

IN THE MATTER OF * BEFORE THE STATE
POPLAR GROVE PHARMACY * BOARD OF
RESPONDENT-PHARMACY * PHARMACY
PERMIT NO.: P05639 * CASE NO: 19-255

* * * * *

AMENDED ORDER FOR SUMMARY SUSPENSION

Pursuant to Md. Code Ann., State Govt. §10-226 (c)(2) (2014 Repl. Vol. & 2018 Supp.), the State Board of Pharmacy (the "Board") hereby summarily suspends the permit of Poplar Grove Pharmacy, Permit Number: P05639 (the "Respondent-Pharmacy"), to operate as a pharmacy, under the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. ("Health. Occ.") §§12-101 *et seq.* (2014 Repl. Vol. & 2018 Supp.). This Order is based on the following investigative findings, which the Board has reason to believe are true:¹

INVESTIGATIVE FINDINGS

1. At all times relevant hereto, the Respondent-Pharmacy was licensed to practice pharmacy in the State of Maryland.
2. The Respondent-Pharmacy was originally issued a permit to operate as a pharmacy in Maryland on or about March 14, 2012.
3. The Respondent-Pharmacy's permit expires on May 31, 2020.

¹ The statements regarding the Respondent's conduct are only intended to provide the Respondent with notice of the basis for the Board's action. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in this matter.

4. At all times relevant hereto, Pharmacist A is a co-owner and the pharmacy manager of the Respondent-Pharmacy.²

Background

5. On or about June 15, 2016, the Pharmacist A and the Respondent-Pharmacy entered into Consent Orders ("2016 Consent Orders") with the Board.

6. In the 2016 Consent Orders, the Board made the following Findings of Fact:

7. On or about July 16, 2012, the Maryland Division of Drug Control ("DDC") conducted a controlled dangerous substance ("CDS") inspection ("2012 Inspection") of the Respondent-Pharmacy. The 2012 Inspection revealed the following: seven suspected fraudulent Schedule II prescriptions³; deficiencies in recording the date of receipt on Schedule III-V invoices when orders are received; failure to maintain electronically linked Controlled Substance Ordering System ("CSOS") records; and failure to take an initial CDS inventory before opening for business as a pharmacy.

8. On May 13, 2013, DDC conducted a follow-up CDS inspection of CDS prescriptions to check for the indicia of fraudulent and/or illegitimate prescriptions.

9. On May 14, 2013 and May 15, 2013, the DDC returned to the Respondent-Pharmacy to conduct a more thorough inquiry into the suspected fraudulent prescriptions that were discovered on the previous day. The Inspectors photocopied all suspected fraudulent CDS Schedule II prescriptions for January through April 2013, as well as May 1 through 14, 2013. The Inspectors also obtained a log of all

² Pharmacist A is not identified in this document for privacy reasons, but this information will be provided to the owners of Respondent-Pharmacy upon request.

³ These prescriptions were later confirmed in writing, by the alleged prescribers, to be fraudulent.

CDS Schedule II prescriptions dispensed by Pharmacist A at the Respondent-Pharmacy from May 1, 2012 through May 14, 2013.

10. According to the DDC's inspection, Pharmacist A filled approximately 683 Schedule II CDS prescriptions from January 1, 2013 through May 14, 2013. Of those prescriptions, the DDC identified approximately 261 suspected fraudulent or invalid prescriptions.

11. The suspected fraudulent prescriptions contained anomalies, such as, for example:

- a. Incomplete or inaccurate security features on the prescription form;
- b. Incorrect prescriber addresses; and
- c. Incorrect prescriber telephone numbers.

12. After the May 2013 DDC inspections, at which the inspectors alerted Pharmacist A to the suspected forgeries, Pharmacist A and the Respondent-Pharmacy instituted additional controls in an effort to combat the efforts of those attempting to fill fraudulent prescriptions.⁴

13. On or about June 16 and 17, 2014, the DDC performed a follow-up inspection of the Respondent-Pharmacy.

14. On or about August 21, 2015, the DDC conducted another CDS inspection of the Respondent-Pharmacy.

⁴ Pharmacist A told inspectors that she and the Respondent-Pharmacy became the victims of organized criminal gangs and rampant prescription fraud that plagued the community. Pharmacist A also told inspectors that organized criminal enterprises enlisted employees in hospital and physicians' offices to steal prescription pads left unsecured by physicians and utilized them to pass forged prescriptions and the gangs then enlisted members of the community to pass forged prescriptions on to the Respondent-Pharmacy and the other pharmacies in the area.

15. The DDC inspectors reviewed the approximately 6481 CDS prescriptions dispensed between January 1, 2013 and September 24, 2015 and copied those prescriptions that were suspected to be fraudulent.

16. The DDC inspectors contacted the purported prescribers of the suspected fraudulent prescriptions and were able to obtain written verification that several prescriptions were fraudulent. The DDC Inspectors verified that Pharmacist A filled 623 fraudulent CDS prescriptions, which were attributed to 113 purported practitioners. Of the 623 fraudulent prescriptions, 356 were Schedule II and 267 were Schedules III through V. Eighty-nine of the fraudulent prescriptions were dispensed after the DDC's May 2013 inspections.

17. The Board concluded in the 2016 Consent Orders that Pharmacist A and the Respondent-Pharmacy violated Health Occ. §12-313(b)(25); COMAR 10.34.10.01A (1)(a),(b),(c),(d),and(e);COMAR10.34.10.01B(1);COMAR 10.19.03.07C(1); and COMAR 10.19.03.09A(1).

18. The Board stayed a thirty (30) day suspension of Pharmacist A's license. The Board placed Pharmacist A's license on probation for three (3) years; required Pharmacist A to pay a fine in the amount of two thousand and five hundred dollars (\$2500), complete a course on the topic of identifying fraudulent prescriptions with attention to red flags and the corresponding responsibility of the pharmacist; and enroll in and successfully complete a course on the topic of the appropriate prescription and dispensing of methadone for both substance abuse and pain management.

19. The Board placed the Respondent-Pharmacy on probation for one (1) year and ordered it to pay a fine in the amount of five thousand dollars (\$5000).

Current Findings

20. On or about January 25, 2019 a Board Inspector went to Respondent-Pharmacy to conduct an annual inspection. The Board Inspector arrived at Respondent-Pharmacy at approximately 1:30 pm. Upon her arrival, the Board Inspector noticed that the Respondent-Pharmacy was closed.

21. The Respondent-Pharmacy's business hours on file with the Board are Monday through Friday 10 a.m. to 6 p.m., and Saturday 1 am to 2 pm. Pharmacist A did not submit written notification to the Board that Respondent-Pharmacy would be closed during business hours.⁵

22. On or about February 13, 2019, Pharmacist A was found guilty in the Circuit Court for Baltimore City, Maryland, after a six-day trial of approximately three hundred (300) counts that included possession with intent to distribute a controlled dangerous substance, Medicaid fraud, and theft. Pharmacist A filled fraudulent prescriptions, dispensed controlled dangerous substances, and submitted claims for payment and reimbursement to Medicaid and other health programs.⁶

23. Following her conviction, Pharmacist A was ordered held in jail until the date of her sentencing.⁷

24. Since February 14, 2019, the Respondent- Pharmacy has not been open and Board staff have not been able to contact the owners of the Respondent-Pharmacy.⁸

⁵ The Respondent-Pharmacy was closed when a Board Inspector went to the Respondent-Pharmacy approximately two weeks later.

⁶ This finding has been amended to accurately reflect that Pharmacist A was found guilty after a six-day trial rather than pled guilty, as stated in the original Order for Summary Suspension, dated April 15, 2019.

⁷ Pharmacist A's sentencing date is currently scheduled for some time in May 2019.

25. The Respondent-Pharmacy failed to request or submit to a closing inspection by the Board, as required by Board regulations, to ensure the proper transfer of controlled and non-controlled drug inventory and confidential prescription records.

CONCLUSIONS OF LAW

Based on the foregoing Investigative Findings, the Board concludes that the public health, safety, or welfare imperatively requires emergency action in this case, pursuant to Md. Code Ann., State Gov't. § 10-226(c) (2).

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is this 27th day of May 2020, by a majority of the quorum of the Board, it is hereby

ORDERED that the permit issued to the Respondent-Pharmacy to operate as a pharmacy in the State of Maryland under permit number: P05639 is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that the Respondent-Pharmacy is prohibited from operating as a pharmacy in the State of Maryland; and it is further


ORDERED that the owners of the Respondent-Pharmacy shall immediately return all pharmacy permits to the Board; and it is further

ORDERED that this Amended Order for Summary Suspension supersedes, for the purpose of amending Finding No. 22 only, the prior Order for Summary Suspension issued in this matter on April 15, 2019; and be it further,

⁸ Board staff contacted the Attorney for Pharmacist A and the Respondent-Pharmacy. According to Board staff, the Attorney could not confirm if there were any drugs or patient records remaining in the Respondent-Pharmacy.

ORDERED that this Order for Summary Suspension is a public document, as defined in Md. Code Ann., General Provision §§ 4-101 *et seq.* (2014 Rep. Vol. & 2018 Supp.)

5-27-2020
Date


Deena Speights-Napata M.A.,
Executive Director for
Kevin M Morgan, Pharm.D.
President