

IN THE MATTER OF * BEFORE THE
MOSLEM ESKANDARI, P.D.. * MARYLAND STATE BOARD
RESPONDENT * OF PHARMACY
LICENSE NUMBER: 14714 *

* * * * *

FINAL CONSENT ORDER

Based on the information received and a subsequent investigation by the Maryland State Board of Pharmacy ("the Board) and subject to the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 et seq. (1995) ("the Act") the Board charged Moslem Eskandari, P.D., License Number: 14714 ("the Respondent"), with violating certain provisions of the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 et seq. (the "Act"). Specifically, the Board charged the Respondent with violating the following provisions of § 12-313 of the Act:

- (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 an applicant, reprimand any licensee on probation; or suspend or revoke a license, if the applicant, licensee:
 - (6) Willfully makes or files a false report or record as part of practicing pharmacy;
 - (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;
 - (23) Is disciplined by a licensing or disciplinary authority of any other state or country 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 Respondent was given notice of the charges and the issues underlying those charges by letter and charging document sent to the Respondent on September 15, 1999. A Case Resolution Conference on those charges was scheduled on October 26, 1999 at 9:30 p.m.. Board Members Donald K. Lee, P.D. and Ramona M. Hawkins, P.D.; Paul J. Ballard, Assistant Attorney General and Counsel to the Board; and Sherrai V. Hamm, Assistant Attorney General and Administrative Prosecutor; Randall M. Lutz, counsel for the Respondent; and the Respondent were present. The parties subsequently agreed to enter into this Consent Order.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant to the charges herein, the Respondent was licensed to practice pharmacy in the State of Maryland. The Respondent was originally issued a license to practice pharmacy in the State of Maryland on August 18, 1997.¹

2. On or about April 26, 1991, a finding of guilt was made by Judge R. M. Hurst against the Respondent for concealment of merchandise (theft) with a value under two hundred dollars (\$200). The Respondent was sentenced to ninety (90) days in jail with eighty-nine (89) days suspended, conditioned upon paying three hundred and forty-four dollars (\$344) in fines and court costs, maintaining good behavior and keeping the peace. (A copy of the Warrant of Arrest and Sentencing Order for Fairfax County, District Court case number 2902382033 is attached hereto and incorporated herein as Exhibit A).

¹ The Respondent is also licensed in the Commonwealth of Virginia.

3. On or about October 5, 1994, the Respondent was found guilty in Arlington General District Court for larceny valued at less than two hundred dollars (\$200). The Respondent was sentenced to sixty (60) days in jail with all suspended. (A copy of the Warrant of Arrest and Sentencing Order for Arlington General District Court in case number 940803027 is attached hereto and incorporated herein as Exhibit B).

4. On or about January 22, 1998, the Respondent was found guilty of three felony counts: two (2) counts of prescription fraud and one (1) count of Medicaid fraud. The Respondent was sentenced to a three (3) year suspended sentence and placed on supervised probation for a period of three (3) years, with specific conditions that the Respondent make restitution in the amount of seven thousand and seven dollars and eighty cents (\$7007.80), pay court costs of one thousand nine hundred, twenty-five dollars (\$1925), maintain good behavior, and violate no laws. (A copy of the January 22, 1998 Sentencing Order in Commonwealth v. Moslem Eskandari is attached hereto and incorporated herein as Exhibit C).

5. Concealment of merchandise (theft) is a crime of moral turpitude.

6. Larceny is a crime of moral turpitude.

7. Prescription fraud is a felony and a crime of moral turpitude.

8. Medicaid fraud is a felony and a crime of moral turpitude.

9. On or about February 26, 1998, the Virginia Department of Health Professions summarily suspended the Respondent's license to practice pharmacy after receiving evidence that the Respondent was convicted by the Circuit Court of Loudoun County, Virginia, of two (2) counts of prescription fraud and one (1) count of Medicaid fraud, both felonies. (A copy of the Virginia Department of Health Professions Order dated February 26, 1998 in In Re:

Moslem (Jimmy) Eskandari, Pharmacist, License No.: 00202-011379, is attached hereto and incorporation herein as Exhibit D.)

10. On or about April 14, 1998, an administrative hearing was held before the Commonwealth of Virginia Board of Pharmacy to act upon the Respondent's application for reinstatement of his license which was mandatorily suspended by the Virginia Department of Health Professions, and to determine if the Respondent violated certain laws and regulations governing the practice of pharmacy in Virginia. The Board found that the Respondent had violated the Pharmacy Rules and Regulations and denied the Respondent's petition for reinstatement and his license was continued on indefinite suspension. (A copy of the Virginia Board of Pharmacy Order dated April 21, 1998, In_Re: Moslem (Jimmy) Eskandari, Pharmacist, License No.: 00202-011379, is attached hereto and incorporated herein as Exhibit E.)

11. On or about January 12, 1999, the Virginia Board of Pharmacy held an informal conference with the Respondent. The purpose of the informal conference was to receive and act upon the Respondent's request for reinstatement of his license to practice pharmacy. Pursuant to an Order dated January 25, 1999, the Board reinstated the Respondent's license and placed the Respondent on probation with conditions. (A copy of the Virginia Board of Pharmacy Order dated January 25, 1999, In Re: Moslem (Jimmy) Eskandari, Pharmacist, License No.: 00202-011379, is attached hereto and incorporated herein as Exhibit F.)

12. On or about August 6, 1997, the Respondent filed an NABP Official Application for Transfer of Pharmaceutic Licensure ("NABP application") with the Board. On his application, the Respondent swore under oath that he was "not presently charged with the

commission of any felony as defined under state or federal law." The Respondent had been charged with committing three (3) felonies, two (2) counts of prescription fraud and one (1) count of Medicaid fraud in Loudoun County, Virginia when he filed his NABP application. (A copy of the Respondent's NABP Official Application for transfer of Pharmaceutical Licensure to the State of Maryland dated August 5, 1997 is attached hereto and incorporated herein as Exhibit G.)

13. On or about February 17, 1998, the Respondent filed a renewal application with the Board. Despite affirming that the answers provided on his renewal application were true and correct, the Respondent provided several false statements. (A copy of the Respondent's Maryland State Board of Pharmacy renewal application dated February 17, 1998 is attached hereto and incorporated herein as Exhibit H.)

14. The Respondent marked "No" on his renewal application to Question five (5). Question five (5) on the renewal application asked the Respondent, "Have you pled guilty, nolo contendere, or been convicted of, or received probation before judgment of any criminal act (excluding traffic violations)?" The Respondent marked ("No") on his renewal application, despite his recent felony conviction for prescription and Medicaid fraud.

15. The Respondent also marked "No" on his renewal application to Question eight (8). Question eight (8) asked "Have the conditions of your employment been affected by any termination of employment, suspension, or probation for any reason relation to your practice?" In January 1998, the Respondent was terminated by his employer Giant Pharmacy. The Respondent was terminated after an internal investigation conducted by his employer revealed that the Respondent dispensed without proper authorization.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated § 12-313(6), (21), and (23) of the Act.

ORDER

ORDERED that the Respondent, is hereby **SUSPENDED** from the practice of pharmacy for a period of **thirty(30) days and that said suspension be immediately STAYED;** and be it further

ORDERED that the Respondent shall be placed on **PROBATION** for a period of **twenty-four (24) months**, subject to the following conditions:

1. The Respondent shall successfully complete a Board approved ethics course.
2. The Respondent shall not supervise other pharmacists.
3. In the event that the Respondent is employed as a pharmacist, the Respondent shall provide the Board in writing within ten (10) days of the date of this Order, the name, address, and telephone number of his immediate supervisor/employer.
4. The Respondent shall inform the Board in writing within ten (10) days of any change in his employment or any interruption of his pharmacy practice.
5. The Respondent shall provide his employer with a copy of this Order in its entirety.
6. The Respondent shall direct his employer to provide written quarterly job performance evaluations to the Board. The quarterly reports to the Board will

be due on December 15, 1999, March 15, 2000, June 15, 2000, September 15, 2000, December 15, 2000, March 15, 2001, June 15, 2001, September 15, 2001 and December 15, 2001.

7. The Respondent shall submit quarterly self-reports which shall include his current address and the address of his current employment.
8. The Respondent shall not violate any of the terms and conditions set forth in the Commonwealth of Virginia Order for reinstatement and the probationary terms and conditions set forth in the Order dated January 25, 1999.

ORDERED that in the event the Board finds for any reason in good faith that the Respondent has substantially violated any provision of Title 12 of the Health Occupation Article, Maryland Annotated Code or the regulations thereunder, the Board, after notification to the Respondent, and an opportunity for a hearing may take immediate action or impose any lawful disciplinary sanctions it deems appropriate, including but not limited to revocation or suspension of the Respondent's license to practice pharmacy; and be it further

ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Order; and be it further

ORDERED that the Respondent shall practice pharmacy in accordance with the Maryland Pharmacy Act, and in a competent manner; and be it further

ORDERED that once the Respondent has completed his probationary period, the Board shall terminate the Respondent's probationary status and fully reinstate his license to practice pharmacy without any conditions or restrictions as to the scope of practice. If the Board determines that the terms of probation have not been successfully completed, the Board may

modify one or more conditions upon which Respondent was placed on probation, upon notice to the Respondent and a prior opportunity for a show cause hearing; and be it further

ORDERED that this is a **FINAL ORDER** and as such is a public document pursuant to Md. Code Ann., State Gov't. § 10-611 et seq. and be it further

ORDERED that for purposes of public disclosure, as permitted by Md. Code Ann., State Gov't Art., § 10-617(h), this document consists of the contents of the foregoing Background, Findings of Facts, Conclusions of Law and Order.

11/17/99

Date

Irving W. Lottier, Jr., P.D.
Irving W. Lottier, Jr., P.D.
Board Secretary
Maryland State Board of Pharmacy

FINAL CONSENT OF MOSLEM ESKANDARI, P.D.

I, Moslem Eskandari, P.D., by affixing my signature hereto, acknowledge that:

1. I am represented by attorney, Randall M. Lutz, Esq., and I have been advised by him in regard to signing this Consent Order.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to §12-315 of the Act, Md. Code Ann., State Gov't. §10-201 et seq. (1995), and Md. Reg. Code, tit. 10 §34.01.
3. By this Consent Order, I hereby consent and submit to the Order. By doing so, I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Order or as set forth in §12-315 of the Act and Md. Code Ann., State Gov't §10-201 et seq (1995). I acknowledge that by failure to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice pharmacy in the State of Maryland.

11/8/99

Date

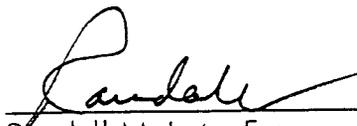


Moslem Eskandari, P.D.

Read and Approved

Nov. 4, 1999

Date



Randall M. Lutz, Esq.
Attorney for the Respondent

virginia
STATE OF ~~MARYLAND~~

CITY/COUNTY OF Great Falls / Fairfax

I HEREBY CERTIFY that on this 8th day of Nov, 1999, before me,
Notary Public of the State and City/County aforesaid, personally appeared **MOSLEM
ESKANDARI, P.D.**, and made oath in due form of law that the foregoing Consent was his
voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Kamke D.
Notary Public

My Commission Expires: June-30-2003