

**IN THE MATTER OF**  
**RICHARD TOWNSEND, P.D.**  
**LICENSE NO. 14624,**  
**RESPONDENT**

**\* BEFORE THE**  
**\* MARYLAND STATE**  
**\* BOARD OF PHARMACY**  
**\* 99-BP-028**

\* \* \* \* \*

**CONSENT ORDER**

Based on information received from Russell B. Fair of Giant Food, Inc. and the Maryland State Police 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 initiated emergency suspension proceedings regarding the pharmacist license of Richard Townsend, License No. 14624 (the "Respondent").

Specifically the Board believed the Respondent was in violation of the following provisions of § 12-313:

Subject to the hearing provision of § 12-315 of the Subtitle, the Board, on an affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any license, place any licensee on probation, or suspend or revoke a licensee if the applicant or licensee:

- (5) Submits a false statement to collect a fee;
- (6) Willfully makes or files a false report or record as part of practicing pharmacy; and
- (7) Dispenses any drug, device or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber.

A pre-deprivation hearing was held on March 9, 1999, with participation by the Respondent, Paul Ballard, Board Counsel, W. Irving Lottier, Jr. P.D., Board Secretary, Ramona McCarthy

Hawkins, P.D., Board Member, Stephanie A. Shipley, Esquire, for Respondent, Lisa Hall, Administrative Prosecutor, and Norene Pease, Executive Director of the Board. The Respondent voluntarily surrendered his license on March 9, 1999 as a result of the pre-deprivation hearing.

A case resolution conference was held on August 10, 1999 and was attended by Stanton G. Ades, P.D., President of the Board, Ramona McCarthy Hawkins P.D., Board Member, and Paul Ballard, Board Counsel. Also in attendance were the Respondent, his attorney, Stephanie A. Shipley, and Lisa Barkan, Administrative Prosecutor.

Following the case resolution conference, the parties and the Board agreed to settle the matter.

#### **FINDINGS OF FACT**

1. At all times relevant, Respondent was licensed to practice pharmacy in the State of Maryland. Respondent was initially licensed July 16, 1997.
2. Respondent was employed at the Giant Pharmacy #1223 located at 8223 Elliott Road, Easton, Maryland 21601 until his suspension from that employment on November 3, 1998.
3. Beginning on or about September 19, 1998, Respondent entered into a scheme to distribute CDS with a non-pharmacist, Gregory Vacek. The scheme involved the following:
  - a) Vacek provided Respondent with blank prescription pads.
  - b) Vacek would telephone Respondent and tell him the name of the drug that he wanted.
  - c) Respondent would find a name of a patient in the Giant pharmacy's computer data and then, using the blank prescription pads provided, reduced to writing a prescription with that patient's name and Vacek's requested CDS.
  - d) Respondent would enter the patient and prescription information into the pharmacy's

computer and fill the CDS.

e) Vacek would come to the pharmacy and Respondent would "sell" Vacek the CDS. Vacek would pay the co-payment. In this manner, third party payors were billed for these fraudulent and illegal prescriptions.

f) Vacek would exit the pharmacy and would enter Respondent's car. Vacek would leave cash for Respondent in amounts between \$5.00 and \$400.00 in Respondent's car.

4. On October 23, 1998, another Giant pharmacist, Pharmacist A, reported having witnessed Respondent fill a prescription for a patient and enter the information in the computer, without a valid prescription.

5. On November 1, 1998, Respondent discussed the illegal and fraudulent prescriptions with the Pharmacy Supervisor, who in turn reported the matter.

6. Subsequently, the Maryland State Police/Diversion Task Force became involved. On November 11, 1998, at the explicit direction of the Maryland State Police, Respondent participated in a "controlled drug buy." Vacek entered the Giant pharmacy, picked up and paid for a pill bottle containing 100 dosage units of Dilaudid, a CDS of Schedule II, and a second pill bottle containing 100 dosage units of oxycodone, a CDS of Schedule II. Vacek then left the Giant store and entered Respondent's car where Vacek left \$130.00 in cash wrapped in empty pharmacy bags.

7. Between September 9, 1998 and October 14, 1998 it is known that fraudulent and illegal prescriptions were dispensed by Respondent for 520 units of oxycodone, 225 units of Dilaudid, and 100 units of MS Contin, all of which are Schedule II CDS narcotics. Between September 9, 1998 and October 14, 1998 it is known that fraudulent and illegal prescriptions were dispensed by Respondent for 50 units of Vicoprofen, a Schedule III CDS narcotic, and 50 units of diazepam, a

Schedule IV CDS.

8. Respondent's defense to this course of conduct is that Vacek was threatening Respondent and members of his family with serious bodily harm if Respondent did not participate in this scheme.

9. Respondent admitted to Tom McElroy, State Police/Diversion Task Force, and Dave Denoyer, the Board's investigator, to the information contained above.

### **CONCLUSIONS OF LAW**

Based upon the foregoing, the Board finds that Respondent violated §§ 12-313(2), (14) and (2) of the Act.

### **ORDER**

Based on the agreement of the parties, it is, on this 15th day of September 1999, by a majority of a quorum of the Board, hereby,

**ORDERED**, that the license to practice pharmacy of Richard Townsend, P.D. be suspended and that such suspension be immediately stayed pending a two year probationary period and it is further

**ORDERED**, that Respondent shall be immediately placed on **PROBATION**, subject to the following conditions:

1. Respondent shall be evaluated by a counselor chosen by the Board now and at the end of Respondent's probationary period;

2. Respondent shall follow any and all recommendations of the Board appointed

counselor including PEAC monitoring, if necessary;

3. Respondent shall provide documentation satisfactory to the Board that restitution has been made to the insurance companies billed for fraudulent prescriptions;

4. Respondent shall only work for one pharmacy employer at a time, pre-approved by the Board;

5. Respondent shall work at only one pharmacy at a time. Respondent can transfer between pharmacies only if he notifies the Board and receives prior permission;

6. Respondent cannot float between pharmacies without prior written approval of the Board;

7. Respondent shall obtain written Board approval before he works as a pharmacist;

8. Respondent shall not work in any supervisory position as a pharmacist;

9. Respondent shall not have any ownership interest in a pharmacy;

10. Respondent shall not work for anyone who is being disciplined by the Board;

11. Respondent shall take three (3) continuing education credits in controlled dangerous substances and shall take three (3) continuing education credits in pharmacy law. The aforementioned courses shall be taken in addition to the continuing education credits necessary for renewal of a pharmacist's license;

12. Respondent shall take one college level ethics course and obtain at least a B in such course. The ethics course must be pre-approved by the Board;

13. Respondent shall obtain quarterly written reports from his pharmacy employer outlining his progress and shall submit such reports to the Board. Respondent shall also obtain quarterly reports from PEAC outlining his progress, if he is referred to PEAC by the Board appointed

counselor, and respondent shall submit such reports to the Board;

14. Respondent shall have direct supervision for any dispensing position. Respondent can petition the Board after six months of supervised dispensing to lift the direct supervision condition;

15. Respondent shall maintain a perpetual inventory of controlled dangerous substance class II drugs supervised and verified by another pharmacist at each work location;

16. Respondent shall pay a two thousand dollar (\$2,000) fine;

17. Respondent shall practice in accordance with the Maryland Pharmacy Practice Act in a competent manner; and be it further

**ORDERED** that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Order; and be it further

**ORDERED** that in the event the Board receives an unsatisfactory report which it believes in good faith to be accurate, or in the event that the Board finds for any reason in good faith that Respondent has violated any provision of Title 12 of the Health Occupations Article or regulations thereunder or violated any of the conditions of Probation thereunder, the Board may take immediate action, including, but not limited to, suspension of the Respondent's license to practice pharmacy, prior to giving Respondent an opportunity for a hearing. However, Respondent shall have a right to a hearing, in accordance with the Administrative Procedure Act, State Government Article, Section 10-210 et seq. within thirty (30) days after Respondent notifies the Board in writing of his desire for such a hearing. The Board may, in its discretion, fail to entertain such notice if received more than ninety (90) days after its action; and be it further

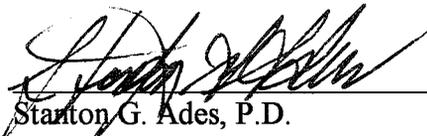
**ORDERED** that two (2) years after the commencement date of probation, Respondent shall petition the Board for termination of Respondent's probationary status and full reinstatement of his

license to practice pharmacy without any conditions or restrictions as to the scope of practice. If the Board determines that the termination of probation and complete reinstatement would be inappropriate at that time, the Board may modify one or more of the conditions upon which Respondent was placed on probation;

**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 Order.

10/1/99

Date



Stanton G. Ades, P.D.

President

Maryland Board of Pharmacy

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**CONSENT OF RICHARD TOWNSEND**

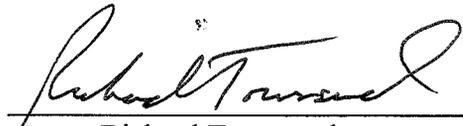
I, Richard Townsend, P.D., by affixing my signature hereto, acknowledge that:

1. I have been advised of my right to consult an attorney prior to signing this Order.
2. I am aware that without my consent, my license to practice pharmacy in the State cannot be limited except pursuant to the provisions of § 12-313 of the Act and § 10-205 et seq. of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland.

By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact 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 § 10-215 of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland, and any right to appeal as set forth in § 12-316 of the Act and § 10-215 of the Administrative Procedure Act. I acknowledge that by 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.

9-28-99

Date

  
Richard Townsend

**STATE OF MARYLAND**  
**CITY/COUNTY OF** Calvert

**I HEREBY CERTIFY** that on this 28<sup>th</sup> day of Sept, 1999, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared Richard Townsend, P.D., License No. 14624 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 WITNESSED** by my hand and Notarial Seal.

Patricia E. Camser  
Notary Public

My Commission Expires: 6/1/00