

IN THE MATTER OF	*	BEFORE THE
WAL-MART PHARMACY WAREHOUSE #46	*	STATE BOARD OF
RESPONDENT-CORPORATION	*	PHARMACY
PERMIT NUMBER: D00737	*	CASE NO.: PI-14-213/14-613
* * * * *	*	* * * * *

**FINAL CONSENT ORDER**

The State Board of Pharmacy ("the Board") charged Wal-Mart Pharmacy Warehouse #46, permit number: D00737 (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.* (2014 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-03. Permit required.**

- (a) A wholesale distributor shall hold a permit issued by the Board before the wholesale distributor engages in wholesale distribution in the State.

**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;
    - (v) Otherwise conducts the wholesale distribution of prescription drugs or devices in a manner not in accordance with the law [.]

The Respondent-Corporation believes that it has certain legal and equitable defenses to the violations asserted by the Board. However, to avoid the expense, inconvenience, delay and uncertainty of protracted litigation of the asserted violations, the Respondent-Corporation hereby waives its right to a full evidentiary hearing and the Parties agree to the terms of the Consent Order as set forth below.

**FINDINGS OF FACT**

The Board finds that:

1. The Respondent-Corporation was originally issued a permit to operate as a wholesale distributor on February 6, 2002. The Respondent-Corporation's permit expires on May 31, 2015.
2. At all times relevant hereto, the Respondent-Corporation was located at 11121 Elliot Place, Williamsport, Maryland.

3. Between January 2009 and December 2009, the Respondent- Corporation purchased approximately \$2.4 million dollars of prescription drugs and/or devices from Establishment A.

4. During the time of these transactions, Establishment A did not hold a permit issued by the Board to engage in wholesale distribution as its permit had lapsed December 31, 2008. At no point during the relevant time period did Establishment A inform Respondent- Corporation that its permit had lapsed.

5. Respondent-Corporation received these prescription drugs and/or devices from a third party logistics provider which, at all relevant times, held a permit issued by the Board to engage in wholesale distribution.

6. The Respondent-Corporation has made enhancements to its compliance program since the date of these allegations. Respondent-Corporation has in place and at all times has had in place safeguards to assure the quality and safety of products it purchases.

#### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated H.O. § 12-6C-03; H.O. § 12-6C-11 (a), and Code Md. Regs. tit. 10 § 34.22.05.A (3) (d) and (j).

#### **CONSENT ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 20<sup>th</sup> day of April 2015, by a majority of the quorum of the Board, hereby:

**ORDERED** that the Respondent-Corporation shall pay a fine in the amount of fifteen thousand dollars (\$15,000). 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 the Respondent-Corporation shall not purchase or receive prescription drugs or devices intended for sale in Maryland from a person or entity that is required by law to hold a Maryland wholesale distributor permit but does not hold such a permit; and it is further

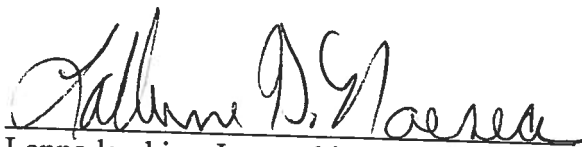
**ORDERED** that Respondent shall be responsible for all costs incurred under this Order; and it is further

**ORDERED** that the effective date of this Order is the date that it is signed by the Board; and it is further

**ORDERED** that for purposes of public disclosure and as permitted by Md. General Provisions §§ 4-101 *et seq.* (2014), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Consent Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

**ORDERED** that this Order is final and a public document pursuant to Md. General Provisions §§ 4-104 *et seq.* (2014).

4/20/15  
Date

*for*   
Lenna Israbian-Jamgochian, Pharm.D.  
President  
State Board of Pharmacy

**CONSENT OF Wal-Mart Pharmacy Warehouse #46 Representative**  
**Rick Irby, Sr. Director of Corporate Compliance**

I, Rick Irby, Sr. Director of Corporate Compliance for Wal-Mart Pharmacy Warehouse#46 ("Wal-Mart Pharmacy"), by affixing my signature hereto, acknowledge that:

1. Wal-Mart Pharmacy is represented by Steven F. Barley.
2. I am aware that Wal-Mart Pharmacy is entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann., II § 12-315 (2014 Repl. Vol.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (Repl. Vol.).
3. I, Rick Irby, Sr. Director of Corporate Compliance for Wal-Mart Pharmacy, acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which Wal-Mart Pharmacy would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. As Sr. Director of Corporate Compliance for Wal-Mart Pharmacy, I am waiving those procedural and substantive protections.
4. I, as Sr. Director of Corporate Compliance, voluntarily enter into and consent to the terms and conditions set forth in this Final Consent Order, as a resolution of charges issued by the Board. Wal-Mart Pharmacy does not admit to any knowing violations of law, but, in the interests of avoiding unnecessary time and expense associated with a contested hearing, agrees to execute this Final Consent Order.
5. I, as Sr. Director of Corporate Compliance, waive Wal-Mart Pharmacy's right to contest the findings of fact and conclusions of law, and I waive Wal-Mart Pharmacy's right to a full evidentiary hearing, and any right to appeal this Consent Order

as set forth in Md. Health Occ. Code Ann., II § 12-315 (2014 Rep. Vol.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2014 Rep. Vol.).

6. I, as Sr. Director of Corporate Compliance, acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, Wal-Mart Pharmacy may be subject to disciplinary action.

7. I, as Sr. Director of Corporate Compliance, sign this consent order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

3-30-15  
Date

Rick Irby  
Rick Irby  
Sr. Director of Corporate Compliance  
For Wal-Mart Pharmacy Warehouse #46

**NOTARY**

STATE OF Arkansas

CITY/COUNTY OF Benton

I hereby certify that on this 30th day of March, 2015, before me, the undersigned, a Notary Public of said State, personally appeared Rick Irby, Sr. Director of Corporate Compliance for Wal-Mart Pharmacy, made oath in due form of law and that signing the foregoing Consent Order was a voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

DEANA MCKENZIE MCNEIL  
NOTARY PUBLIC  
BENTON COUNTY, ARKANSAS  
COMM. EXP. 10/31/2017  
COMMISSION NO. 12363146

Deana McKenzie McNeil  
Notary Public