

IN THE MATTER OF

* BEFORE THE

MCKESSON CORPORATION

* STATE BOARD OF

D/B/A MCKESSON

RESPONDENT-CORPORATION

* PHARMACY

PERMIT NUMBER: D00031

* CASE NO.: PI-13-146/13-546

* * * * *

FINAL CONSENT ORDER

The State Board of Pharmacy ("the Board") charged McKesson Corporation, d/b/a McKesson, permit number: D00031 (the "Respondent-Corporation"), with violating certain provisions of the Maryland Pharmacy Act, ("the Act") Md. Health Occ. Code Ann., ("H. O.") §§12-101 *et seq.* (2009 Repl. Vol.). The pertinent provisions state:

H.O. § 12-601. Disciplinary actions.

(a) *In general* - Subject to the hearing provisions of § 12-315 of this title, for a violation of this subtitle, Subtitle 6C of this title, or any regulation adopted under Subtitle 6C of this title, the Board may:

- (1) Deny a permit to an applicant;
- (2) Reprimand a permit holder;
- (3) Place a permit holder on probation; or
- (4) Suspend or revoke a permit.

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.

Code Md. Regs. Tit. 10 § 34.22:

.05 Violations and Penalties.

A. After a hearing held under Health Occupations Article, §12-601, Annotated Code of Maryland, the Board may deny, suspend, revoke, or place on probation a permit holder, reprimand a permit holder, or impose a fine if the permit holder:

(3) Commits any of the following acts:

(d) Violates a provision of, or regulation promulgated under, Health Occupations Article, Title 12, Annotated Code of Maryland;

(j) Purchases or receives a prescription drug or device from a person who is not licensed to wholesale distribute prescription drugs or devices to that purchaser or recipient

FININDGS OF FACT

The Board finds that:

1. At all times relevant herein, the Respondent-Corporation maintained a valid and active permit to operate as a wholesale distributor in Maryland. The Respondent-Corporation's permit expired on Mary 31, 2013

2. The Respondent-Corporation was located at 7721 Polk Street, Landover, Maryland.

3. In the fall of 2013, while conducting an investigation involving Establishment A, Board staff discovered that between January 2008 and November 2009, Establishment A shipped approximately \$2.95 million dollars of prescription drugs and/or devices to the Respondent-Corporation. During this period of time Establishment A made numerous shipments of prescription drugs to the Respondent-Corporation.

4. During the time that these transactions took place, Establishment A did not hold a permit issued by the Board to engage in wholesale distribution.

5. The Respondent-Corporation's conduct of purchasing and receiving drugs or medical devices from Establishment A, as described above, is a violation of H.O. § 12-6C-11(a) and Code Md. Regs. tit. 10 § 34.22.05.A (3) (j).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated H.O. § 12-6C-11 (a) and Code Md. Regs. tit. 10 § 34.22.05.A (3) (j).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 20th day of AUGUST 2014, by a majority of the Board hereby:

ORDERED that the Respondent-Corporation shall pay a fine in the amount of thirty thousand dollars (\$30,000). The fine is payable to the Maryland Board of Pharmacy no later than 90 (ninety) days from the date that this Order is signed by the Board; and it is further

ORDERED that this Final Consent Order satisfies any similar claims that the Board could allege against the Respondent Corporation, for violations of the Act that pertain to the purchase and/or receipt of drugs or medical devices from Establishment A, up to and including the expiration of the Respondent-Corporation's wholesale distributor permit; and it is further

ORDERED that, excluding an out-of-state wholesale distributor licensed in Maryland, the Respondent-Corporation shall not purchase and/or receive drugs or medical devices from any unlicensed person or entity that does not hold a wholesale distributor permit in Maryland.; 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 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 Md. State Govt. Code Ann. §§ 10-611 *et seq.* (Repl. Vol. 2009)

_____ 8/20/14

Date

_____ 

Lenna Israbian-Jamgochaian, ~~P.D.~~ Pharm. D

President

State Board of Pharmacy

CONSENT OF MCKESSON CORPORATION BY
DONALD G. WALKER, SENIOR VICE PRESIDENT OF DISTRIBUTION
OPERATIONS

I, Donald G. Walker, as Senior Vice President of Distribution Operations for McKesson Corporation, by affixing my signature hereto, acknowledge that:

1. McKesson Corporation is represented by Larry P. Cote of Quarles & Brady LLP.

2. I am aware that McKesson Corporation is entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 12-315 (Repl. Vol. 2009) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (Repl. Vol. 2009).

3. I, as Senior Vice President of Distribution Operations for McKesson Corporation, acknowledge the validity and enforceability of this Final Consent Order, as if entered after a formal evidentiary hearing in which McKesson Corporation would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on McKesson Corporation's behalf, and to all other substantive and procedural protections provided by law. As Senior Vice President of Distribution Operations for McKesson Corporation, I am waiving those procedural and substantive protections.

4. I, as Senior Vice President of Distribution Operations for McKesson Corporation, 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 Final Consent Order, as a resolution of the Board's case, based on the findings set forth herein.

5. I, as Senior Vice President of Distribution Operations waive McKesson Corporation's right to contest the findings of fact and conclusions of law, and I waive McKesson Corporation's right to a full evidentiary hearing, and any right to appeal this Final Consent Order as set forth in Md. Health Occ. Code Ann. § 12-315 (Rep. Vol. 2009) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (Rep. Vol. 2009).

6. I as Senior Vice President of Distribution Operations acknowledge that by failing to abide by the terms and conditions set forth in this Final Consent Order, and, following proper procedures, McKesson Corporation may be subject to disciplinary action.

7. I as Senior Vice President of Distribution Operations sign this Final Consent Order, without reservation, as my voluntary act. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Final Consent Order.

8/15/14
Date


Donald G. Walker
Senior Vice President of Distribution
Operations
Representative for McKesson Corporation

NOTARY

STATE OF California
CITY/COUNTY OF Alameda

I hereby certify that on this 15 day of August, 2014, before me, the undersigned, a Notary Public of said State, personally appeared Donald G. Walker, Senior Vice President of Distribution Operations for McKesson Corporation. made oath in due form of law and that signing the foregoing Final Consent Order was a voluntary act and deed.

AS WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: 11-22-2016

