

IN THE MATTER OF	*	BEFORE THE
CLARENCE HOWARD, III, P.D.	*	STATE BOARD
License No. 16421	*	OF PHARMACY
Respondent	*	Case Number: 04043

* * * * *

ORDER FOR SUMMARY SUSPENSION

Pursuant to Md. State Govt. Code Ann. § 10-226 (c) (2000 Repl. Vol. and Supp. 2003), the State Board of Pharmacy (the "Board") hereby suspends the license to practice pharmacy in Maryland issued to **Clarence Howard, III, P.D. (D.O.B. 10/02/1949), license number: 16421**, (the "Respondent"), under the Maryland Pharmacy Practice Act (the "Act"), Md. Health Occ. Code Ann. § 12-101, et seq., (2000 Repl. Vol. and Supp. 2003).

This Order is based on the following investigative findings, which the Board has reason to believe are true:

INVESTIGATIVE FINDINGS

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was originally licensed in the State of Maryland on or about August 21, 2002.

2. On or about December 3, 2003, the Respondent's license to practice pharmacy in the District of Columbia was summarily suspended by the District of Columbia Department of Health ("the District of Columbia").¹

¹ The Respondent's District of Columbia license number is PH2794.

3. The District of Columbia's decision to summarily suspend the Respondent's license to practice was based on events which occurred while the Respondent was employed as a pharmacist at Rite Aid Corporation ("Rite Aid"). (A copy of Notice of Summary Action to suspend license In the Matter of Clarence Howard, III, dated December 4, 2003, is attached hereto and incorporated herein as Exhibit A.)

4. Between May 28, 2003 and August 22, 2003, the Respondent, without a prescription and without a practitioner's order and without paying, took 60 tablets oxycodone and 25 tablets Tylenol 3 from Rite Aid pharmacies located in the District of Columbia.

5. During an investigation conducted by Rite Aid the Respondent admitted to Rite Aid investigators that he had misappropriated oxycodone and Tylenol from the Rite Aid pharmacies where he worked. The Respondent further admitted to Rite Aid investigators that he had taken the drug for pain in his leg.

6. The District of Columbia charged the Respondent with knowingly or intentionally possessing a controlled substance which was not obtained directly from or pursuant to a valid prescription or order of a practitioner in violation of D.C. Official Code § 49-904.01(d) (2001) and § 3-1205.14(a) (25).

7. The District of Columbia also charged the Respondent with fraudulently or deceptively using his license in the practice of pharmacy in violation of D.C. Official Code § 48-904.01(d).

8. On or about December 8, 2003, a hearing was held before the District of Columbia, Office of Adjudication and Hearings ("OAH").

9. On December 10, 2003, after an evidentiary hearing, Administrative Judge Mark D. Poindexter affirmed the summary suspension of the Respondent's license to practice pharmacy in the District of Columbia. (A copy of Order Affirming Summary Suspension in In Re Clarence Howard III, dated December 10, 2003 is attached hereto and incorporated herein as Exhibit B.)

10. Based on the above investigative findings, the Board has cause to believe that the Respondent has violated Md. Health Occ. Code Ann. §12-313.

Specifically, the Respondent violated the following provisions of § 12-313 of the Act:

(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;
- (4) Provides professional services while:
 - (ii) Using any narcotic or controlled dangerous substance, as defined in Article 27 of the Code, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (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;
- (20) Is professionally, physically, or mentally incompetent;
- (23) Is disciplined by licensing or a disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

CONCLUSIONS OF LAW

Based on the foregoing, the Board finds that the public health, safety or welfare imperatively requires emergency action, pursuant to Md. St. Govt. Code Ann. § 10-226(c)(2) (1999 Repl. Vol. and Supp. 2003).

ORDER

Based on the foregoing, it is therefore this 30th day of January, 2004, by a majority of its members then serving, the State Board of Pharmacy, by authority granted by the Board by Md. St. Govt. Code Ann. §§10-226(c)(2) (1999 Repl. Vol. and Supp. 2003), the license held by the Respondent to practice pharmacy in Maryland, License No. 16241, is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED, that upon the Board's receipt of a written request from the Respondent, a Show Cause Hearing shall be scheduled within thirty (30) days of said request, at which the Respondent will be given an opportunity to be heard as to whether the Summary Suspension should be lifted/terminated, and regarding the Respondent's fitness to practice pharmacy, and the danger his continued practice poses to the public; and be it further

ORDERED, that the Respondent shall immediately turn over to the Board his display license and wallet-sized license to practice pharmacy issued by the Board; and be it further

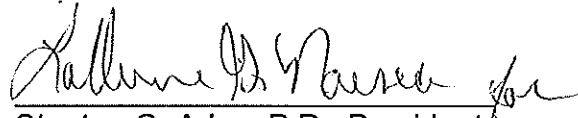
ORDERED, that this document constitutes a final Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. State Govt. Code Ann. § 10-617(h) (1999 Repl. Vol. and Supp. 2003).

NOTICE OF AN OPPORTUNITY FOR A HEARING

The Board hereby notifies the Respondent of his opportunity for a Show Cause hearing before the Board. The Respondent may request a hearing **WITHIN THIRTY (30) DAYS** of the Respondent's receipt of this notice. The request for a hearing must be made in writing to:

LaVerne Naesea, Executive Director
Maryland State Board of Pharmacy
4201 Patterson Avenue
Baltimore, Maryland 21215
(410) 764-2965

If a request for a hearing is made, a Show Cause hearing before the Board will be scheduled.


Stanton G. Ades, P.D., President
Board of Pharmacy