

IN THE MATTER OF * **BEFORE THE**
BIOSCRIP PHARMACY SERVICES * **MARYLAND STATE**
PERMIT NO. P02088 * **BOARD OF PHARMACY**
* **Case No. 18-074**

* * * * *

PRE-CHARGE CONSENT ORDER

Background

The Maryland Board of Pharmacy (the “Board”) received a self-report from BioScrip Pharmacy Services (the “BioScrip”) on November 1, 2017, indicating that BioScrip had been disciplined by the Alabama Board of Pharmacy on October 19, 2017, for failing to disclose disciplinary action taken against it by the Louisiana, Colorado, and Texas Boards of Pharmacy. Upon receiving this information, the Board reviewed previous applications filed by BioScrip and determined that it had not timely disclosed disciplinary actions taken by the Louisiana or Colorado Boards of Pharmacy as required.

In lieu of instituting formal proceedings against BioScrip, in accordance with the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 *et seq.*, the Board and BioScrip have agreed to resolve this matter as set forth in this Consent Order.

FINDINGS OF FACT

1. On or about November 1, 2017, the Board received a self-report from BioScrip providing notice that it had been disciplined by the Alabama Board of Pharmacy on October 19, 2017, for failing to disclose prior discipline it received from the Louisiana, Colorado and Texas Boards of Pharmacy.

2. Upon receipt of BioScrip's self-report, the Board reviewed prior applications filed in 2014 and 2016. The Board's application form, Question #5, directs the applicant to "[p]lease 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."
3. BioScrip failed to disclose disciplinary actions received by the Louisiana or Colorado Boards of Pharmacy on its 2014 and 2016 renewal applications.
4. BioScrip ultimately disclosed the Louisiana and Colorado Board disciplinary actions to the Board on its 2018 renewal application, in addition to disciplinary actions received by the Texas and Hawaii Boards.
5. The Louisiana Board of Pharmacy entered into a Consent Agreement with BioScrip on May 7, 2008, based on BioScrip's dispensing of drugs into Louisiana with an expired out-of-state pharmacy permit. The Louisiana Board issued a civil fine against BioScrip in the amount of \$5,000, plus administrative and investigative costs.
6. The Colorado Board of Pharmacy issued two Stipulations and Final Agency Orders on February 22 and August 24, 2010. The basis for the discipline was BioScrip's failure to submit required data reports to the Colorado Prescription Drug Monitoring Program. The Colorado Board imposed a \$2,500 fine and \$11,000 fine, respectively.
7. On March 20, 2017, the Texas Board of Pharmacy issued an Agreed Board Order against BioScrip based on BioScrip's failure to disclose disciplinary action it received from the Louisiana and Colorado Boards.
8. On May 18, 2017, the Hawaii Board of Pharmacy entered into a Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order with BioScrip based on BioScrip's failure to report disciplinary action received by the Louisiana and Colorado Board within thirty (30) days as required

by Hawaii law.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that BioScrip Pharmacy Services, is subject to discipline in accordance with Md. Code Ann., Health Occ. §§ 12-403(c)(9), 12-313(b)(7) and (24).

ORDER

Based upon an affirmative vote of a majority of the Board under the authority of Md. Code Ann., Health Occ. § 12-410, it this 29th day of May, 2018, hereby,

ORDERED that BioScrip Pharmacy Services, Permit No. P02088, shall pay a FINE in the amount of \$2,500.00, payable to the Maryland Board of Pharmacy within ninety (90) days of the date of this Order; and be it further,

ORDERED that the above FINE shall be submitted to:

Wells Fargo Bank
Attn: State of MD – Board of Pharmacy
Lockbock 2051
7175 Columbia Gateway Drive
Columbia, Maryland 20146
Reference: Case No. 18-074

and be it further,

ORDERED that BioScrip Pharmacy Services shall comply with all relevant laws and regulations governing the practice of pharmacy in the State of Maryland; and be it further,

ORDERED that in the event that BioScrip Pharmacy Services violates any of the terms above, the Board, after notice and an opportunity for a hearing, and a determination of a violation, may impose any disciplinary sanction it deems appropriate, including

suspension, revocation, and fines, said violation being proven by a preponderance of the evidence; and be it further,

ORDERED that this is a formal order and as such is a public document and order pursuant to Md. Code Ann., General Provisions Article § 4-333.

5/29/18
Date


Deena Speights-Napata
Executive Director for:

Kevin M. Morgan, Pharm.D.
Board President

CONSENT

1. By signing this Consent, BioScrip Pharmacy Services submits to the foregoing Consent Order as a resolution of this matter and agree to be bound by its terms and conditions.


2. BioScrip Pharmacy Services acknowledges the validity of this Consent Order as if it were made after a hearing in which it would have had the right to counsel, to confront witnesses, and to all other substantial procedural protections provided by law.

3. BioScrip Pharmacy Services acknowledges that, by entering into this Consent Order, BioScrip Pharmacy Services is waiving its right to appeal any adverse ruling of the Board that might have followed such an evidentiary hearing.

4. BioScrip Pharmacy Services acknowledges the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.

5. BioScrip Pharmacy Services signs this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. BioScrip Pharmacy Services fully understands the language, meaning, and effect of this Consent Order.


04-23-2018
Date


Name: Kathryn Stalmack
Title: Senior Vice President, General Counsel and Secretary

STATE OF Colorado
COUNTY/CITY OF Denver :

I hereby certify that on this 23rd day of April, 2018, before me, a Notary Public of the State of ~~Maryland~~ Colorado and County/City aforesaid, personally appeared Kathryn Stalmack, and made an oath in due form that the foregoing Consent was his/her voluntary act and deed on behalf of BioScrip Pharmacy Services.

ERIK J HEIKKENEN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20014025128
MY COMMISSION EXPIRES FEBRUARY 21, 2019


Notary Public
My commission expires: 02-21-2019