



STATE OF MARYLAND

DHMH

Department of Health and Mental Hygiene

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

MARYLAND BOARD OF PHARMACY

4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Donald Taylor, Board President - LaVerne G. Naesea, Executive Director

CERTIFIED MAIL RETURN RECEIPT REQUESTED
ARTICLE #7007 2680 0000 3646 6074

July 30, 2008

Joseph S. Kaufman
One Charles Center
100 N. Charles Street, Suite 600
Baltimore, MD 21201

Re: Executed Consent Order

Dear Mr. Kaufman:

Enclosed please find a copy of the Executed Consent Order for your client, Katherine Emery. In the near future, the Board will be in contact with Ms. Emery regarding the terms of her consent order and the required monitoring parameters. Please feel free to contact me at 410/764-5908 in the event that you have any questions.

Sincerely,

Dorcas Ann Taylor, J.D., Pharm.D.
Pharmacist Compliance Officer

Encls.

cc: Linda M. Bethman, AAG, Board Counsel
LaVerne G. Naesea, Executive Director
Sherrai Hamm, AAG, Administrative Prosecutor
Katherine Emery

IN THE MATTER OF * BEFORE THE MARYLAND
KATHERINE EMERY, P.D. * STATE BOARD OF
LICENSE NO. 11691 * PHARMACY

* * * * *

**CONSENT ORDER TERMINATING
SUMMARY SUSPENSION**

Background

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. §§ 12-101, *et seq.*, (2005 Repl. Vol.), and the Maryland Administrative Procedure Act, Md. Code Ann., Health Occ. §§ 10-201 *et seq.*, the Board issued an Order for Summary Suspension dated October 9, 2007, in which it summarily suspended the pharmacist's license held by Katherine Emery, P.D. (the "Respondent"). Specifically, the Board found reliable evidence demonstrated that the public health, safety or welfare imperatively required emergency action, pursuant to Md. Code Ann., State Gov't §10-226(c)(2)(2004 Repl. Vol.).

On November 28, 2007, the Board held a hearing before a quorum of the Board to allow the Respondent the opportunity to show cause why the Respondent did not pose an imminent threat to the health, safety and welfare of the public. In lieu of a continued summary suspension, the Respondent and the Board agree to resolve the matter by way of this Consent Order with the terms contained herein.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on May 15, 1989. The Respondent's license expires on May 31, 2009.

2. In or around December 2005, the Respondent was employed as a pharmacist at Walgreen's Pharmacy ("Walgreens") located at 8050 Liberty Road, Baltimore, Maryland.

3. On or about April 24, 2007, the Respondent was recorded on a video camera located in the pharmacy area of Walgreens removing a bottle of medication from the pharmacy shelf, pouring the contents of the bottle into her hand, placing her hand to her mouth, and taking a drink from a water bottle.

4. When confronted by Walgreen staff, the Respondent denied the events recorded by the video camera.

5. On or about June 5, 2007, the Respondent was observed by Walgreens staff displaying typical signs of drug and/or alcohol impairment.

6. Walgreen staff reported that the Respondent was unable to keep her balance, her speech was slurred, and she had improperly written prescription information that was called in by doctors' offices.

7. After a Walgreen's district pharmacy manager was informed of the Respondent's behavior, the Respondent was ordered to leave the pharmacy. The pharmacy was immediately closed until a replacement pharmacist for the Respondent could be called in.

8. After being removed from the pharmacy, the Respondent was ordered to go to a drug testing facility to give a urine specimen.

9. The Respondent's behavior reflected such impairment that Walgreens would not allow the Respondent to drive her vehicle home and instead had the Respondent arrange for someone to pick her up.

10. On or about June 13, 2007, the drug testing facility that retrieved and analyzed the Respondent's urine specimen informed Walgreens that the Respondent had tested positive for

Hydrocodone.

11. On or about June 15, 2007, the Respondent admitted to Walgreens' investigators that she had taken Hydrocodone and Lorazepam on June 5, 2007. The Respondent could not provide a valid prescription for either narcotic.

12. The Respondent was subsequently terminated from Walgreens.

13. The Respondent completed an inpatient drug and alcohol rehabilitation program at Roxbury Treatment Center on September 13, 2007.

14. The Respondent entered into a rehabilitation contract with the Pharmacists Education and Assistance Committee on October 22, 2007.

DISCUSSION

The Respondent has serious alcohol and substance abuse issues that need to be recognized, addressed and treated before the Respondent is able to practice pharmacy in a safe and competent manner. The Board's first and foremost concern is the protection of the public. It would not only jeopardize the public's health and safety to allow the Respondent to practice pharmacy so soon into her recovery process, but it would put the Respondent in an untenable situation in which she is responsible for directly handling and dispensing the very drugs that have been the source of her addiction.

Although the Board commends the Respondent for her efforts in recovery thus far, it must require that the Respondent demonstrate a substantial period of recovery and strict compliance with treatment recommendations before the Board can reasonably determine that the Respondent is mentally and professionally fit to return to practice. This is consistent with the Board's past decisions. *See, e.g., In the Matter of Frank Leung, P.D.; In the Matter of Jim Su Pak, P.D.; In the Matter of Arnold Alperstein, P.D., In the Matter of Thomas Shern, P.D.; In the Matter of Craig Holston, P.D.* At present, the Respondent is not mentally competent to practice pharmacy without compromising the standard of care due to the public.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that the Respondent violated Md. Code Ann., Health Occ. §§ 12-313(b)(5) and (21) .

ORDER

Based on agreement of the parties, it is this 23rd day of July, 2007, by an affirmative vote of the Board, hereby

ORDERED that the Respondent's license be **SUSPENDED** for at least **ONE YEAR**, beginning October 9, 2007; and be it further,

ORDERED that during the suspension period, the Respondent shall satisfy the following conditions:

1. The Respondent shall submit to random urine and breathalyzer screenings to be ordered by the Board and conducted at a CLIA-certified laboratory twice weekly for the first three (3) months from the date of this Order, and then weekly thereafter;
2. The Respondent shall continue participation in individual or group psychotherapy and shall cooperate with the therapist's recommendations;
3. The Respondent shall insure that her therapist submits quarterly reports to the Board;
4. The Respondent shall continue weekly participation in a 12-step program that is comprised of healthcare professionals, and provide the Board documentation of attendance;
5. The Respondent shall not work in a pharmacy prescription area as a technician; and

ORDERED that the Respondent may petition the Board to lift the suspension no earlier than October 9, 2008, **PROVIDED THAT:**


1. The Respondent submits to the Board a satisfactory substance abuse evaluation by a Board-assigned evaluator, which evaluation has been conducted within thirty (30) days of the petition; and

2. The Respondent has fully complied with all conditions during the suspension period; and be it further,

ORDERED that the Respondent shall bear the expenses associated with this Order; and be it further,

ORDERED that this document constitutes a formal disciplinary action of the Maryland State Board of Pharmacy 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 10.34.01.12.

7/23/08
Date



David Chason, R.Ph.
Secretary, Board of Pharmacy

CONSENT

By signing this Consent, I hereby consent to the foregoing Findings of Fact and Conclusions of Law, and agree to be bound by the foregoing Consent Order and its conditions.

1. By this Consent, I submit to the foregoing Consent Order as a resolution of this matter. By signing this Consent, I waive any rights I may have had to contest the findings of fact and conclusions of law contained in this Consent Order.

2. I acknowledge the validity of this Consent Order as if it were made after a hearing in which I would have had the right to counsel, to confront witnesses on my own behalf, and to all

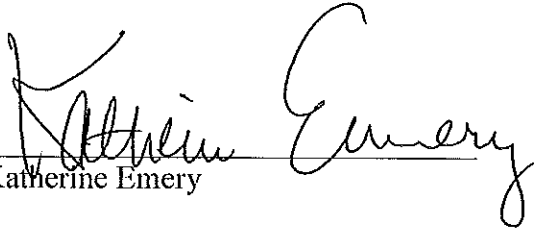
other substantial procedural protections provided by law.

3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.

4. I acknowledge that, by entering into this Consent Order, I am waiving my right to appeal any adverse ruling of the Board that might have followed an evidentiary hearing.


5. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

7/23/08
Date


Katherine Emery

STATE OF MARYLAND
COUNTY/CITY OF Baltimore

I hereby certify that on this 23rd day of July, 2007, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared Katherine Emery, and made an oath in due form that the foregoing Consent was her voluntary act and deed.


Notary Public
My commission expires: 12/26/2011