

IN THE MATTER OF

*

BEFORE THE

IP KWOK CHEUNG, P.D.
a/k/a DAVID CHEUNG

*

STATE BOARD

*

OF PHARMACY

License No.: 10797
Respondent

*

Case No. 07-073

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ORDER FOR SUMMARY SUSPENSION

Pursuant to Md. State Govt. Code Ann. §10-226 (c)(2004 Repl. Vol. and 2007 Supp.), the State Board of Pharmacy (the "Board") hereby suspends the license to practice pharmacy in Maryland issued to Ip Kwok Cheung, P.D., a/k/a David Cheung, (the "Respondent"), under the Maryland Pharmacy Practice Act (the "Act"), Md. Health Occ. Code Ann. § 12-101, et seq., (2005 Repl. Vol. and 2007 Supp.). This Order is based on the following investigative findings, which the Board has reason to believe are true:

BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on July 31, 1986. The Respondent's license expires on June 30, 2008.
2. At all times relevant herein, the Respondent was the owner and sole dispensing pharmacist of NatureCare Pharmacy ("NatureCare") in Baltimore.
3. On May 29, 2004, Jack Greenberg, who was 25 years old at that time, informed Federal officials who were investigating a physician for overprescribing narcotics, that he had Crohn's disease, for which he had been to a specialist only three

times; the specialist prescribed him Loricet, a narcotic, on three occasions for the pain associated with the disease. In December 2000, Mr. Greenberg began doctor-shopping. He would obtain a prescription by fraud or create one. After obtaining the Oxycontin via the fraudulent prescriptions, he would distribute them to five individuals who would pay him \$24 per tablet for 80mg Oxycontin and \$12 per tablet for 40mg Oxycontin. Mr. Greenberg stated that he would go to a pharmacy, sometimes accompanied by one of the individuals he sold the tablets to, using the money that he had collected from them.

4. Mr. Greenberg stated that he learned of NatureCare from one of his doctors, who said a lot of his patients use the pharmacy and provided Mr. Greenberg a business card for the pharmacy. Mr. Greenberg further stated that the Respondent "knew that he was addicted to Oxycontin" and that the Respondent filled prescriptions for him written by several different doctors, which the Respondent never questioned. On a few occasions, the Respondent dispensed more tablets or a higher dose than what was written on the prescriptions. Mr. Greenberg stated that he could fill a prescription at NatureCare at any time, even if he had just filled a 30-day-supply prescription a few days earlier.

5. The Respondent would submit claims to Medicaid for Mr. Greenberg's prescriptions, unless Mr. Greenberg submitted a prescription too early for Medicaid to pay for it; then, the Respondent would charge Mr. Greenberg cash. On a few occasions, the Respondent filled three to four prescriptions written by Mr. Greenberg on a physician's pad which Mr. Greenberg had stolen. On one occasion, the Respondent informed Mr. Greenberg that he would not fill a particular prescription because he knew

it was fraudulent; however, later that same day, the Respondent filled another prescription for Mr. Greenberg for the same medication.

6. Based on the prior information a joint task force, including the Drug Enforcement Administration (DEA), executed a Federal search warrant on December 3, 2003 on NatureCare. The information included the fact that a confidential source had become addicted to Stadol, a medication given to him/her for his/her migraine headaches, and that, when he/she was unable to get a prescription for same, the Respondent would provide Stadol for him/her at \$72 per bottle and later at \$95 per bottle. The confidential source indicated that he/she purchased the drugs with personal checks, some of which bounced, which led the Respondent to stop providing him/her the medication until he/she paid the past due money.

7. During the course of an investigation conducted by the Baltimore County Police Department and the Department of Health and Human Services-Office of the Inspector General (OIG) into the prescribing practices of a physician, another confidential informant indicated that that physician contacted the Respondent to make sure that the Respondent had enough Percocet and Oxycontin in stock. The Respondent gave the physician a little stamp to mark the prescriptions so that they could only be filled at NatureCare. The Respondent asked the informant to provide him with blank prescriptions from the physician's office; the informant provided the Respondent with blank pre-signed prescription forms from the physician's office. The Respondent once explained to the informant that he was aware that the patients who come into NatureCare with several different prescriptions completed in different names

are fraudulent, but he filled them anyway. The Respondent further explained to the informant what DEA looks for and how to elude them.

8. In the further investigation of that physician, the team developed another confidential source of information who indicated that that physician and his office manager referred all of his patients to NatureCare and that the Respondent charged patients \$300-400 in cash to fill prescriptions, and, that if a patient has insurance, the Respondent asked for extra cash, which he placed in his pocket, rather than in the cash register.

9. In that same investigation, a third confidential source informed the team that, on November 17, 2003, he/she had prescriptions filled at NatureCare by the Respondent. The prescriptions were in the names of his/her mother, father and significant other. This individual advised that these prescriptions were written in other people's names so that he/she could use their insurance cards to cover the costs of the prescriptions. That individual further advised that the Respondent never questioned the prescriptions for Schedule IIs, although he/she passed several prescriptions in others' names at the same time.

10. During that December 3, 2003 execution of a Federal search warrant at NatureCare, the Respondent was questioned by members of the team. The Respondent stated the following: that he charged the patients of the particular physician in question additional cash to fill their prescriptions because he knew that those patients really did not need the Schedule IIs; that what he charges depends on who the patient is; and, that their prescriptions were written for Oxycontin, Percocet and Methadone. He

concluded that approximately 80% of the Oxycontin prescriptions were from the physician under investigation.

11. The agents found large sums of U.S. currency located throughout the pharmacy, some inside of boxes, leading the agents to believe that illicit controlled substance trade was occurring.

12. On January 29, 2004, the Respondent and his attorney met with the DEA, OIG and US Attorney's representatives to discuss the Federal investigation involving him and the physician earlier referred to, wherein the Respondent provided a revised pharmacy printout from his store of the Schedule IIs for that physician.

13. Subsequently, Mr. Greenberg pled guilty to distribution of controlled dangerous substances (CDS) and health care fraud; the physician's office manager also pled guilty to distribution of CDS; some other patients of the physician also pled guilty to distribution of CDS. This was based on 246 prescription violations, where the physician's DEA number was changed in order to avoid DEA detection, and on each of the 133 prescriptions filled for Greenberg and the other two patients, totaling 379 CDS violations.

14. On January 17, 2007, the Respondent agreed to pay \$500,000 to settle claims that he violated the Controlled Substances Act by providing false information and/or improperly dispensing prescriptions containing Oxycodone. The Settlement Agreement stated that between March 18, 2002 and November 1, 2004, the Respondent, through NatureCare Pharmacy, committed multiple violations of the Controlled Substances Act by dispensing Oxycontin and Oxycodone-related products without a valid prescription; and, from March 21, 2003 to October 6, 2003, placed false

DEA numbers on the backs of 246 prescriptions, including prescriptions for Oxycontin, Percocet, Endocet and Roxicet, in order to avoid detection by the DEA. As part of the agreement, the Respondent would not contest the forfeiture of \$77,207 seized during searches executed on December 1, 2003 at his home in Ellicott City and the NatureCare Pharmacy in Catonsville, as well as \$130,000 from the sale of NatureCare.

FINDINGS OF FACT

1. As set forth above, the Respondent, a pharmacist, who forged prescriptions and filled forged prescriptions for highly addictive CDS, is a threat to the public health, safety or welfare.

2. The above actions also constitute violations of the Act. Specifically, the Respondent violated the following provisions of §12-313:

- (b) 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 uses a license;
 - (6) Submits a false statement to collect a fee;
 - (7) Willfully makes or files a false report or record as part of practicing pharmacy;
 - (8) Willfully fails to file or record any report that is required by law;
 - (21) Is professionally, physically, or mentally incompetent;
 - (24) 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;

(25) Violates any rule or regulation adopted by the Board [;].

The Board also finds that the Respondent violated the following rule, Md. Code Reg.

10.tit. 34. §10:

.01 Patient Safety and Welfare.

A. A pharmacist shall:

(1) Abide by all federal and State laws relating to the practice of pharmacy and the dispensing, distribution, storage, and labeling of drugs and devices, including but not limited to:

(a) United States Code, Title 21,

(b) Health-General Article, Titles 21 and 22, Annotated Code of Maryland,

(c) Health Occupations Article, Title 12, Annotated Code of Maryland,

(d) Criminal Law Article, Title 5, Annotated Code of Maryland, and

(e) COMAR 10.19.03 [;].

CONCLUSIONS OF LAW

Based on the foregoing, the Board finds that the public health, safety or welfare imperatively requires emergency action, pursuant to Md. St. Gov't. Code Ann. '10-226(c)(2) (2004 Repl. Vol.).

ORDER

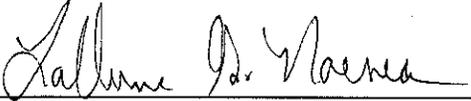
Based on the foregoing, it is therefore this 3 day of December, 2007, by a majority vote of a quorum of the State Board of Pharmacy, by authority granted by the

Board by Md. St. Govt. Code Ann. ' 10-226(c)(2) (2004 Repl. Vol.), the license held by the Respondent to practice pharmacy in Maryland, License No. 10797, is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED, that upon the Board's receipt of a written request from the Respondent, a Show Cause Hearing shall be scheduled within a reasonable time of said request, at which the Respondent will be given an opportunity to be heard as to whether the Summary Suspension should be continued, regarding the Respondent's fitness to practice pharmacy and the danger to the public; and be it further

ORDERED, that the Respondent shall immediately turn over to the Board his wall certificate and wallet-sized license to practice pharmacy issued by the Board; and be it further

ORDERED, that this document constitutes a final Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. State Gov't Code Ann. ' 10-617(h) (2004 Repl. Vol.).



LaVerne Naesea, Executive Director
Board of Pharmacy

NOTICE OF HEARING

A Show Cause hearing to determine whether the Summary Suspension shall be continued will be held before the Board at 4201 Patterson Avenue, Baltimore, 21215 following a written request by the Respondent for same.

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