

LOUISIANA BOARD OF PHARMACY  
BATON ROUGE, LOUISIANA

IN THE MATTER OF:

Pharmaceuticals Southwest, Inc.  
1401 Distributors Row Suite C  
Jefferson, LA 70123

FINAL ORDER

The Louisiana Board of Pharmacy, having set a hearing to determine whether cause exists to revoke the permit of Pharmaceuticals Southwest, Inc. The Administrative Hearing was held on August 17, 2000, pursuant to applicable Louisiana laws and regulations.

A quorum of the Board was present. E. Wade Shows, Complaint Counsel for the Louisiana Board of Pharmacy and served as counsel to the President. Celia Cangelosi, attorney, served as prosecuting attorney for the Board. Applicant was not present and was not represented by legal counsel at this hearing.

Testimony and other evidence were received by the Board, and as a result thereof, the Board makes the following findings of fact and conclusions of law.

As Findings of Fact, the Board finds:

1. Pharmaceuticals Southwest, Inc., 1401 Distributors Row, Suite C, Jefferson, Louisiana, 70123, was issued an Institutional Pharmacy Permit by the Louisiana Board of Pharmacy (Permit No. 2000- 4216) on March 22, 2000. On April 24, 2000, the permit classification was changed to Community Pharmacy.

2. Between October 3, 1999 and December 27, 1999, approximately \$1,210,005.20 in net purchases of legend drugs from Bindley Western Drug Co. was made by and delivered to Pharmaceuticals Southwest, 1401 Distributors Row #C, Jefferson, Louisiana.

3. Two separate sales of Nubain Injection, a Louisiana CDS - Schedule IV item, and one credit memorandum for one of the purchases were noted on the invoices. [On October 28, 1999 and October 31, 1999, 30 and 60 - 1ml amps of Nubain were delivered to the pharmacy, respectively. On November 5, 1999, 30 - 1ml amps of Nubain were credited due to the pharmacy's claim that the amps had not been delivered.] 60 - 1ml ampules of 10mg/ml Nubain could not be accounted for by the pharmacy. The result was an audit shortage of 60 Nubain Injection 10mg/ml ampules. No credit memorandum was available on file at the permit site for 30 - 1ml amps of Nubain delivered, but later credited by the supplier.

CERTIFIED TRUE COPY  
*Melinda Brannon*  
Louisiana Board of Pharmacy

4. Inspections were conducted of the site by the inspectors for the Louisiana Board of Pharmacy on March 9, 2000; May 12, 2000; May 23, 2000; and June 2, 2000. As a result of these inspections, the following was found:

- a. There was no prescription inventory at the permit site on any of the inspections;
- b. No dispensing activities were occurring at the permit site on any of the inspections;
- c. The prescription department was not properly secured on the occasion of the first two inspections (May 9 and May 12, 2000); and
- d. No appropriate compendia was present on any of the inspections.

5. On March 9, 2000, Terri Suarez, the managing officer of Pharmaceuticals Southwest, Inc., denied that any inventory had ever been purchased by the permit; and, denied further, that any stock had ever been ordered.

6. On June 2, 2000, when Terri Suarez was questioned specifically about the \$1.2 million dollars worth of legend drugs purchased from Bindley Western Drug Co. between October and December of 1999, she first responded that the invoices were "at corporate" and then later specifically denied making any purchases or receiving any legend drug stock at the pharmacy. Despite being confronted with the sales manifests for the purchases containing her signature, Ms. Suarez continued to deny ever having received the stock and any knowledge of its whereabouts.

7. On June 5, 2000, PIC Erika Bell of Pharmaceuticals Southwest advised the Louisiana Board of Pharmacy in writing of her resignation as Pharmacist In Charge. The Board never received notice of the hiring of a new Pharmacist In Charge.

8. The receipt of at least \$1.2 million dollars worth of legend drugs and the complete disregard for pharmacy laws and regulations pertaining thereto, coupled with Ms. Suarez's blatant denial of receipt of the drugs, constitutes an immediate danger to the public's health, safety and welfare requiring summary suspension of the permit and ultimate revocation. (See L.A. RS . 49:961.C and LAC 46: 351.B).

9. On July 25, 2000, the Interlocutory Panel of the Louisiana Board of Pharmacy summarily suspended the permit of Pharmaceuticals Southwest (Pharmacy Permit No. 4216) finding that the public health, safety and welfare imperatively required such emergency action until the Board meeting scheduled for August 17, 2000.

As conclusions of law, the Board states:

Pharmaceuticals Southwest Inst. is found to be in violation of the following laws and regulations as charged in the Official Investigation Report:

	Violations	Dates of Violations
La R.S. 37:1241.A. (1):	A permit authorizing the practice of pharmacy at a site is in violation of any rules and regulations of the Board.	From on or about October 3, 1999 through the current date.
La R.S. 37:1241.A. (15):	A permit has evaded local, state and federal laws pertaining to the practice of pharmacy.	From on or about October 3, 1999 through the current date.
LAC 46:1505:	An Institutional Pharmacy must be in compliance with state laws and/or LA pharmacy regulations.	From on about October 3, 1999 to April 24, 2000.
LAC 46:1305:	A Community Pharmacy must be in compliance with state laws and/or LA pharmacy regulations.	From April 24, 2000 through the current date.
LAC 46:1127.A.6:	Must provide an adequate prescription inventory for prescription compounding and dispensing.	From May 12, 2000 through the current date.
LAC 46:1127.A.8.a.iii:	Current edition of Facts & Comparisons reference shall be required.	March 9, 2000 through current date.
La R.S. 37:1241.A. (22):	Failed to furnish to the board's investigator any information legally requested.	March 9, 2000 through current date.
LAC 46:2927:	Pharmacy records shall be available and readily retrievable for inspection and review during regular working hours.	March 9, 2000 through current date.
La R.S. 40:971.A.(1)(d):	It shall be unlawful to refuse or fail to keep or furnish any record, invoice or information required.	March 9, 2000 through current date.
La R.S. 40:976:	Each licensee shall make a complete and accurate record of all stock of CDS stock on hand and thereafter complete records shall be maintained.	From on or about October 3, 1999 through the current date.

LAC 46:2901.A.	Complete, accurate, and readily retrievable legend drug records shall be required and maintained by a pharmacy in compliance with applicable laws and regulations and be available for LBP review.	From on or about October 3, 1999 through the current date.
LAC 46:2903.A(1):	Accurate and retrievable records regarding legend drug acquisition invoices, distribution, dispensing, and inventories shall be maintained and available.	From on or about October 3, 1999 through the current date.
LAC 46:3545:	A registrant is authorized to return Schedule IV drugs to a supplier provided that a written record is maintained.	From November 5, 1999 through the current date.
LAC 46:2901.B:1.a, b, c:	The pharmacy must be accountable for all legal drug transactions consisting of acquisition, disposition, and inventory records.	From on or about October 3, 1999 through the current date.
LAC 46:1127.A.7:	Adequate protection of the prescription department be secured by the installation of secured entrances	May 12, 2000 through May 19, 2000
LAC 46:3501.4	Legend drugs shall be stored in a licensed pharmacy under the immediate control and responsibility of a pharmacist.	From on or about October 3, 1999 through the current date.
LAC 46:3501.3:	Legend drugs shall be procured and possessed by a pharmacy permittee for the legitimate dispensing by a pharmacist in the course of the practice of pharmacy, unless otherwise provided by law.	From on or about October 3, 1999 through the current date.
LAC 46:1107.3:	Notice shall be required when the PIC resigns and the disclosure of the resignation must be afforded the board in writing by the permit holder and the new PIC within days of the departure.	June 15, 2000 through current date.

La. R.S. 37:1241.C:	Each day on which a violation occurs is a separate violation	On the specific dates noted above.
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**FINAL ORDER**

In an open meeting of the Louisiana Board of Pharmacy, on August 17, 2000, the following order was rendered:

**IT IS ORDERED, ADJUDGED AND DECREED** that the Board herein revokes the permit of Pharmaceuticals Southwest Inc. (La. R.S. 37-1241A.). The Board herein imposes a fine of \$100,000.

In addition, the Board herein assess against Pharmaceuticals Southwest Inc. all costs incurred in connection with this proceeding, including but not limited to investigator, stenographer and attorneys fees. (La. R.S. 37:1241B.)

A copy of this Final Order shall be served upon Pharmaceuticals Southwest, Inc. by certified mail, return receipt requested., to its address of record.

Entered this 17<sup>th</sup> day of August, 2000.

**LOUISIANA BOARD OF PHARMACY**

Malcolm J. Broussard  
Malcolm Broussard, Executive Director