TEMPORARY SUSPENSION ORDER #A-15-017-BS2

RE:	IN THE MATTER OF SUPREME RX PHARMACY (PHARMACY LICENSE #27422)	BEFORE THE TEXAS STATE BOARD OF PHARMACY

On this day came on to be considered by the Disciplinary Panel of the Texas State Board of Pharmacy (Board) the matter of the Petition for Temporary Suspension of pharmacy license number 27422, issued to Supreme RX Pharmacy (Respondent), 12827 Westheimer Road, Houston, Texas 77077, pursuant to § 565.059 of the Texas Pharmacy Act (Pharmacy Act), TEX. OCC. CODE ANN., Title 3, Subtitle J. Previously, a hearing without notice was held by the Disciplinary Panel on May 12, 2015, and Respondent's pharmacy license was temporarily suspended on that date by Temporary Suspension Order #A-15-017-BS1.

John Auguste, Managing Officer of Telja Unlimited, LLC, on behalf of Respondent, did not appear and was not represented by counsel. Caroline Hotchkiss represented Board staff. Kerstin Arnold served as General Counsel to the Disciplinary Panel. The following Board members served as the Disciplinary Panel: Jeanne D. Waggener, R.Ph.; Dennis F. Wiesner, R.Ph.; and Bradley A. Miller, Ph.T.R.

The Disciplinary Panel determines that Respondent, by continuation in the operation of the pharmacy, would constitute a continuing threat to the public welfare, and that pharmacy license number 27422 issued to Respondent shall be temporarily suspended in accordance with § 565.059 of the Pharmacy Act. The Disciplinary Panel makes this finding based on the following evidence and/or information presented at this, Second Hearing with Notice on Temporary Suspension of License of Respondent:

1. Supreme RX Pharmacy, 12827 Westheimer Rd., Houston, Texas 77077, holds Texas pharmacy license number 27422.

2. The sole managing officer of Telja Unlimited, LLC, which operates Supreme RX Pharmacy, is John Auguste.

3. As the owner of a pharmacy, Mr. Auguste has responsibility for all administrative and operational functions of the pharmacy.

4. A pharmacy is responsible for any violations in the practice of pharmacy by an owner or employee of the pharmacy.

5. The license of Supreme RX Pharmacy is current through March 31, 2017.

6. All jurisdictional requirements have been satisfied.

7. On or about June 15, 2012, the TSBP informed Supreme RX Pharmacy of the receipt of information indicating that the pharmacy may be dispensing a number of potentially invalid prescriptions for controlled substances, due to the pharmacy's pattern of purchases and sales of hydrocodone, carisoprodol, and alprazolam tablets. No disciplinary action was taken with regard to this matter.

8. The sole managing officer of Telja Unlimited, LLC, which operates Supreme RX Pharmacy, is John Auguste. Mr. Auguste's spouse is Beveier Auguste, who is the sole managing officer of RX Max Pharmacy, LLC, which operates RX Max Pharmacy, 5858 South Gessner Drive, #124, Houston, Texas 77036, and Artemis Pharmacy, LLC, 9640 Court Glen Drive, Houston, Texas 77099. RX Max Pharmacy and Artemis Pharmacy are subject to the following disciplinary actions by the TSBP, based on dispensing prescriptions issued on October 4, 2014, for hydrocodone/APAP 10/325 mg tablets by Vogue Davis, advanced practice nurse (APN), under the supervision of Raul Rodriguez, M.D., Center Care Medical Group, 8700 Commerce Park, Suite 125, Houston, Texas 77036:
    a. On or about April 22, 2015, a disciplinary panel of the TSBP entered Temporary Suspension Order #A-15-015-BS1 in the matter of RX Max Pharmacy. This action was based on evidence and/or information that RX Max Pharmacy dispensed prescriptions to approximately 480 patients issued on October 4, 2014, by Ms. Davis, and
    b. On or about May 12, 2015, a disciplinary panel of the TSBP entered Temporary Suspension Order #A-15-016-BS1 in the matter of Artemis Pharmacy LLC. This action was based on evidence and/or information that Artemis Pharmacy, LLC dispensed prescriptions to approximately 294 patients pursuant to prescriptions purportedly issued on October 4, 2014, by Ms. Davis.

9. Between on or about October 9, 2014, through on or about March 6, 2015, Supreme RX Pharmacy sold hydrocodone/APAP 10/325 mg tablets to 405 patients pursuant to prescriptions purportedly issued on October 4, 2014, by Vogue Davis, APN (totaling

48,600 dosage units). These prescriptions were invalid because they were issued without a valid patient-practitioner relationship and/or a valid medical need.

10. Pharmacist personnel of Supreme RX Pharmacy engaged in fraud by dispensing and delivering these prescriptions for controlled substances because Vogue Davis, APN, acted outside the course of professional practice by supplying prescriptions to patients with the same date of issuance, and pharmacist employees of Supreme RX pharmacy knew or should have known that the practitioner could not have a valid patient-practitioner relationship with 405 patients in a single day.

11. Supreme RX Pharmacy was required to ensure that its agents and employees, before dispensing a prescription, determined that the prescription was a valid prescription. It was known or should have known the prescriptions issued by Vogue Davis, APN, to the 405 patients were invalid and fraudulent because, based primarily on the factors listed below, the patients receiving such prescriptions received inadequate or improper medical treatment and/or the prescribers failed to use medical reasoning in issuing the prescriptions.
    - The patients received prescription drug orders written by Ms. Davis for an hydrocodone/APAP 10/325 mg (an opioid), along with either a benzodiazepine (alprazolam) and/or a muscle relaxant (carisoprodol), which is part of what is known in the Houston, Texas community as "the Houston cocktail" and "the Trinity." Hydrocodone, alprazolam, and carisoprodol are controlled substances with a high potential for abuse, and the drugs are commonly sought by drug abusers and have a high street value, indicating that diversion from legitimate medical channels was more likely;
    - Prescriptions for hydrocodone written by Ms. Davis were prescribed in consistent quantities of 120 tablets of hydrocodone/APAP 10/325 mg tablets per prescription drug order, indicating that the prescription drug orders were not based on an individual patient assessment or medical need;
    - In an attempt to avoid regulatory scrutiny for prescribing and dispensing an inversely proportional amount of controlled substances, the prescription drug orders written by Ms. Davis contained an equal number of dangerous drugs to controlled substances, i.e., ibuprofen 600 mg and a multivitamin; and
    - Supreme RX Pharmacy charged, and patients were willing to pay $340 for 120 hydrocodone/APAP 10/325 mg tablets ($2.83 per tablet). This pricing of hydrocodone/APAP indicates that Supreme RX Pharmacy was not dispensing the drug for legitimate medical purposes, but rather selling the drug for profit to drug-seeking patients willing to pay a higher price for a pharmacy that would not reject the invalid prescriptions.

12. On May 15, 2015, Board staff mailed a Notice of Hearing and Petition to Respondent by first class and certified mail to Respondent's address of record.

13. The Notice of Hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing has to be held;

a reference to the particular section of the statutes and rules involved; and a statement of the matters asserted.

14. The Notice of Hearing contained the following language: "your failure to appear will not prevent the TSBP from temporarily suspending [Respondent's] license."

15. Respondent did not appear and was not represented at the hearing.

Subsequent to any proceedings involving the conduct described above, the Board may take additional disciplinary action on any criminal action taken by the criminal justice system based on the same conduct described in the allegations above. However, Respondent shall be provided all rights of due process should the Board initiate such disciplinary action subsequent to the conclusion of the criminal proceedings.

ORDER OF THE BOARD

THEREFORE, PREMISES CONSIDERED, the Board does hereby ORDER that:

(1) Effective upon the entry of this Order, Temporary Suspension Order #A-15-017-BS1, entered on May 12, 2015, shall be set aside and be of no further force and effect, and this Order shall supersede Temporary Suspension Order #A-15-017-BS1.

(2) Pharmacy license number 27422 held by Respondent shall be, and such license is hereby temporarily suspended. Said suspension shall be effective immediately and shall continue in effect, pending a contested case hearing on disciplinary action against the suspended license to be held at the State Office of Administrative Hearings not later than ninety (90) days after the date of this Order. During the period of suspension, Respondent shall:

   (a) not operate as a pharmacy in this state in any manner that would allow receipt, distribution, or dispensing prescription drugs during the period said license is suspended; and

   (b) shall surrender to the Board said license and any renewal certificate pertaining to said license number as specified by Board staff.

(3) Failure to comply with any of the requirements in this Order constitutes a violation and shall be grounds for further disciplinary action. The requirements of this Order are subject to the Texas Pharmacy Act, TEX. OCC. CODE ANN., Title 3, Subtitle J (2013), and Texas Pharmacy Board Rules, 22 TEX. ADMIN. CODE (2015).

Passed and approved at the Temporary Suspension Hearing of the Disciplinary Panel of the Texas State Board of Pharmacy on the 26th day of May, 2015.

And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED ON THIS 26th day of May, 2015.

MEMBER, TEXAS STATE BOARD OF PHARMACY

R.Ph.
MEMBER, TEXAS STATE BOARD OF PHARMACY

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MEMBER, TEXAS STATE BOARD OF PHARMACY