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FILED

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BOARD OF PHARMACY

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

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

VINCENT MORSE, R.P.
License No. 28RI01045400

TO PRACTICE PHARMACY, AND OF
THE PERMIT OF

FAIRWAY PHARMACY
Permit No. 28RS00036700

TO OPERATE A PHARMACY IN THE
STATE OF NEW JERSEY

Administrative Action

FINAL ORDER OF DISCIPLINE

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondents, Fairway Pharmacy and Owner/R.P. in Charge, Vincent Morse are licensed in the State of New Jersey and have been licensees at all times relevant hereto. Respondent Morse failed to renew his license in 2007 for the current biennial renewal period commencing May 1, 2007.

2. On December 7, 2006, pursuant to an Enforcement Bureau investigation of Fairway Pharmacy in Lindenwold, New Jersey, it was revealed that from April 21, 2006 until December 2006, Owner/R.P. in Charge, Vincent Morse, ordered and dispensed Controlled Dangerous Substances without the benefit of a valid DEA registration.

3. Respondent Vincent Morse, in order to resolve this matter on an interim basis, and without prejudice to the Board taking any further action authorized by law, relinquished to an agent of the Board, Richard Lizzano, his license to practice pharmacy and the permit of Fairway Pharmacy to operate a pharmacy by consent on December 7, 2006. (Certification of Richard Lizzano incorporated herein and attached hereto as Exhibit A).

4. On December 7, 2006, Enforcement Bureau Investigators conducted an inspection of the pharmacy which revealed the following:

- A. 29 outdated medications in the active drug stock;
- B. 5 misbranded medications;
- C. 16 sample medications;
- D. No biennial inventory;
- E. No current reference texts;
- F. 60% non-compliance with recording patient allergies;
- G. 40% non-compliance with generic interchange law;
- H. Dispensing pursuant to prescriptions with incorrect directions, dosages, and/or lacking prescriber signature;
- I. Failure to mark or separate CDS prescriptions in files;

all in violation of the Pharmacy Practice Act, N.J.S.A. 45:14-40 et seq. And N.J.A.C. 13:39-1.1 et seq.

CONCLUSIONS OF LAW

1. The above findings of fact provide grounds for the revocation of the license of Respondent Vincent Morse, R.P. to practice pharmacy in New Jersey pursuant to N.J.S.A 45:1-21(b), (c), (d), (e), (g), (h), (m) and (n) for repeated unlawful ordering and dispensing of Controlled Dangerous Substances without a valid DEA permit and repeated violations of the Pharmacy Act N.J.S.A. 45:14-40 et seq. and/or the regulations promulgated pursuant thereto, which may be determined by the Board to constitute professional misconduct.

2. The above findings of fact provide grounds for the revocation of the permit of Fairway Pharmacy to operate a pharmacy in New Jersey pursuant to N.J.S.A 45:14-69(g), in that Respondents have violated or failed to comply with the provisions of the Pharmacy Practice Act, N.J.S.A. 45:14-40 et seq. and/or the regulations promulgated pursuant thereto, which may be determined by the Board to constitute professional misconduct.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered by this Board on December 17, 2007 provisionally revoking the license of Respondent Vincent Morse to practice as a Pharmacist in the State of New Jersey and provisionally revoking the permit of Respondent Fairway Pharmacy to operate a pharmacy in the State of New Jersey. The Provisional Order of Discipline was sent to Respondent's address of record via certified and regular mail. The Provisional Order of Discipline clearly stated that it was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

Respondent submitted a check in the amount of \$12,100.84, in full payment of the fines and penalties outlined in the Provisional Order, but did not submit any documentation contesting the findings of fact or in support of mitigation of penalty and did not request a hearing. Given the egregious nature of Respondent's conduct which relates directly to the practice of pharmacy and which placed the public at risk, revocation is appropriate. Further, the Board considers Respondent's payment of the fines and penalties without request for a hearing or submission of documentation contesting the findings of fact or in support of mitigation of penalty to be acquiescence to the penalty as noticed in the Provisional Order of Discipline. Accordingly, it is determined that further proceedings are not necessary and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 22ND day of APRIL, 2009,
ORDERED that:

1. The license of Respondent Morse to practice pharmacy in the State of New Jersey be, and hereby is revoked; and the permit of Respondent Fairway Pharmacy to operate a pharmacy in the State of New Jersey be, and hereby is revoked.
2. Upon the filing of this Order, Respondent Morse shall cease and desist from engaging in the practice of pharmacy including the following: Respondent shall not handle, order, inventory compound, 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. Respondents shall pay a civil penalty of \$10,000.00 to the Board of Pharmacy which shall include penalties for all violations of the Pharmacy Practice Act, N.J.S.A. 45:14-40 et seq. Payment shall be by certified check or money order made payable to the State of New Jersey, and shall be sent to: Joanne Boyer, R.P., Executive Director, State Board of Pharmacy at 124 Halsey

Street, Sixth Floor, P.O. Box 45004, Newark, New Jersey 07101. Subsequent violations will subject Respondents to enhanced penalties pursuant to N.J.S.A. 45:1-25. The Board notes that Respondents have paid this penalty in full.

4. Respondents shall pay costs of the inspection of Fairway Pharmacy in the amount of \$2100.84, which shall be paid within ten (10) days of this Order becoming final. Payment shall be made in the manner set forth in paragraph #3 above, and shall be sent to Joanne Boyer, R.P., Executive Director, at the address described in paragraph #3. The Board notes that Respondents have paid these costs in full.

NEW JERSEY STATE BOARD OF PHARMACY

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