

IN THE MATTER OF
TOWSON PHARMACY
PERMIT NO. P01710

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BEFORE THE
STATE
BOARD OF PHARMACY

Respondent

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FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board") and subject to Health Occupations Article, Title 12, Annotated Code of Maryland (the "Act"), the Board charged Towson Pharmacy, (the "Respondent Pharmacy"), with violations of the Act.

Specifically, the Board charges the Respondent with violation of the following provisions of §12-409 and 410:

Subject to the hearing provisions of §12-411 of this subtitle, the Board may suspend or revoke any pharmacy permit or may impose a penalty not exceeding \$5000, if the pharmacy:

- (1) Violates any of the standards specified in §12-403 of this subtitle; or
- (2) Otherwise is not conducted in accordance with the law.

Section 12-403 (a) requires that the pharmacy :

- (1) Shall be operated in compliance with the law and with the rules and regulations of the Board;
- (3) Shall be constantly under the personal and immediate supervision of a licensed pharmacist;
- (8) May not participate in any activity that is a ground for Board action against a licensed pharmacist under §12-313 of this title.

Applicable grounds under §12-313 are:

- (3) Aids an unauthorized individual to practice pharmacy or to represent that the individual is a pharmacist;
- (7) Willfully fails to file or record any report that is required by law;
- (14) Without first having received a written or oral prescription for the drug from an authorized prescriber, dispensed any drug for which a prescription is required [;].

The Respondent was given notice of the issues underlying the Board's charges by letter dated January 27, 1999. A Case Resolution Conference was held on April 7, 1999 and was attended by Ramona McCarthy Hawkins, P.D., and Donald Yee, P.D., members of the Board, Norene Pease, Executive Director of the Board, and Paul Ballard, Assistant Attorney General, Counsel to the Board. Also in attendance were the Respondent and his attorney, Allan Rombro, and the Administrative Prosecutor, Roberta L. 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 hereto, the Respondent Pharmacy was issued a permit by the Board to operate as a pharmacy in the State of Maryland.
2. In July, 1995, the Board received a complaint about the Respondent Pharmacy from a clerk who worked there part-time. The clerk informed the Board that when the day shift pharmacist leaves at 5:00 p.m., the store manager, Brian Martin, fills in as the pharmacist. Mr. Martin is not licensed as a pharmacist. The clerk also informed the Board

that clerks are frequently requested to assist in the filling of prescriptions and that several of them do assist. The clerk further informed the Board that the institutional pharmacy, which Michael Rombro, P.D., the owner operated in the basement, had piles of prepared I.V.s on the floor in the room.

3. Based upon this information, the Board conducted an investigation. Two staff members went to the Respondent Pharmacy that same day, arriving at approximately 5:50 p.m. The staff members observed an individual in the pharmacy, answering the telephone and filling prescriptions. When the Board's Chief Compliance Officer, Tracy Baroni, P.D., approached the pharmacy counter and asked to speak to the pharmacist, the individual told her that he was the manager and that the pharmacist had stepped out. The individual identified himself as Brian Martin. Mr. Martin stated that the pharmacist would not be back that night, whereupon Ms. Baroni showed Mr. Martin her badge and told him that she was closing the pharmacy because there was no pharmacist present. Ms. Baroni requested the key and locked the pharmacy's front door. Ms. Baroni looked around the pharmacy department. While she was there, the other Board employee, Tamara Banks, observed Mr. Martin speaking to another employee who then exited out of the side door. Consequently, Ms. Baroni and Ms. Banks locked the side door. About 6:10 p.m. Mr. Rombro appeared at the store and informed Ms. Baroni that he was working in the basement and that he had been there just five minutes before. Whereupon, Ms. Baroni informed him that Board staff had been there for fifteen minutes before he arrived.

4. As a result of the above, the Board, on April 16, 1997 sent Mr. Rombro and the Respondent Pharmacy Letters of Admonishment, advising them that the Board had found

them in violation of its Act and that the matter could be settled by way of an informal resolution, as long as Mr. Rombro signed the letter and took and passed the law portion of the Board's examination, on or before April 30, 1998. Mr. Rombro signed the Letter, but failed to take the examination, as he agreed.

5. On February 10, 1998, the Division of Drug Control (DDC) conducted an audit¹ of the Respondent Pharmacy. The audit period was from February 12, 1997 to February 9, 1998. Three drugs were selected for audit: Dilaudid², 4mg, and its generic equivalents, hydromorphone; Ritalin³, 10mg, and its generic equivalent, methylphenidate, 10mg; and, Percocet⁴, and its generic equivalent, Oxycodone and APAP 5/325. All of these are Schedule II drugs, for which a prescription is required and which have high abuse potential and high potential for psychic and physical dependence.

6. The audit of the Dilaudid showed a loss of 474 tablets for the initial audit period. When given an opportunity to explain the loss, Mr. Rombro stated that Dilaudid 2, mg, prescriptions were filled with Dilaudid 4, mg, tablets and that the quantity and dosage were

¹An audit is conducted by measuring the number of pills ordered during a certain time period against the number of pills dispensed according to prescription forms and comparing that with the number of tablets left in stock or in the inventory. For example, if 1000 tablets were ordered and 800 of them were dispensed according to the prescription forms, then 200 tablets should be left in stock.

²Dilaudid is a habit-forming narcotic, used to relieve pain.

³Ritalin is a habit-forming stimulant, which decreased overactivity and lengthens attention span in children with attention deficit hyperactivity disorder and to treat narcolepsy and other disorders.

⁴Percocet is a narcotic, analgesic, which relieves pain.

cut in half. Taking this into account, the loss was reduced to 337 tablets.⁵ For the Ritalin, 10 mg, the initial audit showed an overage of 215 tablets. Mr. Rombro explained that the methylphenidate listed and counted as a purchase on a Schedule II purchase form had not been received. This increased the overage to 1215 tablets. For the Percocet, the overage was 2066 tablets.

7. Pharmacies should always have a prescription from an authorized prescriber before he dispenses medication. A shortage of narcotics indicates that drugs for which a prescription is needed may have been dispensed without a prescription. It may also indicate lost or stolen drugs or misfiled prescriptions.

8. Pharmacies should be able to account for all drugs ordered and dispensed. A pharmacy should document that drugs are being dispensed as prescribed, including documentation of any pills cut in half or altered.⁶ A pharmacy should always inform the prescriber that drugs are not being dispensed as ordered by the prescriber, so that the prescriber will not accidentally cause the recipient to overdose by increasing the dosage. A pharmacy should always document when drugs are being returned to the shelf.

9. Mr. Rombro denies allowing unlicensed persons to practice pharmacy. Mr. Rombro took the pharmacy examination on April 6, 1999. At the time of the Conference, the results were not known.⁷ Mr. Rombro cites the recent audit by DDC to show that there

⁵Dilaudid has a street value of \$15-20 per tablet in Baltimore.

⁶When one cuts a pill, it may not always divide evenly.

⁷The Board was later informed that Mr. Rombro passed the examination by 86%.

has been marked improvement in the manner in which the Respondent Pharmacy is managed.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §§ 12-411 (1) and (2) as alleged.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 10th day of May, 1999, by a majority of a quorum of the Board,

ORDERED that the Respondent Pharmacy permit be and is REPRIMANDED; and be it further

ORDERED that Respondent Pharmacy shall be placed on Probation; and be it further

ORDERED that Michael Rombro, President/Owner of Respondent Pharmacy is to comply with the conditions of Probation as set forth below.

1. Mr. Rombro is to submit to the Board the names of any and all licensed pharmacists and support staff who shall be employed by the Mr. Rombro or who will actually work in the pharmacy on either a full, part-time and/or emergency basis, beginning May 1, 1999 and each succeeding month of his probationary period.

2. In the event that Mr. Rombro fails the pharmacy examination that he took on April 6, 1999, he may take it one more time. However, should Mr. Rombro fail to pass

said examination on both attempts, he shall enroll in the law course given by the University of Maryland Pharmacy School and then retake the examination.

3. The Respondent shall initiate a perpetual inventory on the day that the Order is signed by the Board.

4. The Board will appoint an individual to serve as a Monitor. The Monitor will do the following: conduct a random, unannounced audit within two (2) weeks of the probationary period, with a report to be submitted to the Board and perform a monthly unannounced, reconciliation of inventory to invoices during the probationary period, thereafter with a report to be submitted to the Board, noting any discrepancies immediately. Further, the Monitor is to review the Respondent's perpetual inventory of Schedule II, Controlled Dangerous Substances, every month. That Monitor is to submit a report to the Board, following the inventory. Mr. Rombro is to promptly pay the fee charged by the Monitor following each inventory, reconciliation and report.

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

ORDERED that should the Board receive a report that the Respondent Pharmacy is operating in a manner that 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 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 Mr. Rombro violates any conditions of this Order or of Probation, or receives an

unfavorable report from the Monitor, 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 a 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 further

ORDERED that for purposes of public disclosure, as permitted by §10-617(h) State Government Article, Annotated Code of Maryland, this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order.

STANTON GADES
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David Russo, President,
State Board of Pharmacy

CONSENT OF MICHAEL ROMBRO, P.D. ON BEHALF OF TOWSON PHARMACY

I, Michael Rombro, P.D., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Allan Rombro, and have been advised by him of the legal implication of signing this Consent Order.
2. I am aware that without my consent, my license to practice pharmacy in this State cannot be limited except pursuant to the provisions of §12-313 of the Act and §10-201, et seq., of the Administrative Procedure Act (APA), State Government Article, Annotated Code of Maryland;

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

By this Consent Order, 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 my right to a formal hearing as set forth in §12-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in §12-326 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice pharmacy in the State of Maryland.

5/18/99
Date

Michael Rombro P.D.
Michael Rombro, P.D.
On behalf of Towson Pharmacy

STATE OF MARYLAND

CITY/COUNTY OF _____:

I HEREBY CERTIFY that on this 18th day of MAY, 1999, a Notary Public of the State of Maryland and (City/County), _____, personally appeared Michael Rombro, P.D., on behalf of Towson Pharmacy, Permit No. P01710, 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.

JOANN BUTLER
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 31, 2002

AS WITNESSETH my hand and notarial seal



Notary Public

JoANN BUTLER
NOTARY PUBLIC STATE OF MARYLAND

My Commission Expires: My Commission Expires July 31, 2002

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Staffing of Towson Pharmacy for the Month of May 1999

Pharmacists:

Michael Rombro, RPh

Maryland Pharmacy License #09849

Yulia Morgun, RPh

Maryland Pharmacy License #14560

Supporting Staff:

Edmundo Belair, Pharmacy Technician

Marsha R. Keim, Pharmacy Technician