

IN THE MATTER OF

*

BEFORE THE

**INDEPENDENT PHARMACY
COOPERATIVE**

*

MARYLAND STATE

*

BOARD OF PHARMACY

PERMIT NO. D01202

*

Case No. 19-026

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PRE-CHARGE CONSENT ORDER

Background

The Maryland Board of Pharmacy (the “Board”) conducted an annual inspection of a Maryland licensed pharmacy (Pharmacy A) on December 8, 2017. During that inspection, it was determined that Pharmacy A’s Controlled Dangerous Substances registration had expired on May 31, 2017. Subsequent investigation revealed that Pharmacy A had purchased from Independent Pharmacy Cooperative (“Independent Pharmacy”), and Independent Pharmacy had distributed to Pharmacy A, approximately 300 various controlled dangerous substances between June 1, 2017, and December 11, 2017, during Pharmacy A’s lapse in CDS registration.

In lieu of instituting formal proceedings against Independent Pharmacy in accordance with the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 *et seq.*, the Board and Independent Pharmacy have agreed to resolve this matter as set forth in this Pre-Charge Consent Order.

FINDINGS OF FACT

1. Independent Pharmacy is a wholesale drug distributor located and licensed in Sun Prairie, Wisconsin.
2. Independent Pharmacy was issued a Maryland wholesale distributor permit,

Permit No. D01202 on March 8, 2000. Such permit is active and will expire on May 31, 2019.

3. On or about December 8, 2017, the Board conducted an annual inspection on Pharmacy A, located in Baltimore, Maryland. During that inspection, it was determined that Pharmacy A's Controlled Dangerous Substance (CDS) Registration had expired on May 31, 2017.
4. Subsequent investigation by the Board revealed that Pharmacy A continued to purchase controlled dangerous substances from Independent Pharmacy, notwithstanding the expiration of Pharmacy A's CDS registration.
5. Specifically, Pharmacy A purchased approximately 300 controlled dangerous substance medications from Independent Pharmacy between June 1, 2017, and December 11, 2017, without an active CDS registration.
6. Wholesale distributors may not sell or transfer prescription drugs to a person who is not legally authorized to receive the prescription drugs.
7. During the time that Pharmacy A's CDS registration Maryland had lapsed, Pharmacy A's DEA registration remained active, and DEA databases showed it as active.
8. Since being notified of the issue with Pharmacy A's registration, Independent Pharmacy has instituted several remedial measures to insure that this issue will not recur. These include: A) Independent Pharmacy has enlisted the services of MedPro Services, an independent licensing service that monitors state licensing websites and reports in real time changes to required pharmacy licenses; (B) Prior to contracting with MedPro Services, Independent Pharmacy conducted a manual checks on a monthly basis of all of its pharmacy customers' required controlled substance licenses; (C) Independent Pharmacy has updated its written SOPs to reflect these additional required state licensing checks; (D) Independent Pharmacy has added a requirement that, before an order can be completed, the ordering

pharmacy must certify that all of its required state and federal licenses are active and in good standing, and must acknowledge their obligation to notify Independent Pharmacy immediately of any changes in status.

9. Independent Pharmacy voluntarily disclosed to the Maryland Board of Pharmacy that it had discovered that, between November 2017 and May 2018, it sold *non* controlled substances to Pharmacy B, whose license had been summarily suspended by the Maryland Board of Pharmacy in October 2017. The summary suspension was not reported to IPC by Pharmacy B..

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that Independent Pharmacy is subject to discipline in accordance with Md. Code Ann., Health Occ. § 12-6C-11 and COMAR 10.34.22.05.A(3)(k) and (v).

ORDER

Based upon an affirmative vote of the Maryland Board of Pharmacy under the authority of Md. Code Ann., Health Occ. § 12-101, *et seq.*, it this ^{30 DSN} 28 day of May, 2019, hereby,

ORDERED that Independent Pharmacy Cooperative, Permit No. D01202, shall pay a FINE in the amount of SIX THOUSAND DOLLARS (\$6,000.00), payable to the Maryland Board of Pharmacy within sixty (60) days of the date of this Order, and mailed to:

Wells Fargo Bank
Attn: State of Maryland – Board of Pharmacy

7175 Columbia Gateway Drive
Lockbox 2051
Columbia, Maryland 21046

NOTE: Please include the case number, 19-026, on your check or money order to insure proper assignment to this case; and be it further,

ORDERED that Independent Pharmacy Cooperative shall comply with all laws and regulations governing the wholesale distribution of prescription drugs, including controlled dangerous substances, into the State of Maryland; and be it further,

ORDERED that in the event that Independent Pharmacy Cooperative 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 be it further,

ORDERED that this is a formal order and as such is a public document pursuant to the Maryland Public Information Act, Md. Code Ann., General Provisions Article § 4-101, *et seq.*

May 30, 2019
Date



Deena Speights-Napata
Executive Director for:

Kevin Morgan, Pharm.D.
Board President

CONSENT

1. By signing this Consent, Independent Pharmacy Cooperative, submits to the foregoing Pre-Charge Consent Order as a resolution of this matter and agrees to be bound by its terms and conditions.

2. Independent Pharmacy Cooperative acknowledges the validity of this Pre-Charge Consent Order as if it were made after a hearing in which it would have had the right to counsel, to confront witnesses, and to all other substantial procedural protections provided by law.

3. Independent Pharmacy Cooperative acknowledges that, by entering into this Pre-Charge Consent Order, Independent Pharmacy Cooperative is waiving its right to appeal any adverse ruling of the Board that might have followed such an evidentiary hearing.

4. Independent Pharmacy Cooperative acknowledges the legal authority and the jurisdiction of the Board to enter and enforce this Pre-Charge Consent Order.

5. Independent Pharmacy Cooperative signs this Pre-Charge Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. Independent Pharmacy Cooperative fully understands the language, meaning, and effect of this Pre-Charge Consent Order.

6. In an effort to avoid the expense and uncertainty of litigation, Independent Pharmacy Cooperative agrees to the Findings and Order for purposes of settlement but makes no admission with regard to liability.

5/28/19

Date

Mike Dulas

[Handwritten Signature]

Name:
Title: VP of Operations

STATE OF WISCONSIN,
COUNTY/CITY OF Rane, Sun Prairie

I hereby certify that on this 28th day of May, 2019, before me, a Notary Public of the State of Wisconsin, County/City aforesaid, personally appeared Mike Dulas, and made an oath in due form that the foregoing Consent was his/her voluntary act and deed on behalf of Independent Pharmacy Cooperative.

[Handwritten Signature]

Notary Public
My commission expires: 10/2/20

