

IN THE MATTER OF

\*

BEFORE THE

CHUKWUEMEKA STEVE  
FRANK OBIDIKE

\*

MARYLAND STATE

\*

BOARD OF PHARMACY

LICENSE NO. 16011

\*

Respondent

\*

\* \* \* \* \*

**FINAL DECISION AND ORDER**

**Background**

This case arose out of allegations that Chukwuemeka Obike, P.D. (the “Respondent”) pled guilty in the District Court for Montgomery County to two counts out of a 55-count indictment for obtaining controlled dangerous substance prescriptions by fraud. Specifically, the Respondent was charged with stealing another individual’s identity to fraudulently obtain prescriptions for controlled dangerous substances. Based upon its investigation, on June 30, 2007, the Board of Pharmacy (the “Board”) issued a Notice of Intent to Revoke the Respondent’s license to practice pharmacy.

The Notice of Intent to Revoke was issued in accordance with the Administrative Procedure Act, State Gov’t § 10-201 *et seq.*, which states in pertinent part:

§ 10-226(c)

- (1) Except as provided in paragraph (2) of this subsection, a unit may not revoke or suspend a license unless the unit first gives the licensee:
  - (i) written notice of the facts that warrant suspension or revocation; and
  - (ii) an opportunity to be heard.

The Notice of Intent to Revoke was based upon the following provisions of the Maryland Pharmacy Act, Health Occ.:

§ 12-313 Denials, reprimands, suspensions, and revocations - Grounds

(a) In this section, "convicted" includes a determination of guilt, a guilty plea, or a plea of nolo contendere followed by a sentence.

(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:

(21) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(24) Violates any rule or regulation adopted by the Board;

§ 12-302 Qualifications of applicants.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

The Notice was also based on the Board's Pharmacist Code of Conduct regulations, Code Md. Regs. tit. 10 § 34.10, which state in pertinent part:

.01 Patient Safety and Welfare

A. A pharmacist shall:

(1) Abide by all federal and State laws relating to the practice of pharmacy and the dispensing, distribution, storage, and labeling of drugs and devices, including but not limited to:

(a) United States Code, Title 21;

(b) Health-General Article, Titles 21 and 22, Annotated Code of Maryland;

(c) Health Occupations Article, Title 12, Annotated Code of Maryland;

(d) Criminal Law Article, Title 5, Annotated Code of Maryland;

(e) COMAR 10.19.03;

Thereafter, the Respondent appealed his conviction to the Circuit Court for Montgomery County and again pled guilty to the same two counts. The Respondent was sentenced to probation before judgment, with five (5) years of supervised probation. The Board then amended its Notice to include reference to the Respondent's appeal to circuit court and his criminal sentence.

A contested case hearing was held under the Administrative Procedure Act, Md. Code Ann., State Gov't §10-201 *et seq.*, before a quorum of the Board on December 12, 2007. A preliminary motion in limine was filed by the State to allow an additional witness to testify. The Board denied the motion as untimely.

After the conclusion of the hearing on the same date, December 12, 2007, the same quorum of the Board convened to deliberate and voted unanimously to affirm the charges against the Respondent and to impose the sanctions contained in this Final Decision and Order.

### **SUMMARY OF THE EVIDENCE**

#### **A. Documents.**

The following documents were admitted into evidence.

- State's Exhibit No. 1 - Licensure printout of Respondent
- State's Exhibit No. 2A - District Court Charging Document
- 2B - District Court Disposition display (Bates 65-66)
- State's Exhibit No. 3 - Investigative Report
- State's Exhibit No. 4A - Circuit Court Docket entries
- B - Circuit Court disposition
- C - Circuit Court documents
- D - Supervision Summary

- State's Exhibit No. 5 - 2006 Renewal Application forms
- State's Exhibit No. 7 - District of Columbia – Notice of Summary Action to Suspend
- State's Exhibit No. 8A - Notice of Intent to Revoke letter, dated 2/26/07, 3/30/07, 5/30/07
  - B - Notice of Intent
  - C - Certified receipt
  - D - Hearing notice
- Respondent's Ex. No. 1 - Continuing education
- Respondent's Ex. No. 2 - Suburban Hospital Treatment Program – Certificate of Completion
- Respondent's Ex. No. 3 - Parole Supervisor report, dated 12/11/07
- Respondent's Ex. No. 4 - Report of Dr. Gershefski, Ph.D., dated 2/16/07
- Respondent's Ex. No. 5 - Report of Dr. Gershefski, Ph.D., dated 4/24/07

**B. Witnesses.**

State:

Sgt. Henry Graham, III – Police officer, Montgomery County,  
Pharmaceuticals Division  
Colin Eversley – Compliance Investigator, Board of Pharmacy

Respondent:

Dr. John Gershefski, Ph.D. – licensed psychologist  
Michael Checka, P.D. – licensed pharmacist  
Respondent

**FINDINGS OF FACT**

Based upon the testimony and documentary evidence presented at the evidentiary hearing, the Board finds that the following facts are true:

1. At all times relevant, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on September 7, 2001. The Respondent is also licensed in District of Columbia and Virginia. (State's Ex. 1, T. 33)
2. On August 2, 2006, Sgt. H. Graham of the Montgomery County Police Department received a call from a pharmacist at Eckerd Pharmacy in Silver Spring, Maryland. The pharmacist complained that a man known as T.R. was talking angrily to her and the pharmacy technician regarding the packaging of his medications.<sup>1,2</sup> (State's Ex. 2A, Bates 19)
3. The prescriptions for T.R. were written on prescription pads for Doctors A and K. Sgt. Graham contacted both physicians who indicated that T.R. was not their patient and they did not write any prescriptions for T.R. (State's Ex. 2A, Bates 19)
4. By contacting T.R.'s insurance company, Sgt. Graham was able to locate T.R., a woman, living in southern Maryland. T.R. advised Sgt. Graham that she only had two prescriptions filled in the last two years and the medications were to treat female issues. She also viewed the surveillance photographs taken of the Respondent at Eckerd and identified the male posing as T.R. as "Steve", her former neighbor. (State's Ex. 2A, Bates 19-20, T. 16-18)
5. The Respondent had previously dated T.R. and had gone through her wallet and obtained her date of birth and insurance information. (T. 87)

---

<sup>1</sup> The name of the victim of the identity theft is not specified in this document. However, the Respondent was provided the name of the victim through discovery.

<sup>2</sup> The Respondent, posing as T.R., insisted on having the Tussionex dispensed in the original manufacturer's bottle. (T. 28, 117)

6. Sgt. Graham was assisted by Agent Derek Holt of the Office of the Inspector General, to identify the Respondent by using photographs from the Respondent's prior arrest in the District of Columbia and MVA records. (State's Ex. 2A, Bates 20, T. 18)
7. Using these photographs, the Eckerd pharmacist and technician identified the Respondent as the individual posing as T.R. (State's Ex. 2A, Bates 20)
8. On August 18, 2006, the Respondent attempted to phone in fraudulent prescriptions for Zoloft, 180 pills, and Hydrocodone, 120 pills. The Respondent was posing as the physician's office prescribing the medications for T.R., i.e., the Respondent. Sgt. Graham listened to the voice recording and was able to identify the voice as the Respondent's. (State's 2A, Bates 22, T. 18)
9. On September 7, 2006, an arrest warrant was issued by the District Court for Montgomery County for the arrest of the Respondent on 55 charges relating to identity theft, illegal procurement and possession of controlled drugs, *to wit*: Tussionex (Schedule III), Clonazepam (Schedule IV), Hydrocodone (Schedule III), and attempting to obtain by fraud Zoloft and Hydrocodone. (State's Ex. 2A)
10. The Respondent pled guilty in the District Court for Montgomery County to two counts of obtaining a prescription for a controlled drug by fraud. The Respondent was thereafter sentenced to 265 days incarceration. (State's Ex. 2B, Bates 65-66; State's Ex. 4B, Bates 132-34)
11. The Respondent appealed the District Court conviction to the Circuit Court. The Respondent then pled guilty in the Circuit Court for Montgomery County

to the same two counts of obtaining prescriptions for a controlled substance by fraud. (State's Ex. 4B, Bates 106-07) The Respondent was given probation before judgment, with a 5 year probation period during which he must submit to drug treatment. (State's Ex. 4B, Bates 136-7)

12. Between May and August 2005, the Respondent obtained over fifty medications for controlled substances by either calling in the prescriptions as a physician's office, or submitting falsified prescription forms, with refills. All of these prescriptions were submitted in the name of T.R. by the Respondent and submitted for payment to T.R.'s insurance plan. (State's Ex. 2A, T. 89, 107-08)

13. On February 8, 2007, the District of Columbia Board of Health summarily suspended the Respondent's license to practice in the District of Columbia based on: (1) the Respondent's criminal convictions in Maryland; and (2) the Respondent's obtaining a D.C. license by fraud.<sup>3</sup> (State's Ex. 7)

14. The Respondent self-medicated with the prescriptions he obtained by fraud in order to treat his depression. (Respondent's Ex. 5; T. 88)

15. The Respondent has maintained up-to-date continuing education credits and completed Suburban Hospitals's substance abuse treatment program. (Respondent's Exs. 1 and 2)

---

<sup>3</sup> The Respondent falsely indicated on his D.C. license application that he had not been investigated or arrested, when at the time he had been investigated and arrested in both Maryland and Virginia for fraudulently obtaining prescriptions for controlled substances. (State's Ex. 7)

## OPINION

It is paramount that pharmacists insure that patients not only receive proper and accurate medication, but that the medication is dispensed pursuant to a valid prescription. Thus, it is unimaginable that a pharmacist would engage in the conduct that the Respondent admits to; that is, knowingly passing fraudulent prescriptions for controlled substances. Adding to that, the Respondent admits to stealing the identity of an unsuspecting individual for the sole purpose of perpetrating his fraudulent prescription scheme. Although the Respondent only pled guilty to two counts of obtaining CDS prescriptions by fraud, he testified that he submitted fraudulent prescriptions for controlled and non-controlled drugs, for initial fills and refills over 50 times during a period of four months. This was not an isolated incident, nor was it unintentional. The Respondent exerted much effort and planning into a scheme that would allow him to obtain fraudulent prescriptions in a manner that would make it incredibly difficult to trace back to him.

The role of a pharmacist is an integral part of the drug dispensing system. Essentially, a pharmacist acts as a gatekeeper, allowing or prohibiting access to highly addictive drugs with street value – many of which are the same drugs the Respondent was obtaining by fraud. Thus, a pharmacist's ethics with respect to proper prescribing and dispensing must be beyond the pale.

The Respondent asserts, and the Board does not necessarily disagree, that he was suffering from depression and anxiety which compelled him to commit the various criminal acts. Nonetheless, this does not excuse the fact that the Respondent went to great lengths of fraud and deceit in order to obtain the controlled drugs. The Board commends the Respondent for engaging in the substance abuse treatment and therapy and



hopes that he will continue to do so for the betterment of his own health. However, based on the egregiousness of the Respondent's misconduct, the Board feels that a significant sanction is warranted. The Board feels that a significant sanction is necessary to address the violations committed by the Respondent as well as to provide a deterrent to other pharmacists who may be tempted to abdicate their professional responsibilities with respect to the legal requirements for prescribing and dispensing controlled substances.

### CONCLUSION

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes that the Respondent violated Md. Code Ann., Health Occ. §§ 12-302(b), 12-313(b)(21) and (24), and Code Md. Regs. tit. 10, § 34.10.01A(1).

### ORDER

Based on the foregoing Findings of Fact, Opinion, and Conclusion, by a unanimous decision of a quorum of the Board it is hereby:

**ORDERED** that the Respondent is hereby **SUSPENDED** for a period of at least **TWO (2) YEARS**; and be it further,

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

- a. Comply with all licensure renewal requirements;
- b. Continue and cooperate in psychotherapy, and insure that the Respondent's therapist submits quarterly progress reports to the Board;
- c. Submit to Board-ordered random urine screens at least monthly at a CLIA-certified laboratory; or in the alternative, the Board will accept monthly urinalysis reports from drug screenings performed in accordance with the

Respondent's criminal probationary terms;

d. Attend an NA/AA healthcare professionals group at least weekly, and maintain attendance slips for such meetings;

e. Not function or work as a pharmacy technician; and be it further,

**ORDERED** that the Respondent may petition the Board to lift the suspension after two (2) years, provided that the Respondent has fully complied with all terms of probation and has no complaints pending before the Board; and be it further,

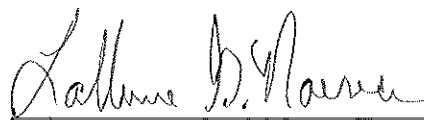
**ORDERED** that upon the lifting of the Respondent's suspension, the Board shall place the Respondent on immediate probation with terms and conditions to be determined based on the Board's review of the reports issued pursuant to the suspension terms; and be it further,

**ORDERED** that should the Respondent violate any of the terms and/or conditions of this Order, or should the Board receive credible evidence that the Respondent has relapsed, the Board, in its discretion, after notice and an opportunity for a hearing, may impose any additional sanctions, including revocation and/or a monetary penalty authorized under the Maryland Pharmacy Act; and be it further,

**ORDERED** that on or before March 21, 2008, the Respondent shall submit his wall certificate, wallet license, and renewal certificate to practice pharmacy to the Board of Pharmacy to be held by the Board during the active suspension period; and be it further,

**ORDERED** that this is a final order of the State Board of Pharmacy and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't Art., §§10-611, *et seq.*

3/7/08  
Date

  
\_\_\_\_\_  
LaVerne G. Naesea, Executive Director  
for  
Donald Taylor, P.D.  
President, Board of Pharmacy

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. Art., §12-316, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Act, Md. Code Ann., State Gov't Art., §§10-201, *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.