

IN THE MATTER OF WEST NORTH PHARMACY, INC Applicant	* * * *	BEFORE THE MARYLAND STATE BOARD OF PHARMACY Case No. 21-092
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FINAL ORDER

On July 20, 2022, the Maryland State Board of Pharmacy (the “Board”) issued a Notice of Intent to Deny Application for Maryland Pharmacy Permit to **WEST NORTH PHARMACY, INC** (the “Applicant-Pharmacy”) pursuant to the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 12-101 *et seq.* (2021 Repl. Vol.) and Md. Code Regs. (“COMAR”) 10.34 *et seq.*

The Board based its action on the Applicant-Pharmacy’s violation of the following provisions of the Act:

§ 12-402 Pharmacy permits; qualifications.

To qualify for a pharmacy permit, an applicant shall satisfy the Board that the pharmacy for which the application is made will be operated in accordance with the standards specified in § 12-403 of this subtitle.

§ 12-403 Nonresident pharmacies; rules and regulations.

- (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;
 - ...
 - (9) May not participate in any activity that is a ground for Board action

against a licensed pharmacist under § 12-313 of this title

§ 12-408. Transferability of pharmacy permits; display of pharmacy permits.

- (a) A pharmacy permit is not transferable.

§ 12-313. License denial, suspension, or revocation.

- (b) 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 . . . or suspend or revoke a license of a pharmacist if the applicant or licensee:
- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- ...
- (7) Willfully makes or files a false report or record as part of a practicing pharmacy.

FINDINGS OF FACT

The Board finds the following facts:

1. The Pharmacy-Applicant is not licensed to operate as a pharmacy in the State of Maryland.
2. On or about October 5, 2020, the Board received the Pharmacy-Applicant's Application for a Maryland pharmacy permit. On the Application, under "Application Type," the Pharmacy-Applicant indicated that it was a "New Application." The other options included "New Ownership" and "New Location."
3. On the Application, the Pharmacy-Applicant answered "Yes" in response to the question, "Is this the first application that you have submitted for this facility?"

4. The Pharmacy-Applicant did not provide an answer to the question that asked for the name of the previous pharmacy owner “[i]f this application is being submitted for an ownership change[.]”

5. The Pharmacy-Applicant did not provide the date of the last inspection of the facility by a state agency, accreditation program, or the U.S. Food and Drug Administration (FDA).

6. The Pharmacy-Applicant answered, “No” on the Application where it asked, “Do you currently or have you ever owned a pharmacy or distributor in Maryland?”

7. On the Application, the Pharmacy-Applicant answered, “No” to the following question:

Please include a separate sheet listing all disciplinary actions by federal or state agencies against the pharmacy, as well as any such actions against principals, owners, directors, officers, or employees. Please include documentation of any corrective actions taken in response to any disciplinary actions and any final orders issued by any federal or state agencies. Renewal, relocation, and reinstatement applicants – please only include information since the last application you submitted to the Board.

8. On or about October 13, 2020, the Board received a memorandum from a pharmacy inspector regarding the Pharmacy-Applicant. In the memorandum, the inspector stated that the Pharmacy-Applicant’s address is the same address where another

pharmacy, Best Care Pharmacy, began operating after relocating without a relocation inspection or application.¹

9. In the memorandum to the Board, the inspector noted that the pharmacy owner listed on the Pharmacy-Applicant's Application has the same last name as the owner of Best Care Pharmacy.

10. The inspector noted that the pharmacist for Best Care Pharmacy is the same pharmacist that is listed for the Pharmacy-Applicant on the Application.

11. On or about November 5, 2020, a pharmacy inspector visited the location listed on the Pharmacy-Applicant's Application and observed signs on the building that stated, "Best Care Pharmacy Coming Soon." The inspector also observed items that appeared to be prescription items on the shelves in the pharmacy area when looking through the window.

12. On or about November 10, 2020, a pharmacy inspector conducted a virtual opening inspection for the Pharmacy-Applicant. The inspector requested clearer photographs of the items on the pharmacy shelves from the listed owner of the Pharmacy-Applicant (the "Owner"); however, the Owner of the Pharmacy-Applicant did not provide clearer photographs. In the photographs that were provided, some of the items on the pharmacy shelves appear to be prescription items.

¹ Best Care Pharmacy's move to that address without informing the Board and without requesting an inspection was part of the basis for the Board's decision to revoke its permit in September 2021. *In the Matter of Best Care Pharmacy*, Permit No. P06113, Case No. 20-040.

13. On or about September 17, 2021, the Board revoked Best Care Pharmacy's pharmacy permit for reasons including but not limited to its failure to inform the Board of its closure and relocation, and for its failure to request an inspection before closing and moving.²

14. On or about September 21, 2021, Board staff interviewed the pharmacist for Best Care Pharmacy and the Pharmacy-Applicant (the "Pharmacist"). In the under-oath interview, the Pharmacist stated:

- a. The Pharmacist worked at Best Care Pharmacy for "maybe two years." She began working there in "[m]aybe 2017, '18, something like that."
- b. While the Pharmacist was working at Best Care Pharmacy, Best Care Pharmacy moved to a new location.³
- c. The medications were moved from Best Care Pharmacy's prior location to the new location. The Pharmacist stated, "Everything was moved to [the new location.]"
- d. The new location "doesn't have a license[.]"
- e. The owner of Best Care Pharmacy told the Pharmacist that "it was a transfer and he . . . already made arrangements with . . . the Board[.]"
- f. The owner of Best Care Pharmacy told the Pharmacist that "he was going to get the license soon, so [the Pharmacist] went through everything and [she] saw that at that time . . . the medicines had expired, so [she] put them all in . . . the boxes and [she] called the return company to send them out, but they said they could not receive it because they needed a current permit from that [new location]."

² *In the Matter of Best Care Pharmacy*, Permit No. P06113, Case No. 20-040.

³ In the under-oath interview, the Pharmacist provided the new address to which Best Care Pharmacy moved from its prior location. The new address for Best Care Pharmacy provided by the Pharmacist is the same address as the one provided by the Pharmacy-Applicant in its Application.

- g. The Pharmacist “left [the medicines] in the storage” and they “should be” at the new location.
- h. The owner of Best Care Pharmacy decided to move to the new location because “there was a flood” at the prior location.
- i. Best Care Pharmacy “completely” ceased operations at the prior location after the flood.
- j. The owner of Best Care Pharmacy told the Pharmacist that the pharmacy at the new location was going to be “the wife’s pharmacy.”
- k. The wife of Best Care Pharmacy’s owner has the same name as the owner listed on the Application for the Pharmacy-Applicant.
- l. Best Care Pharmacy had another location before the prior location. It transferred from that location to the prior location.
- m. The owner of Best Care Pharmacy told the Pharmacist that the pharmacy at the new location would have a different name than “Best Care Pharmacy.”⁴
- n. The move of Best Care Pharmacy to the new location “was supposed to be a transfer, not like closing.” The transfer was a “relocation” from “one location to the other.”

15. On or about September 21, 2021, Board staff interviewed the Owner of the Pharmacy-Applicant. In the under-oath interview, the Owner stated:

- a. The Owner’s husband owned Best Care Pharmacy, which is now closed.
- b. The Owner is the only owner of the Pharmacy-Applicant.
- c. The Owner “brought” items from Best Care Pharmacy to the Pharmacy-Applicant, including the items that a pharmacy inspector observed on the shelves at the Pharmacy-Applicant.

⁴ In the under-oath interview, the Pharmacist provided the name that the owner of Best Care Pharmacy told her the new location would have. The name provided is the same name as that listed on the Pharmacy-Applicant’s Application.

- d. The Owner's husband helped set up the Pharmacy-Applicant. The Owner stated, "I didn't go up there that much during the, during the set-up, you know. Initially when we got the space I did, but working and having the kids, [my husband] . . . called the people to come and, you know, install the sink and, you know, all that stuff that they had to do."
- e. Best Care Pharmacy had at least three locations and the Owner's husband owned each of them. The locations were not closed; "he just moved them, just changed locations."

16. The Board's own records show that the Owner's husband has a history of opening pharmacies under different permit numbers and then closing them without having closing inspections and without notifying the Board.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Pharmacy-Applicant's conduct as described above constitutes violations of the Act and a basis on which to deny the Application. Specifically:

The Pharmacy-Applicant violated §§ 12-402, 12-403(c)(1) and/or (9) and § 12-313(b)(1) and/or (7) when it indicated on its Application that it was a "New Application" and the other options available on the Application included "New Ownership" and "New Location"; when it answered "Yes" on the Application in response to the question, "Is this the first application that you have submitted for this facility?"; when it did not provide an answer to the question on the Application that asked for the name of the previous pharmacy owner "[i]f this application is being submitted for an ownership change"; when it answered, "No," on the Application where it asked, "Do you currently

or have you ever owned a pharmacy or distributor in Maryland?"; and when it failed to disclose any prior corrective or disciplinary actions.

The Pharmacy-Applicant violated §§ 12-402, 12-408(a), and 12-403(c)(1) by attempting the unauthorized transfer of a pharmacy permit.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 18th day of January, 2023, by a majority of the quorum of the Board, hereby:

ORDERED that the Application of **WEST NORTH PHARMACY, INC** for a pharmacy permit in the State of Maryland is hereby **DENIED**; and it is further

ORDERED that this is a Final Order and as such is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2021).

1/18/23
Date

Jennifer L. Hardesty
Jennifer L. Hardesty, Pharm.D.
President
Maryland Board of Pharmacy

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 12-316, the Applicant has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-201 *et seq.* (2021); and Title 7, Chapter 200 of the Maryland Rules of Procedure.