

IN THE MATTER OF
HOPKINTON DRUG
RESPONDENT-PHARMACY

* BEFORE THE
* STATE BOARD OF PHARMACY
* CASE NO.: PI-15-092

* * * * *

FINAL CONSENT ORDER

The State Board of Pharmacy (“the Board”) charged Hopkinton Drug (“Respondent-Pharmacy”), with violating certain provisions of the Maryland Pharmacy Act, (“the Act”) Md. Health Occ. Code Ann., (“H. O.”) §§12-101 *et seq.* (2014 Repl. Vol.). The pertinent provisions state:

H.O. § 12-401. Pharmacy permit required.

(a) A person shall hold a pharmacy permit issued by the Board before the person may establish or operate a pharmacy in this State.

H.O. § 12-403. Required Standards.

(e) A nonresident pharmacy shall:

(1) Hold a pharmacy permit issued by the Board [.]

H.O. § 12-409. Suspension and Revocation - Grounds.

(a) *In general* - Subject to the hearing provisions of § 12-411 of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:

- (1) Is conducted so as to endanger the public health or safety;
- (2) Violates any of the standards specified in § 12-403 of this subtitle; or
- (3) Otherwise is not conducted in accordance with the law.

- (b) (1) A nonresident pharmacy is subject to the disciplinary actions stated in this subtitle.
- (2) The Board may fine a nonresident pharmacy in accordance with § 12-410 of this subtitle or deny, revoke, or suspend the permit of a nonresident pharmacy for any violation of § 12-403(e) through (h) of

this subtitle.

H.O §12-410. Penalty instead of suspension or in addition to suspension or revocation.

(a) If after a hearing under § 12-411 of this subtitle the Board finds that there are grounds under § 12-409 of this subtitle to suspend or revoke a permit, the Board may impose a penalty not exceeding \$10,000:

- (1) Instead of suspending the permit; or
- (2) In addition to suspending or revoking the permit.

FINDINGS OF FACT

The Board finds that

1. At all times relevant hereto, the Respondent-Pharmacy was not authorized to dispense medications in the State of Maryland.
2. At all times relevant hereto, the Respondent-Pharmacy was located at 52 Main Street, Hopkinton, Massachusetts.
3. In or around May 2014, the Board was informed by Pharmacy A, that during an audit, Pharmacy A personnel discovered that the Respondent-Pharmacy had dispensed medications in Maryland without a permit.
4. An investigation by Board Staff confirmed that the Respondent-Pharmacy did not hold a non-resident pharmacy permit to dispense medication in Maryland.
5. Further investigation by staff revealed that between January 2012 and May 2014, the Respondent-Pharmacy shipped approximately one hundred and six thousand dollars (\$106,000) worth of medication into Maryland that went to various individuals, medical facilities and doctor offices.

SUMMARY OF RESPONDENT-PHARMACY'S RESPONSE

1. The Respondent-Corporation does not admit to the Charges made by the Board or to a violation of any provisions of Maryland Health and Occupation Code or Board regulations.
2. The Respondent-Pharmacy specifically denies that it shipped medication into Maryland.
3. The Respondent-Pharmacy acted on advice of counsel and believed in good faith that it was fully complying with Maryland law in filling prescriptions for patients in Maryland.

ORDER

Based on the foregoing Findings of Fact, it is this 4th day of February 2016 by a majority of the quorum of the Board, hereby

ORDERED that Respondent-Pharmacy shall pay ten thousand dollars (\$10,000) payable to the Maryland Board of Pharmacy no later than 60 (sixty) days from the date that this Order is signed by the Board; and it is further

ORDERED that the ten thousand dollar (\$10,000) payment is to resolve this matter in accordance with the Maryland Pharmacy Act, Sec. 12-707; and it is further

ORDERED that Respondent-Pharmacy shall refrain from dispensing prescription medication into Maryland, until such time as Respondent-Pharmacy has obtained a permit from the Board; and it is further

ORDERED that in the event Respondent-Pharmacy obtains a valid permit to operate a non-resident pharmacy in Maryland, it shall operate in accordance with the

Maryland Pharmacy Act and all applicable laws and regulations; and it is further

ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

ORDERED that this document consists of the contents of the foregoing Findings of Fact and Order, and is reportable to any entity to which the Board is obligated to report;

ORDERED that this Order is final and a public document pursuant to Md. General Provisions §§ 4-104 *et seq.* (2014).

2/4/16
Date

FOR *Dewendra Gupta*
Mitra Gavgani, Pharm.D.
President
State Board of Pharmacy

CONSENT OF Hopkinton Drug, LLC (Dennis Katz, President)

I, Dennis Katz, President of Hopkinton Drug, by affixing my signature hereto, acknowledge that:

1. Hopkinton Drug is represented by Lawrence C. Green, Esquire.

2. I am aware that Hopkinton Drug is entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 12-315 II (Repl. Vol. 2014) and Md. State Govt. Code Ann. I §§ 10-201 *et seq.* (Repl. Vol. 2014).

3. I, as President for Hopkinton Drug acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which Hopkinton Drug would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. As President for Hopkinton Drug, I am waiving those procedural and substantive protections.

4. I, as President voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set forth in this Consent Order, as a resolution of the Board's case, based on the findings set forth herein.


5. I, as President waive Hopkinton Drug's right to contest the findings of fact and conclusions of law, and I waive Hopkinton Drug's right to a full evidentiary hearing, and any right to appeal this Consent Order as set forth in Md. Health Occ. Code Ann. II § 12-315 (Rep. Vol.2014) and Md. State Govt. Code Ann. I §§ 10-201 *et seq.* (Rep. Vol.2014).

6. I, as President acknowledge that by failing to abide by the terms and

conditions set forth in this Consent Order, and, following proper procedures, Hopkinton Drug may be subject to disciplinary action.

7. I, as President sign this consent order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

1/14/2016
Date


Dennis Katz
President
Hopkinton Drug

NOTARY

STATE OF MA

CITY/COUNTY OF MIDDLESEX

I hereby certify that on this 14TH day of JANUARY, 2016, before me, the undersigned, a Notary Public of said State, personally appeared Dennis Katz, President of Hopkinton Drug, made oath in due form of law and that signing the foregoing Consent Order was a voluntary act and deed.

AS WITNESS my hand and Notarial Seal.




Notary Public

My Commission Expires: OCT 7TH 2016

STATE OF Mass

CITY/COUNTY OF Middlesex

4816-7069-4956.2