

IN THE MATTER OF \* BEFORE THE MARYLAND  
ROBERT V. FOOTE, P.D. \* STATE BOARD OF  
LICENSE NO. 12098 \* 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 July 25, 2007, in which it summarily suspended the pharmacist's license held by Robert V. Foote, 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 January 30, 2008, 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 agreed 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 July 27, 1990.
2. In 1998, the Respondent was employed as a pharmacist at NeighborCare Infusion

Pharmacy (“NeighborCare”) located at 9070 Junction Drive, Annapolis Junction, Maryland.

3. On or about December 29, 1998, McKesson Wholesale Drug Distributors (“McKesson”) shipped NeighborCare 47 one gram bottles of Hydromorphone.

4. The Respondent signed for the shipment of Hydromorphone, but failed to record the receipt of the shipment in NeighborCare’s inventory log.

5. On or about January 8, 1999, NeighborCare staff discovered 23 bottles of Hydromorphone missing from inventory. The missing bottles were part of the December 1998 shipment from McKesson.

6. On or about February 19, 1999, NeighborCare staff discovered that several bottles of Hydromorphone showed evidence of tampering.

7. As a result of the recent inventory shortages and evidence of tampering, NeighborCare staff placed a video camera in the pharmacy.

8. On or about April 15, 1999, the Respondent was recorded by NeighborCare’s video camera removing two bottles of discarded Hydromorphone from the narcotics cabinet. The camera further recorded the Respondent extracting the contents of the discarded Hydromorphone with a syringe and placing the contents into a separate container. Thereafter, the Respondent placed the container in his pocket.

9. On April 16, 1999, the Respondent was arrested by the Howard County Police and charged with one (1) count of possession with intent to distribute, a controlled dangerous substance – Schedule II, to wit: hydromorphone, in violation of Md. Ann. Code Art. 27 § 286; one (1) count of distribution of hydromorphone, a controlled dangerous substance, Schedule II, in violation of Md. Ann. Code Art. 27 § 284; and one (1) count of theft over \$3000, in violation of Md. Ann. Code Art. 27 § 342.

10. On May 6, 1999, the Respondent's license to practice pharmacy was summarily suspended by the Board.

11. On October 4, 1999, the Respondent pled guilty to one (1) count of possession of hydromorphone, in violation of Md. Ann. Code art. 27 § 287, in the Circuit Court for Howard County. The Respondent was sentenced to six (6) months suspended sentence, two (2) years supervised probation and ordered to undergo drug and alcohol therapy and urinalysis.

12. On June 11, 1999, the Board allowed the Respondent to surrender his license to practice pharmacy.

13. On June 21, 2000, the Board reinstated the Respondent's license and placed him on probation for a period of two (2) years.

14. In November, 2004, the Respondent became employed by Giant Pharmacy as a fulltime pharmacist.

15. In or around March 2007, the Respondent was working as a pharmacist at Giant Pharmacy, 7925 Ritchie Highway, Glen Burnie, Maryland, when the pharmacy supervisor discovered that narcotics were missing from the pharmacy.

16. In April 2007, the pharmacy supervisor conducted an inventory audit of the pharmacy for the period April 29, 2006 through March 23, 2007. At the conclusion of the audit, the pharmacy supervisor determined the pharmacy had serious shortages in its narcotics inventory, to include shortages of Hydromorphone and Methadone.

17. During the audit, the pharmacy supervisor reviewed the purchase orders and discovered that the Respondent had received orders that included Hydromorphone, but that the Respondent failed to record the receipt of the Hydromorphone orders in the pharmacy's perpetual inventory.

18. The pharmacy supervisor also compared the computer records with the actual hard copies of prescriptions for patients who had been prescribed controlled substances and discovered that hard copies for those prescriptions were not on file. The pharmacy's records indicated that the CDS prescriptions with the missing hard copies had been dispensed by the Respondent.

19. The pharmacy supervisor contacted the physicians noted as the prescribers for the CDS prescriptions lacking hard copies. The physicians denied authorizing the prescriptions.

20. On or about April 25, 2007, the pharmacy supervisor and detectives from the Anne Arundel County Police Department met with the Respondent. The Respondent admitted during the meeting that he had falsified prescriptions and diverted narcotics from the pharmacy for his own personal use.

21. On June 13, 2007, the Respondent was charged by the Anne Arundel County Police with three (3) counts of obtaining a controlled dangerous substance, Schedule II, to wit: hydromorphone, in violation of Md. Crim Law Code Ann. § 5-602(a)(2).

### 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)(7),(15),(21) and (24) .

### ORDER

Based on agreement of the parties, it is this 4<sup>th</sup> day of April, 2008, by an affirmative vote of the Board, hereby

**ORDERED** that the Respondent's license be **SUSPENDED** for at least **TWO (2)** YEARS, beginning July 25, 2007; and be it further,

**ORDERED** that during the suspension period, the Respondent shall:

1. Participate in a Board-approved substance abuse program that requires, at minimum:

(a) NA/AA meetings with a healthcare professionals group 5 times per week, unless or until the substance abuse program deems that a lesser frequency is appropriate;

(b) Individual therapy. The Respondent shall insure that the therapist submits progress reports to the Board on a quarterly basis.

2. Submit to Board-ordered random urine screens at a CLIA-certified laboratory:

(a) 3 times per week for the 30 days;

(b) 2 times per week for the 30 days thereafter; and

(c) Weekly for the remainder of the suspension period.

3. Not work, in any capacity, in a pharmacy or in any other practice setting which stores or utilizes pharmaceuticals.

**ORDERED** that during the suspension period, the Respondent shall comply with all licensure renewal requirements; and be it further,

**ORDERED** that after two (2) years of suspension, the Respondent may petition to lift the suspension of his license provided that the Respondent has:

(1) Fully complied with all terms of suspension; and

(2) Submitted to a substance abuse evaluation by a Board-appointed evaluator; and be it further,

**ORDERED** that the Board may, in response to such petition, lift the suspension and place the Respondent's license on immediate probation for THREE (3) YEARS, with any terms and conditions it deems appropriate based on the reports and evaluations received by the Board; and be it further,

**ORDERED** that the Respondent's execution of this Consent Order shall constitute a release of any and all medical records, substance abuse treatment records, and psychological/psychiatric records pertaining to the Respondent to the Board in complying with the terms and conditions set forth herein. Further, the Respondent agrees and consents to the release by the Board of any information or data produced in relation to this Consent Order to any treatment provider; and be it further,

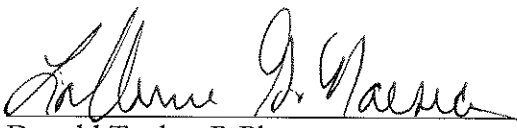
**ORDERED** that the Respondent shall at all times cooperate with the Board and all treatment providers in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Consent Order; and be it further,

**ORDERED** that in the event the Board finds for any good faith reason that the Respondent has violated any of the conditions of suspension herein, or in the event that the Board finds for any good faith reason that the Respondent has committed a violation of Title 12 of the Health Occupations Article or regulations adopted thereunder, the Board may take further disciplinary action against the Respondent, after notice and a hearing in accordance with the Maryland Pharmacy Act and the Administrative Procedure Act; 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.

April 4, 2008  
Date

  
for Donald Taylor, R.Ph.  
President, 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.

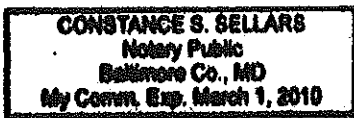
5. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

4/4/08  
Date

Robert V. Foote  
Robert V. Foote, P.D.

STATE OF MARYLAND  
COUNTY/CITY OF Baltimore :

I hereby certify that on this 4th day of April, 2008, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared Robert V. Foote, and made an oath in due form that the foregoing Consent was his voluntary act and deed.



Constance S. Sellars  
Notary Public  
My commission expires: March 1, 2010