

IN THE MATTER OF * **BEFORE**
MILES FINK * **THE**
PHARMACY TECHNICIAN * **STATE BOARD**
Registration Number: T17314 * **OF PHARMACY**
Respondent * **Case No. 19-273**

* * * * *

**FINAL ORDER OF REVOCATION
OF PHARMACY TECHNICIAN’S REGISTRATION**

On August 21, 2019, the State Board of Pharmacy (the “Board”), notified **MILES FINK, Pharmacy Technician**, the Respondent, **Registration No. T17314**, of its Intent to Revoke his Pharmacy Technician registration.

The Notice also informed the Respondent that, unless he requested a hearing in writing within 30 days of receipt of said Notice, the Board would sign the Final Order, which was enclosed. More than 30 days have elapsed and the Respondent failed to timely request a hearing. Therefore, this revocation is final.

The Board bases its action on the Respondent's violation of the following provisions of its Act, Md. Code Ann., Health Occupations (“Health Occ.”), §§ 12-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.):

Health Occ. § 12-6B-09. Grounds for reprimand or denial, probation, suspension, or revocation of registration.

Subject to the hearing provision of § 12-315 of this title, the Board may deny a pharmacy technician's registration to any applicant, reprimand a registered pharmacy technician, place any pharmacy technician's registration on probation, or suspend or revoke a pharmacy technician's registration if the applicant or pharmacy technician registrant:

- (3) Fraudulently uses a pharmacy technician's registration;
- (27) Participates in any activity that is grounds for Board action under § 12-313 or § 12-409 of this title [;].

With respect to Health Occ. § 12-6B-09, the underlying grounds for Board action under § 12-313 include:

- (25) Violates any rule or regulation adopted by the Board [;].

The pertinent provision of the Board's regulations under Code Md. Regs. ("COMAR") § 10.34.10 Pharmacist, Pharmacy Intern, and Pharmacy Technician Code of Conduct, provides:

.01 Patient Safety and Welfare.

B. A pharmacist may not:

- (3) Engage in unprofessional conduct.

**FACTS THAT WARRANT
THE REVOCATION OF THE RESPONDENT'S REGISTRATION**

1. At all times relevant hereto, the Respondent was registered to practice as a Pharmacy Technician in the State of Maryland. The Respondent was first registered on December 2, 2015. The Respondent's registration expired on March 31, 2019.

2. At all times relevant hereto, the Respondent was employed as a Pharmacy Technician at a National chain pharmacy (the "Pharmacy") in Middle River, Baltimore County, Maryland.¹

¹ The names of facilities and/or individuals are confidential.

3. On February 13, 2019, the Board received a Drug Enforcement Administration (DEA) form from the Pharmacy which indicated that the loss was due to employee pilferage by the Respondent. According to the form, the following drugs were reported missing, for a total loss of \$4,136:

60 Xanax², 1 mg tablets;

2,221 Alprazolam, 2 mg tablets;

2,541 Alprazolam, 1 mg tablets;

1,064 Carisoprodol³, 350 mg tablets.

4. The Respondent's employment was terminated on November 29, 2018.

5. The Respondent's employee file contained an investigative report that disclosed that the Pharmacy had sent a Diversion Detection report on October 15, 2018, to its District Asset Protection Leader which indicated that the Pharmacy had a negative variance of 719 Carisoprodol, 350 mg.

6. On October 29, 2018, regular counts began to be conducted. One reconciliation, from May 1 to October 21, 2018, showed a negative variance of 835 Carisoprodol tablets. Daily counts and reconciliations continued to show increasing negative variance amounts.

7. On November 6, 2018, covert cameras were installed but did not connect to the network properly and were not recording.

² Xanax is the brand name of the drug Alprazolam, which is used to treat anxiety and panic disorders.

³ Carisoprodol is used short-term to treat muscle pain and discomfort. It is usually used along with rest, physical therapy, and other treatments.

8. The November 19, 2018, review of the camera showed the Respondent take the stock bottle of Carisoprodol off the shelf and crouch down in the corner before putting the bottle back on the shelf.

9. On November 21, 2018, the Respondent was interviewed at the Pharmacy where he completed a written statement and verbally admitted to stealing an estimated 352 Carisoprodol, 350 mg tablets since June 2018 for “personal use.” He also admitted to stealing seven tablets for each of the following:

Alprazolam, 0.25 mg

Alprazolam, 0.5 mg

Alprazolam, 1 mg

Alprazolam, 2 mg.

10. As a result of the thefts, the Respondent was criminally charged in the District Court for Baltimore County with theft, \$100 to under \$1500, and two counts of CDS possession, not marijuana.

11. As set forth above, by diverting drugs from his pharmacy employer, the Respondent is in violation of Health Occ. §12-6B-09 (3) (Fraudulently uses a pharmacy technician’s registration); §12-6B-09 (27) (Participates in any activity that is grounds for Board action under § 12-313); namely, § 12-313 (b) (25) (Violates any rule or regulation adopted by the Board); and, COMAR § 10.34.10.01 (Patient Safety and Welfare. B. A pharmacist may not: (3) Engage in unprofessional conduct).

12. The Respondent's conduct, as set forth above, constitutes a violation of Health Occ. §§ 12-6B-09 (3) and (27), and Health Occ. § 12-313(25), and COMAR § 10.34.10.01 B (3).

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Respondent violated Health Occ. §§12-6B-09 (3) and (27), Health Occ. § 12-313 (25), and COMAR § 10.34.10.01 B (3).


ORDER

As set forth above, the Board hereby Orders, that the registration to practice as a Pharmacy Technician in Maryland held by **MILES FINK**, the Respondent, Registration Number **T17314**, be and is **REVOKED**, and that this Order is public, pursuant to Md. Code Ann., General Provisions §§ 4-101 *et seq.* (2014 Vol. and 2018 Supp.).

NOTICE OF RIGHT OF APPEAL

In accordance with §12-316 of the Act and Md. Code Ann., State Government §§10-201, *et seq.* (2014 Repl. Vol. and 2018 Supp.), you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the aforesaid authority.

10/16/17
Date



Kevin Morgan, Pharm.D., President
State Board of Pharmacy