

IN THE MATTER OF	*	BEFORE THE MARYLAND
MARIAN PHARMACEUTICALS	*	BOARD OF PHARMACY
	*	
Respondent	*	
	*	
Permit No.: P07877	*	Case No.: 19-335
	*	

\*\*\*\*\*

**FINAL ORDER OF REVOCATION OF PHARMACY PERMIT**

On November 20, 2020, the Maryland Board of Pharmacy (the "Board") notified **Marian Pharmaceuticals** (the "Respondent"), Permit Number P07877, of the Board's intent to revoke the Respondent's permit to operate as a non-resident pharmacy pursuant to the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 12-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

The Notice informed the Respondent that, unless it requested a hearing in writing within thirty (30) days of receipt of the Notice, the Board would sign the Final Order, which was enclosed. More than thirty (30) days have elapsed, and the Respondent failed to timely request a hearing. Therefore, this revocation is final.

The pertinent provisions of the Act are:

**Health Occ. § 12-409. Suspensions and revocations - Grounds.**

- (a) *In general.* - 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; or
  - (3) Otherwise is not conducted in accordance with the law.

- (b) *Nonresident pharmacy.* – (1) A nonresident pharmacy is subject to the disciplinary actions stated in this subtitle.
- (2) The Board may fine a nonresident pharmacy in accordance with § 12-410 of this subtitle or deny, revoke, or suspend the permit of a nonresident pharmacy for any violation of § 12-403(e) through (h) of this subtitle.

**Health Occ. § 12-403. Required standards.**

...

- (c) *In general* — Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

...

- (9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12-313 of this title, a registered pharmacy technician under § 12-6B-09 of this title, or a registered pharmacy intern under § 12-6D-11 of this title;

...

- (g) *Compliance by nonresident pharmacy.* -- Notwithstanding subsection (b) of this section, a nonresident pharmacy shall:

- (1) Comply with the requirements of subsection (c)(2), (7) through (12), and (19) of this section when:
  - (i) Dispensing prescription drugs or prescription devices to a patient in this State; or
  - (ii) Otherwise engaging in the practice of pharmacy in this State; [and]

...

- (4) Maintain at all times a valid, unexpired permit to conduct a pharmacy in compliance with the laws of the state in which it is located[.]

**Health Occ. § 12-313. Denials, reprimands, suspensions, and revocations —Grounds.**

...

- (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 . . . reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the . . . licensee:

- (24) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes[.]

### INVESTIGATIVE FINDINGS

The Board bases its intended action against the Respondent on the following facts that it has reason to believe are true:

1. At all relevant times, the Respondent has held a permit to operate as a non-resident pharmacy in the State of Maryland under Permit Number P07877.<sup>1</sup> The Board issued the Respondent this non-resident pharmacy permit on or about May 24, 2018. The Respondent's permit is non-renewed, having expired on or about May 31, 2020.

2. On its initial, renewal, and relevant change-of-ownership applications, the Respondent identified Alabama as its Resident State.

3. In a letter dated April 9, 2019, the Respondent reported to the Board that on or about December 14, 2018, the Alabama Board of Pharmacy (the "Alabama Board") took emergency action to suspend the Respondent's Alabama pharmacy permit. The Respondent's letter also stated that it was closing because of the "economic impact of the emergency suspension."

4. The Board's subsequent investigation found disciplinary actions against the Respondent in Alabama as well as five other states.

---

<sup>1</sup> The Respondent previously held non-resident pharmacy permits under Permit Numbers P06017 and P07434 based on two prior owners. These permit numbers are no longer active and were superseded upon a change-of-ownership application submitted on January 26, 2018.

### Alabama (Resident State)

5. On or about March 13, 2017, the Alabama Board and the Respondent entered a *Consent Order* (the “2017 Consent Order”) that found the Respondent engaged in the remote processing of prescriptions without prior approval, practiced pharmacy with an unlicensed and unauthorized entity, allowed unauthorized individuals to access prescription information, used unauthorized or invalid prescription forms, received drugs from unauthorized sources, and permitted individuals to function as pharmacy technicians without pharmacist supervision. The Alabama Board imposed five years of probation and ordered payment of a \$125,000 fine.

6. On or about December 14, 2018, the Alabama Board issued an *Emergency Suspension of Permit* that immediately suspended the Respondent’s Alabama pharmacy permit. The Alabama Board determined that the Respondent’s continued operation posed a danger to the public health, safety, and welfare. The Alabama Board found that the Respondent had continued to engage in the remote processing of prescriptions without approval, practiced pharmacy with an unlicensed and unauthorized entity, accepted and dispensed drugs based on deficient prescriptions, dispensed ineffective medications that had a risk of serious side effects, and dispensed unsafe quantities of steroids.

7. On or about April 23, 2019, the Alabama Board issued a *Final Order*, to which the Respondent agreed, that revoked the Respondent’s Alabama pharmacy permit and controlled substances permit and imposed a \$50,000 fine. The Board based its *Final Order* on the same factual findings as in its *Emergency Suspension of Permit* against the Respondent.

### **Louisiana**

8. On or about May 10, 2017, the Louisiana Board of Pharmacy and the Respondent entered a *Consent Agreement* based on the Alabama Board's 2017 Consent Order (*see ¶ 5 above*). The Louisiana Board imposed a stayed suspension of the Respondent's permit through December 31, 2018, subject to concurrent probationary conditions that required compliance with the 2017 Consent Order.

### **Oregon**

9. On or about March 21, 2018, the Board of Pharmacy of the State of Oregon and the Respondent entered a *Consent Order* based on the Alabama Board's 2017 Consent Order (*see ¶ 5 above*). The Oregon Board imposed a probation concurrent with the probation in Alabama based on the 2017 Consent Order.

### **Texas**

10. On or about May 1, 2018, the Texas State Board of Pharmacy and the Respondent entered an *Agreed Board Order* based on the Alabama Board's 2017 Consent Order (*see ¶ 5 above*) and the Respondent not being supervised by a pharmacist-in-charge who was also licensed in Texas. The Texas Board imposed probation concurrent with the probation in Alabama based on the 2017 Consent Order, as well as a \$1,200 fine.

### **Kansas**

11. On or about August 2, 2018, the Kansas Board of Pharmacy issued a *Summary Order* against the Respondent for failing to notify the Kansas Board of a change of ownership for 124 days beyond the five-day reporting deadline for changes in ownership. The Kansas Board imposed a \$500 fine.

### Colorado

12. On or about August 27, 2018, the Colorado State Board of Pharmacy issued a *Letter of Admonition* that formally admonished the Respondent based on its failure to timely report the Alabama Board's 2017 Consent Order (*see ¶ 5 above*).

13. On or about March 18, 2019, the Colorado Board issued an *Order of Suspension* that summarily suspended the Respondent's Colorado registration as a non-resident prescription drug outlet. The Colorado Board based its action on the Alabama Board's December 14, 2018 *Emergency Suspension of Permit* (*see ¶ 6 above*) and the Respondent's failure to report that suspension to the Colorado Board.

### CONCLUSIONS OF LAW

Based on the above Investigative Findings, the Board concludes as a matter of law that the Respondent violated Health Occ. § 12-409 by, in turn, violating § 12-403(g)(1) (with underlying violations of § 12-403(c)(9) and § 12-313(b)(24)) for being disciplined by a licensing or disciplinary authority of any State for an act that is grounds for disciplinary action under the Board's disciplinary statutes, and further violated Health Occ. § 12-409 by, in turn, violating § 12-403(g)(4) for failing to maintain a valid, unexpired permit to conduct a pharmacy in the State in which it is located.

### ORDER

Based on the above Investigative Findings and Conclusions of Law, it is this 23<sup>rd</sup> day of February, 2021, by a majority of the quorum of the Board, hereby:

**ORDERED** that the Respondent's permit to operate as a non-resident pharmacy in the State of Maryland, Permit Number P07877, is hereby **REVOKED** and the Board will not accept any future permit applications from the Respondent; and it is further

**ORDERED** that the Respondent shall return to the Board all Maryland pharmacy permits within ten (10) days of the date of this Order; and it is further


**ORDERED** that the effective date of this Order is the date that it is signed by the Board; and it is further

**ORDERED** that this document constitutes a formal disciplinary action of the Board and this Order is final and a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* and § 4-333 (2014 & 2019 Repl. Vol.).

**NOTICE OF RIGHT OF APPEAL**

In accordance with § 12-316 of the Act and Md. Code Ann., State Government §§ 10-201, *et seq.* (2014 Repl. Vol. and 2019 Supp.), you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the aforecited authority.

2-23-21  
Date

  
\_\_\_\_\_  
Deena Speights-Napata, M.A.  
Executive Director for  
Kevin Morgan, Pharm.D., President  
State Board of Pharmacy