STATE OF MARYLAND

DHMH

Department of Health and Mental Hygiene
Martin O'Malley, Governor - Anthony G. Brown, Lt. Governor - John M. Colmers, Secretary

MARYLAND BOARD OF PHARMACY
4201 Patterson Avenue • Baltimore, Maryland 21215-2299
Michael N. Souranis, Board President - LaVerne G. Naesea, Executive Director

VIA REGULAR & CERTIFIED MAIL RETURN RECEIPT REQUESTED
ARTICLE #7008 1830 0001 1599 0709

October 20, 2010

Deanna Higgs
26511 Anne Court
Mechanicsville, MD 20659

Re: Final Order of Revocation

Dear Ms. Higgs:

On August 13, 2010, the Board notified you of its intent to revoke your pharmacy technician registration and informed you that you had 30 days from the date of receipt of the Notice to request a hearing in writing. More than 30 days has elapsed, and no request has been received. Therefore, the enclosed Final Order is in effect.

Sincerely,

Michael N. Souranis, P.D., President
Maryland Board of Pharmacy

Enclosure (copy to all cc's)

cc: John Nugent, Principal Counsel
Roberta Gill, AAG, Administrative Prosecutor
Linda Bethman, Assistant Attorney General
Board Counsel
Francesca Gibbs, Staff Attorney
Board Counsel
Rosalind Spellman, Administrative Officer

DEANNA HIGGS, Pharm Tech	*	**STATE BOARD**
Registration No.: T00892	*	**OF PHARMACY**
Respondent	*	**Case No. PT-09-110**

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FINAL ORDER OF REVOCATION
OF THE RESPONDENT'S PHARMACY TECHNICIAN REGISTRATION

On August 13, 2010, the Board of Pharmacy (the "Board"), notified Deanna Higgs, Pharmacy Technician (Pharm Tech), the Respondent, of its Intent to Revoke her Pharmacy Technician 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 herein, which was enclosed. More than 30 days has elapsed and the Respondent failed to timely request a hearing. Therefore, this revocation is final.

The basis for the Board's action was pursuant to the Administrative Procedure Act (the "APA"), Md. State Govt. Code Ann. § 10-226(c) (1) (2009 Repl. Vol.) and the Maryland Pharmacy Act, codified at Md. Health Occ. Code Ann. § 12-101, et seq., ("the Act") (2009 Repl. Vol.).

The pertinent provision of § 10-226(c)(1) of the APA states:

Revocation of suspension.(sic)—(1) Except as provided in paragraph (2) of this subsection, a unit may not revoke or suspend a license unless the unit first gives the licensee:

(i) written notice of the facts that warrant suspension or revocation; and,

(ii) an opportunity to be heard.

The pertinent provisions of § 12-6B-09 of the Act state:

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:

(3) Fraudulently uses a pharmacy technician's registration;

(5) Performs delegated pharmacy acts while:

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(21) Is physically or mentally incompetent;

(25) Violates any regulation adopted by the Board.

(27) Participates in any activity that is grounds for Board action under § 12-313 or § 12-409 of this title[;].

The Board also charges the Respondent with a violation of its Pharmacist and Pharmacist Technician Code of Conduct, 10.34.10 (2/19/09):

.01 Patient Safety and Welfare.

A. A pharmacist shall:

(1) Abide by all federal and State laws relating to the practice of pharmacy and the dispensing, distribution, storage, and labeling of drugs and devices, including but not limited to:

(a) United States Code, Title 21,

(b) Health-General Article, Titles 21 and 22, Annotated Code of Maryland,

(c) Health Occupations Article, Title 12, Annotated Code of Maryland,

(d) Criminal Law Article, Title 5, Annotated Code of Maryland, and

(e) COMAR 10.19.03;

B. A pharmacist may not:

(1) Engage in conduct which departs from the standard of care ordinarily exercised by a pharmacist;

(3) Engage in unprofessional conduct.

.09 Sanctions.

A. The Board may take action to reprimand a licensee, place the licensee on probation, or suspend or revoke the licensee's license if the licensee commits a violation of this chapter.

C. The Board may impose a monetary penalty as authorized under Health Occupations Article, §§12-314, 12-410, and 12-6B-10, Annotated Code of Maryland.

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 Maryland. The Respondent was first registered on June 23, 2008. The Respondent's registration expired on August 31, 2009.

2. At all times relevant hereto, the Respondent was employed as a Pharm Tech at Tidewater Pharmacy in St. Mary's County, Maryland.

3. On or about March 3, 2009, the Pharmacist at Tidewater stated that she had returned a bottle onto the shelf and noticed six Oxycodone, 5mg pills, loose on the shelf, but no medication had been retrieved from that particular bay area for the last half hour. The Pharmacist questioned the Pharm Techs and was advised that that particular medication had not been dispensed since February 4, 2009. The Pharmacist then contacted the Respondent and another Pharm Tech who worked in that area to meet in the Store Manager's office.

4. The Store Manager questioned the two: the other Pharm Tech denied filling a prescription with that particular medication; the Respondent claimed that she had accidentally hit the shelf that morning and the bottle had fallen down, at which time several pills fell out of the container. The Store Manager requested that the Respondent and the other Pharm Tech empty their pockets. When the Respondent emptied hers,

nine other pills were discovered: three Oxycodone 5mg, three Oxycodone 15 mg, and three Oxycodone, 30 mg.

5. The Respondent then advised the Store Manager that she was addicted and attempting to wean herself off, and requested that the Store Manager not contact the police. The Respondent further stated that she had been stealing drugs from her employer since November 2008. Afterwards an inventory was taken of all of the drugs lost. That loss was documented on the required DEA form. The form stated that, due to employee pilferage, $565 was lost, with a total tablet count of various types of Oxycodone of 452.

6. The police were called and the Respondent was arrested and charged with three counts of possession of Controlled Dangerous Substances (CDS), not marijuana.[1]

CONCLUSIONS OF LAW

Based upon the aforegoing Facts, the Board concludes that the Respondent violated its Act and that the revocation is warranted, pursuant to § 12-6B-09 and § 10-226 (c) (1) of the APA.

[1] On June 11, 2009, the Respondent's cases were nolle prossed.

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Health Occ. Code Ann. § 12-316 (2009 Repl. Vol.) and the Administrative Procedure Act, Md. State Govt. Code Ann. § 10-201, *et seq.*, (2009 Repl. Vol.) 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 aforecited authority.

10/20/10
Date

Michael N. Souranis, P.D., President
Maryland Board of Pharmacy