

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>BRANDON SMITH, PHARM TECH</b>	*	<b>STATE BOARD</b>
<b>Registration No.: T15589</b>	*	<b>OF</b>
<b>Respondent</b>	*	<b>PHARMACY</b>
	*	<b>Case No. PT-16-021</b>

\* \* \* \* \*

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

On April 4, 2018, the State Board of Pharmacy (the "Board"), notified **BRANDON SMITH**, Pharmacy Technician (Pharm Tech), the Respondent, 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 the Act, Md. Code Ann., Health Occupations II ("Health Occ. II") §§ 12-101 *et seq.* (2014 Repl. Vol. and 2017 Supp.)

**HO § 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. II § 12-6B-09 (27), 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 Pharm Tech in Maryland. The Respondent was first registered on December 4, 2014. The Respondent's registration expired on October 31, 2016.

2. At all times relevant hereto, the Respondent was employed as a Pharm Tech at a chain pharmacy in Silver Spring, Montgomery County, Maryland, hereinafter the "Pharmacy"<sup>1</sup>.

3. On or about January 22, 2016, the Board received a Drug Enforcement Administration (DEA) "Report of Theft or Loss of Controlled Substances" from the

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<sup>1</sup>The names of the individuals and entities herein are confidential.

Pharmacy indicating that there was employee pilferage at the Pharmacy involving a prescription for Oxycodone-Acetaminophen<sup>2</sup>, 5-325 mg.

4. Further documentation from the Pharmacy received at the Board on or about February 23, 2016, demonstrated the following:

- A. Several losses of controlled substances were suspected in the waiting bin of the Pharmacy;
- B. Pharmacy investigators reviewed the closed-circuit video for the dates to determine behaviors conducive to diversion;
- C. On January 1, 2016, the Respondent was viewed on the video at the Pharmacy's registers and, based on the timing that the narcotics went missing, the Pharmacy's investigators decided to question the Respondent;
- D. The Respondent was interviewed on January 13, 2016 and admitted, both verbally and in writing, to stealing the narcotics out of the waiting bin at the Pharmacy for self-medication;
- E. The police were notified and the Respondent was arrested;
- F. The Respondent's employment with the Pharmacy was also terminated.

5. In addition to the above admitted theft, the Board was advised by the Prince George's County Police that, on May 23, 2016, the Respondent had been arrested for trying to pass a fraudulent prescription at a different pharmacy located inside of a

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<sup>2</sup>Oxycodone is an opioid pain medication. An opioid is sometimes called a narcotic. Acetaminophen is a less potent pain reliever that increases the effects of oxycodone. Acetaminophen and oxycodone is a combination medicine used to relieve moderate to severe pain. In this combination, there are 5 mg of oxycodone and 325 mgs of acetaminophen.

healthcare facility. The pharmacist at the other pharmacy had spoken with the alleged prescriber who denied that he prescribed the Respondent 60 Oxycodone, 10 mg. tablets. Therefore, the pharmacist at that facility alerted the police who confirmed that the prescriber did not have the Respondent as a patient and did not issue the prescription. When the officer searched the Respondent's vehicle, she found a false prescription for Motrin<sup>3</sup>, 800 mg, as well.

6. As a result of the arrest in Paragraph #5, the Respondent was criminally charged with 25 counts in the District Court of Maryland for Prince George's County including, attempting CDS by altering prescriptions to attempting prescription by forgery, etc. The criminal charges were subsequently nolle prossed.<sup>4</sup>

7. Based upon the above, on August 25, 2016, the Board issued an Order for Summary Suspension in which it summarily suspended the Respondent's registration. The Respondent failed to request a hearing and/or to contest the Board's findings.

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

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<sup>3</sup>Motrin is used in the treatment of pain and belongs to the class of drugs called non-steroidal anti-inflammatory agents (NSAIDS).

<sup>4</sup>Nolle prosequi is legal term of art and a Latin legal phrase meaning "be unwilling to pursue", a phrase amounting to "do not prosecute". It is a phrase used in many common law criminal prosecution contexts to

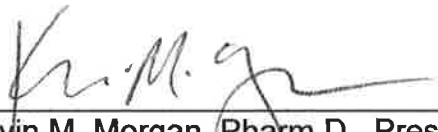
**ORDER**

As set forth above, the Board hereby Orders, that the registration to practice as a Pharmacy Technician in Maryland held by **BRANDON SMITH**, the Respondent, Registration Number T15589, be and is **REVOKED**, and that this Order is public, pursuant to Md. Code Ann. General Provisions §§ 4-101 *et seq.* (2014 Vol. and 2017 Supp.).

**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 Repl. Vol. and 2017 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 *aforecited* authority.

8/15/2018  
Date

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

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describe a prosecutor's decision to voluntarily discontinue criminal charges either before trial or before a verdict is rendered. It contrasts with an involuntary dismissal.