

IN THE MATTER OF * **BEFORE THE**
PASCALE EL HAYEK, Pharm.D. * **STATE BOARD**
Applicant * **OF PHARMACY**
* **Case No. 23-044**

* * * * *

FINAL ORDER

On October 19, 2022, the State Board of Pharmacy (the “Board”) hereby notified **PASCALE EL HAYEK, Pharm.D.**, (the “Applicant”), of the Board’s intent to **DENY** her a license to practice as a pharmacist in Maryland, pursuant to the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2021 Repl. Vol.).

The relevant provisions are as follows:

§ 12-313. 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 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:

(24) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes[.]

The grounds for disciplinary action under the Board’s disciplinary statute would be as follows:

§ 12-313 (25) Violates any rule or regulation adopted by the Board [;].

The Board promulgated the following regulations: Pharmacist, Pharmacy Intern, and Pharmacy Technician Code of Conduct, COMAR § 10.34.10.01:

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

FINDINGS OF FACT

The Board based its charges on the following facts that the Board has cause to believe are true:

BACKGROUND

1. At no time was the Applicant ever licensed to practice pharmacy in Maryland. At some of the times relevant hereto, the Respondent was licensed to practice as a pharmacist in Virginia, as will be detailed herein.

2. On or about June 16, 2022, the Board received an Application for Pharmacist Licensure Reciprocity (the “Application”) from the Applicant for licensure as a pharmacist in Maryland. On the Application, the Applicant answered “yes” to the following questions in the “Personal Attestation Questions” section:

- “Has any state licensing or disciplinary board (including Maryland) or any similar agency in the Armed Forces, denied your application for a license, reinstatement, or renewal, or taken any formal disciplinary action against any registration or license held by you? Such actions include, but are not limited to, reprimand, suspension, or revocation.”

- “Has any state licensing or disciplinary board (including Maryland) or similar agency in the Armed Forces, filed any complaints or charges against you or investigated you for any reason?”

3. In addition, under the “Licensure History” section of the Application, the Applicant wrote that she had been issued a Virginia pharmacist license on April 9, 2007, and that it was “revoked as of 5/23/2022 [and] can be reinstated in 3 years.”

4. For any “yes” answers, the Applicant was required to provide an explanation. Accordingly, the Applicant wrote a statement on the Application which stated, *inter alia*, she was not aware that she had violated any “specific law or regulation ... [or] legal limit” for a maximum daily dosage for a physician to prescribe or a pharmacist to fill.

5. The Virginia Board of Pharmacy Order which revoked the Applicant’s license did so for the following reasons, *inter alia*:

- A. During the course of the Applicant’s employment as Pharmacist-in-Charge at a pharmacy in Lansdowne, Virginia¹, between April 2016 and April 2018, the Applicant failed to ensure that the pharmacy operated within the laws and regulations governing the practice of pharmacy by failing to take appropriate steps to determine the validity of prescriptions and continued to dispense narcotics and other controlled substances despite substantial evidence of potential abuse or issue, including, but not limited to high doses, drug-drug interactions, patients paying cash for narcotics and other controlled substances, and patients traveling long distances to obtain narcotic prescriptions from a single prescriber.
- B. The Order also cited seven patients, A-F, as examples. Patient A was dispensed prescriptions for oxycodone 60mg and morphine sulfate ER 800 mg daily by the pharmacy for an active daily morphine milligram equivalent (MME) of 890. The pharmacy also dispensed diazepam 5mg to Patient A. 80% of Patient A’s prescriptions reported to the Prescription Monitoring Program (PMP) between April 11, 2016, and

¹ Individuals and facilities are confidential.

April 11, 2018, were provided by a Dr. M.H., a provider with a documented history with the Virginia Board of Medicine of prescribing opiate medications despite evidence of drug-seeking behavior and information that should have indicated that patients were abusing and/or had become addicted to the medications he was prescribing.

C. With regard to Patient A, the Order states that on April 5 and August 3, 2017, the Applicant dispensed to Patient A prescriptions for oxycodone 60 mg and morphine sulfate ER 800 mg daily, for an active daily MME of 890. On November 2, 2016, [the Applicant] dispensed to Patient A prescriptions for oxymorphone HCL ER 80 mg and oxycodone HCL 60 mg daily, for an active daily MME of 330. [The Applicant] also dispensed diazepam and Adderall to Patient A.

6. The same type of dispensing pattern was followed with Patients B-F, as set forth in the Virginia Board's Order, attached hereto and made a part hereto, as Exhibit 1.

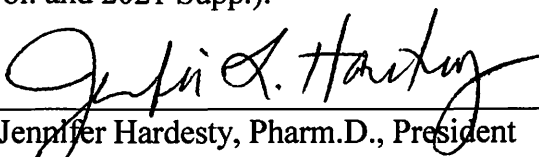
7. As set forth above, by having her Virginia license revoked for failure to take appropriate steps to determine the validity of prescriptions, and continuing to dispense narcotics and other controlled substances despite substantial evidence of potential abuse or misuse, the Applicant's application for licensure in Maryland is denied for violation of the following: § 12-313 (b) (24) ("Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes").

8. In addition, the Applicant's Application is denied for violation of the following: § 12-313 (25) ("Violates any rule or regulation adopted by the Board; *to wit*: COMAR § 10.34.10.01: B. A pharmacist may not: (1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist; and (3) Engage in unprofessional conduct.").

ORDER

As set forth above, the Board hereby orders that the application for licensure to practice as a pharmacist in Maryland submitted by **PASCALE EL HAYEK, Pharm. D., Applicant**, be and is **DENIED**, and that this Order is public, pursuant to Md. Code Ann., General Provisions §§ 4-101 *et seq.* (2019 Repl. Vol. and 2021 Supp.).

12/21/22
Date



Jennifer Hardesty, Pharm.D., President
State Board of Pharmacy

NOTICE OF RIGHT OF APPEAL

In accordance with §12-316 of the Act and Md. Code. Ann., State Government §§10-201, *et seq.* (2021 Repl. Vol.), you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the aforecited authority.

BEFORE THE VIRGINIA BOARD OF PHARMACY

IN RE: PASCALE MICHEL EL HAYEK, PHARMACIST
License Number: 0202-207815
Case Number: 201687

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11), a panel of the Virginia Board of Pharmacy (“Board”) held a formal administrative hearing on May 23, 2022, in Henrico County, Virginia, to inquire into evidence that Pascale Michel El Hayek, Pharmacist, may have violated certain laws and regulations governing the practice of pharmacy in the Commonwealth of Virginia.

Pascale Michel El Hayek, Pharmacist, appeared at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated March 2, 2022, the Board sent a Notice of Formal Hearing (“Notice”) to Ms. El Hayek notifying her that a formal administrative hearing would be held on March 30, 2022. The Notice was sent by certified and first-class mail to the legal address of record on file with the Board.

Upon consideration of the evidence, the Board adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT

1. Pascale Michel El Hayek, Pharmacist, was issued License Number 0202-207815 to practice pharmacy on April 9, 2007, which is scheduled to expire on December 31, 2022.
2. During the course of her employment as the Pharmacist-in-Charge of Lansdowne Pharmacy, Lansdowne, Virginia, between April 2016 and April 2018, she failed to ensure that the pharmacy operated within the laws and regulations governing the practice of pharmacy. Specifically, Lansdowne Pharmacy failed to take appropriate steps to determine the validity of prescriptions and continued to dispense narcotics and other controlled substances despite substantial evidence of potential abuse or misuse, including but not limited to high doses, drug-drug interactions, patients paying cash for narcotics and other controlled substances, and patients traveling long distances to obtain narcotic prescriptions from a single prescriber, in violation of Virginia Code §§ 54.1-3316(1), (2), (7), and (13) and 54.1-3319(A) and 18 VAC 110-20-25(10) of the

Regulations Governing the Practice of Pharmacy (currently found at 18 VAC 110-21-40(10) of the Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians, effective December 11, 2019). Specifically:

a. Patient A was dispensed prescriptions for oxycodone 60mg and morphine sulfate ER 800mg daily by Lansdowne Pharmacy, for an active daily morphine milligram equivalent (“MME”) of 890. Lansdowne Pharmacy also dispensed diazepam 5mg to Patient A. Eighty percent of Patient A’s prescriptions reported to the Prescription Monitoring Program (“PMP”) between April 11, 2016 and April 11, 2018 were provided by Dr. Mahsin Habib, Ashburn, Virginia, a provider with a documented history with the Virginia Board of Medicine of prescribing opiate medications despite evidence of drug-seeking behaviors and information that should have indicated that patients were abusing and/or had become addicted to the medications he was prescribing.

b. Patient B was dispensed prescriptions for oxycodone 90mg and methadone 80mg daily by Lansdowne Pharmacy, for an active daily MME of 375. Patient B lives in Bluefield, West Virginia, and traveled approximately 308 miles to obtain his prescriptions from Dr. Mahsin Habib and fill them at Lansdowne Pharmacy. Patient B paid cash for approximately 44% of prescriptions reported to the PMP between April 11, 2016 and April 11, 2018.

c. Patient C was dispensed prescriptions for methadone 30mg, morphine sulfate IR 30mg, and morphine ER 400mg daily by Lansdowne Pharmacy, for an active daily MME of 550. At other times, Patient C was dispensed prescriptions for morphine sulfate ER 400mg, oxycodone 60 mg, and methadone 30mg daily by Lansdowne, for an active daily MME of 580. Patient C lives in Fredericksburg, Virginia, and travelled approximately 89 miles to obtain prescriptions from Dr. Mahsin Habib and fill them at Lansdowne Pharmacy. Beginning in June 2016, all of Patient C’s narcotic prescriptions were written by Dr. Mahsin Habib.

d. Patient D was dispensed prescriptions for Exalgo (hydromorphone) ER 160mg, hydromorphone 64mg, and OxyContin 320mg daily by Lansdowne Pharmacy, for an active daily MME of 1,376. Patient D was also dispensed alprazolam 6mg and diazepam 10mg daily by Lansdowne Pharmacy. Patient D lives in Yellow Spring, West Virginia, and traveled approximately 69 miles to obtain prescriptions from Dr. Mahsin Habib and fill them at Lansdowne Pharmacy.

e. Patient E was dispensed prescriptions for methadone 80mg, morphine ER 400mg, and oxycodone 60mg daily by Lansdowne Pharmacy, for an active daily MME of 730. Patient E lives in Rural Retreat, Virginia, and traveled approximately 298 miles to obtain prescriptions from Dr. Mahsin Habib and fill them at Lansdowne Pharmacy. Patient E paid cash for approximately 94% of prescriptions reported to the PMP from April 11, 2016 an April 11, 2018.

f. Patient F was dispensed prescriptions for hydromorphone 32mg, hydromorphone ER 32mg, and oxycodone ER 240mg daily by Lansdowne Pharmacy, for an active daily MME of 625.14. Lansdowne Pharmacy also dispensed diazepam 15mg and gabapentin 1200mg to Patient F. Patient F lives in Jewell Ridge, Virginia, and traveled approximately 351 miles to obtain prescriptions from Dr. Mahsin Habib and fill them at Lansdowne Pharmacy. Additionally, Lansdowne Pharmacy dispensed back-to-back fills of gabapentin 300mg to Patient F. Specifically:

i. On October 31, 2017 and November 2, 2017, Lansdowne Pharmacy dispensed 30-day supplies of gabapentin 300mg to Patient F.

ii. On March 19, 2018 and March 20, 2018, Lansdowne Pharmacy dispensed 30-day supplies of gabapentin 300mg to Patient F.

3. Ms. El Hayek failed to take appropriate steps to determine the validity of prescriptions and continued to dispense narcotics and other controlled substances despite substantial evidence of potential abuse or misuse, including but not limited to high doses, drug-drug interactions, patients paying cash for narcotics and other controlled substances, and patients traveling long distances to obtain narcotic prescriptions from a single provider. Specifically:

a. Regarding Patient A, as described in Allegation 2(a), on April 5 and August 3, 2017 Ms. El Hayek dispensed to Patient A prescriptions for oxycodone 60mg and morphine sulfate ER 800mg daily, for an active daily MME of 890. On March 3, 2017, Ms. El Hayek dispensed to Patient A a prescription for morphine sulfate ER 800mg daily, for an active MME of 800. On November 2, 2016, Ms. El Hayek dispensed to Patient A prescriptions for oxymorphone HCL ER 80mg and oxycodone HCL 60mg daily, for an active daily MME of 330. Ms. El Hayek also dispensed diazepam and Adderall to Patient A.

b. Regarding Patient B, as described in Allegation 2(b), on May 26, 2016 Ms. El Hayek dispensed to Patient B prescriptions for fentanyl 75mcg/hour transdermal patches, oxycodone 90mg, and methadone 80mg daily, for an active daily MME of 375. Patient B paid cash for the methadone prescription. On December 7, 2016, November 9, 2017, February 1, 2018, and March 1, 2018. Ms. El Hayek dispensed to Patient B methadone HCL 80mg and oxycodone HCL 90mg daily, for an active daily MME of 375. Patient B paid cash for two of the four prescriptions for methadone. On July 20, 2017, Ms. El Hayek dispensed to Patient B prescriptions for fentanyl 100mcg/hour transdermal patches, oxycodone 90mg, and methadone 80mg daily, for an active daily MME of 615. Patient B paid cash for the oxycodone and methadone prescriptions.

c. Regarding Patient C, as described in Allegation 2(c), on 17 occasions between May 2, 2016 and December 11, 2017, Ms. El Hayek dispensed to Patient C prescriptions for morphine sulfate ER 400mg, oxycodone 60mg, and methadone 30mg daily, for an active daily MME of 580.

d. Regarding Patient D, as described in Allegation 2(d), on 17 occasions between May 26, 2016 and April 23, 2018. Ms. El Hayek dispensed to Patient D prescriptions for Exalgo ER 160mg, hydromorphone 64mg, and OxyContin 320mg daily, for an active daily MME of 1,376. Ms. El Hayek also dispensed diazepam, alprazolam, and clonazepam to Patient D.

e. Regarding Patient E, as described in Allegation 2(e), on nine occasions between May 9, 2016 and August 4, 2017, Ms. El Hayek dispensed to Patient E prescriptions for methadone 80mg, morphine sulfate ER 400mg, and oxycodone 60mg daily, for an active daily MME of 730. Patient E paid cash for approximately 95% of prescriptions reported to the PMP from April 11, 2016 an April 11, 2018.

f. Regarding Patient F, as described in Allegation 2(f), on 13 occasions between May 26, 2016 and March 19, 2018, Ms. El Hayek dispensed to Patient F prescriptions for hydromorphone 32mg and OxyContin ER 240mg daily, for an active daily MME of 486. Ms. El Hayek also dispensed diazepam to Patient F.

4. Ms. El Hayek testified that she sometimes contacted the prescriber for the diagnosis codes and documented the information on the prescription. However, Ms. El Hayek could not provide any examples. Ms. El Hayek testified that she is currently employed by CVS as a floater, and CVS does not know she is at the formal hearing.

CONCLUSIONS OF LAW

1. Finding of Fact No. 2 constitutes a violation of Virginia Code § 54.1-3316(1) and (13).
2. Finding of Fact No. 3 constitutes a violation of Virginia Code §§ 54.1-3316(1), (2), (7), and (13) and 54.1-3319(A) and 18 VAC 110-20-25(10) of the Regulations Governing the Practice of Pharmacy (currently found at 18 VAC 110-21-40(10) of the Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians, effective December 11, 2019)).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Pharmacy hereby ORDERS as follows:

5/25/2022

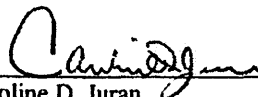
1. The license of Pascale Michel El Hayek, Pharmacist, to practice pharmacy in the Commonwealth of Virginia is REVOKED.

2. The license of Ms. El Hayek will be recorded as REVOKED.

3. Pursuant to Virginia Code § 54.1-2408.2, should Ms. El Hayek seek reinstatement of her license after three years, the reinstatement of Ms. El Hayek's license shall require the affirmative vote of three-fourths of the members at a formal administrative proceeding convened by the Board. At such time, the burden shall be on Ms. El Hayek to demonstrate that she is safe and competent to return to the practice of pharmacy. Ms. El Hayek shall be responsible for any fees that may be required for the reinstatement and/or renewal of the license prior to issuance of the license to resume practice.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD



Caroline D. Juran
Executive Director
Virginia Board of Pharmacy

ENTERED AND MAILED ON: 5/25/2022

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in which to appeal this decision by filing a Notice of Appeal with Caroline D. Juran, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.