

4/97 NL

IN THE MATTER OF \* BEFORE THE MARYLAND  
 LEONARD MODZELEWSKI, P.D. \* STATE BOARD OF PHARMACY  
 License No. 12822  
 RESPONDENT \*

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**ORDER FOR SUMMARY SUSPENSION**

Based upon information received and reviewed by the State Board of Pharmacy (the "Board") regarding the pharmacy practice of Leonard Modzelewski, P.D. ( the "Respondent", the Board finds that a summary suspension of the Respondent's license to practice pharmacy in the State of Maryland is hereby necessary, pursuant to §10-226 (c), St. Gov't Article, Md. Ann. Code (1995 Repl. Vol.).

**BACKGROUND**

1. The Respondent is licensed to practice pharmacy by the Board. The Respondent last renewed his pharmacy license in 1995; said license expires in September, 1997.
2. In December, 1996, the Respondent was employed by Wal-mart as a "floater;" a floater is a licensee who works in several locations, as needed, in order to provide pharmacy coverage in the absence of the pharmacist regularly assigned to that position.

**ALLEGATIONS IN SUPPORT OF THE SUMMARY SUSPENSION**

1. On or about December 3, 1996 the Respondent let himself into the pharmacy area of a Wal-Mart store located on Baltimore National Pike in Baltimore County, Maryland. The Respondent was not scheduled to work at that store on that date and time and had no authorization to be in the pharmacy area.
2. Shortly thereafter, the Respondent was observed by the pharmacist on duty to be

standing in the "narcotics" aisle of the pharmacy area: this is a restrictive area. The Respondent was observed to be holding a plastic cup and standing in front of some bottles of narcotics.

3. Upon being questioned by the pharmacist on-duty as to why he was there, the Respondent became evasive. When asked by the pharmacist on-duty to show the contents of the cup he was holding, the Respondent refused. A brief struggle ensued, after which the pharmacist on-duty took the lid from the plastic cup and discovered an unopened bottle of generic Lortabs in the cup: the bottle had the store identification stamped thereon. Lortab is a Schedule III, controlled dangerous substance (CDS) that is habit-forming.

4. Security was called, as well as the Baltimore County police. Shortly before the police entered the area where the Respondent was being held by Security, the Respondent bolted into the bathroom and flushed the toilet, despite a command not to do so.

5. The Respondent was subsequently arrested and charged with possession of CDS, felony intent to distribute CDS, and theft of less than \$300. The Respondent was also terminated from his employment with Wal-Mart.

A pharmacist who steals habit-forming narcotics from his employer with the intent to either prescribe the drugs for himself or sell them to others, without a valid authorization, is in violation of §12-313 in the following manner:

- (2) Fraudulently or deceptively uses a license;
- (7) Willfully fails to file or record any report that is required by law;
- (8) Willfully impedes or obstructs the filing or recording of any report that is required by law;
- (14) Without first having received a written or oral prescription for drug from an authorized prescriber, dispenses any drug for which a prescription is required;
- (16) Violates any provision of §12-509 of this title, which concerns the labeling requirements for prescription medicines;

(20) Is professionally, physically, or mentally incompetent.

**FINDING IN SUPPORT OF EMERGENCY ACTION**

Based upon the foregoing reasons, the Board finds that the standards for emergency action set forth by the State Government Article, Md. Ann. Code, §10-226(c) have been met, and further finds that the public health, safety and welfare imperatively require that the Board take emergency action of summarily suspending the Respondent's license to practice pharmacy in the State of Maryland, pursuant to the aforesaid statute.

**ORDER**

It is this third day of March, 1997 by the State Board of Pharmacy hereby

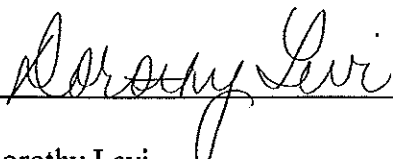
**ORDERED** that, pursuant to the authority vested in the Board of Pharmacy by St. Gov't, Md. Ann. code, §10-226(c), the Respondent's license to practice pharmacy in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and be it further

**ORDERED** that on presentation of this Order, Respondent shall immediately deliver or have delivered to the Board his:

- (1) original wall-sized Maryland license from the Board; and
- (2) wallet-sized renewal card of his license to practice pharmacy from the Board; and be it further

**ORDERED** that a hearing on the merits shall take place within 30 days of the Respondent's request for same; and be it further

**ORDERED** that this document is final public Order, pursuant to St. Govt. Article, Md. Ann. Code, §10-617(h).

  
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Dorothy Levi  
Board Secretary