

IN THE MATTER OF \* BEFORE THE  
DAVID A. KOTZIN, Pharm.D. \* STATE BOARD  
License No. 10932 \* OF PHARMACY  
Respondent \* CASE NUMBER: 06-086

\* \* \* \* \*

### ORDER FOR SUMMARY SUSPENSION

The State Board of Pharmacy (the "Board") hereby **SUMMARILY SUSPENDS** the license to practice pharmacy in Maryland issued to David A. Kotzin, Pharm.D., (the "Respondent"). The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2)(i) (2004 Repl. Vol.), concluding that the public health, safety, and/or welfare imperatively requires emergency action.

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board and the Office of the Attorney General, including the instances described below, the Board has reason to believe that the following facts are true:<sup>1</sup>

#### BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on October 15, 1986. The Respondent's license expires in February of 2008.

---

<sup>1</sup> The statements regarding the Respondent's conduct are only intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a completed description of the evidence, either documentary or testimonial, to be offered against the Respondent in this matter.

2. On or about June 2, 2006, the Board's Compliance Analyst received a telephone call from Detective A,<sup>2</sup> Criminal Investigation Section, Annapolis Police Department. Detective A informed the Compliance Analyst that the Respondent had been arrested for theft. He also indicated that the Respondent was employed at Pharmacy A in Annapolis, Maryland.

3. Subsequently, the Board received an Investigative Report of the Anne Arundel County Police Department as well as an Annapolis Police Department Incident Report.

#### **FINDINGS OF FACT**

4. The Respondent was employed from on or about January 24, 2005 through March 23, 2006, as a pharmacist for a newly opened Pharmacy B located in Annapolis, Maryland. While employed with Pharmacy B, the Respondent resided with his wife at 8402 Freedom Court, Columbia, Maryland 21045.

5. The Respondent was hired by Pharmacy B to serve as both its full-time pharmacist and pharmacy manager. The Respondent was the only full-time pharmacist employed at Pharmacy B. As such, the Respondent was responsible for placing Pharmacy B's opening order and subsequent orders with Wholesaler A.

6. On or about April 1, 2006, the Respondent contacted an employee of Pharmacy B ("Employee A") and asked for assistance in moving items from his home in Columbia, Maryland to an apartment located at 302 Jena Circle Apt. P-1, Odenton, Maryland 21113. Employee A agreed to assist the Respondent with the move and arrived at the Respondent's residence located in Columbia, Maryland. During the process of moving items from the residence, Employee A stated he observed what he

---

<sup>2</sup> The Respondent may obtain the identity of the people referred to in this Order by contacting the Administrative Prosecutor.

believed was a prescription drug in the Respondent's garage. The bottle he observed containing the prescription drug lacked appropriate labeling.

7. On or about April 12, 2006, the Respondent's wife contacted Pharmacy B's Owner and advised him that the Respondent "had maintained a closet in their house that looked like a pharmacy."

8. On or about April 13, 2006, Pharmacy B's Owner drove to the Respondent's residence located in Columbia, Maryland. The Respondent's wife was present and directed Pharmacy B's Owner to a closet in the home containing various items from Pharmacy B. Pharmacy B's Owner noted bottles of unopened and unlabeled prescription medications. The prescription medications were in the original manufacturer's bottles and failed to contain appropriate prescription labels. Pharmacy B's Owner took photos of the various prescription medications and over-the-counter items contained in the closet. (Attachment A).

9. Pharmacy B's Owner then placed all of the unopened prescription bottles and over-the-counter items into several totes for transport back to Pharmacy B. Pharmacy B's Owner confirmed the items were the property of Pharmacy B because each item possessed an exterior label provided by Wholesaler A to Pharmacy B and each label contained Pharmacy B's identifying information.

10. Pharmacy B's Owner returned to Pharmacy B and conducted an inventory of the items retrieved from the Respondent's home. The inventory totaled \$10,090.97 and consisted of the following:<sup>3</sup>

---

<sup>3</sup> The enumerated inventory is not a complete list of all the items discovered at the Respondent's house in Columbia, Maryland. Pharmacy B's Owner left some over-the-counter items and opened bottles of prescription medications in the home.

Description	Return Quantity	Purchase Price	Subtotal
Niaspan ER TAB 500 MG 100	7	\$163.10	\$1,141.70
Mirapex TAB 1.5 MG 90	1	\$177.37	\$177.37
Paxil CR TAB 25 MG 30	1	\$77.52	\$77.52
Thermacare LGE/XLG Back 2	2	\$5.24	\$10.48
Thermacare Neck to Arm 3	3	\$5.19	\$15.57
SM Pain Rel Capl X/Str 100	1	\$1.94	\$1.94
Hydrocort CRM 2.5% FOUG 30 GM	3	\$2.07	\$6.21
SM Hydroc Oint 1% Max/Str 1oz	1	\$1.18	\$1.18
Refresh Plus 30	2	\$6.32	\$12.64
Bayer ASP TAB 325 MG 300	1	\$8.43	\$8.43
Clotrimaz VAG CRM 7AP ALP 45 GM	1	\$2.59	\$2.59
Prilosec CAP 40 MG 30	2	\$165.25	\$331.30
Terazosin CAP 10MG SAN 100	1	\$8.80	\$8.80
Quinine TAB 260MG IVA 100	1	\$16.81	\$16.81
Metanx TAB 90	2	\$55.20	\$110.40
Terazosin CAP 2MG SAN 100	3	\$8.71	\$26.13
Accu-Chek COMF CURVE STRP 100	9	\$77.62	\$698.58
KLOR-CON E/R TAB M20 100	1	\$25.68	\$25.68

Provigil TAB 100MG 100	1	\$510.90	\$510.90
Paxil CR TAB 37.5MG 30	1	\$79.85	\$79.85
Coreg TAB 25MG 100	1	\$157.59	\$157.59
Lipitor TAB 10MG 90	1	\$204.40	\$204.40
Zovirax CRM 5GM	1	\$75.97	\$75.97
Prilosec CAP 40MG 30	2	\$165.65	\$331.30
Provigil TAB 100MG 100	1	\$510.90	\$510.90
Paxil CR TAB 25MG 30	2	\$77.52	\$155.04
Diovan TAB 160MG 90	2	\$152.62	\$305.24
Actos TAB 30MG 90	1	\$443.32	\$443.32
Protonix TAB 40MG 90	4	\$298.88	\$1,195.52
COREG TAB 6.25MG 100	1	\$157.59	\$157.59
Cymbalta CAP 60MG 30	2	\$94.41	\$188.82
COREG TAB 25MG 100	1	\$157.59	\$157.59
NORVASC TAB 5MG 300	1	\$422.05	\$422.05
Zetia TAB 10MG UU 90	7	\$212.61	\$1,488.27
Plavix TAB 75MG 90	3	\$344.43	\$1,033.29

11. At no time did Pharmacy B's Owner give the Respondent permission to take the medications. Additionally, the medications were not appropriately labeled and clearly lacked required prescription information.

12. On or about May 30, 2006, the Respondent was charged in the District Court of Maryland for Anne Arundel County with theft of drugs from Pharmacy B. On or

about August 7, 2006, the Respondent's theft case was moved to the Circuit Court of Maryland for Anne Arundel County.

13. On or about May 30, 2006, the Annapolis City Police Department and Anne Arundel County Police Department executed a search and seizure warrant at the apartment where the Respondent was residing located at 302 Jena Circle Apt. P-1 Odenton, Maryland 21113. A search of the apartment revealed various unlabeled prescription bottles containing pills. Of the pills seized, several were noted to be controlled dangerous substances, including over 700 suspected Alprazolam<sup>4</sup> pills and over 100 suspected Hydrocodone<sup>5</sup> pills.

14. In or about June 2006, the Respondent was charged in the District Court of Maryland for Anne Arundel County with two counts of possession of a controlled dangerous substance. On or about August 4, 2006, the Respondent was indicted in the Circuit Court for Anne Arundel County on possession of a controlled dangerous substance and possession with intent to distribute a controlled dangerous substance.

#### **CONCLUSIONS OF LAW**

Accordingly, the Board concludes that the public health, safety or welfare imperatively requires emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(i) (2004 Repl. Vol.).

#### **ORDER**

Based on the foregoing, it is this 21 day of August 2006, by a majority vote of a quorum of the Board, hereby:

---

<sup>4</sup> Schedule IV Controlled Substance used for the treatment of anxiety. A majority of these pills were contained in a pharmacy bottle labeled Alprazolam.

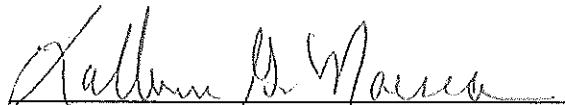
<sup>5</sup> Schedule II Controlled Substance used for the treatment of pain. Preparations containing Hydrocodone in combination with other non-narcotic medicinal ingredients are in Schedule III.

**ORDERED** that pursuant to the authority vested by Md. State Gov't Code Ann., § 10-226(c)(2) License No. 10932, the Respondent's license to practice pharmacy in Maryland, is hereby **SUMMARILY SUSPENDED**; and be it further

**ORDERED**, that a post-deprivation show cause hearing in accordance with Code Md. Regs. tit. 10, § 34.01.12.F (2) on the summary suspension shall be scheduled for **Wednesday, September 13, 2006, at 1:00 p.m.** at the Board's offices, 4201 Patterson Avenue, Baltimore, Maryland 21215; and be it further

**ORDERED**, that the Respondent shall immediately turn over to the Board his wall certificate and wallet-sized license to practice pharmacy issued by the Board; and be it further

**ORDERED**, that this document constitutes an Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. State Gov't Code Ann. § 10-617(h) (2004 Repl. Vol.).

  
LaVerne Naesea, Executive Director  
Maryland Board of Pharmacy

For

John H. Balch, President  
Maryland Board of Pharmacy

**NOTICE OF HEARING**

A Show Cause Hearing to determine whether the Summary Suspension shall be lifted will be held before the Board at 4201 Patterson Avenue, Baltimore, Maryland 21215 on **Wednesday, September 13, 2006, at 1:00 p.m.**