BEFORE THE INDIANA STATE BOARD OF PHARMACY
CAUSE NUMBER: 2010 IBP 0002

IN THE MATTER OF THE

LICENSE OF MISTY K. ENGLE, C.PH.T.

LICENSE NUMBER: 67002312A

FILED
JUN 15 2010
Indiana Professional Licensing Agency

COMPLAINT

This complaint is brought against the Pharmacy Technician in Training certification of Misty K. Engle, C.Ph.T., (Respondent), by the Office of the Attorney General, by counsel, Deputy Attorney General Morgan L. Burton, on behalf of the State of Indiana (Petitioner) and pursuant to Ind. Code § 25-1-7-7, Ind. Code § 25-1-5-3, Ind. Code § 25-23-1-7 et seq., the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 et seq., and Ind. Code § 25-1-9-1 et seq.

FACTS

1. Respondent is a Certified Pharmacy Technician in the State of Indiana holding certificate number 67002312A since 2003. Respondent's address on file with the Indiana State Board of Pharmacy is 13257 Aberdeen Rd., Dillsboro, IN 47018.

2. Respondent was employed with Rising Sun Pharmacy in Rising Sun, Indiana from 1998 until her employment was terminated on May 14, 2009.

3. On or about May 11, 2009, Respondent was charged with Dealing in a Controlled Substance, a Class B Felony, and Conspiracy to Commit Dealing in a Controlled Substance, a Class B Felony, in Ohio County Circuit Court, Cause No. 58C01-0905-FB-009.

4. On or about May 14, 2009, Respondent was charged with 3 Counts of Dealing in a Controlled Substance, a Class B Felony, and 2 Counts of Conspiracy to Commit Dealing in a

Controlled Substance, a Class B Felony, in Dearborn County Superior Court, Cause No. 15D02-0905-FB-004.

5. According to the Probable Cause Affidavits, Respondent was supplying her husband with Hydrocodone in a scheme whereby her husband would then sell the Hydrocodone. According to an audit performed by Eric Pearcy, Pharmacy Compliance Officer, Rising Sun Pharmacy was short over 36,000 Hydrocodone pills from June 2007 through March 2009. The pills that were sold by Respondent's husband to an undercover police officer were traced back to Rising Sun Pharmacy.

COUNT I

1. The Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(8) in that Respondent diverted a legend drug, to wit: Ambien, Lortab, Xanax, Alprazolam, Cedphalexin, Ultram, are Carbamazepine, as evidenced by the police finding these substances on her person and in her purse as well as the statement of an off-duty police officer that witnessed the Respondent taking pills out of the officer's pill bottle at the counter.

2. Respondent's violation of Indiana law is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of $1000.00 per violation, as detailed at Ind. Code § 25-1-9-9.

COUNT II

1. The Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(B) in that Respondent engaged in fraud or material deception in the course of

professional services as evidenced by Respondent's attempt to take pills out of patient's bottle while on duty as a pharmacy technician.

2. Respondent's violation of Indiana law is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of $1000.00 per violation, as detailed at Ind. Code § 25-1-9-9.

WHEREFORE, Petitioner demands an order against the Respondent that:

1. Imposes the appropriate disciplinary sanction;

2. Directs Respondent to immediately pay all costs incurred in the prosecution of this case; and;

3. Provides any further relief as the Board deems just and proper.

Respectfully submitted,

Gregory F. Zoeller,
Attorney General of Indiana

By: Morgan L Burton

Morgan L. Burton
Deputy Attorney General
Attorney No.: 26152-10A

OFFICE OF THE ATTORNEY GENERAL
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204-2770
Telephone Number (317) 234-2598

CERTIFICATE OF SERVICE

I certify that a copy of the "Complaint" has been duly served upon the Respondent listed below, by United States mail, first-class, postage prepaid, on this 15th day of June, 2010.

Misty Engle
13257 Aberdeen Rd.
Aurora, IN 47018

Morgan L. Burton

Morgan L. Burton
Deputy Attorney General