



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

Maryland Board of Pharmacy
Shiela West, Compliance Investigator
4201 Patterson Avenue
Baltimore, MD 21215-2299

October 9, 2019

VIA REGULAR & CERTIFIED MAIL
RETURN RECEIPT REQUESTED
ARTICLE #7014 2870 0000 4731 8288

Harris Teeter #323
8184 Westside Drive
Fulton, Maryland 20759
Attn: Pharmacy Manager

Re: Permit No. P06374
Case No. 19-125
Notice of Deficiencies, Recommended Civil Monetary Penalty, and
Opportunity for Hearing

Dear Pharmacy Manager:

On September 27, 2018, the Board of Pharmacy (the "Board") conducted an annual inspection of Harris Teeter #323 (the "Pharmacy") for compliance with statutes and regulations governing the operation of a pharmacy. The Board's inspection revealed that the Pharmacy staffed a pharmacist (S.Y.) who was registered to administer vaccines but did not have CPR certification through in-person classroom instruction as required. The Board subsequently received documentation indicating that the pharmacist administered approximately 381 vaccines without the proper CPR certification, including 23 vaccinations administered after the Board's inspection. The Board's records reflect that the pharmacist submitted proof of proper CPR certification on October 3, 2019.

I. FINDINGS AND CONCLUSION

The Board finds that the Pharmacy permitted pharmacist (S.Y.) to administer approximately 358 vaccinations before and after the Board's inspection without proper CPR certification obtained through in-person classroom instruction as required in order to administer vaccinations under the authority of a pharmacist's license.

Based upon deficiencies at the Pharmacy, 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) and § 12-508(b)(2).

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 \$2,000.00**. 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 in the Report have been addressed and corrected. Specifically, all staff pharmacists who are registered to administer vaccinations must have proper and active CPR certification obtained through live instruction. 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 Donna Goldberg, R.Ph., J.D., Investigations Supervisor, Maryland Board of Pharmacy, 4201 Patterson Ave., 5th Floor, Baltimore, Maryland 21215, **no later than thirty (30) days** from 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, 19-125, on your check or money order to ensure proper assignment to your case.

October 9, 2019

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 this matter, and shall be a final order and public document under the Maryland Public Information Act, Md. Code Ann., General Provisions Art. § 4-101 *et seq.*, and reported in accordance with State and federal laws.

If you have any questions concerning the instructions contained in this letter, please contact Donna Goldberg, R.Ph., J.D., Investigations Supervisor, at 410-764-3768.

Sincerely,


Deena Speights-Napata
Executive Director

cc: Linda Bethman, AAG, Board Counsel