

IN THE MATTER OF
SUSAN I. NWOGA
LICENSE No: 15990
Respondent

* BEFORE THE
* MARYLAND BOARD
* OF PHARMACY
* Case No.: 15-067

* * * * *

CONSENT ORDER

On January 7, 2016, the Maryland State Board of Pharmacy (the “Board”) charged **SUSAN I. NWOGA** (the “Respondent”) (License No: 15990), under the Maryland Pharmacy Act (the “Act”), Md. Health Occ. Code Ann. (“H.O.”) §§ 12-101 *et seq.* (2014 Repl. Vol.).

The pertinent provisions of §12-313 the Act provide as follows:

(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:

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

The pertinent provisions of Code Md. Regs (“COMAR”), tit. 10, § 34.10 provide as follows:

.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;

B. A pharmacist may not:

- (1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist[.]

COMAR 10.19.03.07C:

Purpose of Issue of Prescription

(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 violation of the provisions of the law relating to controlled dangerous substances.

COMAR 10.19.03.09A:

(1) A pharmacist may dispense directly a controlled dangerous substance listed in Schedules III, IV, or V, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, or State Law, only pursuant to either a written prescription signed by a prescribing individual practitioner or a facsimile received by facsimile equipment of a written, signed prescription transmitted by the practitioner or the practitioner's agent to the pharmacy or pursuant to an oral prescription made by a prescribing individual practitioner and immediately reduced to writing by the pharmacist containing all information required in Regulation .07 of this chapter, except the signature of the prescribing individual practitioner.

On April 6, 2016, the Respondent participated in a Case Resolution Conference

(CRC) before a panel of Board members to discuss the potential resolution of the Charges by consent. At the conclusion of the CRC, the Respondent agreed to enter into this Consent Order to resolve the pending charges and to avoid the expense and time of proceeding to an administrative hearing. This Consent Order is intended to foreclose any future charges by the Board based on allegations of fraudulent prescriptions filled by the Respondent prior to September 26, 2015.

The Respondent and the Board agreed to the inclusion of Findings of Fact and Conclusions of Law as required by the Board, and with the terms and conditions set forth herein.

FINDINGS OF FACT

The Board finds:

1. The Respondent is licensed to practice pharmacy in the State of Maryland under License Number 15990. The Respondent was first licensed on February 21, 2001. The Respondent's license is currently active and will expire on July 31, 2016.
2. The Respondent and Joseph Nwoga, who is unlicensed, own and/or operate Poplar Grove Pharmacy, a retail pharmacy located at 705 Poplar Grove Street, Baltimore, Maryland 21216.
3. At all times relevant, Poplar Grove Pharmacy was authorized to operate a pharmacy in the State of Maryland. Poplar Grove was issued a permit to operate a pharmacy under permit number P05639 on March 14, 2012. The permit is current and scheduled to expire on May 31, 2018.

4. On or about July 16, 2012, the Maryland Division of Drug Control ("DDC") conducted a controlled dangerous substances ("CDS") inspection ("2012 Inspection") of the Poplar Grove. The 2012 Inspection revealed the following: seven suspected fraudulent Schedule II prescriptions¹; 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 the indicia of fraudulent and/or illegitimate prescriptions.

6. On May 14, 2013 and May 15, 2013, the DDC returned to Poplar Grove to conduct a more thorough inquiry into the suspected fraudulent prescriptions that were discovered on the previous day. 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 Respondent at Poplar Grove from May 1, 2012 through May 14, 2013.

7. According to the DDC's inspection, the Respondent 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:

¹ These prescriptions were later confirmed in writing, by the alleged prescribers, to be fraudulent.

- a. Incomplete or inaccurate security features on the prescription form;
- b. Incorrect prescriber addresses; and
- c. Incorrect prescriber telephone numbers.

9. After the May 2013 DDC inspections, at which the inspectors alerted the Respondent to the suspected forgeries, the Respondent and Poplar Grove instituted additional controls in an effort to combat the efforts of those attempting to fill fraudulent prescriptions.²

10. On or about June 16 and 17, 2014, the DDC performed a follow-up inspection of Poplar Grove.

11. On or about August 21, 2015, the DDC conducted another CDS inspection of the Poplar Grove.

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 Respondent 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

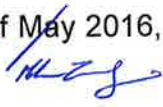
² The Respondent contends that she and Poplar Grove became the victims of organized criminal gangs and rampant prescription fraud that plagued the community. The Respondent also contends that organized criminal enterprises enlisted employees in hospital and physicians' offices to steal prescription pads left unsecured by physicians and utilized them to pass forged prescriptions and the gangs then enlisted members of the community to pass forged prescriptions on Poplar Grove and the other pharmacies in the area.

through V. Eighty-nine of the fraudulent prescriptions were dispensed after the DDC's May 2013 inspections.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provision of the Act: H.O. §§ 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).

ORDER

Based on agreement of the parties, it is therefore this 15 day of ^{June} ~~May~~ 2016,  by an affirmative vote of the Board, hereby:

ORDERED that the Respondent's license to practice pharmacy in the State of Maryland shall be **SUSPENDED** for a period of **THIRTY (30) DAYS**, with all thirty (30) days **STAYED**; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** for a period of three (3) years, subject to the following terms and conditions:

1. Within six (6) months from the date of this Consent Order, the Respondent shall pay a fine in the amount of **\$2,500**, payable to the Maryland Board of Pharmacy. This monetary fine is in addition to the monetary fine that is to be paid by Poplar Grove;
2. Within ninety (90) days from the date of this Consent Order, the Respondent shall enroll in and successfully complete a course on the topic of identifying fraudulent prescriptions with attention to red flags and the corresponding responsibility of the pharmacist;

3. Within ninety (90) days from the date of this Consent Order, the Respondent shall 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;

4. The continuing education credits earned by completing the courses shall be in addition to the continuing education credits necessary for license renewal; and it is further

ORDERED that at the conclusion of the three (3) year probationary period, and after the Respondent has satisfied all of the required terms and conditions, including payment in full of the fine and successful completion of the required courses, the Respondent may file a written petition for termination of her probationary status without further conditions or restrictions, but only if the Respondent has satisfactorily complied with all conditions of the Consent Order and if there are no pending complaints before the Board regarding the Respondent's practice; and it is further

ORDERED that the Respondent shall not seek early termination of her probation; and it is further

ORDERED that failure to comply with the terms and conditions of this Consent Order, including but not limited to failure to pay the required fine and/or failure to successfully complete the required courses constitutes a violation of this 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 the Respondent shall bear all expenses associated with this

Order; and it is further

ORDERED that the Respondent shall practice according to the Maryland Pharmacy Act and in accordance with all applicable laws, statutes and regulations pertaining to the practice of pharmacy; and it is further

ORDERED that this document constitutes a formal disciplinary action of the State Board of Pharmacy and is therefore a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4–101 *et seq.*



Mitra Gavgani, President
State Board of Pharmacy

CONSENT

I, Susan Nwoga, Co-Owner of Poplar Grove Pharmacy, acknowledge that I have had the opportunity to consult with legal counsel before signing this document. By this Consent, I agree 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.

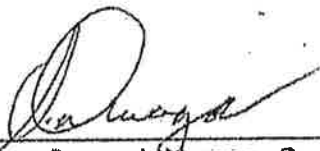
I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its own behalf, and to all other substantive and procedural protections 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 waive any right to appeal

any adverse ruling of the Board that might have followed any such hearing.

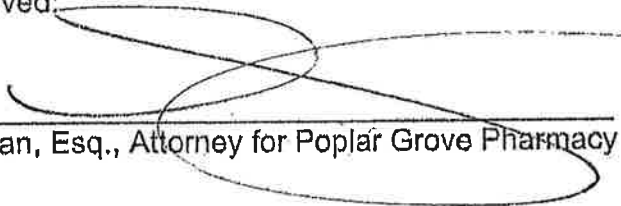
I do not admit the allegations in the amended charges but accept the Findings of Fact and enter into this agreement for purposes of compromise and settlement, and the execution and delivery of this consent order shall not constitute or be construed as an admission of any liability or wrongdoing on my behalf.

I sign this Consent Order 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.

5/21/16
Date


by: Susan I. Nwoga, Co-Owner
Poplar Grove Pharmacy

Read and approved:


Howard Schulman, Esq., Attorney for Poplar Grove Pharmacy

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Dattiniss:

I HEREBY CERTIFY that on this 21 day of May, ²⁰¹⁶ 2015,
before me, a Notary Public of the foregoing State personally appeared Susan I. Nwoga,
Co-Owner of **Poplar Grove Pharmacy**; and made oath in due form of law that signing
the foregoing Consent Order was her voluntary act and deed, and the statements made
herein are true and correct.

AS WITNESSETH my hand and notarial seal.



Patricia Ann Strickland
Notary Public

My Commission Expires: 10/03/2018