IN THE MATTER OF	*	**BEFORE THE**
THE PHARMACY at BELVEDERE SQUARE	*	**MARYLAND BOARD**
	*	**OF PHARMACY**
Respondent		
PERMIT No: P08137	*	**Case No.: 22-055**

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CONSENT ORDER

On February 3, 2022, the Maryland Board of Pharmacy ("the Board") issued a Notice of Charges Under the Maryland Pharmacy Act ("Charges") to **THE PHARMACY at BELVEDERE SQUARE** ("the Respondent"), Permit No.: **P08137**, under the Maryland Pharmacy Act, (the "Act") Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2021 Repl. Vol.) and the Md. Code Regs., Code of Maryland Regulations ("COMAR").

The Board charged the Respondent with violating the following provisions of the Act:[1]

> **§ 12-409. Suspension or revocation of permit**
> **In general**
>
> (a) Subject to the hearing provisions of § 12-411 of this subtitle; the Board may suspend or revoke any pharmacy permit, if the pharmacy:
>
> (1) Is conducted so as to endanger the public health or safety;
>
> (2) Violates any of the standards specified in § 12-403 of this subtitle; *to wit,*

[1] In its discretion, the Board dismisses the other violations cited in the Charges that are not included in this Consent Order.

(c) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title;
(1) Shall be operated in compliance with the law and with the rules and regulations of the Board;

The pertinent provision of Md. Code Regs. ("COMAR") 10.47.07 provides as follows:

10.47.07.03 Dispenser Reporting.

A. For each monitored prescription drug dispensed, the dispenser shall report the following prescription monitoring data to the Department:

(1) Identifying information for the prescription issued and drug dispensed, including:
(a) Prescription number;
(b) Date prescription was issued;
(c) Date prescription was filled;

...

B. Reporting Deadline.

(1) A dispenser shall report prescription monitoring data to the Department to include zero reports at least once every 24 hours and in accordance with procedures developed by the Department and approved by the Advisory Board on Prescription Drug Monitoring.

CASE RESOLUTION CONFERENCE ("CRC")

On April 13, 2022, the Respondent and their attorney, and the Assistant Attorney General - Administrative Prosecutor, attended a Case Resolution Conference ("CRC") with members of the Board in an effort to resolve the pending charges in lieu of an evidentiary hearing. The Respondent and the CRC Committee agreed to, and the Board hereby accepts, the following Findings of Fact, Conclusions of Law, and Order.

I. FINDINGS OF FACT

The Board finds:

I. BACKGROUND

1. At all relevant times, the Respondent held a permit to operate as a pharmacy in the State of Maryland. On or about March 24, 2020, the Respondent was issued a permit in Maryland. The Respondent's co-owners, during the relevant period related to the Charges, were Pharmacist A, Pharmacist B, and Pharmacist C.

2. On March 2, 2022, the Respondent voluntarily surrendered its Controlled Substances Registration, registration number 4100984, to the Office of Controlled Substances Administration.

3. At all relevant times, Pharmacist A was licensed to practice pharmacy in the State of Maryland. On or about August 6, 2013, Pharmacist A was issued a license to practice pharmacy in Maryland and the license is due to expire on January 31, 2023.

4. At all relevant times, the Pharmacist B was licensed to practice pharmacy in the State of Maryland. On or about July 12, 2013, Pharmacist B was issued a license to practice pharmacy in Maryland and the license is due to expire on May 31, 2023.

5. At all relevant times, Pharmacist C was licensed to practice pharmacy in the State of Maryland. On or about December 28, 2005, Pharmacist C was issued a license to practice pharmacy in Maryland and the license is due to expire on July 31, 2023.

II. MARYLAND OFFICE OF CONTROLLED SUBSTANCES ADMINISTRATION (OCSA) INSPECTIONS

6. On April 7, 2021, OCSA conducted a remote regulatory inspection of the Respondent. One of the documents provided by the Respondent was a dispensing report

of controlled dangerous substances (CDS) prescriptions dispensed by the pharmacy. A review of the dispensing report revealed multiple red flags for potential diversion or abuse for the prescriptions dispensed.

7. On July 14, 2021, OCSA conducted an in-person red flag inspection of the Respondent.

8. During the July 14, 2021 inspection, two hundred and eighty-two (282) schedule II hard copy prescriptions were examined and one hundred and forty-eight (148) were found to have at least one red flag. The most frequent red flags were suspected fraudulent prescriptions and high dose/high quantity opioid prescriptions.

9. The suspected fraudulent prescriptions were dispensed between April 2021 and July 2021 and most of the prescriptions had sequential prescription numbers indicating that the prescriptions were filled on the same date at or around the same time. All the suspected fraudulent prescriptions were filled, identified the prescriber as MD, and were written for immediate release oxycodone,[2] in strengths of 10 mg and 20 mg and in quantities from 90 to 120.

10. Inspectors obtained copies of one hundred and ten (110) prescriptions written in MD's name.[3] Of the 110 prescriptions obtained and reviewed, one hundred and eight (108) were dispensed by the Pharmacist A and the other two were dispensed by Pharmacist C.[4]

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[2] A Schedule II CS.

[3] Investigators suspected that the prescriptions were fraudulent by the type of paper used (no watermark or security features); the incorrect phone number for the prescriber's office; and the incomplete address for the prescriber's office.

[4] The two prescriptions were filled/dispensed on May 13, 2021.

11. During an interview on July 14, 2021 with OCSA investigators, Pharmacist A stated that he verified the suspected fraudulent prescriptions by calling the telephone number printed on the prescriptions. After Pharmacist A was informed that the telephone number on the prescriptions was not a valid number for MD, Pharmacist A stated that he called the number on file for MD but admitted that he never verified any of the prescriptions directly with MD.

12. During a visit at MD's practice on July 15, 2021, MD provided investigators with a sample of his prescription pad and it was noted to be ¼ the size of the suspected fraudulent prescriptions presented to the Respondent. MD stated that only his receptionist answered the office phone and the receptionist informed investigators that she never heard of the Respondent and had not verified any prescriptions from the Respondent.

13. On July 26, 2021, inspectors visited MD's office and MD reviewed the prescriptions.

14. On July 26, 2021, MD signed an affidavit and affirmed that he reviewed the (110) prescriptions individually and that he did not write any of the prescriptions.

III. PRESCRIPTION DRUG MONITORING PROGRAM

15. OCSA obtained a Maryland Prescription Drug Monitoring Program (PDMP) report of all CDS medications dispensed by the Respondent from June 5, 2020 through July 26, 2021.

16. Of the one hundred and ten (110) confirmed fraudulent prescriptions, only two prescriptions were listed on the PDMP report. OCSA investigators concluded that in order for some CDS prescriptions to be submitted and others not be submitted, the

pharmacy would have had to actively select and remove prescriptions from their dispensing history before submitting the prescriptions to PDMP.

17. The current owners, Pharmacist A and Pharmacist B, report that as of March 2022, the one-hundred and eight (108) prescriptions have been uploaded to PDMP. The current owners contend that these prescriptions were put into the software system for transmission but did not reach PDMP until March 2022.

The Respondent's conduct, as set forth above, constitutes violations of Health Occ. § 12-409 (a) (1) and (2); and COMAR 10.47.07.03 A (1) and B (1).

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated § 12-409 (a) (1) and (2); and COMAR 10.47.07.03 A (1) and B (1).

III. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 1st day of September, 2022, by a majority of a quorum of the Board:

ORDERED that beginning on the effective date of this Consent Order, the permit, permit number **P08137**, of **THE PHARMACY AT BELVEDERE SQUARE**, shall be placed on **PROBATION FOR a minimum of THREE (3) YEARS**, and said probation shall be **IMMEDIATELY STAYED, until such time that the Respondent has its CDS registration reinstated**; it is further

ORDERED that in the event the Respondent's CDS registration is reinstated, the Respondent shall immediately notify the Board in writing; it is further

ORDERED that if the Respondent's CDS registration is reinstated, effective on the date of reinstatement, the **STAY OF PROBATION** of the Respondent's permit is **LIFTED** and the **PROBATION FOR a minimum of THREE (3) YEARS becomes IMMEDIATELY effective**, subject to the following terms and conditions:

1. The Respondent may not dispense CDS until the Respondent has retained a Board-approved consultant who shall:

   a. Submit a retention letter to the Board with a consultation plan;

   b. Provide the Respondent with consultation regarding standard operating procedures for CDS dispensing, to include mandatory reporting requirements;

   c. Provide the Respondent with consultation regarding any software or vendors to ensure compliance with mandatory reporting requirements;

   d. Monitor the Respondent for proper implementation of standard operating procedures and compliance with reporting requirements;

   e. Submit to the Board written progress reports every six (6) months, until the consultant determines all issues have been addressed;

   f. Submit a final progress report, if the consultant determines that all issues have been addressed.

ORDERED that the Respondent's failure to comply with any of the terms and conditions set forth in this Consent Order constitutes a violation of this Consent Order; and it is further

ORDERED that the Respondent shall cooperate with the Board, its agents/employees in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Consent Order; and it is further

ORDERED that after **THREE (3) YEARS** from the effective date of the Consent Order, the Respondent may submit a written petition to the Board for termination of probation, provided that the Respondent has demonstrated full compliance with the terms and conditions of the Consent Order and there are no pending investigations or complaints before the Board; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing, may impose, by further public order, any sanction(s) authorized by Health Occ. § 12-409 and COMAR 10.34.11.06, including additional probation, suspension, revocation and/or monetary penalty; and it is further

ORDERED that the effective date of this Consent Order is the date that the Consent Order is executed by the Board President or a designee; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in complying with all of the terms and conditions of this Consent Order; 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 Repl. Vol.).

9-1-22
Date

for
Jennifer L. Hardesty, PharmD
Board President
Maryland Board of Pharmacy

CONSENT

I, **Anh Nguyen** and **Minh Luong**, co-owners of The Pharmacy at Belvedere Square, acknowledge that we have had the opportunity to consult with legal counsel before entering into this Consent Order. By this Consent, we accept and agree to be bound by this Consent Order and its conditions and restrictions. We waive any rights we may have had to contest the Findings of Fact and Conclusions of Law.

We acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing at which we would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on our behalf and to all other substantive and procedural protections provided by law.

We acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. We also affirm that we are waiving our right to appeal any adverse ruling of the Board that might have followed any such hearing. We sign this Consent Order voluntarily and without reservation, and fully understand and comprehend the language, meaning and terms of this Consent Order.

8/30/22
Date

Minh Luong
License Number 21835

08/30/2022
Date

Anh Nguyen
License Number 21667

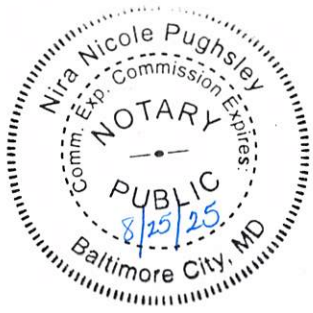
NOTARY

STATE OF Maryland

COUNTY/CITY OF: Baltimore City

I hereby certify that on this 30 day of August, 2022, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared **Minh Luong** and **Anh Nguyen** and made an oath in due form that the foregoing Consent Order was their voluntary act and deed.

AS WITNESSETH my hand and notarial seal.



Notary Public

NIRA NICOLE PUGHSLEY
NOTARY PUBLIC, STATE OF MARYLAND
BALTIMORE CITY
MY COMMISSION EXPIRES

My Commission Expires: 8/25/25