

IN THE MATTER OF * BEFORE THE
THE MEDICINE SHOPPE * STATE BOARD
PERMIT NUMBER: P01901 * OF PHARMACY
RESPONDENT-PHARMACY * CASE NUMBER: 07-004

* * * * *

ORDER OF SUMMARY SUSPENSION

Pursuant to Md. State Govt. Code Ann. § 10-226 (c)(2004 Repl. Vol. & 2005 Suppl.), the Maryland Pharmacy Act ("the Act"), Md. Health Occ. Code Ann. §§ 12-101 *et seq.*, (2005 Repl. Vol.), and the Code Md. Regs. tit. 10, § 34.01.12, the State Board of Pharmacy ("the Board") hereby suspends the permit of the Medicine Shoppe, permit number: P01901 ("the Respondent-Pharmacy") to operate as a pharmacy, under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H. O.") §§ 12-101, *et seq.*, (2005 Repl. Vol.). This Order of Summary Suspension is based on the following investigative findings that the Board has reason to believe are true:

INVESTIGATIVE FINDINGS

1. The Respondent-Pharmacy is owned and operated by Thomas G. Bolt, R. Ph. ("Bolt").
2. Bolt is licensed to practice pharmacy in the State of Maryland under license number: 08155.
3. Bolt was issued a permit to operate Respondent-Pharmacy under permit number: P01901 on August 9, 1995.

4. The Respondent-Pharmacy is located at 10601 New Georges Creek Road, Suite 5SW Frostburg, Maryland.

5. In or around the spring of 2006, Trooper Richard Sivic ("Trooper Sivic") of the Maryland State Police and a member of the C31 Narcotics Unit ("the Narcotics Unit") began investigating Bolt, after receiving reports that Bolt was trading prescription drugs for sexual favors with females.¹

6. On June 22, 2006, Trooper Sivic met with an individual (hereinafter "Patient A"), who Bolt had given prescription drugs, in return for sexual favors.²

7. During their meeting, Patient A provided Trooper Sivic with the following account of her involvement with Bolt:

8. Bolt began providing Patient A controlled substances, in return for sexual favors, in August 2004.

9. In or around August 2004, Patient A went to the Respondent-Pharmacy to have a prescription filled.

10. After filling Patient A's prescription, Bolt told Patient A that if she needed something else, Patient A should return to the Respondent-Pharmacy after 6 p.m.

11. Patient A returned to the Respondent-Pharmacy after 6 p.m. and met with Bolt.

12. Bolt gave Patient A controlled substances without a valid prescription.

13. In exchange for receiving controlled substances, Patient A performed fellatio on Bolt.

¹ The C31 Narcotics Unit is a multi-jurisdictional task force that involves law enforcement officers from local, state, and federal agencies.

14. Bolt provided Patient A with controlled substances, in exchange for receiving sexual favors from Patient A, until October 2005.

15. During her meeting with Trooper Sivic, Patient A agreed to assist the Narcotics Unit with its investigation of Bolt by contacting Bolt for controlled substances.³

16. The following events occurred on June 22, 2006:

17. Patient A went to the Respondent-Pharmacy to obtain controlled substances from Bolt.

18. Patient A told Bolt that she had a headache and needed something for it.

19. Bolt asked Patient A if she had a prescription from a doctor.

20. Patient A told Bolt that she did not have a prescription.

21. Bolt gave Patient A a prescription bottle containing eight (8) Fioricet tablets.

22. The following events took place on June 23, 2006:

23. Patient A called Bolt at the Respondent-Pharmacy and asked him to provide her with more pills.

24. Bolt agreed to give Patient A Oxycontin tablets when he met with her later that day.

25. Bolt met Patient A at a prearranged location and gave Patient A two (2) Oxycontin tablets.

26. The following events took place on July 6, 2006:

2 To ensure confidentiality, the identity of Patient A has not been disclosed in this document.

3 Patient A was fitted with a body wire whenever the Narcotics Unit requested that Patient A make contact with Bolt. Patient A and Patient A's vehicle were searched before and after Patient A met with Bolt.

27. Patient A called Bolt at the Respondent-Pharmacy and asked him to provide her with more pills.

28. Bolt agreed to meet Patient A when he finished at work.

29. Bolt agreed to meet with Patient A at a predetermined location before they went to the Comfort Inn, located in Grantsville, Maryland.

30. After arriving at the predetermined location, Bolt followed Patient A and an undercover law enforcement officer, who was with Patient A, to the Comfort Inn.

31. Once inside the motel room, Bolt gave Patient A and the undercover officer oxycontin.

32. After Bolt gave Patient A and the undercover officer Oxycontin, the Narcotics Unit entered the motel room and observed Bolt attempting to hide a bottle under the mattress.

33. The bottle contained twelve (12) Oxycontin tablets, six (6) Oxycodone tablets, and ten (10) Percocet tablets.

34. Bolt was charged in Allegany County, Maryland and Garrett County, Maryland with violating Title 5 (Controlled Dangerous Substance, Prescription, and Other Substance Laws) of the Criminal Law Article of the Annotated Code of Maryland.

35. Bolt was charged with four (4) counts of distribution of a controlled dangerous substance, in violation of Md. Crim. Law Code Ann. § 5-602(i); three (3) counts of possession with intent to distribute a controlled dangerous substance, in violation of Md.

Crim. Law Code Ann. §5-602 (2); and six (6) counts of possession of a controlled dangerous substance, in violation of Md. Crim. Law Code Ann. § 5-601 (a) (1).⁴

36. Based on the foregoing acts described above, the Board has cause to believe that Respondent-Pharmacy has violated provisions of the Act and Code Md. Regs. tit. 10, § 34.10.

37. Specifically, the Board has cause to believe that the Respondent-Pharmacy has violated the following:

H. O. § 12-403. Required standard

(b) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

- (1) Shall be operated in compliance with the law and with the rules and regulations of the Board;
- (9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12-313 of this title;

H.O. § 12-409. Suspensions and revocations – Grounds.

(a) Subject to the hearing provisions of § 12-411 of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:

- (1) Is conducted so as to endanger the public health or safety;
- (2) Violates any of the standards specified in § 12-403 of this subtitle;
or
- (3) Otherwise is not conducted in accordance with the law.

H.O. § 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:

⁴ Distribution of a controlled dangerous substance and possession with intent to distribute a controlled dangerous substance are felonies.

- (14) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;
- (20) Is professionally, physically, or mentally incompetent;
- (24) Violates any rule or regulation adopted by the Board.

Code 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:

- (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;
- (3) Engage in unprofessional conduct.

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. Govt. Code Ann. § 10-226(c)(2) (2004 Repl. Vol. & 2005 Supp.).

ORDER

Based on the foregoing investigative findings and conclusions of law, it is on this 16 day of October, 2006, the majority of the Board hereby:

ORDERED that the permit of the Respondent-Pharmacy to operate as a pharmacy in the State of Maryland, under permit number: 01901 is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that the effective date of this Order shall be thirty (30) days from the date that this Order is signed by the Board; and be it further

ORDERED that the Respondent-Pharmacy shall close in accordance with the requirements set forth in Code Md. Regs. tit. 10, § 34.14; and be it further

ORDERED that as of the effective date of this Order, the Respondent-Pharmacy is prohibited from operating as a pharmacy in the State of Maryland; and be it further

ORDERED that the permit holder shall return all permits and renewal permits pertaining to the Respondent-Pharmacy, within five (5) days of the effective date of this Order; and be it further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (2004 Repl. Vol. & 2005 Supp.), this document consists of

the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and is reportable to any entity to whom the Board is obligated to report; and be it further

ORDERED that this Order is a public document pursuant to Md. State Govt. Code Ann. §§ 10-601 *et seq.* (2004 Repl. Vol. & 2005 Supp.).

10/16/06
Date

LaVerne B. Naesea
LaVerne Naesea, Executive Director
Board of Pharmacy

NOTICE OF RIGHT TO A EVIDENTIARY HEARING ON SUMMARY SUSPENSION

You have a right to request an evidentiary hearing as to the merits of this order of summary suspension. This hearing will be conducted in accordance with the Administrative Procedure Act, Md. State Gov't. Code Ann. §§ 10-201 *et seq.* (2004 Repl. Vol. & 2005 Supp.), § 12-411 of the Act, and Code Md. Regs., tit. 10, § 34.01.10. The hearing will be before the Board.

Any request for hearing on the merits must be received in writing by the Board, within thirty (30) days of the date of the effective date of this order of summary suspension. Failure to request a hearing within thirty (30) days of the date of the effective date of this order of summary suspension will constitute a waiver of the evidentiary hearing.