

APPROVED/1-22-07
VIRGINIA BOARD OF PHARMACY
MINUTES OF SPECIAL CONFERENCE COMMITTEE
INFORMAL CONFERENCE COMMITTEE

Thursday, December 7, 2006
Fifth Floor
Conference Room 4

Department of Health Professions
6603 West Broad Street
Richmond, Virginia 23230

CALL TO ORDER: A meeting of a Special Conference Committee of the Board of Pharmacy was called to order at 9:00 a.m.

PRESIDING: Leo Ross, Committee Chairman

MEMBERS PRESENT: David C. Kozera

STAFF PRESENT: Cathy M. Reiniers-Day, Deputy Executive Director
Rachel E. Welch, DHP Adjudication Specialist

HELENE OLEY KOEHLER
License #0202-204972
Helene O. Koehler appeared with Faiz A. Oley, Jr.; Joseph A. Oley; as well as W. Lewis Kincer, Jr., and Alexander Macaulay; her attorneys, to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy as stated in the September 8, 2006 Notice.

Closed Meeting: Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Helene O. Koehler. Additionally, he moved that Cathy Reiniers-Day and Rachel Welch attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene: Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision: After consideration of the evidence and statements concerning the allegations, Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, that the

Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 1.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Ms. Koehler unless a written request to the Board for a formal hearing on the allegations made against her is received from Ms. Koehler within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

FAIZ A. OLEY, JR.
License #0202-010741

Faiz A. Oley, Jr. appeared with Helene O. Koehler; Joseph A. Oley; as well as W. Lewis Kincer, Jr., and Alexander Macaulay; his attorneys, to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the September 8, 2006 Notice.

Closed Meeting:

Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Faiz A. Oley, Jr.. Additionally, he moved that Cathy Reiniers-Day and Rachel Welch attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:

Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

After consideration of the evidence and statements concerning the allegations, Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, that the Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 2.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Mr. Oley unless a written request to the Board for a formal hearing

on the allegations made against him is received from Mr. Oley within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

JOSEPH A. OLEY
License #0202-012292

Joseph A. Oley appeared with Helene O. Koehler; Faiz A. Oley, Jr.; W. Lewis Kincer, Jr., and Alexander Macaulay; his attorneys, to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the September 8, 2006 Notice.

Closed Meeting:

Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Joseph Oley. Additionally, he moved that Cathy Reiniers-Day and Rachel Welch attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:

Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

After consideration of the evidence and statements concerning the allegations, Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, that the Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 3.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Mr. Oley unless a written request to the Board for a formal hearing on the allegations made against him is received from Mr. Oley within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be

vacated.

SARAH JANE POWELL
License #0202-011374

Sarah Jane Powell appeared with Gena M. Harris, Pharmacy Technician and John Waldo the pharmacist in charge at Continuum Home Health Pharmacy; and Lynne Fleming, UVA counsel, to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy as stated in the September 8, 2006 Notice.

Closed Meeting:

Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Sarah Powell. Additionally, he moved that Cathy Reiniers-Day and Rachel Welch attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:

Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

After consideration of the evidence and statements concerning the allegations, and the Committee voted 2-0 in favor of the motion, to close this case as undetermined.

GENA M. HARRIS
License #0230-000120

Gena M. Harris appeared with Sara J. Powell, Pharmacist and John Waldo, the pharmacist in charge at Continuum Home Home Health Pharmacy; and Lynne Fleming, UVA counsel, to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy as stated in the September 8, 2006 Notice.

Closed Meeting:

Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Gena M. Harris. Additionally, he moved that Cathy Reiniers-Day

and Rachel Welch attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:

Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

After consideration of the evidence and statements concerning the allegations, Mr. Kozera moved, and the Committee voted 2-0 in favor of the motion, to close this case as undetermined.

ADJOURN:

With all business concluded, the meeting adjourned at 4:00 p.m.

Cathy M. Reiniers-Day
Deputy Executive Director

Leo H. Ross, Chair

Date

Helene Oley Koehler

Findings of Fact and Conclusions of Law:

- Helene Oley Koehler holds license number 0202-204972 issued by the Board to practice pharmacy in the Commonwealth of Virginia.
- During the course of Ms. Koehler's employment as a pharmacist with Westbury Pharmacy, Richmond, Virginia, she violated § 54.1-3303(A) and (B), § 54.1-3316(7) and § 54.1-3411(2) of the Code in that she dispensed pain medication to a patient on multiple occasions without proper authorization. The individual was a patient with Physician A at Neurological Associates, Inc., Richmond, Virginia, and was prescribed Lortab 10/625 #30 (Hydrocodone/APAP), a Schedule III controlled substance, and Fioricet #90 (butalbital/APAP), a Schedule VI controlled substance, for chronic migraine headaches. Both prescriptions contained instructions that they were refillable monthly only. Thereafter, in August 2003, Physician A retired from Neurological Associates and the patient was placed under the care of Physician B. In approximately December 2003, Physician B learned that the patient was administering Lortab more frequently than prescribed. Upon further investigation, in March 2004, Neurological Associates discovered that Westbury Pharmacy had been dispensing pain medications to the patient under Physician A's name since August 2003, and that Ms. Koehler, specifically, had refilled the patient's invalid prescription for Lortab on or about February 4, 2004, and February 23, 2004, and her invalid prescription for Fioricet on or about February 23, 2004. On or about March 17, 2004, Neurological Associates requested that all prescriptions under Physician A's name be cancelled; however, Ms. Koehler dispensed another invalid Fioricet prescription for the patient on or about March 22, 2004.

Sanction

- Helene Oley Koehler shall enroll in and successfully complete two Accreditation Council for Pharmacy Education ("ACPE")-approved continuing pharmacy education courses, *Controlled Substance Prescriptions and Pain Management: Striking a Balance*, ACPE No. 202-000-06-147-H03; and *Substance Abuse: Guidelines for Professionals*, ACPE No. 200-000-04-006-H04.

Faiz A. Oley, Jr.

Findings of Fact and Conclusions of Law:

- Faiz A. Oley, Jr., holds license number 0202-010741 issued by the Board to practice pharmacy in the Commonwealth of Virginia.
- During the course of Mr. Oley's employment as the Pharmacist-in-Charge at Westbury Pharmacy, he violated § 54.1-3303(A) and (B), § 54.1-3316(7), and § 54.1-3434 of the Code in that he allowed medication to be dispensed to a patient on multiple occasions without proper authorization. Specifically, the individual was a patient with Physician A at Neurological Associates, Inc., Richmond, Virginia, and was prescribed Lortab 10/625 #30 and #70 (Hydrocodone/APAP), a Schedule III controlled substance; diazepam #15, a Schedule IV controlled substance; and Fioricet #90 (butalbital/APAP), a Schedule VI controlled substance, for chronic migraine headaches. The prescriptions for Lortab and Fioricet contained instructions that they were refillable monthly only. Thereafter, in August 2003, Physician A retired from Neurological Associates and the patient was placed under the care of Physician B. In approximately December 2003, Physician B learned that the patient was administering Lortab more frequently than prescribed. Upon further investigation, in March 2004, Neurological Associates discovered that Westbury Pharmacy had been dispensing pain medications to the patient under Physician A's name since August 2003. Specifically, 250 tablets of Lortab were dispensed between on or about October 12, 2003, and March 2, 2004; 135 tablets of diazepam were dispensed between on or about October 12, 2003, and January 22, 2004; and 450 tablets of Fioricet were dispensed between on or about October 29, 2003, and February 23, 2004. On or about March 17, 2004, Neurological Associates requested that all prescriptions under Physician A's name be cancelled; however, another invalid Fioricet (#90) prescription for the patient was dispensed on or about March 22, 2004.
- Mr. Oley violated § 54.1-3316(7), § 54.1-3411(2), and § 54.1-3434 of the Code in that it was discovered that Westbury Pharmacy had been refilling two of the patient's prescriptions early. Specifically, 190 Lortab tablets were dispensed within 40 days to the patient between on or about January 22, 2004, and March 2, 2004. Further, the patient had a prescription for Stadol NS (butorphanol), a Schedule IV controlled substance that was refillable every ten days. A review of the patient's prescription profile indicated that four cans of said nasal spray were dispensed to her between on or about January 11, 2003, and February 4, 2003; three cans were dispensed between on or about March 14, 2003, and March 17, 2003; and five cans were dispensed between on or about March 31, 2003, and April 9, 2003. When questioned about

these early refills, Mr. Oley stated that, although he believed the pharmacy had received verbal authorization to dispense the medications early, he did not have documentation to verify the authorizations.

Sanction:

Faiz A. Oley, Jr., shall enroll in and successfully complete two Accreditation Council for Pharmacy Education ("ACPE")-approved continuing pharmacy education courses, *Controlled Substance Prescriptions and Pain Management: Striking a Balance*, ACPE No. 202-000-06-147-H03; and *Substance Abuse: Guidelines for Professionals*, ACPE No. 200-000-04-006-H04. Further, within 30 days of the entry of this Order, Mr. Oley shall provide documentation to the Board that Westbury Pharmacy's computer software has the capability of alerting pharmacists regarding early refills for patients and multiple prescribers issuing multiple prescriptions in the same class of drugs for the same patient.

Joseph A. Oley

Findings of Fact and Conclusions of Law:

1. Joseph A. Oley holds license number 0202-012292 issued by the Board to practice pharmacy in the Commonwealth of Virginia.

2. During the course of Mr. Oley's employment as a pharmacist with Westbury Pharmacy, Richmond, Virginia, he violated § 54.1-3303(A) and (B), § 54.1-3316(7) and § 54.1-3411(2) of the Code in that he dispensed medication to a patient without proper authorization. The individual, who was a patient with Physician A at Neurological Associates, Inc., Richmond, Virginia, was prescribed Lortab 10/625 #30 (Hydrocodone/APAP), a Schedule III controlled substance, and diazepam #15, a Schedule IV controlled substance, for chronic migraine headaches. The Lortab prescription contained instructions that it was refillable monthly only. Thereafter, in August 2003, Physician A retired from Neurological Associates and the patient was placed under the care of Physician B. In approximately December 2003, Physician B learned that the patient was administering Lortab more frequently than prescribed. Upon further investigation, in March 2004, Neurological Associates discovered that Westbury Pharmacy had been dispensing pain medications to the patient under Physician A's name since August 2003, and that Mr. Oley, specifically, had refilled the patient's invalid prescription for Lortab on or about February 13, 2004, after it had just been filled on or about February 4, 2004, and that he also dispensed an invalid diazepam prescription for the patient on or about January 22, 2004.

Sanction:

Joseph A. Oley shall enroll in and successfully complete two Accreditation Council for Pharmacy Education ("ACPE")-approved continuing pharmacy education courses, *Controlled Substance Prescriptions and Pain Management: Striking a Balance*, ACPE No. 202-000-06-147-H03; and *Substance Abuse: Guidelines for Professionals*, ACPE No. 200-000-04-006-H04.

