

**IN THE MATTER OF
TONYA ROSEBROUGH
REGISTRATION NO. T10303**

Respondent

*** BEFORE THE
* MARYLAND STATE
* BOARD OF PHARMACY
* Case No. PT-14-013/14-213**

* * * * *

FINAL DECISION AND ORDER

Background

On October 1, 2013, pursuant to the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2014 Repl. Vol.), and the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2014 Repl. Vol.), the Maryland Board of Pharmacy (the "Board") summarily suspended the registration to practice as a pharmacy technician in Maryland issued to Tonya Rosebrough (the "Respondent"), Registration No. T10303, upon a finding that reliable evidence demonstrated that a threat to the public health, safety, or welfare required emergency action. On May 21, 2014, the Board issued a Notice of Intent to Revoke Registration, notifying the Respondent of its intent to revoke her registration to practice as a pharmacy technician. The summary suspension and Notice of Intent to Revoke were based on the same set of facts related to the Respondent's diversion of controlled dangerous substances from her pharmacy employer and subsequent felony conviction.

A contested case hearing was held under the Administrative Procedure Act and COMAR 10.34.01 before a quorum of the Board on September 10, 2014, for the purpose of adjudicating the charges. After the conclusion of the hearing, the same quorum of the Board convened to deliberate and voted unanimously to sanction the license held by the Respondent 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 A - Order for Summary Suspension and Cover Letter, 10/1/13
- State's Exhibit B - Notice of Intent to Revoke Pharmacy Technician Registration and Letter of Procedure, 5/21/14
- State's Exhibit C - Case History in State of Maryland vs. Tonya Diane Rosebrough, Case No. 03-K-13-004989, dated 5/14/14
- State's Exhibit D - Application for Statement of Charges and Statement of Charges in State of Maryland vs. Tonya Diane Rosebrough, 8/2/13
- State's Exhibit E - Grand Jury Indictment in State of Maryland vs. Tonya Diane Rosebrough, 8/26/13
- State's Exhibit F - Court Clerk's Worksheet in State of Maryland vs. Tonya Diane Rosebrough, Case No. 03-K-13-004989
- State's Exhibit G - Probation and Supervision Order in State of Maryland vs. Tonya Diane Rosebrough, Case No. 03-K-13-004989, 12/18/13
- State's Exhibit H - Judgment of Restitution in State of Maryland vs. Tonya Diane Rosebrough, Case No. 03-K-13-004989, 12/18/13
- State's Exhibit I - Commitment Record in State of Maryland vs. Tonya Diane Rosebrough, Case No. 03-K-13-004989, 12/18/13
- State's Exhibit J - True Test Document Certification for Case No. 03-K-13-004989, dated 5/14/14
- Respondent's Exhibit 1 - Letters of Support and Treatment Records
 - A. Letter of Support from Jacqueline Buedel, Director of Academic and Career Advancement, Caroline Center, dated 12/18/13

- B. Letter of Support and Treatment Records from Jen Garrett, START Coordinator, Baltimore County Detention Center, dated 3/31/14
- C. Certificate of Completion, Baltimore County Department of Health Bureau of Behavioral Health START Program, 2/26/14
- D. Notification of Treatment from Catherine Abrams, CIT-AD, Alcohol and Drug Counselor, Mountain Manor, dated 9/9/14

B. Witnesses.

State: None

Respondent: Tonya Rosebrough, Respondent

Procedural History

The Board issued an Order for Summary Suspension summarily suspending the Respondent's registration to practice as a pharmacy technician in Maryland on October 1, 2013. On November 1, 2013, the Board received the respondent's timely request for a show cause hearing, and a show cause hearing was scheduled for January 15, 2014. On the morning of January 15, 2014, however, the Board received information indicating that the Respondent was incarcerated and would not be attending the show cause hearing. On January 24, 2014, the Board sent the Respondent a letter informing her that the show cause hearing was cancelled and that the summary suspension of her registration would continue. The letter also informed the Respondent of her right to request an evidentiary hearing on the merits. The Respondent did not request an evidentiary hearing on the summary suspension.

On May 21, 2014, the Board issued a Notice of Intent to Revoke Pharmacy Technician Registration, notifying the Respondent of its intent to revoke her registration to practice as a pharmacy technician in Maryland and notifying her of her right to request an evidentiary hearing.

On June 25, 2014, the Board received the Respondent's timely request for an evidentiary hearing.

Findings of Fact

Based upon the testimony and documentary evidence presented at the evidentiary hearing, the Board finds that the following facts are true:

1. At the hearing, the State and the Respondent submitted a Stipulation Agreement, signed by both parties, stipulating to the admissibility of State's Exhibits A – J and stipulating to the following facts:
 - a. At all times relevant hereto, the Respondent was registered to practice as a pharmacy technician in the State of Maryland. The Respondent was originally registered to practice as a pharmacy technician in Maryland on or around January 28, 2012.
 - b. The Respondent's registration expires on April 30, 2015.
 - c. At all times relevant hereto, Respondent worked as a pharmacy technician at Pharmacy A, located in Baltimore County, Maryland.
 - d. In or around July 2013, management of Pharmacy A placed a video surveillance camera in the pharmacy area of Pharmacy A after experiencing medication shortages.
 - e. On or about July 30, 2013, the Baltimore County Police Department's Pharmaceutical Diversion Team was informed by a manager of Pharmacy A that the Respondent had been captured on a video surveillance camera located in Pharmacy A removing medication bottles from a pharmacy shelf and placing the bottles of medication into her purse.

- f. The Respondent was seen taking Alprazolam 2 mg and Suboxone 8 mg sublingual film from Pharmacy A and placing the medication in her purse. The Respondent was not authorized to take these medications from the pharmacy shelf.
- g. On July 30, 2013, and July 31, 2013, detective from the Baltimore County Police went to Pharmacy A and reviewed surveillance tapes showing the Respondent taking medication from the pharmacy where she worked.
- h. When questioned by the Baltimore County Police, the Respondent admitted to the Baltimore County Police that she had been stealing medication from Pharmacy A for approximately six (6) months. The Respondent admitted that she had taken the medication and gave it to someone else.
- i. On or about December 18, 2013, the Respondent pled guilty in the Circuit Court for Baltimore County, Maryland, to one (1) count of possession with intent to distribute a controlled substance, in violation of Md. Code Ann., Crim. Law § 5-602.
- j. The Respondent was sentenced to five (5) years of incarceration with all but eighteen (18) months suspended.
- k. The Respondent was also ordered to complete a five (5) year probationary period and pay restitution in the amount of ten thousand dollars (\$10,000).
- l. On or about October 1, 2013, the Board summarily suspended the respondent's registration. The summary suspension of the Respondent's registration was based on the facts as set forth above.

2. The Respondent did not personally use the medications she stole from her pharmacy employer; rather, she sold them on the street to finance her abuse of other substances, namely alcohol and marijuana. (Tr. at 16-17)
3. During her incarceration, the Respondent was admitted to START, a seven-week substance abuse education program with the Baltimore County Department of Health Bureau of Behavioral Health. The Respondent also enrolled in the START program's 12-week life skills program. (Tr. at 17-18; Respondent's Ex. 1)
4. After she was released from custody, the Respondent enrolled in the Traditional Outpatient Program at Mountain Manor, a substance abuse treatment center in Baltimore. At the time of the evidentiary hearing, the Respondent was still enrolled in the six-month program, which she was scheduled to complete around the end of December 2014. (Tr. at 18, 33; Respondent's Ex. 1)

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 with a significant street value. It is imperative that pharmacy technicians be trusted to act as gatekeepers who prohibit access to highly addictive drugs for illegitimate purposes. The Respondent did not personally abuse the prescription drugs she diverted from her pharmacy employer; however, she did resell them to individuals to whom they had not been prescribed for legitimate medical uses. The danger posed to the public by the Respondent's actions is of great concern to the Board.

The Board recognizes the steps the Respondent has taken to address her own substance abuse problems since she was caught diverting drugs from her pharmacy employer, and the

Board sincerely hopes that the Respondent is successful in her treatment. The Board also recognizes that the Respondent has already paid a serious price for her actions. Before the Board can allow the Respondent back behind a pharmacy counter, however, the Board needs assurances that the Respondent can practice safely, ethically, and competently. Even after the Respondent returns to work in a pharmacy, based on the fact that the Respondent diverted and sold dangerous and highly addictive narcotics, the Board believes a period of monitoring of the Respondent's registration is warranted. The Board feels that this sanction will address the violations committed by the Respondent while allowing her the opportunity to return to her role providing necessary services to the community. The Board also believes that this sanction, in addition the criminal punishment the Respondent has already served, will serve as a deterrent to other pharmacy technicians considering taking similar actions.

Conclusion of Law

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes that the Respondent is subject to discipline in accordance with Md. Code Ann., Health Occ. § 12-6B-09(22).

Order

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

ORDERED that the summary suspension of the Respondent's registration to practice as a pharmacy technician be terminated as moot; and be it further,

ORDERED that the Respondent's registration be SUSPENDED until at least December 31, 2014, during which time she shall continue her court-ordered treatment program; and be it further,

ORDERED that after December 31, 2014, the Respondent may petition the Board to terminate the suspension of her registration, provided that she first submit to an evaluation by a Board-approved substance abuse evaluator; and be it further,

ORDERED that upon any termination of suspension, the Respondent's registration be placed on PROBATION for a period of at least TWO (2) YEARS, with terms and conditions, which may incorporate the recommendations of the Board-approved evaluator, to be determined by the Board at the time of termination of suspension; and be it further,

ORDERED that upon completion of the two-year period of probation, the Respondent may petition the Board to terminate probation provided that she has fully complied with all of the terms of probation and does not have any pending complaints against her; and be it further,

ORDERED that the Respondent shall bear all costs related to this Order; and be it further,

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

January 20, 2015
Date

LaVerne G. Naesea
LaVerne G. Naesea, Executive Director
for
Lenna Israbian-Jamgochian, Pharm.D.
President, Board of Pharmacy

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.