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| IN THE MATTER OF | * | BEFORE THE |
| KIERSTIN POWERS-HARVEY | * | STATE BOARD |
| PHARM TECH | * | OF |
| Respondent | * | PHARMACY |
| Registration No.: T16432 | * | Case No. PT-16-016 |

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

On May 17, 2017, the State Board of Pharmacy (the “Board”), notified **KIERSTIN POWERS-HARVEY**, Pharmacy Technician (Pharm Tech), the Respondent, of its Intent to Revoke her pharmacy technician registration.

The Notice also informed the Respondent that, unless she 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 II (“Health Occ. II”) §§12-101 *et seq.*: (2014 Repl. Vol.)

Health Occ. II § 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;

- (8) Willfully fails to file or record any report that is required by law; [and]
- (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. II § 12-6B-09(27), the underlying grounds for Board action under § 12-313 include:

- (25) Violates any rule for regulations adopted by the Board [;].

The pertinent provision of the Board's regulations under Code Md. Regs. ("COMAR") 10.34.10 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 Pharm Tech in Maryland. The Respondent was first registered on May 18, 2015. The Respondent's registration expired on June 30, 2016.

2. At all times relevant hereto, the Respondent was employed as a Pharm Tech at a pharmacy within a chain grocery store at several locations in Frederick County, Maryland, hereinafter "the Pharmacy¹."

3. On or about October 26, 2015, the Board received notice from the Pharmacy that the Respondent had pilfered controlled dangerous substances (CDS) from the Pharmacy; that a police report had been filed with the Frederick City Police Department; and, that the Respondent had been terminated from employment with the Pharmacy.

¹ For confidentially purposes, the names of pharmacies and all individuals referenced herein will not be

4. The Pharmacy's investigation disclosed that the Pharmacy's Asset Protection Manager conducted a phone interview of the Respondent, who was a part-time Pharm Tech floater for the Pharmacy in Frederick County;

5. The Respondent was suspected of being involved in the shortages of Oxycodone², 30mg, at two of the stores where she worked;

6. On Friday, October 9, 2015, 70 tablets of Clonazepam³ were missing from one of the locations, but the theft was not caught on camera;

7. On October 12, 2015, the Asset Protection Manager received a phone call from a pharmacy manager at the store where the Respondent was working stating that the Respondent was "seemingly under the influence of drugs and not presenting as her normal self". The Respondent was brought to the manager's office for the phone interview;

8. During the phone interview, the Respondent admitted to the theft of Clonazepam that day as well as thefts of Amphetamine⁴, 20 mg, Oxycodone, 30 mg, and Xanax⁵;

9. The store manager was able to recover some of the drugs from the Respondent who had concealed them in a baggie that she had hidden in her undergarments;

10. The Respondent also admitted to theft of drugs in other locations of the Pharmacy: namely, Carisoprodol (Soma)⁶, Clonazepam and Xanax⁷.

identified by name in this document.

²Oxycodone is a narcotic used to treat moderate to severe pain.

³Clonazepam, is a medication used to prevent and treat seizures, panic disorder, and for the movement disorder known as akathisia. It is a tranquilizer of the benzodiazepine class.

⁴Amphetamine is a potent central nervous system stimulant that is used in the treatment of attention deficit hyperactivity disorder, narcolepsy, and obesity

⁵Xanax is used to treat anxiety disorders, panic disorders, and anxiety caused by depression.

⁶Carisoprodol is a muscle relaxer that works by blocking pain sensations between the nerves and the

11. The Respondent admitted that the drugs and syringes were for her personal use, but that she was going to give some of the syringes to her friends who used intravenous drugs so they did not have to use dirty needles;

12. At the conclusion of the interview, the Respondent was placed under arrest by an officer of the Frederick City Police Department where she was processed and released.

13. As required, the Pharmacy submitted a Drug Enforcement Administration (DEA) "Report of Theft or Loss of Controlled Substances" which listed the following:

A. Location #1;

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|-----|--|------------|
| (1) | Hydrocodone-Acetaminophen ⁸ -10-325, mg | 3 tablets; |
| (2) | Oxycodone-Acetaminophen ⁹ , 5 mg-325 mg | 1 tablet; |
| (3) | Oxycodone HCL, ¹⁰ 30 mg | 6 tablets; |
| (4) | Oxycodone-Acetaminophen, 10-325 mg | 1 tablet; |
| (5) | Oxycodone HCl, 5 mg | 2 tablets; |
| (6) | Endocet ¹¹ , 5-325 mg | 1 tablet; |

B. Location #2:

- | | | |
|-----|----------------------|------------|
| (1) | Oxycodone HCL, 15 mg | 1 tablet; |
| (2) | Oxycodone HCL, 30 mg | 2 tablets; |

brain.

⁷Xanax treats anxiety and panic disorder.

⁸This combination medication is used to relieve moderate to severe pain. It contains a narcotic pain reliever (hydrocodone) and a non-narcotic pain reliever (acetaminophen). Hydrocodone works in the brain to change how the body feels and responds to pain. Acetaminophen can also reduce a fever. In this combination, the hydrocodone is 10 mg and the acetaminophen is 325 mg.

⁹In this combination, there are 5 mg of Oxycodone and 325 mg of Acetaminophen.

¹⁰Oxycodone hydrochloride tablets USP is an opioid analgesic indicated for the management of moderate to severe pain when a continuous, around-the-clock analgesic is needed for an extended period.

¹¹Endocet contains a combination of acetaminophen and oxycodone. Oxycodone is an opioid pain medication. Acetaminophen is a less potent pain reliever that increases the effects of oxycodone. Endocet is used to relieve moderate to severe pain.

C. Location #3:

- | | | |
|-----|---|-------------|
| (1) | Clonazepam, 2 mg | 81 tablets; |
| (2) | Oxycodone HCL, 30 mg | 3 tablets; |
| (3) | Clonazepam, 0.5 mg | 39 tablets; |
| (4) | Clonazepam, 1 mg | 50 tablets; |
| (5) | Amphetamine Salts ¹² , 20 mg | 2 tablets; |
| (6) | Carisoprodol, 350 mg | 70 tablets. |

14. On February 26, 2016, in connection with the above thefts, the following criminal charges were *nolle prossed* against the Respondent in the Circuit Court for Frederick County:

Count 1: CDS Poss—Not Marijuana;

Count 2: CDS Poss-Not Marijuana;

Count 3: CDS Poss-Not Marijuana;

Count 5: CDS Poss Admin Equip Poss/Dist.

Count 6: Theft less than \$100.

15. On that same day, the Respondent pled guilty to and was found guilty of Count 4: CDS Posses-Not Marijuana. The Respondent received two years supervised Probation.

16. Based upon the above, on June 16, 2016, the Board issued a summary suspension against the Respondent's registration. The Respondent failed to request a hearing.

¹²Amphetamine salt combo (amphetamine and Dextroamphetamine salts) is a central nervous system stimulant used to treat attention-deficit hyperactivity disorder (ADHD). It may also be used for narcolepsy. It is available as brand name Adderall.

The Respondent's conduct as set forth above constitutes a violation of H.O. § §12-6B-09 Health Occ. II §12-6B-09 (3), (8) and (27), Health Occ. II § 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 §12-6B-09 Health Occ. II §12-6B-09 (3), (8) and (27), § 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 **KIERSTIN POWERS-HARVEY**, the Respondent, Registration No. T16432, be and is **REVOKED**, and that this Order is public, pursuant to Md. Code Ann. General Provisions §§ 4-101 *et seq.* (2014 Repl. Vol.).

NOTICE OF RIGHT OF APPEAL

In accordance with §12-316 of the Act and Md. Code Ann., State Government II. §§10-201, *et seq.* (2014 Replacement Vol.), 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.

10/18/17
Date


Mitra Gavgani, Pharm.D. President
State Board of Pharmacy