

IN THE MATTER OF

\*

BEFORE THE

JIM SU PAK, P.D.

\*

MARYLAND STATE

LICENSE NO. 12280

\*

BOARD OF PHARMACY

RESPONDENT

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**ORDER CONTINUING SUMMARY SUSPENSION**

Pursuant to Md. Code Ann., State Gov't § 10-226(c) (1999 Repl. Vol.), and after a show cause hearing held on March 24, 2005, the State Board of Pharmacy (the "Board") hereby continues the summary suspension of the license to practice pharmacy issued to Jim Su Pak, P.D. (the "Respondent"), under the Maryland Pharmacy Act (the "Act"), Title 12, Health Occupations Article (2000 Repl. Vol.). This Order is based on the following investigative findings, which the Board has reason to believe are true:

**Findings**

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland.
2. At all times relevant hereto, the Respondent was the owner/permit holder of Hickory Plaza Pharmacy, which is located at 10805 Hickory Ridge Road, Columbia, Maryland 21044.
3. On or about November 19, 2004, the Board received and investigated an anonymous complaint that was originally reported to the Maryland Board of Physicians which indicated that the Respondent, while practicing pharmacy at

Hickory Plaza Pharmacy, was providing Percocet to an individual without a prescription.

4. On November 19, 2004, the Board requested that representatives from the Division of Drug Control ("DDC") perform an audit of the Percocet and generics at Hickory Plaza Pharmacy.

5. On December 17, 2004, DDC performed an audit of three (3) drugs at Hickory Plaza Pharmacy for the period of August 17, 2004 through December 17, 2004: brand and generic Oxycodone and APAP 10/325; brand and generic Oxycodone and APAP 5/325; and Oxycontin 40 mg.

6. The DDC audit revealed the following:

- a. There were 12 purchases of either Percocet 10/325 or the generic equivalent during the audit period comprising 3,600 tablets.
- b. Only 180 tablets were dispensed, and 370 remained in stock.
- c. Out of 3,600 tablets purchased, only 550 tablets could be accounted.

7. The Respondent initially told the auditors that the discrepancy could be blamed on two unreported burglaries, but later told the auditors that he took five Percocet 10/325 or the generic at a time, and that he eventually was taking 50 tablets per day.

8. The audit of Percocet 5/325 and its generic equivalent showed a slight overage that was attributed to the zero inventory assigned at the beginning of the inventory.

9. The audit noted that the Oxycontin 40mg showed a loss of 20 tablets during the audit period.

### **DISCUSSION**

The Respondent presented argument at the show cause hearing that he diverted approximately 3,000 Percocet 10/325 tablets between August and December, 2004, for his own personal use to treat his migraine headaches. The Respondent signed a rehabilitation contract with the Pharmacists Education and Assistance Committee ("PEAC") on March 9, 2005, and is currently receiving treatment for his substance abuse addiction. Although the Board finds the Respondent is making an earnest attempt at recovery, the Respondent has simply not demonstrated a significant period of sobriety that would enable him to practice pharmacy and have access to controlled dangerous substances without posing an imminent threat to the public or himself.

### **CONCLUSION OF LAW**

Based upon the foregoing, the Board concludes that the public health, safety, and welfare imperatively require emergency action, pursuant to Md. Code Ann., State Gov't Article § 10-226(c)(2) (1999 Repl. Vol.).

**ORDER**

Based on the foregoing, and after a Show Cause Hearing was held in which the Respondent was given the opportunity to be heard as to whether the Summary Suspension should continue, on this 7th day of April, 2005, by an affirmative vote of majority of the Board, by authority granted to the Board by Md. Code Ann., State Gov't Art. § 10-226(c)(2) (1999 Repl. Vol.), it is hereby,

**ORDERED** that the SUMMARY SUSPENSION of the Respondent's license to practice pharmacy in Maryland, License No. 12280, is CONTINUED; and be it further,

**ORDERED** that during the suspension period, the Respondent shall satisfy the following conditions:

1. The Respondent shall continue his contract with PEAC and abide by all of its terms, which shall include, at minimum:

- A. authorization for release of PEAC records, including therapy records, to the Board;
- B. random full urinalysis at least weekly;
- C. continuation of therapy;
- D. requirement of Board approval prior to any change or modification to the PEAC contract;
- E. requirement that PEAC submit quarterly progress reports to the Board; and
- E. requirement that PEAC notify the Board of any incident of non-compliance with the PEAC contract, this Consent Order, or

treatment, within two (2) business days of the occurrence;

2. The Respondent shall not work in a pharmacy prescription area as a technician; and

3. The Respondent shall never be in the pharmacy area of Hickory Plaza Pharmacy, and shall not be in any other area of Hickory Plaza Pharmacy unless another pharmacist is present in the prescription area; and be it further,

**ORDERED** that the Respondent may petition the Board for reinstatement no earlier than February 16, 2006, PROVIDED THAT:

1. The Respondent submits to the Board a satisfactory substance abuse evaluation, which has been conducted within thirty (30) days of the petition for reinstatement; and

2. The Respondent has complied with all conditions during the suspension period; and be it further,

**ORDERED** that the Board may impose any terms or conditions of probation upon any reinstatement of the Respondent's license; and be it further

**ORDERED** that the Respondent's failure to abide by the terms of his PEAC contract or his removal from or voluntary cessation of the PEAC program shall be deemed a violation of the conditions of suspension set forth herein; and be it further,

**ORDERED** that the Respondent shall bear the expenses associated with this Order; and be it further,

**ORDERED** that the Respondent may submit a written request to the Board within thirty (30) days of the date of this Order for an evidentiary hearing to be held before the Board on the summary suspension, which hearing may be

consolidated with a hearing on charges, should charges be issued; and be it further

**ORDERED** that this document constitutes a formal disciplinary action of the Maryland State Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to the Public Information Act., State Gov't § 10-611 *et seq.* and COMAR 10.34.01.12.

April 7, 2005  
Date

  
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Melvin Rubin, P.D.  
President, Board of Pharmacy