

IN THE MATTER OF  
NELCHA PHARMACY  
Respondent  
PERMIT No: PW0457

\* BEFORE THE  
\* MARYLAND BOARD  
\* OF PHARMACY  
\* Case No.: PI-15-053

\* \* \* \* \*

**ORDER FOR SUMMARY SUSPENSION**

The State Board of Pharmacy (the "Board") hereby notifies **NELCHA PHARMACY (Permit No.: PW0457) (the "Respondent-Pharmacy")** of its intent to summarily suspend the Respondent-Pharmacy's permit to operate a pharmacy in the State of Maryland under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. §§ 12-101 *et seq.* (2014 Repl. Vol.). The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2)(i)(2009 Repl. Vol. and 2014 Supp.) and COMAR 10.34.01.12 concluding that there is a substantial likelihood that the Respondent-Pharmacy poses a significant threat to the public health, safety or welfare.

**INVESTIGATIVE FINDINGS**

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:<sup>1</sup>

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<sup>1</sup> The statements regarding the Respondent-Pharmacy's conduct are only intended to provide the Respondent-Pharmacy with notice of the basis of the Board's decision to issue this Notice of Intent to Suspend Pharmacy Permit. They are not intended as, and do not necessarily represent a completed description of the evidence, either documentary or testimonial, to be offered against the Respondent-Pharmacy in this matter.

1. The Respondent-Pharmacy is licensed to operate a waiver pharmacy in the State of Maryland under permit number PW0457. The Respondent-Pharmacy was first issued a permit on March 20, 2014.<sup>2</sup> The Respondent-Pharmacy's permit is currently active and will expire on May 31, 2016.

2. At all times relevant, the Respondent-Pharmacy was owned and operated by Kenneth Chatmon, who is not licensed by the Board.

3. At all times relevant, the Respondent-Pharmacy was located at 529 Snow Hill Road, Salisbury, Maryland 21804. According to the Respondent-Pharmacy's Application for Maryland Pharmacy Permit, the Respondent-Pharmacy's hours of operation were Monday through Friday, 9:00 a.m. to 5:00 p.m.

4. Michael Tulish (20015) is listed on the Respondent-Pharmacy's application as its full-time pharmacist.

5. On September 15, 2014 at approximately 10:45 a.m., the Division of Drug Control ("DDC") attempted to make a routine inspection of the Respondent-Pharmacy. The DDC was unable to conduct an inspection because the pharmacy was not open. The building appeared to be empty and there was no signage indicating that a pharmacy was located at that address.

6. On October 20, 2014 at approximately 11:05 a.m., the DDC attempted to conduct a routine inspection of the Respondent-Pharmacy. The DDC Inspector knocked on the door and there was no response.

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<sup>2</sup> The Respondent-Pharmacy initially applied for a retail pharmacy permit (P06312). After the Respondent-Pharmacy's opening inspection on March 20, 2014, the Respondent-Pharmacy submitted a waiver application to replace the retail pharmacy application. The Board granted the waiver application (PW0457).

7. The DDC Inspector went to the rear of the building and observed a door propped open and two workmen going in and out of the building. The workmen stated that the owner of the pharmacy had let them into the building and then left.

8. After several unsuccessful attempts to contact Mr. Chatmon, the DDC Inspector entered the premises to ascertain whether the pharmacy was secure.

9. The DDC Inspector walked through the building and discovered one locked door.

10. The last room the DDC Inspector entered, which was unlocked, contained indicia of an Internet pharmacy operation. Specifically, the room contained the following items:

- a. Stock bottles of 1000 tramadol<sup>3</sup> 50 mg tablets being repackaged into prescription vials;
- b. Two boxes of prescription vials containing tramadol 50 mg for specific patients;
- c. A box of prescriptions;
- d. A stack of prescriptions with labels from MorningStar Specialty Pharmacy in Washington, D.C.;
- e. A stack of mailing labels for patients throughout the United States;
- f. Shipping cartons containing bottles of 1000 tablets of tramadol 50 mg; and
- g. Unopened mailing envelopes of returned medications addressed to Mr. Chatmon.

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<sup>3</sup> Tramadol is a schedule IV controlled dangerous substance.

11. The DDC Inspector notified law enforcement, who arrived on the scene shortly thereafter.

12. Two female employees then arrived at the Respondent-Pharmacy and entered the building. One of the employees entered the unlocked room where the drugs were located. Neither employee was a licensed pharmacist or registered pharmacy technician and were therefore asked to leave the building.

13. Mr. Chatmon arrived at the Respondent-Pharmacy, along with several members of the Drug Enforcement Administration ("DEA") task force (the "task force") associated with the Maryland State Police.

14. Mr. Chatmon did not have a key to the locked pharmacy area. As a result, the task force contacted the pharmacist, Mr. Tulish, and requested that he come to the Respondent-Pharmacy with a key, which he did.

15. Mr. Tulish stated that he works as a part-time pharmacist for the Respondent-Pharmacy and was hired to assist in setting up a computer system and had only been inside the Respondent-Pharmacy on three occasions.

16. According to Mr. Tulish, he has never filled or dispensed any prescriptions from the Respondent-Pharmacy.

17. Mr. Tulish was unable to answer the questions posed on the routine inspection form regarding the operation of the Respondent-Pharmacy.

18. Mr. Chatmon was taken into custody by the State Police.

19. The task force obtained a search warrant and conducted a thorough search of the premises.

20. In the locked pharmacy area 355,000 tramadol 50 mg tablets were found and confiscated along with records and computers from the Respondent-Pharmacy.

### CONCLUSIONS OF LAW

Based on the foregoing, the Board concludes that the public health, safety or welfare imperatively requires emergency action, pursuant to Md. St. Gov't. Code Ann. § 10-226(c)(2) (2009 Repl. Vol. and 2014 Supp.).

### ORDER

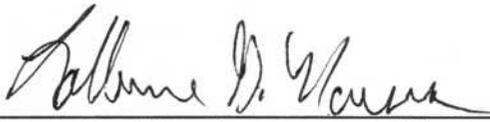
Based on the foregoing, it is therefore this 25<sup>th</sup> day of November 2014, by a majority vote of a quorum of the State Board of Pharmacy, by authority granted to the Board by Md. St. Gov't. Code Ann. §, 10-226(c)(2) (2009 Repl. Vol. and 2014 Supp.), hereby:

**ORDERED** that the permit issued to the Respondent-Pharmacy to operate a pharmacy in the State of Maryland under Permit Number **PW0457** is hereby **SUMMARILY SUSPENDED**; and be it further

**ORDERED** that the Respondent-Pharmacy is prohibited from operating a pharmacy in the State of Maryland; and be it further

**ORDERED** that the Respondent-Pharmacy shall immediately turn over to the Board its permit, within five days of the date this Order is signed by the Board; and be it further

**ORDERED**, that this document constitutes a final Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. State Gov't Code Ann. § 10-617(h) (2009 Repl. Vol. and 2014 Supp.).

*for*   
Lenna Israbian-Jamgochian, PharmD.,  
Board President  
Maryland Board of Pharmacy

**NOTICE OF HEARING**

A non-evidentiary Show Cause hearing to determine whether the Respondent's license shall be summarily suspended will be held at the Respondent's request. If the Respondent wishes to have a Show Cause hearing before the Board at 4201 Patterson Avenue, Baltimore, 21215, the Respondent must submit a written request within 30 days of the receipt of this Notice. The written request must be sent to:

LaVerne G. Naesea  
Executive Director  
Maryland Board of Pharmacy  
4201 Patterson Avenue  
Baltimore, Maryland 21215

Linda Bethman  
Assistant Attorney General  
Department of health and Mental hygiene  
200 West Preston Street, Suite 302  
Baltimore, Maryland 21201; and

Tracee Orlove Fruman  
Assistant Attorney General  
Health Occupations Prosecution and Litigation Division  
300 West Preston Street, Room 207  
Baltimore, Maryland 21201