

IN THE MATTER OF	*	BEFORE THE
MED- PRO DISTRIBUTORS, LLC	*	STATE BOARD OF
RESPONDENT	*	PHARMACY
	*	CASE NO.: PI-15-156
* * * * *		* * * * *

**FINAL CONSENT ORDER**

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

**H.O. §12–6C–03. Permit required.**

(a) A wholesale distributor shall hold a permit issued by the Board before the wholesale distributor engages in wholesale distribution in the State.

**H.O. § 12-6C-11. Violations; penalties.**

(a) *Fine.* – (1) If a person knowingly violates any provisions of this subtitle or any regulation adopted under this subtitle, the Board may impose a fine not to exceed \$500,000.

The Board also charges the Respondent-Corporation with violating the Pre-charge Consent Order dated October 2, 2014.

**FINDINGS OF FACT**

On or about September 19, 2014, the Respondent-Corporation, entered into a Pre-charge Consent Order dated Oct 2, 2014 (“2014 Order”) with the Board.

1. In the 2014 Order, the Board found that the Respondent-Corporation had distributed prescription drugs to hospitals throughout Maryland without a permit. The Respondent-Corporation distributed prescription drugs in Maryland between January 2011 and March 2014.

2. Under the terms of the 2014 Order, the Respondent-Corporation was required to refrain from the wholesale distribution of prescription drugs or devices into, out of, or within Maryland, until the Respondent-Corporation obtained a permit to do so.

3. On or about June 15, 2015, the Board received a complaint from the Director of Pharmacy at Facility A. The complaint alleged that Facility A's pharmacy was receiving medications from Respondent-Corporation that were never ordered by pharmacy staff. The complaint further alleged that the Respondent-Corporation continued to send Facility A medication even after Facility A requested that Respondent-Corporation stop sending medication that was not ordered.

4. Respondent-Corporation ("Med-Pro") has acknowledged these improper sales, which were inadvertent and not intentional, and disputed many of the allegations from the complainant Facility A. In the interest of closure, Med-Pro has settled this dispute with Facility A, which resulted in substantial losses to Med-Pro.

5. Between May 2015 and June 2015, the Respondent-Corporation shipped approximately sixty-nine thousand dollars (\$69,000) worth of medication to Facility A.

6. Further investigation by Board staff revealed that between October 8, 2014 and April 2015, the Respondent-Corporation shipped approximately fifteen thousand and two hundred dollars (\$15,200) worth of medication to at least two additional facilities located in Maryland.

7. During the time that these transactions took place; Respondent-Corporation did not hold a permit issued by the Board to engage in wholesale distribution in Maryland.

8. During the time that these transactions took place; Respondent-Corporation violated the 2014 Order. The 2014 Order states that "Med-Pro shall refrain from the wholesale distribution of prescription drugs or devices into, out of, or within Maryland, until such time as Med-Pro has obtain a permit to do so from the Board."

9. Respondent-Corporation has made substantial investments and implemented corrective actions to prevent the recurrence of any similar regulatory violations in the future, and is currently in the process of applying for a permit.

10. The Respondent-Corporation's conduct, as described above, is a violation of H.O. § 12- 6C-03 and H.O. § 12-6C-11 (a).

11. The Respondent-Corporation's conduct, as described above, is a violation of the 2014 Order.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated H.O. § 12-6C-03; H.O. and § 12-6C-11 (a). The Board further concludes that the Respondent-Corporation violated the Board's 2014 Order.

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9<sup>th</sup> day of March 2016, by a majority of the quorum of the Board, hereby

**ORDERED** that the Respondent-Corporation shall pay a fine, in the amount of forty-five thousand dollars (\$45,000). The fine is payable to the Maryland Board of Pharmacy no later than 180 (one hundred and eighty) days from the date that this Order is signed by the

Board; and it is further

**ORDERED** that the Respondent-Corporation shall not distribute prescription drugs in the Maryland without a wholesale distributor permit; and it is further

**ORDERED** that Respondent shall be responsible for all costs incurred under this Order; 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 for purposes of public disclosure and as permitted by Md. General Provisions §§ 4-101 *et seq.* (2014), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

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

3/9/16

Date



Mitra Gavvani, Pharm.D.  
President  
State Board of Pharmacy

**CONSENT OF MED-PRO DISTRIBUTORS,LLC BY (name, title)**

I, David Somberg, President of Med-Pro Distributors, LLC by affixing my signature hereto, acknowledge that:

1. Med-Pro Distributors is represented by Peter C. Green, Esquire.

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

3. I, David Somberg, President of Med-Pro Distributors acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which Med-Pro Distributors I 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 I, David Somberg as President of Med-Pro Distributors, I am waiving those procedural and substantive protections.

4. I, as President of Med-Pro Distributors voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, as a resolution of charges issued by the Board.


5. I, as President of Med-Pro Distributors waive Med-Pro Distributors, LLC's right to contest the findings of fact and conclusions of law, and I waive Med-Pro Distributors LLC's right to a full evidentiary hearing, and any right to appeal this

Consent Health Occ. Code Ann. II § 12-315 (2014 Rep. Vol.) and Md.  
State Govt. Code Ann. II §§ 10-201 et seq. (2014 Rep. Vol.).

6. I as President of Med-Pro Distributors acknowledge that by failing to abide by the terms and conditions et forth in this Consent Order, and, following proper procedures, Med-Pro Distributors, LLC may be subject to disciplinary action.

7. I as President of Med-Pro Distributors 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.

3/8/16  
Date

  
David Somberg  
President  
Med-Pro Distributors, LLC

**NOTARY**


STATE OF FLORIDA

CITY/COUNTY OF PALM BEACH

I hereby certify that on this 8<sup>th</sup> day of March, 2016, before me, the undersigned, a Notary Public of said State, personally appeared (name title) for Med-Pro Distributors, LLC 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