

**IN THE MATTER OF
MATTHEW G. SHERMAN
RESPONDENT**

*** BEFORE THE STATE
* BOARD OF
* PHARMACY
* CASE NO: 19-328**

REGISTRATION NO.: T17274

* * * * *

ORDER FOR SUMMARY SUSPENSION

Pursuant to Md. Code Ann., State Govt. §10-226 (c)(2) (2014 Repl. Vol. & 2018 Supp.), the State Board of Pharmacy (the "Board") hereby summarily suspends the registration of Matthew G. Sherman, Registration No.: T17274 (the "Respondent"), to practice as a pharmacy technician, under the Maryland Pharmacy Act (the "Act"), Md. Code Ann., Health Occ. ("Health. Occ.") §§12-101 *et seq.* (2014 Repl. Vol. & 2018 Supp.). The Board takes such action pursuant to its authority under Md Code Ann., State Govt. §10-226 (c)(2) (2014 Repl. Vol. & 2018 supp.), concluding that the public health, safety or welfare imperatively requires emergency action.

This Order is based on the following investigative findings, which the Board has reason to believe are true:¹

INVESTIGATIVE FINDINGS

1. At all times relevant hereto, the Respondent was registered to practice as a pharmacy technician in the State of Maryland.

¹ The statements regarding the Respondent's conduct are only intended to provide the Respondent with notice of the basis for the Board's action. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in this matter.

2. The Respondent was originally issued a registration to practice as a pharmacy technician in Maryland on or about November 18, 2015.

3. The Respondent's registration expires on or about February 28, 2021.

4. On or about April 2, 2019, the Board received information from a detective ("Detective A") of the Montgomery County Police Department ("Montgomery County Police"), regarding the Respondent's conduct when he was employed as a pharmacy technician, at various pharmacies throughout Montgomery County, Maryland.²

5. Detective A informed Board staff that the Respondent had pilfered Xanax from various pharmacies³. Detective A also informed Board staff that the Respondent had been criminally charged with similar conduct in 2018.

Respondent's Conduct involving Pharmacy A

6. An investigation conducted by Board staff revealed that in or around August 2018, an employee working at a national retail pharmacy ("Pharmacy A") located in Gaithersburg, Maryland, contacted Detective A and stated that the Respondent had presented fraudulent prescriptions that were filled at several Pharmacy A locations. Most of the fraudulent prescriptions were for Xanax.

7. The Respondent presented fraudulent prescriptions for Xanax that were filled at various Pharmacy A locations on May 1, 2018, May 28, 2018, June 24, 2018, June 30, 2018, July 23, 2018, July 29, 2018, and September 28, 2018.

² The names of Detective A, Pharmacy A, B, and C are not identified in this document for privacy reasons. The Respondent may request the redacted information from the Administrative Prosecutor.

³ Xanax is a Schedule IV controlled dangerous substance. The generic name for Xanax is Alprazolam.

8. The Respondent presented fraudulent prescriptions that were in his name and the names of other people.

9. Further investigation by Board staff revealed that after reviewing surveillance videos from Pharmacy A locations, Pharmacy A employees identified the Respondent as the person who dropped off and/or picked up the medication.

10. Detective A and Pharmacy A employees also confirmed the Respondent's identity after viewing a copy of the Respondent's driver's license that was on file at various Pharmacy A locations.

11. The Respondent was terminated by Pharmacy A on or about January 20, 2018.

12. The Respondent's conduct at Pharmacy A resulted in criminal charges. On October 15, 2018 in the District Court for Montgomery County, Maryland the Respondent was charged with thirty-four (34) counts involving the use of fraudulent prescriptions to obtain Xanax.

13. On or about December 27, 2018, the Respondent pleaded guilty in the District Court for Montgomery County Maryland, to one (1) count of obtaining a controlled substance by fraud, in violation of obtaining a controlled dangerous substance of Schedule IV, to wit: Xanax by fraud, deceit, misrepresentation, and subterfuge, in violation of Md. Code Ann, Criminal Law § 5-601(a)(2)

14. The Respondent received probation before judgement. He was also placed on supervised probation for two (2) years and ordered pay a two thousand dollar (\$2000) fine.

Respondent's Conduct involving Pharmacy B

15. An investigation by Board staff revealed that on or about March 26, 2019, the Respondent began work as a pharmacy technician at a pharmacy ("Pharmacy B"), located in Montgomery Village, Maryland.

16. On or about March 27, 2019, the owner of Pharmacy B discovered approximately 266 tablets of Alprazolam 2 mg missing from the pharmacy.

17. After discovering the medication loss, Pharmacy B's owner viewed the video from the pharmacy security camera. The Respondent was observed in the video, removing a bottle of Alprazolam from the pharmacy shelf and taking the medication into the bathroom. After leaving the bathroom, the Respondent was seen returning the bottle to the pharmacy shelf.

18. The Respondent was also seen taking two additional medication bottles from the pharmacy shelf and placing the bottles in his pocket.

19. After observing in the Respondent in the video, the owner of Pharmacy B contacted the Montgomery County Police.

20. The Montgomery County Police reported to Pharmacy B and recovered a prescription bottle containing several tablets of Alprazolam 2mg from the Respondent.

The Montgomery County police noticed that the label on the prescription bottle was not the same strength as the medication that was taken from the Respondent.

21. The Respondent was terminated from Pharmacy B on or about March 28, 2019.

Respondent's Conduct Involving Pharmacy C

22. An investigation by Board staff revealed that on or about December 3, 2018, the Respondent began working as a pharmacy technician at a pharmacy ("Pharmacy C") located in Gaithersburg, Maryland.

23. On or about December 21, 2018, the Respondent was terminated from Pharmacy C. The owner of Pharmacy C suspected that the Respondent was involved in fraudulent activity at Pharmacy C. The owner of Pharmacy C told the Montgomery County Police that the Respondent had deposited money belonging to Pharmacy C into his personal banking account.

24. The Respondent was terminated from Pharmacy C on or about December 21, 2018.

Other criminal involvement

25. In or around May 2019, the Respondent was arrested by the Gaithersburg City Police Department ("Gaithersburg Police") located in Gaithersburg, Maryland. During a search of the Respondent, the Gaithersburg Police found 182 Xanax tablets in an unlabeled bottle.

26. On or about June 3, 2019, the Montgomery County Police executed a search and seizure warrant of the Respondent's residence.

27. During the execution of the warrant, Detective A and other members of Montgomery County Police seized 275 tablets Alprazolam .5mg and 4 tablets of Alprazolam 1mg from the Respondent's residence. The medication seized by the Montgomery County Police was in unlabeled bottles and clear baggies.

28. On or about August 2014, the Respondent pleaded guilty to theft under \$1000, in the District Court for Montgomery County for Maryland. The Respondent was ordered to pay a \$150 dollar fine and court costs

Registration Applications

29. On or about September 1, 2015, the Respondent submitted an Application for Pharmacy Technician Registration ("2015 Application"). Despite his 2014 guilty plea, the Respondent answered "No" to the following Personal Attestation Question on his Application:

Have you committed a criminal act for which you pled guilty or nolo contendere...or pending charges against you in any court?

30. On or about April 10, 2017, the Respondent submitted an Application for Pharmacy Technician Registration-Reinstatement ("2017 Reinstatement-Application") Despite his 2014 guilty plea, the Respondent answered "No" to the following Personal Attestation Question on his 2017 Reinstatement Application:

Have you committed a criminal act for which you pled guilty or nolo contendere...or pending charges against you in any court?

31. On or about December 31, 2018, the Respondent filed an Application for Renewal of his Registration (“2018 Renewal Application”). Despite his termination from Pharmacies A, B, and C and his pleas of guilty on August 7, 2014, and December 27, 2018, the Respondent answered “No” to the following Personal Attestation Questions on his 2018 Renewal Application:⁴

5. Has your employment by any pharmacy, clinic, healthcare practice or wholesale drug distributor been terminated for disciplinary reasons?

6. Have you committed a criminal act for which you pled guilty or nolo contendere...or pending charges against you in any court?

CONCLUSIONS OF LAW

Based on the foregoing Investigative Findings, the Board concludes that the public health, safety, or welfare imperatively requires emergency action in this case, pursuant to Md. Code Ann., State Gov’t. § 10-226(c) (2).

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is this 9th day of September 2019, by a majority of a quorum of the Board hereby:

ORDERED that the registration issued to the Respondent practice as a pharmacy technician in the State of Maryland under registration number: T17274 is **SUMMARILY SUSPENDED**; and it is further


⁴ The Respondent filed his 2018 Renewal Application on December 31, 2018.

ORDERED that the Respondent is prohibited from practicing as a pharmacy technician in the State of Maryland; and it is further

ORDERED that the Respondent shall immediately return all registration certificates to the Board; and it is further

ORDERED that this Order for Summary Suspension is a public document, as defined in Md. Code Ann., General Provision §§ 4-101 *et seq.* (2014 Rep. Vol. & 2018 Supp.)

9-9-19
Date


Deena Speights-Napata
Executive Director
for Kevin M Morgan, Pharm.D.
President
State Board of Pharmacy