IN THE MATTER OF	*	**BEFORE THE**
OPPONG AGYARE KWATENG	*	**MARYLAND STATE**
License No.: 22937	*	**BOARD OF PHARMACY**
Respondent	*	**Case Number: 23-414**

* * * * * * * * * * * * *

CONSENT ORDER

On August 21, 2024, the Maryland State Board of Pharmacy (the "Board") charged **OPPONG AGYARE KWATENG** (the "Respondent-Pharmacist"), License Number: **22937**, under the Maryland Pharmacy Act, (the "Act") Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2021 Repl. Vol. & 2023 Supp.).

The Board charged the Respondent-Pharmacist with the following pertinent provisions of Md. Code Ann., Health Occupations ("Health Occ."):

> **Health Occ. § 12-313. Denials, reprimands, suspensions, and revocations–Grounds**
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> . . . .
>
> (b) 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:
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> . . . .
>
> (2) Fraudulently or deceptively uses a license;
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> . . . .
>
> (21) Is professionally, physically, or mentally incompetent; [or]
>
> . . . .

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

The pertinent provisions of Md. Code Ann., Health-General ("Health-Gen.") provide the following:

Health-Gen. § 21-2A-03. Powers and duties of Secretary.

. . . .

(c) Except as provided in subsection (d) of this section, each dispenser shall submit prescription monitoring data and naloxone medication data to the Program by electronic means, in accordance with regulations adopted by the Secretary.

Health-Gen. § 21-2A-04.2. Prescriber to request prescription monitoring data.

. . . .

(e) If a pharmacist or pharmacist delegate has a reasonable belief that a patient may be seeking a monitored prescription drug for any purpose other than the treatment of an existing medical condition:

(1) Before dispensing a monitored prescription drug to the patient, the pharmacist or pharmacist delegate shall request prescription monitoring data to determine if the patient has received other prescriptions that indicate misuse, abuse, or diversion of a monitored prescription drug; and

(2) The pharmacist shall have the responsibility described in 21 C.F.R. 1306.04.

The pertinent provisions of the Code of Maryland Regulations ("COMAR"), provide the following:

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:

(a) United States Code, Title 21,

(b) Health-General Article, Titles 21 and 22, Annotated Code of Maryland,

(c) Health Occupations Article, Title 12, Annotated Code of Maryland,

(d) Criminal Law Article, Title 5, Annotated Code of Maryland, and

(e) COMAR 10.19.03;

(2) Verify the accuracy of the prescription before dispensing the drug or device if the pharmacist has reason to believe that the prescription contains an error[.]

. . . .

B. A pharmacist may not:

(1) Engage in conduct which departs from the standard of care ordinarily exercised by pharmacist;

(2) Practice pharmacy under circumstances or conditions which prevent the proper exercise of professional judgment; or

(3) Engage in unprofessional conduct.

COMAR 10.34.20.02. Requirements for Prescription Validity.

A. A valid prescription shall be:

(1) Valid in the professional judgment of the pharmacist responsible for filling the prescription

COMAR 10.34.20.04. Controlled Dangerous Substances.

Transmission and dispensing of controlled dangerous substances shall be in

accordance with applicable State and federal statutes and regulations.

COMAR 10.19.03.07. Prescriptions.

. . . .

C. Purpose of Issue of Prescription (21 CFR §1306.04)

(1) A prescription for a controlled dangerous substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of the individual practitioner's professional practice. The responsibility for the proper prescribing and dispensing of controlled dangerous substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of the Maryland Controlled Dangerous Substances Act Criminal Law Article, §§5-501-5-505, Annotated Code of Maryland, and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled dangerous substances.

On October 9, 2024, a Case Resolution Conference ("CRC") was held before a panel of the Board. As a resolution of this matter, the Respondent-Pharmacist agreed to enter this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds that:

1. At all relevant times hereto, the Respondent-Pharmacist was licensed to practice pharmacy in the State of Maryland. The Respondent-Pharmacist was originally licensed to practice pharmacy in the State of Maryland on or about October 30, 2014. The Respondent-Pharmacist's license expires on February 28, 2026.

2. The Respondent-Pharmacist is the sole employee and pharmacist of a pharmacy (the "Pharmacy")[1] located in Prince George's County, Maryland. The Respondent-Pharmacist filed the articles of organization for the Pharmacy.

3. At all times relevant hereto, the Pharmacy had a permit to operate as a pharmacy in the State of Maryland. The Pharmacy was originally issued a permit on June 17, 2022. The Pharmacy's permit expires on May 31, 2026.

4. On September 20, 2022, the Board conducted an inspection of the Pharmacy. The Respondent-Pharmacist was on duty at the time. According to the inspection report, which the Respondent-Pharmacist signed acknowledging receipt, "[w]hen asked if the pharmacy had procedures in place to verify control prescriptions [the Respondent-Pharmacist] stated[] that he would call physician, uses [Chesapeake Regional Information System ("CRISP")[2]], checks fill history, checks for red flags and reports to [Prescription Drug Monitoring Program ("PDMP")[3]] through software."

5. On December 8, 2022, an inspector from the Maryland Office of Controlled Substances Administration ("OCSA") conducted an inspection of the Pharmacy. The Respondent-Pharmacist was on duty at the time. According to the inspection report, which

[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-Pharmacist.

[2] CRISP serves as the access point for clinical providers, including prescribers, pharmacists, and other licensed healthcare practitioners, for viewing filled CDS prescriptions.

[3] PDMP is a statewide electronic database that tracks all CDS prescriptions. The PDMP allows authorized users to: view prescription histories of their patients, including prescriptions from other states; identify patients who are obtaining opioids from multiple providers; review the average morphine milligram equivalent per day for patients who are prescribed opioids; identify patients who are being prescribed concurrent medications that may increase risk of overdose, such as benzodiazepines and opioids; and identify possible diversion, substance use disorder, or needed care coordination.

the Respondent-Pharmacist signed acknowledging receipt, the OCSA inspector educated the Respondent-Pharmacist on red flag issues and his "corresponding responsibility when filling [controlled dangerous substance ("CDS")] prescriptions to ensure all CDS prescriptions are written for a legitimate medical purpose."

6. On or about April 24, 2023, OCSA referred the Pharmacy to the Board stating that "[a]lmost all CDS prescriptions dispensed by the pharmacy have multiple red flags for diversion and abuse."

7. After receiving the referral, the Board initiated an investigation.

8. On or about September 19, 2023, the Board issued a subpoena to the PDMP requesting dispensing information for all CDS dispensed by the Pharmacy from January 1, 2023, to September 1, 2023. The Board received the PDMP Report, which included data for dates from January 2, 2023, through August 29, 2023, inclusive.

9. On or about September 19, 2023, the Board issued a subpoena to the PDMP requesting the dispensing information for all CDS dispensed by the Respondent-Pharmacist (to include access by their delegates) from January 1, 2023, through September 1, 2023. The audit trail request yielded no report for the Respondent-Pharmacist during the requested period.[4] Therefore, the Respondent-Pharmacist did not query the PDMP database from January 1, 2023, through September 1, 2023, inclusive.

[4] A PDMP Audit Trail Report contains a log of all PDMP data accessed by a clinical user under their individual CRISP account or through an approved PDMP integration within their workflow. Clinical users (prescribers, pharmacists, and delegates) can query (search for) PDMP data related to a patient through CRISP products. A record exists when a query was successfully made, regardless of whether data was returned (i.e. a provider can search for a patient in the system and be shown either PDMP prescription data or be told that no data exists for the searched patient demographics; both of these situations would be logged as a query).

10. OCSA's Clinical Pharmacist Inspector (the "Clinical Pharmacist Inspector") drafted a memorandum dated February 2, 2024. The Clinical Pharmacist Inspector provided the following factual background:

a. The resident agent for the Pharmacy is a limited liability company operating as a health care practice ("Practice-1").

b. In the Pharmacy's articles of incorporation, a certified registered nurse practitioner ("Prescriber-1") signed on behalf of Practice-1 as the resident agent. Prescriber-1 is identified as "Director" of Practice-1.

c. A certified registered nurse practitioner ("Prescriber-2") is the registered agent for Practice-1.[5]

d. Prescriber-1 is the registered agent for a limited liability company operating as a health care practice ("Practice-2"), which has the same principal office address as the Pharmacy.[6]

e. Prescriber-1 and the Respondent-Pharmacist are co-owners of a residential property.[7]

f. Ninety-six percent (96%) of the CDS dispensed by the Pharmacy were prescribed by Prescriber-1 and Prescriber-2.

[5] The Clinical Pharmacist Inspector identifies both Prescriber-1 and Prescriber-2 as resident agents of Practice-1; however, according to the Maryland State Department of Assessments and Taxation, only Prescriber-2 is the resident agent for Practice-1.

[6] During the December 8, 2022, inspection, the Pharmacist told the OSCA inspector that he rented out part of his pharmacy space to Prescriber-1 and Prescrber-2.

[7] This property is the address of record that the Pharmacist maintains with the Board.

g. From January 2, 2023, through August 29, 2023, inclusive, the Pharmacy dispensed 12 prescriptions for Schedule II medication and 416 prescriptions for Schedule III-V medications.

h. Of the 416 Schedule III-V medications, 404 prescriptions (~97%) were self-pay at the Pharmacy while 12 prescriptions (~3%) were billed to insurance.

i. All prescriptions billed to insurance were for patients with addresses in Maryland or Washington, D.C.

j. Of the 404 prescriptions billed as self-pay, 387 prescriptions were for buprenorphine 8mg tablets. All 387 of these prescriptions for buprenorphine 8mg tablets were dispensed to patients with addresses in West Virginia. Almost all of these addresses are more than 100 miles away from the Pharmacy, but many are 200-300 miles away from the Pharmacy. Of the 387 prescriptions for buprenorphine 8mg tablets, 315 prescriptions (~81%) were prescribed by Prescriber-1; 36 prescriptions (~10%) were prescribed by Prescriber-2; and the remaining were prescribed by other prescribers.

k. In 2022, the Pharmacy dispensed 348 self-pay buprenorphine 8mg tablet prescriptions. From January 2, 2023, through August 29, 2023, inclusive, the Pharmacy dispensed 387 self-pay buprenorphine 8mg tablet prescriptions.

l. The quantity dispensed for the buprenorphine 8mg tablets was usually 90 tablets, but occasionally 60 tablets, 75 tablets, or 84 tablets were

dispensed. For most of the 90 tablet quantities, the Pharmacy charged $340, but for a few, the Pharmacy charged $310.

m. Prescriber-1 and Prescriber-2 electronically prescribed all prescriptions to the Pharmacy. Prescriber-1 prescribed from the addresses for Practice-1 and Practice-2. Prescriber-2 prescribed from the address for Practice-1.

11. The Clinical Pharmacist Inspector found that the Pharmacy engaged in the following red flags:

> [a.] Dispensing a drug with a high potential for abuse and diversion (buprenorphine 8mg tablets) almost exclusively when equally effective alternative drugs with lesser potential for abuse and diversion (Suboxone, Zubsolv) are widely available.
>
> [b.] Dispensing a drug with a high potential for abuse and diversion (buprenorphine 8mg tablets) almost exclusively as an expensive ($340 for 90 tablets) self-pay prescription to patients.
>
> [c.] Dispensing a drug with a high potential for abuse and diversion (buprenorphine 8mg tablets) almost exclusively to patients travelling hundreds of miles from out-of-state when equally effective alternative drugs with lesser potential for abuse and diversion (Suboxone, Zubsolv) are available locally to the patients.
>
> [d.] Dispensing the same drug with a high potential for abuse and diversion (buprenorphine 8mg tablets) to multiple members of the same family.
>
> [e.] Dispensing an expensive drug ($340 for 90 tablets) with a high potential for abuse and diversion (buprenorphine 8mg tablets) that was prescribed 91% of the time by nurse practitioners who have a financial interest in the pharmacy's business.
>
> [f.] Dispensing an expensive drug ($340 for 90 tablets) with a high potential for abuse and diversion (buprenorphine 8mg tablets) that

> was prescribed 81% of the time by a nurse practitioner who is a family member of the pharmacy's owner.[8]

The Clinical Pharmacist Inspector determined that "[t]he above red flags support the conclusion that [the Pharmacy's] dispensing is not for a legitimate medical purpose."

12. On May 14, 2024, an inspector from OCSA conducted a regulatory inspection of the Pharmacy. The Respondent-Pharmacist was on duty at the time. During this inspection, the OCSA inspector found that the Pharmacy "ordered a large amount of buprenorphine 8mg tablets in 2024" totaling 5,670 tablets for invoices from March 27, 2024, through May 7, 2024. The OCSA inspector reviewed the Schedule III-IV prescriptions for the period from March 5, 2024, through May 3, 2024. Of the 29 prescriptions, 27 prescriptions were for buprenorphine 8mg tablets for West Virginia residents, all of whom lived more than 100 miles from the Pharmacy. The OSCA inspector found that the prescriptions were for quantities ranging from 60 to 110 tablets, with 90 tablets being the most frequently dispensed quantity. The OCSA inspector noted that the Pharmacy charges $360.00 for 90 tablets. The prescribers for the buprenorphine 8mg tablets included Prescriber-1, Prescriber-2, and five (5) other prescribers.

13. The OCSA inspector discussed the "pattern of red flag dispensing at [the Pharmacy]" with the Respondent-Pharmacist. The OCSA inspector's report, which the Respondent-Pharmacist signed acknowledging receipt, noted the observation of a "pattern of [a] highly divertible drug dispensed self-pay to long distance out-of-state customers."

[8] According to the memorandum, "[Prescriber-1] and [the Pharmacist] own a residential property together and are presumably related or in a relationship."

The OCSA inspector's report further required the Respondent-Pharmacist to "communicate with patients and prescribers to ensure all CDS prescriptions are for a legitimate medical purpose before dispensing as the pharmacist equally shares in the responsibility with the prescriber."

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law the following:

14. By filling prescriptions with red flags, the Respondent-Pharmacist violated Health Occ. § 12-313(b)(21), Health-Gen. § 21-2A-03(c), Health-Gen. § 21-2A-04.2(e)(1)-(2), and Health Occ. § 12-313(b)(25) in that the Respondent-Pharmacist violated COMAR 10.34.10.01(A)(1)-(2) and (B)(1)-(3), COMAR 10.34.20.02, COMAR 10.34.20.04, and COMAR 10.19.03.07(C)(1).

15. By failing to check CRISP for red flag prescriptions and/or failing to document that CRISP was checked prior to filling red flag prescriptions, the Respondent-Pharmacist violated Health Occ. § 12-313(b)(21), Health-Gen. § 21-2A-03(c), Health-Gen. § 21-2A-04.2(e)(1)-(2), Health Occ. § 12-313(b)(25) in that the Respondent-Pharmacist violated COMAR 10.34.10.01(A)(1)-(2) and (B)(1)-(3), COMAR 10.34.20.02, COMAR 10.34.20.04, and COMAR 10.19.03.07(C)(1).

16. By filling numerous prescriptions despite several red flags and/or failing to document verification checks were completed for red flag prescriptions, the Respondent-Pharmacist violated Health Occ. § 12-313(b)(21), Health-Gen. § 21-2A-03(c), Health-Gen. § 21-2A-04.2(e)(1)-(2), and Health Occ. § 12-313(b)(25) in that the Respondent-

Pharmacist violated COMAR 10.34.10.01(A)(1)-(2) and (B)(1)-(3), COMAR 10.34.20.02, COMAR 10.34.20.04, and COMAR 10.19.03.07(C)(1).

17. By filling prescriptions prescribed by Prescriber-1 and Prescriber-2, with whom the Respondent-Pharmacist and/or Pharmacy had a close personal and/or business relationship, the Respondent-Pharmacist violated Health Occ. § 12-313(b)(2), (21), and (25) in that the Respondent-Pharmacist violated COMAR 10.34.10.01(A)(1)-(2) and (B)(1)-(3), COMAR 10.34.20.02, COMAR 10.34.20.04, and COMAR 10.19.03.07(C)(1).

18. By participating in activities, as outlined above, the Respondent-Pharmacist violated Health Occ. § 12-313(b)(2), (21), and (25), and/or Health-Gen. § 21-2A-03(c), Health-Gen. § 21-2A-04.2(e)(1)-(2), COMAR 10.34.10.01(A)(1)-(2) and (B)(1)-(3), COMAR 10.34.20.02, COMAR 10.34.20.04, and COMAR 10.19.03.07(C)(1).

ORDER

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

ORDERED that the Respondent-Pharmacist's license to practice pharmacy in the State of Maryland is hereby **REPRIMANDED;** and it is further

ORDERED that the Respondent-Pharmacist's license shall be placed on **PROBATION** for a period of at least **THREE (3) YEARS,** subject to the following terms and conditions:

1. During the probationary period, the Board, shall obtain quarterly reports from the prescription drug monitoring program (PDMP) for the Respondent-Pharmacist;

2. Within the first twelve (12) months of the probationary period, the Respondent-Pharmacist shall successfully complete twelve (12) continuing education credits in red flags, drugs of abuse, and the exercise of corresponding responsibility regarding CDS dispensing to include the use of PDMP. This requirement is in addition to the continuing education credits necessary for license renewal;

3. During the period of probation, the Respondent-Pharmacist shall not apply for a permit to operate a pharmacy in the State of Maryland and any application for a pharmacy permit submitted thereafter shall be subject to the Board's review and discretion.

4. After **THREE (3) YEARS** from the date of this Consent Order, the Respondent-Pharmacist may submit a written petition to the Board requesting termination of probation, provided that he has been fully compliant with this Consent Order and has no outstanding complaints filed against him;

ORDERED that the Respondent-Pharmacist shall pay a monetary fine in the amount of **$5,000**, payable during the period of probation, payable by certified check or money order to The Maryland State Board of Pharmacy and sent to:

Wells Fargo Bank
Attn: State of MD - Board of Pharmacy
Lockbox 2051
401 Market Street
Philadelphia, PA 19106

Please reference Case Number 23-414 – Oppong Agyare Kwateng on your check or money order to ensure proper assignment to your case; and it is further

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

ORDERED that the Respondent-Pharmacist shall bear the cost(s) of complying with the Consent Order; and it is further

ORDERED that the Respondent-Pharmacist 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 failure to comply with the terms and conditions of the Consent Order, including failure to pay the monetary fine in full by the deadline, 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 this Consent Order is a public document. *See* Md. Code Ann., Gen. Prov. § 4-101 *et seq.* (2019 Repl. Vol. & 2023 Supp.).

12-9-2024
Date

Kristopher Rusinko
President, Maryland Board of Pharmacy

CONSENT

I, Oppong Agyare Kwateng, 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 its 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.

12/5/24
Date

Oppong Agyare Kwateng

NOTARY

STATE OF Maryland

CITY/COUNTY OF Prince Georges

I hereby certify that on this 4th day of December, 2024, before me, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared OPPONG AGYARE KWATENG and made an oath in due form that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

DARYL HANNAH AGGASID RODRIGUEZ
My Commission Expires
NOTARY PUBLIC
12-07-2027
MONTGOMERY COUNTY, MD

Notary Public

My commission Expires: 12/07/2027