

TEMPORARY SUSPENSION ORDER #2020-02261

RE: IN THE MATTER OF
JAY'S CITY PHARMACY
(PHARMACY LICENSE #6417)

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 6417, issued to Jay's City Pharmacy (Respondent), 214 East Calvert, Karnes City, Texas 78118, pursuant to § 565.059 of the Texas Pharmacy Act (Pharmacy Act), TEX. OCC. CODE ANN., Title 3, Subtitle J.

John James Kotzur, R.Ph., Individual Owner, on behalf of Respondent, did not appear and was not represented by counsel. John Griffith, Litigation Counsel, represented Board staff. Kerstin Arnold served as General Counsel to the Disciplinary Panel. The following Board members served as the Disciplinary Panel: Julie Spier, R.Ph.; Jenny Yoakum, R.Ph.; and Donna Montemayor, 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 6417 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 September 2, 2020, Hearing on Temporary Suspension of License of Respondent:

1. On or about November 22, 1982, Respondent was issued Texas pharmacy license number 6417.
2. The individual owner of Respondent is John James Kotzur, R.Ph.
3. As the holder of a pharmacy license, Respondent is liable for any violation of the Act by an employee 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 pharmacy license of Respondent was in full force and effect at all times and dates material and relevant to this Order.
6. The license of Respondent is current through February 28, 2022.
7. All jurisdictional requirements have been satisfied.
8. On or about February 5, 2019, the Texas State Board of Pharmacy entered Agreed Board Order #K-18-030-B in the matter of Respondent. The Order was based on allegations that Respondent failed to have written policies and procedures on pharmacy security and was not arranged in an orderly fashion and kept clean. The Order imposed a two-year probation and a \$1,200 probation fee and required Respondent to implement policies and procedures to ensure the pharmacy has adequate security and is arranged in an orderly fashion and kept clean. Respondent failed to pay the \$1,200 probation fee or to submit a written report of the policies and procedures in violation of the terms of the Order.
9. On or about August 7, 2020, a Board compliance officer conducted an inspection of Respondent at 214 East Calvert, Karnes City, Texas 78118, in the presence of John James Kotzur, acting as the individual owner and pharmacist-in-charge of Respondent. Mr. Kotzur failed to operate a pharmacy in a sanitary manner and dispensed prescriptions in a manner presenting a continuing threat to the public welfare. Specifically, the pharmacy was not arranged in an orderly fashion or kept clean in that water damage to the ceiling was present; there was an abundance of items crowding the counters and preventing cleaning; pills were loose on counters and the floor; drug stock was spread throughout; records were disorganized; the sink was unclean and stained; the floors were visibly dirty and cluttered, and dirt and dust were present throughout the pharmacy. Despite these unsanitary and disorganized conditions, Respondent and Mr. Kotzur admitted to dispensing approximately 5-10 prescriptions per day.

ORDER OF THE BOARD

THEREFORE, PREMISES CONSIDERED, the Board does hereby ORDER that:

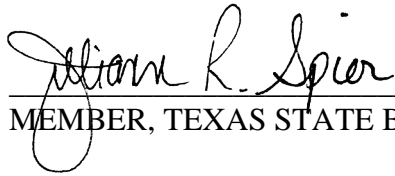
- (1) Pharmacy license number 6417 held by Respondent shall be, and such license is hereby temporarily suspended. Said suspension shall be effective immediately and shall continue in force and effect, pending a contested case hearing on disciplinary action against the suspended license to be held at 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 September 12, 2020, and to immediately thereafter provide documentation of transfer to the Board.
- (3) Respondent shall be responsible for all costs relating to compliance with the requirements of this Order.
- (4) 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 (2019), and Texas Pharmacy Board Rules, 22 TEX. ADMIN. CODE (2020).

Passed and approved at the Temporary Suspension Hearing of the Disciplinary Panel of the Texas State Board of Pharmacy on the 2nd day of September 2020.

And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED ON THIS 2nd day of September 2020.


MEMBER, TEXAS STATE BOARD OF PHARMACY


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