

STATE OF MARYLAND

DHMH

Department of Health and Mental Hygiene

Larry J. Hogan, Jr. Governor – Boyd K. Rutherford, Lt. Governor – Van T. Mitchell, Secretary

MARYLAND BOARD OF PHARMACY

4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Mitra Gavgani, Board President – Deena Speights-Napata, Executive Director

VIA REGULAR & CERTIFIED MAIL, RETURN RECEIPT REQUESTED
ARTICLE #7014 2870 0000 4732 1387

November 18, 2016

Walmart Pharmacy # 10-2560
11416 Ocean Gateway
Berlin, Maryland 21811
Attn: Pharmacy Manager

Re: Permit No. P02355
Case No. PI-17-023
Notice of Deficiencies, Recommended Civil Monetary Penalty, and
Opportunity for Hearing

Dear Pharmacy Manager:

On August 5, 2016, the Maryland Board of Pharmacy (the "Board") received information from a former pharmacy manager of Walmart Pharmacy #10-2560 (the "Pharmacy") indicating that a pharmacy technician in training worked in the pharmacy without a registration after completion of the technician training program. The Board subsequently obtained documentation from the Pharmacy confirming that a technician in training completed training in November 2015, but continued to perform delegated pharmacy acts at least until April 2016 with a Board registration. The Board's records indicate that the pharmacy technician was subsequently registered with the Board on April 20, 2016.

I. FINDINGS AND CONCLUSION

The Board finds that the Pharmacy employed a pharmacy technician without a technician registration from approximately November 2015 through April 2016.

Based upon the above finding, the Board finds that the Pharmacy is in violation of the Maryland Pharmacy Act and the regulations adopted thereunder. Specifically, the Board finds the Pharmacy in violation of Health Occ. Art. §§ 12-403(b)(1) and 12-6B-01.

II. RECOMMENDED CIVIL MONETARY PENALTY

Under Maryland Health Occupations Article § 12-410 and COMAR 10.34.11, the Board of Pharmacy has the authority to impose a civil monetary penalty based upon violations of the Maryland Pharmacy Act.

Based upon the deficiencies cited at the Pharmacy, the Board hereby recommends the imposition of a **civil monetary penalty of \$1,000.00**. The deficiencies upon which the civil monetary penalty is based are set forth above in this Notice.

In determining the recommended civil monetary penalty, the Board took into consideration the aggregating and mitigating factors outlined in COMAR 10.34.11.08.

III. FOLLOW-UP INSPECTION

Please be advised that the Board of Pharmacy may perform a follow-up inspection of the Pharmacy to insure that the deficiencies noted herein have been addressed and corrected. Should the follow-up inspection indicate that the Pharmacy has further deficiencies, the Board may pursue further disciplinary action against the Pharmacy that may result in the imposition of sanctions such as suspension, revocation or additional monetary penalties.

IV. OPPORTUNITY FOR HEARING

If the Pharmacy disputes the findings, conclusions or the civil monetary penalty, the Pharmacy may request an evidentiary hearing on the Board's decision in this matter. In the event that the Pharmacy requests an evidentiary hearing, the Board shall initiate formal disciplinary proceedings which will include the opportunity for a full evidentiary hearing. The hearing will be held in accordance with the Administrative Procedure Act, Md. Code Ann. State Gov't § 10-201 *et seq.*, and COMAR 10.34.01. Any request for a hearing must be submitted in writing to Vanessa Thomas Gray, Compliance Investigator, Maryland Board of Pharmacy, 4201 Patterson Ave., 5th Floor, Baltimore, Maryland 21215, **no later than thirty (30) days of the date of this Notice.**

Please be advised that at the hearing the Pharmacy would have the following rights: to be represented by counsel, to subpoena witnesses, to call witnesses on its own behalf, to present evidence, to cross-examine witnesses, to testify, and to present summation and argument. Should the Board find the Pharmacy guilty of the violations cited in the Reports,

the Board may suspend or revoke the pharmacy permit, or impose civil penalties, or both. If the Pharmacy requests a hearing but fail to appear, the Board may nevertheless hear and determine the matter in its absence.

V. OPTION TO PAY RECOMMENDED CIVIL MONETARY PENALTY

Alternatively, the Pharmacy may pay the recommended civil monetary penalty **within thirty (30) days** of the date of this Notice, in the form of a certified check or money order made payable to the Maryland Board of Pharmacy.

Please mail the check of money order to:

Maryland Board of Pharmacy
P.O. Box 2051
Baltimore, MD 21203-2051

NOTE: Please include the case number, PI-17-023, on your check or money order to insure proper assignment to your case.

Upon the Pharmacy's payment of the civil monetary penalty, this Notice will constitute the Board's final formal action with respect to this matter, and shall be a public document in accordance with the Maryland Public Information Act, General Provisions Article § 4-333.

If you have any questions concerning the instructions contained in this letter, please contact Vanessa Thomas Gray, Compliance Investigator, at 410/764-2493.

Sincerely,



Deena Speights-Napata
Executive Director

cc: Linda M. Bethman, Board Counsel