

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF PROFESSIONAL LICENSING  
BOARD OF PHARMACY  
DISCIPLINARY SUBCOMMITTEE

In the Matter of

UZOMA BENJAMIN NWACHUKWU, R.PH.  
License Nos. 53-02-036747,

File No. 53-17-147132

Respondent.

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ORDER OF SUMMARY SUSPENSION

The Department filed an *Administrative Complaint* against Respondent as provided by the Public Health Code, MCL 333.1101 *et seq*, the rules promulgated under the Code, and the Administrative Procedures Act, MCL 24.201 *et seq*.

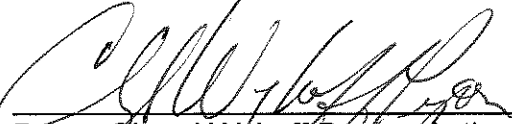
After careful consideration and after consultation with the Chairperson of the Board of Pharmacy pursuant to MCL 333.16233(5), the Department finds that the public health, safety, and welfare requires emergency action.

Therefore, IT IS ORDERED that Respondent's license to practice as a pharmacist is SUMMARILY SUSPENDED, commencing the date this *Order* is served.

Under Mich Admin Code, R 792.10702, Respondent may petition for the dissolution of this *Order* by filing a document clearly titled **Petition for Dissolution of Summary Suspension** with the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, P.O. Box 30670, Lansing, MI 48909.

MICHIGAN DEPARTMENT OF  
LICENSING AND REGULATORY AFFAIRS

Dated: 11/1, 2017

  
By: Cheryl Wykoff Pezon, Acting Director  
Bureau of Professional Licensing

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ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs by Cheryl Wykoff Pezon, Acting Director, Bureau of Professional Licensing, complains against Respondent Uzoma Benjamin Nwachukwu, R.Ph. as follows:

1. The Michigan Board of Pharmacy is an administrative agency established by the Public Health Code, MCL 333.1101 *et seq.* The Board's Disciplinary Subcommittee is empowered to discipline licensees for Code violations.

2. The Board administers the controlled substance provisions in Article 7 of the Code, MCL 333.7101 - .7545, and is empowered to discipline licensees for Article 7 violations under MCL 333.7311(1)(h).

3. MCL 333.7333(1) provides, in pertinent part:

"[G]ood faith" means the prescribing or dispensing of a controlled substance by a practitioner . . . to or for an individual . . . . Application of good faith to a pharmacist means the dispensing of a controlled substance pursuant to a prescriber's order which, in the professional judgment of the pharmacist, is lawful. The pharmacist shall be guided by nationally accepted professional standards including, but not limited to, all of the following, in making the judgment:

(a) Lack of consistency in the doctor-patient relationship.

- (b) Frequency of prescriptions for the same drug by 1 prescriber for larger numbers of patients.
- (c) Quantities beyond those normally prescribed for the same drug.
- (d) Unusual dosages.
- (e) Unusual geographic distances between patient, pharmacist, and prescriber.

4. Mich Admin Code, R 338.490(2) provides:

A pharmacist shall not fill a prescription order if, in the pharmacist's professional judgment, any of the following provisions apply:

- (a) The prescription appears to be improperly written.
- (b) The prescription is susceptible to more than 1 interpretation.
- (c) The pharmacist has reason to believe that the prescription could cause harm to the patient.
- (d) The pharmacist has reason to believe that the prescription will be used for other than legitimate medical purposes.

5. Respondent is a Michigan-licensed pharmacist. He is the sole member and pharmacist in charge (PIC) of Benstar Pharmacy P.L.L.C. in Detroit, Michigan.<sup>1</sup>

6. As Benstar's PIC, Respondent was responsible to supervise its practice. MCL 333.17748(5).

7. After consultation with the Board Chairperson, the Department found that the public health, safety, and welfare requires emergency action. Therefore, pursuant to MCL 333.7314(2), the Department summarily suspended Respondent's pharmacist license, effective on the date the accompanying Order of Summary Suspension was served.

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<sup>1</sup>The Department has also filed an Administrative Complaint against *Benstar* for the conduct alleged here. *Benstar Pharmacy P.L.L.C.*, No. 53-17-147133.

8. Alprazolam is a benzodiazepine schedule 4 controlled substance. Alprazolam is a commonly abused and diverted drug, particularly in its 1 mg and 2 mg dosages.

9. Carisoprodol is a schedule 4 controlled substance. Carisoprodol is a muscle relaxant and is commonly abused and diverted.

10. Clonazepam is a commonly abused and diverted benzodiazepine schedule 4 controlled substance.

11. Codeine preparations (e.g., codeine/promethazine syrup) are schedule 5 controlled substances prescribed for treating acute cough and related upper respiratory symptoms. Codeine/promethazine syrup is ill suited for long-term treatment of any condition. Codeine/promethazine syrup is a highly sought-after drug of abuse and is known by the street names "lean," "purple drank," and "sizzurp."

12. Codeine preparations (e.g., codeine/promethazine syrup) are highly abused and diverted schedule 5 controlled substances.

13. Hydrocodone combination products (e.g., hydrocodone/apap), oxycodone, and oxymorphone are commonly abused and diverted opioid schedule 2 controlled substances.

14. Tramadol is a commonly abused and diverted opioid schedule 4 controlled substance.

Michigan Automated Prescription System data

15. The Department reviewed data from the Michigan Automated Prescription System (MAPS), the State of Michigan's prescription monitoring program, which gathers data regarding controlled substances dispensed in Michigan. The

Department discovered that Benstar ranked among the highest-volume dispensers of commonly abused and diverted controlled substances in 2016 and 2017:

<b>Drug</b>	<i>Respondent's 2016 Rank</i>	<i>Respondent's 2017 Q1 Rank</i>	<i>Respondent's 2017 Q2 Rank</i>
(a) Codeine/Promethazine Syrup	18	10	6
(b) Oxycodone 30 mg	22	12	6
(c) Oxymorphone (all strengths)	61	n/r	22
(d) Oxymorphone 40 mg	18	n/r	20

16. Benstar ranked among the highest dispensers of these commonly abused and diverted controlled substances in the State of Michigan despite its small location within a convenience store in a residential Detroit neighborhood.

17. During the following periods, Benstar filled prescriptions for commonly abused and diverted controlled substances in the following quantities:

<b>Drug</b>	<b>2016</b>	<b>2017 thru Oct. 17</b>
(a) Oxycodone 30 mg	676 (32.69%)	574 (30.60%)
(b) Hydrocodone/Apap, 10-325 mg	171 (8.27%)	282 (15.03%)
(c) Alprazolam 2 mg	93 (4.50%)	24 (1.28%)
(d) Codeine/Promethazine Syrup	542 (26.21%)	488 (26.01%)
(e) Total, (a) - (d) <b>(percentage of all CS prescriptions dispensed)</b>	<b>1482 (71.66%)</b>	<b>1368 (72.92%)</b>
(f) Total CS Prescriptions	2068	1876

*Dispensing despite patterned prescribing*

18. Over 45% of all prescriptions Benstar filled in 2016 were written by prescribers who were subjected to disciplinary action based on allegations including overprescribing commonly abused and diverted controlled substances.

19. Specifically, the Department reviewed MAPS data relating to Benstar's dispensing of controlled substances pursuant to prescriptions written by Peter R. Nwoke, M.D. Pursuant to a final order on March 15, 2017, the Michigan Board of

Medicine suspended Nwoke<sup>2</sup> upon a finding that he violated MCL 333.16221(a) by conduct that included prescribing oxycodone and/or promethazine with codeine to virtually *all* of his patients receiving a controlled substance in 2015.

20. The MAPS data for 2015 showed Benstar dispensed pursuant to Nwoke's prescriptions despite an apparent pattern of prescribing:

- (a) More than sixty percent (60%) of patients filling Nwoke's prescriptions at Benstar received both oxycodone *and* codeine/promethazine syrup.
- (b) Prescriptions for Nwoke's patients receiving both of those drugs accounted for nearly *three-fourths* of all Nwoke's prescriptions Benstar dispensed.
- (c) Even though Nwoke's office was nearly 13 miles away from Benstar, more than eighteen percent (18%) of all controlled substance prescriptions dispensed at Benstar were written by Dr. Nwoke.

21. The Department reviewed MAPS data relating to Benstar's dispensing of controlled substances pursuant to prescriptions written by prescriber #1 from January 1, 2017 through October 17, 2017. Of the 102 patients of prescriber #1 who filled prescriptions at Benstar, 58 filled a combination of hydrocodone/apap and codeine/promethazine syrup at a single visit. Five patients of prescriber #1 filled a combination of hydrocodone/apap and codeine/promethazine syrup at a single visit *at least four times*.

#### Patient examples

22. The Department reviewed MAPS data for the five patients to whom Benstar dispensed the most prescriptions in 2017 through October 17. All of those

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<sup>2</sup>File No. 43-16-140512.

patients repeatedly filled prescriptions for commonly abused and diverted controlled substances during that period:

- (a) Patient DP<sup>3</sup> filled prescriptions for alprazolam, tramadol, and codeine/promethazine syrup in January, February, March, May, and August. Patient DP filled a combination of alprazolam and codeine/promethazine syrup in close proximity to one other in April.
- (b) Patient SP filled prescriptions for alprazolam and hydrocodone/apap in January, February, March, April, May, June, July, August, and September.
- (c) Patient VL filled prescriptions for hydrocodone/apap and promethazine/codeine in January, April, June, July, and August. Patient VL also filled a combination of carisoprodol and hydrocodone/apap in February and March.
- (d) Patient WN filled prescriptions for clonazepam and hydrocodone/apap in January, February, May, June, July, August, and September.
- (e) Patient JM filled prescriptions for alprazolam and hydrocodone/apap in January, February, March, April, May, June, and July.

Department investigation

23. In an interview with Department investigators, Respondent admitted that he failed to consistently call prescribers' offices to verify controlled substance prescriptions.

24. Respondent also admitted that he failed to consistently verify controlled prescriptions by requesting a diagnosis code from the prescriber.

25. The Department investigators inspected Benstar's business premises on May 31, 2017 and noted violations of several regulations governing pharmacies, including lack of sanitary conditions, lack of a 2017 controlled substance inventory, and possession of expired and misbranded medications.

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<sup>3</sup>Patients are de-identified to protect confidentiality.

COUNT I

Respondent failed to maintain effective controls against diversion of controlled substances to other than legitimate and professionally recognized therapeutic, scientific, or industrial uses, in violation of MCL 333.7311(1)(e).

COUNT II

Respondent dispensed controlled substances without good faith, contrary to MCL 333.7333(1) and in violation of MCL 333.7311(1)(h).

COUNT III

Respondent filled a prescription order outside the boundaries of professional judgment, contrary to Mich Admin Code, R 338.490(2) and in violation of MCL 333.7311(h).

COUNT IV

Respondent's conduct violated a general duty, consisting of negligence or failure to exercise due care, in violation of MCL 333.16221(a).

COUNT V

Respondent's conduct fails to conform to minimal standards of acceptable, prevailing practice for the health profession in violation of MCL 333.16221(b)(i).

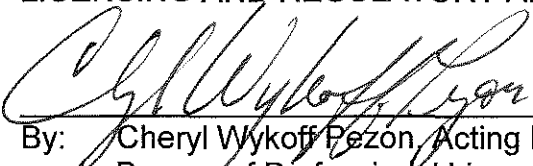


RESPONDENT IS NOTIFIED that, pursuant to MCL 333.16231(8), Respondent has 30 days from the date of receipt of this complaint to answer this complaint in writing and to show compliance with all lawful requirements for retention of the license. Respondent shall submit the response to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909.

Respondent's failure to submit an answer within 30 days is an admission of the allegations in this complaint. If Respondent fails to answer, the Department shall transmit this complaint directly to the Board's Disciplinary Subcommittee to impose a sanction pursuant to MCL 333.16231(9).

MICHIGAN DEPARTMENT OF  
LICENSING AND REGULATORY AFFAIRS

Dated: 11/1, 2017

  
By: Cheryl Wykoff Pezon, Acting Director  
Bureau of Professional Licensing

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