

TEMPORARY SUSPENSION ORDER #A-15-016-ASI

RE: IN THE MATTER OF
TAOFIK MOBOLAJI BROWN
(PHARMACIST LICENSE #51233)

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 51233, issued to Taofik Mobolaji Brown (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: 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 practice, would constitute a continuing threat to the public welfare, and that pharmacist license number 51233 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. On or about March 29, 2012, Respondent was issued Texas pharmacist license number 51233.
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 Artemis Pharmacy LLC, 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. Between on or about October 15, 2014, through February 16, 2015, Respondent, while acting as a pharmacist and pharmacist-in-charge of 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. Specifically, Respondent dispensed the following prescriptions[†] to the 294 patients:
 - 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.

6. Respondent, while acting as a pharmacist and 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 Respondent knew or should have known that the practitioner could not have a valid patient-practitioner relationship with 294 patients in a single day.
7. Respondent, while acting as a pharmacist and pharmacist-in-charge of Artemis Pharmacy LLC was required to determine before dispensing a prescription that the prescription was a valid prescription. Respondent knew 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

[†]See Exhibit 1 containing chart of information represented

*3 patient's 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)

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, Respondent, while acting as a pharmacist and pharmacist-in-charge of Artemis Pharmacy LLC, routinely dispensed prescriptions written by Ms. Davis each week. 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:

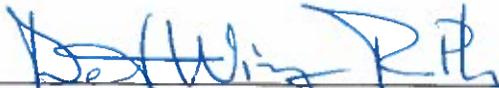
- (1) Pharmacist license number 51233 held by Respondent shall be, and such license is hereby temporarily suspended. Said suspension shall be effective immediately and shall continue in effect, pending a contested case hearing on disciplinary action against the suspended license to be held at the State 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 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

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