

IN THE MATTER OF	*	BEFORE THE
KELLY SOBOTA, Pharm.D.	*	STATE BOARD
License No. 17170	*	OF PHARMACY
Respondent	*	CASE NUMBER: 05-148
* * * * *	*	* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to the provisions of Md. Health Occ. Code Ann. § 12-101, et seq., (the "Act") (2000 Repl. Vol. and 2004 Supp.) the Board charged Kelly Sobota, Pharm.D. (the "Respondent"), with violation of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of §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, reprimand any licensee, place any licensee on probation; or suspend or revoke a license if the applicant or licensee:

- (2) Fraudulently or deceptively uses a license;
- (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;
- (15) Except as provided in § 12-506 of this title, unless an authorized prescriber authorized the refill, refills a prescription for any drug, device, or diagnostic for which a prescription is required;
- (20) Is professionally, physically or mentally incompetent [;].

The Respondent was given notice of the issues underlying the Board's charges by letter dated November 18, 2005. Accordingly, a Case Resolution Conference was held on

May 10, 2006, and was attended by Jeanne Furman, P.D. and Mark Levi, P.D., Board members, LaVerne Naesea, Executive Director of the Board, and Linda Bethman, Counsel to the Board. Also in attendance were the Respondent and her attorneys, John F. Fader and Joseph S. Kaufman, and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General. Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on June 30, 2004. The Respondent's license expires on May 31, 2006.

2. On or about March 2, 2005, the Pharmacist Compliance Officer of the Board received a telephone call from the Pharmacists Education and Assistance Committee (PEAC) that PEAC had been informed that the Respondent had stolen drugs from BJ's Wholesale Club Pharmacy ("BJ's") on or about Saturday, February 19, 2005. Accordingly, the Board obtained documents from BJ's which showed the following:

A. The Respondent had been employed at BJ's as a dispensing pharmacist since January 19, 2005;

B. The Respondent was terminated from said position on February 16, 2005, effective February 17, 2005, due to excessive absenteeism and excessive tardiness during the probationary period;

C. Because the Respondent's termination was unknown to the supervisor on duty the next day, said supervisor instructed a new hire to call the Respondent if she needed help, which the new hire did. Consequently, the Respondent reported to the pharmacy area and began assisting the new hire. Once it was discovered that the Respondent was not supposed to be there, she was escorted to the exit and was asked to have her two bags checked, which she refused to allow. Because the Respondent had had access to the pharmacy area and refused to allow her bags to be searched, BJ's personnel called the police, who filed a report regarding the drugs which appeared to be missing at that time.¹ The Respondent claimed that she allowed her bags to be checked.

3. When PEAC heard of the incident, it tried to contact the Respondent on her cell and home phone numbers, leaving a message each time, but to no avail. Consequently, PEAC notified the Board's Compliance Officer about its concerns for the public health and safety. Subsequently, PEAC notified the Board that the Respondent had signed a contract with PEAC on April 22, 2005.

4. On June 10, 2005, PEAC notified the Board that the Respondent was in violation of her contract. Specifically, although the Respondent had an initial evaluation by a psychiatrist, the Respondent failed to make any contact with her assigned monitors and follow the therapy plan recommended by the psychiatrist. In addition, she failed to provide weekly random urine sampling for drug screening.

¹ The Respondent had left by the time the police arrived. Although a police report was filed, no criminal charges resulted.

5. According to the psychiatric evaluation, the Respondent has been addicted to oral opiates since 1992. The evaluation further stated that the Respondent began taking more opiates than prescribed and getting them from family, friends and classmates. As result of her dependence, she was referred to the Center for Addiction Medicine at Maryland General Hospital and was detoxed on an outpatient basis in the summer of 2003, during her fourth year of pharmacy school. The report further indicated that the Respondent began using drugs again in 2004, by going to different doctors for prescriptions, getting them from friends, and ordering large supplies of opiates over the internet. When the internet site shut down, the Respondent again detoxed at Shephard Pratt Hospital. The Respondent claimed that she has been addicted since 1999 and that she went to Maryland General Hospital in 2001.

6. As a result of this history and presenting symptoms, the psychiatrist recommended the following:

- A. Enroll in monitoring and support for opiate abuse;
- B. Supportive psychotherapy; and,
- C. Alanon, CODA or group therapy within the confines of a drug treatment program.

7. The Respondent's contract with PEAC calls for her to do the following:

- A. Attendance at an outpatient program and at other drug rehabilitation therapy as directed by the treatment facility, to wit, the Resource Group;
- B. Identification to the Committee of an Alanon sponsor within three months of the date of the contract;

C. Abstention from any mood-altering drugs for 90 days;

D. Provide weekly random witnessed urine samples for drug screening for a minimum of 90 days and weekly once employment is obtained;

E. Maintain twice-weekly telephone contact with Doris Voight of the Committee for a period of six months.

8. On June 10, 2005, PEAC informed the Board that, with the exception of reporting for the psychiatric evaluation, as above described, the Respondent has failed to comply with any other terms of her contract, including providing weekly random urine samples. In addition, PEAC has been unable to establish contact with the Respondent, despite numerous phone calls to her.

9. Accordingly, on June 27, 2005, the Board summarily suspended the Respondent's license. Following a Show Cause hearing held on September 7, 2005, the Board issued an Order, dated September 21, 2005, which continued the Summary Suspension.

10. At the Show Cause, it was disclosed that the Respondent tested positive on September 1, 2005—six days earlier—for marijuana in her system.²

11. As set forth above, at the time that Charges were filed, the Respondent had a long-term, serious substance abuse problem coupled with mental health issues and had not been in rehabilitation long enough to demonstrate a sustained sobriety warranting a return to practice.

² According to the Substance Abuse and Mental Health Services Association, regardless of whether the marijuana smoking was just a single-use or habitual, there it remains in the body for up to 90 days, if the user's hair is tested. For a habitual user, it stays in the system, via urine testing, for up to 12 weeks.

12. On September 21, 2005, the Board issued an Order continuing the summary suspension. Subsequently, the Board issued charges on November 18, 2005.

13. Thereafter, the Respondent became very serious about her rehabilitation and is currently in a combination of programs, including individual therapy and attendance at AA/NA meetings. She has been compliant with the programs' requirements.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated Md. Health Occ. Code Ann. §12-313 (b), (2), (14), (15) and (20).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 6th day of September, 2006, by a majority of a quorum of the Board,

ORDERED that the Respondent's license to practice pharmacy is hereby placed on **PROBATION**, for three years, subject to the following conditions:

A. The Respondent shall practice pharmacy no more than 32 hours per week, and no more than 8 hours per day;

B. The Respondent shall practice in a pharmacy setting in which the Respondent does not have access to controlled dangerous substances;

C. The Respondent shall disclose the Consent Order to any prospective pharmacy employer prior to commencing employment and insure that the employer submit an employment verification form to the Board;

D. The Respondent shall insure that the Respondent's pharmacy supervisor submit quarterly reports to the Board;

E. The Respondent shall continue in a relapse prevention program at Crossroads Centers, or at another rehabilitation center provided that the Respondent obtain prior Board approval of the program. The relapse prevention program shall include, at minimum, the following

1. Weekly group therapy sessions;
2. Bi-weekly individual therapy sessions;
3. Documented attendance at 2-3 NA/AA meetings per week;
4. Obtain NA/AA home group and sponsor;
5. Maintain abstinence from all mood-altering drugs including alcohol and prescription drugs. The Respondent shall notify the rehabilitation program within one (1) business day of any scheduled drug prescribed for the Respondent.
6. Random course drug screens; and
7. Monthly rehabilitation progress reports submitted to the Board.

F. The Respondent may petition for modification of the above probationary conditions after one (1) year of probation.

G. The Respondent may petition the Board to terminate probation after three (3) years provided that the Respondent has fully complied with the above conditions.

H. The Respondent shall bear the costs of complying with the Consent Order.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

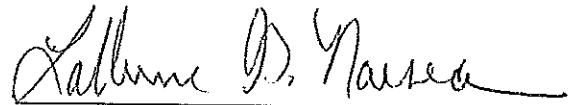
ORDERED that should the Board receive information that the Respondent has violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation.

The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it further

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and be it further

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on her license, provided that she can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary; and be it further

ORDERED that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 1999), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.

A handwritten signature in cursive script, reading "LaVerne D. Naesea".

LaVerne Naesea, Executive Director
State Board of Pharmacy

CONSENT OF KELLY SOBOTA, PHARM.D.,

I, Kelly Sobota, Pharm.D., by affixing my signature hereto, acknowledge that:

1. I am represented by Attorneys John F. Fader and Joseph S. Kaufman, and have been advised by them of the legal implication of signing this Consent Order;
2. I am aware that without my consent, my license to practice pharmacy in this State cannot be limited except pursuant to the provisions of § 12-313 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2004 Repl. Vol.).
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in §12-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 12-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice pharmacy in the State of Maryland.

9/10/06
Date

Kelly Sobota Pharm.D.
Kelly Sobota, Pharm.D.

STATE OF Maryland
CITY/COUNTY OF Baltimore:

I HEREBY CERTIFY that on this 6 day of September, 2006, before me, byce A. Walker, a Notary Public of the foregoing State and (City/County),
(Print Name) personally appeared Kelly Sobota, Pharm.D., License No. 17170, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Byce A. Walker
Notary Public

My Commission Expires: November 8, 2008