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KANSAS STATE
Board of Pharmacy

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of)
) Case No. 10-85
Jeremy Cortez)
Kansas Registration No. 14-08091.)

PETITION AND NOTICE OF INTENT TO REVOKE REGISTRATION

COMES NOW the Kansas Board of Pharmacy (the "Board" or "Petitioner") and reviews the file on Jeremy Cortez, Pharmacy Technician (the "Respondent").

THEREUPON, being duly advised in the matter, the Board finds that:

1. The Board is charged with the administration of the Kansas Pharmacy Act (K.S.A. § 65-1626, *et seq.*) (the "Pharmacy Act") and with the enforcement of the rules and regulations promulgated thereunder.
2. The Board is authorized to initiate proceedings to revoke any license, registration, or permit issued by the Board under the provisions of the Pharmacy Act. More specifically, the Board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground which would authorized the Board to take action against the license of a pharmacist under K.S.A. § 65-1627, and amendments thereto. K.S.A. § 65-1663(e)(1).
3. Respondent is currently registered as a pharmacy technician in the State of Kansas having been issued Registration No. 14-08091.

4. Pursuant to laws and regulations pertaining to registration of pharmacy technicians, the Board is authorized to conduct hearings, summary proceedings, and emergency proceedings under the Kansas Administrative Procedure Act (K.S.A. § 77-501, *et seq.*) (“KAPA”). K.S.A. § 65-1663(e)(4). Such proceedings may result in suspension, revocation, and other disciplinary actions affecting Respondent’s ability to work as a registered pharmacy technician in the State of Kansas.

5. K.S.A. § 65-1663(e)(1) provides:

The board may limit, suspend, or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground, which would authorize the Board to take action against the license of a pharmacist under K.S.A. § 65-1627, and amendments thereto.

6. K.S.A. § 65-1627(a)(3) provides:

(a) The board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that: . . . (3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency.

7. K.S.A. § 65-1626(rr) defines unprofessional conduct as:

. . . (2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison; (3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled; . . . (5) unlawful possession of drugs and unlawful diversion of drugs to others; . . . (7) conduct likely to deceive, defraud or harm the public; . . .

8. K.S.A. § 65-657 provides: “The following acts and the causing thereof within the state of Kansas are hereby prohibited: . . . (b) The adulteration or misbranding of any food, drug, device or cosmetic.”

9. K.S.A. § 65-1627(g) provides: “Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.”

INFORMATION WHICH EVIDENCES THAT
THE REGISTRATION OF JEREMEY CORTEZ AS A PHARMACY TECHNICIAN
IN THE STATE OF KANSAS SHOULD BE REVOKED.

10. Sometime prior to October 20, 2010, the Director and Manager of the Wesley Medical Center Pharmacy (the "Pharmacy") in Wichita, Kansas determined that drugs classified as controlled substances were missing from several Pyxis Medstation Pockets.

11. The drug of most concern to the Pharmacy was Oxycodone, 5 mg tablets. Oxycodone is a controlled substance used for the treatment of moderate to severe pain.

12. Not only was Oxycodone missing from the Pyxis Medstation Pockets, but other "look-alike" drugs had been used to replace the missing Oxycodone tablets. Some of the replacement drugs were Aspirin 81 mg, glimepiride 1 mg, and clonidine. None of the replacement drugs are used for the treatment of pain.

13. Upon discovering the substitution of non-pain medication for pain medication, the Pharmacy's Director and Manager had every machine compartment containing Oxycodone searched. The search found that several medication packages had been torn or otherwise tampered with. Oxycodone was missing from the packages and non-pain medication had been substituted.

14. An audit of the access logs demonstrated that the Respondent was the only individual who had accessed all of the Pyxis machines which contained tampered Oxycodone packages.

15. On or about October 20, 2010, a specific Pyxis machine (the "Machine") was checked to ensure that Oxycodone packages had not been tampered with. All Oxycodone in the Machine was secure and correctly packaged.

16. The Respondent accessed the Machine.

17. The Machine was checked by a registered nurse and a witness who found torn packages of Oxycodone.

18. Access logs for the Machine confirmed that the only person to have accessed the Machine was Respondent.

19. Respondent was terminated and the Pharmacy filed a DEA 106 form. The Board was notified and the Pharmacy took immediate action to secure its drugs from theft. These action included repositioning video cameras and instructing staff to report any evidence of drug tampering to pharmacy administration at the Pharmacy.

20. Respondent committed unprofessional conduct as defined by K.S.A. § 65-1626(rr)(5) when he obtained unlawful possession of Oxycodone.

21. Respondent committed several additional acts of unprofessional conduct, as defined by K.S.A. § 65-1626(rr)(2), (3) and (7) when he unlawfully substituted non-pain medication for pain medication knowing that the non-pain medication might be given to patients whose pain would not be controlled. All of Respondent's unlawful acts were likely to deceive, defraud or harm the public.

WHEREFORE, pursuant to K.S.A. §§ 65-627, 65-1663(e)(1), 65-1627(a)(3); 65-1626(rr)(2), (3), (5) and (7), 65-1627a and 77-501 et seq., and for the reasons stated above, petition and notice is hereby given of the Board's intent to revoke Respondent's registration as a pharmacy technician in the State of Kansas.

RIGHT TO HEARING

Respondent may request a hearing in accordance with the provisions of the KAPA. A written request for a hearing must be filed within fifteen (15) days of service of this petition and notice as prescribed by K.S.A. § 77-542(a). The request must be submitted to the following

person at the address shown. Failure to submit a timely request will result in a waiver of Respondent's right to a hearing, and this petition and notice will become a final order revoking Respondent's registration as a pharmacy technician in the State of Kansas.

Debra Billingsly
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson St., Suite 1414
Topeka, KS 66612.

IT IS SO ORDERED.

Dated this 17th day of August, 2011.

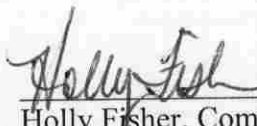


Investigative Board Member
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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of August, 2011, I deposited a true and correct copy of the above and foregoing "Petition and Notice of Intent to Revoke Registration" in the United States Mail, postage prepaid, and addressed to:

Jeremy Cortez
4431 W. 3rd
Wichita, KS 67212



Holly Fisher, Compliance Counsel
Kansas Board of Pharmacy