

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

In the Matter of the Petition for Interim
Suspension Order Against:

CRYSTAL NICHOLE CUSIC
Sacramento, CA 95825,

Pharmacist Technician Registration License
No. TCH 110409,

Respondent.

Case No. CI 2015 6657 1

OAH No. 2016020347

DECISION ON PETITION FOR INTERIM SUSPENSION ORDER

A Petition for Interim Suspension Order (Petition) was heard before Erin R. Koch-Goodman, Administrative Law Judge, Office of Administrative Hearings (OAH), on February 19, 2016.

Leslie A. Burgermyer, Deputy Attorney General, appeared on behalf of Virginia Herold (petitioner), Executive Officer of the Board of Pharmacy (Board).

Crystal Nichole Cusic (respondent) appeared and represented herself.

Evidence was received, the record was closed, and the matter was submitted for decision on February 19, 2016.

SUMMARY OF DECISION

Petitioner filed the Petition seeking an Interim Suspension Order (ISO) against respondent under Business and Professions Code section 494, based upon allegations that respondent: (1) repeatedly diverted controlled substances and/or dangerous drugs from her employer, and (2) used the stolen controlled substances and/or dangerous drugs to an extent dangerous to herself and the public. The declarations petitioner submitted, and respondent's testimony demonstrate: (1) respondent has engaged in acts constituting violations of the Business and Professions Code; and (2) permitting respondent to continue practicing

pharmacy would endanger the public health, safety, and welfare. An ISO is therefore issued against respondent pursuant to Business and Professions Code section 494.

FACTUAL FINDINGS

1. On February 4, 2016, a Notice of Hearing on Petition for Interim Suspension Order (Notice of Hearing), a Petition and Memorandum of Points and Authorities for Interim Suspension Order with the Declarations of Leslie A. Burgermyer, Amanda J. Stallings, CVS Regional Diversion Manager, Trong Nghia Quoc Tran, CVS Pharmacy Supervisor, District 3, and Inspector Diann Wiedmann Potter, and supporting documentation, and the Sacramento County Sheriff's Department Report were served on respondent at her home address. The Notice of Hearing informed respondent that petitioner's Petition was scheduled for hearing on February 19, 2016, at 9:00 a.m., in OAH's Sacramento office. Respondent appeared.

2. On February 7, 2011, the Board issued Original Pharmacist Technician Registration Number TCH 110409 (license) to respondent. Respondent's license is currently in full force and effect.

3. From March 2013 through July 28, 2015, respondent was employed by CVS, at 3338 Arden Way, Sacramento, California, 95825 (Store #9992), as a Pharmacy Technician. In June 2015, CVS #9992, confirmed Alprazolam (Zanax) was missing from the pharmacy's inventory. From June 2015 through July 28, 2015, Stallings and Tran conducted an investigation of the missing Zanax and interviewed CVS #9992 pharmacy staff regarding the missing drug. On July 28, 2015, Stallings and Tran interviewed respondent.

4. During her interview, respondent admitted the following: on numerous occasions during the period of approximately July 2014 to July 2015, respondent stole and diverted approximately 600 tablets of Zanax 1 mg and 30 tablets of Buprenorphine 8 mg., and on numerous occasions during the period of approximately January 2015 to July 2015, respondent stole and diverted 150 tablets of Zolpidem Tartrate (Ambien) 10 mg. Respondent admitted to taking the drugs for her own use. She signed a statement admitting the same.

In addition, respondent admitted to taking Methadone prior to her employment with CVS, paid for by Medi-Care. When respondent began receiving medical benefits through CVS, her Medi-Care benefits ended and she could no longer afford the Methadone. A "friend" told respondent to start taking Buprenorphine to replace the Methadone, so she stole Buprenorphine from CVS. Respondent also admitted she had a personal prescription for Zanax .25 mg for anxiety and panic attacks, but it was not helping, so she stole Zanax 1 mg.

5. Zanax is a Schedule II controlled substance. (Health & Saf. Code, § 11057, subd. (d)(1).) Ambien is a Schedule IV controlled substance. (Health & Saf. Code, § 11057, subd. (d)(32).) Buprenorphine is a Schedule V controlled substance (Health & Saf. Code, § 11058, subd. (d)) and a Schedule III controlled substance according to the federal Drug

Enforcement Administration. These controlled substances are all dangerous drugs and require a valid prescription.

6. Stallings researched the prices for the drugs stolen by respondent. Stallings calculated the following: 30 Zanax 1mg tablets, 20 times, totaling \$245.80; 30 Buprenorphine 8 mg tablets totaling \$157.99; 30 Ambien 10 mg tablets, three times, totaling \$272.95. Stallings calculated the total price of the drugs stolen by respondent as \$676.74. Stallings presented her calculations to respondent during the interview and respondent signed a promissory note and agreed to reimburse CVS for the total amount of \$676.74. Respondent made one \$30 payment to CVS in August 2015, and had her mother pay the remaining balance on February 12, 2016, in anticipation of the instant Petition hearing.

7. Following her interview, CVS contacted the Sacramento County Sheriff's Department and reported respondent's theft. CVS then suspended respondent and released her. Later, CVS terminated respondent.

8. When all the declarations submitted during the hearing are considered, along with respondent's testimony, they establish that permitting respondent to continue to practice as a pharmacy technician pending the filing of an accusation and a decision rendered thereon would endanger the public health, safety, and welfare.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 494, an ISO may be issued when: (1) a licensee has "engaged in acts or omissions constituting a violation" of the Business and Professions Code; and (2) permitting the licensee to continue to engage in the licensed activity "would endanger the public health, safety, or welfare."

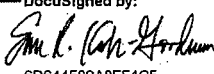
2. While working as a pharmacy technician, respondent stole controlled substances from her employer, and used the stolen controlled substances to an extent dangerous to herself and the public. (Factual Findings 3 through 7.) These acts constitute violations of the Business and Professions Code. (Bus. & Prof. Code, § 4301, subds. (f), (h), (j) & (o).)

3. The declarations submitted by petitioner, as well as respondent's testimony at the hearing demonstrate: (1) respondent has engaged in acts that constitute violations of the Business and Professions Code; and (2) permitting respondent to continue to practice as a pharmacy technician pending the filing of an accusation and a decision rendered thereon would endanger the public health, safety, and welfare. Petitioner therefore established that an ISO should be issued under Business and Professions Code section 494, subdivision (a), suspending respondent's license until an accusation may be filed against respondent in accordance with Business and Professions Code section 494, subdivision (f), and a decision is rendered thereon.

ORDER

Pursuant to Business and Professions Code section 494, subdivision (a), an interim suspension order is hereby issued against Pharmacist Technician Registration License No. TCH 110409 issued to respondent Crystal Nichole Cusic. Respondent is suspended from practicing as a pharmacy technician until an accusation is filed in accordance with Business and Professions Code section 494, subdivision (f), and a decision is rendered thereon. Failure to comply with the requirements of Business and Professions Code section 494, subdivision (f), shall dissolve the interim suspension order by operation of law, unless the parties agree otherwise.

DATED: February 23, 2016

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ERIN R. KOCH-GOODMAN
Administrative Law Judge
Office of Administrative Hearings