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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 :
: :
: **MANUEL B. NIGALAN, M.D.** : **ORDER TO SHOW CAUSE**
: **N.J. CDS REG. No. D01580700** : **WHY CDS REGISTRATION**
: : **SHOULD NOT BE REVOKED**
: :
: 13-082

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.

Manuel B. Nigalan, M.D. (“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in New Jersey by the New Jersey State Board of Medical Examiners (the “Board”) until October 14, 2010 when his license was revoked by consent order. (Copy of Consent Order attached as Exhibit 1). Respondent also maintained 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 D01580700. Respondent’s CDS registration became inactive upon the revocation of his medical license.

On June 15, 2009, Respondent was charged in federal court with multiple counts of illegal distribution of CDS along with other offenses. During the course of multiple visits by confidential sources and undercover agents, Respondent wrote prescriptions for hundreds of dosage units of CDS including OxyContin, Roxicodone and Xanax. (Criminal Complaint attached as Exhibit 2). Each of these prescriptions were issued with no legitimate medical need. Respondent employed a security guard named "Lenny" to keep order in his medical office given the large volume of unannounced patients who were appearing and requesting CDS prescriptions. Data obtained from the federal investigation revealed that hundreds of thousands of dollars was paid by insurance companies for CDS prescriptions issued for non-legitimate purposes by Respondent. (Exhibit 2, Pgs. 54 to 58).

On August 9, 2010, Respondent pled guilty in the United States District Court for the District of New Jersey to Distribution of Oxycodone in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) and was sentenced to thirty-six (36) months of imprisonment. Respondent also agreed to forfeit \$613,000 obtained as part of his illegal conduct to the United States government. A copy of the judgment of conviction is attached hereto as Exhibit 3.

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, 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, Manuel B. Nigalan, M.D. either in person or by attorney, shall show cause before the Director of the New Jersey Division of Consumer Affairs, on December 9, 2013 at 9:00 AM 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/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;

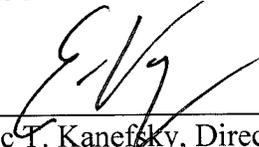
3. That Respondent shall file a response five (5) business days prior to the return date set forth above, stating in writing any and all reasons why the revocation of his CDS registration should not occur including any arguments in mitigation and all documents or other written evidence supporting Respondent's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

Kanefsky, Director, New Jersey Division of Consumer Affairs, 124 Halsey Street, 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