

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>WANDA GASQUE</b>	*	<b>MARYLAND STATE BOARD</b>
<b>Pharmacy Technician</b>	*	<b>OF PHARMACY</b>
<b>Registration Applicant</b>	*	
<b>Respondent</b>	*	<b>Board Case Number: PT-09-009</b>
* * * * *	*	* * * * *

**ORDER OF DENIAL OF PHARMACY TECHNICIAN REGISTRATION**

On December 16, 2009 the Maryland Board of Pharmacy (the "Board") issued Ms. Wanda Gasque a Notice of Intent to Deny Pharmacy Technician Registration based upon grounds enumerated in Md. Code, Health Occ., §§ 12-6B-02, 12-6B-09(2) and (22) which includes allegations that Ms. Gasque lacks good moral character, has been convicted of a felony or crime of moral turpitude, and has attempted to fraudulently obtain a pharmacy technician registration.

Upon Ms. Gasque's request, a quorum of the Board held an evidentiary hearing on February 24, 2010. Upon conclusion of the hearing, the same quorum of the Board convened to deliberate and voted unanimously to deny Ms. Gasque's pharmacy technician registration application for the reasons set forth in this Order.

## SUMMARY OF THE EVIDENCE

### A. Documents

The following documents were admitted into evidence:

#### State's Exhibits:

- Ex. 1 Pharmacy Technician Registration Application of Wanda Gasque, dated 6/6/08
- Ex. 2A Affidavit of Work Experience for Wanda Gasque
- Ex. 2B Fax coversheet from Sheri Fakunle, dated 5/12/08
- Ex. 3 Letter from Applicant to the Board of Pharmacy re: Explanation regarding Wanda Gasque background check, dated 11/14/08
- Ex. 4 Colin Eversley's typed notes of phone interview with Ms. Gasque, dated 8/13/09
- Ex. 5 Narration of conversation with Wanda Gasque by Board Investigator Colin Eversley's, dated 8/14/09
- Ex. 6A Wage History Inquiry for Wanda Gasque, dated 3/19/09
- Ex. 6B Weeks Claimed History for 10/14/06 – 11/25/06 for Wanda Gasque, dated 8/14/09
- Ex. 7 State of Maryland Charges and Statement of Probable Cause, dated 5/4/06
- Ex. 8 Transcript in *State of Maryland v. Wanda Gasque*, Case No. 110614020, dated 9/26/06
- Ex. 9 Notice of Intent to Deny Pharmacy Technician Registration Application, dated 10/19/09
- Ex. 9A Criminal Indictment in *State of Maryland v. Wanda Gasque*, Case Number K-2001-1851, dated 5/25/2006
- Ex. 9B Probation/Supervision Order, Case No. 106145020, dated 9/26/06
- Ex. 10 Amended Notice of Intent to Deny Registration, dated 12/16/09

#### Respondent's Exhibits:

- Ex. 1 Affidavit of Work Experience
- Ex. 2 Criminal History Record Check for Wanda Gasque dated 6/5/08
- Ex. 3 Probation/Supervision Order (revised), Case No. 106145020, dated 12/11/09
- Ex. 4 True test copies of docket entries for Case No. 106145020
- Ex. 5 Copy of certified ExCPT card, certificate no. 09-03-147, expires 3/28/11
- Ex. 6 Character reference letter from Roberta Ball at Erosun, Inc., dated 1/06/09
- Ex. 7 Character reference letter from Rev. Dr. Kevin A. Rogers, dated 11/25/09
- Ex. 8 Acceptance letter from Baltimore City Community College, dated 11/30/09
- Ex. 9 Letter from Eastside Career Center, dated 12/10/09

**B. Witnesses**

**For the State:**

Colin Eversley, Maryland Board of Pharmacy Investigator  
Sheri Fakunle, P.D., Respondent's former employer

**For the Respondent:**

Wanda Gasque, Respondent

**FINDINGS OF FACT**

Based upon the testimony and documentary evidence presented at the hearing, the Board finds that the following facts are true:

1. On or about June 12, 2008, the Board received the Ms. Gasque's application to register as a pharmacy technician in Maryland. (State's Ex. 1).
2. Ms. Gasque also submitted an Affidavit of Work Experience ("Affidavit") certifying on the top portion of the Affidavit that she had "worked continuously in the pharmacy area of Gwyn Oak Pharmacy since January 1, 2006." (State's Ex. 2A). Ms. Sheri Abeni Fakunle, owner of Gwyn Oak Pharmacy, completed and signed the bottom portion of the form, including an attestation that Ms. Gasque had performed assigned pharmacy technician duties under Ms. Fakunle's supervision since November 2006. (Tr. at 69).
3. Pursuant to Md. Code, Health Occ., § 12-6B-02(d), submission of the Affidavit allows an applicant to receive a waiver of the educational requirements required for pharmacy technician registration if:

- (1) The applicant has worked in the pharmacy area of a pharmacy operated by the same pharmacy permit holder since January 1, 2006;
- (2) The pharmacy permit holder for whom the applicant works attests in writing that the applicant has worked in the pharmacy area operated by the pharmacy permit holder continuously since January 1, 2006;
- (3) A pharmacist who has supervised the applicant for at least 6 months attests in writing that the individual has performed competently; and
- (4) The applicant otherwise meets the requirements of subsection (b) of this section.

4. Due to the discrepancy between the dates listed on the Affidavit, Board Compliance Investigator Colin Eversley conducted a wage history inquiry to verify if Ms. Gasque had indeed been employed continuously in the pharmacy area of Gwyn Oak Pharmacy since January 1, 2006. The report revealed Ms. Gasque had not begun working at Gwyn Oak until the fourth quarter of 2006. (State's Ex. 6A).<sup>1</sup>
5. Ms. Gasque does not qualify for a waiver of the educational requirements required for pharmacy technician registration. Shortly after submitting her application, Ms. Gasque was informed by the Board's licensing manager that she did not qualify for this "grandfathering" and subsequently took the Exam for the Certification of Pharmacy Technicians (ExCPT). (Tr. at 44; Resp. Ex. 5).
6. In addition, Ms. Gasque answered "Yes" to question number 5 on her application, which asks, "Have you pled guilty, nolo contendere, or been convicted of a felony or a crime involving moral turpitude, or received probation before judgment of any criminal act?" (State's Ex. 1).
7. In accordance with Md. Code, Health Occ., § 12-6B-03(4), Ms. Gasque submitted to a criminal history records check. (Resp. Ex. 2). Ms. Gasque's criminal history records check and the Board's subsequent investigation revealed a lengthy criminal history, including the following:

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<sup>1</sup> Ms. Gasque confirmed this during her interview the Mr. Eversley on August 13, 2009. (State's Ex. 4).

- a. In 1982, Ms. Gasque pled guilty in the District Court for Baltimore City to carrying a deadly weapon with the intent to injure. Ms. Gasque received a sentence of (60) sixty days in jail and was placed on probation for a period of one (1) year. (Resp. Ex. 2).
- b. In September 1995, Ms. Gasque was found guilty in the District Court for Baltimore City of fraudulently obtaining or increasing unemployment benefits by approximately \$800, in violation of Md. Code, Lab. & Empl. § 8-1301. Ms. Gasque received probation before judgment and supervised probation.<sup>2</sup> (Tr. at 20, 29).
- c. On or about May 3, 2006, Ms. Gasque was indicted by the Grand Jury for the City of Baltimore in *State of Maryland v. Wanda Gasque*, Case Number K-2001-1851 for:
  - i. possession with intent to distribute a controlled dangerous substance of Schedule III, to wit: Suboxone, in violation of Md. Code, Crim. L. § 5-602;
  - ii. possession with intent to distribute a controlled dangerous substance of Schedule IV, to wit: Clonazepam, in violation of Md. Code, Crim. L. § 5-602;
  - iii. possession of a controlled dangerous substance of Schedule IV, to wit: Clonazepam, in violation of Md. Code, Crim. L. § 5-601; and

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<sup>2</sup> Although this case did not appear on Ms. Gasque's criminal history records report, she testified about it at the evidentiary hearing.

- iv. possession with intent to distribute a controlled dangerous substance of Schedule III, to wit: Suboxone, in violation of Md. Code, Crim. L. § 5-602. (State's Ex. 9A).
- d. On or about September 26, 2006, Ms. Gasque pled guilty to and was convicted, of one (1) count of possession with intent to distribute a controlled dangerous substance of schedule IV, to wit: Clonazepam, in violation of Md. Code, Crim. L., § 5-602. (State's Ex. 8).
- e. On or about September 26, 2006, Judge John A. Howard sentenced Ms. Gasque to five (5) years incarceration, with all but two (2) days suspended. Ms. Gasque was also placed on supervised probation for a period of three (3) years.<sup>3</sup> (State's Ex. 9B).

### CONCLUSIONS OF LAW

Based upon the foregoing summary of evidence, findings of fact, and opinion, the Board concludes that Ms. Gasque is subject to discipline pursuant to Md. Code, Health Occ., § 12-6B-09(2) and (22). Further, the Board concludes that Ms. Gasque lacks good moral character and thus fails to meet the requisite qualifications for registration as a pharmacy technician in accordance with Health Occ., § 12-6B-02(b).

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<sup>3</sup> On December 11, 2009, Judge Howard granted Ms. Gasque's Motion for Modification of her sentence wherein the guilty verdict was stricken and the probation before judgment was stayed. (Resp. Ex. 4).

## OPINION AND SANCTION

The Board's primary duty is protection of the public. Md. Code, Health Occ. § 12-205. To that end, the Maryland Pharmacy Act requires that pharmacy technician applicants shall be of good moral character and grants the Board the authority to deny an application if an applicant has pled guilty or has been convicted of a felony or a crime of moral turpitude, regardless of whether an adjudication of guilt or sentencing or imposition of sentence is withheld. Health Occ. §§ 12-6B-02 and 12-6B-09(22).

Ms. Gasque's lack of good moral character is evidenced by her various criminal convictions, most notably her 2006 conviction for possession with intent to distribute a controlled dangerous substance *while working as a pharmacy technician* at NewCare Pharmacy. Despite her 24 years of pharmacy technician experience and familiarity with the proper packaging and delivery of prescription medication, Ms. Gasque attempted to "deliver" 407 tablets of a Schedule IV drug, Clonazepam, to one of NewCare's "patients," packaged in a plastic baggie with only a Post-It note attached indicating the name and address of the recipient. (Tr. at 45-48; Ex. 8). Ms Gasque also admitted she had been suspicious of how NewCare operated its pharmacy but turned a blind eye because it was her job.<sup>4</sup> (Tr. at 48-49). The Board finds this conduct simply inexcusable. Ms Gasque's testimony indicates a clear lack of understanding and accountability regarding her participation in the illegal distribution of controlled drugs.

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<sup>4</sup> Effective April 14, 2010, the Board revoked the pharmacist licenses of NewCare Pharmacy owners Steven Sodipo and Callixtus Nwachiri following their convictions for illegal distribution of controlled drugs, illegal operation of an internet pharmacy, money laundering, and tax evasion. *See In the Matter of Steven Sodipo, P.D.* and *In the Matter of Callixtus Nwachiri, P.D.*, Case No. 05-162.

In addition, Ms. Gasque's previous convictions for possession of a deadly weapon with the intent to injure and unemployment fraud also demonstrate her lack of good moral character and are additional grounds for denial as plainly set forth in Health Occ. § 12-6B-09(22). Fraud is a crime of moral turpitude.

Further grounds for denial of Ms. Gasque's registration include her attempt to obtain her registration by attesting on her Affidavit of Work Experience that she had worked continuously in the pharmacy area of Gywn Oak Pharmacy since January 1, 2006 despite having only worked there since November, 2006. This attempt to fraudulently or deceptively obtain a registration constitutes grounds for denial as plainly set forth in Health Occ. § 12-6B-09(2).

The performance of delegated pharmacy acts requires knowledge, skill and adherence to ethical practice. Because technicians typically have access to all drugs in a pharmacy, including controlled dangerous substances and other drugs with significant street value, good moral character is of the utmost importance. The egregious nature of Ms. Gasque's criminal conduct warrants denial of her pharmacy technician registration. Ms. Gasque is precisely the type of applicant the General Assembly sought to address when enacting Health Occ. § 12-6B-01, *et seq.*

### **ORDER**

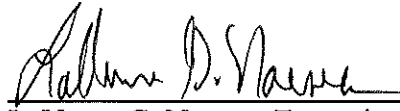
Based upon the foregoing Findings of Fact, Conclusions of Law, and Opinion, by a unanimous decision of a quorum of the Board, it is hereby:

**ORDERED** that Ms. Gasque's pharmacy technician registration application is hereby **DENIED**; and be it further,



**ORDERED** that this is a final order of the Board and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code, State Gov't § 10-611, *et seq.*

April 27, 2010  
Date

  
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LaVerne G. Naesea, Executive Director  
for  
Donald Taylor, P.D.  
President, Board of Pharmacy

## **NOTICE OF RIGHT TO APPEAL**

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