

IN THE MATTER OF	*	BEFORE THE
KUMUDINI ASIKA DESILVA	*	MARYLAND STATE
Respondent	*	BOARD OF PHARMACY
* * * * *	*	* * * * *

CONSENT ORDER

Based on information received and a subsequent investigation by the Maryland State Board of Pharmacy (the "Board"), and subject to the Maryland Pharmacy Act, codified at MD. CODE ANN., HEALTH OCC. ("Health Occupations") § 12-101 et seq. (1994 Repl. Vol. and 1999 Supp.), the Board charged Kumudini Asika Desilva ("the Respondent") with violating certain provisions of the Act. The Board also notified the Respondent of its intention to deny the Respondent's application to be licensed by the Board to practice pharmacy in the State of Maryland.

Specifically, the Board charged the Respondent with violating the following provisions of the Act:

Count I

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

(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[.]

Count II

**§ 12-701. Practicing pharmacy without a license.**

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice pharmacy in this State unless licensed by the Board.

Count III

**§ 12-704. Misrepresentations.**

(a) *Misrepresentation as authorized practitioner of pharmacy.*

(1) Unless authorized to practice pharmacy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice pharmacy in this State.

(2) Unless authorized to practice pharmacy under this title, a person may not use the terms "pharmacist" or "druggist" with the intent to represent that the person practices pharmacy.

The Respondent was given notice of the charges against her and the Board's intention to deny her application to be licensed to practice pharmacy in the State of Maryland by letter and Charging Document sent via certified mail. A Case Resolution Conference ("CRC") was scheduled for April 20, 2000, for which the Respondent failed to appear. Subsequent to the CRC, however, the Respondent and James C. Anagnos, the Administrative Prosecutor, entered into negotiations to resolve the charges pending against the Respondent. As a result of these negotiations, the parties and the Board agreed to resolve the charges pending against the Respondent by entering into the

following Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

The Board makes the following Findings of Fact:

1. The Respondent has never been licensed by the Board to practice pharmacy in the State of Maryland.

2. From 1993 to 1998, the Respondent worked for CVS Pharmacy #1463 as a pharmacy technician, pharmacy intern, and pharmacy graduate intern to earn the required practical experience for licensure.

3. On September 22, 1998, the Respondent's application for licensure was received by the Board office, and the Respondent was scheduled to take all three parts of the licensing examination in October 1998.

4. On her application, the Respondent stated, under oath, that she had graduated in May 1997 from Midwestern University, Chicago College of Pharmacy, an American Council on Pharmaceutical Education ("ACPE") accredited college of pharmacy. The Respondent attached to her application a college affidavit with the apparent seal of Midwestern University, Chicago College of Pharmacy stamped on the affidavit, and the apparent signature of the school's dean, Mary Lee, affixed to the affidavit.

5. The Respondent sat for the licensing examination in October 1998, and passed the Multistate Pharmacy Jurisprudence

Examination ("MPJE") and the laboratory examination; however, she failed the North American Pharmacist Licensing Examination ("NAPLEX").

6. The Respondent took the NAPLEX again in May 1999, and failed for a second time.

7. In a letter from the Board dated June 24, 1999, the Respondent was advised that she failed the May 1999 NAPLEX.

8. Prior to this, on June 2, 1999, the Board received from the Respondent a written request to once again take the NAPLEX.

9. On or about June 20, 1999, the Respondent represented to a CVS district manager that she had received notification from the Board that she had passed the NAPLEX.

10. At that time, the Respondent's status with CVS was changed from intern to pharmacist, and she was transferred to CVS #1485.

11. On September 30, 1999, a Division of Drug Control ("DDC") inspector, Peter Smith, conducted a routine inspection at CVS #1485.

12. "Asika Ganartna" was listed as a pharmacist on a sign in the store, but this individual was not on duty.

13. A pharmacist license for "Asika Ganartna" was not on display and could not be produced.

14. Mr. Smith contacted the Board office to verify the status of "Asika Ganartna."

15. At that time, the Board staff determined that "Asika Ganartna" was the same person as the Respondent, who did not hold a license to practice pharmacy in Maryland on September 30, 1999.

16. In a letter to Ms. Michelle Andoll, Compliance Officer for the Board, dated October 21, 1999, Mary Lee, Pharm D., BCPS, FCCP, Dean and Professor at Midwestern University, Chicago College of Pharmacy, advised that the Respondent is not a graduate of that institution, and that the school has no record of the Respondent having graduating in May 1997. In addition, the seal on the Respondent's application is not that of the university, and the apparent signature of Dr. Lee was forged.

#### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes, as a matter of law, that the Respondent: (1) fraudulently and deceptively attempted to obtain a license in violation of § 12-313(b)(1) of the Act; (2) practiced pharmacy in Maryland without a license in violation of § 12-701 of the Act; and (3) misrepresented to the public that she was authorized to practice pharmacy in violation of § 12-704 of the Act.

#### **ORDER**

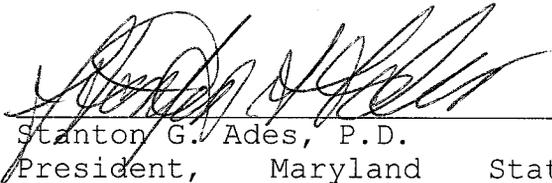
Based on the foregoing Findings of Fact, Conclusions of Law, and agreement of the parties, it is this 30<sup>th</sup> day of

JUNE 2000, by a majority of a quorum of the Board, hereby

**ORDERED** that the Respondent shall pay to the Board for payment into the State Board of Pharmacy Fund a civil fine of Five Thousand Dollars (\$5,000.00). Payment of the civil fine shall be in accordance with the following terms: A payment of One Thousand Dollars (\$1,000.00) shall be made on or before July 5, 2000. Payments of at least Two Hundred Fifty Dollars (\$250.00) shall be made on or before the first day of each month thereafter, commencing with August 1, 2000, until the civil fine is paid in full; and be it further

**ORDERED** that the Respondent has agreed to withdraw her application pending with the Board to be licensed to practice pharmacy in the State of Maryland.

06-30-00  
Date

  
Stanton G. Ades, P.D.  
President, Maryland State Board of Pharmacy

**CONSENT OF KUMUDINI ASIKA DESILVA**

I, Kumudini Asika Desilva, by affixing my signature hereto, hereby acknowledge and admit to the truth of the foregoing Findings of Fact, and agree to be bound by the foregoing Consent Order and its conditions. I acknowledge the validity of the Consent Order as if made after a hearing in which I would have had the right to an attorney, the right to confront witnesses, and the right to give testimony and call witnesses on my behalf, as well as all other substantive and procedural protections provided by law.

I understand that by signing this Consent Order, I waive my right to appeal any adverse ruling that might have followed such a hearing.

I acknowledge that by signing this Consent Order I have agreed to withdraw my application to be licensed as a pharmacist in the State of Maryland, which is currently pending before the Board.

**I further understand that by entering into this Consent Order with the Board, I am in no way discharged or released from any criminal liability that is currently pending, or will ensue, as a result of my practicing pharmacy without a license in the State of Maryland or my representations to the public that I was authorized to practice pharmacy in the State of Maryland.**

I have read this Consent Order in its entirety. I have been given the opportunity to consult with an attorney and to review each and every part of this Consent Order with the counsel of my choice. I have elected not to be represented by counsel in this matter. I understand this Consent Order and voluntarily and without reservation agree to sign it with full comprehension of its meaning and effect.

6-12-00  
Date

Asika Desilva  
Kumudini Asika Desilva

STATE OF MARYLAND

~~CITY~~/COUNTY OF HOWARD

I HEREBY CERTIFY that on this 12<sup>th</sup> day of JUNE 2000, a Notary Public of the State of MARYLAND and City/County aforesaid, personally appeared KUMUDINI ASIKA DESILVA and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESS my hand and Notarial Seal.

**ELIZABETH WHITEHEAD  
NOTARY PUBLIC FOR  
HOWARD COUNTY, MARYLAND  
COMM. EXPIRES 7-1-02**

Elizabeth K Whitehead  
Notary Public

My Commission Expires: 7-1-02