

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Interim Suspension
Order Against:

ANJELIKA DIORRE PERRY,

Pharmacy Technician Registration No. TCH
120303,

Respondent.

Case No. 5584

OAH No. 2015100872

ORDER GRANTING PETITION FOR INTERIM SUSPENSION

On November 13, 2015, at Los Angeles, California, the Petition of Virginia Herold (Petitioner), Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California (Board) for issuance of an interim order of suspension, came on for hearing before John E. DeCure, Administrative Law Judge with the Office of Administrative Hearings.

Christina Felix, Deputy Attorney General, represented Petitioner.

No appearance was made by Respondent Anjelika Diorre Perry (Respondent).

The written evidence and legal argument submitted by Petitioner having been read, and oral argument by Petitioner having been considered, the Administrative Law Judge makes the following Order:

1. Petitioner seeks an interim suspension order against Respondent based on Respondent's alleged inability to practice as a pharmacy technician safely due to Respondent's admission that she had stolen large quantities of controlled substances from her place of employment while acting as a pharmacist technician, which indicates that permitting Respondent to continue to work as a pharmacist technician without restrictions would endanger the public health, safety, or welfare.

//
//
//

FACTUAL FINDINGS

2. On or about April 17, 2012, the Board issued Pharmacy Technician Registration Number TCH 120303 to Respondent. The license was in full force and effect at all relevant times. It will expire on March 31, 2016, unless renewed. (Exhibit 1.)

3. In 2015, Respondent was employed as a pharmacy technician by CVS Pharmacy number 9985 (CVS) in West Los Angeles. On June 21, 2015, the CVS pharmacist-in-charge performed a routine review of the balance-on-hand reports for various drugs in the CVS inventory and discovered a negative quantity of 1,400 alprazolam 2mg tablets.¹ She then performed a stock-in-hand count of the alprazolam 2mg on the premises, reviewed invoices, and reviewed all dispensing information for alprazolam 2mg, confirming that 1,400 tablets were missing.

4. The pharmacist-in-charge reported the discrepancy to CVS's pharmacy supervisor. In response to the losses of alprazolam 2mg, CVS readjusted its security cameras for better observation and compared staffing schedules with invoices for ordering and receiving alprazolam 2mg. Respondent's scheduled work days at CVS correlated with the days that alprazolam 2mg was ordered and delivered. Further investigation revealed that by July 22, 2015, CVS had sustained a loss of a total of 2,180 alprazolam 2mg tablets.

5. On July 22, 2015, CVS management personnel interviewed Respondent, who admitted to stealing the missing alprazolam 2mg. Respondent also provided a written statement regarding her role in the theft, which involved stealing 18 bottles, containing 100 tablets per bottle, of alprazolam 2mg. According to Respondent, a man known only as "Get Down" threatened Respondent that he would kidnap her son if she did not provide him with the alprazolam, so Respondent carried out the thefts, delivering the stolen drugs to "Get Down" on the CVS rooftop.

6. James T. Flores, a Board Inspector who is also a licensed pharmacist, investigated the alleged theft of alprazolam 2mg following notification of the matter from CVS. Inspector Flores interviewed the CVS personnel involved and obtained the pharmacy's evidence and documentation of the theft. He then performed an independent audit and concluded that 2,140 tablets of alprazolam 2mg were lost during the time period in question.

7. Despite receiving notice from the Board of the date and time of the hearing and service of all relevant documents, Respondent filed no response to the allegations contained in the petition for interim suspension.

//

¹ Alprazolam (brand name "Xanax") is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1), and is frequently prescribed as an anti-anxiety medication.

LEGAL CONCLUSIONS

1. Respondent is unable to continue to safely practice as a pharmacy technician due to her violation of multiple provisions of the Business and Professions Code and Health and Safety Code, arising from her theft of controlled substances from her workplace as set forth in the petition and supporting documents.

2. Permitting Respondent to continue to engage in the licensed activity would endanger the public health safety and/or welfare. It appears from the petition and supporting documents that serious injury will result to the public if the below Order is not issued.

3. Business and Professions Code section 494 provides, in pertinent part:

(a) A board or an administrative law judge sitting alone, as provided in subdivision (h), may, upon petition, issue an interim order suspending any licentiate or imposing license restrictions, including, but not limited to, mandatory biological fluid testing, supervision, or remedial training. The petition shall include affidavits that demonstrate, to the satisfaction of the board, both of the following:

(1) The licentiate has engaged in acts or omissions constituting a violation of this code or has been convicted of a crime substantially related to the licensed activity.

(2) Permitting the licentiate to continue to engage in the licensed activity, or permitting the licentiate to continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare [¶] . . . [¶]

(c) Except as provided in subdivision (b), the licentiate shall be given at least 15 days' notice of the hearing on the petition for an interim order. The notice shall include documents submitted to the board in support of the petition [¶] . . . [¶]

(e) The board, or an administrative law judge sitting alone as provided in subdivision (h), shall issue a decision on the petition for interim order within five business days following submission of the matter. The standard of proof required to obtain an interim order pursuant to this section shall be a preponderance of the evidence standard [¶] . . . [¶]

(h) The board may, in its sole discretion, delegate the hearing on any petition for an interim order to an administrative law judge in the Office of Administrative Hearings

4. Business and Professions Code section 4000 et seq., known as the Pharmacy Law, in Chapter 9 of Division 2, comprises the law governing licentiates of the Board of Pharmacy, State of California relating to the practice of pharmacy.

5. Business and Professions Code section 4202 states, in pertinent part:

(a) The board may issue a pharmacy technician license to an individual if he or she is a high school graduate or possesses a general educational development certificate equivalent, and meets any one of the following requirements:

- (1) Has obtained an associate's degree in pharmacy technology.
- (2) Has completed a course of training specified by the board.
- (3) Has graduated from a school of pharmacy recognized by the board.
- (4) Is certified by the Pharmacy Technician Certification Board.

[¶] . . . [¶]

(d) The board may suspend or revoke a license issued pursuant to this section on any ground specified in Section 4301.

6. Business and Professions Code section 4301 provides, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following: [¶] . . . [¶]

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

[¶] . . . [¶]

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs. [¶] . . . [¶]

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

7. Petitioner established by a preponderance of the evidence that Respondent, by her theft of 1,800 alprazolam 2mg tablets, violated multiple provisions of the Business and Professions Code, including: section 4301, subdivision (f) (acts involving moral turpitude, dishonesty, fraud, deceit, or corruption); section 4301, subdivision (j) (violation of federal and/or state law concerning controlled substances and/or dangerous drugs); section 4301, subdivision (o) (violation of federal and/or state pharmacy law); section 4059 (furnishing any dangerous drug without a valid prescription); and section 4060 (possessing controlled substances without a valid prescription). By her actions, Respondent further violated Health and Safety Code: section 11153, subdivision (a) (improper dispensing of controlled substance); section 11173, subdivision (a) (unlawful obtaining of controlled substance by fraud, deceit, misrepresentation, or subterfuge); and section 11350 (unlawful possession of a controlled substance without a valid prescription).

8. Respondent admitted that she stole 1,800 alprazolam tablets from the pharmacy that employed her. She then provided them to a person, "Get Down," who had no prescriptions or legitimate purpose for their use, as according to Respondent, he used the threat of kidnapping, a federal crime, to gain her compliance. Even if Respondent's contention that "Get Down" essentially forced her to steal drugs was true, Respondent exercised deeply flawed judgment and committed multiple dishonest acts in a pharmacy setting. Under all of the circumstances, Respondent's justification for stealing the alprazolam was self-serving and not credible. Permitting Respondent to continue practicing as a pharmacy technician with ongoing access to drug inventories thereby poses a risk to the health, safety, welfare and interest of the public. Injunctive relief in the form of an interim suspension order is the only method by which public protection can be ensured.

9. Business and Professions Code section 4001.1 states:

Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

//
//
//
//
//
//
//
//
//
//
//
//

ORDER

1. The Petition for Interim Suspension Order is granted.
2. Pharmacy Technician Registration Number TCH 120303, issued to Respondent, Anjelika Diorre Perry, and all licensing rights appurtenant thereto, are suspended in accordance with Business and Professions Code section 494, and pending a full administrative determination of Respondent's fitness to practice as a pharmacy technician.
3. Respondent shall not:
 - a. Practice or attempt to practice, as a pharmacy technician, any aspect of pharmacy in the State of California until the decision of the Board following an administrative hearing;
 - b. Be present in any location which is maintained for the purpose of practicing pharmacy, or at which pharmacy is practiced, for any purpose, except as a patient or as a visitor of family or friends;
 - c. Advertise, by any means, or hold herself out as practicing or available to practice pharmacy.
4. Respondent shall, within 48 hours of receipt of this Order, deliver to the Board, or its agent, for safekeeping pending a final administrative order of the Board in this matter, all indicia of her licensure as a pharmacy technician, including, but not limited to, her wall certificate and wallet card issued by the Board.
5. Petitioner shall, within 15 days of the issuance of this Order, file an Accusation in conformance with Government Code section 11505, subdivision (c), against Respondent on the charges herein alleged.

Dated: November 18, 2015


JOHN E. DeCURE
Administrative Law Judge
Office of Administrative Hearings

DECLARATION OF SERVICE

Case Name: ANJELIKA DIORRE PERRY

OAH No.: 2015100872

I, Rosario Francisco, declare as follows: I am over 18 years of age and am not a party to this action. I am employed by the Office of Administrative Hearings. My business address is 320 W. Fourth Street, Suite 630, Los Angeles, California. On November 18, 2015, I served a copy of the following document(s) in the action entitled above:

ORDER GRANTING PETITION FOR INTERIM SUSPENSION

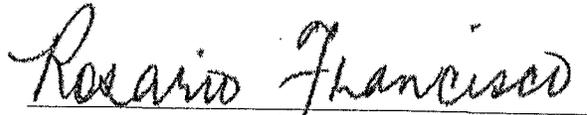
to each of the person(s) named below at the addresses listed after each name by the following method(s):

Christina Felix, Deputy Attorney General
Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

Anjelika Diorre Perry
941 S. Osage Avenue, Apt. 211
Inglewood, CA 90301

Overnight Delivery. I enclosed the above-described document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above, and placed the envelope or package with overnight delivery fees paid at an office or a location regularly utilized for collection and overnight delivery by an authorized overnight delivery courier.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed at Los Angeles, California on November 18, 2015:


Rosario Francisco, Declarant