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**FILED**

SEP 30 2013

**Division of Consumer Affairs**

By: David M. Puteska  
Deputy Attorney General



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

\_\_\_\_\_  
: IN THE MATTER OF THE NEW JERSEY : Administrative Action  
: CDS REGISTRATION ISSUED TO :  
: :  
: **PHILIP EATOUGH, D.O.** :  
: **N.J. CDS REG. No. D0137100** :  
: :  
: \_\_\_\_\_ :  
: **ORDER TO SHOW CAUSE**  
: **WHY CDS REGISTRATION**  
: **SHOULD NOT BE REVOKED**  
: **13-079**

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 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.

Philip Eatough, D.O. (“Respondent”) was a physician licensed to practice medicine and surgery in New Jersey by the New Jersey State Board of Medical Examiners (the “Board”) until April 12, 2012 when the Board accepted the surrender of his license to be deemed a permanent revocation. A copy of the Board’s order is attached hereto as Exhibit 1. Respondent was also registered 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 D0137100. Respondent’s CDS registration is currently expired.

On October 10, 2007, Respondent was indicted in the United States District Court for the District of New Jersey on multiple counts of illegal distribution of CDS and money laundering related to the illegal prescribing. On June 16, 2008, Respondent pled guilty to three counts of possession with intent to distribute 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(a), in violation of 18 U.S.C. §1956(h). (Exhibit 1, Pg. 2). Respondent was sentenced to forty-one months imprisonment and was incarcerated from June 2, 2009 until June 8, 2011.

On April 12, 2012, the Board 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.

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 guilty plea, as detailed above, reflects that he issued CDS prescriptions without legitimate medical purposes and outside the usual course of professional practice.

Respondent's conviction of an indictable offense related to his indiscriminate prescribing of CDS constitutes 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). 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 revocation of his New Jersey CDS registration pursuant to N.J.S.A. 24:21-12(a)(3).

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

IT IS ON THIS 30th day of September, 2013 **ORDERED** that

1. The Respondent, Philip Eatough, D.O., either in person or by attorney, shall show cause before the Director of the New Jersey Division of Consumer Affairs, on December 2, 2013 at 11:00 AM or as soon thereafter as the parties may be heard, at the New Jersey Division of Consumer Affairs, 124 Halsey Street, 7<sup>th</sup> Floor, Newark, New Jersey 07101, why an Order should not be entered (A) Revoking his New Jersey CDS registration pursuant to N.J.S.A. 24:21-12 (a)(2) and/or (3); and (B) Requiring that any future application by Respondent to the Director for a CDS registration be issued only after he proves, to the Director's satisfaction, that such issuance is in the public interest as set forth in N.J.S.A. 24:21-11;

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

3. 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 revocation 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 Eric Kanefsky, Director, New Jersey Division of Consumer Affairs, 124 Halsey Street, 7<sup>th</sup> 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

4. 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 revoking

his New Jersey CDS Registration.

NEW JERSEY DIVISION OF CONSUMER AFFAIRS

By:  \_\_\_\_\_  
Eric P. Kanefsky, Director