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APR 9 2014

Division of Consumer Affairs

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

IN THE MATTER OF THE NEW JERSEY	:	
CDS REGISTRATION ISSUED TO	:	Administrative Action
	:	
Philip Eatough, D.O.	:	FINAL ORDER
	:	ON DEFAULT
N.J. CDS REG. No. 0137100	:	
	:	
	:	
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This matter was opened to Eric T. Kanefsky, Director of the New Jersey Division of Consumer Affairs (the "Director") pursuant to his authority over the dispensing¹ of Controlled Dangerous Substances (CDS) as set forth in N.J.S.A. 24:21-1 et seq. upon his receipt and review of information and by way of an Order to Show Cause filed with the Division of Consumer Affairs (the "Division") by John Hoffman, Acting Attorney General of New Jersey, by Deputy Attorney General David Puteska on September 30, 2013, asserting that Respondent's conviction for an indictable offense, and his indiscriminate issuing of CDS prescriptions for non-legitimate medical purposes constitute grounds for the revocation of his New Jersey CDS registration pursuant to the Director's authority under N.J.S.A. 24:21-12(a)(2) and (3).

The Order to Show Cause alleges that, on October 10, 2007, Respondent was charged in the United States District Court for the District of New Jersey with illegal distribution of CDS and money laundering. Respondent pled guilty and was convicted of three counts of possession

¹ " 'Dispense' means to deliver a controlled dangerous substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery." N.J.S.A. 24:21-2.

with the intent to distribute a Schedule II CDS without legitimate medical purpose in violation of 21 U.S.C. 841 (a)(1), and with conspiring and agreeing with others to launder the proceeds of illegal drug transactions contrary to 18 U.S.C. 1956(h). Respondent was sentenced to forty-one months of imprisonment and was incarcerated from June 2, 2009 until June 8, 2011.

On April 12, 2012, the Board of Medical Examiners entered a Final Consent Order permanently revoking Respondent's license to practice medicine. Respondent's medical license had been temporarily suspended since January 7, 2008.

Respondent did not submit an Answer or other written response to the Order to Show Cause sent both to his Ventnor City, New Jersey address and his Valencia, California address. Nor did he telephone or appear at the Division of Consumer Affairs office seeking an adjournment or otherwise respond to the Order to Show Cause.

A hearing was held before the Director on December 2, 2013. Deputy Attorney General David Puteska appeared on behalf of the Attorney General. After representing that neither Respondent nor counsel for Respondent had called the Attorney General or responded to the Order to Show Cause, the Attorney General asked to proceed with the hearing to revoke Respondent's registration, asserting that adequate efforts at service had been made. He supported his application with the Certification of James Rodriguez, Clerk, dated November 25, 2013 and entered that certification into evidence as Exhibit P-1. In Exhibit P-1, Rodriguez certifies that he caused to be served, via United States Express Mail, a copy of the Order to Show Cause and attached exhibits in this matter on Philip Eatough, 6003 Ventor Avenue, Ventnor City, New Jersey. The New Jersey address is Dr. Eatough's last address of record on file with the Division. A true and complete copy of the Express Mail receipt, and proof of delivery on October 8, 2013 are attached to Mr. Rodriguez' certification (P-1 in evidence). On or about November 14, 2013,

Rodriguez served a second copy of the Order to Show Cause and attached exhibits upon Philip Eatough at 27933 Crown Center Court, Valencia, California, 91354. The California address was provided to DAG Puteska by Respondent's former legal counsel and was the most current address found by the Division's Enforcement Bureau. A true and complete copy of the express mail receipt, and proof of delivery signed by "P. Eatough" on November 15, 2013, is attached to Rodriguez's certification as Exhibit 2.

The Director determined that the State had met its burden of proof and demonstrated that service was made at respondent's current place of residence. The Director found efforts at service sufficient to place Respondent on notice pursuant to N.J.A.C. 1:1-7.1, found the Respondent to be in default and moved forward with the hearing in Respondent's absence.

SUMMARY OF EVIDENCE PRESENTED

In opening statements and in the Order to Show Cause submitted to the Director, the Attorney General argued that Respondent's guilty plea and criminal conviction of an indictable offense related to his indiscriminate prescribing of CDS constitutes grounds for revocation of his New Jersey CDS registration pursuant to N.J.S.A. 24:21-12(a)(2) and (3). The Attorney General supported his application for revocation of Respondent's registration with the following documents introduced into evidence

P-2 A plea agreement letter between Dr. Eatough's counsel and the US Attorney for the District of New Jersey dated May 20, 2008.

P-3 Judgment of Conviction

P-4 Final Consent Order entered on April 12, 2012 by the Board of Medical Examiners

On or about May 20, 2008, Dr, Eatough entered into a plea agreement in the United States

Attorney's Office for the District of New Jersey, P-2 in evidence. In the plea agreement, Dr. Eatough, plead guilty to criminal charges of conspiring and agreeing with others to launder proceeds of illegal drug transactions contrary to 18 U.S.C. 1956(h) and 21 U.S.C. 841.

The Judgment of Conviction, P-3 in evidence, reflects Dr. Eatough's guilty plea and judgment of conviction for two offenses, distribution and possession with the intent to distribute a Schedule II controlled substance, under 21 U.S.C. 841, and conspiracy to launder proceeds of illegal drug transactions under 18 U.S.C. 1956.

On or about April 12, 2012 Respondent entered into a consent order with the New Jersey Board of Medical Examiners (the "Board"), P-4 in evidence. Dr. Eatough agreed to the permanent revocation of his medical license and admitted, pursuant to the consent order, to having engaged in conduct that reflected, amongst other things, indiscriminate prescribing of CDS, professional misconduct and the lack of good moral character.

FINDINGS

The evidence presented by the Attorney General in support of the Order to Show Cause for the revocation of respondent's license is compelling, and collectively establishes a basis to revoke Respondent's New Jersey CDS registration pursuant to N.J.A.C. 13:45(H)- 7.4 and N.J.S.A. 24:21-12(A)(2) and (3), including but not limited to Respondent's admitted prescribing of CDS for purposes other than legitimate medical needs and outside the scope of his practice as a physician.

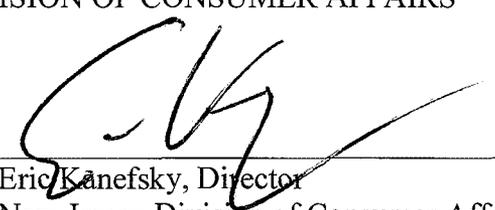
ACCORDINGLY, it is on this 9th day of April 2014

ORDERED, as announced orally on the record and effective December 2, 2013:

1. New Jersey CDS Registration 0137100, held by Respondent Philip Eatough, D.O., is hereby revoked.

2. Should Respondent, at any future date, wish to prescribe CDS in New Jersey, in addition to obtaining the return of his medical license, he must independently file an application for a CDS Registration with the Director. Such registration will only be issued after Respondent proves, to the Director's satisfaction, that he has been rehabilitated, is able to comport himself with integrity and reliability with respect to controlled dangerous substances, is able to maintain effective controls against diversion, and that such issuance is in the public interest as set forth in N.J.S.A. 24:21-11.

DIVISION OF CONSUMER AFFAIRS

BY: 

Eric Kanefsky, Director
New Jersey Division of Consumer Affairs