

IN THE MATTER OF	*	BEFORE THE
COMMUNITY CARE PHARMACY	*	STATE BOARD OF
Permit No. P04358	*	PHARMACY
RESPONDENT-PHARMACY	*	CASE NUMBER: 06-081

* * * * *

FINAL ORDER OF REVOCATION OF PHARMACY PERMIT

Pursuant to Md. State Govt. Code Ann. § 10-226 C (1) (2004 Repl. Vol.) and the Maryland Pharmacy Act, codified at Md. Health Occ. Code Ann. § 12-101, et seq., (the "Pharmacy Act") (2005 Repl. Vol.), the State Board of Pharmacy (the "Board") hereby **REVOKES** the permit of **Community Care Pharmacy** ("the Respondent-Pharmacy"), Permit Number P04358.

On July 21, 2006, the Board sent the Respondent-Pharmacy an Initial Notice of Revocation and informed the owner that she had 30 days to request a hearing. More than 30 days have passed and the Respondent-Pharmacy failed to request a hearing. Therefore, this Order is Final.

**FACTS THAT WARRANT THE REVOCATION OF THE
RESPONDENT-PHARMACY'S PERMIT**

1. At all times relevant, the Respondent-Pharmacy was permitted by the Board to operate as a pharmacy in the State of Maryland. The Respondent-Pharmacy was initially issued a permit on November 4, 2005. The Respondent-Pharmacy's permit expires December 31, 2006.

2. The Respondent-Pharmacy is owned by Eunice Oshodi, P.D. was sole pharmacist.

3. In March 2006, Ms. Oshodi and the Respondent-Pharmacy became subjects of an active criminal investigation by the Baltimore City Police, Diversion Group. Specifically, the following occurred:

A. On March 28, 2006, the DEA Diversion Drug Task Force met with a Confidential Source (CS) who is registered with the Baltimore Police Department. The purpose of the meeting was for the CS to make a purchase of a controlled substance from Ms. Oshodi;

B. Accordingly, the CS placed a telephone call to Ms. Oshodi and arranged to pick up some drugs;

C. Subsequently, the CS purchased from Ms. Oshodi drugs for \$1300 in government funds;

D. The CS then went to the pharmacy and picked up some drugs and paid Ms. Oshodi's daughter some money for them;

E. After which, the CS met the officers at a pre-designated place and gave to them one black plastic bag containing five pharmacy stock bottles, one of which contained 1000 tablets of Alprazolam, a Schedule IV controlled dangerous substance, and four bottles containing 100 tablets of Clonazepam, another Schedule IV drug. In addition, the CS returned \$100;

F. On April 19, 2006, the CS made telephone call to Ms. Oshodi and ordered 500 Alprazolam, 300 Clonazepam, 300 Clonidines, and 100 Promethazines. On the 20th, the CS made arrangements to pick up the order. The CS was outfitted with a

recording device and given \$1000 in law enforcement funding. Ms. Oshodi filled the order. The CS met with Ms. Oshodi's daughter at a mall and sat in her car, after which the CS entered his/her vehicle and drove to the pre-designated meeting spot. Once there, the CS handed an officer a brown bag containing a stock bottle with 500 Alprazolam, three prescription bottles with Clonazepam, totaling 300, one bottle containing 100 Promethazine and three prescription bottles containing Clonidine, containing 100 each (300) tablets.

G. Following the sale of the above drugs, Ms. Oshodi's daughter was arrested and she and her car were searched resulting in other drugs being found.

H. Ms. Oshodi was arrested outside the Respondent-Pharmacy on the above date. At that time, a search disclosed that she had approximately \$10,000 on her person in various denominations, consistent with street level sales.

I. Based on the controlled buy, as well as other information, on April 20, 2006, officers executed a search and seizure warrant, which enabled them to find the following:

(1) In Ms. Oshodi's home, the officers found various loose medications;

(2) In the Respondent-Pharmacy, numerous prescription bottles of Alprazolam, Clonazepam and other drugs were seized, as well as U.S. currency from a black plastic bag, which was inside a brown leather handbag containing \$9761, and \$780 of government money that was paid during the above controlled buy event;

(3) In the residence of Ms. Oshodi, numerous prescription pads from Northwest Hospital in Baltimore County were found, as well as prescription bottles containing Clonazepam, and other drugs, as well as \$30, 452 in U.S. currency.

4. On April 21, 2006, Ms. Oshodi was arrested and charged with the following:

A. Did unlawfully distribute to [Ms. Oshodi's daughter] a controlled dangerous substance of schedule IV, to wit, alprazolam;

B. Did unlawfully distribute to [Ms. Oshodi's daughter] a controlled dangerous substance of schedule IV, to wit, clonazepam;

C. Did unlawfully possess a controlled dangerous substance of schedule IV, to wit, alprazolam, in sufficient quantity to indicate an intent to distribute the same;

D. Did unlawfully possess a controlled dangerous substance of schedule IV, to wit, clonazepam, in sufficient quantity to indicate an intent to distribute the same;

E. Did conspire with [Ms. Oshodi's daughter] to unlawfully distribute to CS a controlled dangerous substance of schedule IV, to wit, alprazolam; and,

F. Did conspire with [Ms. Oshodi's daughter] to unlawfully distribute to CS a controlled dangerous substance of schedule IV, to wit, clonazepam.

5. After the police secured the Respondent-Pharmacy, the Division of Drug Control issued an Order of Impoundment, disposed of the drugs and obtained the permit for the Respondent pharmacy and the pharmacist license of Ms. Oshodi.

6. A pharmacy which is used to distribute drugs illegally violates the Act and regulations thereunder.

CONCLUSION OF LAW

The pertinent provisions of § 19-311 the Act state:

(a) Subject to the hearing provisions of § 12-411¹ 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;
- (2) Violates any of the standards specified in § 12-403 of this subtitle; or
- (3) Otherwise is not conducted in accordance with the law.

§ 12-403 Required standards

(b) 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;

§ 12-313. Denials, reprimands, suspensions, and revocations:

(b) *In general.* – 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, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (2) Fraudulently or deceptively uses a license;
- (7) Willfully fails to file or record any report that is required by law;

1 § 12-411. Hearings.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 12-409 of this subtitle or any action to suspend or revoke a pharmacy permit under any other section of this title, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(c) If after due notice the person against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

- (14) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;
- (20) Is professionally, physically, or mentally incompetent;

The Board further charges the Respondent with violation of Code Md. Regs. tit.

10, 34.10 (November 12, 2001):

.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) Criminal Law Article, Title 5, Annotated Code of Maryland, and
- (e) COMAR 10.19.03[;].

ORDER

Based on the foregoing Facts that Warrant Revocation of the Respondent-Pharmacy's License and Conclusion of Law, by a majority vote of a quorum of the Board present, it is hereby

ORDERED on this 19th day of October 2006, that the Respondent-Pharmacy's permit to operate as a pharmacy in the State of Maryland be and is hereby **REVOKED**; and be it further

ORDERED that upon presentation of this Order of Revocation, the Respondent-Pharmacy shall immediately have delivered to the Board the permit display and wallet-

sized permit to operate as a pharmacy in the State of Maryland, previously issued by the Board; and be it further

ORDERED that this is a final Order of the Maryland Board, and as such is a public document pursuant to the Maryland Public Information Act, codified at Md. State Govt. Code Ann. § 10-611, et seq.

October 19, 2006

Date

LaVerne G. Naesea

LaVerne G. Naesea
Executive Director

NOTICE OF RIGHT TO APPEAL

Pursuant to H.O. § 12-412, you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty days of your receipt of this executed Order, and shall be made as provided for judicial review of a final decision in the APA, codified at State Govt. Code Ann. § 10-201, et seq.