

IN THE MATTER OF

DRUG DEPOT, INC. d/b/a
APS PHARMACY

Respondent

Permit Number: P07142

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BEFORE THE

STATE

BOARD OF PHARMACY

Case Number: 18-135

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CONSENT ORDER

Background

In March 2016, the Maryland Board of Pharmacy (the "Board") received an application for Permit from Drug Depot, Inc., d/b/a APS Pharmacy (the "Pharmacy"), Permit P07142. The Pharmacy was previously issued Permit No. P05882 on September 24, 2012, which expired on May 31, 2014 due to non-renewal. The Board issued Permit P07142 on October 21, 2016.

On January 11, 2018, the Pharmacy sent the Board a self-report notice of disciplinary action based on a Consent Order with the Michigan Board of Pharmacy. The Michigan Board of Pharmacy took action against the Pharmacy based upon similar action taken by the Oklahoma Board of Pharmacy. These actions were taken against the Pharmacy primarily for practicing pharmacy without an active permit in those jurisdictions, and as a result the Board opened an investigation into the Pharmacy and issued a subpoena for the Pharmacy's dispensing records. These records showed that the Pharmacy dispensed over 3,800 prescriptions into the State of Maryland between May 31, 2014, and October 21, 2016 while the Pharmacy was not permitted to do so.

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

FINDINGS OF FACT

1. The Pharmacy was initially issued a permit to operate as a nonresident pharmacy in the State of Maryland on or about September 24, 2012, under permit number P05882. This permit expired on May 31, 2014 due to non-renewal.
2. On or about March 17, 2016, the Pharmacy submitted a new application (“the application”) for Nonresident Pharmacy Permit to the Board. On October 21, 2016, a new Nonresident Pharmacy Permit was issued to the Pharmacy under permit number P07142. This permit is scheduled to expire on May 31, 2020.
3. As part of its new application, the Pharmacy attached disciplinary actions from the Boards of Pharmacy in the States of Iowa, Alabama, and Florida.
4. On or about January 11, 2018, the Board received a self-report notice of disciplinary action from the Pharmacy based on a consent order with the Michigan Board of Pharmacy (“Michigan Board.”)
5. The Board then opened an investigation into the Pharmacy.
6. On or about October 6, 2016 the Michigan Board took disciplinary action against the Pharmacy, and subsequently entered into a Consent Order based upon action

taken against the Pharmacy by the Oklahoma Board of Pharmacy (“Oklahoma Board”), and the Iowa Board of Pharmacy (“Iowa Board”), respectively.

7. The Michigan Board of Pharmacy placed the Pharmacy on a six (6) month probation, and assessed a \$2,500 fine. The Stipulation and Consent Order were agreed to by the Pharmacy on or about February 7, 2017.
8. On or about February 2, 2016, the Oklahoma Board of Pharmacy (“Oklahoma Board”) issued a Final Order regarding violations committed by the Pharmacy. The Oklahoma Board and the Pharmacy agreed to findings of fact including the following grounds for discipline: The Pharmacy mailed patient-specific drugs to an address other than the patient’s home or place of employment; and the Pharmacy was not continuously licensed by the Oklahoma Board during the entire time in which prescriptions were being filled. In addition, on or about August 11, 2015 the Pharmacy in its license application answered “No” to the question of having been sanctioned or disciplined regarding any license permit or registration issued to the applicant. This question was answered in the negative despite Pharmacy having entered into a Settlement Agreement with the State of Florida Board of Pharmacy (“Florida Board”) on or about January 7, 2010.
9. On or about February 24, 2016, the Pharmacy was placed on a three (3) year probation by the Oklahoma Board of Pharmacy, and assessed a \$15,000 fine for operating without a license, filing false reports, and unauthorized dispensing of medication from October 1, 2013, through May 31, 2015.

10. On or about May 11, 2010, the Pharmacy entered into a Final Order with the Florida Board. Pursuant to the Final Order, the Pharmacy did not dispute allegations outlined in the Administrative Complaint including but not limited to: wholesaling drugs without a permit, dispensing prescription drugs without prescriptions, purchasing prescription drugs from an unauthorized vendor, mislabeling of drugs, and improper storage of prescription drugs. The Pharmacy was ordered to pay costs of investigation and prosecution totaling \$2,534.31.
11. On or about August 17, 2015, the Pharmacy entered into a Consent Order with the Alabama Board of Pharmacy (“Alabama Board.”) Pursuant to the Consent Order the Pharmacy pled guilty to “engaging in the selling, offering for sale, compounding, or dispensing of drugs during the year 2015 without first having your permit with the Board...” The Pharmacy was ordered to pay a fine in the amount of \$500.
12. On or about March 8, 2016, the Pharmacy entered a Consent Order with the Iowa Board of Pharmacy (“Iowa Board.”) Pursuant to the Consent Order the Pharmacy admitted to “providing pharmacy services to Iowa residents without an active Iowa pharmacy license.” The Pharmacy was ordered to pay a civil penalty of \$2,500.
13. On or about January 12, 2018, staff from the Maryland Board subpoenaed dispensing records from the Pharmacy covering the period of May 31, 2014 through October 21, 2016, during which Pharmacy’s nonresident pharmacy permit was

lapsed. The dispensing records revealed that in the period of time during which the nonresident pharmacy permit was lapsed, the Pharmacy dispensed over 3,800 prescriptions into the State of Maryland.

14. The Pharmacy has since made several administrative and personnel changes to their in-house practices in the wake of the previous violations. The Pharmacy indicates that they have added a full-time quality assurance pharmacist whose dedicated responsibilities include all regulatory matters in relation to sterile and non-sterile compounding. The pharmacy has also added another position to handle all regulatory and compliance matters at both the federal and state levels. The Pharmacy believes these changes will prevent any future compliance issues from taking place.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Pharmacy is subject to disciplinary action in accordance with Md. Code Ann., Health Occ. §§ 12-313(b)(24) and (25), 12-403(c)(1), (e)(1), and (g)(1).

ORDER

Based on an affirmative vote of a majority of the Board, it is this _____ day of _____, 2019, hereby:

ORDERED that Drug Depot, Inc., d/b/a APS Pharmacy, Permit No. P07142, shall be assessed a civil fine in the amount of FIVE THOUSAND

DOLLARS (\$5,000.00), payable to the Maryland Board of Pharmacy within thirty (30) days of the date of this Order, and sent to:

Wells Fargo Bank
Attn: State of Maryland – Board of Pharmacy
Lockbox 2051
7175 Columbia Gateway Drive
Columbia, Maryland 21046

(Please include the Case Number 18-135 to ensure proper assignment.);

and it is further

ORDERED that failure to pay in full the above fine within thirty (30) days of the date of this Order shall be considered a violation of this Order, and after notice and opportunity for a show cause hearing shall subject the Pharmacy to further discipline such as suspension, revocation or further fines based on the violations cited in this Order; and it is further


ORDERED that Drug Depot, Inc., d/b/a APS Pharmacy, shall practice in Maryland at all times in accordance with the Maryland Pharmacy Act; and it is further

ORDERED that in the event that Drug Depot, Inc., d/b/a APS Pharmacy 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
it is further

ORDERED that this is a formal order and as such is a public document
pursuant to Md. Code Ann., General Provisions Art. § 4-301 *et seq.*

1-28-19
Date


Deena Spights-Napata
Executive Director for:

Kevin Morgan, Pharm. D.
Board President

CONSENT

1. The Pharmacy submits to the foregoing Consent Order as a resolution of this matter in lieu of formal charges, in order to avoid the cost and uncertainty of litigation and without admitting that its conduct violated any law, code or regulation.
2. By signing this Consent, the Pharmacy waives any rights it may have had to contest the findings and determinations contained in this Consent Order.
3. The Pharmacy acknowledges that this is a formal order of the Board and as such is a public document.

4. The Pharmacy acknowledges the legal authority and the jurisdiction of the Board to enter into and enforce this Consent Order.
5. The Pharmacy signs this Consent Order freely and voluntarily and after having had the opportunity to consult with counsel. The Pharmacy fully understands the language, meaning, and effect of this Consent Order.

Drug Depot, Inc. d/b/a APS Pharmacy

Permit No. P07142

1-17-19
Date

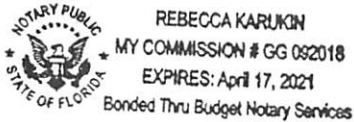
Jaimie Levi
Name:
Title:

NOTARY

STATE OF Florida
CITY/COUNTY OF Pinellas

I HEREBY CERTIFY that on this 17th day of January,
2019, before me, a Notary Public of the foregoing State and City/County
personally appeared Jaime Rios and made oath in due form
of law that signing the foregoing Consent Order was his/her voluntary act and
deed.

AS WITNESSETH my hand and notary seal.



Rebecca Karukin
Notary Public

My commission expires:

4/17/21