

IN THE MATTER OF	*	BEFORE THE
KIRK EASTHAM, PHARM TECH	*	STATE BOARD
REGISTRATION NO. T06380	*	OF PHARMACY
Respondent	*	CASE NO. PT-10-008

* * * * *

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

On December 15, 2010, the Maryland Board of Pharmacy (the "Board"), notified Kirk Eastham, Pharmacy Technician (Pharm Tech), the Respondent, of its Intent to Revoke his Pharm Tech registration. The Notice also informed the Respondent that, unless he 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 the Act state:

§ 12-6B-09. Grounds for reprimand or denial, probation, suspension, or revocation of registration:

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;
- (7) Willfully makes or files a false report or record as part of the registered pharmacy technician's duties or employment;
- (25) Violates any regulation adopted by the Board[;].

The Board also charges the Respondent with a violation of its Pharmacist and Pharmacist Technician Code of Conduct, 10.34.10 (November 12, 2001):

.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 September 28, 2009, via grandfathering. The Respondent's registration expires on May 31, 2011.

2. At all times relevant hereto, the Respondent was employed at a pharmacy at Annapolis Junction.

3. On November 13, 2009, the Respondent was fired from the pharmacy when it came to the attention of the pharmacy manager that he had been diverting Oxycodone 15 and 30 mg tablets from the pharmacy for his own use. An unmistakable pattern developed, where, on numerous occasions, an order for Oxycodone was entered by Order Entry but there was no proof of delivery to the facility.

4. The pharmacy filed a DEA report, as required.

5. On August 25, 2010, based upon the above, the Board issued a Summary Suspension against the Respondent's registration. The Respondent failed to ask for a hearing.

6. On December 15, 2010, the Board issued a Notice of Intent to Revoke the Respondent's Pharm Tech registration. The Respondent failed to ask for a hearing.

7. As set forth above, the Respondent violated the Act and revocation is warranted.


CONCLUSIONS OF LAW

Based upon the foregoing 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.

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Health Occ. Code Ann. § 12-315 (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 aforesaid authority.

4/5/2011
Date


LaVerne G. Naesea, Executive Director
for Michael N. Souranis, P.D., President
Board of Pharmacy