

BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NUMBER: 2013 IBP 0049

IN THE MATTER OF THE INDIANA
PHARMACY TECHNICIAN
CERTIFICATION AND PHARMACIST
INTERN REGISTRATION OF:

JUSTIN MYERS, C. PH. T.,
CERTIFICATION NUMBER: 67014356A.
REGISTRATION NUMBER: 45017829A.

FILED

AUG 15 2013

Indiana Professional
Licensing Agency

NOTICE OF PROPOSED DEFAULT AND SUMMARY SUSPENSION ORDER

An administrative hearing was scheduled to be held on August 12, 2013, before the Indiana Board of Pharmacy ("Board") in Room W064 of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204, to consider the Administrative Complaint ("Complaint") filed against Justin Richard Myers, C.Ph.T., R.Ph.I. ("Respondent") by the State of Indiana ("Petitioner") on July 16, 2013.

The State of Indiana was represented by Darren R. Covington, Deputy Attorney General. Respondent failed to appear in person or by counsel.

The Board, pursuant to Ind. Code § 4-21.5-3-24, voted 6-0-0 to issue a Notice of Proposed Default and Summary Suspension Order on the following grounds:

1. Respondent's address on file with the Indiana Professional Licensing Agency ("IPLA") is 2563 Woodview Drive, Zanesville, Indiana 46799.
2. A Complaint was filed by the Petitioner against Respondent on July 16, 2013.
3. On July 18, 2013, IPLA sent a hearing notice to Respondent at his listed address informing him of the date, time, and place of the administrative hearing on the Complaint scheduled for August 12, 2013 at 2:00 p.m.

4. Pursuant to Ind. Code § 4-21.5-3-20, Respondent was provided adequate notice of the hearing and failed to appear for the scheduled hearing in person or by counsel on August 12, 2013.

NOTICE OF PROPOSED DEFAULT ORDER

For Respondent's failure to appear for the scheduled hearing, the Board issued the following Notice of Proposed Default:

In accordance with Ind. Code § 4-21.5-3-24, Respondent must file a written motion within seven (7) days of service of this Order requesting the Board not enter a default order in this case and stating the reasons relied upon for that request. Failure of Respondent to file such a written motion within seven (7) days shall result in the issuance of a default order. If Respondent timely files a motion, the Board shall consider said motion along with any relevant facts in determining whether a default order should be entered. Should a default order be entered against Respondent, the Board may hold further proceedings it deems appropriate to complete this case without the participation of Respondent.

SUMMARY SUSPENSION ORDER

The Board, pursuant to Ind. Code § 4-21.5-4-1 *et seq.* and Ind. Code § 25-1-9-10, by a vote of 6-0-0, **SUMMARILY SUSPENDS** the certification and registration held by Respondent for ninety (90) days, as the Board finds that an emergency exists and that Respondent represents a clear and immediate danger to the public health and safety if allowed to practice pharmacy in the State of Indiana.

This **NON-FINAL** emergency order is based on evidence supporting the following findings:

1. At all times relevant herein, Respondent was employed as a pharmacy intern with Walgreens Pharmacy 9853 located in Fort Wayne, Indiana ("Walgreens").

2. Respondent was an intern from Manchester College in North Manchester, Indiana.

3. Walgreens's pharmacy manager conducted counts of Zolpidem 5 mg and 10 mg between February 19, 2013 and April 9, 2013, and had to make adjustments for each. By conducting counts, it was determined there was a loss of 1,072 Zolpidem 10 mg tablets and 299 Zolpidem 5 mg tablets.

4. Additional cameras were added to the pharmacy to watch the Zolpidem 5 mg and 10 mg bottles.

5. On April 9, 2013, Respondent was observed on video removing both strengths of Zolpidem from the shelf and walking around with them in a tote. Additional counts were performed by the pharmacy manager after Respondent left, and shortages were documented for 100 Zolpidem 5 mg and 100 Zolpidem 10 mg. The empty pill bottles for both strengths were recovered from one of the trash containers in the pharmacy.

6. When interviewed on April 16, 2013, Respondent admitted in a signed, written statement to diverting Zolpidem 5 mg and 10 mg strengths shortly after starting his internship at Walgreens. Respondent would grab the Zolpidem off the shelf, and place it next to other bottles that would be put back after filling. The Respondent would walk to the back, and pour the bottle in his pocket.

7. On or around May 13, 2013, the Indiana Board of Pharmacy summarily suspended Respondent's certification and registration for ninety (90) days.

WHEREFORE, RESPONDENT IS ORDERED to immediately cease all acts constituting the practice of pharmacy for a period of ninety (90) days, up to and including November 10, 2013.

ORDERED, this 15th day of August, 2013.

INDIANA BOARD OF PHARMACY

By: Maureen Bennett
for Nicholas W. Rhoad
Executive Director
Indiana Professional Licensing Agency

CERTIFICATE OF SERVICE

I certify that a copy of the "Notice of Proposed Default Order and Summary Suspension Order" has been duly served upon:

Justin Richard Myers
2563 Woodview Drive
Zanesville, IN 46799
Service by U.S. Mail

Darren R. Covington, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204
Service by Email

8/15/13
Date

Jackie Day
Jackie Day

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Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.