# BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation/Petition to Revoke Probation Against:

MEDRX, INC. DBA MEDRX PHARMACY, IRENE NAYGAS, MARK NAYGAS AND DMITRY NAYGAS, OWNERS

18356 Oxnard St., Ste. 1 Tarzana, CA 91356 JULIE DAKOV, Pharmacist-in-Charge

Original Permit No. PHY 49209

and

IRENE NAYGAS 19120 Sprague Street Tarzana, CA 91356

Original Pharmacist License No. RPH 58720

Case No. 5440

OAH No. 2016080645

STIPULATED SURRENDER OF LICENSE AND ORDER AS TO RESPONDENT MEDRX, INC. DBA MEDRX PHARMACY, IRENE NAYGAS, MARK NAYGAS AND DMITRY NAYGAS, OWNERS ONLY (As to Original Permit No. PHY 49209)

Respondents.

## **DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on October 18, 2017.

It is so ORDERED on September 18, 2017.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

By

Amy Gutierrez, Pharm.D. Board President

| 1   | XAVIER BECERRA  |   |
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| 2   | Attorney General of California LINDA L. SUN   |   |
| 3   | Supervising Deputy Attorney General KEVIN J. RIGLEY   |   |
| 4   | Deputy Attorney General State Bar No. 131800  |   |
| 5   | 300 So. Spring Street, Suite 1702<br>Los Angeles, CA 90013  |   |
| ٠6  | Telephone: (213) 620-2558<br>Facsimile: (213) 897-2804  |   |
| 7   | Attorneys for Complainant   |   |
| 8   | DIFFAT  | מדריים הרכ  |
| . 9 | BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS   |   |
| 10  | STATE OF C  | CALIFORNIA  |
| 11  | T 11 3 f 0.1  |   |
| 12  | In the Matter of the Accusation/Petition to Revoke Probation Against:                                 | Case No. 5440   |
|     | MEDRX, INC. DBA MEDRX   | OAH No. 2016080645  |
| 13  | PHARMACY, IRENE NAYGAS, MARK<br>NAYGAS AND DMITRY NAYGAS,   | STIPULATED SURRENDER OF<br>LICENSE AND ORDER AS TO          |
| 14  | OWNERS  | RESPONDENT MEDRX, INC. DBA<br>MEDRX PHARMACY, IRENE NAYGAS, |
| 15  | 18356 Oxnard St., Ste. 1<br>Tarzana, CA 91356   | MARK NAYGAS AND DMITRY NAYGAS, OWNERS ONLY (As to Original  |
| 16  | JULIE DAKOV, Pharmacist-in-Charge   | Permit No. PHY 49209)                                       |
| 17  | Original Permit No. PHY 49209   |   |
| 18  | IRENE NAYGAS<br>19120 Sprague Street  |   |
| 19  | Tarzana, CA 91356   |   |
| 20  | Original Pharmacist License No. RPH 58720   |   |
| 21  | Respondents.  |   |
| 22  |   |   |
| 23  | IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-                           |   |
| 24  | entitled proceedings that the following matters are true:   |   |
| 25  | <u>PARTIES</u>  |   |
| 26  | 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy                    |   |
| 27  | (Board). She brought this action solely in her official capacity and is represented in this matter by |   |
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|     |   |   |

Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney General.

- 2. MedRX, Inc., dba MedRX Pharmacy; Irene Naygas, Mark Naygas and Dmitry Naygas, Owners (Respondent MedRX No. PHY 49209) is represented in this proceeding by attorney Samuel P. Plunkett, whose address is 1522 W. Glenoaks Blvd., Ste. D, Glendale, CA 91201.
- 3. On or about September 30, 2008, the Board issued Pharmacy Permit No. PHY 49209 to MedRX, Inc., dba MedRX Pharmacy; Irene Naygas, Mark Naygas and Dmitry Naygas, Owners (Respondent MedRX No. PHY 49209). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 5440 and will expire on September 1, 2017, unless renewed.
- 4. On or about September 8, 2006, the Board of Pharmacy issued Original Pharmacist License Number RPH 58720 to Irene Naygas (Respondent Naygas). The Original Pharmacist License, which was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 5440, is currently suspended. The license will expire on December 31, 2017, unless renewed.

### **JURISDICTION**

5. Accusation/Petition to Revoke Probation No. 5440 was filed before the (Board), and is currently pending against Respondents. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent MedRX No. PHY 49209 on June 22, 2016. Respondent MedRX No. PHY 49209 timely filed its Notice of Defense contesting the Accusation/Petition to Revoke Probation. A copy of Accusation/Petition to Revoke Probation No. 5440 is attached as Exhibit A and incorporated by reference.

#### ADVISEMENT AND WAIVERS

6. Respondent MedRX No. PHY 49209 has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. 5440. Respondent MedRX No. PHY 49209 also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

- 7. Respondent MedRX No. PHY 49209 is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right to confront and cross-examine the witnesses against it; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 8. Respondent MedRX No. PHY 49209 voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

### **CULPABILITY**

- 9. Respondent MedRX No. PHY 49209 understands and agrees that the charges and allegations in Accusation/Petition to Revoke Probation No. 5440, if proven at a hearing, constitute cause for imposing discipline upon its Pharmacy Permit.
- 10. For the purpose of resolving the Accusation/Petition to Revoke Probation without the expense and uncertainty of further proceedings, Respondent MedRX No. PHY 49209 agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation/Petition to Revoke Probation, and that Respondent MedRX No. PHY 49209 hereby gives up its right to contest those charges.
- 11. Respondent MedRX No. PHY 49209 agrees that its Pharmacy Permit is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### CONTINGENCY

12. This stipulation shall be subject to approval by the Board. Respondent MedRX No. PHY 49209 understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent MedRX No. PHY 49209 or its counsel. By signing the stipulation, Respondent MedRX No. PHY 49209 understands and agrees that it may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it.

If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

- 13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.
- 14. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

#### ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 49209, issued to Respondent MedRX, Inc., dba MedRX Pharmacy; Irene Naygas, Mark Naygas and Dmitry Naygas, Owners, is surrendered and accepted by the Board of Pharmacy.

- 1. The surrender of Respondent MedRX No. PHY 49209's Pharmacy Permit and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent MedRX No. PHY 49209. This stipulation constitutes a record of the discipline and shall become a part of Respondent MedRX No. PHY 49209's license history with the Board of Pharmacy.
- 2. Respondent MedRX No. PHY 49209 shall lose all rights and privileges as a licensed pharmacy in California as of the effective date of the Board's Decision and Order.

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- 3. Respondent MedRX No. PHY 49209 shall cause to be delivered to the Board its pocket license and, if one was issued, its wall certificate on or before the effective date of the Decision and Order.
- 4. If Respondent MedRX No. PHY 49209 ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent MedRX No. PHY 49209 must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations against Respondent MedRX No. PHY 49209 in Accusation/Petition to Revoke Probation No. 5440 shall be deemed to be true, correct and admitted by Respondent MedRX No. PHY 49209 when the Board determines whether to grant or deny the application or petition.
- 5. Respondent MedRX No. PHY 49209 shall be jointly and severally responsible for paying the agency its costs of investigation and enforcement in the amount of \$7,000.00 prior to issuance of a new or reinstated license.
- 6. If Respondent MedRX No. PHY 49209 should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations against Respondent MedRX No. PHY 49209 in Accusation/Petition to Revoke Probation No. 5440 shall be deemed to be true, correct, and admitted by Respondent MedRX No. PHY 49209 for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

### **ACCEPTANCE**

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Samuel P. Plunkett. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order

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| 1   | voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  |  |
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| 2   | Board of Pharmacy.   |  |
| 3   |  |  |
| 4   | DATED:   |  |
| 5   | MEDRX, INC., DBA MEDRX PHARMACY NO.  |  |
| 6   | PHY 49209; IRENE NAYGAS, MARK NAYGAS<br>AND DMITRY NAYGAS, OWNERS  |  |
| 7   | Respondent MedRX No. PHY 49209   |  |
| 8   | I have read and fully discougged with Doggod and Mad INV You Hand Town   |  |
| 9   | I have read and fully discussed with Respondent MedRX, Inc., dba MedRX Pharmacy;   |  |
| 10  | Irene Naygas, Mark Naygas and Dmitry Naygas, Owners the terms and conditions and other   |  |
| 11  | matters contained in this Stipulated Surrender of License and Order. I approve its form and  |  |
| 12  | content.   |  |
| 13  | The same of the sa |  |
| 14  | DATED: SAMUEL P. PLUNKETT  |  |
| 15  | Attorney for Respondent  |  |
| 16. |  |  |
| 17  | ENDORSEMENT  |  |
| 18  | The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted   |  |
| 19  | for consideration by the Board of Pharmacy of the Department of Consumer Affairs.  |  |
| 20  |  |  |
| 21  |  |  |
| 22  | XAVIER BECERRA<br>Attorney General of California   |  |
| 23  | LINDA L. SUN<br>Supervising Deputy Attorney General  |  |
| 24  |  |  |
| 25  | Kevin J. Rigley  |  |
| 26  | Deputy Attorney General  Attorneys for Complainant   |  |
|     | ESTERICITED AND COLLEGE SPECIES  |  |
| 27  |  |  |
| 28  | _LA2015500870  |  |

| 1     | voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  |  |
|-------|--|--|
| 2     | Board of Pharmacy.   |  |
| 3     | en de la composition de la composition<br>La composition de la |  |
| 4     | DATED:   |  |
| 5     | MEDRX, INC., DBA MEDRX PHARMACY NO.<br>PHY 49209; IRENE NAYGAS, MARK NAYGAS  |  |
| 6     | AND DMITRY NAYGAS, WARR NAYGAS  Respondent MedRX No. PHY 49209   |  |
| 7     |  |  |
| 8     | I have read and fully discussed with Respondent MedRX, Inc., dba MedRX Pharmacy;   |  |
| 9     | Irene Naygas, Mark Naygas and Dmitry Naygas, Owners the terms and conditions and other   |  |
| 10    |  |  |
| 11    | content.   |  |
| 12    |  |  |
| 13    | DATED:   |  |
| .14 . | SAMUEL P. PLUNKETT   |  |
| 15    | Attorney for Respondent  |  |
| 16    |  |  |
| 17    | ENDORSEMENT  |  |
| 18    | The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted   |  |
| 19    | for consideration by the Board of Pharmacy of the Department of Consumer Affairs.  |  |
| 20    | Dated: 7/3/17 Respectfully submitted,  |  |
| 21    | XAVIER BECERRA   |  |
| 22    | Attorney General of California<br>LINDA L. SUN   |  |
| 23    | Supervising Deputy Attorney General  |  |
| 24    |  |  |
| 25    | KEVIN J. RIGLEY Deputy Attorney General  |  |
| 26    | Attorneys for Complainant  |  |
| 27    |  |  |
| 28    | LA2015500870   |  |
| •     | 52518123   |  |

# Exhibit A

Accusation/Petition to Revoke Probation No. 5440