

**FILED**

JUL 28 2011

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

**BOARD OF PHARMACY**

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IN THE MATTER OF THE SUSPENSION OR	:	Administrative Action
REVOCAION OF THE REGISTRATION OF	:	
	:	FINAL ORDER OF DISCIPLINE
JONAS KHALIL, R. P.	:	
Registration No. RI 024468	:	
	:	
TO PRACTICE PHARMACY	:	
IN THE STATE OF NEW JERSEY	:	

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

FINDINGS OF FACT

1. Jonas Khalil, R. P., License RI 024468, ("Respondent"), is a pharmacist licensed in the State of New Jersey and has been at all times relevant hereto.
2. On October 8, 2008, Respondent appeared with legal counsel and testified at an investigative inquiry held by the Board.
3. Respondent was the Registered Pharmacist-in-Charge (RPIC) at Anthony's Pharmacy at all times relevant hereto and thus had heightened responsibilities as outlined in Board regulations at N.J.A.C. 13:39-6.2 et seq.
4. Respondent admitted that as the RPIC at Anthony's Pharmacy, he was not responsible for scheduling staff. As the RPIC respondent was charged to ensure that "the pharmacy is staffed by sufficient, competent personnel. . ." pursuant to N.J.A.C. 13:39-6.2 (f) (1).

5. Respondent admitted that he did not open or close the pharmacy and did not have keys to the pharmacy. As RPIC, he was charged to ensure "security of the prescription area and its contents are maintained at all times consistent with the requirements set forth in N.J.A.C. 13:39-4.14", pursuant to N.J.A.C. 13:39-6.2 (f) 4.

6. Respondent admitted that he did not know of any type of inventory program within the computer system of the pharmacy and that he did not take an inventory of controlled substances when he started working at Anthony's Pharmacy. As RPIC he was charged to conduct a CDS inventory when he became RPIC of Anthony's Pharmacy, pursuant to N.J.A.C. 13:39-6.2(d) and charged with keeping proper CDS inventory records and records of CDS received and dispersed, pursuant to N.J.A.C. 12:39-6.2(f) 2, N.J.A.C. 8:65-6.9(e) and N.J.A.C. 8:65-6.13 (a).

7. Respondent admitted that he never obtained the third copy of a 222 form to acknowledge delivery of a controlled substance and that when controlled substance deliveries came in, he did not check the items in; it was the technicians or manager who checked them in. Respondent further admitted that he did not order any products or have any ordering responsibilities for the pharmacy. As RPIC, Respondent was charged with keeping proper CDS inventory records and records of CDS received and dispensed, pursuant to N.J.A.C. 13:39-6.2 (f) 9, N.J.A.C. 8:65-6.9 (e) and N.J.A.C. 8:65-6.13 (a) and federal law.

8. Respondent admitted that he is not familiar with the state and federal regulatory requirements that outline the responsibilities for a Pharmacist-in-Charge or where said regulations may be found. Pursuant to N.J.A.C. 13:39 3.11 (a), "all pharmacists shall be responsible for compliance with all the rules, regulations and laws governing the practice of pharmacy."

9. Respondent admitted that he allowed technicians to take prescriptions over the phone

and he filled them even though he knew this was not permitted. As RPIC, Respondent was charged to ensure that only pharmacists, interns or externs accept telephone prescriptions, pursuant to N.J.A.C. 13:39-6.2 (f) 6 and 6.15 (c) 1.

10. Respondent admitted that he was the only pharmacist present and that he had four or five technicians assisting him at a time. Pursuant to N.J.A.C. 13:39-6.15 (e), the pharmacist to technician ratio shall not exceed 1:2.

11. Respondent admitted that from on or about August 2007, he was aware that the pharmacy stock contained overfilled and/or expired bottles of medication. As RPIC, Respondent was charged with ensuring that “no misbranded, deteriorated, adulterated, improperly stored or outdated drugs or any drugs marked ‘sample’ or with any like designation or meaning are dispensed or present in the active stock in the pharmacy,” pursuant to N.J.A.C. 13:39-6.2 (f) 7.

#### CONCLUSIONS OF LAW

The above actions, when considered both individually or together, provide grounds to take disciplinary action against Respondent’s license to practice pharmacy in New Jersey in that Respondent has engaged in repeated acts of negligence, malpractice or incompetence in violation of N.J.S.A. 45:1-21(d); failed to provide effective controls and procedures to guard against theft and diversion of controlled substances in violation of N.J.A.C. 8.65-2.1(a); and has engaged in violations of the following regulations: N.J.A.C. 13.39-6.2(f)1,2,4,6, 7 and 9, N.J.A.C. 13:39-6.2(d), N.J.A.C. 13:39-6.15(c)1, N.J.A.C. 13:39-6.15(e), N.J.A.C. 8.65-6.9(e) and N.J.A.C. 8.65-6.13(a).

#### DISCUSSION

Based upon the foregoing findings and conclusions, a Provisional Order of Discipline was entered by this Board on December 13, 2010 provisionally suspending the Respondent’s license

to practice Pharmacy in the State of New Jersey for two (2) years. A copy of the Order was forwarded to Respondent by certified and regular mail at his address of record. The certified mail was returned to the Board marked "unclaimed" and the regular mail was not returned to the Board. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> 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.

Because the Provisional Order was sent to Respondent's address of record, the Board deems service to have been effected. To date, Respondent has not submitted a response to the Provisional Order. Inasmuch as no discrepancies have been raised with respect to the findings of fact and conclusions of law of the Provisional Order, it is determined that further proceedings are not necessary and that the Provisional Order should be made final.

**ACCORDINGLY, IT IS** on this 28<sup>th</sup> day of JULY 2011,

**ORDERED that:**

1. Respondent's license to practice pharmacy in the State of New Jersey be and is hereby suspended for a minimum of two (2) years and until further Order of the Board.
2. Respondent shall cease and desist from engaging in the practice of pharmacy in the State of New Jersey, including the following: Respondent shall not handle, order, inventory, compound, count, fill, refill or dispense any drug; shall not handle anything requiring a prescription including devices and medications; shall not handle prescriptions; shall not advise or consult with any patient, and is prohibited from being present within the prescription filling area

of any pharmacy.

3. Respondent is hereby ordered to pay civil penalties, pursuant to N.J.S.A. 45:1-22, totaling ten thousand dollars (\$10,000.00). Payment shall be submitted by certified check or money order made payable to the Treasurer, State of New Jersey and mailed to the New Jersey State Board of Pharmacy, ATTN: Joanne Boyer, Executive Director, 124 Halsey Street, P.O. Box 45013, Newark, New Jersey 07101 no later than thirty (30) days from the entry of any Final Order entered in this matter. Failure to make timely payment shall result in the filing of a Certificate of Debt pursuant to N.J.S.A. 45:1-24 and such other proceedings as are permitted by law. Subsequent violations will subject Respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

4. Prior to Board consideration of any petition for reinstatement of his New Jersey license, Respondent shall:

A. Appear before the Board or a committee thereof to demonstrate his competency to reenter the practice of pharmacy. At that time Respondent shall be prepared to propose his plans for future practice in New Jersey and demonstrate complete compliance with this Order and evidence of competency to the Board's satisfaction.

B. Provide documentation of his successful completion of the Multi-state Pharmacy Jurisprudence Examination (MPJE) with a score of 75 or better.

C. Provide documentation of successful completion of all continuing education credits required by N.J.A.C. 13:39-3A.1- 13:39-3A.7.

D. Provide documentation of successful completion of all application requirements including a Criminal History Background Check and payment of all reinstatement fees

E. Provide documentation that he has paid all costs and penalties pursuant to this Order and that he has no outstanding costs or penalties due to the Board.

5. Upon reinstatement of Respondent's license to practice pharmacy in New Jersey,

the Board, in its discretion, may impose any conditions or restrictions on licensure it deems necessary to protect the public health, safety and welfare, which shall include, but not be limited to, a prohibition on serving as an pharmacist-in-charge for a minimum of 3 years and until Respondent demonstrates competency to fulfill all duties of a pharmacist-in-charge.

6. Failure to comply with any of the terms of this Order may result in further disciplinary action.

NEW JERSEY STATE BOARD OF PHARMACY

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