

IN THE MATTER OF	*	BEFORE THE
IBEX DEAD SEA IMPORTS	*	STATE BOARD OF
RESPONDENT-PHARMACY	*	PHARMACY
PERMIT NO.: P05899	*	CASE NO.: PI-18-020
* * * * *		* * * * *

FINAL ORDER OF REVOCATION OF PHARMACY PERMIT

The State Board of Pharmacy (“the Board”) notified Ibex Dead Sea Imports (the “Respondent-Pharmacy”), permit number: P05899, of the Board’s intent to revoke its permit to operate as a pharmacy under the Maryland Pharmacy Act, (“the Act”) Md. Code Ann., Health Occ. II (“H. O.”) §§12-101 *et seq.* (2014 Repl. Vol & 2017 Supp.). The pertinent provisions state:

H.O. §12—409. Suspension and revocations- Grounds

- (a) *In general.* - 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;
 - (3) Otherwise is not conducted in accordance with the law.

Code Md. Regs.10. 34.14

.03 Information to be Included in Notification of Closing.

- A. At least 14 days before a location's anticipated date of ceasing to operate as a licensed pharmacy, the pharmacy permit holder shall:
 - (1) Notify the:
 - (a) Board in writing by certified mail, return receipt requested, or hand delivered to the Board’s office of the day on which the licensed pharmacy will cease to operate as a pharmacy; and

(b) Division of Drug Control by certified mail, return receipt requested, of the day on which the licensed pharmacy will cease to operate as a pharmacy; and

(2) Request a closing inspection date.

.04 Required Information and Procedure.

A. At the closing inspection of a licensed pharmacy, the pharmacy permit holder shall provide to the Board, or the Board's agent, information and documentation required by Regulation .05 of this chapter.

B. The pharmacy permit holder shall remove or completely cover indications that the premises was a pharmacy within 30 days after the date the licensed pharmacy ceases to operate as a pharmacy.

C. The pharmacy permit holder shall notify prescription drug suppliers to the pharmacy, before ceasing to operate as a pharmacy, of the date that the location will cease to operate as a pharmacy.

D. The pharmacy permit holder shall notify the public of the date that the pharmacy will cease to operate as a pharmacy by that date.

E. The pharmacy permit holder shall notify the public of the location to which the patients' records have been transferred, by the date the pharmacy ceases to operate.

F. If patient records are not transferred, the pharmacy permit holder shall notify the public of the:

(1) Location of the patient records;

(2) Method by which the patient records shall be maintained; and

(3) Procedure by which patients and other authorized individuals or entities may access the patient records.

G. The pharmacy permit holder shall comply with all federal and State laws and regulations.

H. If the Board's agent performs the closing inspection, the Board's agent shall obtain information and documentation required by Regulation .05 of this chapter.

.05 Information and Documentation Due at the Closing Inspection.

Information and documentation due at the closing inspection shall include:

A. The exact date on which the pharmacy ceased to operate as a pharmacy;

B. A copy of the inventory required by the Drug Enforcement Administration;

C. The pharmacy permit and Maryland Department of Health controlled dangerous substance registration for cancellation;

D. The names, address, telephone numbers, and Drug Enforcement Administration registration numbers of the persons or business entities to whom any prescription drugs in stock were returned or transferred under Regulation .05 of this chapter and for any prescription files or patient records transferred;

E. If prescription drugs are destroyed pursuant to Regulation .06 of this chapter, and Regulation .07 of this chapter does not apply to the prescription drugs, the pharmacy permit holder shall provide the Board with a letter, signed under oath by the pharmacy permit holder, stating the:

(1) Date, place and manner in which the prescription drugs were destroyed;

(2) Names, addresses, and telephone numbers of the persons responsible for destroying the prescription drugs; and

(3) Name, dosage unit, and quantity of each type of prescription drug destroyed;

F. If any patient records which are not required to be maintained by law, or other documents containing patient information are destroyed, the pharmacy permit holder shall provide the Board with a letter, signed under oath by the pharmacy permit holder, stating:

(1) That the documents were destroyed;

(2) The date of the destruction of the documents;

(3) The name and address of the person who destroyed the documents;

(4) That the records or other documents were destroyed in a manner so as to avoid breaches of patients' confidentiality; and

(5) The identity of the records destroyed; and

G. If any patient records or other documents containing patient information are transferred, the pharmacy permit holder shall provide the Board with a letter, signed under oath by the pharmacy permit holder, stating:

- (1) The date, time, place to which and manner in which the records or other documents were transferred;
- (2) The names, addresses, and telephone numbers of the persons responsible for transferring the records or other documents;
- (3) That the records or other documents were transferred in a manner so as to avoid breaches of patients' confidentiality; and
- (4) The identity of the records transferred.

Code Md. Regs.10. 34.14

.06 Disposition of Prescription Drugs Other than Controlled Dangerous Substances.

With the exception of controlled dangerous substances, prescription drugs in stock shall be disposed of by one or more of the following means:

- A. Returning them to a distributor or manufacturer; or
- B. Transferring them to another licensed pharmacy, authorized prescriber, or other person or entity approved by the Board or the Division of Drug Control.

Code Md. Regs.10. 34.14

.07 Disposition of Controlled Dangerous Substances.

The pharmacy permit holder shall comply with the procedures set forth in this chapter in addition to those set forth in COMAR 10.19.03.10C—E governing the disposal of controlled dangerous substances.

FINDINGS OF FACT

The Board finds that:

1. On or about November 18, 2014, the Respondent-Pharmacy was issued a permit to operate as a pharmacy in the State of Maryland.
2. The Respondent-Pharmacy's permit expires on May 31, 2018.
3. At all times relevant hereto, the Respondent-Pharmacy was located in

Rockville, Maryland.

4. At all times relevant hereto, the Respondent-Pharmacy is owned by a pharmacist ("Pharmacist A")¹. Pharmacist A is licensed to practice pharmacy in Maryland

5. At all times relevant hereto, another pharmacist ("Pharmacist B") was the pharmacy manager at the Respondent-Pharmacy. Pharmacist B is licensed to practice pharmacy in the state of Maryland

6. At all times relevant hereto, a pharmacy technician ("Pharmacy Technician A"), who worked at the Respondent-Pharmacy was registered to practice as a pharmacy technician in the State of Maryland.

7. In or around July 2017, the Board received information from the Maryland Department of Health, Office of Controlled Substances Administration ("OSCA") that the Respondent -Pharmacy had closed.

8. On or about July 31, 2017, an OSCA Investigator went to the Respondent-Pharmacy to determine whether the Respondent-Pharmacy was closed

9. When the OSCA investigator arrived at the Respondent-Pharmacy on July 31, 2017, she noticed two messages taped to the front door of the Respondent-Pharmacy. One message stated that the Respondent-Pharmacy was "closed temporarily due to illness." The other message provided instructions for patients who needed to transfer prescriptions to other pharmacists.

10. While standing in front of the Respondent-Pharmacy, the OSCA investigator noticed Pharmacy Technician A leaving the Respondent-Pharmacy who told the OSCA investigator that he had been the only person in the Respondent-Pharmacy.

¹ The names of Pharmacist A, Pharmacist B, Pharmacy Technician A had been omitted to protect confidentiality.

11. During the OSCA investigator's July 31, 2017, visit to the Respondent-Pharmacy, she also spoke with workers from other businesses surrounding the Respondent-Pharmacy. The workers informed the OSCA investigator that the Respondent-Pharmacy had been closed for about a month and the only person seen going into the Respondent-Pharmacy was Pharmacy Technician A.

12. On or about August 3, 2017, the OSCA investigator went to the Respondent-Pharmacy. She knocked on the front door after observing that the inside lights of the Respondent-Pharmacy were on. The OSCA investigator waited outside of the Respondent-Pharmacy for approximately one hour. The OSCA investigator left when no one opened the door of the Respondent-Pharmacy.

13. On or about August 10, 2017, the OSCA investigator went to the Respondent-Pharmacy, but no one responded to her knocks on the front door. The OSCA investigator also tried to reach Pharmacist B by telephone. The OSCA investigator was unsuccessful at her attempt to reach Pharmacist B by telephone, but left a message on Pharmacist B's voice mail.

14. On or about August 16, 2017, the OSCA investigator met Pharmacist B at Respondent-Pharmacy.

15. While inside the Respondent-Pharmacy, the OSCA investigator noticed no separation between the pharmacy and the retail section of the Respondent-Pharmacy. The OSCA investigator noticed various medications in the Respondent-Pharmacy. The medication included controlled substances, non-controlled substances and over the counter medications

16. Pharmacist B informed the OSCA investigator that the Respondent-

Pharmacy had been closed since the end of May 2017. Pharmacist B also told the OSCA investigator that pharmacy customers were not given prior notice of the Respondent-Pharmacy's closing.

17. On or about August 28, 2018, a Board inspector went to the Respondent-Pharmacy to conduct an emergency inspection to investigate the status of the medications that remained in Respondent-Pharmacy. The Board inspector confirmed that the Respondent-Pharmacy was closed.

18. Upon confirming that the Respondent-Pharmacy was closed, the Board inspector contacted Pharmacist B and requested that he meet her at the Respondent - Pharmacy for the purpose of an inspection. Pharmacist B informed the Board inspector that he would not come the Respondent-Pharmacy unless it was an emergency. He also informed the Board inspector that the keys to the Respondent-Pharmacy were given to another pharmacist.

19. On or about November 22, 2017, the OSCA investigator went back to the Respondent-Pharmacy. The OSCA investigator learned that the medications she observed during her earlier visit to the Respondent-Pharmacy had been removed. The OSCA investigator also saw an eviction notice posted on the front window of the Respondent-Pharmacy.

20. Further investigation conducted by Board staff revealed that the Respondent-Pharmacy fail to provide proper notification of the closing of the Respondent-Pharmacy to the Board.

21. Further investigation by Board staff also revealed that procedures for proper closing inspection and documentation and disposition of controlled dangerous

substances and non-controlled drug were not followed prior to the closing of the Respondent-Pharmacy.

22. The conduct as set forth above is a violation of H.O. §12-409 (a) (1) and (3) and Code Md. Regs. 10.34.14 (.03), (04), (.05), (.06), and (.07).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent-Pharmacy violated.

ORDER


Based on the foregoing Findings of Fact and Conclusions of Law, it is this 4th day of April 2018, by a majority of the quorum of the Board, hereby

ORDERED that the Respondent-Pharmacy's permit to operate a pharmacy in the State of Maryland, is hereby **REVOKED** ; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. General Provisions §§ 4-101 *et seq.* (2014), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this Order is final and a public document pursuant to Md. General Provisions §§ 4-104 *et seq.* (2014).

4/4/2018
Date


Mitra Gavvani, Pharm.D.
President
State Board of Pharmacy

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. §12-316 (2014 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of your receipt of this Order and shall be made as provided for judicial review of a final decision in the Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2014Repl. Vol.) and Title 7, Chapter 200 of the Maryland Rules.