

IN THE MATTER OF	*	BEFORE THE
DEVON SCHLIEPER, PHARM. D.	*	MARYLAND BOARD
LICENSE NO. 17864	*	OF PHARMACY
Respondent	*	Case No. 08-025
* * * * *		

CONSENT ORDER IN LIEU OF SUMMARY SUSPENSION

HISTORY

On May 8, 2007, the Maryland Board of Pharmacy (the "Board") received notice from the Division of Drug Control ("DDC") that DDC had learned during a routine inspection of Kmart pharmacy #3172 that Devon Schlieper (the "Respondent") had been terminated by Kmart for diversion of prescription drugs. The Board's investigation into the matter confirmed that the Respondent had been terminated by Kmart on February 27, 2007 for diverting controlled dangerous substances ("CDS"), namely Phentermine.¹ In lieu of instituting formal proceedings against the Respondent, in accordance with the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 *et seq.*, the Board entered into a Pre-Charge Consent Order with the Respondent on November 19, 2008, which placed the Respondent's license on probation for a minimum of one year.

Among other things, the terms of the Respondent's probation included a requirement that she submit to bi-weekly urinalysis to screen for controlled dangerous substances for which the Respondent does not have a valid prescription. The Pre-Charge Consent Order also provided that "if the Board receives credible evidence that Ms. Schlieper has relapsed, Ms. Schlieper shall be immediately summarily suspended with an opportunity for a post-deprivation show cause hearing...."

¹ Phentermine is a weight loss drug and is a Schedule IV controlled dangerous substance.

On or about March 3, 2009, the Walmart notified the Board that the Respondent had been terminated on February 13, 2009 from Walmart, Permit # P02681, for diversion of drugs by forgery.

In addition, on May 14, 2009, the Board received notice from the lab where the Respondent submitted to urinalysis that the Respondent had tested positive for Ativan/Dalmane.²

Based on the Board's subsequent investigation, and subject to 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 June 25, 2009, in which it summarily suspended the Respondent's pharmacist's license. Specifically, the Board found reliable evidence that the Respondent relapsed and thus had violated the terms of her Pre-Charge Consent Order. Moreover, the Board found credible evidence demonstrating 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 August 19, 2009, a quorum of the Board held a hearing to allow the Respondent to show cause why she did not pose an imminent threat to the health, safety and welfare of the public. Thereafter, the Board voted to lift the Respondent's summary suspension and modify the terms of her probation as set forth herein.

² Ativan and Dalmane are benzodiazepines which are used to treat anxiety disorders and insomnia, respectively and are Schedule IV controlled dangerous substances.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on February 28, 2006. The Respondent's license expires on March 31, 2011.
2. At all times relevant hereto, the Respondent's license was on probation for a minimum of one year for diversion of CDS, per the terms of her November 19, 2008 Pre-Charge Consent Order.
3. On or about March 3, 2009, the Walmart notified the Board that the Respondent had been terminated on February 13, 2009 from Walmart, Permit # P02681, for diversion of drugs by forgery.
4. Walmart alleges that the Respondent wrote false telephone prescriptions from her dogs' veterinarian for Atarax³ and Tramadol.⁴
5. The Respondent maintains that another Walmart pharmacist filled the prescription for Atarax written under the veterinarian prescriber's name on February 9, 2009 but did not call the veterinarian for authorization until February 10, 2009. The Respondent maintains that the Tramadol prescription was never filled.
6. The supposed veterinarian prescriber wrote in a letter dated February 11, 2009 and provided to the Board by the Respondent's counsel, that "neither I nor my associate veterinarian authorized any prescription for Tramadol for Zadora Schlieper, a Bulldog, owned by Devon and Jason Schlieper."

³ Atarax is an antihistamine used to relieve the symptoms of common anxiety and tension. It also relieves itching from allergic reactions and can be used as a sedative before and after general anesthesia.

⁴ Tramadol is a narcotic-like pain reliever. Tramadol is used to treat moderate to severe pain.

7. On May 14, 2009, the Board received notice from the lab where the Respondent submitted her random bi-weekly urinalysis that the Respondent had tested positive for Ativan/Dalmane.
8. On February 2, 2009 and June 9, 2009, the Respondent's primary care physician provided the Board with a list of the Respondent's prescribed medications. Neither list contains a prescription for Ativan/Dalmane. The Respondent's regular prescriber wrote on June 9, 2009 that "Devon Schlieper was not prescribed ativan or dalmane by this office at any time while under our care."
9. The Respondent also tested positive for Ativan/Dalmane on May 21, 2009.
10. The Respondent maintains that her positive urine results for Ativan/Dalmane are the result of having taken Lorazepam (the generic form of Ativan) from an old expired prescription which she still had on-hand when she was unable to schedule an appointment with her current primary care provider. The Respondent provided the Board with a prescription log for the period January 1, 2008 – December 19, 2008 which reflects one prescription refill for Lorazepam dispensed on January 4, 2008.

DISCUSSION

The Board's first and primary mandate is to protect the public. The Board is concerned that the Respondent's behavior, while it does not pose an imminent threat to the public health, demonstrates a lack of professional responsibility on her part. The Respondent is well aware that compliance with the terms of the November 19, 2008 Pre-Charge Consent Order includes providing the Board's Compliance Coordinator with copies of her prescriptions so that the Board is aware of which medications may

legitimately be present in her urine. However, the Respondent failed to supply the Board with a copy of valid prescription for Ativan or Dalmane because she had not been prescribed either medication during the period of her probation. In fact, the Respondent's prescriber denied having ever prescribed either medication to the Respondent.

The Respondent maintains that she self-medicated on both May 14, 2009 and May 21, 2009 from a Lorazepam prescription she had had on hand for over a year. The Respondent maintains that she did so because she was unable to schedule an appointment with her primary care provider in order to receive another prescription for Alprazolam.⁵ The Respondent contends that she was unable to see her primary care provider due scheduling conflicts and the provider being on maternity leave during the month of March. The Board finds this explanation vague and inconsistent as the Respondent's positive urine results occurred a month and a half after her provider returned to practice. Regardless of the Respondent's rationale, this was clearly a violation of her probation. In addition, the Board finds it very concerning that the Respondent keeps "old" controlled substances on hand given her substance abuse history and her current disciplinary status with the Board.

Further, the Board is not impressed with the Respondent's explanation of how her dogs' prescriptions for Atarax and Tramadol were created without the alleged prescriber's authorization. Although the Respondent insists she spoke with the emergency veterinarian in order to process the prescriptions at Walmart as transfers, the veterinary practice denies authorizing them. Further, it is unclear why three refills were necessary when the Respondent stated that the emergency veterinarian had already dispensed quantities of 90 and 30, respectively.

Given the Respondent's history of drug abuse and her cavalier behavior regarding these matters, the Board finds that the Respondent's practice is in need of more stringent

⁵ Both Lorazepam and Alprazolam are used for the treatment of anxiety and are both controlled substances.

monitoring by the Board in order to ensure her serious commitment to professional practice and her refrain from substance abuse.

CONCLUSIONS OF LAW

Based upon the foregoing, the Board concludes that the Respondent is not an imminent threat to the public health, safety and welfare with the restrictions placed on her license as set forth below. Respondent is subject to disciplinary action in accordance with Md. Code Ann., Health Occ. § 12-313(b)(21).

ORDER

Based on an affirmative vote of the Board, it is this 13th day of October, 2009, hereby:

ORDERED that the Respondent's summary suspension is hereby LIFTED; and be it further,

ORDERED that the Respondent shall be placed on immediate PROBATION at least until November 19, 2011, subject to the following conditions:

1. The Respondent shall submit to random weekly urine screenings for controlled dangerous substances at a CLIA-certified laboratory;
2. The Respondent shall submit to urinalysis within 24-hours of being instructed by the Board's Compliance staff to do so;
3. The results of all of the Respondent's urine screens shall be negative for any controlled dangerous substance, narcotics, cocaine, or other mood-altering substance, except as provided in #7 below.

4. The Respondent shall continue monthly participation in individual therapy sessions focusing on substance abuse and relapse prevention and shall fully cooperate with the recommendations of the therapist;
5. The Respondent shall ensure that the therapist submits quarterly progress reports to the Board;
6. The Respondent shall ensure her employer(s) submit to the Board quarterly performance reports;
7. The Respondent shall abstain from the ingestion of controlled dangerous substances, narcotics, cocaine, or other mood-altering substances, except as specifically provided below. The Respondent may only ingest prescribed controlled dangerous substances for legitimate medical reasons under the following conditions:
 - a. The Respondent must be a bona fide patient of a licensed Maryland prescriber who is aware of this Order;
 - b. The medication must be lawfully prescribed by the Respondent's physician or other authorized medical practitioner;
 - c. The Respondent must provide the Board, in writing, within seventy-two (72) hours of receiving the medication: (1) the name and address of the prescriber; (2) the illness or medical condition diagnosed; (3) the type, strength, amount and dosage of the medication; (4) and a signed statement consenting to the release of all medical information about the Respondent from the prescriber to the Board; and

ORDERED that the Respondent's execution of this Order shall constitute a release to the Board of any and all medical health related records, substance abuse treatment records, and mental health records pertaining to the Respondent's compliance with the terms and conditions set forth herein; and be it further,

ORDERED that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of her compliance with the terms and conditions of this Consent Order, including contacting the Board prior to leaving the State; and be it further,

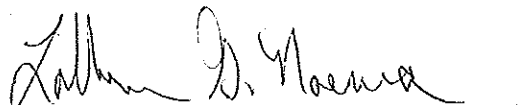
ORDERED that the Respondent's failure to fully cooperate with the Board shall be deemed a violation of the probationary terms and a violation of this Consent Order; and be it further,

ORDERED that in the event the Respondent fails to fully cooperate with the Board, violates any condition of probation, or if the Board receives credible evidence that the Respondent has relapsed, she shall be immediately summarily suspended with an opportunity for a post-deprivation show cause hearing; and be it further,

ORDERED that the Respondent may petition the Board for release from probation on or after November 19, 2011 provided that she has been fully compliant with all of the terms of probation and there are no pending complaints against her; and be it further,

ORDERED that this is a formal order of the Maryland Board of Pharmacy and as such is a public document pursuant to the Md. Code Ann., State Gov't, § 10-617(h).

10/13/09
Date



LaVerne G. Naesea, Executive Director
Board of Pharmacy

CONSENT

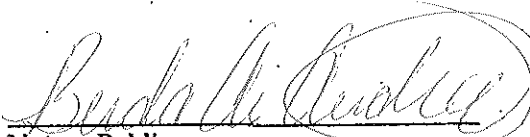
1. By signing this Consent, I hereby affirm the findings of fact contained herein and agree to be bound by the foregoing Consent Order and its conditions.
2. By this Consent, I submit to the foregoing Consent Order as a resolution of this matter. By signing this Consent, I waive any rights I may have had to contest the findings and determinations contained in this Consent Order.
3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.
4. 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.

Date 10/06/2009

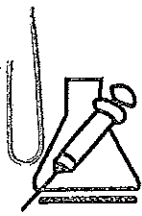

Devon Schlieper

STATE OF MARYLAND
COUNTY/CITY OF Washington:

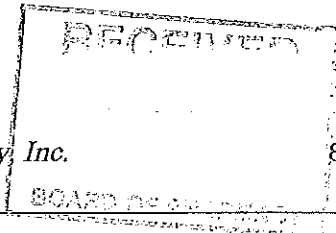
I hereby certify that on this 06 day of Oct, 2009, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared DEVON SCHLIEPER, and made an oath in due form that the foregoing Consent was her voluntary act and deed.


Notary Public

My commission expires: BRENDA ANN ANDERS
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires May 01, 2011



Friends
Medical Laboratory, Inc.



FRIENDS Medical Laboratory, Inc.
5820 Southwestern Blvd.
Baltimore, MD 21227
800-875-4797 Toll Free, 410-247-4417 Local
Director: Robert J. Kokoski, PhD.

PROGRAM PHONE NO. 410-764-4755
PROGRAM ACCOUNT NO. 1283

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SCHLIEPER, DEVON
D.O.B.

P MD. BOARD OF PHARMACY (CASH PAY)
R 4201 PATTERSON AVE
O
G
R BALTIMORE, MD 21215
A VANESSA, COLIN, STEVEN
M Report created: Jul 1, 2009 1:55 PM

LAB NO. 504708

RECEIVED: 06/30/2009
COLLECTED BY:
COMPLETED: 07/01/2009
SPECIMEN DATE: 06/30/2009, 02:07

Specimen Outcome: **Positive**

INITIAL SCREENING RESULTS

TEST	QUANT VALUES	OUTCOME	CUTOFF
EIA OPIATES		NEGATIVE	300 ng/mL
HYDROCODONE		NEGATIVE	2.0 MCG/ML
** (TLC-NA) MORPHINE		NEGATIVE	0.5 MCG/mL
CODEINE		NEGATIVE	1 MCG/ML
DILAUDID		NEGATIVE	1 MCG/ML
OXYCODONE		NEGATIVE	2 MCG/ML
AMI/NORTRIPTYLINE		NEGATIVE	2 MCG/ML
DOXEPIN		NEGATIVE	2 MCG/ML
METHADONE		NEGATIVE	2 MCG/ML
PHENOTHIAZINES		NEGATIVE	1 MCG/ML
PHENMETRAZINE		NEGATIVE	1 MCG/ML
QUININE		NEGATIVE	0.2 MCG/ML
TRAMADOL		NEGATIVE	1.0 MCG/ML
HYDROXYZINE		NEGATIVE	2 MCG/ML
** (TLC-B) BARBITURATES		NEGATIVE	1 MCG/ML
PHENOBARBITAL		NEGATIVE	1 MCG/ML
IMIPRAMINE		NEGATIVE	2 MCG/ML
MEPROBAMATE		NEGATIVE	1 MCG/ML
<i>MEPROBAMATE IS A METABOLITE OF SOMA</i>			
PCP		NEGATIVE	1 MCG/ML
PROPOXYPHENE		NEGATIVE	2 MCG/ML
** (TLC-S2) VALIUM		NEGATIVE	0.3 MCG/ML
ATIVANDALMANE		POSITIVE****	0.3 MCG/ML
BENZODIAZEPINES (UNSPEC.)		NEGATIVE	0.3 MCG/ML
CLONAZEPAM		NEGATIVE	0.3 MCG/ML
EIA AMPHETAMINES		NEGATIVE	1000 ng/mL
EIA COCAINE		NEGATIVE	300 ng/ml
EIA BENZODIAZEPINES		POSITIVE****	300ng/mL
EIA THC 20		NEGATIVE	20 ng/mL
EIA URINE ALCOHOL		NEGATIVE	20 mg/dl
DEMEROL		NEGATIVE	2 MCG/ML

Comments: OBSERVED COLLECTION



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PROGRAM ACCOUNT NO. 1283

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SCHLIEPER, DEVON
D.O.B.

P MD. BOARD OF PHARMACY (CASH PAY)
R 4201 PATTERSON AVE
O
G
R BALTIMORE, MD 21215
A VANESSA, COLIN, STEVEN
M Report created: Jul 17, 2009 2:00 PM

LAB NO. 518268

RECEIVED: 07/16/2009
COLLECTED BY:
COMPLETED: 07/17/2009
SPECIMEN DATE: 07/16/2009, 00:01

Specimen Outcome: **Positive**

INITIAL SCREENING RESULTS

TEST	QUANT VALUES	OUTCOME	CUTOFF
EIA OPIATES		NEGATIVE	300 ng/mL
HYDROCODONE		NEGATIVE	2.0 MCG/ML
** (TLC-NA) MORPHINE		NEGATIVE	0.5 MCG/mL
CODEINE		NEGATIVE	1 MCG/ML
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EIA THC 20		NEGATIVE	20 ng/mL
EIA URINE ALCOHOL		NEGATIVE	20 mg/dl
DEMEROL		NEGATIVE	2 MCG/ML

Comments: NO TIME ON BOTTLE OR C.O.C - SUPERVISED