

IN THE MATTER OF

Jim Su Pak, P.D.

License No.: 12280

Respondent

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BEFORE THE

STATE BOARD

OF PHARMACY

Case Number 05-BP-022

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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 license to practice pharmacy in Maryland issued to Jim Su Pak, P.D., (the "Respondent"), 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:

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland.
2. At all times relevant hereto, the Respondent was the owner/permit holder of Hickory Plaza 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 the Respondent, while practicing pharmacy at Hickory Plaza 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 Hickory Plaza Pharmacy.

5. On December 17, 2004, the DDC performed an audit of three drugs at Hickory Plaza 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. The Respondent 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.

BASIS FOR SUMMARY SUSPENSION

10. The Respondent presents a danger to the public health, safety or welfare.

11. The above actions also constitute violations of the Act. Specifically, the Respondent violated the following provisions of § 12-313 of the Act:

(b) *In general.* – Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

(2) Fraudulently or deceptively uses a license;

(4) Provides professional services while:

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(14) Dispenses any drug, device, or diagnostic for which a prescription is required without a written, oral, or electronically transmitted prescription from an authorized prescriber;

(20) Is professionally, physically, or mentally incompetent; [or]

(24) Violates any rule or regulation adopted by the Board.

The rule or regulation adopted by the Board violated by the Respondent is found at Code Md. Regs. tit. 10, § 34.10:

.01 Patient Safety and Welfare.

A. A pharmacist shall:

(1) Abide by all federal and State laws relating to the practice of pharmacy and the dispensing, distribution, storage, and labeling of drugs and devices, including but not limited to:

(a) United States Code, Title 21,

(b) Health-General Article, Titles 21 and 22, Annotated Code of Maryland,

(c) Health Occupations Article, Title 12, Annotated Code of Maryland,

(d) Criminal Law Article, Title 5, Annotated Code of Maryland, and

(e) COMAR 10.19.03[;].

B. A pharmacist may not:

- (1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist;
- (2) Practice pharmacy under circumstances or conditions which prevent the proper exercise of professional judgment; or
- (3) Engage in unprofessional conduct.

CONCLUSIONS OF LAW

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, it is therefore this 16 day of February, 2005, by a majority vote of a quorum of the State Board of Pharmacy, by authority granted by the Board by Md. St. Govt. Code Ann. § 10-226(c)(2) (2004 Repl. Vol.), the license held by the Respondent to practice pharmacy in Maryland, License No. 12280, is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED, that a Show Cause Hearing shall be held on **Tuesday, March 8, 2005**, at **9:30 a.m.** at the Board's offices located at 4201 Patterson Avenue, Baltimore, Maryland 21215, at which time the Respondent will be given the opportunity to be heard as to

whether the Summary Suspension should be lifted/terminated, regarding the Respondent's fitness to practice pharmacy and the danger to the public; and be it further

ORDERED, that the Respondent shall immediately turn over to the Board his wall certificate and wallet-sized license to practice pharmacy issued 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 Govt. Code Ann. § 10-617(h) (2004 Repl. Vol.).



Melvin N. Rubin, President
Board of Pharmacy