

IN THE MATTER OF  
KATHERINE EMERY, P.D.  
LICENSE NO. 11691

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BEFORE THE MARYLAND  
STATE BOARD OF  
PHARMACY

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**CONSENT ORDER TERMINATING  
SUMMARY SUSPENSION**

**Procedural Background**

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. §§ 12-101, *et seq.*, and the Maryland Administrative Procedure Act, Md. Code Ann., Health Occ. §§ 10-201 *et seq.*, the Board issued an Order for Summary Suspension dated November 17, 2010, in which it summarily suspended the pharmacist's license held by Katherine Emery, P.D. (the "Respondent") based on a violation of the terms of probation in accordance with a Consent Order, dated August 17, 2009. The Consent Order required that the Respondent submit to Board-ordered urinalysis which "shall be negative for drugs and alcohol". Specifically, the Board received laboratory reports for July 1, 8, and 22, 2010, indicating diluted and abnormally diluted urines. Based on this information, the Board reliable evidence that demonstrated that the public health, safety or welfare imperatively required emergency action, pursuant to Md. Code Ann., State Gov't §10-226(c)(2)(2004 Repl. Vol.).

On February 9, 2011, the Board held a hearing before a quorum of the Board to allow the Respondent the opportunity to show cause why the Respondent did not pose an imminent threat to the health, safety and welfare of the public. As a result of the Respondent's oral argument that other medical conditions may have affected the urinalysis reports, the Board ordered the Respondent to submit to an evaluation by a Board-appointed physician. The Board is in receipt of the evaluation report which concludes that the diluted urine results were associated with a

conscious act. Notwithstanding, and in lieu of a continued summary suspension, the Board has determined that public health and safety is not in imminent danger provided that the Respondent complies with the terms contained in this Consent Order.

### **FINDINGS OF FACT**

1. At all times relevant hereto, the Respondent has held a license to practice pharmacy in Maryland. The Respondent was first licensed on May 15, 1989.

2. The Board entered into a Consent Order with the Respondent on October 18, 2010, based on a previous violation by the Respondent of a prior Consent Order, dated August 17, 2009. Specifically, the Respondent's urinalysis on February 11, 2010, tested positive for the presence of alcohol metabolites, ethylglucuronide and ethyl sulfate. The Board held a show cause hearing on July 8, 2010, at which time the Respondent maintained that the alcohol metabolites in her system were the result of having ingested a fondue meal prepared with alcohol.

3. On July 1, 8, and 22, 2010, the Respondent submitted to urinalysis screenings also pursuant to the probationary conditions in the August 17, 2009 Consent Order, all of which indicated diluted urines. The Board received the results of these screenings on July 14 and 28, 2010, after the show cause hearing on the February 22, 2010, urinalysis laboratory report. The Board thus issued an Order for Summary Suspension on November 17, 2010, and held a show cause hearing on February 9, 2011.

4. On February 22, 2011, the Board ordered the Respondent to submit to a full evaluation by a Board-appointed physician. The Board received the evaluation report on August 22, 2011. The evaluation indicates that the Respondent's diluted urines were "associated with a

conscious act". Further, the evaluation concludes that the urinalysis screens could not be classified as negative.

5. The Respondent has been undergoing Board-ordered urinalysis screenings pending the resolution of this matter, all of which have been negative. The Respondent has also been fully compliant with all other probationary conditions set forth in the Consent Order, dated October 18, 2010.

6. As a result of the most recent violation regarding the Respondent's urinalysis screenings, the Respondent's license has been suspended since November 17, 2010.

7. The Respondent has not practiced pharmacy since 2007.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board finds that the Respondent is subject to discipline in accordance with Md. Code Ann., Health Occ. §§ 12-313(b)(21) .

#### **ORDER**

Based on agreement of the parties, it is this 19<sup>th</sup> day of January, 2012, by an affirmative vote of the Board, hereby

**ORDERED** that the summary suspension of the Respondent's license, effective November 17, 2010, be TERMINATED; and be it further,

**ORDERED** that the Respondent's license be placed on immediate PROBATION UNTIL AUGUST 17, 2014, subject to the following conditions:

1. The Respondent shall submit to random weekly enhanced urine screenings for both drugs and alcohol to be ordered by the Board and conducted at a CLIA-certified laboratory;

2. The Respondent shall submit to observed urinalysis within 24 hours of being instructed by the Board's compliance staff to do so;

3. The Respondent shall use a CLIA-certified laboratory which provides results to the Board within seven (7) days of her submission of a urine specimen;

4. The results of all Respondent's urine screens shall be negative for alcohol and any controlled dangerous substances, narcotics, cocaine, or other mood-altering substance, except as provided in #5 and #6 below;

5. The Respondent shall abstain from the ingestion of alcohol and controlled dangerous substances, narcotics, cocaine, and other mood-altering substances, except as specifically provided below. The Respondent may only ingest prescribed controlled substances for legitimate medical reasons under the following conditions:

a. The Respondent must be a bona fide patient of the prescriber who has received a copy of this Order and is licensed to practice in Maryland; and

b. The medication must be lawfully prescribed by the Respondent's physician or other authorized medical practitioner;

6. The Respondent must provide the Board, in writing, within 72 hours of receiving a controlled dangerous substance prescription: (1) the name and address of the prescriber; (2) the diagnosis or medical condition being treated with the prescribed medication; (3) the type, strength, amount and dosage of the medication; (4) and a signed statement consenting to the release of all medical information about the Respondent from the prescriber to the Board;

7. The Respondent shall continue weekly participation in a 12-step aftercare or other group substance abuse rehabilitation program that is comprised of healthcare professionals and shall provide the Board with verification of attendance on a weekly basis;

8. The Respondent shall not practice pharmacy in a retail setting;

9. The Respondent shall not work in a pharmacy during the night shift;

10. The Respondent shall not work more than forty (40) hours per week;
11. The Respondent shall not work longer than an eight (8) hour shift; and
12. The Respondent shall ensure that her pharmacist supervisor(s) submits quarterly performance reports to the Board; and

**ORDERED** that the Respondent's execution of this Order shall constitute a release to the Board of any and all medical records, substance abuse treatment records, and mental health records pertaining to the Respondent's compliance with the terms and conditions set forth herein; and be it further,

**ORDERED** that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of her compliance with the terms and conditions of this Consent Order, including contacting the Board prior to leaving the State; and be it further,

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

**ORDERED** that in the event that the Respondent fails to fully cooperate with the Board, violates any condition of probation, or if the Board receives credible evidence that the Respondent has relapsed, the Respondent shall be immediately summarily suspended with an opportunity for a post-deprivation show cause hearing; and be it further,

**ORDERED** that the Respondent may petition the Board for release from probation on or after August 17, 2014, provided that she has been fully compliant with all of the terms of probation and there are no pending complaints against her; and be it further,

**ORDERED** that this document constitutes a formal disciplinary action of the Maryland State Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to the Public Information Act., State Gov't § 10-611 *et seq.* and COMAR 10.34.01.12.

1/19/2012  
Date

LaVerne G. Naesea

LaVerne G. Naesea, Executive Director for  
Michael Souranis, R.Ph.  
President, Board of Pharmacy

### CONSENT

By signing this Consent, I hereby consent to the foregoing Findings of Fact and Conclusions of Law, and agree to be bound by the foregoing Consent Order and its conditions.

1. By this Consent, I submit to the foregoing Consent Order as a resolution of this matter. By signing this Consent, I waive any rights I may have had to contest the findings of fact and conclusions of law contained in this Consent Order.

2. I acknowledge the validity of this Consent Order as if it were made after a hearing in which I would have had the right to counsel, to confront witnesses on my own behalf, and to all other substantial procedural protections provided by law.

3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.

4. I acknowledge that, by entering into this Consent Order, I am waiving my right to appeal any adverse ruling of the Board that might have followed an evidentiary hearing.

5. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

1-16-12  
Date

*Katherine Emery*  
Katherine Emery

STATE OF MARYLAND  
COUNTY/CITY OF Carroll:

I hereby certify that on this 16<sup>th</sup> day of Jan, <sup>2012</sup>~~2011~~, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared Katherine Emery, and made an oath in due form that the foregoing Consent was her voluntary act and deed.



*Jae H. Kang*  
Notary Public  
My commission expires: \_\_\_\_\_