



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

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IN THE MATTER OF THE PERMIT OF

**Administrative Action**

Jacobs Pharmacy  
Permit No. 28RS00650600

INTERIM ORDER AND  
REPORT OF HEARING  
COMMITTEE TO THE BOARD

TO OPERATE AS A PHARMACY  
IN THE STATE OF NEW JERSEY

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This matter was opened to the New Jersey State Board of Pharmacy (hereinafter the "Board") on the application for a temporary suspension of pharmacy permit of Jacobs Pharmacy (hereinafter the "Pharmacy") brought by John J. Hoffman, Acting Attorney General of New Jersey, by Kim Ringler, Deputy Attorney General. An Order to Show Cause was signed by Thomas F.X. Bender, R.P., President of the Board, on December 9, 2013, with a hearing on the application scheduled for December 17, 2013. Respondent Pharmacy was represented by Robert DeGroot, Esq.

The emergent nature of the application resulted from a report from Kofi Yeboah, the 100% owner of the Pharmacy permit, that he had gained access to the pharmacy on November 16, 2013, and found that all prescription drugs had been removed from the pharmacy shelves and the premises. Although the prescription drug stock was subsequently returned, the Attorney General asserted that the permit holder's lack of control of the pharmacy and its drug stock palpably

presented a clear and imminent danger to the public health, safety and welfare.

The Verified Complaint, supported by the certifications of Anthony Rubinaccio, Joanne Leone and Kim Ringler, alleges that Kofi Yeboah, the 100% owner of the permit of the Pharmacy, advised the Board on September 12, 2013, that police directed him to leave the pharmacy. After locks on the pharmacy were changed, he had no access to the pharmacy. Instead, Akosua Serwah-Boadu, individually and as administrator of the Estate of Jacob Boadu, asserted ownership rights to the pharmacy and refused to grant access to Mr. Yeboah.<sup>1</sup> Ms. Serwah-Boadu also obtained a new medication ordering account and ordered pharmaceuticals for the Pharmacy, when she had no right to do so. She attempted to file a notice of change in pharmacist-in-charge ("RPIC") form with the Board on October 3, 2013; she signed the form as a corporate officer or proprietor.<sup>2</sup> Ms. Serwah-Boadu's attorney advised the Board that the Pharmacy would be closing on October 5, 2013; although the Board requested a closure plan that would be acknowledged by both parties, no plan was received by the Board.

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<sup>1</sup> The Estate of Jacob Boadu filed a civil lawsuit against Mr. Yeboah, which remains pending. To date, there has been no resolution of the ownership dispute over the Pharmacy.

<sup>2</sup> Subsequently, the same form was submitted to the Board and signed by Mr. Yeboah, changing the RPIC from Felix Kehinde to Nimisha Patel. Mr. Yeboah filed an additional notice of change of pharmacist-in-charge on October 29, 2013 changing the RPIC from Nimisha Patel to Julius Arinzeh.

The complaint further alleges that on November 16, 2013, Mr. Yeboah utilized a locksmith to enter the Pharmacy premises. On Monday, November 18, 2013, Mr. Yeboah advised the Board that when he re-entered the premises, he found that all of the prescription drugs that had been on the pharmacy shelves were missing, as was a computer containing confidential patient information. On November 19, 2013, Ms. Serwah-Boadu personally returned the prescription drugs to the Pharmacy, removing them from garbage bags and replacing them on the shelves. As of the date of the filing of the Verified Complaint, the computer had not been returned to the pharmacy.

Count I of the complaint alleges that Mr. Yeboah, as permit holder, failed to notify customers of the Pharmacy's closure, and failed to properly dispose of the drug stock of the pharmacy. Count II alleges that all medications requiring the supervision of a pharmacist were not contained within the confines of the pharmacy, and the RPIC of the pharmacy was not provided with keys to the Pharmacy or the security access code for the pharmacy. Count III alleges that Mr. Yeboah, as permit holder, failed to safeguard prescription medications, including controlled dangerous substances, and confidential patient records. Count IV alleges that prescription medications were not maintained under adequate storage conditions, including proper lighting, ventilation and temperature control, as the prescription medications were removed from the premises and later returned and replaced on the shelves. Count V alleges that a

full-time RPIC was not employed by the Pharmacy to ensure that the Pharmacy complied with all applicable law. Count VI alleges that effective controls and procedures to guard against theft and diversion of CDS were not in effect at the Pharmacy. Count VII alleges that patient profile records were not properly secured. Count VIII alleges that Ms. Serwah-Boadu engaged in the unlicensed practice of pharmacy by exercising possession and control over the Pharmacy's prescription drugs, ordering pharmaceuticals, failing to provide the RPIC with keys to the premises and preventing access to the premises by the owner and permit holder. The Attorney General therefore contended that the multiple violations of the laws governing the practice of pharmacy provided a basis for discipline pursuant to N.J.S.A. 45:1-21 (e) and(h) and a basis for temporary suspension existed pursuant to N.J.S.A. 45:1-22.

On December 13, 2013, Kofi Yeboah, as permit holder of the Pharmacy, filed an Answer to the Verified Complaint, supported by certifications of Kofi Yeboah and Oleg Nekritin, Esq., as well as a brief opposing the motion for a suspension of the permit of the Pharmacy. Mr. Yeboah admitted the majority of the factual allegations set forth in the Verified Complaint, and asserted that when he had access to the pharmacy, no medications were removed from the premises and no violations existed. He also contended that he had discharged his responsibilities by advising the Board of his removal from the premises, his lack of access to the premises and

his inability to control and account for the contents of the pharmacy.

On December 17, 2013, a Committee of the Board consisting of Edward McGinley, R.P. and Margherita Cardello, R.P., convened for a hearing in this matter. After opening statements, DAG Ringler submitted exhibits and a stipulation which comprised the Attorney General's case. The Exhibits are listed in Appendix A annexed hereto, and were entered into evidence without objection. The Attorney General argued that the evidence submitted demonstrates the chronology of events at Jacobs Pharmacy, including that Ms. Serwah-Boadu attempted to assert control over the premises by having Mr. Yeboah removed from the premises, changing the locks, opening and closing the pharmacy and attempting to name a new RPIC. The Attorney General contends that during the time from September 12 until November 16, 2013, while Mr. Yeboah was the sole owner of record and the sole permit holder of the pharmacy, drugs were ordered for the pharmacy using pre-signed forms, and the drugs were removed from the premises. Several days later, on November 19, in the presence of Mr. Yeboah and an attorney, Oleg Nekritin, Esq., Ms. Serwah-Boadu returned the drugs to the pharmacy. There is no evidence in the record to indicate where and under what conditions the drugs were stored while they were both inside and outside of the pharmacy, and it is unclear when the drugs were removed from the pharmacy premises. The Attorney General contended that the numerous documented failures to comply with laws governing the practice of pharmacy and the

operation of pharmacy practice sites palpably demonstrates a clear and imminent danger to the public health, safety and welfare, and warrants the entry of an immediate temporary suspension of the Pharmacy permit. The Attorney General then concluded her case.

Mr. DeGroot then called Kofi Yeboah to testify. Mr. Yeboah testified that he purchased the Pharmacy from Jacob Boadu in 2005. After Mr. Boadu died in November 2012, Mr. Yeboah received a letter from Ms. Serwah-Boadu stating that she was the administrator of Jacob Boadu's estate, and that Mr. Yeboah should provide an accounting to her for the Pharmacy business. Mr. Yeboah testified that he did not provide the accounting that was requested.

Then, on September 12, 2013, a woman came in to the pharmacy with two Newark police officers. The officers told him to leave the premises, showing him a letter from an attorney. When Mr. Yeboah resisted, telling the officers that there was no court order, the officers handcuffed him and told him to give them the keys. The officers also refused his request for an attorney. When he turned over the keys, a locksmith changed the locks on the pharmacy while he watched. He left the premises and came to the Board of Pharmacy offices to report the problem, providing a written statement to the Board's Executive Director. He also advised the Board later that week that he had passed the pharmacy and it appeared to be open.

During the ensuing weeks, he hired an attorney to represent him, and contacted his attorney to advise that the keys he was given for

the pharmacy by Ms. Serwah-Boadu did not work and that he still did not have access to the premises. At some point, he noticed that the Pharmacy was closed, and on November 16, 2013, he hired a locksmith to break the locks so he could gain access to the Pharmacy.

In response to questioning, Mr. Yeboah testified that he was aware that Ms. Serwah-Boadu ordered medications for the pharmacy. He explained that one of the drug companies that he had done business with called him on his cell phone. The drug company told him that Ms. Boadu had said that she bought the pharmacy from Mr. Yeboah and that Mr. Yeboah did not work there any longer. He also realized that money was being taken from his bank accounts by the drug companies, so he transferred money from those accounts so money could no longer be withdrawn. He stated that the drug companies are currently suing him to obtain payment for the drugs ordered after he left the pharmacy.

Mr. Yeboah was also questioned about the filing of the notices changing the RPIC of the Pharmacy. Mr. Yeboah stated that the first change, from Felix Kehinde to Nimisha Patel, was made based upon an agreement with Ms. Serwah-Boadu, specifically, a consent order filed in the civil action. He explained that Ms. Serwah-Boadu signed the first notice because she thought she had the permit, but when they made the agreement, he then signed the form and submitted it to the Board. The second change in RPIC was made because he heard, during discussions with Ms. Boadu and her attorney, that the first RPIC left.

He believed that an inventory of the controlled drugs was performed by Ms. Patel because he saw one when he regained access to the pharmacy.

The Committee members questioned Mr. Yeboah about whether he notified patients of the closing of the pharmacy, and whether all patients had obtained their prescriptions and/or their patient records. Because of his lack of access to the Pharmacy and its computerized records, he was unable to provide a definitive response.

Mr. Yeboah also testified about his understanding of the consent order entered in the civil matter. That order, entered as Exhibit P-7, provides that Mr. Yeboah would run the Pharmacy in consultation with Ms. Serwah-Boadu, and required that Mr. Yeboah be provided with the keys and alarm codes for the Pharmacy. Mr. Yeboah stated that he performed all of the obligations he had under the order, including providing financial information to Ms. Serwah-Boadu, but that she failed to comply with the terms of that order. He further testified that he has no intention of permitting Ms. Serwah-Boadu access to the pharmacy, if he is able to reopen.

Moreover, Mr. Yeboah provided evidence that he had contracted with a reverse distributor for the destruction of the Pharmacy's drug stock, specifically the prescription legend drugs. He stated that he had packed up the controlled dangerous substances as well, but had not finalized arrangements for CDS destruction. As of the date of the hearing, the drugs had not been sent to the reverse distributor

and the destruction had not occurred.

In closing, Mr. DeGroot argued that Mr. Yeboah has regained access to the premises and is working to resolve the issues with his inventory and drug stock. He offered to seek a restraining order preventing Ms. Serwah-Boadu from entering the premises and interfering with the Pharmacy's operations. He argued that when Mr. Yeboah had the "full and unfettered opportunity to work" and serve the community, he did so with only minor degrees of non-compliance, and therefore he would like the opportunity to reopen and continue to serve his customers.

DAG Ringler argued that because of the many uncertainties surrounding the ownership of the pharmacy, the problems that have existed may indeed recur. There is no evidence of the exact nature of the claim of ownership asserted by Ms. Serwah-Boadu or the defenses to the claims asserted by Mr. Yeboah. There is no document that expressly revokes the civil consent order between the parties, and that order expressly grants Ms. Serwah-Boadu access to the pharmacy. Without assurances and safeguards in place to prevent the recurrence of the "unfortunate and unusual series of events" that have been presented in this case, the DAG argued a temporary suspension of the pharmacy permit is necessary to protect the public health, safety and welfare.

## Discussion

The Committee has grave concerns whether the Pharmacy can safely operate under the current circumstances. As Mr. Yeboah has testified, and as supported by Board records, apart from a few violations found during routine inspections, the Pharmacy has operated without complaint since he became the owner in 2005. However, the unresolved ownership dispute creates a very real risk to the public's health, safety and welfare.

It appears to the Committee that Ms. Serwah-Boadu has determined to assert her ownership interest in the pharmacy by whatever means necessary. In spite of the fact that she holds licenses as a registered nurse and an advance practice nurse, as well as a controlled dangerous substance registration, she has acted with flagrant disregard for the laws governing the practice of pharmacy and controlled dangerous substances in this State. She removed drugs, including controlled dangerous substances, from the Pharmacy, and continues to hold a computer containing protected health information without any legal right to do so. Moreover, it appears that she has willfully violated an order entered in the Superior Court by failing to provide Mr. Yeboah keys to access the Pharmacy. Her actions thus far, coupled with her disturbing lack of comprehension of the consequences of her behavior provides the Committee with no confidence that she will ever comply with any Board directives or the laws governing the practice of pharmacy.

The Committee also finds that Mr. Yeboah was not as proactive in this matter as he should have been. Although he came to the Board office upon being removed from the Pharmacy, again to advise that the store appeared to be open, and finally to advise he had re-entered the Pharmacy and found the drugs missing, his efforts during that interim period are unclear. The consent order entered between the parties to the civil action appeared to resolve the conflict during the pendency of that action. Mr. Yeboah, as the permit holder of record, would be permitted to operate the pharmacy in consultation with Ms. Serwah-Boadu. An RPIC agreeable to both parties was named, and was apparently in control of the pharmacy for some period of time. Indeed, the fact that Mr. Yeboah filed two separate notice of change of RPIC forms, one on or about October 15, and one on or about October 29, 2013, suggested that the parties were operating in accord with that agreement and all was well. But in fact, that appearance was an illusion.

The Committee has no confidence that this pattern of events, or another equally damaging set of circumstances, will not recur while the issue of ownership of the pharmacy remains unresolved. The instability created by a third party in this matter has created a serious and significant risk of imminent danger to the public health, safety and welfare, if the Pharmacy were allowed to reopen without satisfying certain conditions to ameliorate those risks.

IT IS THEREFORE on this 21<sup>st</sup> day of January, 2014,

ORDERED, as announced orally on the record and effective December 17, 2013:

1. Jacobs Pharmacy shall not reopen or order any new drug stock until it demonstrates to the satisfaction of the Board the following:

a. Proof of destruction of all pre-existing drug stock, including all controlled dangerous substances, Schedules II through V, and notification to the appropriate state and federal agencies;

b. A court order that prevents Ms. Serwah-Boadu or her agents from interfering with or controlling the operation of the pharmacy, including, but not limited to, control of or access to, or possession of, patient records, drug stock, inventory and ordering systems;

c. Proof that the security system in the pharmacy is operational;

d. Proof that all personnel to be involved in the filling process are properly licensed or registered with the Board.

2. Upon providing proof as required by paragraph 1 to the satisfaction of the Board, an inspection will be scheduled of the premises, at the pharmacy's cost. If the inspection of the premises, fixtures and equipment of the pharmacy is satisfactory, the Board will permit the pharmacy to reopen.

3. Upon reopening, any disruption in normal pharmacy services and any violation of the court order referenced in paragraph 1b above, must be reported to the Board, both verbally and in writing, within 24 hours of any such disruption or violation.

4. The Pharmacy shall notify the Board of any resolution of the dispute over the ownership of the pharmacy.

5. The reporting requirements shall continue until further Order of the Board, and shall in no event be discontinued until the resolution of the dispute over the ownership of the pharmacy.

6. Nothing herein shall preclude the Board from initiating further disciplinary action against any licensee, registrant or permit-holder based upon the conduct alleged herein, or pursuing any available remedies against unlicensed individuals.

7. The entry of this Interim Order is without prejudice to the further investigation and/or prosecution of any violations by the Pharmacy, its owners or RPIC, of any statutes or regulations governing the practice of pharmacy in the State or any violations of law, by the Board, the Attorney General or any other regulatory or law enforcement agency, including but not limited to any pending matters under investigation.

8. This Order is subject to adoption, modification or rejection by the full Board of Pharmacy, after consideration of the

written record of the Committee proceeding, at its next meeting,  
currently scheduled for January 22, 2014.

NEW JERSEY STATE BOARD OF PHARMACY

*Edward G. McGinley R.Ph.*

By: \_\_\_\_\_

Edward G. McGinley, R.Ph.  
Committee Chair