

IN THE MATTER OF  
PAMELA ARREY, P.D.  
LICENSE NO. 11345  
Respondent

\*  
\*  
\*  
\*

BEFORE THE  
STATE BOARD  
OF PHARMACY

\* \* \* \* \*

**FINAL CONSENT ORDER**

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Ann. § 12-101, et seq., (2000 Repl. Vol.) (the "Act"), the Board charged Pamela Arrey, P.D., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 12-313:

(b) Subject to the hearing provisions of §12-315<sup>1</sup> of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation; or suspend or revoke a license if the applicant or licensee:

- (3) Aids an unauthorized individual to practice pharmacy or to represent that the individual is a pharmacist;
- (6) Willfully makes or files a false report or record as part of practicing pharmacy;

---

**1 § 12-314. Same – Penalty, etc.**

(a) If after a hearing under § 12-315 of this subtitle the Board finds that there are grounds under § 12-313 of this subtitle to reprimand any licensee, place any licensee on probation, or suspend or revoke a license, the Board may impose a penalty not exceeding \$10,000:

- (1) Instead of reprimanding the licensee, placing the licensee on probation, or suspending or revoking the license; or
- (2) In addition to reprimanding the licensee, placing the licensee on probation, or suspending or revoking the license.

- (24) Violates any rule or regulation adopted by the Board;
- (28) Fails to cooperate with a lawful investigation conducted by the Board or the Division of Drug Control.

The Board also charged the Respondent with violating the Code Md. Regs. tit. 10 § 34.05. (1980):

.02 Prescription Area.

A. The pharmacy permit holder shall:

- (3) Prevent an individual from being in the prescription area unless a pharmacist is immediately available on the premises to provide pharmacy services [;].

B. The pharmacist shall:

- (2) Have sole possession of a means of access to the pharmacy, except in emergencies [;].

.03 Pharmacy Operation.

A. A pharmacist shall be immediately available on the premises to provide pharmacy services at all times the pharmacy is in operation.

.05 Security Responsibility.

The pharmacy permit holder is responsible for assuring that pharmacists, employees, and others who enter the pharmacy:

A. Know and abide by the requirements of this chapter; and

B. Maintain those measures necessary to ensure this chapters' (sic) enforcement.

The Board further charged the Respondent with violating the Code Md. Regs. tit. 10 § 34.10 (2000):

01. Patient Safety and Welfare.

A. A pharmacist shall:

(1) Abide by all federal and State laws relating to the practice of pharmacy and the dispensing, distribution, storage and labeling of drugs and devices, including but not limited to:

- (a) United States Code, Title 21,
- (b) Health-General Article, Titles 21, and 22, Annotated Code of Maryland,
- (c) Health Occupations Article, Title 12, Annotated Code of Maryland,
- (d) Article 27, 276-304, Annotated Code of Maryland, and
- (e) COMAR 10.19.03[;].

The Respondent was given notice of the issues underlying the Board's charges by notice dated August 21, 2002. Accordingly, a Case Resolution Conference was held on October 7, 2002, attended by, Jeanne Furman and Ramona McCarthy Hawkins, Pharmacist Members of the Board, and Linda Bethman, Co- Counsel to the Board. Also in attendance were the Respondent and her attorney, Joseph Kum, and the Administrative Prosecutor, Roberta Gill.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

### **FINDINGS OF FACT**

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in the State of Maryland. The Respondent was originally licensed on April 20, 1988. The Respondent last renewed her license on December 20, 2001. The Respondent's license will expire on December 31, 2003.

2. The Respondent is the owner of three Medicine Shoppe Pharmacies: one is located at the Milford Mill Shopping Center on Liberty Road ("Liberty Road Medicine Shoppe"); another is located in the 5900 Block of Reisterstown Road ("Reisterstown Road Medicine Shoppe"); and, the third is located on Hillsmere Drive in Annapolis, Maryland ("Annapolis Medicine Shoppe").

### **ALLEGATIONS WITH REGARD TO THE ANNAPOLIS MEDICINE SHOPPE**

3. On June 26, 2001, Peter Smith, an Inspector from the Division of Drug Control (DDC) entered the Annapolis Medicine Shoppe at approximately 10:05 a.m., after observing an employee, later identified as Ife Jones, unlocking the right side door to the pharmacy at approximately 9:20 a.m. Mr. Jones, who is not a licensed pharmacist<sup>2</sup>, informed Mr. Smith that the pharmacist had just called and would be 20 minutes late. The

---

<sup>2</sup> Section 12-301 of the Act states:

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice pharmacy in this State.

pharmacist arrived at approximately 10:33 a.m. and was informed by Mr. Smith that a non-pharmacist (unlicensed individual) could not be in the pharmacy area when a pharmacist is not present. Mr. Smith conducted an inspection and noted several deficiencies, including discrepancies in the dispensing of Schedule II drugs.

4. On January 4, 2002, at approximately 4:41 p.m., Michelle Andoll, Pharmacist Compliance Officer, placed a telephone call to the Annapolis Medicine Shoppe and asked to speak to the pharmacist on duty. The gentleman that answered the telephone informed Ms. Andoll that the pharmacist was on the telephone with a long-distance call. Ms. Andoll asked for the pharmacist's name and license number and for the pharmacist to return her call. Ms. Andoll was placed on hold and was later asked to repeat what information she wanted.

5. The gentleman at the Annapolis Medicine Shoppe informed Ms. Andoll that the pharmacist's name was Babatunde Ajayi, whose license number was 16250. Ms. Andoll asked to speak to Mr. Ajayi and was again put on hold. After a few minutes a gentleman, who sounded the same as the first gentleman, identified himself as Mr. Ajayi. Ms. Andoll asked the gentleman to fax over to the Board a copy of his pharmacist and driver's licenses or photo identification. The requested documents were not faxed over and, at approximately 5:25 p.m., an answering machine picked up Ms. Andoll's return call. The pharmacy was scheduled to close at 6:00 p.m.

6. Ms. Andoll subsequently telephoned the Respondent at the Liberty Medicine Shoppe to obtain the Respondent's assistance in getting the requested documents. At

approximately 6:15 p.m., Ms. Andoll received a copy of Mr. Ajayi's license with a signature written below the image, which signature was not on the signature line. When Ms. Andoll tried to again call the Annapolis Medicine Shoppe, she received no answer. The Respondent at first denied, and then later admitted, that a male technician, named Aramade Akinnada, was at the Annapolis Medicine Shoppe. Mr. Akinnada is not a licensed pharmacist and is believed to be the individual who was pretending to be Mr. Ajayi. The Respondent gave several inconsistent responses as to whether or not Mr. Ajayi was actually at the Annapolis Medicine Shoppe that day. In addition the signature on the faxed Ajayi pharmacist license does not match his other signatures filed with the Board.

7. The Respondent was required to bring to the Board records of all current employees, including their full names, home addresses, telephone numbers, positions held, social security numbers, and employee home telephone numbers. The Respondent was further required to bring to the Board payroll records and staffing schedules for the previous three months, as well as a current weekly staffing schedule for each store. Ms. Andoll informed the Respondent that the reason she needed the above information was to assure the Board, whose mission it is to protect the public, that there were licensed pharmacists in the pharmacies at all times when the pharmacies were opened. Accordingly, Ms. Andoll needed to have the actual schedule of the pharmacists who worked each pharmacy on the dates in question. The Respondent only partially complied with the Board's request.

8. On January 29, 2002, Mr. Ajayi reviewed the work schedule of his hours provided by the Respondent to the Board. Furthermore, he compared his schedule as a full-time pharmacist at Rite-Aid with that supplied by the Respondent. Although the work schedule supplied to Ms. Andoll by the Respondent indicated that Mr. Ajayi worked December 8, 2001 at Annapolis, January 3, 2002 at Liberty, and January 4, 2002 at Annapolis, based upon the Rite Aid schedule and Mr. Ajayi's confirmation under oath, that he was working at Rite Aid on those dates, Mr. Ajayi was not, in fact, working at the Medicine Shoppe pharmacies on those dates, as listed by the Respondent. Inasmuch as Mr. Ajayi was listed as the only pharmacist on duty at the respective Medicine Shoppes on these dates, according to the documentation supplied by the Respondent, there was thus, in actuality, no pharmacist on duty at those locations on those dates or the Respondent provided false information to the Board in its investigation of the pharmacies. In addition, the Respondent's records showed that Mr. Ajayi was the sole pharmacist on duty at the Reisterstown Medicine Shoppe on January 9, 2002, a date that Mr. Ajayi testified to under oath that he did not work at the Medicine Shoppe. Therefore, based on the records supplied to the Board by the Respondent, there was no pharmacist was on duty at that pharmacy on that date, or the Respondent provided false information to the Board during its investigation of the pharmacies.

9. The Respondent later claimed that the Annapolis store was closed on January 4, 2001 for inventory, a fact that she had not told Ms. Andoll during her telephone conversation with her. The company that performs the inventory for the Respondent

indicated that it did not do an inventory on that date or that week, and was not scheduled to do one during that time period.

10. The Respondent allowed unlicensed persons to be in the pharmacy without the presence of a licensed pharmacist. The Respondent allowed an unlicensed individual access to the pharmacy by giving him the key to the store.

#### **ALLEGATIONS WITH REGARD TO THE LIBERTY MEDICINE SHOPPE**

11. On June 22, 2001, at approximately 9:00 a.m., Larry Friedman, D.D.C., Inspector, observed pharmacist Oluwatosin Adekoya open the store. Mr. Friedman entered the pharmacy where he conducted an inspection, which disclosed, among other things, a number of faxed prescriptions for Schedule II controlled dangerous substances (CDS) without a corresponding hard copy original. Mr. Friedman took twenty-two of these to D.D.C.

12. On January 4, 2002, Deitra Gale, Compliance Specialist, arrived at the Liberty Medicine Shoppe at approximately 2:15 p.m., finding the store unlocked and open for business. There was no pharmacist on duty at that time--only a technician. Ms. Gale was told that the pharmacist would be "right back." Approximately 10 minutes lapsed, at which time the Respondent arrived and explained that she had entrusted the technician to "lock the door." Ms. Gale explained to the Respondent that a technician could not be left alone in the pharmacy area, regardless of whether or not it was locked. The technician stated, under oath, that the other technician, "Emmanuel," had a key to the store.

13. The Respondent allowed unlicensed individuals to be in the pharmacy when no licensed pharmacist was present and allowed an unlicensed individual access to the pharmacy by giving him the key.

14. The work schedule provided to the Board by the Respondent listed pharmacist Bonnie Enwezor as the pharmacist on duty for October 5 and November 16, 2001. Ms. Enwezor stated under oath that she did not, in fact, work at the Medicine Shoppes for those dates. Therefore, according to the records supplied to the Board by the Respondent, the Liberty Medicine Shoppe did not have a pharmacist on duty during those dates, as required, or the Respondent provided false information to the Board during its investigation.

**ALLEGATIONS WITH REGARD TO  
THE REISTERSTOWN MEDICINE SHOPPE**

15. On June 22, 2001, Jack Freedman and Cathy Putz of the D.D.C., and Ms. Andoll arrived at the Reisterstown Medicine Shoppe at 10:00 a.m., the posted opening time. At approximately 10:15 a.m. they observed a person unlocking the pharmacy door and entering the premises, who later identified herself as Bertha Mbuh, a technician. Ms. Mbuh stated that a pharmacist was on the way and contacted someone by telephone. Ms. Mbuh stated that she would dispense a prescription which had been checked by the pharmacist when the pharmacist was not on duty, but would not take new prescriptions by telephone.

16. When the Respondent arrived at 10:30 a.m. she stated that she had been delayed due to having to stop at the Liberty Medicine Shoppe that morning to deal with computer problems. However, as per the above, Inspector Friedman was at the Liberty Medicine Shoppe that morning and only pharmacist Adekoya was there. The Respondent was not there when the pharmacy opened. In addition, there was no evidence of computer problems at that location that morning.

17. The inspectors found the pharmacy to be in disarray, with the dispensing counter dirty and disorganized. Drinks were kept in the refrigerator used for drugs. Purchasing invoices for Schedules III and IV were not being signed consistently. Some contained a signature the Respondent later identified to be that of the Respondent's 7-year old daughter. There were also incomplete DEA 222 forms, as well as faxed prescriptions for Schedule IIs without corresponding hard copies. In addition, there were discrepancies for OxyContin tablets, which differed from that claimed in the May 16, 2001 inventory. The Respondent failed to timely deliver a biennial audit to the Board, as promised.

18. On January 4, 2002, at approximately 2 p.m., Ms. Putz returned to the Reisterstown location to follow up on the problems identified in June 2001. When Ms. Putz arrived, two unlicensed individuals, Ms. Mbuh and Adolph Schwartz, were in the pharmacy and customers were in store. Ms. Putz was informed that the Respondent had been in the pharmacy, but had to leave. Thereupon, Ms. Putz instructed Ms Mbuh and Mr. Schwartz to close the pharmacy. Mr. Schwartz locked the pharmacy and they waited outside until Ms. Enwezor arrived from the Liberty Road store.

19. The Respondent allowed unlicensed persons in the pharmacy when no licensed pharmacist was present. In addition, the Respondent allowed an unlicensed person to have access to the pharmacy by giving him the key.

Other Discrepancies

20. Due to the Board's concerns about adequate pharmacist coverage for all three of the Respondent's pharmacies, the Board requested that the Respondent supply to the Board an accounting of the licensed pharmacists who **worked** at each store and the hours that they worked at each store, for October, November and December, 2001. The Respondent belatedly supplied schedules, purporting to show that each of the above pharmacies was, in fact, staffed by Maryland licensed pharmacists during that time period. Based upon interviews with the pharmacists, the following discrepancies were disclosed between the Respondent's lists and the actual work schedules of the pharmacists:

A. Pharmacist Lawrence Ekaney was listed by the Respondent as having worked on October 6, 2001 at Reisterstown; December 14, 2001 at Annapolis; and December 28, 2001 at Reisterstown. Mr. Ekaney stated under oath that he did not work on these dates for the Medicine Shoppes. Thus, for those dates at those locations, there was either no pharmacist on duty, as required, or the Respondent provided false information to the Board regarding coverage.

B. Two employees listed on the January 14, 2002 employee list submitted to the Board by the Respondent, namely, Grace Bogunjoko and Olujimi Odusanya, who stated under oath that they were recent hires, have only worked one or two dates for the

Respondent, and were not the pharmacists on duty for the week of January 14, 2002, as listed. Therefore, it appears that no pharmacist was on duty on those dates on which their names appeared at those locations, as required, or the Respondent provided false information to the Board in its investigations of coverage.

C. In addition, the Respondent listed Oluyinka Agboola as the pharmacist on duty on several occasions. Ms. Agboola worked on only one day between April 9, 2000 to April 22, 2000, and relocated to Florida in May 2000, where she has been working for Eckerd Corp since June 12, 2000. Either the Respondent failed to have coverage on the dates that she listed Ms. Agboola as the pharmacist on duty, or the Respondent provided the Board with false information regarding coverage.

21. The Respondent submitted false documentation claiming that pharmacists were on duty when, in fact, none was on duty at the three pharmacies, as claimed on several occasions from June 2001 through January 14, 2002.

22. During the aforementioned times and dates, at each of the pharmacies, several unlicensed persons were either opening or closing pharmacies, or were alone in the pharmacy without a licensed pharmacist on the premises. As set forth in the regulations governing the practice of pharmacy in Maryland, only licensed pharmacists may have access, e.g., the keys or security code, to the pharmacy area. As set forth above, the Respondent allowed her minor daughter to sign for pharmaceutical supplies—something which only a licensed pharmacist should do. One employee dispensed already filled prescriptions while the pharmacist was absent and another took inventory while no

pharmacist was present. At each of the pharmacies, serious discrepancies were disclosed by the D.D.C. personnel on more than one occasion, including the dispensing of drugs by fax without a hard copy, a technician's dispensing prescriptions, and unaccounted for Schedule IIs.

23. As set forth above, the Respondent is in violation of the Act and the regulations thereunder.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated § 12-313 (b) (3), (6), (24), and (28). The Board further finds that the Respondent violated the Code Md. Regs. tit. 10 § 34.05. (1980) .02 A. (3), B (2), .03 A., and .05 A and B, as well as Code Md. Regs. tit. 10 § 34.10 (2000) .01 A. (1) (a) through (e).

### **ORDER**

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 20th day of November, 2002, by a majority of a quorum of the Board,

**ORDERED** that the Respondent's license to practice pharmacy is hereby **SUSPENDED** for one year with all 12 months **STAYED**; and be it further

**ORDERED** that the Respondent shall be immediately placed on Probation for one year, subject to the following conditions:

1. The Respondent shall take and pass the Multistate Pharmacy Jurisprudence Examination (MPJE), with a score of at least 75%.

2. The Respondent shall submit timesheets of her pharmacist employees to the Board on a monthly basis;

3. The Respondent shall submit the name (s) and credentials of a pharmacist who agrees to serve as her mentor, for approval by the Board. If the Board approves said individual, the Mentor shall provide guidance to the Respondent for ten (10) hours per month regarding compliance with the laws governing record-keeping for controlled dangerous substances (CDS), and other relevant laws. The Respondent shall ensure that the Mentor files quarterly progress reports with the Board.

4. The Respondent shall have the sole responsibility for paying for the above requirements on a timely basis.

5. The Respondent shall develop and submit to the Board, within three months of the date of the Consent Order, policies and procedures regarding:

- (a) scheduling of pharmacist coverage;
- (b) lapses in pharmacist coverage;
- (c) duties of unlicensed personnel and restrictions; and,
- (d) pharmacy security.

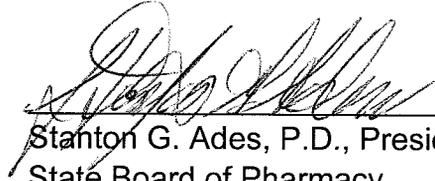
**ORDERED** that the Consent Order is effective as of the date of its signing by the Board; and be it

**ORDERED** that should the Board receive a report that the Respondent's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including lifting the suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

**ORDERED** that the Respondent shall practice in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and be it further

**ORDERED** that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on her license, provided that she can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary. Should the Respondent fail to petition the Board for reinstatement, the conditions of Probation shall remain as is;

**ORDERED** that for purposes of public disclosure, as permitted by Md. State Govt. Code Ann. §10-617(h) (Repl. Vol. 1999), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.



---

Stanton G. Ades, P.D., President  
State Board of Pharmacy

**CONSENT OF PAMELA ARREY, P.D.**

I, Pamela Arrey, by affixing my signature hereto, acknowledge that:

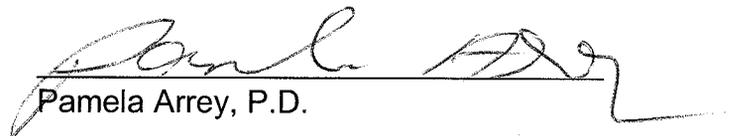
1. I am represented by an attorney, Joseph Kum, and have been advised by him of the legal implication of signing this Consent Order;

2. I am aware that without my consent, my license to practice pharmacy in this State cannot be limited except pursuant to the provisions of § 12-313 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (1999 Repl. Vol.)

3. I am aware that I am entitled to a formal evidentiary hearing before the Board

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 12-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 12-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my 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 license to practice pharmacy in the State of Maryland.

11-13-02  
Date

  
Pamela Arrey, P.D.

STATE OF

CITY/COUNTY OF Montgomery:

I HEREBY CERTIFY that on this 13<sup>th</sup> day of November, 2003 before  
me, JOHN N. EPIE, a Notary Public of the foregoing State and (City/County),  
(Print Name)

personally appeared Pamela Arrey, License No. 11345, and made oath in due form of law  
that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

EPIE JOHN NKEDE  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires February 8, 2006

Notary Public



My Commission Expires: Feb. 8, 2006