

TEMPORARY SUSPENSION ORDER #A-16-008-ASI

RE: IN THE MATTER OF
JEREMY BRANCH
(PHARMACIST LICENSE #52469)

BEFORE THE TEXAS STATE
BOARD OF PHARMACY

On this day came on to be considered by the Disciplinary Panel of the Texas State Board of Pharmacy (Board) the matter of the Petition for Temporary Suspension of pharmacist license number 52469, issued to Jeremy Branch (Respondent), pursuant to § 565.059 of the Texas Pharmacy Act (Pharmacy Act), TEX. OCC. CODE ANN., Title 3, Subtitle J.

Respondent, and Don E. Lewis, Legal Counsel for Respondent, were in attendance. Caroline Hotchkiss represented Board staff. Kerstin Arnold served as General Counsel to the Disciplinary Panel. The following Board members served as the Disciplinary Panel: Dennis F. Wiesner, R.Ph.; Christopher M. Dembny, R.Ph.; and Bradley A. Miller, Ph.T.R.

The Disciplinary Panel determines that Respondent, by continuation in practice, would constitute a continuing threat to the public welfare, and that pharmacist license number 52469 issued to Respondent shall be temporarily suspended in accordance with § 565.059 of the Pharmacy Act. The Disciplinary Panel makes this finding based on the following evidence and/or information presented at the September 15, 2017, Hearing on Temporary Suspension of License of Respondent:

1. On or about October 22, 2012, Respondent was issued Texas pharmacist license number 52469.
2. Respondent's Texas pharmacist license was in full force and effect at all times and dates material and relevant to this Order.
3. Respondent is the pharmacist-in-charge of Health Fit Pharmacy since on or about February 8, 2017. Additionally, Respondent has served as a pharmacist of Health Fit Pharmacy throughout the time period referenced in the Allegations.
4. A pharmacist-in-charge has responsibility for the practice of pharmacy at the pharmacy

for which he/she is the pharmacist-in-charge, including legally operating the pharmacy in accordance with all state and federal laws or rules governing the practice of pharmacy.

5. A pharmacist is responsible for complying with all state and federal laws and rules governing the practice of pharmacy while on duty.
6. Respondent's Texas pharmacist license is current through August 31, 2019.
7. On or about March 11, 2015, a Board compliance officer conducted an inspection of Health Fit Pharmacy at the pharmacy's previous licensed location of 3620 Katy Freeway, Suite A, Houston, Texas 77007. The compliance inspector documented on the inspection form that the pharmacy was advised to address corresponding responsibility. In particular, this notation indicates the pharmacy may be engaging in non-therapeutic dispensing practices related to certain highly-abused controlled substances and that the pharmacy should ensure the controlled substances are dispensed only for a legitimate medical purpose.
8. On or about January 21, 2016, a Board compliance officer conducted an inspection of Health Fit Pharmacy at the pharmacy's current licensed location of 1307 Yale Street, Suite H, Houston, Texas 77008. The compliance inspector documented on the inspection form that the pharmacy was advised to cease dispensing prescriptions identified by the compliance officer as invalid. The controlled substance dispensed included promethazine with codeine prescriptions and were allegedly without a legitimate medical purpose.
9. Between on or about February 8, 2017, through June 20, 2017, Health Fit Pharmacy and Respondent, while acting as an employee (pharmacist-in-charge and a pharmacist), dispensed controlled substances, including alprazolam 2mg tablets, promethazine with codeine 6.25-10mg/5ml liquid, and carisoprodol 350 mg tablets, pursuant to prescriptions purportedly authorized by Khanh Quoc Nguyen, issued on prescriber's prescription forms identifying "Elite Choice Medical Clinic" at an address of 25010 Oakhurst Dr., Suite 120, Spring, Texas 77386, as follows:

Total for Pharmacy:	1,697 RXs	127,444 Dosage Units
Total for Branch:	575 RXs	42,952 Dosage Units

An investigator for the Board attempted to visit Elite Choice Medical Clinic at the address listed on the prescriber's prescription forms dispensed by Health Fit Pharmacy. Elite Choice Medical Clinic was not located at the address listed on the prescription forms. The Board investigator was informed that since June 2013 a non-medical business occupies the former office suite of Elite Choice Medical Clinic. In addition, while Dr. Nguyen had practiced medicine in 2010 at Elite Choice Medical Clinic at the location on the prescriber's prescription forms, Dr. Nguyen subsequently surrendered his controlled substance registration in 2011 to the U.S. Drug Enforcement Administration (DEA). No current controlled substance DEA registration is issued to Dr. Nguyen, and a residential address is provided as the practice location for Dr. Nguyen according to the license

verification listed on the Texas Medical Board webpage. Nonetheless, prescriptions dispensed by Health Fit Pharmacy purportedly issued by Dr. Nguyen practicing medicine at this non-existent clinic constitute approximately half of all prescriptions dispensed during this time period at Health Fit Pharmacy in 2017, and were often the majority of prescription each day.

During the entire period of his tenure as pharmacist-in-charge of Health Fit Pharmacy, Respondent should have known the prescriptions purportedly authorized by Dr. Nguyen of Elite Choice Medical Clinic were invalid, i.e., not issued for a legitimate therapeutic purpose or valid medical need and/or prescription forgeries, due to prescription red flags factors indicating recurrent and readily-identifiable nontherapeutic prescribing and dispensing activity to a reasonable pharmacist, including:

- a. The prescriptions were for the above-stated controlled substances, which are popular as street drugs and have a high potential for abuse;
- b. The prescriptions were for consistent large quantities of the above-stated controlled substances, e.g., 60 tablets of alprazolam 2mg, 120 tablets of carisoprodol 350 mg, and 240 ml of promethazine with codeine 6.25-10mg/5ml liquid;
- c. The prescriptions were routinely dispensed to patients receiving more than one of the above-listed controlled substances on the same date for a combination of controlled substances;
- d. The prescriptions routinely lack a specific diagnosis and the intended use for the drug prescribed;
- e. According to the location on the prescriber's form listing Elite Choice Medical Clinic, the clinic's location in Spring, Texas, is approximately 25 miles apart from Health Fit Pharmacy, which is a far distance in the Houston metropolitan area with numerous other pharmacy options. In addition, for most patients there is no logical relation to patients' home addresses to justify legitimate trade at Health Fit Pharmacy;
- f. Health Fit Pharmacy purportedly sold the prescriptions in exchange for hundreds of dollars in cash;
- g. The unexplained distance patients were willing to travel along with other prescription red flags identify that individuals knew that in exchange for cash payment these prescription drug orders would be filled with controlled substances from Health Fit Pharmacy and Respondent;
- h. Patients receiving the prescriptions were generally dispensed non-controlled drugs at the same time as the prescriptions for controlled substances, which were also purportedly authorized by Dr. Nguyen. These non-controlled drugs total 1,524 prescriptions, which is 47% of the total dispensing for prescriptions purportedly issued by Dr. Nguyen. Dispensing controlled substances and non-controlled substances in ratio of 1:1 is recognized as an attempt to subvert regulatory oversight of nontherapeutic prescribing and dispensing of controlled substances; and

- i. During the entire time period referenced, the prescriptions for the same or similar drugs in the same or similar quantities and in the same or similar combinations of drugs were dispensed to multiple patients per day.
10. On or after June 21, 2017, Health Fit Pharmacy continues to report dispensing for prescriptions purportedly issued by Khanh Quoc Nguyen, M.D., to the Prescription Drug Monitoring Program (PDMP). In approximately six weeks' time following June 21, 2017, Health Fit Pharmacy and Respondent reported dispensing a high percentage of prescriptions purportedly issued by Khanh Quoc Nguyen, M.D. The PDMP report demonstrates that the pharmacy and Respondent are continuing to engage in dispensing prescriptions from this non-existent medical clinic by dispensing high strengths and in large quantities of controlled substances that are known to be routinely abused to patients not billing to insurance to receive the drugs from this pharmacy. Specifically, of the 969 prescriptions reported to the PDMP during this approximate six week period, the pharmacy and Respondent have dispensed of 528 prescriptions (54.49% of the total reported prescriptions) purportedly issued by Dr. Nguyen, consisting of the following:
 - o 184 prescriptions each for alprazolam 2mg tablets (11,040 dosage units),
 - o 133 prescriptions each for carisoprodol 350 mg tablets (15,960 dosage units), and
 - o 165 prescriptions each for promethazine with codeine 6.25-10mg/5ml liquid (7,920 dosage units).

Subsequent to any proceedings involving the conduct described above, the Board may take additional disciplinary action on any criminal action taken by the criminal justice system based on the same conduct described in the allegations above. However, Respondent shall be provided all rights of due process should the Board initiate such disciplinary action subsequent to the conclusion of the criminal proceedings.

ORDER OF THE BOARD

THEREFORE, PREMISES CONSIDERED, the Board does hereby ORDER that:

- (1) Pharmacist license number 52469 held by Respondent shall be, and such license is hereby temporarily suspended. Said suspension shall be effective immediately and shall continue in effect, pending a contested case hearing on disciplinary action against the suspended license to be held at the State Office of Administrative Hearings not later than ninety (90) days after the date of this Order. During the period of suspension, Respondent shall:

- (a) not practice pharmacy in this state or be employed in any manner requiring a license with the Board or allowing access to prescription drugs in a pharmacy during the period of suspension; and
 - (b) remove the wall certificate for said license and any renewal certificate pertaining to said license from public display in a pharmacy and may not further display in public view said certificates.
- (2) Failure to comply with any of the requirements in this Order constitutes a violation and shall be grounds for further disciplinary action. The requirements of this Order are subject to the Texas Pharmacy Act, TEX. OCC. CODE ANN., Title 3, Subtitle J (2015), and Texas Pharmacy Board Rules, 22 TEX. ADMIN. CODE (2017).

Passed and approved at the Temporary Suspension Hearing of the Disciplinary Panel of the Texas State Board of Pharmacy on the 15th day of September, 2017.

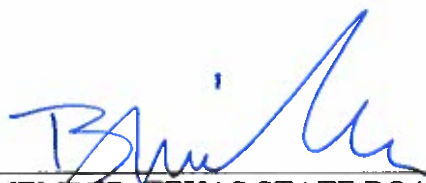
And it is so ORDERED.

THIS ORDER IS A PUBLIC RECORD.

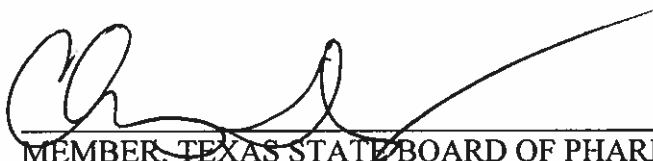
SIGNED AND ENTERED ON THIS 15th day of September, 2017.



MEMBER, TEXAS STATE BOARD OF PHARMACY



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