

Christina E. Morris, KS Bar #23755
Kansas State Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612
(785) 296-4056 (tel.)
(785) 296-8420 (fax)
christina.morris@pharmacy.ks.gov

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of)
RX3 Pharmacy) Case No. 13-30
Kansas Registration No. 22-02818)

DISMISSAL OF PETITION

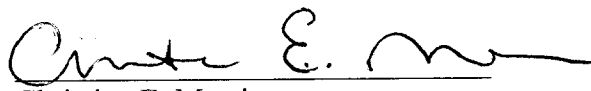
NOW this 6th day of June, 2013, the above captioned matter comes before the Kansas State Board of Pharmacy ("Board") on Petition to Revoke, Suspend, or Otherwise Limit the Registration of the Respondent. After considering the foregoing, the Board's Disciplinary Counsel enters the following:

1. A Petition to Revoke, Suspend, or Otherwise Limit the Registration of the Respondent was filed with the Board on February 11, 2013 based on pending action in Virginia.
2. Respondent settled the Virginia Action by entering into a Consent Order on May 5, 2013 which is attached to this Dismissal.
3. After reviewing the Virginia Consent Order entered into by Respondent, the assessment of the Board is that as long as Respondent is compliant with Virginia Order, the Board does not believe the pharmacy poses a threat to the public health, welfare, and safety of the citizens of Kansas.

Upon consideration of the above-stated facts, the Petition to Revoke, Suspend, or Otherwise Limit the Registration of the Respondent that was filed with the Board on February 11, 2013 in the above-captioned matter is hereby dismissed.

IT IS SO ORDERED.

6/5/13
Date


Christina E. Morris
Disciplinary Counsel

CERTIFICATE OF SERVICE

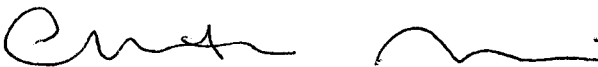
I hereby certify that I did, on the 5th day of June 2013, deposit in the United States Mail, postage prepaid, a copy of the foregoing Dismissal of Petition, properly addressed to the following:

RX South, LLC
DBA RX3 Pharmacy
12230 Ironbridge Road, Ste. C

Christopher Currin, Owner
RX3 Pharmacy
1503 Forest Meadow Lane
Manakin Sabot, VA 23103-2659

and the original filed with:

Kansas Board of Pharmacy
800 SW Jackson, Ste. 1414
Topeka, KS 66612



Christina Morris, Disciplinary Counsel

VIRGINIA:

BEFORE THE BOARD OF PHARMACY

IN RE: RX 3
Permit No. : 0201-003685

CONSENT ORDER

Pursuant to § 2.2-4019, 2.2-4021 and § 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), an Informal Conference Committee ("Committee") of the Virginia Board of Pharmacy ("Board"), composed of David C. Kozera and Ellen B. Shinaberry met regarding RX 3, Chester, Virginia ("RX 3"), on April 16, 2013, in Henrico County, Virginia. Christopher K. Currin, co-owner and pharmacist-in-charge of RX 3 appeared and was represented by Nathan Kottkamp, Esquire. The purpose of the informal conference was to receive and act upon evidence concerning the allegations in the Notice of Informal Conference dated April 2, 2013.

After consideration of the evidence and statements concerning the allegations, the Committee makes the following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. RX 3, Chester, Virginia ("RX 3"), holds permit number 0201-003685 issued by the Board to conduct a pharmacy in the Commonwealth of Virginia.
2. An unannounced inspection of RX 3 on November 5, 2012, and subsequent visits on November 9, 13 and 14, 2012, disclosed the following deficiencies:
 - a. RX 3 violated § 54.1-3316(7) and § 54.1-3321(A) of the Code and 18 VAC 110-20-111(C) of the Board of Pharmacy Regulations ("Regulations") in that an individual performed the duties of a pharmacy technician at RX 3 in August 2012, although the individual was not registered as a pharmacy technician by the Board and was in an approved training program for over nine months.

b. RX 3 Pharmacy violated § 54.1-3316(7) of the Code and 18 VAC 110-20-240(A)(1) of the Regulations in that it failed to maintain perpetual inventories of Schedule II controlled substances. Of 25 Schedule II drugs randomly selected for review for the months of July, August and September 2012, only 35 of the 75 required reconciliations were complete. The drugs not reconciled were: codeine powder; hydromorphone powder; adderall XR 20; codeine 30mg; meperidine 50mg; methadose SF 10mg/ml; Nucynta 50mg (tapentadol); Concerta 18mg (methylphenidate); and Focalin XR 10mg (dexmethylphenidate HCL).

c. RX 3 Pharmacy violated § 54.1-3316(7) and § 54.1-3410.2(E) and (I) of the Code and 18 VAC 110-20-321 of the Regulations in that:

i. The following high-risk compounded sterile products ("CSPs") were found in the pharmacy labeled with a beyond use date ("BUD") longer than allowed by the United States Pharmacopeia- National Formulary ("USP-NF"): prostaglandin 20mcg/ml; prostaglandin E-1 500mcg/ml; papaverine 30mg/ml; phentolamine 10mg/ml; and two strengths of "Triple Mix" (phentolamine / prostaglandin/papaverine 1mg/26.4mg/10mcg/ml and phentolamine/prostaglandin/papaverine 1mg/25.8mg/20mcg/ml)(all Schedule VI). On November 9, 2012, the Board placed an embargo on these products.

ii. A review of records disclosed that in January, February, April, June, August, and October 2012, a total of 114 high-risk CSPs were compounded, some of which were compounded multiple times. One hundred ten of the 114 high-risk CSPs had no records indicating that sterility testing had been performed or whether the product was batch compounded or compounded for a specific patient, and they were given BUDs longer than allowed by USP-NF.

iii. Records also disclosed that between January 1 and October 31, 2012, 9,889 30ml vials of Medi-Bolic Booster (methionine, chlorine chloride, inositol, cyanocobalamin, benzyl alcohol solution, water, chromium chloride, Schedule VI) ("Medi-Bolic") and 14,386 30ml vials of pyridoxine/thiamine (Schedule VI) were compounded and sold. When asked to produce compounding records, RX 3 produced only two records for the Medi-Bolic Booster and three compounding records for the pyridoxine/thiamine. These records were for only 400 total doses. Finally, there was documentation of only eight in-house sterility tests, and no endotoxin tests were documented. All of the compounded materials were labeled with BUDs longer than allowed by USP-NF.

d. RX 3 violated § 54.1-3316(7) and § 54.1-3435.02 of the Code in that from January 1 to October 31, 2012, it compounded 9,889 vials of Medi-Bolic constituting 7.95% of total sales and 14,386 vials of pyridoxine/thiamine, constituting 11.45% of total sales, without being licensed as a wholesale distributor.

3. Mr. Currin, provided documentation to the Committee that the pharmacy was now maintaining perpetual inventories for all Schedule II controlled substances.

4. Mr. Currin presented evidence to the Committee that RX 3 is now in compliance with the requirements of USP-NF for compounding.

CONSENT

RX 3, by affixing the signature of a representative hereon, agrees to the following:

1. RX 3 has been advised specifically to seek the advice of counsel prior to signing this document;

2. RX 3 is fully aware that without its consent, no legal action can be taken against it except pursuant to the Virginia Administrative Process Act, § 2.2-4000(A), et seq., of the Code of Virginia;
3. RX 3 has the following rights, among others:
 - a. the right to a formal administrative hearing before the Board;
 - b. the right to representation by counsel; and
 - c. the right to cross-examine witnesses against it.
4. RX 3 waives all rights to a formal administrative proceeding;
5. RX 3 admits to the above Findings of Fact and Conclusions of Law; and
6. RX 3 consents to the following Order affecting its permit to conduct a pharmacy in the Commonwealth of Virginia.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that:

1. RX 3 shall be assessed a monetary penalty of Ten Thousand Five Hundred Dollars (\$10,500.00) to be paid to the Board by certified check or money order within thirty (30) days from the date this Consent Order is entered.
2. RX 3 shall maintain a course of conduct commensurate with the requirements of Chapters 33 and 34, Title 54.1 of the Code. Any violation of these terms or of any law or regulation affecting the conduct of pharmacy in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of its permit to conduct a pharmacy and an administrative proceeding shall be convened to determine whether such permit shall be suspended or revoked.

Pursuant to § 2.2-4023 and § 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public release, inspection and copying upon request.

FOR THE BOARD:

Caroline D. Juran

Caroline D. Juran
Executive Director

ENTERED: 5-8-13

SEEN AND AGREED TO:

Christopher K. Currin

Christopher K. Currin, Pharmacist-in-Charge
RX 3

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Chesterfield

Subscribed and sworn to before me, a Notary Public in and for the city/county of Chesterfield, this 6th day of May, 2013, by Christopher K. Currin. My commission expires the 30 day of April, 2015.

113141
Registration Number

Sandra Mick
Notary Public

SANDRA MICK
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES APRIL 30, 2015
REGISTRATION NO. 113141

**BEFORE THE BOARD OF PHARMACY
OF THE STATE OF KANSAS**

In the Matter of)
)
RX3 Pharmacy) Case No. 13-30
Kansas Permit No. 22-02818)

Filed By
FEB 11 2013
KANSAS STATE
BOARD OF PHARMACY

**EX PARTE EMERGENCY ORDER
OF RESTRICTIONS AND FOR
EMERGENCY PROCEEDINGS**

NOW on this 11 day of February, 2013, this matter comes on before Chad Ullom, R.Ph., Investigative Member/Presiding Officer, upon a Motion for *Ex Parte* Emergency Order of Restrictions and for Emergency Proceedings filed by Christina Morris, Counsel for the Board on behalf of the Petitioner Board against the permit of RX3 Pharmacy ("Registrant"). There are no other appearances.

The Investigative Member/Presiding Officer has reviewed the agency record in Kansas Board of Pharmacy Case No. 13-30, including the Petition filed on February 8, 2013, against Registrant's permit and the Motion for *Ex Parte* Emergency Order of Restrictions of Registrant's Permit which was filed with the Board of February 8, 2013. The Motion requests an emergency restriction of Registrant's permit, requests emergency proceedings regarding certain information.

The Investigative Member/Presiding Officer has reviewed Board Exhibits A, B, C and D that are attached to the Motion. Based upon due consideration of the pleadings and exhibits in the agency record, the Investigative Member/Presiding Officer finds, concludes and orders as follows:

1. The Petition and Motion for *Ex Parte* Emergency Order of Restrictions allege that Registrant's pharmacist -in-charge has operated the pharmacy in a manner that is substantially dangerous to public health and safety and warrants action.
2. The Motion incorporates the allegations contained in the Petition and also includes Exhibit C which is an Order of Summary Restriction against Christopher K. Currin, Pharmacist, the pharmacist-in-charge for RX3 Compounding Pharmacy, from the Virginia Department of Health Professions.

FINDINGS

3. Registrant's last known mailing address to the Board is 12230 Ironbridge Road, Suite C, Chester, Virginia 23831.
4. Registrant is or has been entitled to practice pharmacy in the State of Kansas, having been issued permit number 22-02818 on October 22, 2010, and having last renewed such permit on May 22, 2012.
5. At all times relevant to the allegations set forth in the Motion; Registrant has held a pharmacy permit to practice pharmacy in the State of Kansas.

6. That on January 17, 2013 the Virginia Department of Health Professions entered an Order of Summary Restriction against pharmacist-in-charge Christopher K. Currin concluding that there is substantial danger to public health or safety and that the license of Mr. Currin is restricted from performing any sterile compounding.

7. Each pharmacy shall have a pharmacist-in-charge that is appropriately licensed in their home state and who shall be responsible for the mixing and preparation of all parenteral admixtures.

8. The Investigative Member/Presiding Officer finds that the present restricted license of the Registrant's pharmacist-in-charge constitutes an imminent danger to the public health, safety and welfare, due to Registrant's inability to practice with reasonable skill and safety to patients.

CONCLUSIONS

9. Pursuant to K.S.A. 65-1627, the Board has grounds to revoke, suspend, censure, fine or otherwise limit Registrant's permit for violation of the Pharmacy Act.

10. Pursuant to K.S.A. 65-1627, the Board has the authority to temporarily suspend Registrant's permit if there is cause to believe that grounds exist under K.S.A. 65-1627 against the registrant and that the registrant's continuation in practice would constitute an imminent danger to the public health and safety.

11. Pursuant to K.S.A. 77-536, the Board may use emergency proceedings to protect the public from an immediate danger to the public health, safety or welfare.

12. The Investigative Member finds there is cause to believe that the Registrant's Pharmacist-in-Charge has violated K.S.A. 65-1627(a)(12), the pharmacist-in-charge of registrant pharmacy has had a license to practice pharmacy revoked, suspended, or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy the record of the action of the other jurisdiction being conclusive evidence thereof.

13. The Investigative Member/Presiding Officer further concludes that Registrant's permit to ship any sterile compounded medication in to Kansas are suspended until such time as an evidentiary hearing can be scheduled.

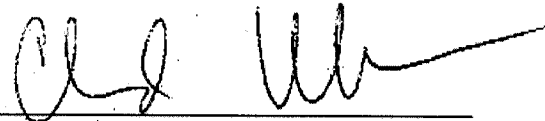
IT IS THEREFORE ORDERED that the permit of **RX 3 Pharmacy** is hereby immediately restricted in that no sterile compounded medications may be shipped into the state of Kansas.

IT IS FURTHER ORDERED that board counsel shall serve this order in the manner provided by law, and shall complete and file a proof of service.

PLEASE TAKE NOTICE that this is an emergency order. An emergency order is effective when rendered. A party to the agency proceeding may seek judicial review of an emergency order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* A petition for judicial review is not timely filed unless filed within 30 days following service of the order. A copy of any petition for judicial review must be served upon the Board's Executive Secretary at 800 SW Jackson, Ste. 1414, Topeka, Kansas 66612.

Dated this 11 day of February, 2013.

Kansas State Board of Pharmacy



Chad Ullom, R.Ph.
Investigative Member/Presiding Officer

Prepared by:

Christina Morris # 23755

Christina Morris, JD
Counsel for the Board
Kansas Board of Pharmacy
800 SW Jackson, Ste. 1414
Topeka, KS 66612
(785) 296-4056

Certificate of Service

I hereby certify that I served a true and correct copy of the *Ex Parte* Emergency Order of Restrictions and for Emergency Proceeding by United States mail, postage prepaid, on the 11 day of February, 2013, to the following:

RX South LLC
DBA RX3 Pharmacy
12230 Ironbridge Road, Ste. C
Chester, VA 23831

Christopher Currin, Owner
RX3 Pharmacy
1503 Forest Meadow Lane
Manakin Sabot, VA 23103-2659



Authorized Board Personnel