

Public

STATE OF NEW YORK DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

HAROLD R. KATZ, M.D.
CO-05-08-4267-A

COMMISSIONER'S
SUMMARY
ORDER

TO: HAROLD R. KATZ, M.D.
8815 Howard Forest Lane
Baltimore, MD 21208-6343

HAROLD R. KATZ, M.D.
Krieger Eye Institute
Sinai Hospital of Baltimore
2411 W. Belvedere Avenue
Baltimore, MD 21215

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the State of Maryland, Maryland Board of Physicians, (hereinafter "Maryland Board") has made a finding substantially equivalent to a finding that the practice of medicine by **HAROLD R. KATZ, M.D.**, Respondent, licensed to practice medicine in New York state on July 1, 1980, by license number 142531, in that jurisdiction, constitutes an imminent danger to the health, safety, and welfare of its people, as is more fully set forth in documents of the State of Maryland, attached hereto, as "Appendix A," and made a part hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law Section 230(12)(b), that effective immediately, **HAROLD R. KATZ, M.D.**, Respondent, shall not practice medicine in the state of New York or in any other jurisdiction where that practice is dependent on a valid New York state license to practice medicine.

Any practice of medicine in the state of New York or in any other jurisdiction where that practice is dependent on a valid New York state license to practice medicine in violation of this Commissioner's Summary Order shall constitute Professional Misconduct within the meaning of New York Education Law §6530 and may constitute unauthorized medical practice, a felony defined by New York Education Law §6512.

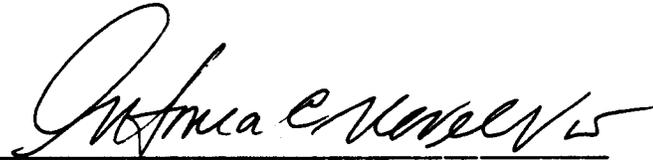
This Order shall remain in effect until the final conclusion of a hearing that shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in the state of Maryland. The hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct, on a date and at a location to be set forth in a written Notice of Referral Proceeding, together with a Statement of Charges, to be provided to Respondent after the final conclusion of the Maryland proceeding. Said written Notice may be provided in person, by mail or by other means. If Respondent wishes to be provided said written notice at an address other than those set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth on this Order and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299 via Certified Mail, Return Receipt Requested, of the final conclusion of the Maryland proceeding, immediately upon such conclusion.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW SECTION 230-A. YOU ARE URGED TO OBTAIN AN ATTORNEY FOR THIS MATTER.

DATE: Albany, New York

October 14, 2005



**ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P. H.
Commissioner**

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

IN THE MATTER OF
HAROLD R. KATZ, M.D.

Respondent

License Number: D30934

BEFORE THE
MARYLAND BOARD
OF PHYSICIANS

Case Number: 2005-0697

* * * * *

**AMENDED ORDER FOR SUMMARY SUSPENSION
OF LICENSE TO PRACTICE MEDICINE¹**

The Maryland Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of Harold R. Katz, M.D. (the Respondent") (D.O.B. 03/12/1952), License Number D30934, to practice medicine in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov' Code Ann. § 10-226(c)(2)(i) (2004 Repl. vol.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board and the Office of the Attorney General, including the instances described below, the Board has reason to believe that the following facts are true:²

¹ This Order supersedes the Order for Summary Suspension dated August 8, 2005.

² The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the suspension and charges. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent with this matter.

PROCEDURAL BACKGROUND

- 1 At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on June 18, 1984.
- 2 The Respondent entered into a non-public Disposition Agreement with the Board on or about November 5, 1991 and the Agreement was terminated on or about April 5, 1994. The Respondent entered into the Disposition Agreement with the Board as a result of Percocet² abuse. He admitted to writing prescriptions for Percocet for his mother-in-law for his own use.
- 3 At the time of the incidents described herein, the Respondent maintained an office for the practice of ophthalmology at the Krieger Eye Institute, Sinai Hospital of Baltimore, 2411 W. Belvedere Avenue, Baltimore, Maryland 21215. He held hospital privileges at Sinai Hospital and Johns Hopkins Hospital.
- 4 On or about March 21, 2005, the Board received a Report of Disciplinary Action from Sinai Hospital in Baltimore, MD, stating that on March 7, 2005, the Respondent's hospital privileges were "emergently suspended" based on the following:

Dr. Katz was observed to be disheveled and not thinking clearly. He was directed to take a drug test.³ The test was positive for Clonazepam⁴ metabolite and lorazepam.⁵

² A Schedule II Controlled Dangerous Substance ("CDS").
³ The urine toxicology screen was taken on or about February 7, 2005.
⁴ The Respondent's treating psychiatrist was prescribing him Clonazepam, a Schedule IV benzodiazepine used in the treatment of panic disorders.
⁵ Lorazepam (brand name Ativan), an anti-anxiety agent, is a Schedule IV CDS.

5. The Board opened an investigation of the complaint concerning the Respondent on or about March 21, 2005.

INVESTIGATIVE FINDINGS IN SUPPORT OF SUMMARY SUSPENSION

6. Sometime in August 2003, Dr. R, a neurologist, diagnosed the Respondent with radial nerve palsy; he prescribed Neurontin to the Respondent. The Respondent reported to the neurologist that the Neurontin caused "cognitive changes" making it difficult for him to function. In September 2003, at the Respondent's request, Dr. R began prescribing Vicodin, a Schedule III CDS, to the Respondent. Dr. R refilled the Vicodin for the Respondent on November 3, 2003.

7. On November 11, 2003, an orthopedic surgeon, Dr. B, prescribed 40 tablets of Roxicet⁶ to the Respondent. On November 19 and 23, 2003, the orthopedic surgeon prescribed 40 tablets of Vicodin to the Respondent, respectively.

8. On November 25, 2003, the Respondent saw Dr. B two weeks after a fracture of his toe; prior to this he had been ambulating with weight bearing as tolerated, but the toe was still painful. Dr. B found the Respondent to have a hematoma around his toe, with limited flexion and extension and pain on palpation, and prescribed the Respondent Tylenol #3, Schedule III CDS, in conjunction with Celebrex.

9. On January 7, 2004, Dr. B prescribed 40 tablets of Vicodin to the Respondent.

⁶ Roxicet, which is made of Oxycodone and Acetaminophen, is a Schedule II CDS.

10. Six days later, on January 13, 2004, the Respondent telephoned Dr. R, the neurologist, to request a refill of Vicodin. Dr. R told him that was "not the best way to treat neuropathic pain" but called in a refill of the prescription, recommending that the Respondent schedule an appointment to be reevaluated.
11. Dr. R contacted the Neighbor Care Pharmacy at Sinai Hospital and discovered that he had not been the sole physician prescribing CDS to the Respondent between September 2003 and January 2004. A pharmacy printout from the Neighbor Care Pharmacy revealed that the Respondent had the following CDS prescriptions filled at that pharmacy between September 22, 2003 and January 12, 2004:

CDS	Prescribing Physician	Date filled
50 Vicodin	Dr. R	9/22/03
50 Roxicet ⁷	Dr. R	9/26/2003
50 Vicodin	Dr. R	11/03/03
40 Roxicet	Dr. B	11/11/03
40 Tylenol #3	Dr. B	11/25/03
40 Tylenol #3	Dr. Katz	12/9/03
40 Hydrocodone with APAP ⁸	Dr. B	12/24/03
40 Hydrocodone with APAP	Dr. B	1/7/04
40 Tylenol #3	Dr. Katz	1/12/04

12. Sometime in January 2004, the Respondent also contacted another ophthalmologist, Dr. A, at Sinai Hospital for a prescription for Vicodin. Dr. A recalls issuing one to two prescriptions to the Respondent for Vicodin, but subsequently reported these requests to the Chief of Ophthalmology

⁷ Roxicet, which is made of Oxycodone and Acetaminophen, is a Schedule II CDS.

⁸ APAP is Acetaminophen, and in combination with Hydrocodone is a Schedule III CDS.

at Sinai Hospital. The Respondent sought additional refills of Vicodin from Dr. J., but he refused to write any further prescriptions.

13. On or about January 13, 2004, based on "Reasonable Suspicion/Cause," Sinai Hospital requested that the Respondent submit to a "For Cause Drug Test." The Respondent submitted to a urine screen that tested positive for codeine, morphine, alprazolam metabolite,⁹ clonazepam metabolite, oxazepam¹⁰ and temazepam.¹¹
14. On January 21, 2004, the Chief of Ophthalmology wrote a letter to the Respondent indicating the following:

Recently you exhibited behaviors that caused me to have concern regarding your overall fitness for duty. A discussion occurred between us recently where you admitted to lapses in judgment affecting your behavior while at work. You summarized some difficulties that were occurring in your personal life and agreed that some vacation time off would be appropriate. You also gave authorization for me to speak with and obtain information from your treating providers to determine an appropriate response.

As a result of this situation, I have consulted with appropriate individuals at Sinai and have been advised to inform you that some specific actions must occur so that your employment with Sinai Hospital can remain in good standing...

The actions included an evaluation by a hospital approved psychiatrist (Dr. J), monitoring by the Employee Health Office, therapeutic monitoring as deemed necessary by treating providers and Employee Health, monitoring of substances including blood and urine testing or any other screening at the discretion of the Employee Health Office. The letter further indicated:

⁹ Xanax, a Schedule IV CDS used in the treatment of anxiety.

¹⁰ Oxazepam, a benzodiazepine, is a Schedule IV CDS used in the treatment of anxiety.

¹¹ Resorli, a benzodiazepine, is a Schedule IV CDS.

...[Sinai] Hospital reserves the right to suspend your clinical privileges at any time the Hospital determines that doing so is appropriate to protect Sinai and its patients. It is important that you review the conditions of this letter and understand that any failure to comply with the expectations listed here will result in your removal from Sinai.

The Respondent signed the letter in agreement on or about January 22, 2004.

15. The Respondent was evaluated by Dr. W, an addictionologist on or about January 15, 2004. Dr. W's diagnostic impression of the Respondent was "Opiate dependence, history of depression NOS, history of dysthymia, history of panic disorder without Agoraphobia, and possible history of generalized anxiety disorder."

16. The Respondent has been followed by Dr. J, a psychiatrist, since 1994 for the treatment of depression. As of April 19, 2005, the Respondent's medical records from Dr. J. reflect that he has been on the following medications for the past several years: Wellbutrin XL,¹² Klonopin,¹³ Provigil,¹⁴ and since January 2004, Suboxone¹⁵ (which is managed by Dr. W).

17. A letter from Dr. J to the Chief of Ophthalmology reflects that in January 2004, the Respondent admitted (to Dr. J) his overuse and dependency on narcotic pain medication including Vicodin and Codeine.

18. The Respondent was evaluated on or about January 19, 2004, by the Center for Mental Health (hereinafter, "the Center") for a Drug/Alcohol

¹² An antidepressant.
¹³ Klonopin is the brand name of Clonazepam.
¹⁴ A wakefulness-promoting agent.
¹⁵ A Schedule III CDS used in the treatment of opioid dependence.

Evaluation as a condition of his employment at Sinai Hospital. According to the Evaluation, he met the clinical diagnostic criteria for opiate dependence. During his evaluation, the Respondent reported to the Center that "his behavior became erratic, and his use began to increase in the last four (4) months."

19. In August 2004, the Respondent successfully completed the Center's outpatient substance abuse program. The Center's recommendations included that he continue to abstain from all mood altering chemicals, attend weekly AA/NA support meetings, that he continue therapy with a psychiatrist/psychologist and continue to submit for random urine toxicology screening.

20. On or about December 1, 2004, Sinai Hospital requested that the Respondent submit a random urine toxicology screen. The urine screen tested positive for Oxazepam and Temazepam. The Respondent had seen patients at Sinai Hospital that day.

21. On or about March 18, 2005, Dr. W documented that the Respondent told him that the [December 1, 2004] "dirty urine" was because he had taken Valium (Diazepam)¹⁶ as he "ran out of Klonopin over the weekend." The Respondent also admitted to the Board's Compliance staff during his June 28, 2005, interview that the December 1, 2004 positive urine screen was because he had taken 10 mg. Valium (that had previously been prescribed by his internist) as he had run out of Klonopin and he gets "very, very, very anxious."

¹⁶ Diazepam is a Schedule IV CDS.

22. On or about February 4, 2005, Sinai Hospital requested that the Respondent submit to a random urine toxicology screen. The urine screen tested positive for Lorazepam (brand name Ativan), a Schedule IV CDS, not prescribed by the Respondent's health care providers. The Respondent had seen several patients that morning at Sinai Hospital.
23. The Respondent told Dr. W that he had taken 1mg. of his girlfriend's Ativan, for sleep. He also told the Compliance staff during the June 28, 2005 interview that he had taken Ativan the night before the February 4, 2005 urine screen.
24. On March 7, 2005, Sinai Hospital suspended the Respondent's clinical privileges based on the following:
 - Dr. Katz was observed to be disheveled and not thinking clearly. He was directed to take a drug test. The test was positive for clonazepam metabolite and lorazepam.Sinai Hospital further indicated that the Respondent was "unable to practice safely by reason of alcohol or other substance abuse."
25. Effective June 30, 2005, Sinai Hospital terminated the Respondent's employment.
26. By letter dated March 22, 2005, the Board notified Johns Hopkins regarding Sinai Hospital's action.
27. On or about April 14, 2005, Johns Hopkins Hospital sent the Respondent a letter informing him that the bylaws required him to "immediately" report to his Chief of Service any investigations or actions taken against him with

regard to any hospital appointment or privileges. The Respondent had failed to notify the Chief of Service of his suspension from Sinai Hospital.

28. The Respondent has been followed by Dr. L, a psychologist, since 1996, for depression. The psychologist wrote in a letter to the Maryland Physician's Health Program dated April 25, 2005:

...the Respondent was able to avoid medication for the better part of a year. A few months ago he took some medication for sleep and had a dirty urine as a result.

29. During an interview by the Board's Compliance staff on June 28, 2005, the Respondent was questioned by Pamela Cromer, Compliance Analyst:

Q: ...Have you ever self-prescribed? I'm going to say from the prior disposition agreement to date. Self-prescribed, written a prescription for yourself, or called in a prescription?

A: No.

Q: Okay.

A.: There - no. I think one time I got a blood pressure medicine and they put my name as the referring doctor...

30. During the course of the Board's investigation however, a pharmacy survey revealed that the Respondent had self-prescribed the following CDs (after the termination of the Board's disposition agreement on April 5, 1998):

Date	Medication	Prescriber
November 25, 2002	Clonazepam (14)	Dr. Katz
November 24, 2003	Clonazepam (60)	Dr. Katz
December 9, 2003	Tylenol #3 (40)	Dr. Katz
January 8, 2004	Hydrocodone with APAP (50)	Dr. Katz
January 12, 2004	Tylenol #3 (40)	Dr. Katz

The pharmacy survey also revealed that in addition to the above, the Respondent self-prescribed several non-controlled dangerous substances after 1994.

3. Based upon the above investigative facts, the Board has cause to believe that the Respondent violated Md. Health Occ. Code Ann:

- (3) Is guilty of unprofessional or immoral conduct in the practice of medicine;
- (3) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (3) Provides professional services:
 - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication.

CONCLUSION OF LAW

Based on the foregoing facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226 (c) (2) (i) (2004 Repl. vol.).

ORDER

Based on the foregoing, it is this 27th day of September, 2005, by a majority of the quorum of the Board:

ORDERED that pursuant to the authority vested by Md. State Gov't Code Ann., § 10-226(c)(2), the Respondent's license to practice medicine in the State of Maryland be and is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that a post-deprivation hearing in accordance with Code Md. Regs. tit. 10, § 32.02.05.B (7) (c), D and E on the Summary Suspension has been scheduled for August 24, 2005, at 2:30 p.m., at the Maryland Board of Physicians Room 108-109, 4201 Patterson Avenue, Baltimore, Maryland 21215-0095 and be it further

ORDERED that at the conclusion of the **SUMMARY SUSPENSION** hearing held before the Board, the Respondent, if dissatisfied with the result of the hearing, may request within ten (10) days an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and be it further

ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's Compliance Analyst, the following items:

- (1) the Respondent's original Maryland License D30934;
 - (2) the Respondent's current renewal certificate;
 - (3) the Respondent's current DEA Certificate of Registration;
 - (4) the Respondent's Maryland Controlled Dangerous Substance Registration;
 - (5) all controlled dangerous substances in the Respondent's possession and/or practice;
 - (6) all Medical Assistance prescription forms;
 - (7) all prescription forms and pads in his possession and/or practice;
- and

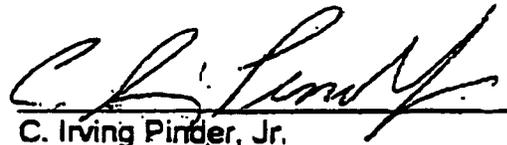
(8) Any and all prescription pads on which his name and DEA number are imprinted; and be it further

ORDERED that a copy of this Order of Summary Suspension shall be filed with the Board in accordance with Md. Health Occ. Code Ann. § 14-407 (2000 Repl. vol.); and be it further

ORDERED that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 et seq.

9/21/05

Date



C. Irving Pinder, Jr.
Executive Director, Maryland
State Board of Physicians

**IN THE MATTER OF
HAROLD R. KATZ, M.D.
Respondent**

License Number: D30934

*** BEFORE THE
* MARYLAND BOARD
* OF PHYSICIANS
* Case Number: 2005-0697**

* * * * *

**ORDER FOR SUMMARY SUSPENSION
OF LICENSE TO PRACTICE MEDICINE**

The Maryland Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of Harold R. Katz, M.D. (the Respondent") (D.O.B. 03/12/1952), License Number D30934, to practice medicine in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2)(i) (2004 Repl. vol.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board and the Office of the Attorney General, including the instances described below, the Board has reason to believe that the following facts are true:¹

¹ The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the suspension and charges. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent with this matter.

PROCEDURAL BACKGROUND

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on June 18, 1984.
2. The Respondent entered into a non-public Disposition Agreement with the Board on or about November 5, 1991 and the Agreement was terminated on or about April 5, 1994. The Respondent entered into the Disposition Agreement with the Board as a result of Percocet² abuse. He admitted to writing prescriptions for Percocet to his mother-in-law for his own use.
3. At the time of the incidents described herein, the Respondent maintained an office for the practice of ophthalmology at the Krieger Eye Institute, Sinai Hospital of Baltimore, 2411 W. Belvedere Avenue, Baltimore, Maryland 21215. He held hospital privileges at Sinai Hospital and Johns Hopkins Hospital.
4. On or about March 21, 2005, the Board received a Report of Disciplinary Action from Sinai Hospital in Baltimore, MD, stating that on March 7, 2005, the Respondent's hospital privileges were "emergently suspended" based on the following:

Dr. Katz was observed to be disheveled and not thinking clearly. He was directed to take a drug test.³ The test was positive for clonazepam⁴ metabolite and lorazepam.⁵

² A Schedule II Controlled Dangerous Substance ("CDS").

³ The urine toxicology screen was taken on or about February 7, 2005.

⁴ The Respondent's treating psychiatrist was prescribing him Clonazepam, a Schedule IV benzodiazepine used in the treatment of panic disorders.

⁵ Lorazepam (brand name Ativan), an antianxiety agent, is a Schedule IV CDS.

5. The Board opened an investigation of the complaint concerning the Respondent on or about March 21, 2005.

INVESTIGATIVE FINDINGS IN SUPPORT OF SUMMARY SUSPENSION

6. Sometime in August 2003, Dr. R, a neurologist, diagnosed the Respondent with radial nerve palsy; he prescribed Neurontin to the Respondent. The Respondent reported to the neurologist that the Neurontin caused "cognitive changes" making it difficult for him to function. In September 2003, at the Respondent's request, Dr. R began prescribing Vicodin, a Schedule III CDS, to the Respondent. Dr. R refilled the Vicodin for the Respondent on November 3, 2003.
7. On November 11, 2003, an orthopedic surgeon, Dr. B, prescribed 40 tablets of Roxicet⁶ to the Respondent. On November 19 and 23, 2003, the orthopedic surgeon prescribed 40 tablets of Vicodin to the Respondent, respectively.
8. On November 25, 2003, the Respondent saw Dr. B two weeks after a fracture of his toe; prior to this he had been ambulating with weight bearing as tolerated, but the toe was still painful. Dr. B found the Respondent to have a hematoma around his toe, with limited flexion and extension and pain on palpation, and prescribed the Respondent Tylenol #3, a Schedule III CDS, in conjunction with Celebrex.
9. On January 7, 2004, Dr. B prescribed 40 tablets of Vicodin to the Respondent.

⁶ Roxicet, which is made of Oxycodone and Acetaminophen, is a Schedule II CDS.

10. Six days later, on January 13, 2004, the Respondent telephoned Dr. R, the neurologist, to request a refill of Vicodin. Dr. R told him that was "not the best way to treat neuropathic pain" but called in a refill of the prescription, recommending that the Respondent schedule an appointment to be reevaluated.

11. Dr. R contacted the Neighbor Care Pharmacy at Sinai Hospital and discovered that he had not been the sole physician prescribing CDS to the Respondent between September 2003 and January 2004. A pharmacy printout from the Neighbor Care Pharmacy revealed that the Respondent had the following CDS prescriptions filled at that pharmacy between September 22, 2003 and January 12, 2004:

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40 Tylenol #3	Dr. Katz	12/9/03
40 Hydrocodone with APAP ⁸	Dr. B	12/24/03
40 Hydrocodone with APAP	Dr. B	1/7/04
40 Tylenol #3	Dr. Katz	1/12/04

12. Sometime in January 2004, the Respondent also contacted another ophthalmologist, Dr. A, at Sinai Hospital for a prescription for Vicodin. Dr. A recalls issuing one to two prescriptions to the Respondent for Vicodin, but subsequently reported these requests to the Chief of Ophthalmology

⁷ Roxicet, which is made of Oxycodone and Acetaminophen, is a Schedule II CDS.

⁸ APAP is Acetaminophen, and in combination with Hydrocodone is a Schedule III CDS.

at Sinai Hospital. The Respondent sought additional refills of Vicodin from Dr. A, but he refused to write any further prescriptions.

13. On or about January 13, 2004, based on "Reasonable Suspicion/Cause," Sinai Hospital requested that the Respondent submit to a "For Cause Drug Test." The Respondent submitted to a urine screen that tested positive for codeine, morphine, alprazolam metabolite,⁹ clonazepam metabolite, oxazepam¹⁰ and temazepam.¹¹

14. On January 21, 2004, the Chief of Ophthalmology wrote a letter to the Respondent indicating the following:

Recently you exhibited behaviors that caused me to have concern regarding your overall fitness for duty. A discussion occurred between us recently where you admitted to lapses in judgment affecting your behavior while at work. You summarized some difficulties that were occurring in your personal life and agreed that some vacation time off would be appropriate. You also gave authorization for me to speak with and obtain information from your treating providers to determine an appropriate response.

As a result of this situation, I have consulted with appropriate individuals at Sinai and have been advised to inform you that some specific actions must occur so that your employment with Sinai Hospital can remain in good standing...

The actions included an evaluation by a hospital approved psychiatrist (Dr. J), monitoring by the Employee Health Office, therapeutic monitoring as deemed necessary by treating providers and Employee Health, monitoring of substances including blood and urine testing or any other screening at the discretion of the Employee Health Office. The letter further indicated:

⁹ Xanax, a Schedule IV CDS used in the treatment of anxiety.

¹⁰ Oxazepam, a benzodiazepine, is a Schedule IV CDS used in the treatment of anxiety.

¹¹ Restoril, a benzodiazapine, is a Schedule IV CDS.

...[Sinai] Hospital reserves the right to suspend your clinical privileges if at any time the Hospital determines that doing so is appropriate to protect Sinai and its patients. It is important that you review the conditions of this letter and understand that any failure to comply with the expectations listed here will result in your removal from Sinai.

The Respondent signed the letter in agreement on or about January 22, 2004.

15. The Respondent was evaluated by Dr. W, an addictionologist on or about January 15, 2004. Dr. W's diagnostic impression of the Respondent was "Opiate dependence, history of depression NOS, history of dysthymia, history of panic disorder without Agoraphobia and possible history of generalized anxiety disorder."

16. The Respondent has been followed by Dr. J, a psychiatrist, since 1994 for the treatment of depression. As of April 19, 2005, the Respondent's medical records from Dr. J. reflect that he has been on the following medications for the past several years: Wellbutrin XL,¹² Klonopin,¹³ Provigil,¹⁴ and since January 2004, Suboxone¹⁵ (which is managed by Dr. W).

17. A letter from Dr. J to the Chief of Ophthalmology reflects that in January 2004, the Respondent admitted (to Dr. J) his overuse and dependency on narcotic pain medication including Vicodin and Codeine.

18. The Respondent was evaluated on or about January 19, 2004, by the Center for Mental Health (hereinafter, "the Center") for a Drug/Alcohol

¹² An antidepressant.

¹³ Klonopin is the brand name of Clonazepam.

¹⁴ A wakefulness-promoting agent.

¹⁵ A Schedule III CDS used in the treatment of opioid dependence.

Evaluation as a condition of his employment at Sinai Hospital. According to the Evaluation, he met the clinical diagnostic criteria for opiate dependence. During his evaluation, the Respondent reported to the Center that "his behavior became erratic and his use began to increase in the last four (4) months."

19. In August 2004, the Respondent successfully completed the Center's outpatient substance abuse program. The Center's recommendations included that he continue to abstain from all mood altering chemicals, attend weekly AA/NA support meetings, that he continue therapy with a psychiatrist/psychologist and continue to submit for random urine toxicology screening.

20. On or about December 1, 2004, Sinai Hospital requested that the Respondent submit a random urine toxicology screen. The urine screen tested positive for Oxazepam and Temazepam. The Respondent had seen patients at Sinai Hospital that day.

21. On or about March 18, 2005, Dr. W documented that the Respondent told him that the [December 1, 2004] "dirty urine" was because he had taken Valium (Diazepam)¹⁶ as he "ran out of Klonopin over the weekend." The Respondent also admitted to the Board's Compliance staff during his June 28, 2005, interview that the December 1, 2004 positive urine screen was because he had taken 10 mg. Valium (that had previously been prescribed by his internist) as he had run out of Klonopin and he gets "very, very, very anxious."

¹⁶ Diazepam is a Schedule IV CDS.

22. On or about February 4, 2005, Sinai Hospital requested that the Respondent submit to a random urine toxicology screen. The urine screen tested positive for Lorazepam (brand name Ativan), a Schedule IV CDS, not prescribed by the Respondent's health care providers. The Respondent had seen several patients that morning at Sinai Hospital.
23. The Respondent told Dr. W that he had taken 1mg. of his girlfriend's Ativan, for sleep. He also told the Compliance staff during the June 28, 2005 interview that he had taken Ativan the night before the February 4, 2005 urine screen.
24. On March 7, 2005, Sinai Hospital suspended the Respondent's clinical privileges based on the following:
- Dr. Katz was observed to be disheveled and not thinking clearly. He was directed to take a drug test. The test was positive for clonazepam metabolite and lorazepam.
- Sinai Hospital further indicated that the Respondent was "unable to practice safely by reason of alcohol or other substance abuse."
25. Effective June 30, 2005, Sinai Hospital terminated the Respondent's employment.
26. By letter dated March 22, 2005, the Board notified Johns Hopkins regarding Sinai Hospital's action.
27. On or about April 14, 2005, Johns Hopkins Hospital sent the Respondent a letter informing him that the bylaws required him to "immediately" report to his Chief of Service any investigations or actions taken against him with

regard to any hospital appointment or privileges. The Respondent had failed to notify the Chief of Service of his suspension from Sinai Hospital.

28. The Respondent has been followed by Dr. L, a psychologist, since 1996, for depression. The psychologist wrote in a letter to the Maryland Physician's Health Program dated April 25, 2005:

...the Respondent was able to avoid medication for the better part of a year. A few months ago he took some medication for sleep and had a dirty urine as a result.

29. During an interview by the Board's Compliance staff on June 28, 2005, the Respondent was questioned by Pamela Cromer, Compliance Analyst:

Q: ...Have you ever self-prescribed? I'm going to say from the prior disposition agreement to date. Self-prescribed, written a prescription for yourself, or called in a prescription?

A: No.

Q: Okay.

A.: There – no. I think one time I got a blood pressure medicine and they put my name as the referring doctor...

30. During the course of the Board's investigation however, a pharmacy survey revealed that the Respondent had self-prescribed the following CDS (after the termination of the Board's disposition agreement on April 5, 1994):

Date	Medication	Prescriber
July 17, 1995	Diazepam (8)	Dr. Katz
July 24, 1995	Diazepam (30)	Dr. Katz
November 25, 2002	Clonazepam (14)	Dr. Katz
November 24, 2003	Clonazepam (60)	Dr. Katz
December 9, 2003	Tylenol #3 (40)	Dr. Katz
December 22, 2003	Clonazepam (60)	Dr. Katz
January 8, 2004	Hydrocodone with APAP (50)	Dr. Katz
January 12, 2004	Tylenol #3 (40)	Dr. Katz

The pharmacy survey also revealed that in addition to the above, the Respondent self-prescribed several non-controlled dangerous substances after 1994.

31. Based upon the above investigative facts, the Board has cause to believe that the Respondent violated Md. Health Occ. Code Ann:

(3) Is guilty of unprofessional or immoral conduct in the practice of medicine;

(8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;

(9) Provides professional services:

(ii) While using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication.

CONCLUSION OF LAW

Based on the foregoing facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226 (c) (2) (i) (2004 Repl. vol.).

ORDER

Based on the foregoing, it is this 8th day of August, 2005, by a majority of the quorum of the Board:

ORDERED that pursuant to the authority vested by Md. State Gov't Code Ann., § 10-226(c)(2), the Respondent's license to practice medicine in the State of Maryland be and is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that a post-deprivation hearing in accordance with Code Md. Regs. tit. 10, § 32.02.05.B (7) (c), D and E on the Summary Suspension has been scheduled for August 24, 2005, at 2:30 p.m., at the Maryland Board of Physicians, Room 108-109, 4201 Patterson Avenue, Baltimore, Maryland 21215-0095; and be it further

ORDERED that at the conclusion of the **SUMMARY SUSPENSION** hearing held before the Board, the Respondent, if dissatisfied with the result of the hearing, may request within ten (10) days an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and be it further

ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's Compliance Analyst, the following items:

- (1) the Respondent's original Maryland License D30934;
 - (2) the Respondent's current renewal certificate;
 - (3) the Respondent's current DEA Certificate of Registration;
 - (4) the Respondent's Maryland Controlled Dangerous Substance Registration;
 - (5) all controlled dangerous substances in the Respondent's possession and/or practice;
 - (6) all Medical Assistance prescription forms;
 - (7) all prescription forms and pads in his possession and/or practice;
- and

(8) Any and all prescription pads on which his name and DEA number are imprinted; and be it further

ORDERED that a copy of this Order of Summary Suspension shall be filed with the Board in accordance with Md. Health Occ. Code Ann. § 14-407 (2000 Repl. vol.); and be it further

ORDERED that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.*

8/9/05
Date


C. Irving Pinder, Jr.
Executive Director, Maryland
State Board of Physicians