

IN THE MATTER OF

NORTHGATE PHARMACY
Permit No. P04037

Respondent Pharmacy

and

VINCENT IPPOLITO, R.Ph.
License No. 09933

Respondent Pharmacist

* * * * *

*** BEFORE THE**

*** MARYLAND STATE**

*** BOARD OF PHARMACY**

*** Case No. 22-063**

FINAL DECISION AND ORDER

Procedural Background

This case arose from allegations that Northgate Pharmacy (the "Respondent Pharmacy"), Permit Number P04037, and its pharmacist owner, Vincent Ippolito (the "Respondent Pharmacist"), License Number 09933, engaged in the unlawful dispensing of controlled dangerous substances and that Mr. Ippolito received a felony conviction on December 22, 2021, for CDS distribution – Oxycodone. ("Respondent Pharmacy" and "Respondent Pharmacist" may be collectively referred to as "Respondents.") Based upon the investigation by the Board of Pharmacy (the "Board") and pursuant to the Board's authority under the Maryland Pharmacy Act, *Md. Code Ann.*, Health Occ. ("H.O.") §12-101 *et seq.* (the "Practice Act"), the Board issued Notices of Intent to Revoke, dated April 20, 2022, against both Northgate Pharmacy and Mr. Ippolito for violating the Practice Act. The Board's Notices of Intent to Revoke were sent to Northgate Pharmacy's business address of record as well as the personal address of record for Mr. Ippolito, as

appropriate. Mr. Ippolito responded to the Board's Notice of Intent to Revoke Pharmacist License by submitting a written request for a hearing on May 4, 2022.

On September 2, 2022, the Board delegated authority for both matters to the Office of Administrative Hearings ("OAH") to conduct a contested case hearing and prepare proposed findings of fact, proposed conclusions of law, and a proposed order. Subsequently, on October 21, 2022, OAH sent a Notice of Remote Prehearing Conference to the address of record for the Respondents scheduling a Pre-Hearing Conference on December 9, 2022, at 9:30 a.m. via the Webex video-conferencing platform. The Notice included a statement that failure to appear for the conference may result in a decision against the party failing to appear. The Notices sent to the Respondents were not returned by the United States Postal Service as undeliverable.

The Administrative Law Judge ("ALJ") convened the Pre-Hearing Conference on December 9, 2022, as scheduled. The conference was recorded. The Administrative Prosecutor appeared on behalf of the State. No one appeared on behalf of the Respondents. At no time did Respondents contact OAH's Clerk's office to report any difficulties connecting to the Webex hearing room.

At the Pre-Hearing Conference, the Administrative Prosecutor confirmed that she sent the required pre-hearing documents to the Respondents at three (3) separate addresses of record. In addition, the Administrative Prosecutor emailed the Respondents referencing the Pre-Hearing Conference scheduled for December 9, 2022, to which the Respondents replied on December 2, 2022, at 12:23 p.m. The Respondents did not request a postponement nor did the Respondents pose any questions or concerns to the

Administrative Prosecutor or ALJ about the process, or advise of their inability to appear.

At the Pre-Hearing Conference, the ALJ waited for fifteen minutes after which the Administrative Prosecutor filed a Motion for Default against the Respondents in accordance with COMAR 28.02.01.23A.

The ALJ granted the Motion for Default and issued the Proposed Default Order, dated December 19, 2022, wherein the ALJ proposed that the Allegations of Fact as set forth in the Board's Notices of Intent to Revoke be adopted as findings of fact, that the Respondents are subject to revocation under certain conclusions of law, and that the Board may impose any disciplinary actions against the Respondents that it finds appropriate, including revocation.

The ALJ mailed copies of the Proposed Default Order to the Respondents at their address of record. The Proposed Default Order notified the parties that they may file written exceptions to the proposed order but must do so within 30 days of the receipt of the Proposed Default Order. The Proposed Default Order stated that any exceptions and request for a hearing must be sent to the Board with a copy provided to the opposing party. Neither party filed exceptions.

FINDINGS OF FACT

Because the Board concludes that the Respondents failed to appear at the OAH Pre-Hearing Conference without good cause and did not file exceptions to the ALJ's Proposed Default Order, the following findings of fact are adopted from the allegations of

fact in the April 20, 2022 Notices of Intent to Revoke. Those pertinent findings are set out below.

1. At all times relevant hereto, the Respondent Pharmacy had a permit to operate as a pharmacy in the State. The Respondent Pharmacy was originally issued a permit on or about March 3, 2004. The Respondent Pharmacy's permit expired on May 31, 2022.

2. The Respondent Pharmacy is owned by Respondent Pharmacist.

3. At all times relevant hereto, the Respondent Pharmacist was licensed to practice in the State. The Respondent Pharmacist was originally licensed to practice pharmacy on or about January 19, 1983. The Respondent Pharmacist's license expires on August 31, 2023.

4. On or about August 27, 2021, in the Circuit Court for Charles County, Maryland (Case Number C-08-CR-21-000428), the Respondent Pharmacist was indicted on CDS Distribution-Oxycodone and CDS Distribution-Alprazolam.

5. On or about September 3, 2021, the Respondent Pharmacist was arrested. The Respondent Pharmacist was released on or about September 7, 2021.

6. The Respondent Pharmacist pled guilty to CDS Distribution-Oxycodone, a felony, on or about December 22, 2021.¹

7. On or about January 24, 2022, the DEA issued an Order to Show Cause and Immediate Suspension of Registration ("Immediate Suspension Order") to the Respondent Pharmacy, which stated that the Respondent Pharmacy's continued

registration constitutes “an imminent danger to the public health and safety” due to non-compliance with legal requirements, unlawful dispensing of controlled substances, and failure to account for controlled substances.²

8. On January 27, 2022, the Respondent Pharmacist signed a Surrender for Cause of DEA Certificate of Registration.

CONCLUSIONS OF LAW

The Board affirms the finding of default by ALJ Chapman in accordance with COMAR 28.02.01.23A. Furthermore, based on the foregoing, the Board adopts the ALJ’s certain proposed Conclusions of Law and concludes that the Respondents are subject to discipline based on *Md. Code Ann.*, Health Occ. § 12-409(a)(1)-(3), § 12-403(c)(1) and (9), § 12-313(b)(2), (15), (22), (24), and (25); COMAR 10.34.10.01A(1)-(2), 10.34.10.01B(1)-(3), 10.34.24.03A, 10.19.03.07B and C, 10.19.03.08A(1).

SANCTION

The Board adopts the recommendation made by the ALJ to impose a sanction, and thus, imposes a revocation of the Respondent Pharmacy’s permit to operate a pharmacy and the Respondent Pharmacist’s license to practice in Maryland. The Board’s imposition of a revocation of the Respondent Pharmacy’s permit and a stayed fine is warranted based on the Respondent Pharmacy’s egregious violations of the Maryland

¹ Pursuant to the Plea/Sentence Agreement, the State agreed to dismiss the remaining charge.

² The Order to Show Cause and Immediate Suspension of Registration was based on a “non-exhaustive summary of facts” which included CDS diversion by the Respondent Pharmacist and an audit demonstrating shortage of large amounts of controlled dangerous substances.

Pharmacy Act through the conduct of its owner, the Respondent Pharmacist. Similarly, the Respondent Pharmacist has been criminally convicted of the illegal distribution of Oxycodone and, as such, his continued licensure reflects poorly on the pharmacy profession. Furthermore, the Respondent Pharmacist's criminal conviction is directly related to his pharmacy practice and demonstrates a deliberate decision to misuse his position as a healthcare provider for his own benefit and at the expense of patient health and welfare. A pharmacist must be a trusted, competent, and ethical healthcare practitioner who is responsible for providing effective and appropriate drug regimens to treat the most serious medical conditions, including substance use disorders. As such, the Board determines that revocation is the appropriate sanction to serve as a catharsis for the pharmacy profession as well as to ensure public protection.

ORDER

It is on this 13th day of April, 2023, by the affirmative vote of the Board, hereby,

ORDERED that the pharmacy permit issued to NORTHGATE PHARMACY, INC., Permit No. P04037, is REVOKED; and it is further,

ORDERED that a fine in the amount of TEN THOUSAND DOLLARS (\$10,000) be imposed against NORTHGATE PHARMACY; payment of the fine is hereby STAYED until such time that NORTHGATE PHARMACY applies to the Board for reinstatement of its pharmacy permit; and be it further,

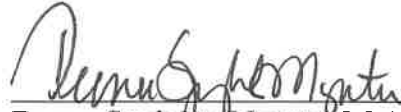
ORDERED that the pharmacist's license held by VINCENT IPPOLITO, License

No. 09933, is REVOKED; and it is further,

ORDERED that this is a final order and public document in accordance with General Provisions Art., § 4-301 *et seq.*

4-13-23

Date



Deena Speights-Napata, M.A.
Executive Director

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. §§ 12-316 and 12-412, the Respondents have the right to seek judicial review of this Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Order. The cover letter accompanying this Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondents file a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

Maryland Board of Pharmacy
Deena Speights-Napata, M.A., Executive Director
4201 Patterson Avenue, 5th Floor
Baltimore, Maryland 21215

Notice of any petition should also be sent to the Board's counsel at the following address:

Linda M. Bethman
Assistant Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201