

IN THE MATTER OF * **BEFORE THE**
GABRIELLE BENSON * **STATE BOARD**
PHARMACY TECHNICIAN * **OF**
Registration Number: T16144 * **PHARMACY**
Respondent * **Case Number: 19-133**

* * * * *

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

On August 21, 2019, the State Board of Pharmacy (the “Board”), notified **GABRIELLE BENSON, Pharmacy Technician**, the Respondent, **Registration No. T16144**, 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 (“Health Occ.”), §§ 12-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.):

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:

- (3) Fraudulently uses a pharmacy technician's registration;
- (22) Pleaded guilty or nolo contendere to, or has been found guilty of 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;
- (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. § 12-6B-09, 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 Pharmacy Technician in the State of Maryland. The Respondent was first registered on March 17, 2015. The Respondent's registration expired on November 30, 2018.

2. At all times relevant hereto, the Respondent was employed as a Pharmacy Technician at a pharmacy (the "Pharmacy") in Washington County, Maryland.¹

3. On October 24, 2018, the Pharmacy reported to the Board that the Respondent had been suspended, termination pending, due to an ongoing investigation with the Drug Enforcement Administration (DEA).

4. Subsequently the Board obtained the Respondent's employee file from the Pharmacy, which contained two DEA forms. The DEA form submitted on September 26, 2018, disclosed that 28, 264 tablets of Oxycodone HCL², 30 mg, were stolen/lost for a total of \$9,650.

5. The Pharmacy's investigative timeline disclosed the following:

- A. On September 20, 2018, discrepancies with Oxycodone, 30 mg were discovered and a preliminary investigation began;
- B. On September 24, 2018, the Pharmacy indicated that more Oxycodone, 30 mg tablets were missing;
- C. On September 25, 2018, a count was conducted and Oxycodone, 30 mg tablets were pulled from the Pharmacy's shelf;
- D. On September 26, 2018, Oxycodone-Acetaminophen³, 10-325 mg tablets were reported stolen from the Pharmacy's inventory;
- E. DEA officers interviewed the Respondent, who stated that she stole the medication due to "financial issues." The Respondent stated that she gave the medication to her boyfriend who sold it.

¹ The names of facilities and/or individuals are confidential.

² Oxycodone hydrochloride is an opioid analgesic used to help relieve moderate to severe pain.

³ Acetaminophen/oxycodone is an opioid used in the treatment of chronic pain, and belongs to the drug class narcotic analgesic combinations.

6. The Respondent was officially terminated from the Pharmacy on October 30, 2018.

7. The Respondent was subsequently charged with eight criminal counts in the Circuit Court for Washington County based upon the drugs that she stole from the Pharmacy.

8. On April 16, 2019, the Respondent pled guilty to Intent to Distribute Narcotics (Oxycodone) and was found guilty. The other charges were disposed of via *nolle prosequi*.⁴

9. As set forth above, by diverting drugs from her pharmacy employer, the Respondent is in violation of Health Occ. §12-6B-09 (3) (Fraudulently uses a pharmacy technician's registration); §12-6B-09 (27) (Participates in any activity that is grounds for Board action under § 12-313); namely, § 12-313 (b) (25) (Violates any rule or regulation adopted by the Board); and, COMAR § 10.34.10.01 (Patient Safety and Welfare. B. A pharmacist may not: (3) Engage in unprofessional conduct).

10. As set forth above, by pleading guilty to and being found guilty of possession with intent to distribute a drug for which a prescription is needed, the Respondent is in violation of Health Occ. § 12-6B-09 (22) (Pleaded guilty to, or has been found guilty of 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;)

⁴ *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 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.

11. The Respondent's conduct, as set forth above, constitutes a violation of Health Occ. §§ 12-6B-09 (3), (22) and (27), Health Occ. § 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 Health Occ. §§12-6B-09 (3), (22) and (27), Health Occ. § 12-313 (25), and COMAR § 10.34.10.01 B (3).

ORDER

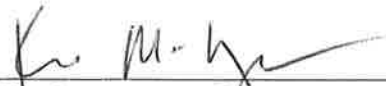
As set forth above, the Board hereby Orders, that the registration to practice as a Pharmacy Technician in Maryland held by **GABRIELLE BENSON**, the Respondent, Registration Number **T16144**, be and is **REVOKED**, and that this Order is public, pursuant to Md. Code Ann., General Provisions §§ 4-101 *et seq.* (2014 Vol. and 2018 Supp.).

NOTICE OF RIGHT OF APPEAL

In accordance with §12-316 of the Act and Md. Code Ann., State Gov't §§10-201, *et seq.* (2014 Repl. Vol. and 2018 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.

10/16/19

Date



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