

IN THE MATTER OF	*	BEFORE THE
MELISSA COLE, Pharm Tech	*	STATE BOARD
Registration No.: T03455	*	OF
Respondent	*	PHARMACY
	*	Case No. PT-14-017

\* \* \* \* \*

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

On April 15, 2015, the State Board of Pharmacy (the "Board"), notified **MELISSA COLE**, Pharmacy Technician (Pharm Tech), the Respondent, of its Intent to Revoke her Pharm Tech 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 basis for the Board's action was pursuant to State Gov't Code Ann. ("S.G.") § 10-226 (c) (1) (2014 Repl. Vol. II) and the Maryland Pharmacy Act (the "Act"), Health Occ. Code Ann. ("H.O."), §§ 12-101, *et seq.* (2014 Repl. Vol. II).

The relevant provisions are as follows:

S.G. § 10-226:

- (c) (1) Except as provided in paragraph (2) of this subsection, a unit may not revoke or suspend a license unless the unit first gives the licensee:
  - (i) written notice of the facts that warrant suspension or revocation; and an opportunity to be heard

H.O. § 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:

- (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 [;].

**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 1, 2008. The Respondent's registration expired on September 30, 2014.

2. At all times relevant hereto, the Respondent was employed as a Pharm Tech at a pharmacy in Waldorf, Charles County, Maryland, hereinafter "Pharmacy A."

3. On or about August 30, 2013, the Charles County Police Department was contacted by Pharmacy A's Regional Loss Prevention Manager to come to Pharmacy A, where the following information was obtained:

- A. Pharmacy A uses a computer system that automatically updates the medication pill count in the system when additional medication is ordered and received from the warehouse;
- B. A Pharm Tech has the ability to modify the count;

- C. The Respondent had a unique identifier that allows her access to the computer;
- D. Once a certain number of changes are made to the system manually to any medication count, the system will “flag” the entries;
- E. Pharmacy A’s Regional Loss Prevention Manager received a flag for Hydrocodone APAP<sup>1</sup>, 10-660 mg;
- F. When the Manager received the flag, she noted the difference between the amount ordered and the amount filled;
- G. She noted further that since June 2013, Pharmacy A had ordered 1500 tablets of the drug but only 255 were distributed to Pharmacy A’s customers; and
- H. The Manager discovered that the Respondent made the following manual changes:
  - (1) On May 16, 2013, the Respondent changed the quantity of the drug on hand from 199 to 99;
  - (2) On the same day, the Respondent changed the count from 105 to 5;
  - (3) On May 31, 2013, the Respondent changed the count from 199 to 99;
  - (4) On June 17, 2013, the Respondent changed the count from 339 to 139;

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<sup>1</sup>Hydrocodone APAP (hydrocodone and acetaminophen) is a Schedule III opioid medication approved to treat moderate to moderately severe pain. In this combination, there are 10 mg of Hydrocodone and 660 mg of acetaminophen.

(5) On July 6, 2013, the Respondent changed the count from 164 to 64;

(6) On July 11, 2013, the Respondent changed the count from 364 to 64; and

(7) On July 31, 2013, the Respondent changed the count from 214 to 14.

4. The Loss Prevention Manager and the Detective reviewed video footages matching the times and dates coinciding with the above. The Respondent was viewed on those occasions taking a bottle from the shelf and going into the closet where employees' personal items were kept, such as coats, and coming out without the bottle.

5. The total number of Hydrocodone-APAP, 10-660 mg. pills removed from inventory by the Respondent totaled 1074, which, if sold at the usual street value, would be approximately \$10,740 and to Pharmacy A, a loss of \$2,415.

6. The Respondent was arrested and told the Detective that she started stealing drugs from her employer a few months prior because someone asked her to do it. She said that she receives payment from the drugs she steals from Pharmacy A.

7. On or about September 9, 2013, Pharmacy A sent to the Board a copy of a "Drug Enforcement Administration Report of Theft or Loss of Controlled Substances" describing the incident. The solution to be undertaken was for only a pharmacist to verify the controlled substances count. The report listed the following drug thefts by the Respondent:

Hydrocodone-APAP, 5-325<sup>2</sup> mg, 300;

Acetaminophen-Codeine Elixir<sup>3</sup>, 2365 ML;

Hydrocodone-APAP, 10-660 mg 1100;

Alprazolam<sup>4</sup>, 1 mg, 500;

Alprazolam, 2 mg, 400.

8. As a result, the Respondent was criminally charged with the following:
- Count 1-Controlled Dangerous Substance ("CDS"), Distribute-Narcotic;
  - Count 2-CDS, Distribute-Narcotic;
  - Count 3-CDS, Distribute-Narcotic;
  - Count 4-Theft: Less \$1,000 Value.

9. On or about April 7, 2014, in the Circuit Court for Charles County, the following occurred: Counts 1, 2, and 3 were nolle prossed. The Respondent pled guilty to and was found guilty of Count 4. The Respondent was sentenced to 18 months incarceration, with all but seven days suspended; upon release, the Respondent was placed on supervised probation for five years; court costs were to be paid through the Probation Department, as well as payment of \$320 to Pharmacy A. In addition, the Respondent shall submit to and pay the costs of alcohol and drug evaluation, testing,

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<sup>2</sup>This combination means 5 mg of hydrocodone and 325 mg of acetaminophen per pill.

<sup>3</sup>This combination product contains two medications: acetaminophen and codeine. Acetaminophen belongs to the group of medications called *analgesics* (pain relievers) and *antipyretics* (fever reducers). Codeine belongs to the family of medications known as *opioid analgesics* (narcotic pain relievers). This medication is used to relieve moderate to severe pain. Codeine works by acting on the central nervous system to block pain signals, increasing the ability to tolerate pain. Acetaminophen works by raising the body's pain threshold. An elixir is a clear, sweet-flavored liquid used for medicinal purposes, to be taken orally. When used as a pharmaceutical preparation, an elixir contains at least one ingredient designed to be taken orally.

<sup>4</sup>Alprazolam goes by the trade name of Xanax and is a Schedule IV benzodiazepine used to treat anxiety and panic disorder.

treatment and education, as directed by Parole and Probation; and, enroll in and complete a domestic violence course at a program in Maryland or Virginia.

10. The Respondent, having pled guilty and having been found guilty of theft less than \$1,000, committed a crime of moral turpitude, in violation of H.O. 12-68-09 (22).

**CONCLUSIONS OF LAW**

Based upon the foregoing Facts, the Board concludes that the Respondent violated §12-6B-09 (22) (i) and (ii) of its Act.

**ORDER**

As set forth above, the Board hereby Orders that the registration to practice as a Pharmacy Technician in Maryland held by **MELISSA COLE**, the Respondent, be and is **REVOKED**, and this document constitutes a final Order of the Board and is, therefore, a public document for purposes of public disclosure, as required by Md. Code Ann. General Provisions §§4-101 *et seq.* (2014 Vol.).

**NOTICE OF RIGHT OF APPEAL**

In accordance with Md. Health Occ. Code Ann. § 12-316 (2014 Repl. Vol. II) and the Md. State Govt. Code Ann. §§ 10-201, *et seq.*, (2014 Repl. Vol. II) 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.

2/17/16  
\_\_\_\_\_  
Date

*David H. Jones, RPh*  
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Mitra Gargani Pharm.D., President  
Board of Pharmacy  
*DAVID H. JONES, RPH*  
*SECRETARY*  
*Acting on behalf of*  
*Mitra Gargani (Pharm.D.), President*