BEFORE THE INDIANA BOARD OF PHARMACY
CAUSE NO. 2013 IBP 0101

IN THE MATTER OF THE INDIANA PHARMACY TECHNICIAN CERTIFICATION OF

DENNIS FLEMING, C. PH. T.
LICENSE NO. 67018261A (EMERGENCY SUSPENSION)

COMPLAINT

The State of Indiana, ("Petitioner") by counsel, Deputy Attorney General Darren R. Covington, on behalf of the Office of the Attorney General, and pursuant to Ind. Code § 25-1-7-7, Ind. Code § 25-1-5-3, Ind. Code ch. 25-26-19, the Administrative Orders and Procedures Act, Ind. Code ch. 4-21.5-3 and Ind. Code ch. 25-1-9 files its Complaint against the pharmacist license of Dennis Fleming, C. Ph. T. ("Respondent"), and in support alleges and states:

FACTS

1. Respondent's address on file with the Indiana Professional Licensing Agency is 1503 Barrington Drive, Auburn, Indiana 46706.

2. Respondent is a certified pharmacy technician in the State of Indiana having been issued certification number 67018261A on August 26, 2010.

3. At all times relevant herein, Respondent was employed as a certified pharmacy technician with CVS 06495 in Auburn, Indiana ("CVS").

4. On July 15, 2013, the Regional Loss Prevention Manager for CVS ("RLPM") received a call from a floater pharmacist working at CVS indicating the pharmacist had found drugs, including hydrocodone 5/500, in the trash can in the pharmacy area at closing.

5. On or about June 17, 2013, RLPM began conducting an investigation at CVS that included several audits, and the Respondent admitted orally and in writing to drug diversion the same day.

6. Respondent admitted to discarding the drugs in the trash on July 15, 2013 because Respondent believed another technician saw him consuming a tablet. Respondent stated that he would steal the drugs by "scooping" extra tablets during a fill, admitted that he occasionally would consume the tablets at work, and admitted to taking 300 Vicodin ES, 15 Sulfa Ds, and 30 Tamsulosin over the course of five months. Respondent's employment was suspended after these admissions.

7. Respondent's conduct was reported to the Auburn Police Department, and the Respondent admitted to drug diversion to the police.

8. Respondent was charged with Theft, a Class D Felony, on February 1, 2013 in De Kalb County Superior Court in case number 17D01-1308-FD-000162.

9. On October 17, 2013, the Board issued an order placing the Respondent's pharmacy technician certification on summary suspension.

COUNT I

10. Paragraphs 1 through 9 are incorporated by reference herein.

11. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(8)(A), in that Respondent diverted 300 Vicodin ES, 15 Sulfa Ds, and 30 Tamsulosin over the course of five months as evidenced by his written and oral admission to said diversion.

COUNT II

12. Paragraphs 1 through 9 are incorporated by reference herein.

13. Respondent conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(4)(D), in that Respondent has continued to practice although he has become unfit to practice due to an abuse of or severe dependency upon Vicodin that impairs the Respondent's ability to practice safely.

WHEREFORE, Petitioner requests an order against Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all of the costs incurred in the prosecution of this case; and
3. Provides any other relief the Board deems just and proper.

Respectfully submitted,

Gregory F. Zoeller
Attorney General of Indiana
Attorney No.: 1958-98

By: _____
Darren R. Covington
Deputy Attorney General
Atty. No. 28511-16

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Complaint" has been sent to the Respondent's last known address by first-class mail, on this 15th day of November, 2013.

Dennis Fleming
1503 Barrington Drive
Auburn, IN 46706

Darren R. Covington
Deputy Attorney General
Atty. No. 28511-16

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