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IN THE MATTER OF

* BEFORE THE

GREEN'S PHARMACY

* MARYLAND STATE

Permit No. P 01648

* BOARD OF PHARMACY

Respondent

*

* * * * *

CONSENT ORDER

Based on information received and a subsequent investigation by the Maryland State Board of Pharmacy (the "Board"), and subject to Health Occupations Article §12-411, Annotated Code of Maryland (the "Act"), the Board charged Green's Pharmacy, Permit No. P01648 (the "Respondent"), with violations of §12-409 of the Act.

Specifically, the Board charged Respondent with violation of the following provisions:

§12-409

Subject to the hearing provisions of §12-411 of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:

- (1) Is conducted so as to endanger the public health or safety;
- (2) Violates any of the standards specified in §12-403 of this subtitle; or
- (3) Otherwise is not conducted in accordance with the law.

§ 12-403

(a) In general.- Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

- (3) Shall be constantly under the personal and immediate supervision of a licensed pharmacist.

The Respondent was given notice of the charges and the issues

underlying those charges by letter and charging document sent to Respondent on November 3, 1995. A prehearing conference on those charges was held on November 15, 1995, and was attended by George Voxakis, P.D., President of the Board, Paul Ballard, Assistant Attorney General, Counsel for the Board and Norene Pease, Executive Director of the Board. Also in attendance were Respondent, Joseph Kempler, Esquire, Counsel for Respondent and the Administrative Prosecutor, Janet Klein Brown, Assistant Attorney General. Barbara Folz Jackson, a consumer member and Irvin Lotier, P.D., a retail pharmacist were also present.

On December 15, 1995, Respondent was given notice of amended charges and on January 10, 1996, Respondent was given notice of second amended charges. A prehearing conference on those charges was held on January 16, 1996 and was attended by George Voxakis, P.D., President of the Board, Paul Ballard, Assistant Attorney General, Counsel for the Board and Norene Pease, Executive Director of the Board. Also in attendance were Naeem Qureshi, P.D., Alan M. Foreman, Esquire and Joseph Kempler, Esquire, Counsel for Respondent and the Administrative Prosecutor, Janet Klein Brown, Assistant Attorney General.

Following the prehearing conference, the parties and the Board agreed to resolve the administrative charges. As a result of negotiations entered into at the prehearing conference the parties have agreed to enter into the following Consent Order.

FINDINGS OF FACT

The Board makes the following findings of fact:

1. At all times relevant to the charges herein, Respondent is a pharmacy in the State of Maryland.
2. At all times pertinent hereto, Respondent has been using the pharmacy permit for the establishment and operation of a pharmacy at 101 North Washington Street, Havre de Grace, Maryland 21078, known as Green's Pharmacy (the "Pharmacy").
3. At all times pertinent hereto, Naeem Qureshi, a licensed pharmacist has been the holder of the pharmacy permit for the pharmacy.
4. On October 5, 1995, Division of Drug Control Inspector Robert Chang conducted a routine inspection of the Pharmacy. When Inspector Chang entered the Pharmacy, there was no pharmacist on the premises.
5. While there was no pharmacist in the Pharmacy, the non-pharmacist female employee accepted prescriptions to be filled from patients both personally and as refills over the telephone.
6. Naeem Qureshi arrived at the Pharmacy approximately 55 minutes later.
7. The prescription department of the Pharmacy is not enclosed and secure from entry of persons in other areas of the establishment.
8. Between January, 1995 and December, 1995, Naeem Qureshi frequently vacated the Pharmacy, leaving the prescription department unsecured at various times during the day for periods up

to 30 minutes at a time and permitted the pharmacy technician to be present in the Pharmacy's unsecured prescription department while the Pharmacy was open and no pharmacist was on duty.

9. Permitting a pharmacy to remain open when it is not under the personal and immediate supervision of a licensed pharmacist endangers the public health and safety and are violations of §12-409(1), (2), and (3) of the Act and is a violation of §12-403(a)(3) of the Act.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law, that the Respondent pharmacy violated §§ 12-409(1), (2), and (3) and §12-403(a)(3) of the Act.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and agreement of the parties, it is this 15th day of February, 1996, by a majority of a quorum of the Board, hereby

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

1. Respondent Pharmacy shall agree that a representative of the Board may make periodic, random, unannounced inspections and telephone calls to the Pharmacy at any time the Pharmacy is open to determine if a licensed pharmacist is on duty; provided that, a representative of the Board making a telephone call to the Pharmacy shall identify himself or herself as a representative of the Board.

believes in good faith to be accurate which states that a licensed was not on duty at the Pharmacy at the time of any inspection or telephone call, or in the event that for any reason in good faith that the public health, safety or welfare imperatively requires emergency action, the Board may take immediate action, including, but not limited to, revocation or suspension of Respondent Pharmacy's permit prior to giving Respondent Pharmacy an opportunity for a hearing. However, Respondent Pharmacy 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 Pharmacy notifies the Board in writing of its desire for such a hearing regarding the Board's action. 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 from the date of this Order, Respondent Pharmacy shall be notified of a scheduled time at which Respondent Pharmacy shall petition the Board for termination of Respondent Pharmacy's probationary status and full reinstatement of its permit to operate without any conditions or restrictions. If the Board determines that the termination of probation and complete reinstatement would be inappropriate at the time, the Board may modify one or more of the conditions upon which Respondent Pharmacy was placed on 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,

Article, Annotated Code of Maryland, and any right to appeal as set forth in §12-412 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 permit to operate a pharmacy in the State of Maryland.

January 30, 1996
Date

Naeem M. Qureshi
Naeem Qureshi, P.D.
Green's Pharmacy, Inc.

STATE OF MARYLAND)
CITY/COUNTY OF Baltimore) ss:

I HEREBY CERTIFY that on this 30TH day of January 1996, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared Naeem Qureshi, P.D., 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 WITNESS my hand and Notarial Seal.

Meredith A. Klutts
Notary Public

My Commission Expires: 3/31/98