

IN THE MATTER OF * BEFORE THE STATE
JOHN E. DASKAL * BOARD OF
RESPONDENT * PHARMACY
LICENSE NUMBER: 07117 * CASE NUMBER: 16-036

* * * * *

FINAL CONSENT ORDER

The State Board of Pharmacy (“the Board”) charged John E. Daskal, P.D. (“the Respondent”), license number: 07117 under the Maryland Pharmacy Act (the “Act”), Md. Health Occ. Code Ann. II (“H.O.”) §§ 12-101 *et seq.* (2014 Repl. Vol.). Specifically, the Board charges the Respondent with violating the following provisions:

H. O. § 12- 313. Denials, reprimands, suspensions, and revocations- Grounds.

(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 for a pharmacist’s license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:

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

(7) Willfully makes or files a false report or record as part of practicing pharmacy;

(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 charges the Respondent with violating:

Code of Md. Regs tit. 10, §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:

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

B. A pharmacist may not:

(3) Engage in unprofessional conduct.

FININGS OF FACT

The Board finds that:

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in the State of Maryland. The Respondent was originally licensed to practice pharmacy in Maryland on or about November 19, 1999.

2. The Respondent's license expires on March 31, 2017.

3. On or about September 28, 2015, an investigator with the West Virginia Board of Pharmacy ("West Virginia Board") contacted Board staff. The West Virginia Board investigator informed Board staff that the Respondent had been disciplined by the West Virginia Board.

4. Information provided by the West Virginia Board investigator revealed that the Respondent and a pharmacy ("Pharmacy A") co-owned by the Respondent had

been disciplined by the West Virginian Board, on two separate occasions between 2011 and 2012.

5. On or about February 23, 2011, the Respondent, who held a pharmacy permit to operate Pharmacy A in the State of West Virginia, entered into a consent agreement with the West Virginia Board. The Respondent was the pharmacist in charge of Pharmacy A.

6. The West Virginia Board found that the Respondent left controlled substances and other medications out and unsecured in the pharmacy area, while awaiting destruction. This allowed the Respondent's girlfriend to enter the pharmacy and divert medication from the pharmacy, including controlled substances.

7. The West Virginia Board reprimanded Pharmacy A and ordered it to pay a fine in the amount of five thousand dollars (\$5000).

8. On or about November 7, 2012, the Respondent entered into a consent agreement with the West Virginia Board. The West Virginia Board found that Respondent improperly dispensed Levocarnitine instead of Levocetirizine to a 22-month old patient.

9. The West Virginia Board reprimanded the Respondent and ordered the Respondent to pay a fine and penalty of fifteen hundred dollars (\$1500).

10. The Respondent renewed his license to practice as a pharmacist in Maryland for the 2011, 2013, and 2015 renewal periods.

11. Each time that the Respondent renewed his Maryland pharmacist license for the renewal periods 2011, 2013, and 2015, the Respondent was required to truthfully answer all questions that appeared on his renewal applications.

12. The Respondent answered "NO" to questions on his 2011, 2013, and 2015 renewal applications that asked whether any state licensing or disciplinary board (including Maryland) had taken action against any registration, certificate, or license held by the Respondent.

13. The Respondent did not answer truthfully on his 2011, 2013, and 2015 renewal applications and he failed to inform the Board that he has been disciplined by the West Virginia Board.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated H. O. §12-313 (b) (1), (7), (24), and (25) and Code Md. Regs. tit. 10 § 34.10 .01 A (1) (c) and B (3).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 11th day of August 2016, by a majority of the Board hereby:

ORDERED that the Respondent's license to practice pharmacy be **SUSPENDED** for a period of sixty (60) days; and it is further

ORDERED that following the period of suspension, the Respondent's license shall be placed on **PROBATION** for a period of two (2) years subject to the following terms and conditions:

1. The Respondent shall submit to random, Board-ordered urine drug testing on a monthly basis.

2. The Respondent shall attend weekly Alcoholics Anonymous and/or Narcotic Anonymous and provide the Board with documentation of his attendance; and it is further

ORDERED that all urine screens under this Order shall be:

- (1) Submitted by the Respondent within 24 hours of the Board staff instructing him to submit a sample;
- (2) Submitted at a CLIA-certified laboratory; and
- (3) Negative for alcohol or any controlled dangerous substance, narcotics, cocaine, or other mood-altering substances, except as provided below; and it is further

ORDERED that the Respondent shall abstain from the ingestion of alcohol or controlled dangerous substances, narcotics, cocaine, or other mood-altering substances, except that the Respondent may only ingest prescribed controlled dangerous substances for legitimate medical reasons under the following conditions:

- a. Respondent must be a bona fide patient of a licensed prescriber who is aware of this Order;
- b. The medication must be lawfully prescribed by Respondent's physician or other authorized medical practitioner;
- c. Respondent must provide the Board, in writing, within seventy-two (72) hours of receiving the medication: (a) the name and address of the prescriber; (b) the illness or medical condition diagnosed; (c) the type, strength, amount and dosage of the medication; (d) and a signed

statement consenting to the release of all medical information about the Respondent from the prescriber to the Board; and be it further,

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

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

ORDERED that at the end of the Respondent's probationary period, the Respondent shall file a written petition to the Board for termination of the probationary status and the removal of any conditions or restrictions that resulted from this disciplinary action, provided that Respondent has fulfilled all the terms and conditions set forth herein, is not in violation of this Order, and there are no outstanding complaints against the Respondent; and it is further

ORDERED that if the Respondent fails to make any such petition, then the probationary period status shall continue indefinitely, subject to the conditions set forth in this Order; and it is further

ORDERED that if the Board determines that the terms or conditions of this Order have not been successfully completed, the Board may modify the terms and conditions of Respondent's probation, upon notice to the Respondent; and it is further

ORDERED that if the Respondent violates any of the terms of this Order, the Board, after notice and a hearing, and a determination of violation, may impose any

other disciplinary sanctions it deems appropriate, said violation being proved by a preponderance of evidence; and it is further

ORDERED that Respondent shall be responsible for all costs incurred under this Order; and it is further

ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

ORDERED that this document constitutes a formal disciplinary action of the State Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to Md. General Provisions §§ 4-101 *et seq.* (2014).

8/11/16
Date


Mitra Gavvani, Pharm.D.
President
State Board of Pharmacy

CONSENT OF JOHN E. DASKAL, Pharmacist

I, John E. Daskal, by affixing my signature hereto, acknowledge that:

1. I understand that I have a right to be represented by an attorney, however, I have decided to represent myself.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code II Ann. § 12-315 (Repl. Vol. 2014) and Md. State Govt. Code I Ann. §§ 10-201 *et seq.* (Repl. Vol. 20014).

3. I acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I am waiving those procedural and substantive protections.

4. I voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set forth in this Consent Order, as a resolution of the Board's case, based on the findings set forth herein.

5. I waive my right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, and any right to appeal this Consent Order as set forth in Md. Health Occ. Code II Ann. § 12-316 (Rep. Vol. 2014) and Md. State Govt. Code I Ann. §§ 10-201 *et seq.* (Rep. Vol. 2014).

6. I acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action.

7. I sign this consent order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

7-28-16
Date


John E. Daskal, Pharmacist

NOTARY

STATE OF WV

CITY/COUNTY OF Mineral

I hereby certify that on this 28th day of July, 2016, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared John E. Daskal, Pharmacist and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.



Notary Public

My Commission Expires: 9-12-2021



OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
Lisa S Wagener
Rt 28 & Lincoln St PO Box 1210
Fort Ashby, WV 26719
My Commission Expires September 12, 2021