

<b>IN THE MATTER OF</b>  <b>ESSENCE WHARTON,</b>  <b>PHARMACY TECHNICIAN</b>  <b>Registration No.: T21289</b>	* * * *	<b>BEFORE THE MARYLAND</b>  <b>STATE BOARD OF</b>  <b>PHARMACY</b>  <b>Case No.: 20-371</b>
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**CONSENT ORDER**

On September 16, 2020, the Maryland State Board of Pharmacy (the “Board”) charged the registration of **ESSENCE WHARTON**, Pharmacy Technician, **Registration Number T21289** (the “Respondent”), with violations of the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occ. §§ 12-101 *et seq.* (2014 Repl. Vol. and 2019 Supp.) and the regulations adopted by the Board at Code of Md. Regs. (“COMAR”) 10.34.01 *et seq.*

The pertinent provisions of the Act are as follows:

**Health Occ. § 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 . . . , reprimand a registered pharmacy technician, place any registered pharmacy technician on probation, or suspend or revoke a pharmacy technician’s registration if the . . . pharmacy technician registrant:

...

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

...

- (25) Violates any regulation adopted by the Board; [or]

...

- (27) Participates in any activity that is grounds for Board action under § 12-313 or § 12-409 of this title[.]

With respect to Health Occ. § 12-6B-09 (27), the underlying grounds for Board action under § 12-313 include:

- (25) Violates any rule or regulation adopted by the Board

The pertinent provision of the regulations adopted by the Board are as follows:

**COMAR 10.34.10.01 Patient Safety and Welfare**

- B. A pharmacist may not:

...

- (3) Engage in unprofessional conduct.

On December 9, 2020, the Respondent attended a Case Resolution Conference (“CRC”) with members of the Board in an effort to resolve the pending charges in lieu of an evidentiary hearing. As a result of the CRC, the Respondent agreed to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

**I. FINDINGS OF FACT**

The Board finds that:

**I. Background**

1. At all times relevant hereto, the Respondent was registered to practice as a Pharmacy Technician in the State of Maryland. The Respondent was originally registered

as a Pharmacy Technician in Maryland on or about July 20, 2018. The Respondent's registration is scheduled to expire on October 31, 2021.

2. At all times relevant to the charges, the Respondent practiced as a Pharmacy Technician at a health services pharmacy (the "Pharmacy") in Baltimore, Maryland.

## **II. Complaint**

3. On or about March 28, 2019, the Pharmacy reported to the Board (the "Report") that the Respondent was terminated from the Pharmacy. The Board subsequently learned that termination occurred after the Respondent posed as a certified nurse-midwife and wrote a sick note for a friend.

4. Based on the Report, the Board initiated an investigation.

## **III. Board Investigation**

5. In furtherance of the investigation, Board staff interviewed a Pharmacy representative (the "Representative") and obtained the Respondent's personnel file, including the Pharmacy's investigative file regarding the termination.

6. The Board's investigation revealed that the Respondent was hired as a pharmacy technician at the Pharmacy on or about March 18, 2019 and terminated on or about February 28, 2020.

7. In a March 2, 2020 interview with the Representative, the Board learned that the Respondent's termination occurred after the Pharmacy confirmed through an investigation, an allegation that that the Respondent, on or about February 26, 2020, wrote

and emailed a sick note posing as a certified nurse-midwife (the “Note”) to excuse her friend (the “Friend”) from work.

8. The Board further learned that the Respondent used her work email address to send the Note to the Friend’s employer and, prior to sending the Note, sent two draft versions to the Friend from her work account.

9. The Board obtained copies of the draft and final versions of the Note.

10. The Note was titled “Regarding: [the Friend],” written on Pharmacy letterhead and stated, in pertinent part:

[The Friend] was seen in my office on 2/26/2020. She is unable to return to work on 2/27/2020 with no restrictions. If you have any further questions or concerns please feel free to contact my office . . .  
.[.]

Sincerely,

[The Respondent], CNM<sup>1</sup>

11. The Respondent’s file included an emailed statement that the Respondent sent on or around February 28, 2020 to the Representative where the Respondent apologized for her actions and “trying to help a friend out in this way.”

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<sup>1</sup> The medical community commonly refers to a certified nurse-midwife as a “CNM.” A certified nurse-midwife is an advanced-practice registered nurse who specializes in women's reproductive health and childbirth.

## II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provisions of the Act:

### **Health Occ. § 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 . . . , reprimand a registered pharmacy technician, place any registered pharmacy technician on probation, or suspend or revoke a pharmacy technician's registration if the ... pharmacy technician registrant:

...

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

...

- (25) Violates any regulation adopted by the Board; [or]

...

- (27) Participates in any activity that is grounds for Board action under § 12-313 or § 12-409 of this title[.]

With respect to Health Occ. § 12-6B-09 (27), the underlying grounds for Board action under § 12-313 include:

- (25) Violates any rule or regulation adopted by the Board

The pertinent provision of the regulations adopted by the Board are as follows:

### **COMAR 10.34.10.01 Patient Safety and Welfare**

- B. A pharmacist may not:

...

- (3) Engage in unprofessional conduct.

### III. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 25<sup>th</sup> day of January, 2020<sup>1:00 PM</sup>, by the affirmative vote of a majority of the members of the Board then serving:

**ORDERED** that the Respondent, Essence Wharton's registration to practice as a pharmacy technician is **REPRIMANDED**; and it is further

**ORDERED** that the Respondent's registration to practice as a pharmacy technician shall be placed on **PROBATION** for a period of **ONE (1) YEAR** subject to the following conditions:

1. Within the period of probation, the Respondent shall successfully complete a **Board-approved Accreditation Council for Pharmacy Education (ACPE) accredited course in ethics for four continuing education units (CEU)** that the Respondent may use toward a future registration renewal and
2. Within the period of probation, the Respondent shall pay a fine in the amount of **one hundred dollars (\$100.00)**, payable by certified check or money order to The Maryland State Board of Pharmacy and sent to:

Wells Fargo Bank  
Attn: State of MD – Board of Pharmacy  
Lockbox 2051  
7175 Columbia Gateway Drive  
Columbia, MD 21046

Please reference Case Number 20-371 on your check or money order to ensure proper assignment to your case; and it is further

**ORDERED** that after **ONE (1) YEAR** from the date of this Consent Order, the Respondent may submit a written petition to the Board requesting termination of probation,

provided that she has been fully compliant with this Consent Order and has no outstanding complaints filed against her; and it is further

**ORDERED** that the Respondent shall practice as a pharmacy technician in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and it is further

**ORDERED** that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of her compliance with the terms and conditions of this Order; and it is further

**ORDERED** that the Respondent shall bear the cost(s) of complying with the Consent Order; and it is further

**ORDERED** that failure to comply with the terms and conditions of the Consent Order, including failure to pay the monetary fine in full by the deadline, constitutes a violation of the Consent Order and the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board, may impose any appropriate sanction under the Act; and it is further

**ORDERED** that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014).

1-25-21

Date



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

**CONSENT**


I, Essence Wharton, acknowledge that I have had the opportunity to consult with legal counsel before signing this document. By this Consent, I accept, to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its behalf and to all other substantive and procedural protections as provided by law.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order and understand its meaning and effect.

1/11/2021  
Date

  
Essence Wharton, Respondent



**NOTARY**

STATE OF Maryland

COUNTY/CITY OF: Baltimore

I hereby certify that on this 11<sup>th</sup> day of January, 2020, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared **Essence Wharton**, and made an oath in due form that the foregoing Consent was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

John Ahlberg  
Notary Public

**FATIMA CALDWELL-RAY**  
Notary Public  
Baltimore County  
Maryland  
My Commission Expires Mar. 31, 2021

My Commission Expires: March 31<sup>st</sup>, 2021