

*TEMPORARY SUSPENSION ORDER #A-17-018-BS1*

RE: IN THE MATTER OF  
FRIENDLY PHARMACY  
(PHARMACY LICENSE #26840)

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 26840, issued to Friendly Pharmacy (Respondent), 3533 South Dairy Ashford, Suite G, Houston, Texas 77082, pursuant to § 565.059 of the Texas Pharmacy Act (Pharmacy Act), TEX. OCC. CODE ANN., Title 3, Subtitle J.

Folorunso Oluremi Akinyele, Individual Owner, on behalf of Respondent, was in attendance and 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 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 26840 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 November 15, 2017, Hearing on Temporary Suspension of License of Respondent:

1. On or about March 9, 2010, Respondent, 3533 South Dairy Ashford, Suite G, Houston, Texas 77082, was issued Texas pharmacy license number 26840.
2. The individual owner of Respondent is Folorunso Oluremi Akinyele.
3. As the holder of a pharmacy license, Respondent is liable for any violation of the Act by an employee of the pharmacy.

4. As the owner of a pharmacy, Mr. Akinyele has responsibility for all administrative and operational functions of the pharmacy.
5. A pharmacy is responsible for any violations in the practice of pharmacy by an owner or employee of the pharmacy.
6. The pharmacy license of Respondent was in full force and effect at all times and dates material and relevant to this Order.
7. The license of Respondent is current through March 31, 2018.
8. All jurisdictional requirements have been satisfied.
9. On or about July 12, 2016, an inspector for the Texas Department of Public Safety, Regulatory Services Division, conducted an inspection of Respondent, 3533 South Dairy Ashford, Suite G, Houston, Texas 77082. The inspector documented on the inspection report that the pharmacy was advised of applicable Texas controlled substance dispensing law for a pharmacist, i.e., Tex. Health & Safety Code § 481.074, and to “verify patient/doctor relationship. Do not use phone number on prescription. Use alternative method.”
10. Between on or about July 26, 2016, through July 25, 2017, Respondent and Mr. Akinyele, while acting as an owner and employee (pharmacist-in-charge and a pharmacist), dispensed 1,985 invalid prescriptions for controlled substances purportedly authorized by Lawrence Goodman, M.D., and Charles Hill, M.D., as follows:

Total for Dr. Hill:	1,415 RXs	91,650 Dosage Units
Total for Dr. Goodman:	572 RXs	46,758 Dosage Units

The 1,985 invalid prescriptions were comprised of the following controlled substances: alprazolam 2mg tablets, diazepam 10 mg tablets, promethazine with codeine 6.25-10mg/5ml liquid, carisoprodol 350 mg tablets, and codeine/APAP 60/300 mg tablets. Additionally, on or about the same date of dispensing as the above referenced controlled substances, Respondent and Mr. Akinyele dispensed 1,870 prescriptions for non-controlled drugs and products not requiring a prescription (but which were written as purported prescriptions), also allegedly issued by Dr. Hill or Dr. Goodman. In total, the pharmacy and Mr. Akinyele dispensed 3,857 prescriptions purportedly issued by Dr. Hill or Dr. Goodman. The pharmacy’s total dispensing of all prescriptions for the year time period was 5,785 prescriptions. Thus, 66.68% of all prescriptions dispensed were those allegedly issued by Dr. Hill or Dr. Goodman. Both Dr. Hill and Dr. Goodman provided written statements that they did not authorize the prescription drug orders, in that Dr. Hill retired in December 2013, and Dr. Goodman does not issue outpatient prescription drug orders for controlled substances. The prescription drug orders dispensed by Respondent and Mr. Akinyele frequently contain a notation that they were “verified,” but lack details as to what methods were utilized to verify the prescription drug orders or what specific

factors about the prescription, the drugs allegedly issued, the prescriber, the patient, and/or the purported patient-practitioner relationship was verified.

Mr. Akinyele should have known the prescription drug orders purportedly authorized by Dr. Hill and Dr. Goodman were invalid, i.e., not issued for appropriate therapeutic purpose or valid medical need and/or prescription forgeries, due to prescription red flags factors indicating recurrent and readily-identifiable inappropriate prescribing and dispensing activity to a reasonable pharmacist, including:

- a. The prescriptions were for the above-stated controlled substances, which are popular as street drugs and have a high potential for abuse;
- b. The prescriptions were for consistent large quantities of the above-stated controlled substances, e.g., 60 tablets of alprazolam 2mg, 90 tablets of carisoprodol 350 mg, 240 ml of promethazine with codeine 6.25-10mg/5ml liquid; and greater than 100 tablets of codeine/APAP 60/300 mg tablets;
- c. The prescriptions were routinely dispensed to patients receiving more than one of the above-listed controlled substances on the same date for a combination of controlled substances;
- d. The prescription drug orders routinely lack a specific diagnosis and the intended use for the drug prescribed;
- e. According to the address on the prescription drug order forms for Dr. Hill<sup>1</sup> and Goodman,<sup>2</sup> the purported medical practice sites are over 30 miles from Respondent, which is a far distance in the Houston metropolitan area with numerous other pharmacy options. In addition, for most patients there is no logical relation to patients' home addresses to justify legitimate trade at Respondent;
- f. The prescribers allegedly issued prescription drug orders for drugs in quantities and strengths that would be inconsistent with medical specialties reported to the Texas Medical Board. Dr. Hill is a family medicine doctor, and Dr. Goodman is an anesthesiologist.
- g. Respondent purportedly sold the prescriptions in exchange for cash and did not utilize a third-party insurer;
- h. The unexplained distance patients were willing to travel along with other prescription red flags identify that individuals knew that in exchange for cash payment these prescription drug orders would be filled with controlled substances from Respondent and Mr. Akinyele, indicating that the prescriptions may be fraudulent or not issued for appropriate medical purpose(s);

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<sup>1</sup> The address on prescription forms associated with Dr. Hill list an address of 800 Peakwood Dr. Suite 7F, Houston, Texas 77090. Peakwood Drive is located proximate to Houston Northwest Medical Center. As of March 2017, Dr. Hill had not maintained a practice location for over three years at this address.

<sup>2</sup> The address on prescription forms associated with Dr. Goodman list an address of 2902 Acorn Wood Way, Houston, Texas 77059. Acorn Wood Way is a residential street with private homes, located in southeast Houston near Clear Lake.

- i. Patients receiving the prescriptions were generally dispensed non-controlled drugs at the same time as the prescriptions for controlled substances, which were also purportedly authorized by Dr. Hill and Dr. Goodman. These non-controlled drugs total 1,870 prescriptions, which is 48% of the total dispensing for prescriptions purportedly issued by Dr. Hill and Dr. Goodman. Dispensing controlled substances and non-controlled substances in ratio of 1:1 is recognized as an attempt to subvert regulatory oversight of inappropriate prescribing and dispensing of controlled substances; and

During the entire time period referenced, the prescriptions for the same or similar drugs in the same or similar quantities and in the same or similar combinations of drugs were dispensed to multiple patients per day.

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 26840 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) remove the wall certificate for said license and any renewal certificate pertaining to said license from public display in a pharmacy and may not further display in public view said certificates.
- (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 November 22, 2017, 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) 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 (2017), and Texas Pharmacy Board Rules, 22 TEX. ADMIN. CODE (2017).

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Passed and approved at the Temporary Suspension Hearing of the Disciplinary Panel of the Texas State Board of Pharmacy on the 15th day of November, 2017.

And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED ON THIS 15th day of November, 2017.

  
MEMBER, TEXAS STATE BOARD OF PHARMACY

  
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