

**IN THE MATTER OF**  
**MIDTOWN**  
**PHARMACEUTICALS, LLC**  
**Permit No. P07965**

\* **BEFORE THE**  
\* **MARYLAND STATE**  
\* **BOARD OF PHARMACY**  
\*  
\* **Case No. 23-209**

**Respondent**

\* \* \* \* \*

**FINAL DECISION AND ORDER**

**Background**

On March 15, 2023, the Maryland State Board of Pharmacy (the “Board”) issued Charges against the pharmacy permit held by Midtown Pharmaceuticals, LLC (the “Respondent”), Permit No. P07965. The Board’s action was based on its investigation indicating that the Respondent-Pharmacy was not in compliance with the Board’s regulations relating to the proper closure of pharmacy operations.

A contested case hearing was held under the Administrative Procedure Act, Md. Code Ann., State Gov’t §10-201 *et seq.*, and COMAR 10.34.01, before a quorum of the Board on July 19, 2023, for purposes of adjudicating the charges. The Respondent-Pharmacy failed to appear. The Board proceeded to hear and determine the matter in the Respondent-Pharmacy’s absence in accordance with Md. Code Ann., Health Occ. § 12-411(c). After the conclusion of the hearing on the same date, the same quorum of the Board convened to deliberate and voted unanimously to sanction the Respondent-Pharmacy’s permit as set forth in this Final Decision and Order.

## **FINDINGS OF FACT**

Based upon the evidence and administrative notice taken of the Board's records and reports presented at the hearing, the Board finds that the following facts are true:

1. At all times relevant hereto, the Respondent-Pharmacy had a permit to operate a pharmacy in Maryland. The Respondent-Pharmacy was first issued a permit on or about November 16, 2018. The Respondent-Pharmacy's permit expires on May 31, 2024. [State's Ex. 1 – My License Office printout, 10/27/22]
2. On or about October 18, 2022, the Board received a telephone call from an individual (“Landlord”) who owns the property where the Respondent-Pharmacy was located. Landlord reported that the Respondent-Pharmacy's Owner had not been in the pharmacy for several weeks, and there was an eviction scheduled for November 9, 2022. Landlord also informed the Board that medications were visible in the pharmacy through the window. [State's Ex. 4, Bates S013 – Email from Board staff, 10/18/2022; T. 14-15]
3. On or about October 20, 2022, at 10:50 a.m., two Board inspectors (“Board Inspector 1” and “Board Inspector 2”) attempted to conduct an inspection of the Respondent-Pharmacy to verify the complaint. The inspectors' report indicated that the doors were locked and the lights were off at the time of their arrival. The inspectors' report noted an eviction notice posted on the front door of the Respondent-Pharmacy's premises. The inspectors' report also included photographs of medications and other inventory in the pharmacy area visible through the front windows. [State's Ex. 4 – Board Inspection Report w/ photographs, 10/20/22; T. 16-17]

4. Also during the October 20, 2022 attempted inspection, the inspectors' report noted a sign posted on the inside of the front door, which indicated that the Respondent-Pharmacy would be closed until October 6, 2022. [T.18] Board Inspector 1 documented that she called the Respondent-Pharmacy's phone number, but no one answered and there was no voicemail option available. Board Inspector 1 then called the phone number listed on the sign on the door, and a person answered who told Board Inspector 1 that the Respondent-Pharmacy was temporarily closed due to "issues with the pharmacist." Board Inspector 1 left her business card on the front door of the Respondent-Pharmacy with the date and time of the inspector's arrival noted. [State's Ex. 4 – Board Inspection Report w/ photographs, 10/20/22]
5. On or about October 25, 2022, the Board staff interviewed a pharmacist ("Pharmacist 1") who previously worked at the Respondent-Pharmacy. Pharmacist 1 stated that she had been on leave from approximately March 2022 until June 2022, and that she stopped working at the Respondent-Pharmacy in July 2022. Pharmacist 1 further stated that she had not been paid for her services at the end of July. [T. 21-22]
6. On or about November 3, 2022, the owner/manager (the "Owner") of the Respondent-Pharmacy sent an email to Board staff in which he stated that the Respondent-Pharmacy was looking to relocate to a new location, and that he was having difficulty with staffing pharmacists. [T. 23]
7. On November 8, 2022, the Board received information from the Landlord that the eviction of Respondent-Pharmacy had been postponed until January 2023. [T. 23-24]

8. On or about November 9, 2022, the Office of Controlled Substances Administration (“OCSA”) visited the Respondent-Pharmacy’s location and observed that it was still locked up, and the postings were still on the front door. [T. 25-27]
9. On November 29, 2022, at 10:10 a.m., Board Inspector 1 reported another attempt to conduct an inspection of the Respondent-Pharmacy; however, the doors remained locked and the lights were off at the time of arrival. The report indicates that the Respondent-Pharmacy’s front door still had the same postings as were present on OCSA’s November, 9, 2022 visit. Board Inspector 1 left another business card on the front door with the date and time noted. [State’s Ex. 10 – Board Follow-up Inspection Report, 11/29/22]
10. On or about December 12, 2022, at 12:40 p.m., OCSA attempted to inspect the Respondent-Pharmacy to determine if the medications had been removed from the premises. OCSA observed through the front windows that the prescription shelves appeared to be empty although the front of the pharmacy had some remaining products. [T. 27]
11. The Board never received documentation of the proper transfer of the Respondent-Pharmacy’s drug inventory. [T. 28]
12. On January 11, 2023, during the eviction of the Respondent-Pharmacy, the Board inspector reported that she was present along with DEA and OCSA personnel. At that time, OCSA took custody of abandoned patient prescription records and pharmacy computers in order to maintain the confidentiality of patient information. [State’s Ex. 13 – Board Closing Inspection Report, 1/11/23]

13. On or about February 9, 2023, OCSA informed the Board that the Owner of the Respondent-Pharmacy surrendered his Drug Enforcement Administration (“DEA”) registration. [T. 30]
14. The Board mailed notice of the evidentiary hearing, dated June 1, 2023, in this matter to the Respondent’s address of record, as well as another address identified in the Respondent-Pharmacy’s leasing documents, via regular and certified mail. [State’s Ex. 16 – Board’s Notice of Evidentiary Hearing, 6/1/23]

### **OPINION AND SANCTION**

The Board imposes the sanction of revocation and a stayed fine against the Respondent-Pharmacy’s permit to operate in Maryland. Although the Respondent-Pharmacy appears to have effectively ceased operations in July 2022, the Board’s imposition of a revocation of the Respondent-Pharmacy’s permit is warranted based on the Respondent-Pharmacy’s failure to adhere to essentially any of the Board’s closure of pharmacy requirements. The Board’s closing regulations, COMAR 10.34.01, require pharmacies to provide documentation to the Board to verify, among other things, that prescription drugs, including controlled dangerous substances, have been legally transferred to an authorized entity. In addition, as providers of healthcare, pharmacies must ensure that confidential patient records are maintained in a secure and responsible manner during any operational transition. The Respondent-Pharmacy failed to do either, resulting in three separate governmental agencies expending significant resources to manage the disposition of pharmacy inventory and patient records – a responsibility that is incumbent upon a pharmacy permit holder to fulfill when ceasing operations. Indeed, the Landlord of the Respondent-Pharmacy’s premises exhibited more concern regarding the

appropriate transfer and handling of the pharmacy's drug inventory than the Respondent-Pharmacy Owner. The Respondent-Pharmacy's failure to provide the Board with documentation of its proper transfer of prescription drugs, including controlled dangerous substances, demonstrates its disregard for the myriad laws in place to ensure the safe storage and closed system transfer of potentially dangerous and addictive drugs. The Respondent-Pharmacy's abandonment of confidential patient records demonstrates its disregard for the serious professional responsibility of a healthcare entity to maintain and protect patients' medical information. As such, the Board does not find that the Respondent-Pharmacy is competent to operate in a legal and responsible manner and cannot be entrusted to provide pharmacy services to the citizens of Maryland.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board concludes the Respondent is subject to disciplinary action based on Md. Code Ann., Health Occ. §§ 12-403(c)(1) and (12), and COMAR 10.34.14.03-07.

### **ORDER**

Based on the foregoing Findings of Fact, Opinion, and Conclusions of Law, by a unanimous decision of a quorum of the Board it is hereby:

**ORDERED** that the pharmacy permit held by Midtown Pharmaceuticals, LLC, Permit Number P07965, is REVOKED; and be it further,

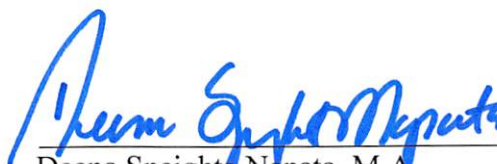
**ORDERED** that a fine in the amount of TEN THOUSAND DOLLARS (\$10,000) be imposed against Midtown Pharmaceuticals, LLC; payment of the fine is hereby STAYED until

such time that Midtown Pharmaceuticals, LLC, applies to the Board for reinstatement of its pharmacy permit; and be it further,

**ORDERED** that this is a final order of the Maryland State Board of Pharmacy and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., General Provisions Art., §4-101 *et seq.*, and shall be posted and reported in accordance with State and federal laws.

11-9-23

Date



Deena Speights-Napata, M.A.  
Executive Director  
for Neil Leikach, R.Ph., M.Sc., President

**NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW**

Pursuant to Md. Code Ann., Health Occ. § 12-412, the Respondent-Pharmacy has the right to seek judicial review of this Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Order. The cover letter accompanying this Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent-Pharmacy files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

Maryland Board of Pharmacy  
Deena Speights-Napata, M.A., Executive Director  
4201 Patterson Avenue, 5<sup>th</sup> Floor  
Baltimore, Maryland 21215

Notice of any petition should also be sent to the Board's counsel at the following address:

Linda M. Bethman  
Assistant Attorney General  
Maryland Department of Health  
300 West Preston Street, Suite 302  
Baltimore, Maryland 21201