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**FILED**

OCT 13 2009

**BOARD OF PHARMACY**

By: Jodi C. Krugman  
Deputy Attorney General  
Tel: (973) 648-2975

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

**THOMAS D. GATES, R.P.**  
**Lic. No. 28RI01678400**

TO PRACTICE PHARMACY IN THE  
STATE OF NEW JERSEY

Administrative Action

**CONSENT ORDER**

This matter was opened to the New Jersey State Board of Pharmacy (the "Board") upon receipt of information that respondent Thomas D. Gates ("respondent") was arrested and charged with third degree theft by unlawfully taking or exercising control over moveable property in violation of N.J.S.A. 2C:20-3A. The Criminal Complaint-Summons specifically alleges that respondent took or ingested "3,131 5 mg Diazepam tablets and 539 10mg Diazepam tablets while employed as the head pharmacist at Stirling ShopRite from February 2007 to February 4, 2009."

Respondent was interviewed by the Long Hill Police Department, and admitted that he began ingesting one or two 5mg Diazepam tablets daily beginning in February of 2007, taking the pills from the ShopRite inventory. He continued taking two 5mg or one 10mg

Diazepam daily for his own use for approximately six months, and then increased his daily intake to 30 to 40mg. He admitted that he took approximately 40 mg of Diazepam in 5 or 10mg tablets from inventory for approximately 18 months until February 4, 2009. Respondent also admitted to police that he altered inventory levels in the pharmacy computer system to account for the tablets he had taken.

Respondent, through his counsel, Kathleen M. Gialanella, Esq., has advised the Board that he completed the High Focus Centers' Intensive Outpatient Substance Abuse Program and has enrolled in the Professional Assistance Program of New Jersey ("PAP"). He asserts that he has not practiced as a pharmacist since February 23, 2009, nor has he made any attempt to practice. Respondent has indicated that he hopes to be offered entry into the Pretrial Intervention Program in Morris County to resolve the pending criminal charges.

The Board has reviewed all of the information presented, including the police reports, loss reports from ShopRite, statements of pharmacy employees, respondent's statements to the police, ShopRite and the Enforcement Bureau, an evaluation from the PAP, and the various letters submitted by counsel on respondent's behalf. The Board finding the within disposition adequately protective of the public health, safety and welfare, and respondent desiring to resolve this matter without formal proceedings and having waived his right to those proceedings, and other good cause having been shown,

IT IS, THEREFORE on this 2<sup>ND</sup> day of OCTOBER, 2009

ORDERED AND AGREED THAT:

1. Respondent's license to practice pharmacy in the State of New Jersey is hereby suspended for a period of three years, effective upon entry of this Order. Respondent's license shall be actively suspended for two years or completion of PTI, if granted, whichever is longer. The remainder of the suspension shall be stayed and served as a period of probation. Respondent shall not resume the active practice of pharmacy until further order of the Board.

2. Respondent shall immediately cease and desist from engaging in the practice of pharmacy, which includes, but is not limited to the following: respondent shall not handle, order, inventory, compound, count, fill, refill or dispense any drug; he shall not handle anything requiring a prescription, including devices and medications; he shall not handle prescriptions; he shall not advise or consult with patients, and he is prohibited from being present within a prescription filling area of a pharmacy.

3. Respondent shall surrender his wall certificate, wallet certificate, and most recent renewal card of his license, to the Executive Director of the Board by mailing them to Joanne Boyer, Executive Director, Board of Pharmacy, P. O. Box 45013, Newark, New Jersey 07101, contemporaneously upon the signing of this Order.

4. During his period of active suspension, respondent shall take and successfully complete either the ProBE or PRIM~E ethics course. Proof of completion shall be provided to the Board.

5. Respondent shall continue his enrollment in the PAP and comply with all directives, which shall include weekly random urine screens, among other program requirements.

6. Upon application for reinstatement, respondent shall:
- a. Appear before the Board or a committee thereof to discuss his readiness to reenter the practice of pharmacy. At that time Respondent shall be prepared to propose his plans for future practice in New Jersey.
  - b. Provide the Board with evidence that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare and that he is not then suffering from any impairment or limitation resulting from the use of any addictive substance which could affect his practice.
  - c. Submit documentation satisfactory to the Board of weekly, random, witnessed urine screens, and proof of compliance with all required treatment recommendations from the PAP, and a report of the PAP which wholeheartedly recommends respondent's return to practice;
  - d. Provide the Board with complete treatment records of all diagnostic and rehabilitative therapy, discharge summaries from the PAP and any in-patient programs, as well as reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in Respondent's care and/or treatment from the date of respondent's arrest to his appearance before the Board.
  - e. Submit to the Board an in-depth, current evaluation from a Board-approved psychiatrist or psychologist that addresses, among other things, respondent's current status and his ability to practice as a licensed pharmacist.
  - f. Provide the Board with proof of the resolution of any criminal charges filed against him and compliance with any terms imposed by the criminal authorities related to this matter, whether enrolled in PTI, pursuant to a plea agreement or following a trial;
  - g. Provide the Board with a full account of his conduct during the intervening period of time from the entry of this Order to his appearance pursuant to this Order.

7. Respondent understands and agrees that the Board may impose additional conditions on respondent's practice of pharmacy upon reinstatement of his license.

NEW JERSEY STATE BOARD OF PHARMACY

By: Edward G. McGinley  
Edward G. McGinley, R.Ph.  
Board President

I have read the above Order and understand and agree to its terms. Consent is given to the Board for the entry of this Order.

Thomas D. Gates  
Thomas D. Gates, R.P.

Consent is given as to form and entry of this Order:

Kathleen M. Gialanella  
Kathleen M. Gialanella, Esq.  
Attorney for Thomas D. Gates, R.P.