

IN THE MATTER OF * BEFORE THE
TIERRA WINDLEY, PHARM TECH * STATE BOARD
Registration No.: T10333 * OF
Respondent * PHARMACY
* Case No. PT-17-003

* * * * *

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

On January 30, ^{2018 MZG} 2017, the State Board of Pharmacy (the "Board")

notified **TIERRA WINDLEY**, 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 the Act, Health Occupations II (Health Occ. II):

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:

- (2) Fraudulently or deceptively obtains or attempts to obtain a pharmacy technician's registration for the applicant or assists or attempts to assist another in fraudulently or deceptively obtaining a pharmacy technician's registration;

- (22) Pleaded guilty or nolo contendere to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:
 - (i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or
 - (ii) Any appeal or other proceeding is pending regarding the matter;
- (23) Violates any provision of this title;
- (24) Is disciplined by a licensing, registering, or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (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 § 12-213, 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.

The pertinent provision of the title is §12-6B-02.

- (a) To qualify for registration an applicant shall be an individual who:
 - (b) The applicant shall:
 - (1) Be of good moral character[;].

**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.

2. The Respondent submitted an application dated December 14, 2011, to be registered as a Pharm Tech in Maryland.

3. In the "Personal Attestation" section, the application stated "If [you] answer "YES" to any Question, please provide a detailed explanation and attach supporting documents to explain your answer. Failure to provide complete and correct information may result in delay or denial of your application for registration."

4. Question Number 6 asked: "Have you committed a criminal act for which you pled guilty or *nolo contendere*...or for which you were convicted or received probation before judgment?"

5. The Respondent answered "No." However, on March 9, 2009, in the District Court of Maryland for Baltimore County, the Respondent pled guilty and was found guilty of malicious destruction of property--\$1,000. She was ordered to pay restitution of \$139 and placed on Probation until March 9, 2010.

6. The Board received the information regarding this criminal activity via a report and sent a letter to the Respondent. There is no record in the Board files of the Respondent's response.

7. Despite the Respondent's failure to truthfully answer Question Number 6 and/or to respond to the Board's inquiry regarding same, the Respondent was first registered on January 20, 2012. The Respondent's registration expires on September 30, 2017.

8. At all times relevant hereto, the Respondent was employed as a Pharm

Tech at a specialty pharmacy service in Annapolis Junction¹, Maryland, hereinafter the "Pharmacy."²

9. On or about July 7, 2016, the Board received documentation from the Pharmacy indicating that the Respondent was terminated from employment on or about May 10, 2016 for theft of controlled substances, as follows:

A. On May 16, 2016, it was reported that the perpetual inventory count reflected a shortage of 200 Oxycodone IR³, 15 mg tablets, and 100 Oxycodone, 20 mg tablets. Additional inventory count confirmed the shortage;

B. Video surveillance then disclosed that the Respondent committed the theft.

10. As a result of the thefts, the police were called and the Respondent was charged in the District Court of Maryland for Howard County with the following:

Count 1: CDS Poss--not Marijuana;

Count 2: Theft: Less than \$1000;

Count 3: Theft: Less \$100.

11. Based upon the above, on September 26, 2016, the Board issued a Summary Suspension against the Respondent's registration. The Respondent did not request a hearing and/or contest the Board's findings.

12. The case was subsequently transferred to the Circuit Court for Howard

¹ Annapolis Junction is unique in that it is part of both Howard and Anne Arundel Counties.

² For confidentiality purposes, the names of pharmacies and all individuals referenced herein will not be identified by name in this document.

³ Oxycodone (Immediate Release) is an opioid pain medication. An opioid is sometimes called a narcotic. Oxycodone is used to treat moderate to severe pain.

County. On October 27, 2016, Counts 1 and 2 were Nolle Prossed⁴. The Respondent pled guilty to and was found guilty of Count Three. She was ordered to pay court and other costs totaling \$57.50 and restitution of \$489. She was sentenced to 90 days imprisonment, with 80 days suspended. She was also placed on Probation for one year.

13. As set forth above, by failing to disclose her criminal activities in her initial application and answering "NO" when she should have answered "YES", the Respondent obtained a registration by fraud or deceit, in violation of § 12-6B-09 (2).

14. By pleading guilty to and being found guilty of malicious destruction of property, the Respondent lacked the good moral character for registration, pursuant to §12-6B-02 (a) (b) (1) and her registration should be *void ab initio*.

15. As set forth above, by pleading guilty to and being found guilty of theft, a crime of moral turpitude, and being disciplined by a Maryland court for same, the Respondent is in violation of § 12-6B-09 (22) and (24).

16. As set forth above, by stealing drugs from her employer, the Respondent is in violation of § 12-6B-09 (23), (24) and (27), and § 12-6B-02 (a) and (b), as well as Health Occ. II § 12-313 (25), and COMAR 10.34.10.01 B (3).

CONCLUSIONS OF LAW

17. Based upon the foregoing Findings of Fact, the Board concludes that the Respondent violated Health Occ. II §12-6B-09 (2), (22), (24) and (27), and § 12-6B-02 (a) and (b), as well as Health Occ. II § 12-313 (25), and COMAR 10.34.10.01 B (3).

ORDER

⁴ *Nolle prosequi* is a Latin phrase meaning "will no longer prosecute" or a variation on the same. It amounts to a dismissal of charges by the prosecution.

As set forth above, the Board hereby Orders, that the registration to practice as a Pharmacy Technician in Maryland held by **TIERRA WINDLEY**, the Respondent, Registration No. T10333, 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.

4/18/2018
Date _____  Mitra Gavvani, Pharm.D., President
State Board of Pharmacy