

IN THE MATTER OF

*** BEFORE THE**

TRI-TOWNS PHARMACY

*** STATE BOARD**

Respondent-Pharmacy

*** OF PHARMACY**

Permit No. P08133

*** Case No. 22-177**

*** * * * ***

FINAL ORDER

On January 4, 2023, the State Board of Pharmacy (the “Board”) hereby notified **TRI-TOWNS PHARMACY, Permit No. P08133** (the “Respondent-Pharmacy”), of the Board’s intent to **REVOKE** its permit to operate as a Pharmacy, pursuant to the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occupations (“Health Occ.”) §§ 12-101 *et seq.* (2021 Repl. Vol.) and Code of Maryland Regulations (COMAR).

The relevant provisions are as follows:

Health Occ. §12-409.

- (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:
 - (2) Violates any of the standards specified in § 12-403 of this subtitle; or
 - (3) Otherwise is not conducted in accordance with the law.

Health Occ. § 12-403:

- (c) In general. -- Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:
 - (1) Shall be operated in compliance with the law and with the rules and regulations of the Board;

- (9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12-313 of this title, a registered pharmacy technician under § 12-6B-09 of this title, or a registered pharmacy intern under § 12-6D-11 of this title [;].

Health Occ. § 12-313:

- (b) Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant for a pharmacist's license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:

- (8) Willfully fails to file or record any report that is required by law;

- (25) Violates any rule or regulation adopted by the Board [;].

The underlying action under Health Occ. § 12-6B-09 (25) cited above includes, but is not limited to the following:

COMAR § 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.
- B. Upon notification by a pharmacy permit holder of the proposed date on which a licensed pharmacy will cease to operate, the Board shall notify the Board's agent to schedule the closing inspection in conjunction with the Board's agent, if necessary.
- C. The Board, or the Board's agent, shall perform the closing inspection within 72 hours of the pharmacy ceasing to operate.

COMAR § 10.34.14.04. 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.

COMAR § 10.34.14.05. 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.

FINDINGS OF FACT

The Board based its charges on the following facts that the Board has cause to believe are true:

BACKGROUND

1. At all times relevant hereto, the Respondent-Pharmacy was permitted to operate as a pharmacy in Maryland. The Respondent-Pharmacy was first issued a Maryland pharmacy permit on September 24, 2019. The Respondent-Pharmacy's permit expired on May 31, 2022.

2. At the times relevant hereto, the Respondent-Pharmacy was located in Westernport, Allegany County, Maryland.

3. On January 21, 2022, the Board received an Inspection Memo from the Board's Inspections Supervisor¹ that the Respondent-Pharmacy closed without notification.

4. On November 23, 2021, the Inspections Supervisor accompanied an Office of Controlled Substances Administration (OCSA) Inspector to the Respondent-Pharmacy and observed that the Respondent-Pharmacy was not operational. The Board's Inspections Supervisor indicated that she spoke to the Assistant Treasurer of the church that had an office connected to the Respondent-Pharmacy, who stated that the Respondent-Pharmacy had been abandoned since December 2020 even though the rent was paid until February 2021. The Board's Inspections Supervisor was further informed that the car used by the Respondent-Pharmacy was left in the parking lot.

5. On December 14, 2021, the Inspections Supervisor accompanied a Drug Enforcement Administration (DEA) Agent, an Allegany County Sheriff, and a pharmacist who had worked for the Respondent-Pharmacy to the Respondent-Pharmacy, where the DEA

Agent instructed the Allegany County Sheriff to take all over-the-counter (OTC), non-controlled medications, and hard copies of patient records to be destroyed at the Allegany County Health Department and the pharmacy computers to be destroyed by the Sheriff's Office. The DEA destroyed all Schedule II drugs. The Inspections Supervisor and the pharmacist completed the Respondent-Pharmacy's closing inspection. The Respondent-Pharmacy's credit card was turned over to the issuing bank.

6. On December 14, 2021, the Inspections Supervisor completed a "Closing Inspection Report" which indicated, *inter alia*, that the Respondent-Pharmacy failed to notify the Board at least 14 days prior to anticipated cease to operate date; failed to notify the public of the cease to operate date; failed to notify the public of the location of patients' records and how they may access them, and failed to return permits issued.

7. As set forth above, the Respondent-Pharmacy violated the Board's Act and regulations by failing to notify the Board of its closure.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Respondent-Pharmacy violated Health Occ. §§12-313 (b) (8) and (25), and COMAR § 10.34.14.03, COMAR § 10.34.14.04; and COMAR § 10.34.14.05.

ORDER

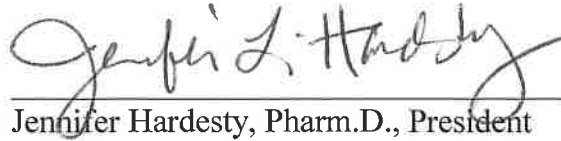
As set forth above, the Board hereby orders that the permit to operate as a Pharmacy in Maryland held by **TRI-TOWNS PHARMACY, Permit No. P08133**, the Respondent-

¹Names of individuals/facilities are confidential.

Pharmacy, be and is **REVOKED**, and that this Order is public, pursuant to Md. Code Ann., General Provisions §§ 4-101 *et seq.* (2019 Repl. Vol. and 2021 Supp.).

4/19/23

Date



Jennifer Hardesty, Pharm.D., President
State Board of Pharmacy

NOTICE OF RIGHT TO APPEAL

In accordance with §12-316 of the Act and Md. Code Ann., State Government §§10-201 *et seq.* (2021 Repl. Vol.), you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty (30) days from your receipt of this Final Order and shall be made in accordance with the aforesaid authority.