

**FILED**

JAN 24 2011

**BOARD OF PHARMACY**

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PHARMACY

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IN THE MATTER OF THE SUSPENSION OR	:	
REVOCAION OF THE REGISTRATION OF	:	Administrative Action
	:	
<b>WAYNE DELANCEY</b>	:	<b>FINAL ORDER</b>
Registration No.: 28RW01109300	:	<b>OF DISCIPLINE</b>
	:	
TO PRACTICE AS A PHARMACY	:	
TECHNICIAN IN THE STATE OF NEW JERSEY :	:	

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This matter was opened to the New Jersey State Board of Pharmacy (the "Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

**FINDINGS OF FACT**

1. Respondent, Wayne DeLancey ("Respondent") is a pharmacy technician in the State of New Jersey and has been a registrant at all times relevant hereto.
2. On September 30, 2009, Respondent provided a voluntary, witnessed and signed statement admitting that between June 1 and September 30, 2009, he removed medications including hydrocodone, suboxone, and alprazolam from his employer Rite Aid Pharmacy without paying for them. Respondent contended that he took the medications because he didn't have health insurance and the medications were the only things that helped his migraines. Respondent apologized and agreed to make restitution in the sum of \$4,563.27.
3. Rite Aid Pharmacy filed a Report of Theft or Loss of Controlled Substances indicating that discrepancies were discovered in alprazolam and hydrocodone during monthly DEA audits. The report stated that store video was reviewed and Respondent was seen taking the

medication, and that Respondent admitted to taking the medication. The report also indicates that Respondent was arrested by the Millville Police.

### **CONCLUSIONS OF LAW**

Respondent's theft of medication, including controlled dangerous substances, without valid prescriptions, provides grounds to take disciplinary action against Respondent's registration to practice as a pharmacy technician in New Jersey pursuant to N.J.S.A. 45:1-21 (b), (e), and (f) in that Respondent has engaged in the use or employment of dishonesty, deception, and misrepresentation, has engaged in multiple acts of professional misconduct, and has engaged in acts constituting a crime or offense relating adversely to the practice of pharmacy, the activity regulated by the Board.

### **DISCUSSION**

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking suspension of Respondent's license to practice pharmacy in the State of New Jersey was entered on July 14, 2010 and a copy was forwarded to Respondent at the last known address on file with the Board by means of both regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

According to the United States Postal Service website tracking for certified mail with return receipt #7009-0080-0000-5605-9782, the mail was delivered and signed for at Respondent's address of record, on August 5, 2010, therefore, the Board deems service to have been effected. No response

has been received to date. Respondent may not evade process by failing to respond the Board. Accordingly, it is determined that further proceedings are not necessary and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 24<sup>th</sup> day of January, 2011

ORDERED that:

1. Respondent's registration to practice as a pharmacy technician in the State of New Jersey is hereby suspended for a period of five (5) years from the date this Final Order of Discipline is entered in this matter, all such suspension to be served as a period of active suspension. The Board will not entertain an application for reinstatement of Respondent's registration for at least five years from the filing of this Final Order of Discipline.

2. Upon the entry of this Final Order of Discipline, Respondent shall immediately cease and desist from engaging in practice as a pharmacy technician, which includes, but is not limited to the following: Respondent shall not retrieve prescription files or patient files; shall not prepare medication labels; shall not engage in data entry for any pharmacy, shall not count, weigh, measure, pour or compound prescription medication or stock legend drugs and controlled substances; shall not fill an automated medication system; shall not accept authorization for a prescription refill or renewal; shall not handle anything requiring a prescription, including devices and medications; shall not handle prescriptions; and shall not be present within a prescription filling area of a pharmacy.

3. Any practice in this State in violation of the above conditions shall constitute grounds for discipline for violation of a Board Order and professional misconduct.

4. Within five (5) days following the filing of this Final Order of Discipline, Respondent shall surrender his original registration and the most recent renewal card to the Executive Director

of the Board by mailing same to Joanne Boyer, Executive Director, Board of Pharmacy, 124 Halsey Street, P.O. Box 45013, Newark, New Jersey 07101.

5. Prior to any reinstatement of his registration as a pharmacy technician, Respondent shall:

- a. Provide, to the Board's satisfaction, evidence that he is capable of discharging the functions of a registrant in a manner consistent with the public's health, safety and welfare and that he is not then suffering from any impairment or limitation resulting from the use of any addictive substance which could affect his practice.
- b. Provide the Board with complete treatment records of all diagnostic and rehabilitative therapy, discharge summaries from any in-patient programs, as well as reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who has participated in Respondent's care and/or treatment during the period of time from the date of the incidents giving rise to the within Order to his appearance before the Board pursuant to this Order, if any..
- c. Provide the Board with a full account of his conduct during the intervening period of time from the entry of this Order to his appearance pursuant to this Order.
- d. Provide the Board with proof of the resolution of any criminal charges filed against him, if any, and compliance with any terms imposed by the criminal authorities.
- e. Appear before the Board or a committee thereof, if so requested, to discuss his readiness to reenter practice as a pharmacy technician. At that time Respondent shall be prepared to propose his plans for future practice in New Jersey.
- f. Provide documentation of successful completion of all application requirements including a Criminal History Background Check and payment of all reinstatement fees.

6. If Respondent's registration to practice as a pharmacy technician is reinstated, the Board, in its discretion, may impose any conditions or restrictions on registration it deems necessary to protect the public health, safety and welfare.

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NEW JERSEY STATE BOARD OF PHARMACY

By: Edward G. McGinley  
Edward G. McGinley, R.Ph.  
President