



MARYLAND

Department of Health

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

MARYLAND BOARD OF PHARMACY

4201 Patterson Avenue, Baltimore, Maryland 21215-2299

Mitra Gavani, Board President • Deena Speights-Napata, Executive Director

VIA REGULAR & CERTIFIED MAIL RETURN RECEIPT REQUESTED
ARTICLE 7014 2870 0001 7786 5331

March 20, 2018

CVS Pharmacy # 2034
5200 York Road
Baltimore, Maryland 21212
Attn: Elizabeth Smith, R.Ph., Pharmacy Manager

Re: Permit No. P05244
Case No. PI-16-139
Notice of Deficiencies, Recommended Civil Monetary Penalty, and
Opportunity for Hearing

Dear Pharmacy Manager:

In February 2016, the Board of Pharmacy (the "Board") received a self-report from CVS Corporate disclosing that CVS #2034 (the "Pharmacy") was determined to be non-compliant with the Board's regulatory requirements concerning pharmacy technician registration. Specifically, CVS Corporate indicated that CVS #2034 permitted a pharmacy technician trainee, E.J., to perform delegated pharmacy acts beyond the six-month training program limitation. In addition, during the Pharmacy's October 1, 2015, annual inspection, the Pharmacy did not identify pharmacy technician trainee, E.J., to the Board's inspector. The Board was informed that the pharmacy technician was subsequently terminated in February 2016.

I. FINDINGS AND CONCLUSION

The Board finds that CVS #2034 allowed a pharmacy technician trainee, E.J., to work beyond the six-month training period restriction, from approximately November 2015 through February 2016, without being duly registered with the Board. The Board also

finds that the Pharmacy did not disclose pharmacy technician trainee E.J. to the Board's inspector during its October 1, 2015, annual inspection.

Based upon deficiencies reported at CVS #2034, 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), § 12-6B-01 and § 12-604(c).

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 reported at the Pharmacy, the Board hereby recommends the imposition of a **civil monetary penalty of \$1,000.00**. The deficiencies upon which the civil monetary penalty is based are set forth in the findings above.

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 the Report 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 Heather McLaughlin, Compliance Coordinator, Maryland Board of Pharmacy, 4201 Patterson Ave., 5th Floor, Baltimore, Maryland 21215, **no later than thirty (30) days of 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 guilty of the violations cited in the Reports, the Board may suspend or revoke the pharmacy permit, or 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, PI-16-139, on your check or money order to insure 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 this case regarding CVS #1494, and shall be a final order and public document in accordance with the Maryland Public Information Act. Md. Code Ann., General Provisions Art. § 4-333.

If you have any questions concerning the instructions contained in this letter, please contact Heather McLaughlin, Compliance Monitor, at 410-764-4152.

Sincerely,



Deena Speights-Napata
Executive Director

cc: Linda Bethman, AAG, Board Counsel
Karen DiStefano, Manager Regulatory Affairs, CVS Health