

**IN THE MATTER OF  
DIPAL PATEL, P.D.  
License No.: 18393  
Respondent**

**\* BEFORE THE  
\* STATE BOARD  
\* OF  
\* PHARMACY  
\* Case No.14-008**

\* \* \* \* \*

**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.*, (2014 Repl. Vol. II) (the "Act"), on October 21, 2015, the Board charged **DIPAL PATEL, P.D** (the "Respondent"), with violations of the Maryland Pharmacy Act. On March 30, 2016, a Case Resolution Conference was held with the Respondent, who was represented by Counsel, members of the Board, along with Board Counsel, and the Administrative Prosecutor in order to determine whether the matter could be resolved. As a result, the following settlement was reached.

**BACKGROUND**

The Board based its Charges on the following facts that the Board had cause to believe are true:

1. Based on information received and a subsequent investigation by the Board, and subject to the Act, on or about December 9, 2011, the Board issued Charges against the Respondent due to the Board's receipt of a report following an inspection by the

Division of Drug Control (DDC) of Pharmacy A<sup>1</sup>, which the Respondent owns and is the primary dispensing pharmacist. The DDC found that the Respondent dispensed large amounts of oxycodone, a Controlled Dangerous Substance (CDS), based on false or invalid prescriptions.

2. As a result of an evidentiary hearing held on March 28, 2012 and February 6, 2013, the Board issued a Final Decision and Order dated August 12, 2013.

3. The Board opined that “pharmacists act as gatekeepers who allow or prohibit access to highly addictive drugs that may have significant street value. . . it is critical . . . that pharmacists act in an ethical manner . . . his lapse of judgment resulted in the provision of highly addictive and dangerous drugs to individuals for illegitimate purposes.” The Board found that the Respondent filled 119 false prescriptions. The Board opined “the Respondent failed to appropriately exercise his professional judgment with respect to responsible dispensing of controlled substances.”

4. As a result of the above findings, the Board placed the Respondent’s license on Probation for a period of at least two years subject to certain conditions, including that the Board not receive any additional complaints concerning the Respondent’s practice.

### **FINDINGS OF FACT**

5. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on June 25, 2007. The

---

<sup>1</sup>The pharmacy’s name is confidential.

Respondent's license expires on December 31, 2016.

6. At all times relevant hereto, the Respondent was the owner and primary dispensing pharmacist of Pharmacy A<sup>2</sup> in Salisbury, Maryland.

7. On or about August 21, 2013, the Board received a complaint from Provider A ( the "Complainant") regarding Patient A as follows:

...patient was seen last in our office for regular f/u (follow-up) on 6/24/11, and is on Hyzaar<sup>3</sup> daily. He called for refill medication 10/30/12 and a 30 day supply was sent to [Pharmacy A] and pt. was informed of need for f/u office visit. We did not here (*sic*) from patient again until patient came in to office today 8/21/13 to be seen for f/u/office visit. He had been getting his Hyzaar each month from [Pharmacy A] since October 2012 through August 2013 with only one prescription of medication being sent to pharmacy for a 30 day supply back on 10/30/12. We contacted the pharmacy to see if another provider was prescribing his medication and were told that "they" (*sic*) were filling it for patient (*sic*) since he "was a regular customer and was out of his meds." They (*sic*) stated "we were the only prescribers."

8. As a result of this complaint, the Board's Pharmacy Compliance Officer undertook an investigation, which caused her to visit Pharmacy A on September 21, 2013.

The visit disclosed the following:

A. When she arrived, she was informed by the store next door that the pharmacy would not be open until 9:00 A.M. Upon returning at 9:35 A.M., she found a male adult behind the counter, who identified himself as a Pharmacy

---

<sup>2</sup>The names of the pharmacy, patients and providers and other individuals are confidential.

<sup>3</sup>Hyzaar contains a combination of hydrochlorothiazide and losartan. Hydrochlorothiazide is a thiazide diuretic (water pill) that helps prevent the body from absorbing too much salt, which can cause fluid retention. Losartan is an angiotensin II receptor antagonist. Losartan keeps blood vessels from narrowing, which lowers blood pressure and improves blood flow. In rare cases, Hyzaar is used to treat high blood pressure (hypertension). It is also used to lower the risk of stroke in certain people with heart disease. Hyzaar can cause a condition that results in the breakdown of skeletal muscle tissue, leading to kidney failure.

Technician (“Pharm Tech”);

B. The Pharm Tech informed the Board’s Officer that [the Respondent] was purchasing something “next door”. However, after the Pharm Tech spoke on the phone with a caller in a language not understood by the Board’s Officer, the Respondent arrived in the pharmacy at approximately 9:43 A.M.;

C. A person traveling with the Board’s Officer had waited in the parking lot in his car and later informed the Board’s Officer that the driver of the other car in the parking lot was the one who entered the pharmacy at 9:43 A.M.—the Respondent;

D. While at the pharmacy, the Board’s Officer requested a dispensing report for Patient A. She then requested the hard copies of the prescriptions dispensed on November 29, 2012, January 12, 2013, February 21, 2013, April 1, 2013, May 3, 2013, June 6, 2013, July 12, 2013 and August 21, 2013, as per the dispensing report. The Respondent could not provide the prescriptions for January 12, 2013, April 1, 2013 and July 12, 2013;<sup>4</sup>

E. The dispensing report ran monthly from June 2012-September 2013. The report showed medication purportedly prescribed for Patient A by five different providers, including the Complainant;

F. All of the hard copies provided to the Board’s Officer were “Telephoned Prescriptions;”

G. After obtaining the hard copies of the prescriptions, the Board’s

Officer sent them to the providers listed therein as authorizing the prescriptions and asked whether these, in fact, were authorized by them. The providers responded as follows:

- (1) The Board's Officer faxed to the Complainant, who worked with Provider B, the dispensing report she had obtained from the Respondent a few days earlier regarding Patient A's prescription copies for Hyzaar;
- (2) The Complainant, on behalf of Provider B, stated "Our office did not authorize Hyzaar refills for [Patient A] on February 21, 2013, May 3, 2013, and June 6, 2013. We did not authorize refills on January 12, 2013, April 1, 2013 or July 12, 2013. We do not have any record in his chart of filling Hyzaar from January 12, 2013, April 1, 2013 or July 12, 2013."

H. Thereafter, on November 20, 2013, the Board's Officer requested, via subpoena to Patient A's insurer, the billing submitted by the Respondent for Patient

A. The insurer submitted billing information as follows:

- (1) For Provider C, who works with Provider B:
  - 4/20/12, Losartan, 100/25 mg; and
  - 5/23/12, Losartan 100/25 mg.
- (2) There is no evidence that Provider C authorized these two prescriptions.

---

<sup>4</sup>The Respondent claimed that he later provided the Board's Officer with the missing documents.

9. The Respondent disputes that he failed to call the Complainant's office each time he filled/refilled Patient A's medication and asserts that Provider B (who employed the Complainant [Provider A], as well as Provider C) no longer maintains an office in the Salisbury area.

10. Respondent asserts that he was in the parking lot of the store located adjacent to Pharmacy A at the commencement of the Board's inspection, although not physically in the pharmacy.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board finds that Respondent is subject to disciplinary action based on Health Occ. Art., §§12-313(b)(16) and (25) and COMAR 10.34.10.01 A. (1) (a) through (c) and COMAR 10.34.05.03A

### **ORDER**

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 18th day of May 2016, by a majority of the Board,

**ORDERED** that the Respondent's Probation be extended until the signing of this Consent Order.<sup>5</sup>

**ORDERED** that the Consent Order is effective as of the date of its signing by the

---

<sup>5</sup> The Respondent has satisfied the terms of his Probation under the August 12, 2013, Final Order. In August 2015, the Respondent requested that his Probation be terminated, and this Order shall serve as the termination of Probation under the August 12, 2013, Final Order.

Board; and be it

**ORDERED** that the Respondent has fully satisfied the conditions of probation and it is hereby terminated;

**ORDERED** that the Respondent shall practice in accordance with the laws and regulations governing the practice pharmacy in Maryland; and be it further

**ORDERED**, that for purposes of public disclosure, as permitted by Md. General Provisions. Code Ann. §§ 4-101, *et seq.* (Repl. Vol. 2014), 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.



---

Mitra Gavani, Pharm.D. President  
Maryland Board of Pharmacy

**CONSENT OF DIPAL PATEL, P.D.**

I, Dipal Patel, PD, acknowledge that I am represented by counsel, Dirk W. Widdowson, Esquire, 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 do not admit to violating any provisions of the Pharmacy Act or COMAR regulations regarding Pharmacist and Pharmacy Technician Code of Conduct but expressly deny any wrongdoing in Case No. P1-11-029.

I submit to the foregoing Consent Order, however, as a resolution of this matter in lieu of formal charges, which process would afforded me the right to a full evidentiary hearing.

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.

May 17, 2016  
Date


  
Dipal Patel, P.D.

STATE OF Maryland :  
CITY/COUNTY OF Wicomico :

I HEREBY CERTIFY that on this 17<sup>th</sup> day of May 2016, before me, Irene Aubain, a Notary Public of the foregoing State and (City/County),  
(Print Name)

Personally appeared Dipal Patel, P.D., License No. 18393, 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.

  
Notary Public

My Commission Expires: 9-10-2019

