

TEMPORARY SUSPENSION ORDER #A-15-019-AS1

RE: IN THE MATTER OF
CHUKWUMA U. ANYANWU
(PHARMACIST LICENSE #52885)

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 pharmacist license number 52885, issued to Chukwuma U. Anyanwu (Respondent), pursuant to § 565.059 of the Texas Pharmacy Act (Pharmacy Act), TEX. OCC. CODE ANN., Title 3, Subtitle J.

Respondent and Eddie M. Pope, Legal Counsel for Respondent, were in attendance. 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.; Joyce A. Tipton, R.Ph.; and Phyllis A. Stine.

The Disciplinary Panel determines that Respondent, by continuation in practice, would constitute a continuing threat to the public welfare, and that pharmacist license number 52885 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 22, 2015, Hearing on Temporary Suspension of License of Respondent:

1. On or about April 11, 2013, Respondent was issued Texas pharmacist license number 52885.
2. Respondent's Texas pharmacist license was in full force and effect at all times and dates material and relevant to this Petition.
3. Respondent served as pharmacist-in-charge and a pharmacist of RX Max Pharmacy, as described in the Allegations below. A pharmacist-in-charge is has responsibility for the practice of pharmacy at the pharmacy for which he is the pharmacist-in-charge, including legally operating the pharmacy in accordance with all state and federal laws or sections governing the practice of pharmacy. A pharmacist is responsible for complying with all

state and federal laws and rules governing the practice of pharmacy while on duty.

4. All jurisdictional requirements have been satisfied.
5. On or about January 14, 2015, a compliance officer for the TSBP performed a routine inspection of RX Max Pharmacy. During the inspection, the compliance officer identified numerous prescriptions each issued on October 4, 2014, authorized by Vogue Davis, APN, for hydrocodone/APAP 10/325 mg tablets as invalid prescriptions, as discussed below in the Allegations in detail. The compliance officer addressed the invalidity of the prescriptions authorized by Ms. Davis with the pharmacist-in-charge, who was on-duty as the sole pharmacy employee. The compliance officer was told that the pharmacy owner previously had stated to continue to dispense these prescriptions at a maximum of four per day.
6. On or about February 4, 2015, Respondent became pharmacist-in-charge of RX Max Pharmacy.
7. On or about March 30, 2015, an investigator for the TSBP obtained dispensing records and original prescriptions from RX Max Pharmacy. According to the dispensing records of RX Max Pharmacy, numerous prescriptions each issued on October 4, 2014, authorized by Vogue Davis, APN, for hydrocodone/APAP 10/325 mg tablets continued to be dispensed by RX Max Pharmacy on a regular basis following the compliance officer's inspection.
8. Between on or about February 4, 2015, and March 27, 2015, Respondent, while acting as a pharmacist and pharmacist-in-charge of RX Max Pharmacy, sold controlled substances and dangerous drugs to patients pursuant to 664 invalid prescriptions (totaling 33,960 dosage units of hydrocodone/APAP 10/325 mg, alprazolam 2mg, and carisoprodol 350 mg) issued by Vogue Davis, a nurse practitioner, under the supervision of Raul Rodriguez, M.D., Center Care Medical Group, 8700 Commerce Park, Suite 125, Houston, Texas 77036. These prescriptions were invalid because they were issued without a valid patient-practitioner relationship and/or a valid medical need.
9. Each of the 664 invalid prescriptions was purportedly issued on October 4, 2014, by Vogue Davis, APN. Respondent, while acting as a pharmacist and pharmacist-in-charge of RX Max Pharmacy, engaged in fraud by dispensing and delivering these prescriptions for controlled substances and dangerous drugs because the practitioner acted outside the course of professional practice by supplying prescriptions to patients with the same date of issuance, and Respondent knew or should have known that the practitioner could not have issued all the prescriptions in the same day pursuant to a valid patient-practitioner relationship.
10. Respondent, while acting as a pharmacist and pharmacist-in-charge of RX Max Pharmacy was required to determine before dispensing a prescription that the prescription was a valid prescription. Respondent knew or should have known the 664 prescriptions

written by Vogue Davis, APN, 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 prescriber 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 a 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 approximately 120 tablets of hydrocodone/APAP 10/325 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, 330 of the 664 drugs prescribed by Ms. Davis and dispensed by Respondent at RX Max Pharmacy were ibuprofen 600 mg tablets and a multivitamin. 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 two-month time period analyzed, approximately 64% of the total prescriptions that Respondent dispensed at RX Max Pharmacy were written by Ms. Davis and were often the majority of the prescriptions dispensed by the pharmacy per day. The high quantity of prescriptions written by Ms. Davis specifically on October 4, 2014, that were dispensed by Respondent at RX Max Pharmacy 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 high quantity of the prescriptions dispensed by Respondent issued by Ms. Davis emphasizes Respondent’s responsibility to be aware of the specific prescriber and her habits;
- Approximately 99% of patients receiving prescriptions from Ms. Davis dispensed by Respondent at RX Max Pharmacy were under sixty-five years of age, with 44% of patients between the ages of twenty-five and forty-five. In several instances, prescriptions written by Ms. Davis for patients with the same address or same last names were dispensed on the same day, indicating that patients travelled in groups to get the prescriptions for the controlled substances. In addition, multiple patients from the same address receiving prescriptions from Ms. Davis were dispensed

- prescriptions. The younger age of the patients, which makes chronic pain less likely, and multiple patients utilizing the same home address and receiving the same drugs are additional indicators that the prescriptions were not based on medical need; and
- RX Max Pharmacy charged, and patients were willing to pay, approximately \$2.50 per tablet for hydrocodone/APAP 10/325 mg, resulting in a price of \$300 for 120 tablets. This pricing of the drug indicates that RX Max 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.

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) Pharmacist license number 52885 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 practice pharmacy in this state or be employed in any manner requiring a license with the Board or allowing access to prescription drugs in a pharmacy during the period of suspension; and
 - (b) surrender to the Board said license and any renewal certificate and personal identification card 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 (2015).

Passed and approved at the Temporary Suspension Hearing of the Disciplinary Panel of the Texas State Board of Pharmacy on the 22nd day of April, 2015.

And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED ON THIS 22nd day of April, 2015.


MEMBER, TEXAS STATE BOARD OF PHARMACY


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