

IN THE MATTER OF
FANCHETTE S. ROBINSON

Applicant

*** BEFORE THE MARYLAND**
*** BOARD OF PHARMACY**
*** Board Case No. PT-16-009**
*** OAH No. DHMH-BPH-114B-16-33395**

* * * * *

FINAL DECISION AND ORDER

On August 17, 2016, the Maryland Board of Pharmacy (the “Board”) notified Fanchette S. Robinson (the “Applicant”) of its intent to deny her application for a registration to practice as a pharmacy technician. In the Notice of Intent to Deny, the Applicant was charged with violations of the Maryland Pharmacy Act, Md. Code Ann., Health Occ. § 12-101 *et seq.* (the “Act”). Specifically, the Applicant was charged with (1) lacking good moral character, in violation of Section 12-6B-02(B)(1) of the Act; (2) fraudulently or deceptively attempting to obtain a pharmacy technician registration, in violation of Section 12-6B-09(2) of the Act; (3) being physically or mentally incompetent, in violation of Section 12-6B-09(21) of the Act; and (4) being disciplined by a licensing authority of any state for an act that would be grounds for disciplinary action by the Board, in violation of Section 12-6B-09(24) of the Act.

An evidentiary hearing was held on the Notice of Intent to Deny on February 9, 2017, at the Office of Administrative Hearings. Administrative Law Judge Eileen C. Sweeney issued a 35-page Proposed Decision on May 1, 2017, recommending an affirmative finding on two of the charges and proposing as a sanction a denial of the Applicant’s application for a pharmacy technician registration.¹ The Applicant filed Exceptions with the Board, and an Exceptions

¹ The Administrative Law Judge did not find that the Applicant lacked good moral character pursuant to Section 12-6B-02(b)(1) of the Act or fraudulently or deceptively attempted to obtain a pharmacy technician registration pursuant to Section 12-6B-09(2) of the Act. The Board does not dispute the Administrative Law Judge’s findings or conclusions with regard to these charges.

Hearing was held before the Board on September 20, 2017. This Final Decision and Order constitutes the Board's final decision in this case.

FINDINGS OF FACT

The Board adopts the findings of fact proposed by the Administrative Law Judge in the Proposed Decision.² To the extent that any findings of fact are set out in the "Discussion" section of the Administrative Law Judge's Proposed Decision, the Board adopts them as well. The Board takes particular note of the following facts:

1. The Applicant was initially licensed by the Board to practice as a pharmacist on August 3, 1988, under License No. 11481.
2. On June 30, 2005, the Board issued an Order for Summary Suspension summarily suspending the Applicant's pharmacist's license in Maryland pursuant to Section 12-313(b)(21) of the Act³ and Md. Code Ann., State Gov't § 10-226(c)(2). On January 19, 2006, the Board notified the Applicant of its intent to revoke her license to practice pharmacy, again based on Section 12-313(b)(21) of the Act. The Board issued a Final Order of Revocation revoking the Applicant's license to practice as a pharmacist in Maryland, under License No. 11481, on April 19, 2006.
3. On multiple occasions between 2006 and 2015, the Applicant requested that the Board reinstate her pharmacist's license to practice pharmacy. The Applicant, however, never completed the Board's condition for consideration of her requests for reinstatement and therefore, failed to demonstrate to the Board that she was fit to practice as a pharmacist in Maryland.

² A copy of the Proposed Decision was provided to the Applicant and another copy was provided to the Board and is maintained in the Board's file.

³ At the time, this subsection was numbered 12-313(b)(20).

4. On June 19, 2015, the Applicant applied for a registration to practice as a pharmacy technician in Maryland.⁴ On October 8, 2015, the Board sent a letter to the Applicant setting forth the conditions in accordance with Md. Code Ann., Health Occ. Art. § 12-320, similar to the conditions for the reinstatement of her pharmacist's license, in order for the Board to appropriately consider her application for a pharmacy technician's registration. The Applicant did not comply with the conditions set forth in the Board's letter.

CONCLUSIONS OF LAW

The Board adopts the conclusions of law set forth in the Administrative Law Judge's Proposed Decision in this matter. The Board finds that the Applicant is subject to denial pursuant to Md. Code Ann., Health Occ. § 12-6B-09(21) and (24).⁵

OPINION

The Board's primary and most important charge is to protect the public by ensuring that pharmacists and pharmacy technicians practicing in Maryland are able to do so safely and competently. The Board revoked the Applicant's license to practice as a pharmacist in 2006 after determining that she could no longer meet this standard. Despite giving her myriad opportunities, the Applicant is unable to demonstrate that the basis of her 2006 revocation is no longer pertinent.

Although the scope of duties of a pharmacist and pharmacy technician are not identical, both roles require competence in performing pharmacy acts. To permit otherwise would

⁴ The Board issues registrations to qualified pharmacy technicians that enable them to perform delegated pharmacy acts under the supervision of a licensed pharmacist. Pharmacy technicians may work in any pharmacy setting, to include retail community, hospital, long-term care, nuclear, sterile compounding, etc.

⁵ The Board notes that denial of the Applicant's application for a pharmacy technician registration is within the range of appropriate sanctions in this case in accordance with COMAR 10.34.11.05A(4) and (6).

compromise the health and safety of the public. The Board has the same concerns about the Applicant practicing as a pharmacy technician in 2018 as it did about her practicing as a pharmacist in 2006. The Applicant has not engaged in the remedial measures repeatedly directed by the Board to demonstrate that those concerns have been addressed. Based on the totality of the facts in this case, the Board does not believe the Applicant has shown that she can safely practice as a pharmacist or a pharmacy technician. As such, the Board agrees with the Administrative Law Judge that denial of the Applicant's application for a pharmacy technician registration is the only appropriate sanction in this case.

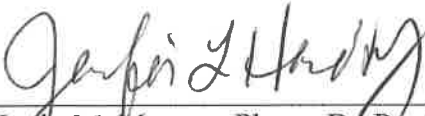
ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and Opinion, by a unanimous decision of a quorum of the Board, it is hereby:

ORDERED that Ms. Robinson's application for a registration to practice as a pharmacy technician in Maryland is **DENIED**; and be it further,

ORDERED that this is a formal order of the Board and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions § 4-333(b).

9/5/18
Date


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

Jennifer L Hardesty, Treasurer

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 12-316, and Md. Code Ann., State Gov't § 10-222, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty (30) days of the date this Final Decision and Order is mailed and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't §§10-201, *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.

If you file an appeal, the Board is a party and should be served with the court's process. In addition, if an appeal is filed, you are requested to send a copy to the Board's counsel, Linda Bethman, at the Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is no longer a party to this case and need not be served or copied.