

**IN THE MATTER OF** \* **BEFORE THE**  
**DAVID NGUYEN** \* **MARYLAND BOARD**  
**REINSTATEMENT APPLICANT** \* **OF PHARMACY**  
\* **Case No.: 23-270**

\* \* \* \* \*

**CONSENT ORDER**

On May 17, 2023, the Maryland Board of Pharmacy (“the Board”) notified **DAVID NGUYEN** (“the Applicant”) of the Board’s intent to **DENY** his reinstatement application for registration to practice as a pharmacy technician under the Maryland Pharmacy Act, (the "Act") Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2021 Repl. Vol. and 2022 Supp.). The pertinent provisions of Health Occ. provide as follows:

**§ 12-6B-02. Qualifications**

(a) *In general* - To qualify for registration an applicant shall be an individual who:

....

(2) Meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character[.]

**§ 12-6B-09. Ground for reprimand or denial, probation, suspension, or revocation of registration.**

Subject to the hearing provision of § 12-315 of this title, the Board may deny a pharmacy technician's registration to any applicant, reprimand a registered pharmacy technician, place any pharmacy technician's registration on probation, or suspend or revoke a pharmacy technician's registration if the applicant or pharmacy technician registrant:

....

- (22) Pleaded guilty or *nolo contendere* to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:
- (i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or
  - (ii) Any appeal or other proceeding is pending regarding the matter;
- (23) Violates any provision of this title[.]

On July 12, 2023, a Case Resolution Conference (“CRC”) was held before a committee of the Board. As a resolution of this matter, and to mutually resolve the pending charges and disputed claims against the Respondent in lieu of an evidentiary hearing, the Respondent and the Board agree to enter into this public Consent Order consisting of the Board’s Findings of Fact, Conclusions of Law, and an Order.

### **FINDINGS OF FACT**

The Board makes the following Findings of Fact:

1. On or about February 18, 2021, the Board issued the Applicant a registration to practice as a pharmacy technician in the State of Maryland, registration number T24720.<sup>1</sup> The Applicant’s registration expired on October 31, 2022.
2. On or about December 10, 2022, the Applicant submitted an Application for Pharmacy Technician Registration – Reinstatement (the “Application”) to the Board.
3. On his Application, the Applicant answered, “yes” to the question, “Have you committed a criminal act for which you pled guilty or *nolo contendere*, or for

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<sup>1</sup> The Respondent failed to disclose to the Board his pending criminal charges at the time of his initial application.

which you were convicted or received probation before judgment?”

4. The Application states in part: “If you answer “YES” to any question, please provide a detailed explanation . . . and supporting documentation. Failure to provide complete and correct information may result in delay, or denial, of your application for registration.”
5. On December 21, 2022, the Applicant stated in email, “I have received probation before judgement and have no pending charges of any sort. I am currently completing my probation as ordered by the court. Please feel free to reach out if needed.”
6. By email dated January 18, 2023, the Applicant provided an explanation along with partial criminal court documentation including the case number – specifically a Circuit Court for Montgomery County, Maryland Probation and Supervision Order (Pages 1–4). The email stated:

I was told I needed to provide further information. This situation took place back in late 2020. I found myself on the wrong part of the internet and because of it things escalated. Following there was an investigation which then proceeded to court. The judge residing [*sic*] over my case ruled to grant me probation before judgment, along with probation in which I am currently completing as required.

7. The Board subsequently requested the full and complete criminal court documents for Case Number C-15-CR-22-526 from the court.

### **CRIMINAL CASE**

8. On or about October 29, 2020, in the District Court of Montgomery County, Maryland, the Respondent was charged with ten (10) counts of Possession of

Child Pornography (misdemeanor). The Application for Statement of Charges

stated in part:

On October 29, 2020, the National Center for Missing and Exploited Children (NCMEC) received CyberTipline report [Number Redacted]... from Kik ... in reference to Kik Messenger technologies being used to facilitate the possession of child pornography on or about October 27, 2020 ...

Through protocols to detect illegal use of online services, Kik ... determined that the images uploaded by a Kik Messenger user was possibly child pornography ... As required by statute, Kik ... reported the activity to NCMEC via the CyberTipline report ... CyberTipline report ... was provided to the Maryland Crimes Against Children Task Force from NCMEC and forwarded to the Montgomery County Department of Police for criminal investigation on November 19, 2020.

....

Kik Messenger is a messaging application, commonly referred to as Kik. This application is a freeware instant messaging mobile application. A user can create an account and use their mobile device to transmit and receive messages, photos, videos, sketches, mobile webpages and other digital content ...

Kik ... reported that nineteen (19) files were uploaded by the reported user ...

Filename: [1]

Description: An 11 second video depicting an adult male kissing the buttocks of a prepubescent male.

Filename: [2]

Description: An 11 second video depicting an Adult male masturbating over a prepubescent male's buttocks who has underwear pulled down to the hamstring area.

Filename: [3]

Description: A 15 second video depicting an Adult male spreading the buttocks of the prepubescent male and then placing his index finger into the anus of the prepubescent male.

Based on training and experience your Affiant knows the above

described files to be identified under Maryland criminal law as child pornography.

On December 2, 2020 Verizon Fios responded to the subpoena. Below is the information provided by Verizon Fios for the IP address of [redacted]:

Customer Name: David Nguyen

.....

On December 18, 2020 your Affiant and other sworn personnel from the Montgomery County Department of Police executed a residential search warrant at [address redacted]. Upon entry into the residence your affiant spoke to David Nguyen ...

On March 11, 2021 your affiant obtained a search warrant for the devices that were seized from the residence of David Nguyen ... The forensic analysis discovered the following files located in the Apple iPhone belonging to David Nguyen:

Filename: [4]

File Description: A 59 second prepubescent male performing fellatio.

Filename: [5]

File Description: A 1 minute and 59 second video depicting two prepubescent males engaging in anal sex.

Filename: [6]

File Description: A 22 second video of a naked prepubescent male touching his penis.

Filename: [7]

File Description: A 1 minute and 42 second video depicting a prepubescent male performing fellatio on and [*sic*] adult male penis.

Filename: [8]

File Description: A 2 minute and 3 second video depicting a prepubescent male dancing naked and touching his penis.

Filename: [9]

File Description: A 1 minute and 37 second video depicting an adult male engaging in anal intercourse with a prepubescent male

Filename: [10]

File Description: A 48 second video depicting a prepubescent male dancing naked and thrusting his penis toward the camera

Filename: [11]

File Description: A 14 second video depicting a prepubescent male performing fellatio on an adult male penis.

Filename: [12]

File Description: A 54 second video depicting a prepubescent female performing fellatio on an adult male penis

Filename: [13]

File Description: A 1 minute and 14 second video depicting a prepubescent male touching his naked penis and thrusting towards the camera.

Based on training and experience your Affiant knows the above described files to be identified under Maryland criminal law as child pornography.

Based on the (10) ten videos found on the Apple iPhone belonging to David Nguyen, the applicant requests that an arrest warrant be issued for David Nguyen for (10) counts of possession of Child Pornography Criminal Law Article 11-208 (a)(1)(2)(3), of the Annotated Code of Maryland.

The applicant is requesting an arrest warrant be issued due to the defendant's sexual predilection for children, your applicant believes him to be a danger to society and a threat to children[.]

9. On or about June 16, 2022, the Applicant and the State of Maryland entered into a Consent Order/Plea Agreement in which the Applicant agreed to plead guilty to one count of possession of child pornography.
10. On or about June 29, 2022, in the Circuit Court for Montgomery County, Maryland, the Applicant plead guilty, and was given probation before judgment. The Applicant was sentenced to five (5) years in jail. The court suspended the

term of imprisonment and imposed five (5) years of supervised COMET<sup>2</sup> probation; a fine of \$750.00; ordered that the Respondent “have no contact with minors unsupervised;” forfeiture of all electronics seized; “May not view any pornography whatsoever;” and register as a Tier I<sup>3</sup> sex offender on the Maryland Sex Offender Registry.

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent’s actions, as described above, constitute violations of Health Occ. §§ 12-6B-02(b)(1), 12-6B-09(22), and 12-6B-09(23).

### ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 26<sup>th</sup> day of September, 2023, by the affirmative vote of a majority of the members of the Board then serving:

**ORDERED** that the reinstatement of the Respondent's registration shall be **DENIED**; and it is further

**ORDERED** that the Respondent may not reapply for reinstatement of his pharmacy technician registration until he provides the Board with proof of successful

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<sup>2</sup> COMET is an acronym for Collaborative Offender Management Enforcement Treatment. A probationer on COMET supervision is required to comply with a sexual offender management program, which may include intensive reporting requirements, specialized sex offender treatment, and computer monitoring, among other things.

<sup>3</sup> Tier I Sex Offender: “These registrants have been convicted in Maryland of a crime listed below or convicted in another jurisdiction of a Tier I offense. These registrants register for 15 years.


...  
Possession of Child Pornography - Criminal Law Article, § 11-208 or Art. 27 § 419B[.]”

completion of the criminal probation associated with Case C-15-CR-22-526; and it is further

**ORDERED** that prior to submitting any reinstatement application, the Respondent must submit to a Board approved evaluation, at his own expense, and cause the report to be sent to the Board to be considered with his reinstatement application; and it is further

**ORDERED** that the Consent Order shall be a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2019).

9-26-23  
Date

  
Deena Speights-Napata, MA  
Executive Director  
Maryland Board of Pharmacy

**CONSENT**

I, David Nguyen, 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.

09/21/2023



Date

David Nguyen, Reinstatement Applicant

**NOTARY**

STATE OF: Maryland  
COUNTY/CITY: Anne Arundel

I **HEREBY CERTIFY** that on this 21st day of September, 2023, before me, a Notary Public of the State and City/County aforesaid, **David Nguyen** personally appeared, and made an oath in due form that the foregoing Consent was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

SEAL



  
Notary Public

My Commission Expires: June 28, 2026