

IN THE MATTER OF * BEFORE THE
PENN VETERINARY SUPPLY, INC. * MARYLAND BOARD
Respondent-Distributor * OF PHARMACY
Unlicensed * Case No.: PI-13-080

* * * * *

CONSENT ORDER

On March 20, 2013, the Maryland State Board of Pharmacy (the "Board") charged **PENN VETERINARY SUPPLY, INC. (the "Respondent-Distributor") (Unlicensed)**, under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 12-101 *et seq.* (2009 Repl. Vol. and 2010 Supp.).

The pertinent provisions of the Act provide as follows:

H.O. § 12-6C-03. Permit Required.

(a) *Wholesale distributor.* – 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.

On May 22, 2013, the Respondent-Distributors appeared before members of the Board and the Board's counsel for a Case Resolution Conference (CRC) to discuss the potential resolution of the Charges by consent. At the conclusion of the CRC, the Respondent-Distributor agreed to enter into this Consent Order to resolve the pending charges and to avoid the expense and time of proceeding to an administrative hearing. The Respondent-Distributor and the Board agreed to the inclusion of Findings of Fact and Conclusions of Law as required by the Board, and with the terms and conditions set forth

herein.

FINDINGS OF FACT

The Board finds the following:

1. The Respondent-Distributor is located in Lancaster, Pennsylvania.
2. The Respondent-Distributor does not hold and has never held a Maryland distributor permit.
3. On or about December 5, 2012, the Maryland Division of Drug Control ("DDC") was conducting an opening inspection at Queen Anne County Animal Control Center in Queenstown, Maryland when the DDC inspector observed invoices for ketamine¹ from the Respondent-Distributor.
4. The DDC inspector notified the Board after it could not ascertain whether the Respondent-Distributor held a distributor permit in Maryland.
5. Thereafter, the Board initiated an investigation.
6. The Board's investigator determined that the Respondent-Distributor did not hold a distributor permit and an application was not pending.
7. On or about December 13, 2012, the Board issued a subpoena for copies of invoices for all prescription medications that the Respondent-Distributor shipped to the State of Maryland.
8. On or about January 18, 2013, the Respondent-Distributor provided the requested documentation.

¹ Ketamine is an anesthetic medication and a schedule III controlled dangerous substance ("CDS").

9. A summary of the invoices revealed that the Respondent-Distributor has been distributing prescription medications, including schedule III, IV and V CDS, to Maryland since 2008.

10. According to the summary, the Respondent-Distributor has distributed approximately \$5.2 million in prescription medications from 2008 to 2012.

11. The Respondent-Distributor's actions as outlined in pertinent part above constitute a violation of H.O. § 12-6C-03(a).

12. In resolving the charges against the Respondent-Distributor, the Board considered the following mitigating factors:

a. The Respondent-Distributor was and still is, at least in part, a family owned business that has been in operation for thirty-two (32) years, since 1981 in Lancaster, Pennsylvania. It is a small, privately held, local and regional wholesale distributor of veterinary products in the mid-Atlantic and Northeast.

b. The Respondent-Distributor has fifteen (15) employees who have been with the Respondent-Distributor over twenty (20) years.

c. The Respondent-Distributor founder, President, Treasurer and Secretary solely controlled all licensing and permit issues, in-state, out-of-state and federal from 1981 until his death in 2011. Almost immediately following his death, the Respondent-Distributor restructured and began to educate itself and move towards accreditation and compliance in all places where the Respondent-Distributor does business.

- d. The Respondent-Distributor has never been the subject of discipline in any other state.
- e. The Respondent-Distributor cooperated with the Board during the investigation, data collection, and resolution negotiations in complete good faith at all times.
- f. The net slim profit margin on the sale of wholesale distributed veterinary prescription medications between 2008 and 2012 was 2.47%, which yielded the Respondent-Distributor a profit of approximately \$130,000.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent-Distributor violated the following provision of the Act: H.O. § 12-6C-03(a).

ORDER

Based on agreement of the parties, it is therefore this 12th day of June 2013, by an affirmative vote of the Board, hereby:

ORDERED that within 90 days of the effective date of this Consent Order, the Respondent-Distributor shall pay a fine in the amount of **\$45,000**, payable to the Maryland Board of Pharmacy; and it is further

ORDERED that failure to comply with the terms and conditions of this Consent Order, including but not limited to failure to pay the required fine, constitutes a violation of this Consent Order and the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board may impose any appropriate sanction under the Act;

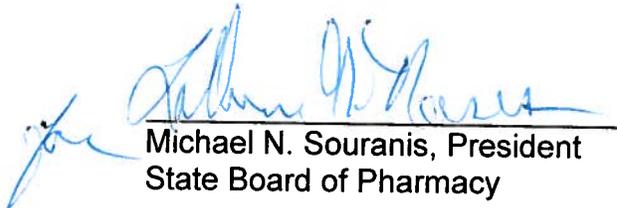
and it is further

ORDERED the Respondent-Distributor shall bear all expenses associated with this Order; and it is further

ORDERED that the Respondent-Distributor shall not resume distributing drugs into Maryland unless and until it receives a permit as a wholesale distributor in Maryland; and it is further

ORDERED that if the Respondent-Distributor obtains a valid permit to operate as a wholesale distributor in the Maryland, it shall operate according to the Maryland Pharmacy Act and in accordance with all applicable laws, statutes and regulations pertaining to its operation as wholesale distributor; and it is further

ORDERED that this document constitutes a formal disciplinary action of the State Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to the Public Information Act, State Gov't § 10-611 *et seq.* and COMAR 10.34.01.12.


Michael N. Souranis, President
State Board of Pharmacy

CONSENT

I, Didier Gallic, Director of Finance for Penn Veterinary Supply, Inc., acknowledge that I had the opportunity to consult with legal counsel before signing this document. By

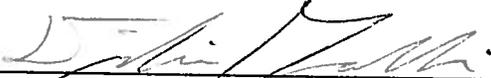
this Consent, I accept on behalf of Penn Veterinary Supply, Inc. to be bound by this Consent Order and its conditions and restrictions. On its behalf, I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which Penn Veterinary Supply, Inc. 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 as provided by law.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving Penn Veterinary Supply, Inc.'s right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order on behalf of Penn Veterinary Supply, Inc., and understand its meaning and effect.

6/10/13
Date



Didier Gallic, Director of Finance.
Penn Veterinary Supply, Inc., Respondent-Distributor

NOTARY

STATE OF PENNSYLVANIA

CITY/COUNTY OF Lancaster :

I HEREBY CERTIFY that on this 10 day of June, 2013, before me, a Notary Public of the foregoing State personally appeared Didier Gallic, Director of Finance for **Penn Veterinary Supply, Inc.**, and made oath in due form of law that signing the foregoing Consent Order on behalf of Penn Veterinary Supply, Inc. was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Charmayne Bloom
Notary Public

My Commission Expires: June 11, 2016

