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16 *Attorneys for Plaintiffs*

17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 SPRING VALLEY PHARMACY, LLC, a  
20 Nevada Limited Liability Company; and  
21 JESSICA NGUYEN, an individual;

22 Plaintiffs,

23 vs.

24 NEVADA STATE BOARD OF  
25 PHARMACY; DOES 1-X; and ROE  
26 CORPORATIONS XI-XX;

27 Defendant.

28 Case No. : A-17-763456-C  
Dept. No.: XIV

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER GRANTING  
PRELIMINARY INJUNCTION**

**AND**

**ORDER DENYING MOTION TO  
STRIKE**

29 This matter came before this Court on November 7, 2017 at 9:30 a.m. and on November  
30 21, 2017 at 9:30 a.m. on Plaintiffs Spring Valley Pharmacy, LLC (“Spring Valley Pharmacy”)  
31 and Jessica Nguyen’s (“Nguyen,” collectively “Plaintiffs”) Motion for Preliminary Injunction  
32 (“Motion”). Plaintiffs were present, personally and by and through their counsel of record  
33 Sydney R. Gambee, Esq. and Constance L. Akridge, Esq. of Holland & Hart LLP. Defendant  
34 Nevada State Board of Pharmacy (“Board”) was present, by and through their counsel of record  
35 Paul Edwards, Esq. and Brett Kandt, Esq. The Board filed an Opposition to the Motion.  
36 Pursuant to this Court’s directive at the November 7, 2017 hearing, Plaintiffs and the Board each  
37 submitted supplemental briefing and responses to each other’s supplemental briefing.  
38



1 contacting and working with Affiliated Monitors to commence the independent remediation and  
2 compliance monitoring program.

3 8. After months of diligently corresponding with Affiliated Monitors, Spring Valley  
4 Pharmacy executed the monitoring agreement and business associate agreement on October 12,  
5 2017.

6 9. Spring Valley Pharmacy is ready and willing to comply with the Affiliated  
7 Monitors independent remediation and compliance monitoring program as soon as the Board so  
8 authorizes commencement of such a program.

9 10. Therefore, Spring Valley Pharmacy has not violated the Board Orders with  
10 respect to its engagement and participation in an independent remediation and compliance  
11 monitoring program.

12 ***Ownership of Spring Valley Pharmacy.***

13 11. State statutes and regulations require that a pharmacy notify the Board of any  
14 change in beneficial ownership of the pharmacy.

15 12. Spring Valley Pharmacy is currently owned by Spring Valley Pharmacy, a  
16 Nevada limited liability company.

17 13. In 2010, Spring Valley Pharmacy, a Nevada corporation, converted to Spring  
18 Valley Pharmacy, a Nevada limited liability company, pursuant to NRS 92A.250(3).

19 14. Although conversion has occurred, there is no transfer of ownership.

20 15. Pursuant to NRS 92A.250(3)(b), a conversion is a continuation of the existence of  
21 the constituent entity.

22 16. The conversion of Spring Valley Pharmacy, a Nevada corporation, to Spring  
23 Valley Pharmacy, a Nevada limited liability company, is a continuation of the constituent entity,  
24 and therefore not a transfer of ownership.

25 17. As there has been no transfer of ownership of Spring Valley Pharmacy, Spring  
26 Valley Pharmacy has not violated the Board Orders with respect to its reporting of its ownership  
27 to the Board.

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1 restore the status quo and to undo wrongful conditions. *Memory Gardens of Las Vegas, Inc. v.*  
2 *Pet Ponderosa Memorial Gardens, Inc.*, 88 Nev. 1, 3, 492 P.2d 123, 124 (1972); *Leonard v.*  
3 *Stoebing*, 102 Nev. 543, 550, 728 P.2d 1358, 1363 (1986). A plaintiff suffers irreparable harm  
4 when acts committed without just cause unreasonably interfere with a business or destroy its  
5 credit and profits by, for example, interfering with the business's operation, creating public  
6 confusion, infringing on goodwill, or damaging reputation in the eyes of creditors. *See Sobol v.*  
7 *Capital Management Consultants, Inc.*, 102 Nev. 444, 446, 726 P.2d 335, 337 (1986).

8 25. Here, Plaintiffs have shown a likelihood of success on the merits because there  
9 has been no violation of the Board Orders, including the following:

- 10 a. With respect to the change of Spring Valley Pharmacy's managing pharmacist;  
11 b. With respect to Spring Valley Pharmacy's participation in a monitoring program  
12 administered by Affiliated Monitors;  
13 c. With respect to the notification to the Board of a change of beneficial ownership  
14 since no such ownership change occurred; and  
15 d. With respect to the new allegations in the Accusation--none of these new  
16 allegations constitute a violation of the Board Orders justifying the Board's  
17 conduct.

18 26. The Board's conduct in restricting Spring Valley Pharmacy's access to its  
19 controlled substances, threatening to close Spring Valley Pharmacy, placing Nguyen's name on  
20 its meeting agenda, and contacting Nguyen personally result in irreparable harm for which  
21 compensatory damages are an inadequate remedy.

22 27. If unrestrained, the Board's conduct in restricting Spring Valley Pharmacy's  
23 access to its controlled substances and threatening to close Spring Valley Pharmacy within thirty  
24 (30) days interferes with Spring Valley Pharmacy's business and profits, drives away customers,  
25 and ultimately threatens its very existence, making monetary damages or other remedies at law  
26 inadequate to redress Spring Valley Pharmacy's injuries.

27 **ACCORDINGLY, IT IS HEREBY ORDERED** that Plaintiffs' Motion for Preliminary  
28 Injunction is hereby GRANTED in part and DENIED in part. The Motion is GRANTED as to

1 the Board's conduct against Spring Valley Pharmacy and contact with Nguyen personally. The  
2 Motion is DENIED as to the Board's contact with Nguyen in her capacity as owner, to the extent  
3 the Board has jurisdiction over Nguyen as the owner of Spring Valley Pharmacy. The Board is  
4 hereby RESTRAINED and ENJOINED from the following:

5 1. preventing Spring Valley Pharmacy's access to its stores of controlled substances  
6 except to the extent such action is justified by violations occurring after the date of this order;

7 2. involuntarily closing Spring Valley Pharmacy except to the extent such action is  
8 justified by violations occurring after the date of this order;

9 3. placing Nguyen's name (in her personal capacity) on the Agenda for upcoming  
10 Board meetings or otherwise requiring her to appear in her personal capacity before the Board;  
11 and

12 4. contacting Nguyen (in her personal capacity) except through her counsel.

13 **IT IS FURTHER ORDERED** that Plaintiffs, having already posted with the clerk of  
14 this court a bond in the sum of \$500.00 for payment of such cost of damages as may be incurred  
15 or suffered by the Board if found to have been wrongfully enjoined or restrained by this Order,  
16 shall not be required to post any additional bond.


17 **IT IS FURTHER ORDERED** that this Preliminary Injunction shall be considered  
18 effective as of November 21, 2017 at 9:30 a.m.

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**IT IS FURTHER ORDERED** that the Board's motion to strike the declaration of Mr. Martin Chibueze, attached as Exhibit 21 to Plaintiffs' supplemental briefing, is hereby DENIED. The testimony of Mr. Chibueze is admissible and no other contradictory evidence has been proffered.

DATED this 21<sup>st</sup> day of December, 2017.

  
\_\_\_\_\_  
DISTRICT JUDGE  
G

HOLLAND & HART LLP  
9555 HILLWOOD DRIVE, 2ND FLOOR  
LAS VEGAS, NEVADA 89134

## Paul Edwards

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**From:** Yen Long  
**Sent:** Wednesday, December 27, 2017 9:18 AM  
**To:** Paul Edwards  
**Subject:** RE: Dr. Hardy's Request  
**Attachments:** DATA Waiver Providers 12.27.2017.xlsx; Methadone and Buprenorphine Prescriptions.xlsx; DATA Waiver, MAT, OTP Information.docx

Hi Paul,

I think we were able to answer all of the questions for Dr. Hardy (see third attachment). Most of the credit goes to Stephanie Woodard. Do you mind sending it out to him? Or we can send to Dave to send to Hardy?

Thank you,  
Yenh

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**From:** Yen Long  
**Sent:** Wednesday, December 27, 2017 7:51 AM  
**To:** Paul Edwards  
**Subject:** Dr. Hardy's Request

Hi Paul,

So far this is what I am able to gather:

1. How does one find a clinic? A patient seeking treatment may find a **buprenorphine** treatment provider by visiting [https://www.samhsa.gov/medication-assisted-treatment/physician-program-data/treatment-physician-locator?field\\_bup\\_physician\\_us\\_state\\_value=NV](https://www.samhsa.gov/medication-assisted-treatment/physician-program-data/treatment-physician-locator?field_bup_physician_us_state_value=NV). This list does not contain methadone clinics.
2. How many have waivers? See first attachment. This was downloaded from the Substance Abuse and Mental Health Services Administration (SAMHSA) website. This list contains 222 providers. Practitioners are added to this list when they contact SAMHSA to increase the number of patient's they can treat with MAT. This may not be a complete list.
3. Number of Suboxone or buprenorphine prescriptions and methadone prescriptions? The data is in the second attachment. FYI, we cannot tease out whether the prescriptions were prescribed for pain or for addiction.

Other questions I am unable to answer and hopefully Stephanie will have the answers to are:

4. How many are using their waiver to treat patients with addiction?
5. How many methadone clinics in Northern and Southern Nevada? How many people are in these clinics?
6. How does a patient find a methadone clinic to treat their addiction?
7. How many practitioners are treating or have the ability to treat 30 patients? How many are treating or have the ability to treat 100 patients. How many can prescribe to over 100 patients? How many can are treating or have the ability to treat 275 patients.

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