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Board of Pharmacy

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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 : **Administrative Action**  
PERMIT OF :  
: **CONSENT ORDER**  
COSMO PHARMACY :  
PERMIT #28RS00742300 :  
:  
TO OPERATE AS A PHARMACY :  
IN THE STATE OF NEW JERSEY :  
.....

This matter was opened to the New Jersey State Board of Pharmacy (the "Board") in or about June 2016, upon the receipt of an inspection report of the Cosmo Pharmacy, located at 402 Pacific Avenue, Jersey City, New Jersey ("Cosmo"). The report provides information that suggests that Cosmo, a pharmacy department located in the rear of the Cosmo Liquor and Grocery store, fails to meet the requirements to be a registered pharmacy practice site in New Jersey, as well as documenting other violations of the Board's statutes and regulations.

Specifically, the report notes that at the time of the inspection, the pharmacy was open and the security system was off, although no pharmacist was present. The pharmacist-in-charge (RPIC) Omieri Mitoko, who arrived late, admitted that the unlicensed owner of the store had keys to the pharmacy department. Mitoko stated that he is responsible for the security of the keys to the pharmacy department only when he is present at the pharmacy. He also admitted that the pharmacy is open only four days per week for thirty-five hours, rather than the five days per week and forty hours required by N.J.A.C. 13:39-4.12(a), and that he worked only thirty hours per week rather than the thirty-five required by N.J.A.C. 13:39-6.2(f).

In addition, when inspectors from the Office of the State Comptroller visited Cosmo, they found Omair Malik, a pharmacy intern in Massachusetts, working at the pharmacy with no pharmacist present. Mr. Malik advised that he would accept and fill prescriptions when he is at the store, but would not dispense any prescriptions without the RPIC's approval. He also provided the name of a consultant who is available to answer questions on Tuesdays and Thursdays when the pharmacy is closed. The identified individual, Usama Javad, does not appear to be a licensed pharmacist in New Jersey.

Based upon the information provided, the Board finds that Cosmo repeatedly permitted the pharmacy to be open when no

pharmacist is present in violation of N.J.S.A. 45:14-69d. The keys to the security system are not solely held by the RPIC, and the security system is turned off when no one is in the pharmacy, in violation of N.J.A.C. 13:39-4.15(b)1. Unlicensed individuals are performing tasks, such as accepting and filling prescriptions, in violation of N.J.S.A. 45:14-49 and -71. The individual who is available for consultations on days that the pharmacy is closed does not appear to be licensed in New Jersey, although it is not clear what services she provides. Additionally, the pharmacy is not open the required number of days or hours, and the RPIC is not employed for the minimum number of hours required by law, in violation of N.J.A.C. 13:39-4.12(a) and N.J.A.C. 13:39-6.2(f). These violations provide a basis for disciplinary action against Cosmo's pharmacy permit pursuant to N.J.S.A. 45:14-75(b) and N.J.S.A. 45:1-21(d), (e), (h) and (n).

The parties, having agreed to the entry of this Order without further formal proceedings, and Cosmo, having agreed and given voluntary consent to the within order, and waiving any right to a hearing, and the Board finding the within disposition adequately protective of the public health, safety, and welfare, and other good cause having been shown;

IT IS, therefore, on this 13th day of October,  
2016,

**ORDERED AND AGREED THAT:**

1. Cosmo's permit to operate as a pharmacy in the State of New Jersey, permit number 28RS00742300, shall be and hereby is suspended for a period of one year, effective upon entry of this Order. The entire suspension shall be stayed and served as a period of probation, subject to compliance with the terms of this Order and the laws governing the practice of pharmacy in New Jersey.

2. During the entire period of probation, Cosmo's operations shall be under the supervision of a third-party monitor approved by the Board. Affiliated Monitors, Inc. has been approved by the Board for this purpose. The monitor shall supervise all aspects of the pharmacy's practice, including personnel, pharmacy security, recordkeeping, billing and proper dispensing practices. Cosmo shall provide weekly employment schedules to the monitor, ensuring that a pharmacist is present when the pharmacy is open, and that the pharmacist-in-charge works the hours required by the Board's regulations. The monitor shall visit the pharmacy on a random basis at least once every two weeks, and provide a report to the Board after each visit. After three months, the monitor may seek a reduction in visits to once per month. In the event of a violation of the laws regarding pharmacy practice, including, without limitation, a violation of the regulations regarding pharmacy security or

permitting an unlicensed individual to perform tasks for which a license or permit is required, the monitor shall inform the Board within 48 hours of becoming aware of any such violation. The monitor shall be required to sign this Consent Order to indicate that the monitor has read the order and agrees to comply with its terms. All costs of monitoring shall be the responsibility of Cosmo.

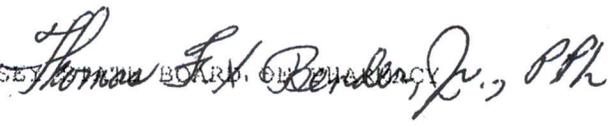
3. Cosmo shall hire a new registered pharmacist-in-charge ("RPIC") of the pharmacy, who may not be Omicri Mitoko, R.P. The new RPIC must be a New Jersey licensed pharmacist in good standing, with no prior disciplinary history and at least three years of experience as a licensed pharmacist. The RPIC cannot be related to the owner of the pharmacy through consanguinity or marriage. The RPIC must agree to assume the responsibilities for the pharmacy and work the required minimum number of hours. The RPIC must sign this order to indicate that he or she has read the order and agrees to comply with its terms. Once the RPIC has been hired and the paperwork filed with the Board, Cosmo may not change the RPIC without Board approval. Ravil Shah, R.Ph., pharmacy license number 28R103133600 has agreed to serve as RPIC for the pharmacy beginning on October 10, 2016.

4. Cosmo shall be assessed civil penalties, pursuant to N.J.S.A. 45:1-25, in the amount of \$6,500, for the violations set forth above. Payment shall be made by certified check,

bank check, money order, wire transfer or credit card payable to the State of New Jersey, delivered to Anthony Rubinaccio, Executive Director, State of Board of Pharmacy, P.O. Box 45013, Newark, New Jersey 07101. Any other form of payment cannot be accepted and will be returned to Cosmo. The first payment of \$541.74 is due contemporaneously with the signing of this Order, and subsequent payments of \$541.66 shall continue to be due by the first of each month until all twelve payments are completed. In the event that respondent does not make a timely payment, the full balance will immediately become due.

5. During the period of probation, in the event of a report of a serious violation by the monitor or other evidence of a serious violation presented to the Board, or a failure to make payment as required by paragraph 4 above, the Board may immediately enter an order making Cosmo's stayed suspension active. Cosmo shall have the right to apply to the Board to request a hearing, on seven (7) days' notice, for removal of the automatic suspension, but the application shall be limited to a showing that the information submitted to the Board was false or inaccurate.

NEW JERSEY BOARD OF PHARMACY

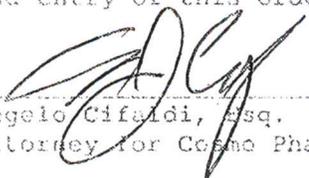
  
By: \_\_\_\_\_  
Thomas F.X. Bender, R.Ph.,  
President

I have read the within Order and understand it. I agree to be bound by its terms and hereby consent to it being entered by the New Jersey Board of Pharmacy.

  
Ghazala Zubair  
Owner, Cosmo Pharmacy

Dated: 10/10/2016

Consent is given as to form and entry of this Order

  
Angelo Cifaldi, Esq.  
Attorney for Cosmo Pharmacy

Dated: 10/12/16

I have read the attached Consent Order. I agree to serve as the RPIC for Cosmo Pharmacy and comply with the terms of this Consent Order.

  
Ravil Shah, R.Ph.

Dated: 10/10/2016

I have read the attached Consent Order. Affiliated Monitors agrees to monitor Cosmo Pharmacy's operations and to report to the Board as set forth above.

By:   
(Print Name) Stephen J. Nemmers, PhD  
For Affiliated Monitors

Dated: 7/24/2016