

IN THE MATTER OF	*	BEFORE THE
RITE AID OF MARYLAND, INC.	*	STATE BOARD
d/b/a RITE AID DISCOUNT	*	OF PHARMACY
PHARMACY #397	*	
PERMIT NO.: P00714	*	
Respondent-Pharmacy	*	
	*	
* * * * *	*	* * * * *

FINAL CONSENT ORDER

Based on information received by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Code Ann. §12-101, *et seq.*, (2000 Repl. Vol.) (the "Act"), the Board charged Rite Aid of Maryland, Inc. d/b/a Rite Aid Discount Pharmacy Number 397, (the "Respondent-Pharmacy"), with violations of the Act.

Specifically, the Board charged the Respondent-Pharmacy with violation of, *inter alia*, the following provisions of:

§12-409. Suspensions and revocations – Grounds.

Subject to the hearing provisions of §12-411 of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:

(2) Violates any of the standards specified in §12-403 of this subtitle[;].

§12-403. Required Standards.

(b) 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[;].

§ 12-313 **Denials, reprimands, suspensions, and revocations - Grounds:**

(b) 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, reprimand any licensee, place any licensee on probation; or suspend or revoke a license if the applicant or licensee:

(3) Aids an unauthorized individual to practice pharmacy or to represent that the individual is a pharmacist[:].

The Respondent-Pharmacy was given notice of the issues underlying the Board's charges by letter dated May 31, 2001. Accordingly, a Case Resolution Conference (CRC) was held on August 23, 2001, and was attended by Melvin Rubin and Ramona Hawkins, Pharmacist-Members of the Board, LaVerne Naesea, Executive Director of the Board, and Paul Ballard, Counsel to the Board. Also in attendance were Donna Hazel, P.D., Pharmacy Development Manager/representative of the Respondent-Pharmacy¹, its attorney, Jason DeLoach, and the Administrative Prosecutor, Roberta Gill.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, the Respondent-Pharmacy was permitted to operate as a pharmacy in the State of Maryland. The Respondent-

1 During the course of the CRC, James Krahulec, Vice President, Government and Trade Relations, participated from the corporate headquarters via speaker telephone in Camp Hills, Pennsylvania.

Pharmacy is part of a chain of pharmacies, and was incorporated in the State of Maryland on January 24, 1975. The Respondent-Pharmacy is owned by Rite Aid of Maryland Inc., headquartered in Pennsylvania. The Respondent-Pharmacy #397 is located in Sykesville, Maryland.

2. By form dated November 23, 1998, the Respondent-Pharmacy filed a renewal application listing B.H. And V.L.² as dispensing pharmacist-employees. The form was filed by Joseph Speaker, Vice President. Subsequently, the Board issued the Respondent-Pharmacy a permit on January 1, 1999, which expired on December 31, 1999.

3. On December 2, 1999, the Board received a renewal application for a pharmacy permit from the Respondent-Pharmacy, which listed A.W. and "Jeff" Stockton³ as the dispensing pharmacist-employees. The application listed the expiration date of Mr. Stockton's license as October 31, 2000. The permit was filed by James Krahulec, Vice President, Government & Trade Relations. Subsequently, the Board issued a permit to the Respondent-Pharmacy on January 1, 2000, which expired on December 31, 2000.

4. On October 19, 2000, the Board received a renewal application for a pharmacy permit from the Respondent-Pharmacy, which listed "Jeff" Stockton as the sole dispensing pharmacist-employee. The application was filed by Mr. Krahulec.

² Pharmacists who are not the subject of the Charges herein are identified only by initials.

³ The Board's licensing file lists Mr. Stockton's full name as "Jeffrey."

Subsequently, the Board issued the Respondent-Pharmacy a permit on January 1, 2001, which expires on December 31, 2001.⁴

5. On March 12, 2001, Mr. Stockton was the on-duty manager of the Respondent-Pharmacy, and, according to him, had been so for approximately three years. On that date, an inspector from the Division of Drug Control (DDC) inspected the Respondent-Pharmacy, finding numerous deficiencies. Foremost among those was the fact that Mr. Stockton had no valid license. As a result, the DDC Inspector ordered that the Respondent-Pharmacy be closed immediately and no more prescriptions were allowed to be dispensed until a validly licensed pharmacist could take over for Mr. Stockton. Furthermore, Mr. Stockton has admitted that these events occurred with out the knowledge of the Respondent-Pharmacy. The deficiencies have since all been corrected.

5. As more fully set forth above, by employing an unlicensed person as a pharmacy manager and as a dispensing pharmacist, the Respondent-Pharmacy violated the Act.

6. The Board makes no finding of any conduct or action for any problem regarding the health, safety or welfare of any individual.

CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated § 12-409 (2), 12-403 (b)(9), and 12-313 (b)(3). The Board reaches no conclusions regarding the other alleged violations in the original charges.

⁴ Mr. Stockton's license expired on October 31, 1998. Even if he had re-applied in a timely manner, he lacked the requisite CEUs for licensure renewal.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 17 day of October, 2001, by a majority of a quorum of the Board,

ORDERED that the Respondent-Pharmacy's permit to operate as a pharmacy in Maryland be **REPRIMANDED** and that it be placed on **PROBATION** for a period of twelve (12) months, subject to the following conditions:

1. That the Respondent-Pharmacy pay a fine to the Board of \$4,000 prior to the end of the probationary period;
2. During the one year period of probation, that the Regional Pharmacy Manager or an equivalent individual designated by the Respondent-Pharmacy submit to the Board on a monthly basis a list of the licensing status of all pharmacists employed by the corporation in Maryland.
3. That three random inspections by a Board designee take place, to assure compliance with DDC requirements and the law governing the practice of pharmacy. If any DDC deficiencies/violations are noted, the Board has the option to automatically extend the probationary period to eighteen months.

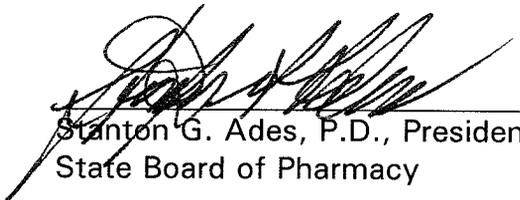
ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that should the Board receive a report that the Respondent-Pharmacy's operation is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent-Pharmacy, including suspension or revocation, providing notice and an opportunity to be heard, in accordance with the Administrative Procedure Act (APA), Md. State Govt. Code Ann. § 10-201, *et seq.*, (1999 Repl. Vol.), are provided to the Respondent-Pharmacy in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent-Pharmacy has substantially violated the Act or if the Respondent-Pharmacy violates any conditions of this Order or of Probation, after providing the Respondent-Pharmacy with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent-Pharmacy, including suspension or revocation. The burden of proof for any action brought against the Respondent-Pharmacy as a result of an alleged breach of the conditions of the Order or of Probation shall be on the Respondent-Pharmacy to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent-Pharmacy shall practice in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and be it further

ORDERED that, at the end of the probationary period, the Respondent-Pharmacy may petition the Board to be reinstated without any conditions or restrictions on its permit, provided that it can demonstrate compliance with the conditions of this Order. Should the Respondent-Pharmacy fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 1999), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.


Stanton G. Ades, P.D., President
State Board of Pharmacy

**CONSENT OF JAMES KRAHULEC, VICE PRESIDENT, GOVERNMENT AND TRADE
RELATIONS, ON BEHALF OF RITE AID OF MARYLAND, INC., d/b/a RITE AID
DISCOUNT PHARMACY NUMBER 397**

I, James Krahulec, Vice President, Government and Trade Relations, on behalf of Rite Aid of Maryland, Inc., d/b/a Rite Aid Discount Pharmacy #397, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Jason DeLoach, and have been advised by him of the legal implication of signing this Consent Order;

2. I am aware that without my consent, the Respondent-Pharmacy's permit to operate as a pharmacy in this State cannot be limited except pursuant to the provisions of §12-409 of the Act and the Administrative Procedure Act (APA), Md. State Govt. Code Ann. §10-201, *et seq.*, (1999 Repl. Vol.).

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, on behalf of the Respondent-Pharmacy, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive any right to a formal hearing as set forth in §12-411 of the Act and §10-201, *et seq.*, of the APA, and any right to appeal as set forth in § 12-412 of the Act and §10-201, *et seq.*, of the APA. I acknowledge that the failure of the Respondent-Pharmacy to abide

by the conditions set forth in this Order and following proper procedures, it may suffer disciplinary action, possibly including revocation, against its permit to operate as a pharmacy in the State of Maryland.

October 9th, 2001
Date

James Krahulec
James Krahulec, Vice President,
Government and Trade Relations on
behalf of Respondent Pharmacy
No. 397

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

I HEREBY CERTIFY that on this 9th day of October, 2001, before me, Deborah A. Hurley a Notary Public of the aforesaid State and City/County, (Print Name) on behalf of the Respondent-Pharmacy personally appeared James Krahulec, Vice President, Government and Trade Relations, 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,

Deborah A. Hurley

NOTARIAL SEAL Notary Public
DEBORAH A. HURLEY, Notary Public
East Pennsboro Twp., Cumberland Co.
My Commission Expires Oct. 7, 2003

My Commission Expires: _____