

IN THE MATTER OF * BEFORE THE
KIYOMI NICHOLS, PHARM TECH * STATE BOARD
Registration No.: T18111 * OF
Respondent * PHARMACY
* Case No. PT-17-015

* * * * *

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

On May 15, 2019, the State Board of Pharmacy (the "Board"), notified **KIYOMI NICHOLS**, Pharmacy Technician (Pharm Tech), **Registration No. T18111**, the Respondent, of its Intent to Revoke her Pharm Tech registration.

The Notice also informed the Respondent that, unless she requested a hearing in writing within 30 days of receipt of said Notice, the Board would sign the Final Order, which was enclosed. More than 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 its Act, Md. Code Ann., Health Occupations (Health Occ.) §§ 12-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.):

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 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:

- (22) Pleaded guilty or nolo contendere to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:
 - (i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or Any appeal or other proceeding is pending regarding the matter;
 - (ii) Any appeal or other proceeding is pending regarding the matter;
- (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[;]

**FACTS THAT WARRANT
THE REVOCATION OF THE RESPONDENT'S REGISTRATION**

1. At all times relevant hereto, the Respondent was registered to practice as a Pharm Tech in the State of Maryland. The Respondent was first so registered on May 31, 2016. The Respondent's registration expired on November 30, 2017.
2. At all times relevant hereto, the Respondent was employed as a pharmacy technician at a National chain pharmacy (the "Pharmacy")¹ in Upper Marlboro, Prince George's County, Maryland.
3. On or about December 2, 2016, a detective (the "Detective") with the Prince George's County Police Department informed the Board that the Respondent had been arrested and charged with possession of Promethazine with Codeine², Distribution, and Theft under \$1000 in the District Court of Maryland for Prince George's County.

¹ All facilities and individuals are confidential.

² Codeine is a narcotic pain reliever and a cough suppressant. Promethazine is an antihistamine which blocks the effects of the naturally occurring chemical histamine in one's body. Codeine and promethazine is a combination medicine used to treat cold or allergy symptoms such as runny nose, sneezing, and cough.

4. On or about December 7, 2016, the Board received additional information from the Pharmacy stating that it had terminated the Respondent from her employment on December 2, 2016. The Pharmacy provided a "Report of the Incident" to the Board, which stated the following:

- A. On October 26, 2016, the Pharmacy's District Manager conducted a pharmacy inventory review and determined that there were medications missing. The District Manager then contacted the medical supply company and received replacement order sheets to verify what medications were stolen.
- B. On November 2, 2016, the Pharmacy's Asset Protection District Manager contacted a Detective with the Prince George's County Police Department, Narcotics Enforcement Division, assigned as a Task Force Officer with the United States Drug Enforcement Administration (DEA) to inform her of the theft of medications from the Pharmacy.
- C. The Asset Protection District Manager stated that the Respondent ordered Promethazine with Codeine and Promethazine VC with Codeine³, both Schedule V Controlled Dangerous Substances ("CDS"), from the Pharmacy's computer terminal. After receiving the medications, the Respondent placed them in her purse and later sold them to another individual.

³VC stands for the addition of a decongestant, so there is promethazine, which is an antihistamine, and codeine, an

- D. The Detective met with the Respondent later on November 2, 2016, and advised her of her Miranda rights. After waiving her rights, the Respondent informed the Detective that, on several different occasions, she ordered various amounts of Schedule V cough syrup and threw away the receipts. The Respondent entered into the computer that zero bottles were received, put medications in her purse, transported the bottle(s) to her residence, and sold them for \$250 to another individual.
- E. Based upon the supplier's receipts and video footage, the Pharmacy determined the following:
- (1) On August 26, 2016, the Respondent ordered one bottle of Promethazine with Codeine, 16 oz., for the price of \$32.70 from the supplier which was charged to the Pharmacy. Three days later the Respondent received the bottle at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottle in her purse to her residence where she sold the cough syrup for \$250 to another individual.
 - (2) On August 29, 2016, the Respondent ordered one bottle of Promethazine with Codeine, 16 oz., for the price of \$32.70 from the supplier which was charged to the Pharmacy. The next day,

opioid, all in one.

the Respondent received the bottle at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottle in her purse to her residence where she sold the cough syrup for \$250 to another individual.

(3) On September 6, 2016, the Respondent ordered two bottles of Promethazine with Codeine, 16 oz., for the price of \$65.40 from the supplier which was charged to the Pharmacy. The next day, the Respondent received the bottles at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$500 to another individual.

(4) On September 9, 2016, the Respondent ordered two bottles of Promethazine with Codeine, 16 oz., for the price of \$65.40 and one bottle of Promethazine VC with Codeine, 16 oz., for the price of \$213.19 from the supplier which were charged to the Pharmacy. Three days later, the Respondent received the bottles at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$500 to another individual.

- (5) On September 15, 2016, the Respondent ordered two bottles of Promethazine with Codeine, 16 oz., for the price of \$65.40 from the supplier which were charged to the Pharmacy. Three days later, the Respondent received the bottles at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$500 to another individual.
- (6) On September 16, 2016, the Respondent ordered two bottles of Promethazine with Codeine, 16 oz., for the price of \$65.40 from the supplier which were charged to the Pharmacy. The next day, the Respondent received the bottles at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$500 to another individual.
- (7) On September 27, 2016, the Respondent ordered two bottles of Promethazine with Codeine, 16 oz., for the price of \$65.40 from the supplier which was charged to the Pharmacy. The next day, the Respondent received the bottles at the Pharmacy and threw away the receipt. After recording zero inventory received in the

computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$500 to another individual.

- (8) On September 29, 2016, the Respondent ordered two bottles of Promethazine with Codeine, 16 oz., for the price of \$65.40 from the supplier which was charged to the Pharmacy. The next day, the Respondent received the bottles at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$500 to another individual.
- (9) On October 13, 2016, the Respondent ordered three bottles of Promethazine with Codeine, 16 oz., for the price of \$98.10 from the supplier which were charged to the Pharmacy. The next day, the Respondent received the bottles at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$700 another individual.
- (10) On October 16, 2016, the Respondent ordered one bottle of Promethazine with Codeine, 16 oz., for the price of \$32.70 from

the supplier which was charged to the Pharmacy. The next day, the Respondent received the bottle at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottle in her purse to her residence where she sold the cough syrup for \$250 to another individual.

(11) On October 18, 2016, the Respondent ordered three bottles of Promethazine with Codeine, 16 oz., for the price of \$98.10 from the supplier which were charged to the Pharmacy. The next day, the Respondent received the bottles at the Pharmacy and threw away the receipt. After recording zero inventory received in the computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$700 to another individual.

(12) On October 20, 2016, the Respondent ordered three bottles of Promethazine with Codeine, 16 oz. for the price of \$98.10 from the supplier which were charged to the Pharmacy. The next day, the Respondent received the bottles and threw away the receipt. After recording zero inventory received in the computer, she transported the bottles in her purse to her residence where she sold the cough syrup for \$600 to another individual.

- F. Based on her training and experience, the Detective knew that Promethazine with Codeine and Promethazine VC may be sold by the shot for \$20 and was often mixed with soda. By itself, it sold on the street for \$300 a bottle and is one of the most “abused drugs that is sold on the streets.”
- G. The Detective further determined that the total amount of money that the Pharmacy lost due to the Respondent’s theft was \$850.20 and that the street value of the CDS was approximately \$7500.
- H. The Respondent wrote a statement admitting to the thefts and explained that she did so in order to support a family member.
- I. As a result of the thefts, the Respondent was terminated from employment from the Pharmacy on November 2, 2016.

5. As a result of the above thefts, the Respondent was also arrested and charged with a 30-Count criminal indictment in the Circuit Court for Prince George’s County, ranging from Manufacturing/Distributing/Possession of CS/Not Marijuana to Theft of Property.

6. Based upon the above, on February 16, 2017, the Board summarily suspended the Respondent’s registration; the Respondent failed to request a hearing or contest the Board’s Findings.

7. On October 31, 2017, in the Circuit Court for Prince George’s County, the Respondent pled guilty to Count Number 1 (manufacture/distribution/possession/prescription drugs) and Count Number 30 (theft less than \$100). The Respondent was sentenced to five

years incarceration, all suspended, and placed on supervised probation for a period of five years, with conditions of attending the Back on Track Program.⁴

8. As set forth above, by diverting drugs from her pharmacy employer and pleading guilty to same in a criminal court, the Respondent is in violation of Health Occ. §12-6B-09 (22) (Pleaded guilty or nolo contendere to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:

- (i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or
- (ii) Any appeal or other proceeding is pending regarding the matter [;]).

9. As set forth above, by having to attend a diversion program and report regularly to court, the Respondent is in violation of Health Occ. §12-6B-09 (24) (Is disciplined by a licensing 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 [;].)

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Respondent violated Health Occ. §12-6B-09 (22) and (24).

⁴ The Back On Track pilot program requires offenders to plead guilty, attend Prince George's Community College, complete consistent community service, and pass scheduled drug tests. If the offenders complete the program, they will be certified to work, have completed a financial literacy course, and be able to join society without a record. If not, they will serve their maximum sentence.

ORDER

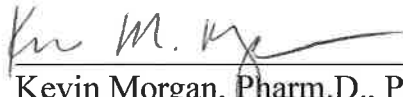
As set forth above, the Board hereby Orders, that the registration to practice as a Pharmacy Technician in Maryland held by **KIYOMI NICHOLS, Registration No. T18111**, the Respondent, be and is **REVOKED**, and that this Order is public, pursuant to Md. Code Ann., General Provisions §§ 4-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

NOTICE OF RIGHT OF APPEAL

In accordance with §12-316 of the Act and Md. Code Ann., St. Gov't. §§10-201, *et seq.* (2014 Repl. Vol. and 2018 Supp.), you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the aforesaid authority.

6/19/2019

Date



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