

IN THE MATTER

*

BEFORE THE

OF

*

MARYLAND BOARD

RITE AID #4254

*

OF PHARMACY

Permit No. P02313

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* * * * *

PRE-CHARGE CONSENT ORDER

Background

The Board of Pharmacy conducted annual inspection of Rite Aid #4254, Permit No. P02313 (the "Pharmacy") on July 19, 2007. Based on the Board's review of the inspection, it was noted that the Pharmacy did not have a DEA registration or a Maryland CDS permit although it was ordering, stocking and dispensing controlled substances. Further investigation revealed that Rite Aid was utilizing the DEA and CDS permit of another waiver pharmacy that was located on the same premises.

In lieu of instituting formal proceedings against the Pharmacy, in accordance with the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 *et seq.*, the Board held a Pre-Charge Case Resolution Conference with the Pharmacy on May 6, 2009. As a result, the Board and the Pharmacy have agreed to resolve this matter as set forth in this Consent Order.

FINDINGS OF FACT

1. At all times relevant hereto, the Pharmacy possessed a Maryland pharmacy permit, Permit No. P02313, and operated on the premises located at 3100 Wyman Park Drive, Baltimore.

2. As part of its pharmacy operations, the Pharmacy ordered, stocked, and dispensed controlled dangerous substances.
3. From 1995 until at least 2006, the Pharmacy did not possess a Maryland CDS permit or a DEA registration necessary to order, stock, and dispense controlled dangerous substances.
4. Instead, the Pharmacy used the DEA registration and CDS permit held by another pharmacy permit holder located on the same premises.
5. The Pharmacy was inspected from 2000 – 2006. The inspections noted the DEA and CDS permit numbers, but did not indicate to which pharmacy the permit numbers were assigned.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Pharmacy is subject to disciplinary action in accordance with Md. Code Ann., Health Occ. §§12-(b)(1): *to wit* COMAR 10.19.03.03 and 21 C.F.R. § 1301.

ORDER

Based on an affirmative vote of a majority of the Board, it is this 24th day of June, 2009, hereby:

ORDERED that RITE AID #4254, Permit No. P02313, shall pay a fine in the amount of \$10,000.00, payable to the Maryland Board of Pharmacy; and be it further,

ORDERED that RITE AID shall pay the above fine within sixty (60) days of the date of this Order; and be it further,

ORDERED that failure to pay in full the above fine within sixty (60) days of the date of this Order shall be considered a violation of this Order, and after notice and opportunity for a hearing shall subject Rite Aid to further discipline such as suspension, revocation or further fines based on the violations cited in this Order; and be it further,

ORDERED that this is a formal order of the Maryland Board of Pharmacy and as such is a public document pursuant to the Maryland Annotated Code, State Government Article, Section 10-617 (h).

Date

6/24/09



David Chason, P.D.

President *SECRETARY*

CONSENT

1. By signing this Consent, the Pharmacy submits to the foregoing Consent Order as a resolution of this matter in lieu of formal charges, which process would have afforded the Pharmacy the right to a full evidentiary hearing. The Pharmacy consents and submits to the foregoing Findings of Fact, Conclusions of Law, and Order as if made after a full evidentiary hearing in which the Pharmacy would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on the Pharmacy's behalf and to all other substantive and procedural protections provided by law.
2. By signing this Consent, the Pharmacy waives any rights it may have had to contest the findings and determinations contained in this Consent Order.

3. The Pharmacy acknowledges the legal authority and the jurisdiction of the Board to enter into and enforce this Consent Order.
4. The Pharmacy signs this Consent Order freely and voluntarily and after having had the opportunity to consult with counsel. The Pharmacy fully understands the language, meaning, and effect of this Consent Order.

RITE AID CORPORATION
Permit No. P02313

6-11-09
Date

Michael A. Bodowski
Name: MICHAEL A. BODOWSKI
Title: VP, PHARMACY SERVICES

Pennsylvania
~~STATE OF MARYLAND~~
~~COUNTY/CITY OF~~ Cumberland:

I hereby certify that on this 11th day of June, 2009, before me, a Notary Public of the State of Maryland and County/city aforesaid, personally appeared Michael A. Bodowski on behalf of RITE AID CORPORATION, and made an oath in due from that the foregoing Consent was his voluntary act and deed.

[Handwritten Signature]

Notary Public
My commission expires: _____

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
DEBORAH A. HURLEY, Notary Public
East Pennsboro Twp., Cumberland County
My Commission Expires October 7, 2011