

IN THE MATTER OF	*	BEFORE THE
MAEGAN JACKSON	*	MARYLAND BOARD OF
PHARMACY TECHNICIAN	*	PHARMACY
Registration No. T07985	*	Case No.: PT-15-019

* * * * *

FINAL DECISION AND ORDER

Procedural Background

On or about February 9, 2015, the Maryland Board of Pharmacy (the “Board”) received notification that a pharmacy technician, Maegan Jackson, Registration No. T07985 (the “Respondent”), had been terminated from her place of employment, Hospital A, for reporting to work while under the influence “of any intoxicant, hallucinogenic, or narcotic.” Further investigation by the Respondent’s employer revealed that the Respondent had also diverted drugs from her employer. The Board was subsequently informed that the Respondent had “resigned” from a second employer after allegedly being caught diverting drugs.¹ On May 20, 2015, the Board issued an Order for Summary Suspension, summarily suspending the Respondent’s registration based on a finding that the public health, safety, or welfare imperatively required emergency action pursuant to Md. Code Ann., State Gov’t § 10-226(c)(2). The Respondent did not request a hearing on the Board’s Order for Summary Suspension. On March 16, 2016, the Board issued a Notice of Intent to Revoke Pharmacy Technician’s Registration to the Respondent under the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occ. § 12-101 *et seq.*, notifying her of its intent to revoke her registration to practice as a pharmacy technician.

¹ During the Board’s evidentiary hearing on June 22, 2016, no evidence was put on the record regarding the Respondent’s alleged resignation from her second employer. As such, the Board makes no findings regarding the Respondent’s employment with her second employer, and any charges are dismissed to the extent that they relate to the Respondent’s second employer.

On or about April 18, 2016, the Board received a request for an evidentiary hearing from the Respondent. The Board scheduled the evidentiary hearing for June 22, 2016, and sent the Respondent notice of the hearing via certified and regular mail to her address of record with the Board on May 24, 2016. On June 22, 2016, the Board held an evidentiary hearing before a quorum of the Board in accordance with the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-201 *et seq.*, and the Board's regulations, COMAR 10.34.01. The Respondent did not appear for the hearing, but the Board held the hearing in the Respondent's absence as provided for in the Act, Md. Code Ann., Health Occ. § 12-315(g). Following the hearing, the same quorum of the Board convened to deliberate and voted unanimously to revoke the Respondent's registration for the reasons set forth in this Final Decision and Order.

SUMMARY OF THE EVIDENCE

A. Documents

The following documents were admitted into evidence.

- State's Exhibit No. 1 - Hospital A Documentation
 - A. Letter from Chief Pharmacy Officer, Hospital A, to L. Naesea, 2/9/15
 - B. Hospital A Investigative Report, 1/12/15
 - B-1. Color copies of photos from Hospital A Investigative Report, 1/12/15
 - C. Termination letter from Hospital A to Respondent, 1/14/15
 - D. DEA Form 106, "Report of Theft or Loss of Controlled Substances," 1/7/15

- State's Exhibit No. 2 - Board Documentation
 - A. Investigative Information Sheet, 3/11/15
 - B. License Profile

- State's Exhibit No. 3 - Order for Summary Suspension, 5/20/15

- State's Exhibit No. 4 - Revocation Documentation

- A. Notice of Intent to Revoke Pharmacy Technician's Registration and Cover Letter, 3/16/16
- B. Respondent's Hearing Request to Board, 4/18/16
- C. Letter from Board to Respondent Scheduling Evidentiary Hearing, 5/24/16

B. Witnesses

State: Witness A, Senior Investigator, Department of Corporate Security, Hospital A
Vanessa Thomas-Gray, Compliance Investigator, Maryland Board of Pharmacy

Respondent: None

FINDINGS OF FACT

Based upon the documentary and testimonial evidence admitted at the evidentiary hearing, the Board finds the following:

1. The Respondent was first registered by the Board as a pharmacy technician under Registration No. T07985 on September 2, 2010. The Respondent's registration expired on March 31, 2016. (State's Ex. 2B; Tr. at 35-36)

2. In November 2014, a nurse at Hospital A noticed that a bottle of Oxycodone liquid² in an automated medication system appeared to be diluted. Specifically, the nurse notice that the bottle was overfilled, the liquid inside the bottle appeared lighter in color than usual, and the cap looked like it had been opened. (State's Ex. 1B; Tr. at 10-11)

3. The nurse contacted the controlled substance pharmacist at Hospital A's central pharmacy, who agreed that the drug appeared to be diluted and sent the bottle to have its contents tested. (State's Ex. 1B; Tr. at 11)

4. While the testing on the first bottle was being conducted, a second nurse in another unit at Hospital A discovered another bottle of Oxycodone liquid that appeared to be diluted in the

² Oxycodone, a narcotic and opioid, is a Schedule II controlled dangerous substance

same ways. A pharmacist on duty instructed the nurse to destroy the second bottle, and its contents were not tested. (State's Ex. 1B; Tr. at 11-12)

5. The results of the test on the first bottle of Oxycodone liquid showed that it had been diluted to 16 percent strength of the original labeled concentration. (State's Exs. 1A-1B; Tr. at 12)

6. An analysis was conducted on the two automated medication systems that contained the diluted bottles of Oxycodone liquid. Although several people, including a couple of nurses and the Respondent, accessed the first system between the last inventory and when the diluted bottle was discovered, only the Respondent accessed the second system. As a result, Witness A arranged an interview with the Respondent. (State's Ex. 1B; Tr. at 13-14)

7. After being notified shortly before ending a shift to remain for an interview, the Respondent left the pharmacy area and returned approximately 45 minutes late for the interview. The Respondent appeared to have a wad of gauze in her cheek and appeared lethargic and glassy-eyed. (State's Ex. 1B; Tr. at 14-16)

8. The Respondent denied any involvement in diluting the bottles of Oxycodone liquid. She explained that she was late for the interview because she had checked herself in to the emergency department due to severe pain from an infection from a tooth extraction. She also explained that the emergency department had given her an 800 mg Tylenol because she had an intolerance for controlled substance pain medications. The Respondent could not produce any paperwork showing she had checked in to the emergency department. (State's Ex. 1B; Tr. at 16, 19)

9. Following the interview, the Respondent was instructed to report for a "for-cause" drug screen. The test results were positive for marijuana and residual fentanyl, a controlled

substance narcotic. Prior to the test, the Respondent also turned in two empty prescription bottles for Percocet, prescribed by a dentist – contradicting her claim that she could not tolerate controlled substance pain medications. (State’s Ex. 1B; Tr. at 19-20)

10. Based on her interview and subsequent drug screen, Witness A reviewed the Respondent’s access history for automated medication systems at Hospital A and pulled an additional 41 bottles of Oxycodone liquid believed to be accessed by the Respondent. Of those 41 bottles, 20 were sent for testing, and 18 of the 20 were found to be diluted. (State’s Ex. 1B; Tr. at 20-22)

11. Based on evidence indicating that the Respondent diluted medications and was under the influence at work, Hospital A terminated her employment and completed a DEA 106 form for loss or theft of controlled substances. (State’s Exs. 1A & 1C-1D; Tr. at 23-24)

OPINION

Pharmacy technicians play an integral role in the provision of quality healthcare services to patients. By the very nature of their employment behind the counter in a pharmacy, pharmacy technicians have immediate access to highly addictive and dangerous drugs. A pharmacy technician who arrives at work under the influence, particularly under the influence of controlled dangerous substances, poses an unacceptable risk to the public health and safety – both in terms of her handling of patients’ medications, and her access to additional dangerous drugs. The Board believes that showing an extreme lack of judgment by showing up to work under the influence is, in and of itself, more than enough justification to revoke the Respondent’s registration in this case.

Perhaps even more importantly, however, pharmacy technicians act as a gatekeeper between patients and their medications. A pharmacy technician is significantly involved in

ensuring that a patient gets the correct medication, at the correct strength, that is both effective to treat the patient and, to the extent practicable, safe for the patient. By tampering with medications intended for patients at Hospital A, the Respondent ensured that those patients would not get the correct medication to safely and effectively treat them. The Board believes such action is unconscionable and clearly disqualifies the Respondent from continuing to work as a pharmacy technician.

CONCLUSIONS OF LAW

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes that the Respondent is subject to discipline pursuant to the Act, Md. Code Ann., Health Occ. § 12-6B-09(25) and COMAR 10.34.10.01B(3). The Board dismisses the charges based on Md. Code Ann., Health Occ. § 12-6B-09(3) and (8).

ORDER

Based on the foregoing Findings of Fact, Opinion, and Conclusions of Law, by a unanimous decision of a quorum of the Board, it is hereby:

ORDERED that the Respondent's registration with the Board to practice as a pharmacy technician, Registration No. T07985, shall be and is **REVOKED**; and be if further,

ORDERED that this is a final order of the Maryland Board of Pharmacy and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., General Provision § 4-333(b).

1/2/18
Date



Edward Fields
Deputy Director
for
Deena Speights-Napata, MA
Executive Director

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 12-316, you have the right to take a direct judicial appeal. Any petition for judicial review of this Final Decision and Order shall be filed within thirty days and shall be made as provided for in the Maryland Administrative Act, Md. Code Ann., State Gov't § 10-201 *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.