

IN THE MATTER OF
MELISSA SKARBELIS, P.D.
LICENSE NO. 13546

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BEFORE THE MARYLAND
STATE BOARD OF
PHARMACY

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**CONSENT ORDER TERMINATING
SUMMARY SUSPENSION**



Background

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to the Maryland Pharmacy Act (the "Act"), 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 August 24, 2007, in which it summarily suspended the pharmacist's license held by Melissa Skarbelis, P.D. (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.).

On February 20, 2008, 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 and welfare of the public. In lieu of a continued summary suspension, the Respondent and the Board agreed to resolve the matter by way of this Consent Order with the terms contained herein.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on August 3, 1994.
2. At all times relevant herein, the Respondent was employed at CVS Pharmacy in

Lexington Park, Maryland in St. Mary's County. The Respondent was hired as a staff pharmacist on or about August 21, 2006.

3. By memorandum dated November 13, 2006, Chandra Mouli, P.D., Deputy Chief of the Division of Drug Control ("DDC"), sent to the Board a copy of a Drug Enforcement Administration ("DEA") 106 Form, reporting the theft or loss of controlled substances.

4. Specifically, the DEA 106 Form indicated that on November 10, 2006, CVS reported the theft of 1000 tablets of Hydrocodone/APAP.

5. The DEA 106 Form further stated that the total value of the controlled substances taken equaled \$826. Merchandise totaling \$25 was also taken. The report indicated that the theft was the result of employee pilferage.

6. As a result of this incident, the report stated that CVS instituted various security measures to prevent future thefts or losses.

7. Upon receipt of the above information, the Board conducted an investigation which revealed the following:

A. On October 22, 2006, an Assistant Store Manager at CVS was conducting a routine package check at the front door entrance. The Respondent was attempting to leave the store with a CVS bag. The Assistant asked to check the Respondent's bag and noticed that the Respondent had one package of Zicam, valued at \$11.99. When the Assistant asked the Respondent for a receipt, the Respondent replied that she had lost it.

B. Because the item was already opened, the Assistant removed the UPC label and informed the Respondent that she would find the receipt for her tomorrow, and the Respondent left without incident.

C. The Store Manager was notified of the incident the following day. She then

conducted an item movement audit on the item in question and found that the Zicam had not been purchased on the day the package check occurred. The Store Manager notified the Loss Prevention Manager of her findings.

D. The Loss Prevention Manager reviewed the DVR recordings on October 23, 2006, and determined that it appeared that the Zicam taken by the Respondent was not purchased on the preceding day. A further check indicated that other units of Zicam had also been recently taken without purchase on October 14 and 20, 2006.

E. The Manager also conducted a records check on the Respondent which indicated that the Respondent had previously received tort judgments, numerous traffic violations, and a criminal violation for making a false statement to a police officer.

F. Based upon that information, the CVS Pharmacy Supervisor, District Manager, and Loss Prevention Manager conducted an interview with the Respondent on November 10, 2006.

G. During the interview, the Respondent admitted to stealing the units of Zicam as well as 10 bottles of Hydrocodone, a controlled dangerous substance.

H. As a result of the above admissions, the Respondent was immediately terminated from her pharmacist position at CVS.

I. The Respondent also signed a written statement admitting to the diversion of controlled substances and other merchandise, and acknowledged that she had been treated fairly during the interview.

J. On November 19, 2006, the Respondent signed a Promissory Note to CVS in the amount of \$850.96.

K. The Respondent is not currently in any type of substance abuse rehabilitation

program.

8. Further investigation revealed that the Respondent filed a false report in order to renew her 2000 license in that she answered “no” to Question #5 on her renewal application, dated March 7, 2000. The application asked “(Since your last registration) Have you pled guilty, nolo contendere, or been convicted of, or received probation before judgment for any criminal act (excluding traffic violations)?” The Respondent should have answered “yes” for the following reasons:

A. On March 16, 1998, on behalf of the Maryland Insurance Administration/Insurance Fraud Division, a Statement of Charges was filed in the District Court of Maryland for Washington County against the Respondent.

B. The criminal charges involved filing a false claim of a value greater than \$300, in that, on or about September 28, 1995, the Respondent submitted to an insurer documentation that she knew to be false.

C. The claim arose from an automobile accident on January 25, 1995, in which the Respondent claimed she was injured and, as a witness, she named a certain individual whom she claimed witnessed the accident and had left a note on her car windshield.

D. When the detective hired by the insurer investigated the claim and talked to the individual, he found that the individual was actually a tenant of the Respondent and did not know anything about the accident. The individual reviewed the note purportedly written by her and denied writing or signing the statement. The individual stated that she had never possessed a driver’s license.

E. The Respondent sued the driver/owners of the other car. At a sworn deposition, the attorney for the insurer showed the Respondent the individual’s purported

written witness statement, which included the individual's name and address, and that the individual had witnessed the accident. The Respondent stated that she had found the note on her windshield.

F. The Respondent further claimed that she did not know the individual prior to discovering the note on her windshield and denied that the individual was a tenant of her and her husband.

G. At that point, the Respondent's attorney refused to let her answer any more questions and the deposition ended. Less than a month later, the Respondent dismissed the lawsuit.

H. As a result of statements made by the Respondent, the matter was referred to the Insurance Fraud Division. On October 28, 1998, the Respondent pled guilty to and was found guilty of filing a false claim over \$300, and was given Probation Before Judgment. The Respondent was placed on unsupervised probation and had to pay a fine of \$400.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that the Respondent violated Md. Code Ann., Health Occ. §§ 12-313(b)(1), (7),(14),(21) and (24) .

ORDER

Based on agreement of the parties, it is this 22 day of MAY, 2008, by an affirmative vote of the Board, hereby

ORDERED that the Respondent's license be **SUSPENDED** for at least **TWO (2)** YEARS, beginning August 24, 2007; and be it further,

ORDERED that during the suspension period, the Respondent may not work as a technician, or in any other capacity, in a pharmacy or other setting that stores, distributes or dispenses pharmaceuticals; and be it further,

ORDERED that during the suspension period, the Respondent shall comply with all licensure renewal requirements; and be it further,

ORDERED that after two (2) years of suspension, the Respondent may petition to lift the suspension of her license provided that the Respondent has:

- (1) Fully complied with all terms of suspension; and
- (2) Submitted to a substance abuse evaluation by a Board-appointed evaluator; and be it further,

ORDERED that the Board may, in response to such petition, lift the suspension and place the Respondent's license on immediate probation with any terms and conditions it deems appropriate based on the Respondent's compliance and the evaluation received by the Board; and be it further,

ORDERED that the Respondent's execution of this Consent Order shall constitute a release of any and all medical records, substance abuse treatment records, and psychological/psychiatric records pertaining to the Respondent to the Board in complying with the terms and conditions set forth herein. Further, the Respondent agrees and consents to the release by the Board of any information or data produced in relation to this Consent Order to any treatment provider; and be it further,

ORDERED that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Consent Order; and be it further,

ORDERED that in the event the Board finds for any good faith reason that the

Respondent has violated any of the conditions of suspension herein, or in the event that the Board finds for any good faith reason that the Respondent has committed a violation of Title 12 of the Health Occupations Article or regulations adopted thereunder, the Board may take further disciplinary action against the Respondent, after notice and an opportunity for a hearing; and be it further,

ORDERED that the Respondent shall bear the expenses associated with this Order; and be it further,

ORDERED that this document constitutes a formal disciplinary action of the Maryland State Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to the Public Information Act., State Gov't § 10-611 *et seq.* and COMAR 10.34.01.12.

May 22, 2008
Date

LaVerne G. Naesea
LaVerne G. Naesea, Executive Director for
Donald Taylor, R.Ph.
President, Board of Pharmacy

CONSENT

By signing this Consent, I hereby consent to the foregoing Findings of Fact and Conclusions of Law, and agree to be bound by the foregoing Consent Order and its conditions.

1. 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 of fact and conclusions of law contained in this Consent Order.


2. I acknowledge the validity of this Consent Order as if it were made after a hearing in which I would have had the right to counsel, to confront witnesses on my own behalf, and to all other substantial procedural protections provided by law.


3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.

4. I acknowledge that, by entering into this Consent Order, I am waiving my right to appeal any adverse ruling of the Board that might have followed an evidentiary hearing.

5. 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.

5/15/08
Date


Melissa Skarbels, P.D.


ROBIN D. LITTLE
Notary Public-Maryland
St. Mary's County
My Commission Expires
January 06, 2012