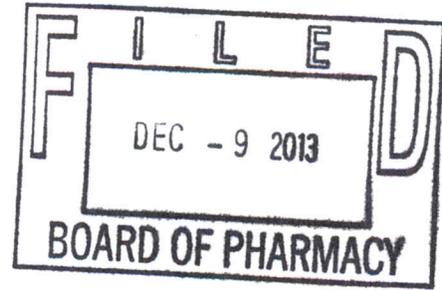


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE PERMIT OF

Administrative Action

Jacobs Pharmacy
Permit No.28RS00650600

VERIFIED COMPLAINT

TO OPERATE AS A PHARMACY
IN THE STATE OF NEW JERSEY

John J. Hoffman, Acting Attorney General of New Jersey, by Kim D. Ringler, Deputy Attorney General, with offices located at 124 Halsey Street, 5th Floor, Newark, New Jersey, by way of Verified Complaint, says:

GENERAL ALLEGATIONS

1. Complainant, John J. Hoffman, Acting Attorney General of New Jersey, is charged with enforcing the laws of the State of New Jersey, pursuant to N.J.S.A. 52:17A-4(h), and is empowered to initiate administrative disciplinary proceedings

against a holder of a pharmacy permit issued by the New Jersey State Board of Pharmacy (the "Board") pursuant to N.J.S.A. 45:1-14 et seq.

2. The Board is charged with the duty and responsibility of regulating the practice of pharmacy in the State of New Jersey pursuant to N.J.S.A. 45:1-1 et seq. and 45:14-1 et seq.

3. Pursuant to N.J.S.A. 45:1-22, the Board may enter an order of temporary suspension pending a plenary hearing on an Administrative Complaint upon a palpable showing by the Attorney General of a clear and imminent danger to the public health, safety and welfare.

4. Pursuant to N.J.A.C. 13:39-4.18, "all permit holders shall be responsible for compliance with all the rules, regulations and laws governing the practice of pharmacy." Additionally, a permit holder "may be held liable for violations of the New Jersey Pharmacy Practice Act, N.J.S.A. 45:14-40 et seq., and the rules in this chapter and may be subject to disciplinary action." N.J.A.C. 13:39-4.18.

5. Jacobs Pharmacy (hereinafter "Respondent") has a permit to operate a pharmacy in the State of New Jersey and holds permit number 28RS00650600. Respondent is located at 370 South Orange Avenue, Newark, New Jersey, 07103. The most recent license renewal is due to expire on June 30, 2014. See Certification of Anthony Rubinaccio ¶3.

6. The permit holder of record and 100% owner, according to information on file with the Board of Pharmacy, is Kofi Yeboah. See Certification of Anthony Rubinaccio ¶3.

7. The registered pharmacist-in-charge of Jacobs Pharmacy from 2008 to October 15, 2013 was Felix O. Kehinde. See Certification of Anthony Rubinaccio.

8. On or about September 11, 2013, Mr. Yeboah last ordered medications from the wholesale distributors with which Respondent did business. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit A.

9. On September 12, 2013, Mr. Yeboah appeared at the Board office to advise the Board that police directed him to leave Respondent's premises earlier that day and that a new lock was installed to prevent his access to the premises. Mr. Yeboah was thereafter deprived of keys to open Respondent. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit A.

10. Akosua Serwah-Boadu, individually, and as administrator of the estate of her deceased husband, Jacob Boadu, disputes Mr. Yeboah's rights to ownership of Respondent. See Certification of Kim Ringler, Exhibit A.

11. Ms. Serwah-Boadu is a registered nurse also licensed to practice as an advanced practice nurse in New Jersey. Ms. Serwah-Boadu does not hold the permit to operate Respondent.

See Certification of Joanne Leone, ¶¶2 and 3 and Certification of Anthony Rubinaccio, ¶4.

12. As a person with a purported claim on the business, Ms. Serwah-Boadu asserted ownership rights - on information and belief - by changing the locks to prevent the owner of record and permit holder of record, Mr. Yeboah, from gaining access to the Respondent premises. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit A.

13. After Mr. Yeboah was removed from Respondent premises on September 12, 2013, Ms. Serwah-Boadu subsequently obtained a new medication ordering account and ordered pharmaceuticals on behalf of Respondent without the right to do so as neither an owner, licensed pharmacist nor permit holder. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit A.

14. On September 24, 2013, the Estate of Jacob Boadu initiated a civil lawsuit against Mr. Yeboah in Superior Court of New Jersey, Essex County, Docket No. ESX-L-7473-13. The civil suit remains pending, and there has not been any resolution of the ownership claim the Estate of Jacob Boadu and Ms. Serwah-Boadu, in her individual capacity, have asserted. See Certification of Kim Ringler, Ringler Exhibits A and B.

15. On September 24, 2013, the Board acknowledged a letter on behalf of Respondent which stated an intention to close the pharmacy on October 5, 2013. In its letter, the Board requested

a closure plan by September 27, 2013, however no closure plan has been received by the Board. See Certification of Anthony Rubinaccio ¶3, Rubinaccio Exhibit D.

16. On October 3, 2013, a Notice of Change of Pharmacist-in-Charge was submitted to the Board of Pharmacy. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit C. It named Nimisha Patel as the registered pharmacist to assume the duties of pharmacist-in-charge. The Notice was signed by Ms. Serwah-Boadu, as a corporate officer or proprietor. Subsequently, an identical Notice of Change of Pharmacist-in-Charge was received and signed by Mr. Yeboah, the permit holder of record. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit D.

17. On October 29, 2013, a Notice of Change of Pharmacist-in-Charge dated October 29, 2013 was submitted to the Board of Pharmacy. It named Julius C. Arinzeh as the registered pharmacist to assume the duties of pharmacist-in-charge. The Notice was signed by Mr. Yeboah, as a corporate officer or proprietor. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit E.

18. On November 15, 2013, The Estate of Jacob Boadu, Ms. Serwah-Boadu in her individual capacity and as administrator of the Estate, and Mr. Yeboah entered into a Consent Order which recognized Mr. Yeboah as the permit holder of Respondent. The

consent order also inter alia required all parties to have access to Respondent premises and to retain a mutually acceptable pharmacist in charge. The Consent Order, signed by the parties, is pending before the Superior Court of New Jersey, Essex County-Law Division. See Certification of Kim Ringler, Ringler Exhibits A and B.

19. On Saturday, November 16, 2013, Mr. Yeboah utilized a locksmith to enter the premises of Respondent. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit A.

20. On Monday, November 18, 2013, Mr. Yeboah advised the Board that when he entered Respondent's premises on November 16, 2013, all of the prescription drugs that had been on the pharmacy shelves were missing. Missing as well was a computer containing confidential patient information. See Certification of Rubinaccio, Rubinaccio Exhibit A.

21. On information and belief, on November 19, 2013, Ms. Serwah-Boadu personally delivered prescription drugs from two automobiles which arrived outside Respondent premises, removed them from garbage bags, and subsequently placed them on the shelves where the removed items had been placed previously. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit A; Photographs of the empty and replenished shelves are attached to Certification of Kim Ringler, Ringler Exhibit C. The computer with confidential patient information remains missing from

Respondent. See Photographs of the missing computer, Certification of Kim Ringler, Ringler Exhibit C, pp.8, 14.

22. On information and belief, Ms. Serwah-Boadu had the only set of keys to Respondent's premises, and thereby sole access to the prescription medications and the computer with confidential patient information located there. See Certification of Anthony Rubinaccio, Rubinaccio Exhibit A.

23. On information and belief, Ms. Serwah-Boadu exercised possession and control over the medications.

24. On information and belief, Respondent has been closed for business since October 5, 2013, and no pharmacy operations are taking place.

COUNT I
Closure of Pharmacy

25. Complainant repeats and re-alleges the General Allegations above as if fully set forth herein.

26. Kofi Yeboah, as the permit holder for Respondent, failed to notify the customers of Respondent's closure.

27. The prescription drug stock in the pharmacy was not properly disposed of in accordance with applicable Board and Drug Control Regulations.

28. These actions constitute a violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:39-4.10 and 13:39-4.11 regarding the closure of pharmacies.

COUNT II
Control Over Medication

29. Complainant repeats and re-alleges the General Allegations and the Allegations of Count I above as if fully set forth herein.

30. All medications requiring the supervision of a licensed pharmacist were not contained within the confines of the pharmacy.

31. The pharmacist-in-charge was not provided with the keys to Respondent's premises.

32. The pharmacist-in-charge was not provided the security access code to Respondent's premises.

33. As a person with a purported claim on the business, Ms. Serwah-Boadu, allegedly removed medications from the pharmacy shelves and took them to an undisclosed location.

34. These actions constitute a violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:39-4.15(b), (c) and (d) addressing the security of pharmacies and permit holder obligations.

COUNT III
Permit Holder Obligations

35. Complainant repeats and re-alleges the General Allegations and the Allegations of Counts I and II above as if fully set forth herein.

36. Mr. Yeboah, as the permit holder, did not safeguard prescription medications, which included Controlled Dangerous

Substances ("CDS"). The prescription medications were subsequently removed from Respondent premises prior to November 16, 2013.

37. Mr. Yeboah, as the permit holder, breached his duty to properly safeguard confidential patient records.

38. These actions constitute a violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:39-4.18 setting forth the responsibilities of permit holders.

COUNT IV
Storage of Drugs

39. Complainant repeats and re-alleges the General Allegations and the Allegations of Counts I, II and III above as if fully set forth herein.

40. Prescription medications were not maintained under adequate storage conditions, including proper lighting, ventilation and temperature control, as the prescription medications disappeared from the premises and, on information and belief, subsequently medications were brought to the premises and placed on shelves by Ms. Serwah-Boadu from an undisclosed location.

41. These actions constitute a violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:39-5.7 with respect to adequate storage conditions required for drugs.

COUNT V
Pharmacist in Charge on Premises

42. Complainant repeats and re-alleges the General Allegations and the Allegations of Counts I, II, III and IV above as if fully set forth herein.

43. A full-time pharmacist-in-charge, employed for a minimum of 35 hours per week and physically present in the pharmacy to ensure that Respondent complied with applicable rules, was not employed by the Respondent.

44. These actions constitute a violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:39-6.2 requiring every pharmacy to name a pharmacist-in-charge who is physically present a minimum of 35 hours per week.

COUNT VI
Security of CDS

45. Complainant repeats and re-alleges the General Allegations and the Allegations of Counts I, II, III, IV and V above as if fully set forth herein.

46. Effective controls and procedures to guard against theft and diversion of CDS were not in effect at Respondent premises.

47. These actions constitute a violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:45H-2.1(a) establishing security requirements for CDS medications.

COUNT VII
Confidentiality of Patient Information

48. Complainant repeats and re-alleges the General Allegations above and the Allegations of Counts I, II, III, IV, V and VI as if fully set forth herein.

49. Patient profile records were not properly secured, in that the computer containing confidential patient records was removed from Respondent's premises and its whereabouts remain unknown.

50. These actions constitute a violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:39-7.19 establishing patient profile record system requirements.

COUNT VIII
Unlicensed or Unpermitted Pharmacy Operations

51. Complainant repeats and re-alleges the General Allegations and the Allegations of Counts I, II, III, IV, V, VI, and VII above as if fully set forth herein.

52. Ms. Serwah-Boadu participated in the unlicensed practice of pharmacy by exercising possession and control over Respondent's prescription drugs; ordering pharmaceuticals on behalf of Respondent; failing to provide the pharmacist-in-charge with keys to Respondent's premises; and preventing access to the premises by the owner and permit holder of record, without the right to do so as an owner, licensed pharmacist or permit holder, constituting a violation of N.J.S.A. 45:14-49

requiring a permit or licensure to engage in the operation of a pharmacy or the practice of pharmacy.

53. The multiple violations of Board regulations; the lack of security; the confusion regarding the pharmacist-in-charge of Respondent; the dispute over ownership and access to Respondent; and the evident improper dissemination of patient confidential information; all palpably present a clear and imminent danger to public health, safety and welfare, warranting the immediate temporary suspension pursuant to N.J.S.A. 45:1-22.

WHEREFORE, Complainant respectfully demands the entry of an order against Respondent as follows:

1. Temporarily suspending Respondent's permit to operate a pharmacy in the State of New Jersey pending the disposition of a plenary hearing on this Verified Administrative Complaint;

2. Suspending or revoking Respondent's CDS registration pending the disposition of a plenary hearing on this Verified Administrative Complaint;

3. Assessing civil penalties against Respondent for each and every unlawful act as set forth above, pursuant to N.J.S.A. 45:1-25;

4. Requiring Respondent to pay costs, including investigative costs, attorney's fees and costs, expert and fact witness fees and costs, costs of trial, and transcript costs, pursuant to N.J.S.A. 45:1-25; and

5. Ordering such other and further relief as the Board shall deem just and appropriate under the circumstances.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: Kim D. Ringler
Kim D. Ringler
Deputy Attorney General

Dated: December 6, 2013