

IN THE MATTER OF	*	BEFORE THE
KELLY BETHEA	*	STATE BOARD
Pharmacy Technician	*	OF PHARMACY
Applicant	*	Case No. 20-302
Registration No. T19866	*	

* * * * *

FINAL ORDER

On July 20, 2022, the State Board of Pharmacy (the “Board”) hereby notified **KELLY BETHEA, Pharmacy Technician** (the “Applicant”), of the Board’s intent to DENY her reinstatement application for registration to practice as a Pharmacy Technician in Maryland, pursuant to the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2021 Repl. Vol.).

The relevant provisions are as follows:

Health Occ. §§ 12-6B-09:

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;
- (25) Violates any regulation adopted by the Board;
- (29) Fails to cooperate with a lawful investigation conducted by the Board or the Office of Controlled Substances Administration [;].

The underlying action under Health Occ. § 12-6B-09 (25) cited above includes, but is not limited to, the following:

Chapter 10.34.10. Pharmacist, Pharmacy Intern, and Pharmacy Technician Code of Conduct

COMAR § 10.34.10.01. Patient Safety and Welfare.

B. A pharmacist may not:

- (3) Engage in unprofessional conduct.

FINDINGS OF FACT

The Board based its charges on the following facts that the Board has cause to believe are true:

BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice as a pharmacy technician in Maryland. The Respondent was first issued a registration on July 20, 2017. The Respondent allowed the registration to expire on June 30, 2021.

2. From approximately September 2019 to June 30, 2021, the Respondent worked at a pharmacy (the “Pharmacy”)¹ in Baltimore, Maryland.

3. On June 10, 2019, the Board received a renewal application from the Respondent in which she answered “yes” to the following question:

8. Have you committed an offense involving alcohol or controlled substances to which you pled guilty or *nolo contendere*, or for which you were convicted or received probation before judgment?

4. In her response, the Respondent disclosed that she had “a therapist and psychiatrist to help with [her] bipolar and depression...” She stated that “[her] problem has been resolved.” However, she did not provide any supporting documentation, as required.

5. In September and October 2019, Board staff sent letters to the Respondent requesting additional information but received no response. Subsequently, during a telephonic interview conducted with Board staff on April 9, 2020, the Respondent confirmed that she worked as an office manager at a physician’s office but did not work as a pharmacy technician. The Respondent further confirmed that, since the “incident in 2017,” she has had “difficulties finding a job as a pharmacy technician.”

6. The Respondent stated that her “yes” answer was based upon a suicide attempt, as well as an arrest for which she was placed on probation and subsequently attended a drug treatment program three times a week and she saw a therapist once or twice a month. The Respondent claimed that her treatment concluded in August 2019 and that she was currently

¹Facilities and individuals are not identified in this document due to confidentiality.

on probation until December 2020. She further disclosed that she “no longer takes medication, does no drug treatment or seeks therapy.”

7. The Respondent further stated that she takes no medication and did not respond to the Board’s requests for meetings or documentations because the Board’s mail went to her parents’ home, and she had no contact with them.²

8. Contrary to normal Board policy when there is a “yes” answer on a renewal application and it is referred to the Compliance Division, the Respondent was issued a registration while the above investigation took place, which registration expired June 30, 2021.

9. The Respondent’s answers to the Board were not entirely truthful, however. On October 16, 2017, the Respondent was charged with a 16-Count criminal charge in the District Court of Maryland for Baltimore County as a result of her having stolen a car, which she drove without a license or insurance, swiping another car, crossing lanes and ultimately crashing into an oncoming vehicle. The Respondent was found to be under the influence of prescription drugs, namely Vicodin.³

10. On February 26, 2018, the Respondent pled “not guilty” to Driving, attempting to drive a vehicle while impaired by controlled dangerous substance, and failure to stop. The Respondent was found “guilty” and sentenced to one year imprisonment, all suspended. The Respondent was placed on supervised probation for one year and sixty days, with conditions

² COMAR 10.34.06.03 Mailing Address: C. Within 30 days of the date a ... pharmacy technician changes the ...pharmacy technician’s mailing address, the ...pharmacy technician shall notify the Board in writing of any change in the information in §A of this regulation.

³ Vicodin contains a combination of acetaminophen and hydrocodone. Hydrocodone is an opioid pain medication.

including: submitting to alcohol and drug evaluation, testing, treatment as directed by her supervisor and pay any required costs; totally abstain from alcohol and abusive use of drug; enroll in and successfully complete treatment at a [treatment] facility; submit to evaluation and attend counseling for psychiatric or psychological treatment (for “suicide attempt”). The case was transferred to Baltimore City. The other charges were *Nolle Prosequi*.⁴ The Respondent was also ordered to pay restitution of \$400 to one victim and \$3200 to another victim by the end of her probationary period.

11. On June 3, 2019, the Respondent was found to be in violation of Probation for failure to comply with the condition of paying restitution. The probation was continued for 18 months—until January 3, 2021.

12. On July 15, 2020, the Board notified the Respondent that, prior to renewing her registration, it required the Respondent to be evaluated by a psychotherapist, pursuant to § 12-320 of its Act.⁵

⁴ *Nolle prosequi*,^{1a1} abbreviated *nol* or *nolle pros*, is legal Latin meaning "to be unwilling to pursue". In Commonwealth and US common law, it is used for prosecutors' declarations that they are voluntarily ending a criminal case before trial or before a verdict is rendered.

⁵ § 12-320 (a) In investigating an allegation brought against a licensee, registered pharmacy intern, or registered pharmacy technician under this title, if the Board has reason to believe that a licensee, registered pharmacy intern, or registered pharmacy technician may cause harm to a person affected by the licensee's practice, the acts of a registered pharmacy intern, or the acts of a registered pharmacy technician, the Board on its own initiative may direct the licensee, registered pharmacy intern, or registered pharmacy technician to submit to an appropriate examination by a health care provider designated by the Board.

(b) In return for the privilege given to a licensee to practice pharmacy, a registered pharmacy intern to practice pharmacy under the direct supervision of a pharmacist, or a registered pharmacy technician to perform delegated pharmacy acts in the State, the licensee, registered pharmacy intern, or registered pharmacy technician is deemed to have:

(1) Consented to submit to an examination under this section, if requested by the Board in writing; and
(2) Waived any claim of privilege as to the testimony or examination reports of a health care provider.

(c) The failure or refusal of a licensee, a registered pharmacy intern, or registered pharmacy technician to submit to an examination required under this section is prima facie evidence of the licensee's inability to practice pharmacy competently, the registered pharmacy intern's inability to practice pharmacy

13. Prior to applying for reinstatement, the Respondent had not attended the Board-ordered evaluation. In addition, the Respondent failed to submit the necessary medical records as a prerequisite to the Evaluator's being able to complete the evaluation.

14. Despite numerous requests, the Respondent failed to provide supporting documentation for her response to Question #8 on her renewal application or her medical records to the Board's Evaluator for his review. The Respondent also failed to provide a signed release form for the Board for her medical records.

15. On July 28, 2021, the Respondent filed a reinstatement application. Under the "Personal Attestation" section, the Respondent answered "no" to the following question: "Has any state licensing or disciplinary board (including Maryland) ... filed any complaints or charges against you or *investigated you* for any reason?" (*Emphasis added*)

16. The Respondent failed to answer truthfully because she was aware that the Board was investigating her "yes" answer regarding her 2019 renewal application and had ordered her to submit to an evaluation which she had not cooperated with, despite several requests.

17. In addition, the Respondent indicated on the 2021 application that she had been employed at a pharmacy in Baltimore City from "9/19-current," whereas she had informed Board staff that she had not worked as a technician at the time of the April 9, 2020 interview.

(d) competently under the direct supervision of a pharmacist, or the registered pharmacy technician's inability to perform delegated pharmacy acts, unless the Board finds that the failure or refusal was beyond the control of the licensee, registered pharmacy intern, or registered pharmacy technician.
The Board shall pay the cost of any examination made under this section.

18. After numerous requests, the Respondent finally submitted to the evaluation on October 20, 2021. The Evaluator was concerned about the Respondent's current cannabis use, which he opined could be "impairing in a work setting." The Evaluator stated that the Respondent's cannabis use is "non-medical." The Evaluator further opined that "with a prior episode of Mood Disorder, and a family history of it, she is at greater risk than most of recurrence of mental illness." The Evaluator concluded that the Respondent should be "followed in an outpatient mental health clinic for at least a period of 6-12 months as she struggles to re-enter the work force."

19. As set forth above, the Respondent was not completely honest in her responses regarding her criminal history or investigation, or with regard to her employment status with respect to the applications of 2019 and 2021 and is, therefore, in violation of §12-6B-09 (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 [;].

20. As set forth above, by refusing to cooperate with the Board in submitting medical documents to the Evaluator, signing releases and/or submitting to an evaluation, the Respondent violated §12-6B-09 (29) Fails to cooperate with a lawful investigation conducted by the Board or the Office of Controlled Substances Administration [;].

21. As set forth above, by being convicted of a felony or a crime of moral turpitude, the Respondent violated §12-6B-09 (22) Pled 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 [;].

22. As set forth above, the Respondent violated §12-6B-09 (25) Violates any regulation adopted by the Board, pursuant to COMAR §10.34.10.01. Patient Safety and Welfare. B. A pharmacist may not: (3) Engage in unprofessional conduct.

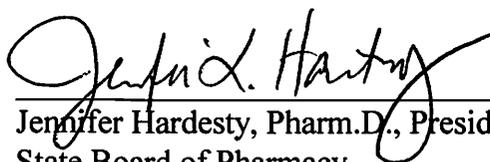
23. The application should be denied because the Applicant violated the Act and regulations thereunder.

ORDER

As set forth above, the Board hereby orders that the reinstatement application for registration to practice as a Pharmacy Technician in Maryland submitted by **KELLY BETHEA, Pharmacy Technician, Applicant**, be and is **DENIED**, and that this Order is public, pursuant to Md. Code Ann., General Provisions §§ 4-101 *et seq.* (2019 Repl. Vol. and 2021 Supp.).

12/21/22

Date



Jennifer Hardesty, Pharm.D., President
State Board of Pharmacy

NOTICE OF RIGHT OF APPEAL

In accordance with §12-316 of the Act and Md. Code Ann., State Government §§10-201 *et seq.* (2021 Repl. 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 aforecited authority.