to practice pharmacy in the District of Columbia. The action taken against the Respondent's District of Columbia license was based on the summary suspension of the Respondent's Maryland license. The Respondent is not eligible to apply for reinstatement or a new license to practice pharmacy in the District of Columbia for five (5) years and a day.

15. In or around January 2016, the Respondent was indicted by the Calvert County, Maryland grand jury for three counts of distribution of a controlled dangerous substance, three (3) counts of possession with intent to distribute a controlled dangerous substance, and two (2) counts of conspiracy to distribute a controlled dangerous substance.

16. On or about May 27, 2016, the Respondent pled guilty in the Circuit Court for Calvert County, Maryland to one (1) count of conspiracy to distribute a controlled dangerous substance to wit: Oxycodone.

17. On or about August 12, 2016, the Respondent was sentenced to a period of eight (8) years in jail, with all but two (2) months suspended. The Respondent was also placed on five (5) years supervised probation.

18. The Respondent suffers from a gambling addiction, which motivated the Respondent's misconduct to obtain money.

19. The Respondent has been engaged in Gamblers Anonymous (GA) since 2014 and attending meetings 1-2 times per week.

20. The Respondent is on a Voluntary Exclusion list for all Maryland, West Virginia, and Delaware casinos.

21. The Respondent's conduct as set forth above is a violation of H. O. § 12-313(b) (22) and (25) and Code of Md. Regs tit 10 §34.10.01 A (1) (c) and (B) (3).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated H. O. §12-313 (b) (22) and (25) and Code Md. Regs. tit. 10 § 34.10 .01 A (1)(c) and B (3).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 1st day of June 2017, by a majority of the Board hereby:

ORDERED that the Respondent's license shall be reinstated provided the Respondent is otherwise eligible for reinstatement of his license; and it is further

ORDERED that upon reinstatement of his license, Respondent's license to practice pharmacy shall be **SUSPENDED** for two (2) years and said suspension shall be **STAYED**; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** in accordance with the 2015 Order; and it is further

ORDERED that the Respondent shall comply with all the terms and conditions set forth in the 2015 Consent Order; and it is further

ORDERED that the Respondent may petition the Board to modify any condition of his probation including the terms outlined in the 2015 Order no earlier than one (1) year from the date of this Consent Order and provided the Respondent has been fully compliant with the conditions set forth in this Consent Order; and it is further

ORDERED that Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of Respondent's compliance with the terms and conditions of this Order; and it is further

ORDERED that Respondent's failure to fully cooperate with the Board shall be deemed a violation of the probationary terms and a violation of this Order; and be it further,

ORDERED that at the Respondent may file a written petition to the Board, no earlier than five (5) years from the date of the 2015 Consent Order, for termination of the probationary status and the removal of any conditions or restrictions that resulted from this disciplinary action, provided that Respondent has fulfilled all the terms and

conditions set forth herein, is not in violation of this Order, and there are no outstanding complaints against the Respondent; and it is further

ORDERED that if the Respondent fails to make any such petition, then the probationary period status shall continue indefinitely, subject to the conditions set forth in this Order; and it is further

ORDERED that if the Board determines that the terms or conditions of this Order have not been successfully completed, the Board may modify the terms and conditions of Respondent's probation, upon notice to the Respondent; and it is further

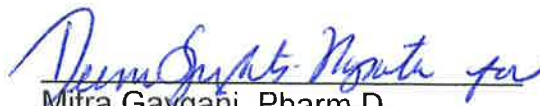
ORDERED that if the Respondent violates any of the terms of this Order, the Board, after notice and a hearing, and a determination of violation, may impose any other disciplinary sanctions it deems appropriate, said violation being proved by a preponderance of evidence; and it is further

ORDERED that Respondent shall be responsible for all costs incurred under this Order; and it is further

ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

ORDERED that this document constitutes a formal disciplinary action of the State Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to Md. General Provisions §§ 4-101 *et seq.* (2014).

6-1-17
Date


Mitra Gavani, Pharm.D.
President
State Board of Pharmacy

CONSENT OF JACKIE MCCALL JR.

I, Jackie McCall, Jr. by affixing my signature hereto, acknowledge that:

1. I understand that I have a right to be represented by an attorney, however, I have decided to represent myself.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. II Code Ann. § 12-315 (Repl. Vol. 2014) and Md. State Govt. I Code Ann. §§ 10-201 *et seq.* (Repl. Vol. 20014).

3. I acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I am waiving those procedural and substantive protections.

4. I voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set forth in this Consent Order, as a resolution of the Board's case, based on the findings set forth herein.

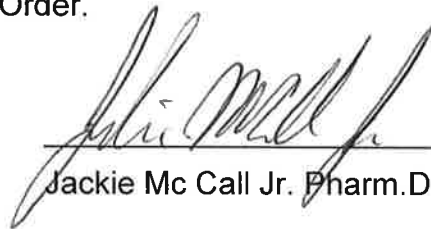
5. I waive my right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, and any right to appeal this Consent Order as set forth in Md. Health Occ. II Code Ann. § 12-316 (Rep. Vol. 2014) and Md. State Govt. I Code Ann. §§ 10-201 *et seq.* (Rep. Vol. 2014).

6. I acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action.

7. I sign this consent order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

5-30-2017

Date



Jackie Mc Call Jr. Pharm.D.


NOTARY

STATE OF Maryland
CITY/COUNTY OF Charles

I hereby certify that on this 30th day of May, 2017, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Jackie McCall Jr. and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.





Notary Public

My Commission Expires: 11/17/2020