IN THE MATTER OF	*	BEFORE THE
HOLLY ROE, Pharm Tech	*	STATE BOARD
Registration No.:T04464	*	OF
Respondent	*	PHARMACY
	*	Case No. PT 10-002

* * * * * * * * * * * * *

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

On August 13, 2010, the Board of Pharmacy (the "Board"), notified Holly Roe, 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.

Subject to the hearing provisions of § 12-6B-09 the Act state:

Grounds for reprimand or denial, probation, suspension, or revocation of 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;

(22) Pleaded guilty or nolo contendere to, or has been found guilty of, a felony or a crime involving moral turpitude, regardless of whether:

(i) An adjudication of guilt or sentencing or imposition of sentence is withheld; or
(ii) Any appeal or other proceeding is pending regarding the matter;

(24) Is disciplined by a licensing, registering, or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(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 March 13, 2009. The Respondent's registration expires on September 30, 2010.

2. At all times relevant hereto, the Respondent was employed as a Pharm Tech at the CVS Pharmacy #2531 in Easton, Maryland.

3. On August 4, 2009, the pharmacy faxed a DEA 106 form to the DEA regarding a report of Theft or Loss of Controlled Substances. The report was occasioned by the following events:

A. On June 7, 2009, the Pharmacy Manager opened an investigation in the pharmacy based on information received from reports indicating variances for

various strengths of Hydrocodone;

B. On June 9, 2009, the Pharmacy Supervisor did a follow up count, which showed that the pharmacy was missing a total of 920 pills of Hydrocodone 10-325;

C. On July 9, 2009, the pharmacy had a covert camera installed in the aisle that contained the 500 count bottle of the Hydrocodone10-325;

D. On July 23, 2009, the manager received information from a staff pharmacist that a discrepancy in the drug count was found in that 12 pills were missing, though no prescriptions had been filled for that drug;

E. An investigator went to the store on July 29, 2009 to review the camera that had been installed and observed the following suspicious incidents on that camera:

(1) On July 21, 2009, the Respondent was observed entering the aisle where the Hydrocodone was located and was observed removing the bottle containing the drug from the shelf, opening the top end, and pouring an unknown quantity into her mouth;

(2) On July 24, 2009, the Respondent was observed entering the aisle with the cap already off of a bottle of medication, which she then poured an unknown quantity into her hand, after which she put the medication back on the shelf where the Hydrocodone was located;

(3) On July 27, 2009, the Respondent was seen entering the aisle in question with a large bottle of medication which she poured into her hand. After several seconds of the same activity, she put the bottle back on the shelf where the

Hydrocodone was located. As she exited the aisle, her hand was cupped.

F. On August 4, 2009, the investigator interviewed the Respondent in the presence of her supervisor. During the course of this conversation, the Respondent admitted verbally and, later, in a voluntarily executed written statement, to stealing approximately 1000 pills of Hydrocodone 10-325 for her own consumption over the previous eight months. The Respondent further admitted to taking other strengths of Hydrocodone that had been prescribed to her for pain management, but that she had developed an addiction and tolerance to them.

4. As a result of the admission, the Respondent was terminated and referred to law enforcement. The loss to CVS totaled $900.

5. On December 21, 2009, in the District Court for Talbot County, the Respondent pled guilty and was found guilty of CDS possession, not marihuana. She was ordered to pay restitution to CVS in the amount of $900 and was placed on probation until December 21, 2012.

7. On April 6, 2010, the Board summarily suspended the Respondent's registration.

8. As set forth above, the Respondent violated the Act and the regulations thereunder and her registration should be revoked.

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.

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