

IN THE MATTER OF \* BEFORE THE  
HICKORY PLAZA PHARMACY \* STATE BOARD  
Permit No.: P01791 \* OF PHARMACY  
Respondent -Pharmacy \* Case Number 05-BP-023

\* \* \* \* \*

**ORDER FOR SUMMARY SUSPENSION**

Pursuant to Md. State Govt. Code Ann. § 10-226 (c) (2004 Repl. Vol.), the State Board of Pharmacy (the "Board") hereby suspends the pharmacy permit issued to Jim Su Pak, P.D. ("Mr. Pak"), the owner and permit holder of Hickory Plaza Pharmacy (the "Respondent-Pharmacy"), under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. §§ 12-101, *et seq.* (2000 Repl. Vol. and 2004 Supp.). This Order is based on the following investigative findings, which the Board has reason to believe are true:

**Findings**

1. At all times relevant hereto, Mr. Pak was licensed to practice pharmacy in Maryland.
2. At all times relevant hereto, Mr. Pak was the owner/permit holder of the Respondent-Pharmacy, which is located at 10805 Hickory Ridge Road, Columbia, Maryland 21044.
3. On or about November 19, 2004, the Board received and investigated an anonymous complaint that was originally reported to the Maryland Board of Physicians, which indicated that Mr. Pak, while practicing pharmacy at the Respondent-Pharmacy, was providing Percocet to an individual without a prescription.

4. On November 19, 2004, the Board requested that representatives from the Division of Drug Control (DDC) perform an audit of the Percocet and generics at the Respondent-Pharmacy.

5. On December 17, 2004, the DDC performed an audit of three drugs at the Respondent-Pharmacy for the period of August 17, 2004 through December 17, 2004: brand and generic Oxycodone and APAP 10/325; brand and generic Oxycodone and APAP 5/325; and Oxycontin 40mg.

6. The DDC audit revealed the following:

a. There were 12 purchases of either Percocet 10/325 or the generic equivalent during the audit period comprising 3,600 tablets.

b. Only 180 tablets were dispensed, and 370 remained in stock.

c. Out of 3600 tablets purchased, only 550 tablets could be accounted.

7. Mr. Pak initially told the auditors that the discrepancy could be blamed on two unreported burglaries, but he later told the auditors that he took five Percocet 10/325 or the generic at a time, and that he eventually was taking 50 tablets during the day.

8. The audit of Percocet 5/325 and its generic equivalent showed a slight overage that was attributed to the zero inventory assigned at the beginning of the inventory.

9. The audit noted that the Oxycontin 40mg showed a loss of 20 tablets during the audit period.

### **Discussion**

The sole pharmacist and permit holder for the Respondent-Pharmacy, Jim Su Pak, presented argument at the show cause hearing that he diverted approximately 3,000 Percocet

10/325 tablets between August and December 2004, for his own personal use to treat his migraines. Mr. Pak is currently in a recovery program run by the Pharmacists Education and Assistance Committee ("PEAC"). As the permit holder, Mr. Pak has unlimited and unsupervised access to controlled dangerous substances stored at the Respondent-Pharmacy. Because of Mr. Pak's admitted substance abuse problem, Mr. Pak is unable to operate the Respondent-Pharmacy without posing a threat to the public's health, safety and welfare.

### Conclusion

Based on the foregoing, the Board finds that the public health, safety or welfare imperatively requires emergency action, pursuant to Md. St. Govt. Code Ann. § 10-226(c)(2) (2004 Repl. Vol.).

### ORDER

Based on the foregoing, and after a Show Cause Hearing was held in which the Respondent-Pharmacy was given the opportunity to be heard as to whether a Summary Suspension should be executed regarding the Respondent-Pharmacy's ability to operate safely as a pharmacy, on this 7TH day of APRIL, 2005, by an affirmative vote of majority of the Board, by authority granted to the Board by Md. Code Ann., State Gov't Art. § 10-226(c)(2) (1999 Repl. Vol.), it is hereby,

**ORDERED** that the permit held by the Respondent to operate Hickory Plaza Pharmacy (Permit No. P101791) is hereby **SUMMARILY SUSPENDED**, such suspension to be **stayed until June 1, 2005**; and be it further,

**ORDERED** that the Respondent-Pharmacy shall maintain a perpetual inventory of all narcotics in all schedules during the stayed period of the summary suspension; and be it further,

**ORDERED** that should the Respondent-Pharmacy sell Hickory Plaza Pharmacy, or its assets, before June 1, 2005, the Respondent-Pharmacy shall provide documentation of such sale to the Board upon completion of the sale; and be it further,

**ORDERED** that in the event the Respondent-Pharmacy does not sell Hickory Plaza Pharmacy, the Respondent-Pharmacy shall close its pharmacy in accordance with COMAR 10.34.14; and be it further,

**ORDERED** that the Respondent-Pharmacy shall turn its permit over to the Board on or before June 1, 2005; and be it further

**ORDERED** that the Respondent may submit a written request to the Board within thirty (30) days of the date of this Order for an evidentiary hearing to be held before the Board on the summary suspension, which hearing may be consolidated with a hearing on charges, should charges be issued; and be it further

**ORDERED**, that this document constitutes formal disciplinary action of the Board and is therefore a public document for purposes of public disclosure, as required by the Public Information Act, State Gov't § 10-611 *et seq.* and COMAR 10.34.01.12.



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Melvin N. Rubin, President  
Board of Pharmacy