

**IN THE MATTER OF**  
**SUSAN I. NWOGA, R.PH.**

**Respondent**

**License Number: 15990**

**\* BEFORE THE**  
**\* MARYLAND STATE**  
**\* BOARD OF PHARMACY**  
**\* Case Numbers: 15-067/19-261**

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**FINAL ORDER**

On March 18, 2020, the Maryland Board of Pharmacy (“Board”) issued a Notice of Intent to Revoke the pharmacist’s license held by Susan I. Nwoga, R.Ph., based on a criminal conviction, unprofessional conduct and failure to adhere to certain drug regulations. On May 22, 2020, the case was delegated to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing and proposed decision. The Board subsequently amended its Notice on June 26, 2020.<sup>1</sup>

On September 10 and October 19, 2020, the Administrative Law Judge (“ALJ”) held telephone scheduling conferences. The Administrative Prosecutor appeared on behalf of the State and the Respondent participated and represented herself. Following each of the two scheduling conferences, the ALJ issued a written report to the parties confirming the date, time, and location for the hearing on the merits, which was scheduled for an in-person hearing on December 14, 15, and 16, 2020, beginning at 9:30 a.m. each day at OAH. In addition, on September 10, 2020, OAH issued a Notice of Hearing to both parties detailing the same hearing information. The Notice of Hearing also stated that failure to appear may result in a dismissal of the case or a decision against the party for failure to appear.

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<sup>1</sup> The Board amended its Notice of Intent to Revoke to correct an error in its allegations. Specifically, the Board corrected Allegation #15 which stated, “the Respondent pleaded guilty” to “the Respondent was found guilty by a jury.”

On November 30, 2020, the ALJ received a letter from the Respondent acknowledging the evidentiary hearing date but stating that she was declining to appear. On December 14, 2020, at 9:30 a.m., an evidentiary hearing was convened at OAH in this matter. The Administrative Prosecutor appeared on behalf of the State and was prepared to move forward. The Respondent did not appear by 9:45 a.m., at which time the Administrative Prosecutor moved to admit five (5) exhibits in support of the State's case and moved for a default order.<sup>2</sup>

Under OAH's rules of procedure, "[i]f, after receiving proper notice, a party fails to attend or participate in a prehearing conference, hearing, or other stage of a proceeding, the judge may proceed in that party's absence or may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party." COMAR 28.02.01.23A.

On December 21, 2020, the ALJ issued a Proposed Default Order. The ALJ found that the Respondent had proper notice of the December 14, 2020, evidentiary hearing and that she failed to appear or participate without good cause. The ALJ proposed that the Board find the Respondent in default, adopt as findings of fact the statements set out in the allegations of fact section of the Notice of Intent to Revoke and conclude as a matter of law that the Respondent violated Health Occ. § 12-313(b)(22) and (25), and COMAR 10.34.10.01A and .01B in the manner set forth in the Notice. The ALJ proposed that the Respondent be disciplined in a manner the Board determines appropriate, including revocation of her pharmacist's license.

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<sup>2</sup> The ALJ admitted five (5) State's exhibits: State's Exhibit 1 – Notice of Intent to Revoke Pharmacy License, revised June 26, 2020; State's Exhibit 2 – Criminal court documents in State of Maryland v. Susan I. Nwoga (Baltimore City Circuit Court, Case No. 118114013); State's Exhibit 3 – Office of the Attorney General Press Releases, dated Feb. 14, 2019, and May 22, 2019; State's Exhibit 4 – Consent Order of Susan Nwoga, dated June 15, 2016; State's Exhibit 5 – Licensing Information

The ALJ mailed copies of the Proposed Default Order to the Respondent, the Administrative Prosecutor, and the Board at the parties' respective addresses 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 Respondent failed to contest the factual allegations contained in the Board's Notice, or the documentary evidence admitted into the record at the evidentiary hearing scheduled in this matter, 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 June 26, 2020, Notice of Intent to Revoke and are deemed proven by the preponderance of the evidence:

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in the State of Maryland.
2. The Respondent was originally licensed to practice pharmacy in Maryland on or about February 21, 2001.
3. At all times relevant hereto, the Respondent co-owned and operated a retail pharmacy (the "Pharmacy") located in Baltimore, Maryland.
4. At all times relevant hereto, the Pharmacy operated under permit number P05639. The Pharmacy's permit expired on May 31, 2020.<sup>3</sup>

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<sup>3</sup> The Pharmacy's permit was summarily suspended by the Board on April 15, 2019.

5. On or about June 15, 2016, the Respondent and the Pharmacy each entered into Consent Orders ("2016 Consent Orders") with the Board.

6. In the 2016 Consent Orders, the Board made the following Findings of Fact:

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4. On or about July 16, 2012, the Maryland Division of Drug Control ("DDC") conducted a controlled dangerous substance ("CDS") inspection ("2012 Inspection") of the [Pharmacy]. The 2012 Inspection revealed the following: seven suspected fraudulent Schedule II prescriptions<sup>4</sup>; deficiencies in recording the date of receipt on Schedule III-V invoices when orders are received; failure to maintain electronically linked Controlled Substance Ordering System ("CSOS") records; and failure to take an initial CDS inventory before opening for business as a pharmacy.
5. On May 13, 2013, DDC conducted a follow-up CDS inspection of CDS prescriptions to check for fraudulent and/or illegitimate prescriptions.
6. On May 14, 2013 and May 15, 2013, the DDC returned to the [Pharmacy] to conduct a more thorough inquiry into the suspected fraudulent prescriptions that were discovered [during the May 13, 2013 follow-up inspection]. The Inspectors photocopied all suspected fraudulent CDS Schedule II prescriptions for January through April 2013, as well as May 1 through 14, 2013. The Inspectors also obtained a log of all CDS Schedule II prescriptions dispensed by the [Pharmacy] from May 1, 2012 through May 14, 2013.
7. According to the DDC's inspection, the [Pharmacy] filled approximately 683 Schedule II CDS prescriptions from January 1, 2013 through May 14, 2013. Of those prescriptions, the DDC identified approximately 261 suspected fraudulent or invalid prescriptions.
8. The suspected fraudulent prescriptions contained anomalies, such as, for example:
  - a. Incomplete or inaccurate security features on the prescription form;
  - b. Incorrect prescriber addresses; and

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<sup>4</sup> These prescriptions were later confirmed in writing, by the alleged prescribers, to be fraudulent.

c. Incorrect prescriber telephone numbers.

9. After the May 2013 DDC inspections, at which the inspectors alerted the [Pharmacy] and Ms. Nwoga to the suspected forgeries, the [Pharmacy] then instituted additional controls to combat the efforts of those attempting to fill fraudulent prescriptions.
  10. On or about June 16 and 17, 2014, the DDC performed a follow-up inspection of the [Pharmacy].
  11. On or about August 21, 2015, the DDC conducted another CDS inspection of the [Pharmacy].
  12. The DDC inspectors reviewed the approximately 6481 CDS prescriptions dispensed between January 1, 2013 and September 24, 2015 and copied those prescriptions that were suspected to be fraudulent.
  13. The DDC inspectors contacted the purported prescribers of the suspected fraudulent prescriptions and were able to obtain written verification that a number of the prescriptions were fraudulent. The DDC Inspectors verified that the [Pharmacy] filled 623 fraudulent CDS prescriptions, which were attributed to 113 purported practitioners. Of the 623 fraudulent prescriptions, 356 were Schedule II and 267 were Schedules III through V. Eighty-nine of the fraudulent prescriptions were dispensed after the DDC's May 2013 inspections.
7. The Board concluded in the 2016 Consent Orders that the Respondent and the Pharmacy violated Health Occ. §12-313(b)(25); COMAR 10.34.10.01A(1)(a), (b), (c), (d), and (e); COMAR 10.34.10.01B(1); COMAR 10.19.03.07C(1); and COMAR 10.19.03.09A(1).
  8. In disciplining the Respondent, the Board stayed a thirty (30) day suspension of the Respondent's license. The Board placed the Respondent's license on probation for three (3) years; required the Respondent to pay a fine in the amount of two thousand and five hundred dollars (\$2,500.00); complete a course on the topic of identifying fraudulent prescriptions with attention to red flags and the corresponding responsibility of the pharmacist; and enroll in and successfully complete a course on the topic of the appropriate prescription and dispensing of methadone for both substance abuse and pain management.

9. In disciplining the Pharmacy, the Board placed the Pharmacy on probation for one (1) year and ordered it to pay a fine in the amount of five thousand dollars (\$5,000.00).

#### Current Case

10. On or about January 25, 2019, a Board Inspector went to the Pharmacy to conduct an annual inspection. The Board Inspector arrived at the Pharmacy at approximately 1:30 p.m. Upon her arrival, the Board Inspector noticed that the Pharmacy was closed.
11. The Pharmacy's business hours on file with the Board are Monday through Friday 10 a.m. to 6 p.m., and Saturday 10 a.m. to 2 p.m. The Respondent did not submit a written notification to the Board that the Pharmacy would be closed during business hours.<sup>5</sup>
12. Since February 14, 2019, the Pharmacy has not been open and Board staff have not been able to contact the Respondent or the co-owner of the Pharmacy.<sup>6</sup>
13. The Pharmacy failed to request or submit to a closing inspection by the Board, as required by Board regulations, to ensure the proper transfer of controlled and non-controlled drug inventory and confidential prescription records.
14. On or about February 13, 2019, the Respondent was found guilty by a jury in the Circuit Court for Baltimore City, Maryland of approximately three hundred (300) counts that included possession with intent to distribute a controlled dangerous substance, Medicaid fraud, and theft. According to court documents, the Respondent filled fraudulent prescriptions, dispensed controlled dangerous substances, and submitted claims for payment and reimbursement to Medicaid and other health programs.
15. The Respondent was detained in jail until her sentencing date.

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<sup>5</sup> The Pharmacy was closed when a Board Inspector went to the Pharmacy approximately two weeks later.

<sup>6</sup> Board staff contacted the Attorney for the Respondent and the Pharmacy. According to Board staff, the Attorney could not confirm if there were any drugs or patient records remaining in the Pharmacy.

16. On or about May 23, 2019, the Respondent was sentenced to five (5) years of incarceration for the Medicaid fraud and felony theft convictions, and ten (10) years of incarceration with nine (9) years, eight (8) months, and twenty-two (22) days suspended, and five (5) years of supervised probation for two counts of distribution.

### **CONCLUSIONS OF LAW**

Based upon the foregoing findings of fact, the Board concludes that the Respondent is subject to disciplinary action based on Health Occ. § 12-313(b)(22): [i]s convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

### **SANCTION**

The Board adopts the recommendation by the ALJ to impose a sanction, and thus, imposes a revocation of the Respondent's license to practice pharmacy in Maryland. The Respondent's criminal conviction is directly related to her pharmacy practice and demonstrates Respondent's deliberate decision to misuse her position as a healthcare provider for her own financial gain and at the expense of patient health and welfare.


### **ORDER**

It is, on the affirmative vote of a quorum of the Board, hereby,

**ORDERED** that the pharmacist's license held by Susan I. Nwoga, R.Ph., is **REVOKED**; and it is further

**ORDERED** that this is a final order and public document in accordance with General Provisions Art., § 4-333(b)(6).

8-11-21  
Date

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

**NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW**

Pursuant to Md. Code Ann., Health Occ. § 12-316, the Respondent has 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 Respondent files 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, MA, Executive Director  
4201 Patterson Avenue, 5<sup>th</sup> 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**