

IN THE MATTER OF
MATTHEW C. GREEN, P.D.

Respondent
License No. 13770

* BEFORE THE
* MARYLAND BOARD
* OF
* PHARMACY

* * * * *

On Feb 12 and March 26, 97 the Board sent the Respondent Notice of Charges and Intent to Revoke and informed him that he had thirty (30) days to request a hearing. More than thirty (30) days have elapsed and the Respondent has failed to request a hearing. Therefore, the Board issues this Final Order.

FINAL ORDER

Based on information received, the State Board of Pharmacy (the "Board") charged Matthew C. Green, P.D., License No. 13770, (the "Respondent"), under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 12-101, et seq., (2005 Repl. Vol.).

Specifically, the Board charged the Respondent with violating the following provisions of § 12-313 of the Act:

(b) *In general.* -- 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:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(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; and

(23) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes.

The underlying grounds for disciplinary action under § 12-313(b)(23) charged were as follows:

- (7) Willfully fails to file or record any report that is required by law;
- (14) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;
- (15) Except as provided in § 12-506 of this title, unless an authorized prescriber authorizes the refill, refills a prescription for any drug, device, or diagnostic for which a prescription is required;
- (16) Violates any provision of § 12-505 of this title, which concerns the labeling requirements for prescriptions for drugs, devices, or diagnostics; and
- (20) Is professionally, physically, or mentally incompetent.

FINDINGS OF FACT

The Board finds the following:

1. At all times relevant, the Respondent was licensed to practice as a Pharmacist in the State of Maryland. He was initially licensed in Maryland on or about February 15, 1995. The Respondent's license to practice as a pharmacist in Maryland expires in May of 2008.

I. Virginia Licensure and Disciplinary Action

2. In addition to Maryland, the Respondent was licensed as a Pharmacist by Virginia. The Respondent was initially licensed in Virginia on August 31, 1995.

A. August 3, 2005 Consent Order

3. On or about August 3, 2005, the Respondent entered into a Consent Order with the Virginia Board of Pharmacy. The August 2005 Consent Order contained the following Findings of Fact and Conclusions of Law:

a. Since July 15, 2002, the Respondent was the designated pharmacist-in-charge ("PIC") at CVS/pharmacy #1830, Alexandria, Virginia.

b. The Respondent violated the Virginia Pharmacy Act in that on December 2, 2003, a routine inspection disclosed that he failed to conduct a complete and accurate incoming PIC inventory of all Schedule I through V Controlled Dangerous Substances ("CDS").

c. The Virginia Board assessed a monetary penalty in the amount of \$250.00.

B. Summary Suspension and August 11, 2006 Consent Order

4. The Respondent's license in Virginia was summarily suspended on or about July 10, 2006. The Virginia Board's Summary Suspension was based on allegations that the Respondent dispensed approximately 18,000 tablets of Lorcet (Schedule III, CDS), approximately 75 tablets of Vicodin ES (Schedule III, CDS), approximately 18,000 tablets of carisoprodol, and approximately 80 tablets of promethazine to individuals without authorization, in unlabeled vials or envelopes, and

failed to maintain records of the transactions. The Summary Suspension also referenced the Respondent's guilty plea to one count of illegal distribution of CDS.¹

5. On August 11, 2006, the Virginia Board of Pharmacy entered into a Consent Order with the Respondent, including Findings of Fact and Conclusions of Law.

6. The Virginia Board found that from approximately February 2003 to February 2006, while employed as a pharmacist-in-charge at a CVS in Alexandria, Virginia, the Respondent:

a. dispensed approximately 18,000 tablets of Lorcet 10/650 (hydrocodone/APAP), a Schedule III controlled substance, to Individual A and approximately 75 tablets of Vicodin ES (hydrocodone/APAP, Schedule III) to Individual B. The Respondent was found to have dispensed such drugs without authorization, in unlabeled vials or envelopes and without maintaining any records of the transactions.

b. dispensed approximately 18,000 tablets of carisoprodol, a Schedule VI controlled substance, to Individual A and approximately 80 tablets of promethazine 50 mg, a Schedule VI controlled substance, to Individual C. The Respondent was found to have dispensed such drugs without authorization, in unlabeled vials or envelopes and without maintaining any records of the transactions.

7. The Virginia Board also found that on or about May 5, 2006, in the United States District Court for the Eastern District of Virginia, Alexandria Division, the Respondent pleaded guilty to one count of illegal distribution of CDS, a felony, in

¹ The allegations in the Summary Suspension are the same as the facts in the August 2006 Consent Order.

violation of 21 U.S.C. § 841(a)(1), based on his illegal distribution of Hydrocodone as described in paragraph 6.a above.

8. As a result of the Respondent's conduct as admitted in the Virginia Order, the Respondent's license to practice as a pharmacist in Virginia was indefinitely suspended for a period of not less than one year.

II. Plea of Guilty to a Felony or Crime Involving Moral Turpitude

9. On or about May 5, 2006, the Respondent pled guilty in the United States District Court for the Eastern District of Virginia, Alexandria Division, to one count of illegal distribution of CDS, Hydrocodone, a felony, in violation of 21 U.S.C. § 841(a)(1).

10. The Statement of Facts entered as part of the Respondent's plea agreement contained the following facts:²

- a. The [Respondent] was employed in a position of trust as a pharmacist at CVS Pharmacy #1830, located at 6228 Kings Highway, Alexandria, Virginia. For a period of six years, the Defendant served as the pharmacy manager at CVS #1830.
- b. For a period of approximately three years, from February 2003 to February 2006, the [Respondent] illegally distributed Hydrocodone to two known persons, hereinafter denoted by the fictitious initials AA and BB, without a valid prescription and without a legitimate medical purpose.
- c. The [Respondent] illegally distributed to AA at least 40 Hydrocodone tablets (#40 Hydrocodone 10/650) at least 150 times each year for a total of 18,000 Hydrocodone pills.
- d. The [Respondent] illegally distributed to BB at least five (5) Hydrocodone/Vicodin tablets on five occasions each year for a total of 75 Hydrocodone pills.

11. On or about November 6, 2006, the Respondent was sentenced to probation for three (3) years. As special conditions of probation, the Respondent was,

² The facts are similar to paragraph 6.a., above, with slight amplification.

among other things, placed on home detention for four (4) months and prohibited from working as a pharmacist or having access to controlled substances in any jurisdiction while on probation.

III. Maryland Application for Renewal of Pharmacist License

12. On May 15, 2006, the Respondent submitted to the Board a renewal application.³ The Respondent signed the application affirming the answers to the questions were "true and correct to the best of [his] knowledge and belief."

13. In his 2006 renewal application, the Respondent answered "No" to question 2.(a) which provides:

Has any State Licensing or Disciplinary Board, or a comparable body in the Armed Services denied your application for licensure, reinstatement or renewal, or taken any action against your license, including but not limited to reprimand, suspension, or revocation?

14. The Respondent's answer was false in that on or about August 3, 2005, he entered into a Consent Order with the Virginia Board of Pharmacy, imposing a \$250.00 fine for failing to conduct and complete an accurate inventory of all Schedule I through V controlled substances.

15. In his renewal application, the Respondent answered "No" to question 5 which provides:

Have you pled guilty, nolo contendere, or been convicted of, or received probation before judgment of any criminal act (excluding traffic violations)?

16. The Respondent's answer was false in that on or about May 5, 2006, just ten days prior to submitting his renewal application to the Board, he pled guilty in United

³ The 2006 renewal application questions covered the time period since the Respondent's last renewal in May of 2004.

States District Court for the Eastern District of Virginia to illegal distribution of Hydrocodone.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes the Respondent violated the following provisions of the Maryland Pharmacy Act, H.O. § 12-313(b)(1), (21), and (23). The Board further concludes the Respondent, as underlying grounds for disciplinary action under H.O. § 12-313(b)(23), violated H.O. § 12-313(b)(7), (14), (15), (16), and (20).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, by a unanimous vote of a quorum of the Board, it is hereby:

ORDERED, on this 15th day of MAY 2007, that the Respondent's license to practice pharmacy in the State of Maryland is hereby **REVOKED**; and be it further

ORDERED, that this **FINAL ORDER** is a **PUBLIC DOCUMENT** as defined in Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2004 Repl. Vol.).

May 15, 2007
Date


LaVerne G. Naesea, Executive Director
For
Mark Levi, P.D.,
President, Maryland Board of Pharmacy

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. §§ 12-101 *et seq.* (2005 Repl. Vol.) and the Administrative Procedure Act, Md. State Gov't Code Ann. §§ 10-201, *et seq.* (2004 Repl. Vol.) you have the right to take a direct judicial appeal of this decision. Any appeal must be filed within thirty (30) days of your receipt of this executed Final Order, and shall be made as provided for judicial review of a final decision in the Administrative Procedure Act, codified at Md. State Gov't Code Ann. § 10-201, *et seq.*, (2004 Repl. Vol.).