

TEMPORARY SUSPENSION ORDER #J-14-004-BSI

RE: IN THE MATTER OF
A & I PHARMACY, LLC
(PHARMACY LICENSE #28645)

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 Temporary Suspension of pharmacy license number 28645, issued to A & I Pharmacy, LLC ("Respondent"), 100 W. Pioneer Pkwy. 113B, Arlington, Texas 76010, pursuant to § 565.059 of the Texas Pharmacy Act ("Pharmacy Act"), TEX. OCC. CODE ANN., Title 3, Subtitle J. The Disciplinary Panel considered the case during a hearing without notice, and a second hearing with notice of hearing is scheduled within fourteen (14) days of the date of this Order.

Wesley Stiger, Managing Officer, for and on behalf of Respondent, did not appear and was not represented by counsel. Caroline K. Hotchkiss represented Board staff. Kerstin E. 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 Christopher M. Dembny, R.Ph.

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 28645 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 the April 29, 2014, Hearing on Temporary Suspension of License of Respondent:

1. A & I Pharmacy, LLC, 100 W. Pioneer Pkwy. 113B, Arlington, Texas 76010, holds Texas pharmacy license number 28645.
2. The sole managing officer of A & I Pharmacy, LLC, is Wesley Stiger.

3. As the owner of a pharmacy, Mr. Stiger has responsibility for all administrative and operational functions of the pharmacy.
4. The license of A & I Pharmacy, LLC is current through July 31, 2015.
5. All jurisdictional requirements have been satisfied.
6. On July 9, 2013, TSBP issued a pharmacy license to A & I Pharmacy, LLC.
7. On or about July 10, 2013, A & I Pharmacy, LLC commenced operating as a pharmacy.
8. On or about January 22, 2014, at approximately 11:00 a.m., a compliance inspector for the TSBP attempted to inspect A & I Pharmacy, LLC, but was not able to do so because the pharmacy was not open.
9. On or about April 2, 2014, at approximately 10:45 a.m., a compliance inspector for the TSBP attempted to inspect A & I Pharmacy, LLC, but was not able to do so because the pharmacy was not open. The compliance inspector tried to contact Mr. Stiger via telephone regarding the attempted inspection. Mr. Stiger did not answer the inspector's call, and the inspector was unable to leave a message because voicemail for the telephone had not been set-up.
10. On or about April 2, 2014, after leaving the licensed location of A & I Pharmacy, LLC, the compliance inspector hand-delivered a Warning Notice to Merin Kurian, R.Ph., the pharmacist-in-charge of A & I Pharmacy, LLC, at her personal residence. The Warning Notice informed Ms. Kurian, as pharmacist-in-charge of A & I Pharmacy, LLC, that A & I Pharmacy, LLC was in violation of Texas pharmacy law for failing to engage in the operation of a pharmacy, and notified A & I Pharmacy, LLC that pharmacy operations must resume on or before April 12, 2014.
11. On or about April 9, 2014, TSBP Staff received the Response to Warning Notice issued to A & I Pharmacy, LLC. The response did not address the cited violation, but provided that Ms. Kurian was no longer pharmacist-in-charge of A & I Pharmacy, LLC.
12. On or about April 11, 2014, a compliance inspector spoke to Mr. Stiger via telephone, and informed Mr. Stiger that the response described above was not adequate to address the alleged violation for failing to engage in the operation of a pharmacy. An extension was granted by TSBP Staff that provided Mr. Stiger until April 14, 2014, to come into compliance with the Warning Notice.
13. On or about April 14, 2014, a compliance inspector inspected A & I Pharmacy, LLC with the assistance of a TSBP investigator. Present on behalf of A & I Pharmacy, LLC was Mr. Stiger. A & I Pharmacy, LLC has no pharmacist-in-charge since the resignation of Ms. Kurian effective April 9, 2014, and reports no pharmacist personnel to the TSBP as being employees.

14. During the April 14, 2014 inspection, the compliance inspector noted that the pharmacy was not operational, although there are numerous dangerous drugs in the pharmacy. The inspection of pharmacy records demonstrated that the pharmacy had not dispensed a prescription since on or about September 14, 2013.

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) Pharmacy license number 28645 held by Respondent shall be, and such license is hereby temporarily suspended. Said suspension shall be effective immediately and shall continue in effect for a period of fourteen (14) days unless a further Order of the Board is entered. 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.
- (2) Respondent shall allow Board staff to directly contact Respondent on any matter regarding the enforcement of this Order.
- (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 (2014).

Passed and approved at the Temporary Suspension Hearing of the Disciplinary Panel of the Texas State Board of Pharmacy on the 29th day of April, 2014.

And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED ON THIS 29th day of April, 2014.


MEMBER, TEXAS STATE BOARD OF PHARMACY


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