

*TEMPORARY SUSPENSION ORDER #A-15-016-BSI*

RE: IN THE MATTER OF  
ARTEMIS PHARMACY LLC  
(PHARMACY LICENSE #28030)

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 28030, issued to Artemis Pharmacy LLC (Respondent), 9640 Court Glen Drive, Houston, Texas 77099, pursuant to § 565.059 of the Texas Pharmacy Act (Pharmacy Act), TEX. OCC. CODE ANN., Title 3, Subtitle J.

Beveier Auguste, Managing Officer of Artemis Pharmacy, LLC, for and on behalf of Respondent, did not appear and was not represented by counsel. Caroline K. Hotchkiss represented Board staff. Staff moved for a default based on Respondent's failure to appear. Kerstin E. Arnold served as General Counsel to the Disciplinary Panel. The following Board members served as the Disciplinary Panel: Dennis F. Wiesner, R.Ph.; Joyce A. Tipton, R.Ph., M.B.A.; and Phyllis A. Stine.

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 28030 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 May 12, 2015, Hearing on Temporary Suspension of License of Respondent:

1. Artemis Pharmacy LLC, 9640 Court Glen Drive, Houston, Texas 77099, holds Texas pharmacy license number 28030.
2. The sole managing officer of Artemis Pharmacy, LLC, which operates Artemis Pharmacy LLC, is Beveier Auguste.

3. As the owner of a pharmacy, Ms. 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 Artemis Pharmacy LLC is current through May 31, 2016.
6. All jurisdictional requirements have been satisfied.
7. The sole managing officer of Artemis Pharmacy, LLC, which operates Artemis Pharmacy LLC, is Beveier Auguste. Ms. Auguste is also the sole managing officer of RX Max Pharmacy, LLC, which operates RX Max Pharmacy, 5858 South Gessner Drive, #124, Houston, Texas 77036. The licensed locations of Artemis Pharmacy LLC and RX Max Pharmacy are a distance of approximately six miles from each other. 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 (totaling 1,080 prescriptions for hydrocodone/APAP 10/325 mg, carisoprodol 350 mg, and alprazolam 2mg tablets) issued on October 4, 2014, 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.
8. Between on or about October 15, 2014, through February 16, 2015, Artemis Pharmacy LLC sold controlled substances and dangerous drugs to 294 patients pursuant to prescriptions purportedly issued on October 4, 2014, by Vogue Davis, APN. The 294 patients were dispensed the following prescriptions<sup>†</sup> by Taofik Mobolaji Brown, pharmacist-in-charge of Artemis Pharmacy LLC:
  - 294 prescriptions for 120 hydrocodone/APAP 10/325 mg tablets\* (35,280 dosage units);
  - 236 prescriptions for 90 carisoprodol 350 mg tablets (21,240 dosage units);
  - 55 prescriptions for 45 alprazolam 2mg tablets (2,475 dosage units);
  - 293 prescriptions for 30 ibuprofen 600 mg tablets (8,790 dosage units);
  - 293 prescriptions for 30 multivitamin tablets (8,790 dosage units); and
  - 2 prescriptions for 14 amoxicillin 500 mg tablets (28 dosage units)Total: 1,173 prescriptions; 76,603 dosage units  
(58,995 dosage units of controlled substances;  
and 17,608 dosage units of dangerous drugs)  
These prescriptions were invalid because they were issued without a valid patient-practitioner relationship and/or a valid medical need.

<sup>†</sup>*See Exhibit 1 containing chart of information represented*

<sup>\*</sup>*3 patients' prescriptions for 120 Norco 10/325mg changed to 120 Tylenol #3 (360 dosage units of Tylenol #3 included in dosage units totals as Norco 10/325mg)*

9. Taofik Mobolaji Brown, while acting as an employee (pharmacist-in-charge) of Artemis Pharmacy LLC, engaged in fraud by dispensing and delivering these prescriptions for controlled substances and dangerous drugs 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 Artemis Pharmacy LLC knew or should have known that the practitioner could not have a valid patient-practitioner relationship with 294 patients in a single day.
  
10. Artemis Pharmacy LLC 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 1,173 prescriptions issued by Vogue Davis, APN, and dispensed to the 294 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 opioid (hydrocodone), 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, alprazolam and carisoprodol written by Ms. Davis were prescribed in consistent quantities of 120 tablets of hydrocodone/APAP 10 mg tablets, 45 tablets of alprazolam 2mg, and 90 tablets of carisoprodol 350 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. Specifically, 586 of the prescriptions dispensed by Artemis Pharmacy LLC for prescriptions written by Ms. Davis were ibuprofen 600 mg tablets and a multivitamin, and 582 of the prescriptions dispensed by Ms. Davis were for hydrocodone/APAP 10/325 mg, carisoprodol 350 mg, and alprazolam 2mg tablets. (The other two prescriptions issued by Ms. Davis and dispensed by the pharmacy were for 14 amoxicillin 500 mg tablets.) Thus, prescriptions for dangerous drugs prescribed by Ms. Davis were dispensed to a patient along with a prescription for hydrocodone/APAP 10/325 mg tablets, alprazolam 2mg tablets or carisoprodol 350 mg tablets, indicating that the dangerous drug prescriptions also were not prescribed based on a therapeutic need;
  - During the five-month time period analyzed, Artemis Pharmacy LLC routinely dispensed prescriptions written by Ms. Davis on each business day. The high quantity of prescriptions written by Ms. Davis specifically on October 4, 2014, that were dispensed by Artemis Pharmacy LLC indicates that this prescriber saw numerous patients per day, which undermines the ability to prescribe based on an

individual patient assessment or pursuant to medical need, or identifies that Ms. Davis intentionally backdated the date of issuance for hydrocodone/APAP 10/325 mg prescriptions to be issued prior to the rescheduling of the controlled substance. The regularity of prescriptions dispensed by Artemis Pharmacy LLC issued by Ms. Davis throughout the time period at issue emphasizes the agents and employees of Artemis Pharmacy LLC's responsibility to be aware of the specific prescriber and her habits; and

- Artemis Pharmacy LLC charged, and patients were willing to pay \$500 for 120 hydrocodone/APAP 10/325 mg tablets (\$2.83 per tablet, \$340 total), 90 carisoprodol 350 mg tablets (\$1.55 per tablet, total \$140), and \$10 each for 30 ibuprofen 600 mg and 30 multivitamins. This pricing of the drugs indicates that Artemis Pharmacy LLC was not dispensing the drugs for legitimate medical purposes, but rather selling the drugs for profit to drug-seeking patients willing to pay a higher price for a pharmacy that would not reject the invalid prescriptions.

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 28030 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.

- (2) Respondent shall immediately transfer all prescription drugs to a secured licensed pharmacy or other entity with the authority to legally possess prescription drugs, not later than May 19, 2015, and to immediately thereafter provide documentation of such transfer to the Board.
- (3) If Respondent does not immediately and fully comply with the terms of paragraph (2) above, the Board shall have the authority to remove all dangerous drugs from Respondent's establishment for the purpose of either transferring such drugs to a secured licensed pharmacy or other entity with the authority to legally possess dangerous drugs set forth in § 483.041(c) of the Texas Dangerous Drug Act, or destroying such drugs as in § 483.074 of the Texas Dangerous Drug Act.
- (4) Respondent shall be responsible for all costs relating to compliance with the requirements of this Order.
- (5) Respondent shall allow Board staff to directly contact Respondent on any matter regarding the enforcement of this Order.
- (6) 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 12th day of May, 2015.

And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED ON THIS 12th day of May, 2015.

  
MEMBER, TEXAS STATE BOARD OF PHARMACY

  
MEMBER, TEXAS STATE BOARD OF PHARMACY

  
MEMBER, TEXAS STATE BOARD OF PHARMACY

**Artemis Pharmacy, LLC Orders by Vogue R. Davis, APN (October 4, 2014)**

233 Patients receiving 932 prescriptions:

SECTION 1	Norco 10/325mg Tab, #120 →27,960 DUs
	Soma 350mg Tab, #90 →20,970 DUs
	Ibuprofen 600mg Tab, #30 →6,990 DUs
	Multivitamin Tab, #30 →6,990 DUs

1 Patient receiving 3 prescriptions:

SECTION 5	Norco 10/325mg Tab, #120 →120 DUs
	Amoxicillin 500mg Tab, #14 →14 DUs
	Multivitamin Tab, #30 →30 DUs

55 Patients receiving 220 prescriptions:

SECTION 2	Norco 10/325mg Tab, #120 →6,600 DUs
	Xanax 2mg Tab, #45 →2,475 DUs
	Ibuprofen 600mg Tab, #30 →1,650 DUs
	Multivitamin Tab, #30 →1,650 DUs

1 Patient receiving 3 prescriptions:

SECTION 6	Norco 10/325mg Tab, #120 →120 DUs
	Amoxicillin 500mg Tab, #14 →14 DUs
	Ibuprofen 600mg Tab, #30 →30 DUs

3 Patients with Orders for Norco 10/325mg receiving 12 prescriptions:

SECTION 3	Tylenol #3 Tab, #120 →360 DUs
	Soma 350mg Tab, #90 →270 DUs
	Ibuprofen 600mg Tab, #30 →90 DUs
	Multivitamin Tab, #30 →90 DUs

**294 Total Patients:**

Norco 10/325mg = 291 RXs/34,920 DUs

Soma 350mg = 236 RXs/21,240 DUs

Ibuprofen 600mg = 293 RXs/8,790 DUs

Multivitamin = 293 RXs/8,790 DUs

Xanax 2mg = 55 RXs/2,475 DUs

Tylenol #3 = 3 RXs/360 DUs

Amoxicillin 500mg = 2 RXs/28 DUs

1 Patient receiving 3 prescriptions:

SECTION 4	Norco 10/325mg Tab, #120 →120 DUs
	Ibuprofen 600mg Tab, #30 →30 DUs
	Multivitamin Tab, #30 →30 DUs

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**Total DUs = 1,173 RXs/76,603 DUs**