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|------------------------|---|---------------------|
| IN THE MATTER OF | * | BEFORE THE MARYLAND |
| | * | |
| COMPOUND CARE PHARMACY | * | BOARD OF PHARMACY |
| | * | |
| Respondent | * | |
| | * | |
| Permit No.: P05549 | * | Case No.: 19-334 |
| | * | |

FINAL ORDER OF REVOCATION OF PHARMACY PERMIT

On November 20, 2020, the Maryland Board of Pharmacy (the "Board") notified **Compound Care Pharmacy** (the "Respondent"), Permit Number P05549, 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:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another; [and]

...

- (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

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 P05549. The Board first issued the Respondent a non-resident pharmacy permit on or about July 12, 2011. The Respondent's permit is non-renewed, having expired on or about May 31, 2020.

2. On its initial and renewal applications for a non-resident pharmacy permit, the Respondent identified Alabama as its Resident State.

3. In a letter dated April 10, 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 four states. Except for the Alabama Board's emergency suspension of its permit, the Respondent did not report any other disciplinary actions to the Board.

Alabama (Resident State)

5. 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 as a pharmacy posed a danger to the public health, safety, and welfare. The Alabama Board found that the Respondent engaged in the remote processing of prescriptions without prior 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.

6. 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.

North Carolina

7. On or about September 20, 2011, the North Carolina Board of Pharmacy (the "North Carolina Board") issued a *Final Consent Order*, to which the Respondent agreed, that granted the Respondent a non-resident pharmacy permit but also imposed an indefinite suspension that was stayed for ten years. The North Carolina Board found that the Respondent shipped prescription drugs into North Carolina without a permit to do so between January 2008 and December 2008.

Colorado

8. On or about March 24, 2014, the Colorado State Board of Pharmacy (the "Colorado Board") issued a *Stipulation and Final Agency Order*, to which the Respondent agreed, that admonished the Respondent for failing to comply with data

submission requirements to the Colorado Prescription Drug Monitoring Program between January 1, 2014 and January 10, 2014.

9. On or about March 5, 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 ¶ 5, above) and the Respondent's failure to report that suspension to the Colorado Board.

Virginia

10. On or about January 11, 2019, the Virginia Board of Pharmacy issued an *Order of Suspension* that suspended the Respondent's registration to operate as a non-resident pharmacy. The Virginia Board of Pharmacy based its action on the Alabama Board's December 14, 2018 *Emergency Suspension of Permit* (see ¶ 5, above).

Respondent's Renewal Applications

11. The Respondent submitted applications to the Board to renew its Maryland non-resident pharmacy permit in 2011, 2013, 2015, and 2018. In each of these renewal applications, the Respondent did not report disciplinary actions against it despite having had reportable disciplinary action by the North Carolina Board in 2011 and the Colorado Board in 2014.¹

¹ More specifically, Question 5 of the Board's *Application for Non-Resident Pharmacy Permit* directs renewing permit holders to "include a separate sheet listing all disciplinary actions by federal or state agencies against the pharmacy or DME/Device only provider, as well as any such actions against principals, owners, directors, or officers," and "include documentation of any corrective actions taken in response to any disciplinary actions and any final orders issued by any federal or state agencies . . ." The Respondent did not provide a list of any disciplinary actions.

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), § 12-313(b)(1), 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 for failing to report disciplinary actions on its renewal applications to the Board, 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 23rd day of February, 2021, 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 P05549, 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

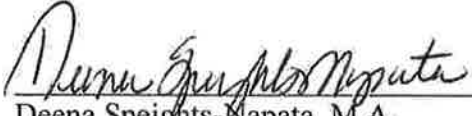
ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

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