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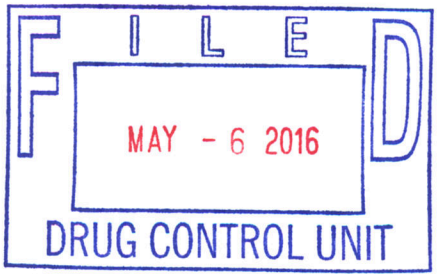

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

IN THE MATTER OF THE NEW JERSEY CDS REGISTRATION ISSUED TO **JAMES COWAN, JR.** **N.J. CDS REG. No. DO5993500**	Administrative Action **ORDER TO SHOW CAUSE WHY CDS REGISTRATION SHOULD NOT BE TEMPORARILY SUSPENDED AND FOR SIMULTANEOUS SUSPENSION OF CDS REGISTRATION**

This matter was opened to Steve Lee, Acting Director of the New Jersey Division of Consumer Affairs (the "Director") pursuant to his authority over the dispensing of Controlled Dangerous Substances ("CDS") as set forth in N.J.S.A. 24:21-1 et. seq. and is based upon his receipt and review of information on which the following preliminary findings of fact and conclusions of law are made.

James Cowan, Jr. ("Respondent") is a physician licensed to practice medicine by the New Jersey State Board of Medical Examiners (the "Board"). Respondent also maintains a registration to prescribe and/or dispense CDS issued by the New Jersey Division of Consumer Affairs (the "Division") pursuant to N.J.S.A. 24:21-10 under registration number D05993500. At all times relevant hereto, Respondent maintained a psychiatric practice in his home located in Ridgewood, New Jersey.

On May 5, 2016, Investigators with the Division's Enforcement Bureau, in concert with the Bergen County Prosecutor's Office, conducted an inspection of Respondent's Ridgewood medical office. The investigators interviewed Maryanne L. Cowan, L.C.S.W., the wife of Respondent. Ms. Cowan conveyed to the investigators that due to ongoing medical problems her husband has been a patient in either a hospital or nursing care facility since March 7, 2016.

Ms. Cowan admitted that she had written and provided CDS prescriptions for numerous patients while the Respondent has been hospitalized. She began by stating that she would only issue one prescription to these patients and that the patients were told to find another doctor. When confronted with statements from patients that they in fact received several prescriptions, she admitted that this had occurred and that she had been trying to help the patients. She further admitted that her husband was aware of her prescribing and had provided her with pre-signed New Jersey prescription blanks ("NJPB") for this purpose.

During the course of the inspection, a patient by the name of P.M. presented to the office with the intention of being seen, evaluated and prescribed by Mrs. Cowan at 2:00 pm. P.M. told the investigators that he had been referred to Respondent by a friend, to obtain prescriptions for Xanax and Adderall. He had made an appointment in February 2016 to be seen by the Respondent. When he arrived, he was seen by Mrs. Cowan only. She asked him a few questions about his prior medication history and provided him with two (2) prescriptions for Xanax 2mg #60 with directions to take one tablet twice a day, and a prescription for Adderall 20mg #60 with directions to take one tablet twice a day. P.M. saw the Respondent in the office that day but was never evaluated by him and did not have any discussion with him. P.M. then returned again in March and obtained the same set of prescriptions. He stated that he paid a fee of $200.00 cash for each visit.

Investigators also interviewed Respondent's office manager, Evelyn Ferraro. Ms. Ferraro worked for the practice for approximately one year. Ms. Ferraro stated that she believed a lot of Respondent's patients exhibited drug seeking behavior. She stated that she would ask both the Respondent and his wife to discharge patients and she has asked patients to leave the office herself. She stated that some of the patients would become aggressive and would not stay in the basement office area. Also some patients would wander to the private upstairs bedroom area to find the Respondent or his wife rather than wait to be seen. Several patients made threats to "expose" what was going on in the office. One patient stated that "she owned the practice" and Ms. Ferraro believed it was that patient that returned one evening to break into and ransack the garage area of the Respondent's residence. Ms. Ferraro believed that the Respondent and his wife had befriended several of the patients and have allowed them to stay in their home from time to time to help them out.

Ms. Ferraro revealed that prescriptions for CDS would be left out in the front mailbox on the porch in sealed envelopes marked with the patient's name. This would assist the patient in obtaining the prescription if they missed their appointment or if it were after hours.

Ms. Ferraro admitted that she visited the Respondent that morning, May 5, 2016, at the Care One Rehabilitation facility in Paramus, New Jersey. She was asked by the Respondent to bring the medical records and paperwork for the patients that were scheduled to be seen by Ms. Cowan on Friday, May 6, 2016. He also asked Ms. Ferraro to bring back to the office some of his pre signed NJPBs. Ms. Ferraro stated that six (6) records were reviewed by Dr. Cowan and each medical record had NJPBs filled out in the patient name dated May 5, 2016.

Investigators visited Respondent at the Care One Rehabilitation facility. Respondent consented to being interviewed with his counsel, Donald Bonomo, Esq., participating via speaker phone. Respondent admitted that he pre-signed his NJPBs and allowed his wife, Maryanne Cowan, to medically evaluate and prescribe CDS to his patients. He believed that after being married for thirty (30) years he had taught her everything she needed to know to be able to medically treat the patients with his consent. He stated that he and his wife would most often consult with one another but he is aware that she had provided prescriptions and care without his knowledge at the time. He believed that her license as a clinical social worker and her experience was adequate to provide care to the patients that presented to the office.

Respondent was aware that all patients were charged a fee for the prescriptions and that the fee would change based upon the ability of the individual to pay. He revealed that his home had been broken into several times and that NJPBs had been stolen.[1] Insurance has been billed for services rendered by both Mrs. Cowan and the Respondent.

Respondent stated that he provided his patients with mental status examinations to determine if they were depressed, suicidal or anxious. He stated that he documented his findings on the progress sheet maintained in the medical record. The medical record of N.M. obtained from his office was reviewed with the Respondent. He stated that he had authorized two (2) prescriptions for this patient dated 5/5/16 for Xanax and Adderall. The demographic sheet was blank and no progress notes were noted in the record. There were two (2) brief notations but the record failed to document any medical examination or medical necessity for the medications provided. The Respondent reviewed an additional five (5) patient names and admitted that he authorized prescriptions for CDS without the benefit of a medical examination.

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[1]An inquiry to the Division's Drug Control Unit revealed no report of lost or stolen prescriptions filed by Respondent as required by N.J.A.C. 13:45A-27.4(d).

Investigators reviewed multiple patient records maintained by Respondent. A majority of these records failed to document medical necessity for the medications prescribed. The records also failed to have any explanation or documentation for any treatment provided. The records also did not maintain past medical history, prior testing or documentation of any referrals for additional modalities. In some records the basic demographic information sheets were completely blank.

N.J.A.C. 13:45H-7.4(a) requires that all prescriptions for CDS be issued only for legitimate medical purposes by a practitioner acting in the usual course of his professional practice. Respondent's conduct, as detailed above, reflects that he repeatedly issued CDS prescriptions without legitimate medical purposes and outside the usual course of professional practice.

Respondent's admission that he issued CDS prescriptions for non-legitimate medical purposes constitutes a violation of N.J.A.C. 13:45H-7.4(a) and thus provides grounds for the temporary suspension of his New Jersey CDS Registration pursuant to N.J.SA. 24:21-12(a)(3).

N.J.S.A. 24:21-12(d) authorizes the Director to simultaneously suspend a CDS Registration along with the issuance of an Order to Show Cause when he finds that there is imminent danger to the public health or safety.

Pursuant to the above information; the Director's authority under N.J.S.A. 24:21-12; and for good cause shown:

IT IS ON THIS 6th day of May, 2016 **ORDERED** that

1. The Respondent, either in person or by attorney, shall show cause before the Director of the New Jersey Division of Consumer Affairs, on **June 15, 2016** at **11:00 a.m.** or as soon thereafter as the parties may be heard, at the New Jersey Division of Consumer Affairs, 124

Halsey Street, 7th Floor, Newark, New Jersey 07101, why an Order should not be entered temporarily suspending his New Jersey CDS Registration pursuant to N.J.S.A. 24:21-12;

2. Pursuant to N.J.S.A. 24:21-12(d), having found that continued CDS prescribing by Respondent would constitutes an imminent harm to the public health or safety, his New Jersey CDS Registration, D05993500, is suspended effective immediately and shall remain suspended pending the return date on this Order to Show Cause or further order of the Director.

3. Pursuant to N.J.S.A. 24:21-12(e), that Respondent shall immediately arrange with the Division's Enforcement Bureau to deliver, for placement under seal, all prescription pads and any and all CDS in his possession, except for any CDS Respondent possesses for personal use pursuant to a duly issued prescription. Respondent's prescription pads and CDS shall remain under seal until such time as a final order which includes the disposition of these sealed items is entered by the Director in this matter.

4. Pursuant to N.J.S.A. 24:21-12(f), a copy of this Order Show Cause shall be transmitted to the Drug Enforcement Administration.

5. That a copy of this Order be served upon Respondent or his attorney forthwith;

6. That Respondent shall file a response five (5) business days prior to the return date set forth above, stating in writing any and all reasons why the temporary suspension of his CDS Registration should not occur including any arguments in mitigation and all documents or other written evidence supporting Respondent's position; said response should be delivered to Steve Lee, Acting Director, New Jersey Division of Consumer Affairs, 124 Halsey Street, 7th Floor, P.O. Box 45029, with a copy delivered on that same date and time to David M. Puteska, Deputy Attorney General, Division of Law, 124 Halsey Street, 5th Floor, P.O. Box 45029, Newark, New Jersey 07101; and

7. That failure to respond to this Order to Show Cause or failure to appear before the Director in person or through an attorney, as is herein required, may result in this matter being considered in Respondent's absence and an Order may be entered against Respondent temporarily suspending his New Jersey CDS Registration.

NEW JERSEY DIVISION OF CONSUMER AFFAIRS

By: _____
Howard Pine, Deputy Director on behalf of
Acting Director Steve Lee