

**IN THE MATTER OF
NDIOUGA DIENG
PHARMACIST
LICENSE NO.: 12622**

*** BEFORE THE MARYLAND
* STATE BOARD OF
* PHARMACY
* CASE NO. 18-328**

* * * * *

**ORDER OF SUSPENSION OF LICENSE
FOR DELINQUENT CHILD SUPPORT**

BACKGROUND

On or about June 18, 2018, the Maryland Board of Pharmacy (the “Board”) received a written request from the Prince George’s County Office of the Child Support Enforcement Administration of the Maryland Department of Human Resources (the “Administration”) to suspend the pharmacist license held by Ndiouga Dieng (the “Respondent”), License No. 12622, for delinquent child support. This action was to be taken by authority of Md. Code Ann., Fam. Law § 10-119.3 (2012 Repl. Vol.), which provides, in pertinent part:

(e)(2) Except as provided in paragraph (3) of this subsection, upon notification by the Administration under this section, a licensing authority¹ shall:

(i) suspend an individual’s license; or

(ii) deny the license of an individual who is an applicant for a license from the licensing authority.

* * *

(h) *Right to contest identity.* – (1) Except as provided in paragraph (2) of this subsection, prior to the suspension or denial of a license under subsection (e) of this section, a licensing authority shall send written notice of the proposed action to the individual whose license is subject to suspension or denial, including notice of an individual’s

¹ The Maryland Board of Pharmacy is a unit within the Maryland Department of Health, Md. Code Ann., Health-Gen. §§ 2-101 & 2-106(a)(17), and is therefore a “licensing authority” within the meaning of Md. Code Ann., Fam. Law § 10-119.3(a)(3)(i) and (ii)(2).

right to contest the identity of the individual whose license or application is to be suspended or denied.

* * *

(i) *Appeal; hearing.* –(1)(i) Except as provided in paragraph (2) of this subsection, an individual may appeal a decision of a licensing authority to suspend or deny the individual’s license in accordance with Title 10, Subtitle 2 of the State Government Article.

(ii) At a hearing under this paragraph, the issue shall be limited to whether the Administration has mistaken the identity of the individual whose license has been suspended or denied.

* * *

(k) *Reinstatement of license—Duty of licensing authority.* – A licensing authority shall immediately reinstate any license suspended, or process an application for any license denied, under this section if:

- (1) notified by the Administration that the license should be reinstated; and
- (2) the individual otherwise qualifies for the license.

On August 28, 2018, the Board sent an unexecuted copy of this Order of Suspension to the Respondent. Accompanying the unexecuted Order of Suspension was a cover letter notifying the Respondent of his right to contest his identity in writing within thirty days of the date of the letter and notifying the Respondent that if he did not submit a signed, written appeal to the Board on or before September 27, 2018, the Board would execute this Order of Suspension as written. The Respondent did not submit a written contest of identity to the Board by September 27, 2018.

FINDINGS OF FACT

1. The Board issued a license to practice as a pharmacist to the Respondent on October 30, 1991. His license is currently active and is scheduled to expire on July 31, 2020.
2. On or about June 18, 2018, the Board received a written request from the Administration, entitled “Request to Suspend or Deny License for Delinquent Child Support” (the “Request”), which requested that the Board suspend the pharmacist license held by the

Respondent for delinquent child support under the authority of Md. Code Ann., Fam. Law § 10-119.3. The Request stated that, as of June 1, 2018, the total arrearage amount of child support that the Respondent owed was \$11,400.00, in the Administration's case numbered 960081402.

3. As noted above, Md. Code Ann., Fam. Law § 10-119.3(e)(2) & (h)(1) requires that the Board suspend the license of the Respondent upon notification by the Administration and after sending written notice to the Respondent of the proposed suspension of his license and of his right "to contest the identity of the individual whose license . . . is to be suspended."

4. On August 28, 2018, the Board sent an unexecuted copy of this Order of Suspension to the Respondent's last known address registered with the Board. Included with the unexecuted Order of Suspension was a letter notifying the Respondent of his right to contest his identity, in writing to the Board, within thirty days of the date of the letter; that is, to contest that he was not the Ndiouga Dieng, License No. 12622, named by the Administration as the individual whose license should be suspended for delinquent child support. In addition, the letter also gave Respondent written notice that if he did not submit to the Board a signed, written appeal on or before September 27, 2018, the Board would execute this Order of Suspension as written.²

5. The Respondent did not submit a written contest of identity to the Board by September 27, 2018; nor was the Board notified that the Respondent arranged to pay the arrears in full.

6. Having given the Respondent the statutorily required written notice of the Board's intent to suspend his license and of his right to contest identity pursuant to Md. Code Ann., Fam. Law § 10-119.3(h)(1), and having not received a written response or appeal from the

² The letter also notified the Respondent that he could prevent the suspension of his license by contacting the Administration and arranging to pay the arrears in full within 15 days of the date of the letter.

Respondent, the Board is statutorily required to suspend the Respondent's license, pursuant to Md. Code Ann., Fam. Law § 10-119.3(e)(2).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that, pursuant to Md. Code Ann., Fam. Law § 10-119.3(e)(2)(i), it is statutorily required to suspend the Respondent's license to practice as a pharmacist until the Board receives notification from the Administration that the Respondent's license should be reinstated pursuant to Md. Code Ann., Fam. Law § 10-119.3(k)(1)-(2), provided that the Respondent is otherwise qualified for a license.

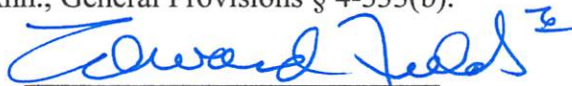
ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, on this 1st day of October, 2018, by a quorum of the Maryland Board of Pharmacy, it is hereby:

ORDERED that the license to practice as a pharmacist held by the Respondent, Ndiouga Dieng, License No. 12622, is **SUSPENDED**; and it is further,

ORDERED that the Respondent's license shall remain suspended until the Board receives notification from the Child Support Enforcement Administration of the Department of Human Resources that the Respondent's license should be reinstated pursuant to Md. Code Ann., Fam. Law § 10-119.3(k)(1)-(2), provided that the Respondent is otherwise qualified for license; 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 Provisions § 4-333(b).



Edward Fields III, Deputy Director
for
Kevin Morgan, PharmD, President
Maryland Board of Pharmacy

NOTICE OF APPEAL RIGHTS

The Respondent has a right to appeal this Final Order of the Board as provided for judicial review of a final decision in the Maryland Administrative Procedures Act, Md. Code Ann., State Gov't § 10-201 *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.