

IN THE MATTER OF * BEFORE THE
EUNICE OSHODI, P.D. * MARYLAND STATE
LICENSE NO. 14276 * BOARD OF PHARMACY
Respondent *

* * * * *

FINAL DECISION AND ORDER

Background

This case arose out of allegations that Eunice Oshodi, P.D. (the “Respondent”) was illegally distributing controlled dangerous substances out of Community Care Pharmacy, which she owned and operated. On April 20, 2006, law enforcement executed search warrants of the Respondent’s residence and Community Care Pharmacy, and seized, among other things, all controlled substances. The Division of Drug Control thereafter impounded the non-controlled substances and the prescription files located in Community Care Pharmacy. The Respondent was arrested on April 21, 2006, and charged with unlawfully distributing, possessing with the intent to distribute, and conspiring to unlawfully distribute, controlled dangerous substances.

The Board of Pharmacy (the “Board”) issued a Summary Suspension of the Respondent’s license to practice pharmacy on September 13, 2006. (State’s Ex. 6). The Board also issued a Notice of Intent to Revoke against Community Care Pharmacy on August 2, 2006. The Respondent did not request a hearing on the Notice of Intent to Revoke Community Care’s pharmacy permit, and therefore, the Board revoked the permit effective October 19, 2006. The Respondent requested a show cause hearing on the Summary Suspension of her pharmacist’s license. The Board initially scheduled the show cause hearing on September 20, 2006, but the hearing was postponed pursuant to the Respondent’s request.

On November 29, 2006, the Respondent pleaded guilty in Baltimore City Circuit Court to the unlawful distribution of Alprazolam. The Respondent was sentenced to three (3) years incarceration, with two (2) years and six (6) months suspended, and three (3) years supervised probation. Subsequently, the Board followed with Charges issued against the Respondent based upon the felony criminal conviction and the same underlying factual allegations contained in the Order for Summary Suspension.

On March 21, 2007, the Board held a consolidated show cause and contested case hearing under the Administrative Procedure Act, Md. Code Ann., State Gov't §10-201 *et seq.*, and COMAR 10.34.01, before a quorum of the Board to consider the merits of the Board's Summary Suspension Order and the subsequent Charges. On that same date, March 21, 2007, the same quorum of the Board convened to deliberate and voted to uphold 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. 1A - Computer Printout of Licensure Information
- B - 4/22/04 Reinstatement Application
- C - 3/28/06 Application
- D - Copy of current license, expires 3/31/08

- State's Exhibit No. 2A - Computer Printout of Pharmacy Permit Information
- B - Pharmacy Application
- C - Copy of pharmacy permit, expired 12/31/06

- State's Exhibit No. 3A - Application for search warrant, Marydell Road, etc.
- B - Application for search warrant, Community Care Pharmacy, etc.
- C - Application for search warrant for Norfolk Avenue

- D - 3/31/06 DEA Report
- E - 4/20/06 Community Care Pharmacy receipt list #1
- F - 4/20/06 Community Care Pharmacy receipt list #2
- G - 4/21/06 DEA Report
- H - 4/24/06 DEA Report, search warrant on Norfolk Avenue
- I - 4/24/06 DEA Report, buy from Respondent
- J - 5/04/06 DEA Report, search warrant on Marydell Road
- K - Respondent's Photo and Statement of Probable Cause, Statement of Charges
- L - 4/21/06 Letter from R. Watson
- M - Search warrant return for Community Care Pharmacy, dated 4/28/06
- N - Search warrant return for Norfolk Avenue, dated 4/28/06
- O - Search warrant return for Mitsubishi, dated 4/28/06
- P - Search warrant return for Marydell Road, dated 4/28/06
- Q - 5/12/06 DEA Report

- State's Exhibit No. 4A - Order of Impoundment
- B - Community Care Pharmacy Final Order of Revocation

- State's Exhibit No. 5 - Board Investigative report

- State's Exhibit No. 6 - Order for Summary Suspension of Respondent

- State's Exhibit No. 7 - Baltimore City Circuit Court Probation/Supervision Order

- State's Exhibit No. 8A - Letter of Procedure, dated January 25, 2007
- B - Charges
- C - Summons and Notice of Charges and Hearing

B. Witness Testimony.

State's Witnesses:

Shirley Costley, Licensing and Certification Manager
 Glenn Hester, DEA Diversion Drug Task Force Officer
 Roderick Watson, Acting Group Supervisor, Baltimore District Office,
 Drug Enforcement Agency

Chandra Mouli, Deputy Chief, Division of Drug Control
Colin Eversley – stipulated testimony

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 hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on August 8, 1996. The Respondent's license expires on March 31, 2008.

2. At all times relevant herein, the Respondent was the sole pharmacist and owner of a pharmacy called Community Care Pharmacy in Baltimore, Maryland.

3. In March 2006, the Respondent and her pharmacy became subjects of an active criminal investigation by the Baltimore City Police, Diversion Group. Specifically, the following occurred:

A. On March 28, 2006, the DEA Diversion Drug Task Force met with a Confidential Source (CS) who is registered with the Baltimore Police Department. The purpose of the meeting was for the CS to make a purchase of controlled substances from the Respondent;

B. Accordingly, the CS placed a telephone call to the Respondent's cellular phone and placed an order for 1000 Alprazolam and 400 Clonazepam, and was instructed by the Respondent to purchase the drugs from the Respondent's daughter at Community Care Pharmacy;

C. Subsequently, the CS purchased the drugs from the Respondent, via the Respondent's daughter, for \$1300 in government funds;

D. The above transaction took place at the Respondent's pharmacy, Community Care Pharmacy;

E. Immediately afterwards, the CS met the Task Force officers at a pre-designated place and gave to them one black plastic bag containing five pharmacy stock bottles, one of which contained 1000 tablets of Alprazolam, a Schedule IV controlled dangerous substance, and four bottles containing 100 tablets of Clonazepam, another Schedule IV drug. In addition, the CS returned \$100;

F. On April 19, 2006, the CS made telephone call to the Respondent's cellular phone and ordered 500 Alprazolam, 300 Clonazepam, 300 Clonidine, and 100 Promethazine. On April 20, 2006, the CS made arrangements to pick up the order. The CS was outfitted with a recording device and given \$1000 in law enforcement funding. The Respondent filled the order. The CS met with the Respondent's daughter at a mall and sat in her car, after which the CS entered his/her vehicle and drove to the pre-designated meeting spot to meet Task Force officers. Once there, the CS handed a Task Force officer a brown bag containing a stock bottle with 500 Alprazolam, three prescription bottles with Clonazepam, totaling 300, one bottle containing 100 Promethazine and three prescription bottles containing Clonidine, containing 100 tablets each.

G. Following the sale of the above drugs, the Respondent's daughter was arrested and she and her car were searched resulting in other drugs being found.

H. The Respondent was arrested outside Community Care Pharmacy on the above date. At that time, a search disclosed that she had approximately \$10,000 on her person in various denominations, consistent with street level sales.

4. Based on the controlled buy as well as other information, on April 20, 2006, officers executed a search and seizure warrant, which enabled them to find the following:

- (A) In the pharmacy, numerous prescription bottles of Alprazolam, Clonazepam and other drugs were seized, as well as U.S. currency from a black plastic bag, which was inside a brown leather handbag containing \$9761, and \$780 of government money that was paid during the above controlled buy event;
- (B) In the residence of the Respondent, numerous prescription pads from Northwest Hospital in Baltimore County, prescription bottles containing Clonazepam, and other drugs, as well as \$30,452 in U.S. currency.

5. On April 21, 2006, the Respondent was arrested and charged with the following:

- A. Did unlawfully distribute to [the Respondent's daughter] a controlled dangerous substance of schedule IV, to wit, Alprazolam;
- B. Did unlawfully distribute to [the Respondent's daughter] a controlled dangerous substance of schedule IV, to wit, Clonazepam;
- C. Did unlawfully possess a controlled dangerous substance of schedule IV, to wit, Alprazolam, in sufficient quantity to indicate an intent to distribute the same;
- D. Did unlawfully possess a controlled dangerous substance of schedule IV, to wit, Clonazepam, in sufficient quantity to indicate an intent to distribute the same;
- E. Did conspire with [the Respondent's daughter] to unlawfully distribute to CS a controlled dangerous substance of schedule IV, to wit, Alprazolam; and,
- F. Did conspire with [the Respondent's daughter] to unlawfully distribute to

CS a controlled dangerous substance of schedule IV, to wit, Clonazepam.

6. On September 13, 2006, the Respondent's license was summarily suspended by the Board. On August 2, 2006, by letter dated July 21, 2006, the Board issued a Notice of Intent to Revoke the pharmacy permit of Community Care Pharmacy. On October 19, 2006, the Board issued an Order revoking the pharmacy's permit.

7. On November 29, 2006, the Respondent pled guilty to and was found guilty of Count 1, unlawful distribution of Alprazolam. The Respondent was sentenced to three years incarceration, with two years and six months suspended; the six months is to be served via home monitoring. The Respondent was also sentenced to three years supervised Probation following the six months home monitoring.

8. As set forth above, by pleading to and being found guilty of a felony and a crime of moral turpitude, as a result of selling large quantities of Schedule IV drugs for distribution to street individuals who had no prescriptions for same, the Respondent is in violation of the Maryland Pharmacy Act.

OPINION

The Respondent opened Community Care Pharmacy on November 4, 2005. Not more than six months later, the Respondent was arrested for illegally distributing large quantities of controlled dangerous substances. Although the Respondent testified that she was "intimidated" into distributing the drugs to the confidential source ("CS"), the Board does not find her testimony credible. The fact that the Respondent gave the CS her personal cell phone number to contact her directly to place the drug orders seriously undermines her defense. In addition, although the Respondent contends that she feared the CS and thus gave in to his demands for

drugs, the Respondent had no problem having her daughter, with her grandchild in tow, executing the drug transactions on her behalf. Furthermore, the Respondent could offer no valid explanation for the numerous blank prescription pads, marijuana, large amounts of cash, or Clonazepam pills that were recovered from the Respondent's residence. In addition, the DEA seized, among other things, prescriptions filled by other pharmacies for named patients, and a leather handbag with vials of Alprazolam and Clonazepam and approximately \$10,000 in cash, from Community Care Pharmacy. The above information indicates to the Board that the Respondent opened a pharmacy for the primary purpose of engaging in illegal drug sales.

The Respondent abused her privilege as a pharmacist by using her pharmacist's license to execute, and profit from, illegal drug sales at the direct expense of the public's health and safety. The Board finds the Respondent's conduct illegal, unethical, and inexcusable. The Board cannot find any mitigating factors in defense of the Respondent's actions.

A pharmacy, much like any other healthcare setting, is a place where patients go for professional medical advice and services. Needless to say, operating an illegal drug distribution business from the pharmacy setting not only violates state and federal laws, but also undermines the trust that patients have in their community pharmacy and pharmacist.

CONCLUSION

Based upon the foregoing findings of fact and opinion, the Board concludes that the Respondent is in violation of Health Occupations Article §§ 12-313(b)(21), and that the Respondent's actions posed an imminent threat to the public health, safety and welfare requiring emergency action under State Gov't Article § 10-226(c)(2).

SANCTIONS

The Board believes that the Respondent, through her actions, has forfeited her right to practice pharmacy at the present time. The Respondent has proven that she does not utilize her pharmacist's license to offer much needed pharmaceutical services to the community, but rather to profit from illegal drug sales. The Board believes that the public's health and safety would be compromised if the Respondent is permitted to maintain her pharmacist's license. Although the Respondent claims that she is remorseful for her actions, the Board believes that remorse alone is not sufficient to remedy the damage the Respondent has tolled on the public and the pharmacy profession.

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 Summary Suspension Order, dated September 13, 2006, was properly issued by the Board; and be it further,

ORDERED that the Respondent's license to practice pharmacy be **REVOKED** for a minimum of **FIVE (5) YEARS**; and be it further,

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

May 1, 2007
Date

LaVerne G. Naesea
LaVerne G. Naesea, Executive Director, for
Mark Levi, 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.