

IN THE MATTER OF	*	BEFORE THE
STEPHEN KLEBROWSKI, P.D.	*	STATE BOARD
License No.: 07202	*	OF PHARMACY
Respondent	*	Case No. 11-041

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Ann. § 12-101, et seq., (2009 Repl. Vol. and 2011 Supp.) (the "Act"), the Board charged Stephen Klebrowski, P.D., (the "Respondent"), with violations of certain provisions of the Consent Order Terminating the Summary Suspension, dated February 6, 2008.

The Respondent was given notice of the issues underlying the Board's Charges by a letter dated April 18, 2012. Accordingly, a Case Resolution Conference was held on June 6, 2012, and was attended by Rodney Taylor, P.D., and Richard Matens, Board Members, Stephen Kriendler, Compliance Coordinator, and Linda Bethman, Counsel to the Board. Also in attendance were the Respondent and his attorney, Henry Schwartz, and the Administrative Prosecutor, Roberta Gill. Also in the room were Christopher Anderson, Associate Attorney, Minyoung Park and Amond Uwadineke, Interns, for observational purposes only.

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:

BACKGROUND

The Board bases its charges on the following facts that the Board has cause to believe are true:

1. Based on information received and a subsequent investigation by the Board and subject to the Md. Code Ann. Health Occ. §12-101 et seq., (2004 Repl. Vol.), and the Maryland Administrative Procedure Act, Md. Code Ann., Health Occ. §10-201 et seq., (2004 Rep. Vol.), the Board issued an Order for Summary Suspension, dated November 6, 2007, in which it summarily suspended the pharmacist's license held by 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.).

2. On December 19, 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 or welfare of the public. In lieu of a continued summary suspension, the Respondent and the Board agreed to resolve the matter by way of a Consent Order dated February 6, 2008. The Board made the following findings:

A. At all times relevant to the charges herein, Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on January 29, 1970. The Respondent's license expired on May

31, 2008.¹

B. On or about February 15, 2007, the Respondent was convicted in the Circuit Court for Baltimore County, Maryland, of one count of unlawful distribution of Hydrocodone, a controlled substance, in violation of Md. Code Ann., Criminal Law Article § 5-602(1), and was sentenced to six months incarceration, all of which was suspended, ordered to service six months of unsupervised probation, ordered to pay court costs, and issued a fine in the amount of \$15,000.

C. During the hearing held on February 15, 2007, the following statement of facts served as the basis for the Respondent's conviction:

"Your Honor, thank you. Your Honor, on or about October 6th of 2006, officers of Baltimore County Police Department were made aware the Rite Aid Pharmacy through (*sic*), John Moore regarding a discrepancy of one of the pharmacists, [the Respondent].

In reviewing [the Respondent's] records as a pharmacists (*sic*) at the Dundalk location of Right Aid (*sic*), it was determined that he had filled out a number of prescriptions done without a proper prescription, without other required paperwork.

The officers responded to, eventually to Rite Aid Pharmacy for Lutherville for copies of records given by Ride Aid pharmacists. After conducting an investigation, the detectives discovered from a period of approximately November 1, 2004 through November 1, 2006, [the Respondent] had given over one thousand pills to a-a-another individual by the name of [Patient A].²

[Patient A] was a customer and patient of [the Respondent], who befriended him. While in the store on a number of occasions, he had, in fact, given him valid prescriptions for those prescriptions had been filled for various pain medications including Hydrocodine (*sic*).

¹The Respondent's current license expires on May 31, 2014.

²The name of the patient is confidential.

There came a time in which [Patient A] came into the pharmacy without the proper prescription, on a number of those occasions [the Respondent] would, in fact, still fill the prescription or give him Hydrocodine (*sic*) without a prescription. At that time, [Patient A] would pay a co-pay, five dollar co-pay. [The Respondent] would, in fact, submit the proper paperwork for that to be reimbursed through the company.

Your honor, on November 7, 2006, the detectives executed a search and seizure warrant on [the Respondent's] home. After conducting that search and seizure warrant they advised [the Respondent] of his Miranda rights. He advised he understood the rights.

[The Respondent] stated that he knew [Patient A], the subject that came to Rite Aid Pharmacy where he worked for the past two years. He had provided Percocet, Oxycycotin (*sic*) to help with pain and submitted fraudulent claims to the insurance company. [Patient A] had to pay the co-pay.

Detective Arseago asked if he knew he was defrauding them. Yes, he was sorry for the mistake. [The Respondent] was asked if there were any fraudulent claims or pills he had given to anyone else, he advised he had not given any to any other individuals.

If called to testify, witnesses from Rite Aid and the Baltimore County Polices (*sic*) Department would identify [the Respondent] who, in fact, distributed Hydrocodine (*sic*) during the two-year period without the proper prescription or documentation to [Patient A], an individual not in way (*sic*) licensed to receive those. That would be the State's case at this time, Your Honor.

D. During the time that the Respondent was providing Patient A Hydrocodone without a prescription, he was actively employed and practicing as a pharmacist for Rite Aid. The Respondent was terminated from Rite Aid in October 2006. Upon his termination, the Respondent gave a written statement to officials at Rite Aid confirming that he knowingly and repeatedly refilled a patient's prescriptions for Hydrocodone without a valid prescription and without contacting the patient's physician.

E. Between November 2004 and November 2006, the Respondent illegally dispensed to Patient A approximately 4,090 doses of the above narcotics and fraudulently billed Patient A's insurer for the prescriptions he dispensed without authorization.

F. In addition to the above, on August 24, 1998, the Respondent was disciplined by the Board for submitting a false renewal application regarding the completion of required continuing education credits. The Respondent was placed on probation for 12 months and ordered to pay a fine of \$2,050.00.

FINDINGS AS TO THE VIOLATION OF BOARD ORDER

3. The Consent Order terminating the Respondent's Summary Suspension and placing the Respondent on Probation, dated February 6, 2008, stated, in part, that the Respondent was:

A. **ORDERED** that Respondent's license be **SUSPENDED** for at least **ONE YEAR**, beginning November 6, 2007; and be it further;

B. **ORDERED**, that upon the Board's lifting of the suspension, the Respondent shall be placed on **PROBATION** for at least **THREE (3) YEARS**, during which time the Respondent shall be subject to the following terms and conditions:

- (1) The Respondent may not function as a pharmacy manager, supervisor or in any other managerial/supervisory capacity;

(2) The Respondent shall provide a copy of this Consent Order to any and all pharmacy employers *prior* to commencing employment and shall insure that the attached verification form is completed by the employer and returned to the Board *prior to commencing employment*, (emphasis added).

(3) The Respondent shall insure that his pharmacy employer(s) submit to the Board quarterly employer reports;

4. At all times relevant herein, the Respondent was employed as a dispensing pharmacist.

5. By an Employer Report dated November 10, 2010, the Board received from a pharmacy located in Pikesville, Maryland a form indicating that the Respondent had been employed there since August 10, 2010. The Respondent has not submitted a verification form to the Board prior to his employment, as required, nor did the employer submit any forms thereafter, although the Respondent continues to be employed there.

6. On November 14, 2010, two Inspectors from the Division of Drug Control (DDC) inspected a pharmacy located in Harford County. During the course of the inspection, one of the owners indicated that he was not aware that the Respondent's license was on probation and that he should have been provided a copy of the Board's Consent Order, pursuant to the Board's Order

7. By an Employer Report dated December 1, 2010, the Board received from the same pharmacy located in Harford County a form indicating that the

Respondent had been employed there since October 6, 2009. The form further indicated that the Respondent did not supervise any other employees. No other reports were sent to the Board.

8. However, it is clear that the Respondent failed to provide his employer a copy of the Order prior to commencing employment, as required. In addition, his pharmacy employer did not submit quarterly reports, as required.

9. As set forth above, the Respondent violated the terms of his Probation by violating the Consent Order of February 6, 2008.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated the Consent Order of February 6, 2008.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 11th day of September, 2012, by a majority of a quorum of the Board,

ORDERED, that all probationary conditions set forth in the Consent Order of February 6, 2008 be in full force and effect;

ORDERED that the Probationary period of the Respondent's license to practice pharmacy is hereby extended until at least August 25, 2013;

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

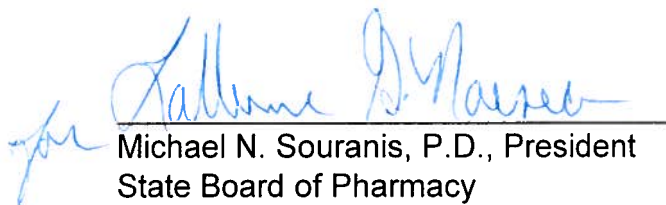
ORDERED that, should the Board receive information that the Respondent has violated the Act or, if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against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

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 his license, provided that he 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;

ORDERED that for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009 and 2011 Supp.), 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.


Michael N. Souranis, P.D., President
State Board of Pharmacy

CONSENT OF STEPHEN KLEBROWSKI

I, Stephen Klebrowski, P.D., acknowledge that I am represented by counsel, Henry E. Schwartz, and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of 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 the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

9/11/12

Date

Stephen Klebrowski

Stephen Klebrowski, P.D.

STATE OF Maryland :
CITY/COUNTY OF Balto :

I HEREBY CERTIFY that on this 1st day of September, 2012, before me, MILDRED A. PLITT, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared **Stephen Klebrowski, P.D., License No. 11-041**, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Mildred A. Plitt
Notary Public

My Commission Expires: 2/24/14