



DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

Maryland Board of Pharmacy
Deena Speights-Napata, Executive Director
4201 Patterson Avenue
Baltimore, MD 21215-2299

December 19, 2019

**BY REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
ARTICLE #7017 3040 0000 3785 1406**

Waverly Professional Pharmacy
453 East 28th Street
Baltimore, Maryland 21218
Attn: Adesola Otubanjo, R.Ph.

Re: Permit No. P02225
Case No. 20-076
Notice of Deficiencies, Recommended Civil Monetary Penalty, and
Opportunity for Hearing

Dear Pharmacist Otubanjo:

On May 31, 2019, the Maryland Board of Pharmacy (the "Board") conducted an annual inspection of Waverly Professional Pharmacy (the "Pharmacy") for compliance with statutes and regulations governing the operation of a pharmacy. The Board's inspection indicated that the Pharmacy was not compliant with laws relating to medication storage. Specifically, the Board inspector noted ten (10) expired medications in the pharmacy inventory. The Pharmacy was subsequently inspected by the Office of Controlled Dangerous Substances Administration ("OCSA") on July 22, 2019. During that time, the OCSA inspector noted that a non-pharmacist opened the Pharmacy and had access to the Pharmacy's prescription area without a pharmacist on the premises. Lastly, on August 2, 2019, the Board conducted a follow-up inspection which discovered twelve (12) additional expired medications in the pharmacy inventory.

I. FINDINGS AND CONCLUSION

The Board finds that the Pharmacy maintained expired drugs in its inventory, and on July 22, 2019, permitted the Pharmacy to operate without a pharmacist on the premises, as noted in the inspection reports dated May 31, 2019, July 22, 2019, and August 2, 2019.

Based upon deficiencies at your Pharmacy, 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(c)(1), (3), (4) and (12), and COMAR 10.34.12.01 and 10.34.05.03.

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 \$1,500.00**. The deficiencies upon which the civil monetary penalty is based are set forth above in this Notice and in the Inspection Reports dated May 31, 2019, July 22, 2019, and August 2, 2019.

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 ensure 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 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 Donna Goldberg, R.Ph., J.D., Compliance Officer, Maryland Board of Pharmacy, 4201 Patterson

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Ave., 5th Floor, Baltimore, Maryland 21215, **no later than thirty (30) days from 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 in violation of the deficiencies cited in the Report, the Board may suspend or revoke the pharmacy permit, impose civil penalties, or both. If the Pharmacy requests a hearing but fails 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 or money order to:

Wells Fargo Bank
Attn: State of MD - Board of Pharmacy
Lockbox 2051
7175 Columbia Gateway Drive
Columbia, MD 21046

NOTE: Please include the case number, 20-076, on your check or money order to ensure proper assignment to your case.

Upon the Pharmacy's payment of the civil monetary penalty, this Notice will constitute the Board's final action with respect to the inspections of May 31, 2019 and August 2, 2019, and shall be a public document and order in accordance with the Maryland Public Information Act, Md. Code Ann., General Provisions Art. § 4-101, *et seq.* and posted and reported in accordance with State and federal laws.

If you have any questions concerning the instructions contained in this letter, please contact Donna Goldberg, R.Ph., J.D., Compliance Officer, at 410/764-3768.

Sincerely,



Deena Speights-Napata
Executive Director

cc: Linda Bethman, AAG, Board Counsel