

**BEFORE THE ARKANSAS STATE BOARD OF PHARMACY**

**IN THE MATTER OF  
DOUG CROW  
P.D., NO. 6770 AND  
PHARMACY EXPRESS NO. AR-17724**

**No. 2005-024**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER**

On October 11, 2005, the Arkansas State Board of Pharmacy (hereafter “the Board”) conducted a hearing in the above styled matter. After being duly served with notice thereof, Doug Crow and Pharmacy Express (hereafter “Respondents”) appeared in person. From the testimony of witnesses, exhibits, and evidence of record, the Board makes the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Respondent Crow holds a pharmacist license and Pharmacy Express holds a pharmacy permit both of which were issued by the Board; each respondent is subject to the jurisdiction of the Board. At all times relevant herein, Respondent Crow was owner and pharmacist-in-charge of Pharmacy Express.

2. In November 2004 a pharmacist at Pharmacy Express reported to Respondent Crow that the Pharmacy Express drug inventory was short more than 800 Roxicodone, a brand-name for oxycodone. An initial investigation by Respondent Crow did not reveal any such shortage. However, a subsequent audit by other pharmacists revealed that certain prescription records had been altered to falsely increase the number of Roxicodone that had been dispensed which caused Respondent Crow not to discover the shortage. On or about February 11, 2005, these pharmacists notified Respondent Crow of the discovery of the alteration of prescription records. Discovery of the altered prescription records confirmed the shortage of over 800

Roxicodone. Respondent Crow instituted other measures to improve the security for Class II controlled substances. However, Respondent Crow failed to notify the Board, Arkansas Department of Health, Division of Pharmacy Services and Drug Control (“DHHS”), or the Drug Enforcement Administration (“DEA”) field office immediately upon discovery of this shortage, and failed to file a DEA 106 Report of Theft or Loss of Controlled Substances with the Board, DHHS or the DEA reporting this shortage within seven days of discovery of this shortage.

3. On or about May 12, 2005 a Board representative went to Pharmacy Express and questioned the shortage of controlled substances. On or about June 5, 2005, Respondent Crow prepared a DEA 106 Report of Theft or Loss of Controlled Substances and delivered a copy to the Board. This DEA 106 form reported a shortage of 890 “Oxycotin” 30 mg. and did not identify the pharmacy submitting the report. The drug which had found to be short was Roxicodone. Respondent failed to deliver a copy of that form to the DEA or DHHS.

4. On or about June 8, 2005 Board representatives conducted an audit of the inventory of certain controlled substances at Pharmacy Express. Respondent Crow, as pharmacist-in-charge, was responsible for the security and accountability of these controlled substances. This audit revealed shortages and overages of multiple drugs as set forth in Attachment A hereto, which is incorporated by reference herein. Respondent Crow has failed to submit a DEA 106 report on the shortages of other drugs, as identified in Attachment A, to DHHS.

5. The shortages and overages of controlled substances described above resulted from Respondent Crow’s failure to provide adequate accountability and security for his inventory of controlled substances in Pharmacy Express. Specifically, Respondent Crow maintained Class II drugs in locked storage but maintained the key to the locked storage in a

drawer where any employee had access to the key to obtain access to the Class II drugs. Respondent did not maintain a perpetual inventory of Class II drugs and did not conduct periodic audits of any controlled substances.

### CONCLUSIONS OF LAW

1. Respondent Crow's continued failure to provide for adequate accountability and security of controlled substances resulting in the shortages and overages of controlled substances in the Pharmacy Express drug inventory as set forth above constitutes separate incidents of violations of Board Regulation 04-02-0005(e).

2. Respondent Crow's failures to immediately notify the Board and other agencies and to submit DEA 106 reports as set forth in paragraphs A-2 & 4 above constitute separate incidents of violations of Board Regulation 07-04-0006(a) & (b).

3. Respondent Crow's violations of Board regulations as set forth above constitute separate incidents of unprofessional conduct pursuant to Board Regulation 02-04-0002(b) and gross unprofessional conduct pursuant to Ark. Code Ann. § 17-92-311(a)(7) (Repl. 2002).

4. Respondent Pharmacy Express' operation of its pharmacy while its pharmacist-in-charge failed to provide adequate security and accountability for controlled substances and failed to report shortages of controlled substances as set forth above constitutes the operation of a pharmacy not according to law in violation of Ark. Code Ann. § 17-92-407(c) (Repl. 2002).

### ORDER

IT IS THEREFORE ORDERED that within forty-five (45) days of the date of this Order Respondents shall cause software that will give full user accountability requiring passwords on all functions to be in full operation in the Pharmacy Express pharmacy.

IT IS FURTHER ORDERED that Respondents shall, at their own expense, have an

independent audit conducted of the pharmacy's Class II - IV Controlled Substances each quarter for a period of two years following the date of this Order. Respondents shall deliver a copy of any findings and recommendations by the auditor to the Board within ten days after Respondent's receipt of the auditor's report. Respondents shall, upon approval by the Board, comply with these auditor recommendations.

IT IS FURTHER ORDERED that Respondent Crow's pharmacist license and Pharmacy Express' pharmacy permit each shall be on probation for five years following the date of this Order. The terms of probation are that each Respondent shall fully comply with Arkansas Pharmacy Law, Ark. Code Ann. § 17-92-101 *et seq.*, Board regulations, and state, federal and local laws and regulations regarding the practice of pharmacy, controlled substances, and legend (prescription-only) drugs.

IT IS FURTHER ORDERED that Respondent Pharmacy Express' shall pay a monetary penalty of \$5,000 to the Board within thirty (30) days of the date of this Order.

IT IS SO ORDERED this \_\_\_\_\_ day of November 2005

ARKANSAS STATE BOARD  
OF PHARMACY

by: \_\_\_\_\_  
CHARLES CAMPBELL, PHARM.D.  
EXECUTIVE DIRECTOR