

IN THE MATTER OF	*	BEFORE THE
BEHROOZ GOODARZI, P.D.	*	STATE BOARD
License No.: 10724	*	OF PHARMACY
Respondent	*	Case Number 05-033

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Code Ann. § 12-101, et seq., (2000 Repl. Vol.) (the "Act"), the Board charged Behrooz Goodarzi, P.D., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of 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:

- (20) Is professionally, physically, or mentally incompetent;
- (24) Violates any rule or regulation adopted by the Board [;].

The Board further charged the Respondent with violation of Code Md. Regs. tit. 10, 34.10 (November 12, 2001):

.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[;].

B. A pharmacist may not:

- (1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist[;].

The Respondent was given notice of the issues underlying the Board's charges by letter dated January 11, 2005. Accordingly, a Case Resolution Conference was held on February 25, 2005, and was attended by Melvin Rubin, P.D., Board Member, LaVerne Naesea, Executive Director, and Linda Bethman, Assistant Attorney General, Board Counsel. Also in attendance were the Respondent and his attorney, Aaron Kadish, and Roberta Gill, Assistant Attorney General, Administrative Prosecutor.

Following the Case Resolution Conference, and, on the eve of the hearing scheduled on the matter, the Respondent and the Board agreed to resolve the matter by way of settlement. The Respondent and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on December 21, 2000. The Respondent's license expires on February 28, 2006.

2. The Respondent is employed as a full-time dispensing pharmacist at BJ Pharmacy, a/k/a BJ Kensington Pharmacy (BJ), which is owned by the following: Patricia G. Goodarzi, Secretary, who owns 50% of same; Joseph H. Wong, General Manager, who owns 25 %; and, Josephine M. Chow, Treasurer, who owns 25%. The Respondent is the husband of Patricia Goodarzi, the majority owner of BJ.

3. In April 1999, the Respondent was the owner and principal dispensing pharmacist of Melwood Pharmacy when the Board issued a Summary Suspension to the pharmacy because over 500 expired drugs were found to be on the pharmacy's shelves, which was a threat to the public health, welfare or safety. On April 21, 1999, the Board summarily suspended the Respondent's license because his practice endangered the public health, welfare or safety.

4. Following an evidentiary hearing held on May 20, 1999, the Board issued an Interim Order Pending Final Decision and Order, finding that sufficient evidence was presented at the hearing to justify continuation of the Summary Suspension Order. On August 5, 1999, the Board issued an Order, which, inter alia, lifted the Respondent's suspension and required the Respondent to work under the supervision of another pharmacist who would send written reports to the Board every six months. Melwood subsequently closed.

5. On July 15, 2004, Peter Smith, P.D., a Division of Drug Control (DDC) Inspector, in response to a complaint regarding the Respondent's dispensing of expired drugs, conducted an inspection.

6. At that time, the Respondent was the pharmacist on duty. Mr. Smith found the following items that were expired on BJ's shelves:

OTC: Nutritionals: 3 items (8/1/03, 2 x 1/1/04). Eye products: 3 items (10/03, 2 x 1/04). Brought to the attention of Joseph Wong, store manager.

Rx: PLEASE CHECK PHARMACY STOCK

Drug shelves: 40 items. (Cordran SP 0.05% 12/01, Cormax 0.05% cream 4/02, Metaproterenol sulfate inhalation solution USP 2.5ml vials: 0.4% 11/02, 0.6% 2 x 9/02, Retin-A cream 0.025% 1/03, Methotrexate LPF sodium 250mg single use vial 10ml 1/03, Benzoyl peroxide wash 2.5% 3/03, Beconase inhalation aerosol 16.8g 6/03, Lidocaine HC1 2% and epinephrine 1:100,000 Injection USP 30ml vial 6/1/03, Phenobarbital elixer USP 20mg/5ml 7/03, Lidocaine HC1 1% 50m1 MDV 2 x 7/1/03, Rondec syrup 8/03, Potassium chloride oral solution USP 20% 10/03, Amantadine HC1 syrup USP 50mg/5m1 10/03, Hydro-Tussin DM 10/03, Aerobid-M inhaler system 7g 11/03, Histex HC liquid 12/03, Rocephin for injection 250mg single dose vial 12/03, Primidone 50mg tablets 1/04, Diazepam oral solution 5mg/5m12/04, Erythromycin ethylsuccinate and Sulfisoxazole acetyl for oral suspension 200mg/600mg/5m1 150m14/1/04, 200m1 1/1/04, Niferex-PN forte 4/04, Novarel 10,000 USP units 4/04, Cyclosporin capsules USP (Modified) 100mg 4/04, Lindane shampoo USP 1 % 4/04, Verapamil HC1 extended-release tablets 240mg 4/04, Cardec-S syrup 5/04, Meperidine HC1 syrup 50mg/5ml 5/04, Triple Tannate pediatric suspension 5/04, Leucovorin calcium tablets USP 5mg 5/04, Atropine sulfate injection USP 0.4mg/ml120ml MDV 5/04, Cleocin T lotion 1% 6/04, Xopenex inhalation solution 0.31mg 6/04, Repronex 75 6/04, Betaxolol Cl ophthalmic solution 0.5% as base 15m16/04, Dexamethasone sodium phosphate injection SP 4mg/ml single dose vial 6/04, 0.9% Sodium chloride injection USP 10m1 vials 7/1/04). Noted: short dated 7/04 items.

Drug refrigerator: 5 items. (Novolin R PenFil 3m1 9/03, Recombivax pediatricadolescent formulation preservative free 1 dose vial 0.5ml 10/3/03, Leukeran 2mg tablets 12/03, Combipatch 5/250 2/04, Humalog 1.5m1 cartridges 6/1/04).

7. In addition, Mr. Smith found that the Respondent maintained drugs over which stickers covered important information on the labels.

8. As a result of these findings, on August 18, 2004, the Board voted to issue an unexecuted summary suspension of the Respondent. The Board set several dates for the Show Cause hearing to determine whether the Summary Suspension should be issued for the Respondent. However, the Respondent's former attorney could not make any of those dates. Meanwhile on October 27, 2004, the DDC conducted a follow-up inspection of the Pharmacy during which the following violations were found:

Outdated

ZanaFlex 2mg 9/04, Singulair 5mg
Nexium 20mg, Expiration Date not readable
Label over expiration date, Univasc 9/04
Niaspan 9/04

9. As set forth above, a pharmacist who allows a large amount of expired medication to remain on the shelves and bottles on which labels are covered, and other violations, is in violation of the Act and the regulations thereunder.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated § 12-313 (b) (20) and (24). The Respondent also violated Code Md. Regs. tit 10, 34.10.01 A(1) and B (1).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 20th day of July, 2005, by a majority of a quorum of the Board,

ORDERED that the Respondent shall be placed on Probation for a minimum of one year, subject to the following conditions:

1. Respondent may not own a pharmacy nor work for a pharmacy owned by a relative;

2. Respondent may not be a chief pharmacist, pharmacy manager or pharmacist in charge;
3. Respondent shall insure that his employer submits quarterly reports to the Board;
4. Respondent shall not work in a pharmacy unless there is another pharmacist regularly scheduled and working at that same location at least 40 hours a week, not necessarily on duty at the same time as the Respondent; and
5. Respondent may petition the Board for termination of probation after one (1) year provided that the Respondent has fully complied with all terms of probation.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that should the Board receive information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, other than listed above, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and be it further

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 2004), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.



John H. Balch, Ph.D., President
State Board of Pharmacy

CONSENT OF BEHROOZ GOODARZI, P.D.,

I, Behrooz Goodarzi, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Aaron Kadish, and have been advised by him of the legal implication of signing this Consent Order;

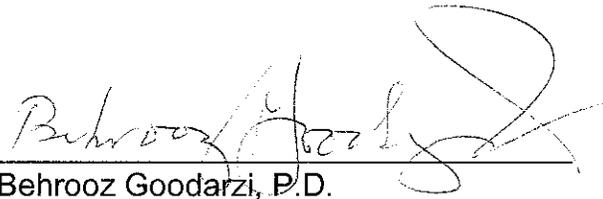
2. I am aware that without my consent, my license to practice pharmacy in this State cannot be limited except pursuant to the provisions of § 12-313 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2004 Repl. Vol.).

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 12-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 12-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice pharmacy in the State of Maryland.

7/19/05

Date


Behrooz Goodarzi, P.D.

STATE OF

CITY/COUNTY OF Balto _____:

I HEREBY CERTIFY that on this 10th day of July, 2005, before me, Carol Robinson, a Notary Public of the foregoing State and (City/County),
(Print Name)

personally appeared Behrooz Goodarzi, License No. 10724, 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 WITNESSETH my hand and notarial seal.

Carol Robinson
Notary Public

My Commission Expires: 5-1-09

CAROL ROBINSON
NOTARY PUBLIC
BALTIMORE CITY
MARYLAND
My Commission Expires May 1, 2009