

IN THE MATTER OF	*	BEFORE THE
COLLEGE PHARMACY	*	MARYLAND BOARD
PERMIT No: P04714	*	OF PHARMACY
Respondent	*	Case No.: PI-10-039

\* \* \* \* \*

**CONSENT ORDER**

On August 19, 2015, the Maryland State Board of Pharmacy (the "Board") charged **COLLEGE PHARMACY (the "Respondent-Pharmacy) (Permit No.: P04714)**, under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 12-101 *et seq.* (2014 Repl. Vol.).

The pertinent provision of §12-403 the Act provides as follows:

- (c) *In general.* – Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:
  - (9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12-313 of this title, a registered pharmacy technician under § 12-6B-09 of this title, or a registered pharmacy intern under § 12-6D-11 of this title[.]

The pertinent provision of § 12-313 of the Act provides as follows:

- (b) *In general.* - Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant for a pharmacist's license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:
  - (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
  - (7) Willfully makes or files a false report or record as part of practicing pharmacy.
  - (24) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's

disciplinary statutes.

On December 9, 2015, the Respondent-Pharmacy participated telephonically in a Case Resolution Conference (CRC) before a panel of Board members to discuss the potential resolution of the Charges by consent. At the conclusion of the CRC, the Respondent-Pharmacy 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-Pharmacy 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. At all times relevant, the Respondent-Pharmacy operated a pharmacy in Colorado Springs, Colorado.
2. The President/CEO and Pharmacy Manager of the Respondent-Pharmacy is Jerry Gillick, R.Ph. Mr. Gillick is licensed to practice pharmacy in the State of Maryland under license number 21201. His license is active and is scheduled to expire on December 31, 2017.
3. On or about December 29, 1999, the Respondent-Pharmacy was issued a non-resident pharmacy permit (P02442) to operate a pharmacy providing pharmaceutical services to Maryland residents. At that time, the owner of the pharmacy was Tom Bader, R.Ph.
4. In or around 2006, the Respondent-Pharmacy applied for a new non-resident

pharmacy permit due to a change in ownership.<sup>1</sup> On January 4, 2007, the Board issued a Consent Order for Issuance of a Non-Resident Pharmacy Permit ("2007 Maryland Order").<sup>2</sup> The 2007 Order granted the Respondent-Pharmacy's application on the condition that it submit to the Board quarterly reports in accordance with the Respondent-Pharmacy's December 21, 2005 Colorado State Board of Pharmacy ("Colorado Board") Stipulation and Final Agency Order (the "2005 Colorado Stipulation").<sup>3</sup>

5. Permit number P02442 expired on December 31, 2007.

6. In June 2008, the Respondent-Pharmacy applied for a new non-resident pharmacy permit due to a change in ownership. The Board issued permit P04714, which is current and scheduled to expire on May 31, 2016.

7. The Respondent-Pharmacy has been the subject of disciplinary actions in a multitude of jurisdictions since the Board issued permit P04714.

8. On or about April 10, 2009, the Colorado Board issued a Stipulation and Final Agency Order ("2009 Colorado Stipulation") based on the Respondent-Pharmacy's violation of a December 2007 Colorado Board Stipulation and Final Agency Order ("2007 Colorado Stipulation").

9. In the 2007 Colorado Stipulation, the Respondent-Pharmacy agreed to submit quarterly reports averring that it did not dispense human growth hormone ("HGH") for indications other than those for which the FDA has approved for the use of HGH and that it did not dispense any prescriptions without valid patient-specific orders.

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<sup>1</sup> Mr. Bader transferred ownership of the Respondent-Pharmacy to Pharmacy Management Services Pension Plan.

<sup>2</sup> The Board issued the Respondent-Pharmacy a new permit, however, the permit number remained the same.

<sup>3</sup> The 2005 Colorado Order disciplined the Respondent-Pharmacy for compounding and dispensing certain prescription drugs for office use, and for recordkeeping violations. The 2005 Colorado Order required the

10. During a routine audit in May 2008, the Colorado Board discovered that the Respondent-Pharmacy had purchased and received HGH from a source that was not a registered prescription drug wholesaler in Colorado. The audit also revealed that the Respondent-Pharmacy dispensed a telephonically ordered prescription for HGH to an Illinois veterinarian. The veterinarian was listed on the prescription as the prescribing practitioner and the patient.

11. The Respondent-Pharmacy's conduct was in violation of the 2007 Colorado Stipulation. As a result, the 2009 Colorado Stipulation placed the Respondent-Pharmacy on probation for a period of seven (7) years, during which time the Respondent-Pharmacy is barred from any dealings in HGH. The Respondent-Pharmacy was also required to submit quarterly affidavits.

12. As a result of the 2009 Colorado Stipulations, the following state boards of pharmacy issued discipline against the Respondent-Pharmacy:

- a. Indiana Board of Pharmacy, May 7, 2009;
- b. Alabama State Board of Pharmacy, May 14, 2009;
- c. Texas State Board of Pharmacy, August 12, 2009;
- d. Hawaii Board of Pharmacy, June 17, 2010;
- e. Louisiana Board of Pharmacy, August 10, 2010;
- f. California State Board of Pharmacy, October 20, 2010;
- g. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, November 14, 2010;
- h. Rhode Island Board of Pharmacy, January 11, 2011;

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Respondent-Pharmacy to submit quarterly reports on its casual sales.

- i. Alaska Board of Pharmacy, February 17, 2011;
- j. Illinois Department of Financial and Professional Regulation, April 26, 2011;
- k. Nebraska Department of Health and Human Services , Division of Public Health, May 25, 2011;<sup>4</sup>
- l. Kansas State Board of Pharmacy, August 17, 2011;<sup>5</sup>
- m. Vermont Board of Pharmacy, August 31, 2011;
- n. State of Maine Board of Pharmacy, November 19, 2011;
- o. Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah, December 1, 2011;
- p. Colorado State Board of Pharmacy, July 22, 2013;<sup>6</sup>
- q. Nebraska Department of Health and Human Services, Division of Public Health, May 20, 2015.<sup>7</sup>

13. The Respondent-Pharmacy's actions as outlined in pertinent part above constitute violations of H.O. § 12-403(c)(9) to wit: H.O. § 12-313(b)(24).

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent-Pharmacy violated the following provision of the Act: H.O. § 12-

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<sup>4</sup> Nebraska took action against the Respondent-Pharmacy because it was discovered that the Respondent-Pharmacy dispensed and delivered 85 new prescriptions and 20 refills into Nebraska between approximately January 2008 and March 2009, when the Respondent-Pharmacy did not have a current Nebraska license.

<sup>5</sup> The Kansas State Board of Pharmacy also entered into an identical Summary Order on June 25, 2012, the only difference being the case number.

<sup>6</sup> This action was a Letter of Admonishment resulting from the Respondent-Pharmacy having violated Colorado law pertaining to the beyond-use date of a high-risk compounding drug.

<sup>7</sup> The second Nebraska disciplinary action was based upon Colorado's 2013 Letter of Admonishment.

403(c)(9) to wit: H.O. § 12-313(b)(24). The Board dismisses the charges under H.O. §12-313(b)(1) and (7).

**ORDER**

Based on agreement of the parties, it is therefore this 20 day of January 2016, by an affirmative vote of the Board, hereby:

**ORDERED** that the Respondent-Pharmacy's permit is hereby **REPRIMANDED**; and it is further

**ORDERED** that the Respondent-Pharmacy shall be immediately placed on **PROBATION** until the Respondent-Pharmacy is no longer on probation with the Colorado State Board of Pharmacy ("Colorado Board"), subject to the following: The Respondent-Pharmacy shall comply with all terms and conditions as set forth in the 2009 Stipulation and Final Agency Order ("2009 Colorado Stipulation") issued by the Colorado Board, including but not limited to the submission of quarterly reports to the Board; and it is further

**ORDERED** that failure to comply with the terms and conditions of the 2009 Colorado Stipulation and of the terms and conditions of this Consent Order, including but not limited to submission of quarterly reports, 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** that upon being notified that the Respondent-Pharmacy is no longer on probation with the Colorado Board, and only after fully and satisfactorily complying with all the terms and conditions of the 2009 Colorado Stipulation, at that time the


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Respondent-Pharmacy can petition the Board for termination of its probationary status;  
and it is further

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

**ORDERED** the Respondent-Pharmacy shall operate as a non-resident pharmacy  
according to the Maryland Pharmacy Act and in accordance with all applicable laws,  
statutes and regulations pertaining to its operation as non-resident pharmacy; 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.

  
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Mitra Gavgani, Board President  
State Board of Pharmacy

CONSENT

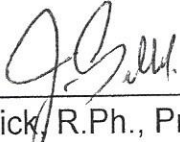
I, Jerry Gillick, R.Ph, President/CEO and Pharmacy Manager of College Pharmacy ("College"), for and on behalf of College acknowledge that College has had the opportunity to consult with legal counsel before signing this document. By this Consent, College agrees to be bound by this Consent Order and its conditions and restrictions. College waives any rights it may have had to contest the Findings of Fact and Conclusions of Law.

College acknowledges the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which College would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its own behalf, and to all other substantive and procedural protections as provided by law. College acknowledges the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. College waives any right to appeal any adverse ruling of the Board that might have followed any such hearing.

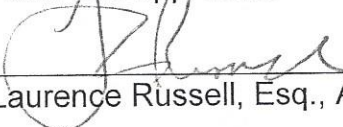
I sign this Consent Order on behalf of College without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

I am a duly authorized representative of College and am legally authorized to sign this consent order on behalf of College.

Date 1/6/16

  
by: Jerry Gillick, R.Ph., President/CEO  
College Pharmacy

Read and approved:

  
Laurence Russell, Esq., Attorney for College Pharmacy



NOTARY

STATE OF COLORADO

CITY/COUNTY OF El Paso :

I HEREBY CERTIFY that on this 7<sup>th</sup> day of January, 2016, before me, a Notary Public of the foregoing State personally appeared Jerry Gillick, R.Ph., President/CEO and Pharmacy Manager of **College Pharmacy**, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Sandy L. Estredge  
Notary Public

My Commission Expires: June 11, 2018

