

IN THE MATTER OF

*

BEFORE THE

COSMOS ARENA PHARMACY
AND MEDICAL SUPPLIES

*

MARYLAND BOARD

*

OF PHARMACY

Permit No.: P08393

*

Case No.: 24-013

* * * * *

CONSENT ORDER

On February 21, 2024, the Maryland Board of Pharmacy (“the “Board”) charged COSMOS ARENA PHARMACY AND MEDICAL SUPPLIES (“the Respondent-Pharmacy”), under the Maryland Pharmacy Act (“the Act”), Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2021 Repl. Vol. & 2023 Supp.). Specifically, the Board charged the Respondent-Pharmacy with violating the following statutory and regulatory provisions:

Health Occ. § 12-409. Pharmacy permits – Suspensions and revocations – Grounds

- (a) *In general* – Subject to the hearing provisions of § 12-411 of this subtitle, the Board may suspend or revoke any pharmacy permit, if the pharmacy:
 - (2) Violates any of the standards specified in § 12-403 of this subtitle; or
 - (3) Otherwise is not conducted in accordance with the law.

Health Occ. § 12-403. Pharmacy permits – Required standards

- (c) *In general* — Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:
 - (1) Shall be operated in compliance with the law and with the rules and regulations of the Board;
 - (9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12-313 of this title, a registered pharmacy technician

under § 12-6B-09 of this title, or a registered pharmacy intern under § 12-6D-11 of this title[.]

Health Occ. § 12-313. Licensing – Denials, reprimands, suspensions, and revocations – Grounds

- (b) *In general* — Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may . . . reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the . . . licensee:
 - (2) Fraudulently or deceptively uses a license;
 - (6) Submits a false statement to collect a fee;
 - (7) Willfully makes or files a false report or record as part of practicing pharmacy;
 - (25) Violates any rule or regulation adopted by the Board[.]

COMAR 10.34.10.01. Patient Safety and Welfare

- A. A pharmacist shall:
 - (1) Abide by all federal and State laws relating to the practice of pharmacy and the dispensing, distribution, storage, and labeling of drugs and devices, including but not limited to:
 - (c) Health Occupations Article, Title 12, Annotated Code of Maryland,
- B. A pharmacist may not:
 - (3) Engage in unprofessional conduct.

COMAR 10.34.10.02 Compensation

A pharmacy technician, pharmacy intern, or a pharmacist may not fraudulently seek or accept compensation for a pharmacy product or service not provided.

COMAR 10.34.10.05 Duty to Report

- A. Except when the conduct in question includes drug or alcohol abuse or dependency, a pharmacy technician, pharmacy intern, or pharmacist shall report to the Board:

- (1) Conduct which violates a statute or regulation pertaining to the practice of pharmacy; [and]
- (2) Conduct by a pharmacy technician, pharmacy intern, or pharmacist that deceives, defrauds, or harms the public[.]

On April 10, 2024, a Case Resolution Conference was held before a Panel of members of the Board. As a result of the Case Resolution Conference, the Respondent-Pharmacy has agreed to enter into this Consent Order, accepting the Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. At all times relevant, the Respondent-Pharmacy had a permit to operate as a pharmacy in the State of Maryland. The Respondent-Pharmacy was originally issued a permit on or about February 9, 2021. The Respondent-Pharmacy's permit expires on May 31, 2024.

2. The Respondent-Pharmacy, an independent pharmacy in Dundalk, Maryland, is owned and managed by a pharmacist ("Pharmacist-Owner").¹

3. At all times relevant, the Pharmacist-Owner was licensed to practice pharmacy in the State of Maryland. The Pharmacist-Owner was originally licensed to practice pharmacy in Maryland on or about April 2, 2015. The Pharmacist-Owner's license expires on May 31, 2024.

4. In a letter dated July 7, 2023, a representative of the pharmaceutical wholesaler that supplies the Respondent-Pharmacy with controlled substances ("the Wholesaler") informed the Board that:

¹ For confidentiality and privacy purposes, the names of individuals and facilities involved in this case are not disclosed in this document. Upon written request, the Administrative Prosecutor will provide the information to the Respondent-Pharmacy.

- a. On June 26, 2023, the Respondent-Pharmacy submitted an order to the Wholesaler that included 6 boxes of generic buprenorphine/naloxone 8mg/2mg films. Because this order exceeded the monthly threshold, the Wholesaler held the order in its Suspicious Order Monitoring system. The Wholesaler requested a dispensing report for May 27, 2023 to June 27, 2023 from the Pharmacist-Owner. The dispensing report showed that the Respondent-Pharmacy primarily dispensed Suboxone brand films during this time, but primarily purchased generic buprenorphine/naloxone films.
- b. Upon learning this and learning that the Wholesaler is the Respondent-Pharmacy's only supplier of controlled substances, according to ARCOS, the Wholesaler suspended the Respondent-Pharmacy's ability to purchase controlled substances until the completion of its investigation.
- c. The Wholesaler conducted an onsite visit on July 5, 2023 and spoke to the Pharmacist-Owner. The Pharmacist-Owner acknowledged that he, at times, dispensed generic buprenorphine/naloxone films to Medicaid patients but billed Medicaid for Suboxone brand films. The Pharmacist-Owner claimed that he did this to prevent losses as Medicaid reimbursement does not cover the acquisition cost of the product.

5. In response to this information, the Board initiated an investigation and subpoenaed relevant records, including the Respondent-Pharmacy's purchase invoices, dispensing records, billing records, and claims for reimbursement from Medicaid.

6. The Wholesaler's purchase summary report shows that from April 1, 2023 to June 30, 2023, the Respondent-Pharmacy ordered 100 boxes² of generic buprenorphine/naloxone 8mg/2mg films³ and only 14 boxes of Suboxone 8mg/2mg films.

² All boxes, regardless of brand or labeler, contained 30 films.

³ 78 boxes of buprenorphine/naloxone 8mg/2mg films labeled by Alvogen, Inc. and 22 boxes of buprenorphine/naloxone 8mg/2mg films labeled by Mylan Pharmaceuticals, Inc.

7. The Respondent-Pharmacy's dispensing records indicate that from May 27, 2023 to June 27, 2023 the Respondent-Pharmacy dispensed five prescriptions for generic buprenorphine/naloxone 8mg/2mg films and 61 prescriptions for Suboxone 8mg/2mg films.

8. The Respondent-Pharmacy submitted claims for reimbursement from Medicaid for 61 prescriptions for Suboxone 8mg/2mg films dispensed between May 27, 2023 and June 27, 2023.

9. Mitigating factors present in this case include the facts that the Respondent-Pharmacy has no prior disciplinary history with the Board, the Pharmacist-Owner admitted his misconduct in this matter, the Wholesaler reinstated the Respondent-Pharmacy's purchase account in October 2023, and subsequent Board inspections of the Respondent-Pharmacy revealed no significant irregularities.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Respondent-Pharmacy violated Md. Code Ann., Health Occ. § 12-409(a)(2-3), Health Occ. § 12-403(c)(1) and (9), Health Occ. § 12-313(b)(2), (6), (7), and (25), COMAR 10.34.10.01.(A)(1)(c) and (B)(3), COMAR 10.34.10.02, and COMAR 10.34.10.05(A)(1-2).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, by a majority of vote of the Board, it is hereby:

ORDERED that the Respondent-Pharmacy's permit is **REPRIMANDED**; and it is further

ORDERED that the Respondent-Pharmacy's permit is placed on **PROBATION** for a period of at least **ONE (1) YEAR**; and it is further

ORDERED that during the period of probation, the Respondent-Pharmacy shall pay a monetary fine in the amount of \$1,250, payable to the Maryland Board of Pharmacy; and it is further

ORDERED that the Respondent-Pharmacy shall bear the cost of complying with this Order; and it is further

ORDERED that the Respondent-Pharmacy shall operate in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and it is further

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

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

ORDERED that in the event the Board finds for any good faith reason that the Respondent-Pharmacy has violated any of the conditions of suspension herein, or in the

event that the Board finds for any good faith reason that the Respondent-Pharmacy has committed a violation of Title 12 of the Health Occupations Article or regulations adopted thereunder, the Board may take further disciplinary action, to include summary suspension, against the Respondent-Pharmacy's permit, provided that the Respondent-Pharmacy is given notice and an opportunity for a hearing; and it is further

ORDERED that after **ONE (1) YEAR** from the date of this Order, the Respondent-Pharmacy may submit a written petition to the Board requesting that the Board terminate probation, provided that the Respondent-Pharmacy has fully complied with all conditions of this Order and there are no pending complaints against the Respondent-Pharmacy; and it is further

ORDERED that this is a final order of the Maryland Board of Pharmacy and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., General Prov. Art., §4-333.

5-6-24
Date

Deena Speights-Napata
Deena Speights-Napata, M.A.
Executive Director

CONSENT

By signing this Consent, I hereby consent to the foregoing Findings of Fact and Conclusions of Law and agree to be bound by the foregoing Consent Order and its conditions.

1. By this Consent, I submit to the foregoing Consent Order as a resolution of this matter. By signing this Consent, I waive any rights I may have had to contest the findings of fact and conclusions of law contained in this Consent Order.

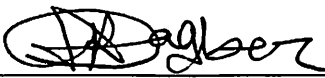
2. I acknowledge the validity of this Consent Order as if it were made after a hearing in which I would have had the right to counsel, to confront witnesses on my own behalf, and to all other substantial and procedural protections provided by law.

3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.

4. I acknowledge that, by entering into this Consent Order, I am waiving my right to appeal any adverse ruling of the Board that might have followed an evidentiary hearing.

5. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

4/30/24
Date



Rotimi Fagbemi, R.Ph.
for Cosmos Arena Pharmacy and Medical Supplies

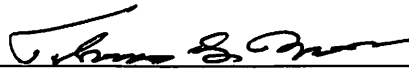
NOTARY

STATE OF Maryland

CITY/COUNTY OF Baltimore

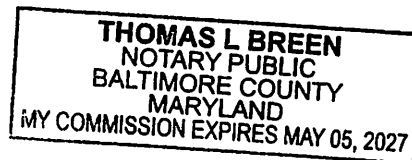
I hereby certify that on this 30 day of April, 2024, before me, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared ROTIMI FAGBEMI and made an oath in due form that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.



Notary Public

My commission Expires: 05-05-2027



This certificate is attached to a 2 page document dated 4-20-24 entitled Assignment

ACKNOWLEDGMENT CERTIFICATE

State of MARYLAND

County of BALTIMORE

Before me, THOMAS L BREEN, on this

Name of Notary Public

day personally appeared RODRI O FLORES,

Name of signer(s)

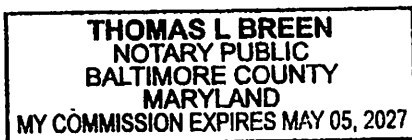
to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 30 day of April, 2024

Year



Notary Public's Signature



(Seal)

Signer's Identity verified by:

Personally known to me

Identity proven on the oath _____
Name of credible witness

Identity proven on the basis of MD DRIVER LIC
Description of identity card or other document