

**IN THE MATTER OF
MICHAEL BEATTY, R. Ph.**

License No: 14861

Respondent

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**BEFORE THE
MARYLAND STATE
BOARD OF PHARMACY
Case No. 21-093**

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CONSENT ORDER

On December 21, 2022, the Maryland Board of Pharmacy (“the Board”) charged **MICHAEL BEATTY, R. Ph.** (“the Respondent”), License No. 14861, under the Maryland Pharmacy Act, (“the Act”) Md. Code Ann., Health Occ §§12-101 *et. seq.* (2021 Repl. Vol.).

The Board charged the Respondent with violating the following provisions of the Act:

Health Occ. §12-313

(b) Subject to hearing provisions of §12-315 of this title, the Board, on an affirmative vote of the majority of its members then serving, may deny a license to any applicant for a pharmacist’s license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:

- (2) Fraudulently or deceptively uses a license;
- (6) Submits a false statement to collect a fee;
- (8) Willfully fails to file a report that is required by law;
- (12) Is professionally ...incompetent;
- (22) Is convicted of or pleads guilty or *nolo contendere* to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(25) Violates any rule or regulation adopted by the Board[.]

The Board further charged the Respondent with violating its Pharmacist, Pharmacy Intern and Pharmacy Technician Code of Conduct, COMAR 10.37.10.01:

- B. A pharmacist may not:
- (1) Engage in any conduct which departs from the standard of care ordinarily exercised by a pharmacist;
 - (3) Engage in unprofessional conduct[.]

On March 8, 2023, the Respondent, along with his attorney, David J. Carlin, Esquire, and the Administrative Prosecutor, attended a Case Resolution Conference ("CRC") with members of the Board in an effort to resolve the pending charges in lieu of an evidentiary hearing. As a result of the CRC, the Respondent and the State agreed to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

I. FINDINGS OF FACT

The Board makes the following findings of fact:

1. That at all times relevant hereto, the Respondent was licensed to practice pharmacy in the state of Maryland. The Respondent was first issued a Maryland pharmacy license on March 18, 1998. The Respondent's license expires on June 30, 2023.

2. At most times relevant herein, the Respondent was either the owner of or employed by a retail pharmacy in Harford County, Maryland, hereinafter the “Pharmacy.”

3. On October 15, 2020, the Board received an email from the Respondent notifying the Board of a “legal issue; specifically, that he had pled guilty to conspiracy to offer and pay healthcare kickbacks.” Based on the email (“Complaint”), the Board initiated an investigation.

Criminal Felony Conviction

4. The next day, the Board obtained a copy of a press release from the U.S. Attorney’s Office for the Eastern District of Virginia showing that, on September 29, 2020, a Criminal Information was filed in the U.S. District Court that charged three individuals, including the Respondent, with One Count of Conspiracy to Offer and Pay Healthcare Kickbacks. The Respondent filed a Waiver of Indictment on that date that waived his right to prosecution by indictment and consent to prosecution by information. Also on that date, the Respondent and the U.S. Attorney’s Office for the Eastern District of Virginia signed the Plea Agreement with Statement of Fact outlining the Kickback Conspiracy, as follows, *inter alia*;

5. From around the spring of 2013 to around the fall of 2014 in the Eastern District of Virginia, the Respondent and another offered to conspire and agree to offer and pay remuneration, including kickbacks and bribes, in cash and in kind to physicians to induce them to refer individuals to the Pharmacy under a Federal health care program called Tricare;

6. The Respondent was to produce compounded medications for the physician to send to his patients, and the third party would refer additional patients to the pharmacy for these compounded prescriptions. A company was created to receive these kickback payments.

7. Compounds that received the highest financial reimbursements and the medical conditions for which the compounds could be used were the ones that were billed even though alternative cheaper medications were available for patients;

8. Because the reimbursements for certain compounds were so high, the Respondent failed to collect co-payments from patients, as required;

9. On March 9, 2021, the Respondent was sentenced to imprisonment for a period of 12 months and 1 day followed by 2 years supervised release. He was also ordered to pay a \$100.00 monetary penalty.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated Health Occ. §§12-313 (b) (2), (6), (8), (21), (22), and (25); and COMAR 10.34.10.01 B (1) and (3).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this _____ day of April 10, 2023, by the affirmative vote of a majority of the members of the Board then serving:

ORDERED that the Respondent's license to practice pharmacy in the State of Maryland shall be **SUSPENDED** for a minimum of **FIVE (5) YEARS**; and it is further

ORDERED that the Respondent shall abide by the conditions placed upon him by the parole office; and it is further

ORDERED that the Respondent **shall not** work as a technician, intern or in any other capacity in a pharmacy or other store setting that stores, distributes or dispenses prescription drug products during the period of suspension; and it is further

ORDERED that the Respondent **shall not** own nor operate a Pharmacy during the period of suspension; and it is further

ORDERED that no earlier than **SEPTEMBER 12, 2026**, the Respondent may submit a written petition to the Board requesting that the Board consider the reinstatement of his suspended license to practice pharmacy, but only if the Respondent submits to the Board with his written petition, documentary evidence that the Respondent fully complied with all of the conditions set forth herein during the suspension period and that the Board determines that the Respondent has satisfactorily complied with all of the qualifications and requirements required under the Maryland Pharmacy Practice Act and the Board's regulations for reinstatement of a suspended license; and it is further

ORDERED that the suspension period shall terminate no earlier than five years from the date of this Order; and it is further

ORDERED that the Respondent shall take and pass the Multistate Pharmacy Jurisprudence Examination ("MPJE"); and it is further

ORDERED that the Respondent shall take and pass, a Board pre-approved college-level ethics course and provide documentation satisfactory to the Board demonstrating successful completion of the course; and it is further

ORDERED that the Respondent shall maintain his pharmacy license through timely renewals; and it is further

ORDERED that the Respondent shall obtain continuing education credits that would be required if his license was not suspended; and it is further

ORDERED that for the Respondent's upcoming renewal in June 2023, the Respondent shall be required to complete thirty continuing education credits; and it is further

ORDERED that for all other renewal periods during the suspension of the Respondent's pharmacy license, the Respondent shall also complete an **additional thirty continuing education ("CE") credits** each renewal period, covering subjects to include new drugs, new pharmacy laws, healthcare ethics, vaccinations, and non-sterile compounding practices; and it is further

ORDERED that the Respondent shall not be eligible for reinstatement until he has provided the Board with verification of his continuing education credits; and it is further

ORDERED that if the Respondent's license to practice pharmacy is reinstated, the Respondent shall be placed on **PROBATION**. The length and terms of the probationary period shall be determined by the Board, if and when the Respondent is placed on probation; and it is further

ORDERED that the Respondent shall bear all cost(s) associated with complying with the Consent Order; and it is further

ORDERED that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of its compliance with the terms and conditions of this Order; and it is further

ORDERED that the Respondent's failure to fully cooperate with the Board shall be deemed a violation of this Consent Order; and it is further

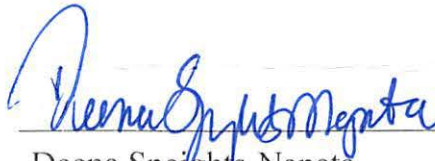
ORDERED that failure to comply with the terms and conditions of the Consent Order constitutes a violation of the Consent Order and the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board, may impose any appropriate sanction under the Act; and it is further

ORDERED that the conditions of this Consent Order are hereby effective as of the date of this Consent Order; and it is further

ORDERED that the Consent Order shall be a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2019) and is reportable to any entity to whom the Board is obligated to report.

4-10-23

Date



Deena Speights-Napata
Executive Director, for
Jennifer L. Hardesty, President
State Board of Pharmacy

CONSENT


I, Michael Beatty, R.Ph., acknowledge that I have had the opportunity to consult with legal counsel before signing this document. By this Consent, I accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf and to all other substantive and procedural protections as provided by law.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order and understand its meaning and effect.

3/28/23
Date


Michael Beatty, R.Ph.

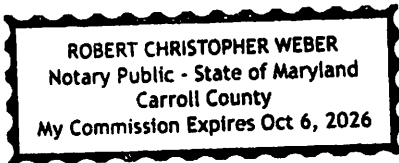
NOTARY

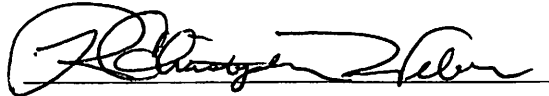
STATE OF Maryland

COUNTY/CITY OF: Carroll

I hereby certify that on this 28th day of March, 2023, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared **Michael Beatty**, and made an oath in due form that the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.




Notary Public

My Commission Expires: 10/6/2026