

IN THE MATTER OF
EARL MONTAGUE, III
Respondent

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHARMACY
* Case Number: 19-260

Registration Number: T17435

* * * * *

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

The Maryland Board of Pharmacy (the “Board”) notified **Earl Montague, III**, Registration Number T17435 (the “Respondent”), of its intent to revoke his registration to practice as a pharmacy technician, pursuant to the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 12-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

The Notice also informed the Respondent that, unless he requested a hearing in writing within thirty (30) days of receipt of said Notice, the Board would sign the Final Order, which was enclosed. More than thirty (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:

§ 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;

...

- (7) Willfully makes or files a false report or record as part of the registered pharmacy technician's duties or employment;

...

- (23) Violates any provision of this title, *to wit*:

Health Occ. § 12-6B-13.

- (a) *In general.* – An individual may not obtain a pharmacy technician's registration by making a false representation; [and]

- (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, *to wit*:

Health Occ. § 12-6B-09.

...

- (5) Performs delegated pharmacy acts while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without a valid medical indication; [and]

§ 12-6B-13. Obtaining registration under false representations prohibited.

- (a) *In general.* – An individual may not obtain a pharmacy technician's registration by making a false representation.
- (b) *Registration void.* – On conviction of an individual for making a false representation to the Board in order to register as a pharmacy technician, the pharmacy technician's registration is void.

FINDINGS OF FACT

1. The Respondent was initially registered to practice as a pharmacy technician in the State of Maryland on or about October 30, 2015, under registration number T17435. The Respondent's registration is suspended¹ and scheduled to expire on January 31, 2021.

2. On or about January 25, 2019, the Respondent submitted to the Board an application to renew his registration. In his renewal application, the Respondent stated that the Maryland Board of Nursing had suspended his nursing assistant certificate, that he had let his registration with the National Registry of Emergency Medical Technicians expire without renewing it, and that he had also been recently terminated from his employer for falsifying information on his employment application.

3. The Board initiated an investigation into the Respondent based on the information that he provided in his 2019 renewal application.

Maryland Board of Nursing Disciplinary Actions

4. Between September 10, 2012 and August 30, 2016, the Respondent held a certificate to practice as a certified nursing assistant ("CNA") in the State of Maryland issued by the Maryland Board of Nursing.

5. On or about November 6, 2015, the Maryland Board of Nursing summarily suspended the Respondent's CNA certificate after concluding that the public health, safety, or welfare required emergency action. The Board of Nursing found that the Respondent's

¹ On July 10, 2019, the Board issued an Order for Summary Suspension of the Respondent's registration to practice as a pharmacy technician. Following a post-deprivation show cause hearing held before the Board on August 28, 2019, at which the Respondent appeared, the Board voted to continue the summary suspension of the Respondent's registration.

employer, Hospital 1,² terminated his employment on February 6, 2015, because he diverted narcotics. According to the Board of Nursing's summary suspension order, Hospital 1's staff members reported that the Respondent left blood residue in a staff bathroom and was acting unusual. The Respondent tested positive for fentanyl at a fitness-for-duty evaluation and admitted to diverting narcotics and injecting them intravenously in the hospital bathroom. The Board of Nursing also noted that one of its investigators interviewed the Respondent on or about March 18, 2015, and asked him questions about diverting and using narcotics. The Respondent admitted that he diverted fentanyl from patients under his care and provided services as a CNA while under the influence of fentanyl.

6. On or about December 3, 2015, the Board of Nursing continued the summary suspension of the Respondent's CNA certificate following a show cause hearing. The Board of Nursing noted that the Respondent failed to appear at the hearing.

7. On or about August 30, 2016, the Board of Nursing issued a default final decision and revoked the Respondent's CNA certificate for substantially the same reasons that it had summarily suspended his certificate (*see* ¶ 5, *supra*). The Board of Nursing noted in its final decision that the Respondent had not requested an evidentiary hearing within the time to do so.

False Statements on Employment Applications

Employment Application to Pharmacy 1

² To maintain confidentiality, the names of all witnesses, facilities, employees, and patients will not be used in this document but will be provided to the Respondent on request.

8. On or about April 2, 2015, the Respondent submitted an initial employment application to Pharmacy 1. The Respondent denied in his application that there were any proceedings by a State agency pending against him and denied ever being the subject of or involved in an inquiry or investigation. However, at the time of the application, the Respondent was under investigation by the Maryland Board of Nursing, and a Board of Nursing investigator had interviewed him on or about March 18, 2015 (*see ¶ 5, supra*).

9. On or about July 28, 2018, the Respondent resigned from Pharmacy 1.

Employment Application to Pharmacy 2

10. On or about April 28, 2017, the Respondent submitted an initial employment application to Pharmacy 2. The Respondent denied in his application that he ever had a health care license suspended, revoked, or surrendered. However, at the time of the application, the Maryland Board of Nursing had summarily suspended and subsequently revoked his CNA certificate (*see ¶¶ 5-7, supra*).

11. Pharmacy 2's personnel records for the Respondent show that from July 16 to July 19, 2018, the Respondent acted erratically at work, including, but not limited to his refusal to do assigned work, rambling while speaking, leaving work early without notifying his supervisors, and making unusual and unprompted comments to coworkers, among other things. Pharmacy 2's managers sent the Respondent for a reasonable suspicion drug test. A manager arranged through a ride-sharing application to take the Respondent to a medical center for the drug testing. The manager confirmed with the ride-sharing application that the Respondent was dropped off in front of the medical center. However, the medical center had no record of the Respondent signing in there, and he never completed the reasonable suspicion drug test.

12. On or about December 17, 2018, Pharmacy 2 terminated the Respondent's employment. Pharmacy 2 had discovered the Maryland Board of Nursing's disciplinary actions against the Respondent through a search of the National Practitioner Data Bank and determined that he falsified his application by denying any prior suspension or revocation of a health care license.

False Statements on Registration Applications

Initial Application for Pharmacy Technician Registration - 2015

13. On or about October 23, 2015, the Respondent submitted to the Board his initial Application for Pharmacy Technician Registration.

14. In his initial application, the Respondent denied that any State licensing or disciplinary board had filed a complaint or charges against him or investigated him for any reason. However, at the time of the application, the Respondent was under investigation by the Maryland Board of Nursing, and a Board of Nursing investigator had interviewed him on or about March 18, 2015 (*see ¶ 5, supra*).

15. In his initial application, the Respondent denied that his ability to practice as a pharmacy technician was affected by using drugs or alcohol. However, at the time of the initial application, the Respondent had been recently terminated from Hospital 1 for diverting and using narcotics while on the job (*see ¶ 5, supra*).

16. The Respondent signed the application and affirmed that the information provided was "true and correct to the best of [his] knowledge and belief."

Reinstatement Application for Pharmacy Technician Registration - 2017

17. On or about March 20, 2017, the Respondent submitted to the Board his Application for Pharmacy Technician Registration – Reinstatement.

18. In his reinstatement application, the Respondent denied that any State licensing or disciplinary board had taken formal disciplinary action against a registration or license that he held. However, at the time of his reinstatement application, the Maryland Board of Nursing had summarily suspended and subsequently revoked the Respondent's CNA certificate (*see* ¶¶ 5-7, *supra*).

19. On his reinstatement application, the Respondent also denied that any State licensing or disciplinary board had filed a complaint or charges against him or investigated him for any reason. However, at the time of the reinstatement application, the Respondent had been investigated by the Maryland Board of Nursing, a Board of Nursing investigator had interviewed him on or about March 18, 2015, and the Board of Nursing summarily suspended and subsequently revoked his CNA certificate (*see* ¶¶ 5-7, *supra*).

20. On his reinstatement application, the Respondent also denied that his ability to practice as a pharmacy technician had been affected by using drugs or alcohol. However, the Respondent had previously been terminated from Hospital 1 for diverting and using narcotics while on the job (*see* ¶ 5, *supra*).

21. The Respondent signed the reinstatement application and affirmed that the information provided was "true and correct to the best of [his] knowledge and belief."

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Respondent violated Health Occ. § 12-6B-09(2), (7), (23), with an underlying violation of § 12-6B-13(a), and (24), with an underlying disciplinary ground of § 12-6B-09(5)(ii), and Health Occ. § 12-6B-13(a).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 18
day of December 2019, a majority of the quorum of the Board, hereby

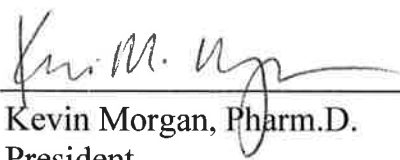
ORDERED that the Respondent's, **Earl Montague, III's**, registration to practice as a pharmacy technician in the State of Maryland is hereby **REVOKED** and the Board will not accept, from the Respondent, any future applications for licensure, certification, and/or registration; and it is further

ORDERED that the Respondent shall return to the Board all Maryland pharmacy technician registrations within ten (10) days of the date of this Order; and it is further

ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

ORDERED that this document constitutes a formal disciplinary action of the Board and this Order is final and a public document pursuant to Md. Code Ann., General Provisions §§ 4-101 *et seq.* & § 4-333 (2014).

12/18/19
Date



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