

IN THE MATTER OF

\*

BEFORE THE

MICHAEL ROMBRO, P.D.

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STATE

LICENSE NO. 09849

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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 Michael Rombro, P.D., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 12-313:

Subject to the hearing provisions of §12-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, of suspend or revoke a license if the applicant or licensee:

- (1) 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; and
- (20) Is professionally, physically, or mentally incompetent.

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 was licensed by the Board to practice pharmacy in the State of Maryland.

2. In July, 1995, the Board received a complaint about the Towson 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 the Respondent 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 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. the Respondent 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 the Respondent a Letter of Admonishment, advising him that the Board had found him in violation of its Act and that the matter could be settled by way of an informal resolution, as long as he signed the letter and took and passed the law portion of the Board's examination, on or before April 30, 1998. The Respondent 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 audit<sup>1</sup>

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<sup>1</sup>An 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.

of the Respondent's pharmacy. The audit period was from February 12, 1997 to February 9, 1998. Three drugs were selected for audit: Dilaudid<sup>2</sup>, 4mg, and its generic equivalents, hydromorphone; Ritalin<sup>3</sup>, 10mg, and its generic equivalent, methylphenidate, 10mg; and, Percocet<sup>4</sup>, 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, the Respondent stated that Dilaudid 2, mg, prescriptions were filled with Dilaudid 4, mg, tablets and that the quantity and dosage were cut in half. Taking this into account, the loss was reduced to 337 tablets.<sup>5</sup> For the Ritalin, 10 mg, the initial audit showed an overage of 215 tablets. The Respondent 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. A pharmacist should always have a prescription from an authorized prescriber before he dispenses medication. A shortage of narcotics indicates that drugs for which a

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<sup>2</sup>Dilaudid is a habit-forming narcotic, used to relieve pain.

<sup>3</sup>Ritalin 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.

<sup>4</sup>Percocet is a narcotic, analgesic, which relieves pain.

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

prescription is needed may have been dispensed without a prescription. It may also indicate lost or stolen drugs or misfiled prescriptions.

8. A pharmacist should be able to account for all drugs ordered and dispensed. A pharmacist should document that drugs are being dispensed as prescribed, including documentation of any pills cut in half or altered.<sup>6</sup> A pharmacist 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 pharmacist should always document when drugs are being returned to the shelf.

9. The Respondent denies allowing unlicensed persons to practice pharmacy. The Respondent took the pharmacy examination on April 6, 1999. At the time of the Conference, the results were not known. The Respondent cites a recent audit by DDC to show that there has been marked improvement in the manner in which the pharmacy is managed.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §§ (3), (7), (14) and (20) (is professionally...incompetent).

### **ORDER**

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 19 day of April, 1999, by a majority of a quorum of the

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<sup>6</sup>When one cuts a pill, it may not always divide evenly

Board,

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

ORDERED that the Respondent shall be placed on Probation for a period of one (1) year, subject to the following conditions:

1. The Respondent is to submit to the Board the names of any and all licensed pharmacists and support staff who shall be employed by the Respondent 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 the Respondent fails the pharmacy examination that he took on April 6, 1999, he may take it one more time. However, should the Respondent 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.<sup>7</sup>

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

4. The Board will provide a list of licensed pharmacists to the Respondent and Respondent will select an individual from that list to serve as a Monitor. The Monitor will do the following: conduct a random, unannounced audit by June 1, 1999, 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

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<sup>7</sup>This paragraph is now moot because the Respondent passed the examination.

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. The Respondent is to promptly pay the fee charged by the Monitor following each inventory, reconciliation and report; and be it further

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

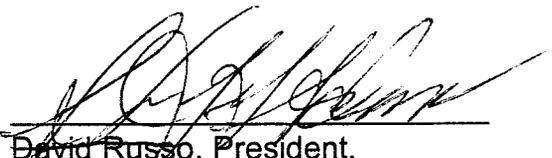
ORDERED that should the Board receive a report that the Respondent's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, or receives an unfavorable report from the Monitor, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it further

ORDERED that Respondent may Petition the Board for termination of probation at the conclusion of the one (1) year imposed by this Order. If the Respondent fails to petition the Board, the conditions remain in effect and if, the Respondent has satisfactorily

complied with the conditions of this Order of Probation and has practiced in a competent manner, the Board shall remove all conditions of Probation and restore the Respondent's license, with no restrictions. If the Respondent has not complied with the conditions of Probation of this Order or has substantially violated the Act, the Board may impose additional conditions of Probation; 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 GLADES

  
David Russo, President,  
State Board of Pharmacy

**CONSENT OF MICHAEL ROMBRO, P.D.**

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.

5/17/99  
Date

  
Michael Rombro, P.D.

**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., License No.09849, 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  
2012

My Commission Expires: \_\_\_\_\_

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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