

**STATE OF KANSAS  
BEFORE THE KANSAS STATE BOARD OF PHARMACY**

Filed  
NOV 2-8 2010  
Board of Pharmacy

In the Matter of	)	
	)	
Marcus Ortiz	)	Case No. 10-84
Kansas Registration No. 14-05003	)	
_____	)	

**PETITION AND NOTICE OF INTENT TO REVOKE REGISTRATION**

COMES NOW the Kansas State Board of Pharmacy ("Board" or "Plaintiff") and reviews the file on Marcus Ortiz, Pharmacy Technician, ("Technician" or "Defendant").

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

**GENERAL**

1. The Board is charged with the administration of the Kansas Pharmacy Act (K.S.A. 65-1626, *et seq.*) and with the enforcement of the rules and regulations promulgated thereunder (K.A.R. 68-1-1a *et seq.*). Further, the Board is authorized to initiate proceedings to revoke any license, registration, or permit issued by the Board under provisions of the pharmacy act of the State of Kansas pursuant to K.S.A. 65-1627a. 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 authorize 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) The Technician is presently registered as a pharmacy technician in the State of Kansas having been issued Registration No. 14-05003.

2. 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.* K.S.A. 65-1663(e)(4) Such proceedings may result in suspension, revocation, and other disciplinary actions affecting Technician's ability to work as a registered pharmacy technician in the State of Kansas.

3. K.S.A. 65-1663(e)(1) provides that:

(e)(1) 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.

4. K.S.A. 65-1627(a)(3) provides that:

(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.

5. K.S.A. 65-1626(rr)(5) defines unprofessional conduct as:

(rr)(5) unlawful possession of drugs and unlawful diversion of drugs to others.

6. K.S.A. 65-1627(g) provides that:

(g) 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 MARCUS  
ORTIZ AS A PHARMACY TECHNICIAN IN THE STATE OF KANSAS SHOULD  
BE REVOKED

7. On October 4, 2010, the Technician admitted taking drugs, for which he did

not have a prescription, from CVS Pharmacy #8599 in Roeland Park, Kansas. The Technician further admitted that he did not pay for the drugs he took from the pharmacy and that some of the drugs were controlled substances. In addition, the Technician admitted taking cash from a register belonging to the pharmacy. The total amount of cash that the Technician admitted taking was \$60.

8. The theft of drugs and cash by the Technician was discovered when he was involved in an automobile accident on September 29, 2010. When searched by police, the Technician had 80 Lorazepam 2MG and 60 Lorazepam 1MG tablets in a bottle for which he lacked a prescription. Upon questioning by the police, the Technician admitted that he had taken the drugs without a prescription and without paying for them from CVS Pharmacy #8599 in Roeland Park, Kansas where he worked.

9. On October 4, 2010, the Technician admitted taking drugs and cash from CVS Pharmacy #8599. The admission was made to the Store's Manager and the Regional Loss Prevention Manager. The Technician confessed that he had been stealing drugs and cash from the pharmacy for over a year. He further stated that the thefts had proliferated during the previous two or three months. In all, the Technician admitted taking drugs which cost the pharmacy \$586.30. In addition to the \$60 cash he took, the Technician admitted stealing \$646.30 in drugs and cash from the pharmacy. The drugs taken included various strengths of Hydrocodone, Lorazepam, Alprazolam, Cyclobenzaprin, and Viagra.

10. A copy of the Technician's written confession is in the Board's possession. In his written confession, the Technician also stated that he unlawfully diverted stolen drugs to another person.

11. The Technician committed several acts of unprofessional conduct, as defined by K.S.A. 65-1626(rr)(5), when he unlawfully possessed drugs without a prescription and unlawfully diverted drugs to at least one other person.

12. The Board appoints William C. Rein, Attorney at Law, to serve on its behalf as Disciplinary Counsel in this case. Mr. Rein is authorized to work at his home address:

William C. Rein  
1831 SE 43<sup>rd</sup> Terrace  
Topeka, KS 66609  
(785) 266-3790 Personal  
(785) 224-5307 Cell  
Email: [wrein@cox.net](mailto:wrein@cox.net)

13. Mr. Rein is ordered to appear before the Board at all administrative dockets upon which this case is scheduled unless specifically allowed to appear by telephone upon permission granted by the Board or its Executive Secretary.

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

#### **RIGHT TO HEARING**

The Technician may request a hearing in accordance with the provisions of the Kansas Administrative Procedure Act. 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 the Technician's right to a hearing, and this petition and notice will become a final order revoking the Technician's registration as a pharmacy technician in the State of Kansas.

Debra Billingsley  
Executive Director  
Kansas State Board of Pharmacy  
800 SW Jackson - Suite 1414  
Topeka, KS 66612

**IT IS SO ORDERED.**

Dated this 11 day of November, 2010.



Investigative Member  
Kansas State Board of Pharmacy  
800 SW Jackson - Suite 1414  
Topeka, KS 66612  
(785) 296-4056 Main Office  
(785) 296-8420 FAX

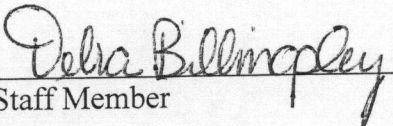
CERTIFICATE OF SERVICE

I hereby certify that on this 11 day of November, 2010, I deposited a true and correct copy of the above and forgoing "Petition and Notice of Intent to Revoke Registration" in the United States Mail, postage prepaid, and addressed to:

Marcus Ortiz  
1030 S. 25<sup>th</sup> St.  
Kansas City, KS 66106

William C. Rein, KS # 09579  
Disciplinary Counsel  
Kansas State Board of Pharmacy

*Direct Mailing Address:*  
William C. Rein  
1831 SE 43<sup>rd</sup> Terrace  
Topeka, KS 66609

  
Staff Member