

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
P.O. Box 45029
124 Halsey Street, Fifth Floor
Newark, NJ 07101

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 :
:
:
MICHAEL CHUNG KAY LAM, M.D. : **ORDER TO SHOW CAUSE**
:
N.J. CDS REG. No. D07517800 : **WHY CDS REGISTRATION**
:
:
:
:
SHOULD NOT BE REVOKED
:
:
13-076

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.

Michael Chung Kay Lam, M.D. (“Respondent”) is a physician previously licensed to practice medicine and surgery in New Jersey 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 D07517800. At all times relevant hereto, Respondent maintained a medical practice in Fort Lee, New Jersey.

On July 10, 2013, the Board entered an Order revoking the license of Respondent to practice medicine and surgery in New Jersey. A copy of the Board's Order is attached hereto as Exhibit 1 and incorporated by reference. Under the terms of the Board's Order, Respondent is eligible to seek restoration of his medical license on January 13, 2014, which represents three years since the date his medical license was temporarily suspended by the Board pursuant to a prior order. Respondent's CDS registration became inactive upon the filing of the Board's revocation order.

The gravamen of the Board's revocation was the admitted indiscriminate prescribing by Respondent of CDS. (See Exhibit 1, Pgs. 1-2). Respondent stipulated to the Board that he had sold prescriptions for CDS to patients without legitimate medical need in exchange for cash payments of between \$130 and \$670. (Exhibit 1, Pg. 2). Respondent specifically admitted to engaging in this conduct on five (5) separate recorded visits with a witness cooperating with the government as well as "other patients." (Exhibit 1, Pg. 2). Respondent further admitted to having falsified his medical records by creating fictitious entries to make it appear as though medical treatment was provided and to having failed to record many of the CDS prescriptions he wrote. (Exhibit 1, Pgs. 2-3). In one instance, Respondent issued a CDS prescription in exchange for \$500 even though he was aware that a urine screen of the "patient" performed two weeks earlier was negative for opiates that had been prescribed by Respondent. (Exhibit 1, Pg. 2). Although Respondent refused to issue prescriptions to a law enforcement officer posing as the girlfriend of an existing patient, Respondent instructed her to use pills from the CDS prescriptions he had just sold to her boyfriend. (Exhibit 1, Pg. 9).

In addition to its other findings, the Board specifically stated that Respondent acted as the "physician-equivalent of a street-level drug dealer," that his conduct was "indistinguishable from

that of any criminal drug dealer” and found that “it harbor[ed] significant reservations and concerns whether respondent should ever be able to regain privileges to prescribe CDS, given his admitted history of having so fundamentally abused and corrupted his authorization to prescribe in the past.” (Exhibit 1, Pgs. 3, 18 and Footnote 1).

On June 8, 2012, Respondent pled guilty to one count of criminal distribution of CDS in violation of N.J.S.A. 2C:35-5A(1) and 2C:35-5B(5). (Exhibit 2). During the course of Respondent’s guilty plea he admitted, under oath, to having issued CDS prescriptions for Oxycodone, a Schedule II narcotic, on multiple occasions without a medical necessity. (Exhibit 2, Page 11, Line 21 to Page 12, Line 14). Respondent further admitted that he knew at the time the illegal prescriptions were issued that doing so was a crime. (Exhibit 2, Page 13, Lines 10-13). Respondent was sentenced to three years of probation in exchange for his guilty plea.

The Drug Enforcement Administration (“DEA”) has confirmed that the current status of Respondent’s DEA registration is “surrendered for cause.”

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 and stipulation to the Board, 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). Respondent's DEA status of "surrendered for cause" provides grounds for the revocation of his New Jersey CDS registration pursuant to N.J.S.A. 24:21-12(a) (4).

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, Michael Chung Kay Lam, M.D., either in person or by attorney, shall show cause before the Director of the New Jersey Division of Consumer Affairs, on November 25, 2013 at 1:00 PM 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 (A) Revoking his New Jersey CDS registration pursuant to N.J.S.A. 24:21-12 (a)(2) thru (a)(4); 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;

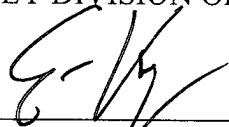
3. That Respondent shall file a response five (5) business days prior to the return date set forth above, stating in writing any and all reasons why the revocation of his CDS registration should not occur including any arguments in mitigation and all documents or other written evidence supporting Respondent's position; said response should be delivered to Eric Kanefsky, Director, New Jersey Division of Consumer Affairs, 124 Halsey Street, 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

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 T. Kanefsky, Director