

**IN THE MATTER OF**

**GAIL V. HENRY**

**Respondent**

**License No.: 09416**

\*

**BEFORE THE**

\*

**MARYLAND STATE**

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**BOARD OF PHARMACY**

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**Case No.: 19-025**

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**ORDER FOR SUMMARY SUSPENSION**

The Maryland State Board of Pharmacy (the "Board") hereby **SUMMARILY SUSPENDS** the license of **GAIL V. HENRY** (the "Respondent"), License Number 09416, to practice as a pharmacist in the State of Maryland. The Board takes such action pursuant to its authority under Md. Code Ann., State Gov't ("State Gov't") § 10-226(c)(2) (2014 Repl. Vol. and 2017 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action.

**INVESTIGATIVE FINDINGS**

Based on information received by, and made know to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true: <sup>1</sup>

1. At all times relevant hereto, the Respondent was licensed to practice as a pharmacist in the State of Maryland. The Respondent was first licensed as a pharmacist in Maryland on or about July 28, 1980. The Respondent's license expires on September 30, 2020.
2. At all times relevant hereto, the Respondent was employed as a pharmacist at a national chain pharmacy (the "Pharmacy").<sup>2</sup>

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<sup>1</sup> The statements regarding the Respondent's conduct are only intended to provide the Respondent with notice of the basis for the Board's action. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in this matter.

3. On or about June 15, 2018, the Board received a Controlled Substance Theft/Significant Loss One Business Day Notification (the “Notice”) from the Pharmacy. The Notice stated that on June 12, 2018, the Pharmacy had an occurrence it had classified as “employee pilferage.”
4. By correspondence dated June 21, 2018, the Board received a DEA (Drug Enforcement Agency) - 106 – Report of Theft or Loss of Controlled Substances (the “Report”) from the Pharmacy related to the loss referenced in the Notice.
5. The Report listed the controlled dangerous substances (“CDS”) that were lost/stolen as:

<b>Trade Name</b>	<b>NDC Number</b>	<b>Dosage Str.</b>	<b>Quality Lost/Stolen</b>
hydrocodone/acetaminophen	00591-2612-05	10mg-325mg	356
hydrocodone/acetaminophen	53746-0110-05	10mg-325mg	381
hydrocodone/acetaminophen	00591-3202-05	5mg-325mg	14
hydrocodone/acetaminophen	00591-2605-01	7.5mg-325mg	190
hydrocodone/acetaminophen	00591-2605-05	7.5mg-325mg	483
Lorazepam	00591-0241-05	1mg tablets	816

6. The Report listed the value of the lost CDS as \$1,716.55.

Pharmacy Internal Investigation

7. On or about April 2, 2018, Pharmacy management staff (“Staff”) noticed that on several occasions, a Smart Count for hydrocodone 7.5/325mg indicated inventory shortages. Staff noticed that the Respondent’s work schedule coincided with the dates the shortages occurred.

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<sup>2</sup> For confidentiality and privacy purposes, the names of individuals and facilities involved in this case are not disclosed in this document. Upon written request, the Administrative Prosecutor will provide the information to the Respondent.

8. On or about April 30, 2018, the Pharmacy's District Loss Prevention Manager ("Manager") installed a hidden camera above the CII safe to obtain additional surveillance.
9. On or about May 7, 2018, the Manager interviewed a pharmacy technician who stated that on May 4, 2018, she witnessed the Respondent remove a tablet of allergy medication from the shelf and consume it without paying for the medication. The pharmacy technician further stated that in the past she had also witnessed the Respondent remove blood pressure medication from the Pharmacy inventory and consume it without following proper procedures.
10. On or about May 30, 2018, the Manager reviewed the CCTV footage which revealed that the Respondent had placed tablets of hydrocodone (an opioid and a Schedule II CDS) in a separate amber vial while she filled a hydrocodone prescription. The footage showed the Respondent walked away from the fill counter, out of camera view, with the vial concealed in her hand. About three (3) seconds later, the Respondent then returned to the fill counter with no amber vial present/visible.
11. On June 4, 2018, the Manager interviewed the Respondent, who admitted that she had stolen medication from the Pharmacy on multiple occasions. The Respondent advised that she had stolen various strengths of hydrocodone between her normal refills. She also admitted that she consumed prescription and non-prescription medications from Pharmacy inventory, without paying for the medications or having followed proper prescription procedures. The Respondent stated she had stolen the medications to act as a "bridge" between her refills and to self-medicate. The Respondent further stated she took

the medication on days when she forgot to bring her prescription medication with her to work.

12. On June 4, 2018, at the conclusion of the interview, the Respondent provided the following written statement:

I, Gail Henry, make the following voluntary statement to [Manager] who had identified himself/herself to me as a District Loss Prevention Manager of the [National Chain Pharmacy]. No promises have been made, nor have I been threatened or mistreated by [Manager] or anyone else into giving this voluntary statement.

I am currently a Pharmacist Full Time...

I have worked for the [National Chain Pharmacy] since: 1/24/2013.

[Manager] interviewed me today 6/4 about drug loss in the pharmacy. I have on occasion filed my prescriptions when low before my next prescription[.]

13. On June 4, 2018, the Pharmacy terminated the Respondent's employment.

#### Criminal Charges

14. The Respondent was charged with ten (10) criminal misdemeanor counts related to the theft from the Pharmacy, in the District Court for Queen Anne's County, Maryland. The Respondent was charged with the following: one (1) count of Theft: \$100 to Under \$1,500; one (1) count of Theft Scheme: \$100 to <\$1,500; two (2) counts of CDS: Possession-Not Marijuana; one (1) count of CDS Opiate Without Prescription; and five (5) counts of Prescription: Illegal Manufacture. A trial is currently scheduled for November 29, 2018.

15. According to the Application for Statement of Charges:

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Ms. Henry stated she believed she started taking the medications from the [Pharmacy] in the middle of November, 2017, and it continued until she was released from [Pharmacy] employment in early June, 2018. Ms.

Henry stated that she believes she had been taking approximately five (5) Norco 7.5MG pills at a time, once a month for approximately 6 months. Ms. Henry also stated that she believed she had taken approximately one (1) or two (2) Metoprolol, Ativan, Trintellix, Lisinopril and Simvastatin a week for this same 6-month time frame.

I asked Ms. Henry why she was taking the pills from the [Pharmacy] and she stated that she would run out of her prescription each month of what her doctor had prescribed. I asked Ms. Henry why she didn't get her doctor to change her prescription and Ms. Henry stated it was just easier fro [sic] her to take a few pills here and there from the [Pharmacy] rather than go back to her doctor[.]

16. Based on the above information, the Board has reason to believe that the Respondent diverted multiple CDS and prescription-only medications over an extended time period.

### **CONCLUSIONS OF LAW**

Based on the foregoing investigative findings, the Board concludes as a matter of law that the public health, safety, or welfare imperatively require emergency action in this case, pursuant to State Gov't § 10-226(c)(2) (2014 Repl. Vol. and 2017 Supp.).

### **ORDER**

Based on the foregoing Investigative Findings and Conclusions of Law, it is this 4th day of October 2018, by a majority of the quorum of the Board, hereby

**ORDERED** that pursuant to the authority vested in the Board by State Gov't § 10-226(c)(2) (2014 Repl. Vol. and 2017 Supp.), the Respondent's license to practice as a pharmacist in the State of Maryland under license number 09416 is hereby **SUMMARILY SUSPENDED**; and it is further

**ORDERED** that the Respondent is prohibited from practicing as a pharmacist in the State of Maryland; and it is further

**ORDERED** that the Respondent shall immediately return all copies of her license to the Board; and it is further

**ORDERED** that the Respondent has the opportunity to appear before the Board for a post-deprivation show cause hearing. A request for a post-deprivation show cause hearing must be in writing and be made **WITHIN THIRTY (30) DAYS**; and it is further

**ORDERED** that if the Respondent fails to request a post-deprivation show cause hearing in writing in a timely manner, or if the Respondent requests a post-deprivation show cause hearing but fails to appear when scheduled, the Respondent's license will remain **SUSPENDED**; and it is further

**ORDERED** that this **ORDER FOR SUMMARY SUSPENSION** is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 Repl. Vol. and 2017 Supp.).

10/4/18

Date



Edward B. Fields III, MBA, Deputy  
Director, for  
Kevin M. Morgan, Pharm. D.  
President  
Maryland Board of Pharmacy