

BEFORE THE ARKANSAS STATE BOARD OF PHARMACY

**IN THE MATTER OF
RODNEY VANCE PARKER
P.D., NO. 8505,
ROBERT HUGH CURTIS
P.D., NO. 7872, AND
ROSE DRUG, NO. AR-13170**

NO. 2005-023

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

On October 12, 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, Respondents Rodney Vance Parker, Robert Hugh Curtis, and Rose Drug appeared in person and by counsel Darren O’Quinn. From the testimony of witnesses, exhibits and other evidence of record, the Board makes the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Respondents Parker and Curtis each hold a pharmacist license and Rose Drug holds a pharmacy permit issued by and each is subject to the jurisdiction of the Board.

2. Respondent Parker was pharmacist-in-charge of Rose Drug from May 2003 through December 2004; Respondent Curtis was pharmacist-in-charge of Rose Drug from January 2004 through June 9, 2005.

3. From May 2003 into June 2005, Respondents Parker and Curtis utilized a procedure for the receipt of controlled substances in which a pharmacy technician or clerk would receive deliveries of drugs including controlled substances at a back door, which remained unlocked during business hours and was used by staff to enter and exit

the store, check in the order and place stickers on the drugs while in an adjacent back room, put the drugs into a tote, and take the drugs to the pharmacy area. There, without verifying the drugs received against the invoice for the drugs, pharmacists would place the Class II Controlled Substances into a cabinet, and pharmacists or technicians would place the other drugs on the pharmacy shelves. At least six pharmacists had keys to the pharmacy and the pharmacists-in-charge did not know whether other persons had keys to the pharmacy. Pharmacy technicians had access to the key to the Class II Controlled Substance cabinet. At times, controlled substances were left in the back room, near the back door, which could not be seen from the pharmacy.

4. These procedures for receiving, checking in deliveries of, and maintaining controlled substances at Rose Drug did not provide for the security and accountability of controlled substances upon receipt of and in inventory of Rose Drug.

5. In May and June 2005, Respondents Curtis and Parker conducted audits of selected controlled substances in the inventory of Rose Drug for the terms of their respective tenure as pharmacist-in-charge. Respondent Curtis submitted a DEA-106 Report of Theft or Loss of Controlled Substances dated May 26, 2005 to the Board; he submitted a second such form dated June 30, 2005 after having the pharmacy computer rebuilt. The two DEA-106 reports stating the shortages of specific controlled substances are attached hereto marked Attachments A & B and are incorporated by reference herein.

6. Respondent Parker submitted a DEA-106 Report of Theft or Loss of Controlled Substances dated June 7, 2005 to the Board; he submitted a second such form dated June 24, 2005 after having the pharmacy computer rebuilt. The two DEA-106 reports stating

the shortages of specific controlled substances are attached hereto marked Attachments C & D and are incorporated by reference herein.

CONCLUSIONS OF LAW

1. Respondent Rose Drug's operations as set forth above constitute failure to operate the pharmacy according to law in violation of Ark. Code Ann. § 17-92-407(c) (Repl. 2002).

ORDER

IT IS THEREFORE ORDERED that Rose Drug pay a monetary penalty in the amount of \$5,000 to the Board within 30 days of the date of this Order.

IT IS FURTHER ORDERED that the pharmacist-in-charge of Rose Drug shall continue to follow the plan of operation described by Respondents during their testimony, and report to the Board any concerns that he may have in regard to the owners not agreeing with or other problems with the owners as to the above-described plan of operation of Rose Drug .

IT IS SO ORDERED this _____ day of November 2005.

ARKANSAS STATE
BOARD OF PHARMACY

LARRY MCGINNIS
PRESIDENT