

BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NUMBER: 2013 IBP 0048

IN THE MATTER OF THE PHARMACY
TECHNICIAN CERTIFICATION OF:

LINDSEY E. MILLER, C. PH. T.,
CERTIFICATION NUMBER: 67020964A.

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 Lindsey E. Miller, C.Ph.T. ("Respondent") by the State of Indiana ("Petitioner") on June 24, 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 10600 Drexton Place, Newburgh, Indiana 47630.
2. A Complaint was filed by the Petitioner against Respondent on June 24, 2013.
3. On July 18, 2013, IPLA sent a hearing notice to Respondent at her listed address informing her 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 Respondent 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 held by Respondent for (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 technician with Walmart Pharmacy 10-5728 in Newburgh, Indiana ("Walmart").

8. On or around February 14, 2013, Walmart submitted a DEA Form 106 Report of Theft or Loss of Controlled Substances, which reported 1,227 missing clonazepam tablets, 10,664 missing hydrocodone tablets, and 5,614 missing alprazolam tablets.

9. On or around May 13, 2013, the Board summarily suspended Respondent's certification 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

2. On March 19, 2013, Walmart's asset protection manager was notified that there had been an excessive amount of on-hand changes of certain controlled substances in the pharmacy. A review of inventory, dispensing, and returns from the time period May 1, 2012 through March 16, 2013 revealed that the pharmacy experienced a shortage of approximately 15,292 doses of varying strengths of alprazolam, clonazepam, hydrocodone APAP, and lorazepam.

3. The asset protection manager's investigation led him to believe the Respondent was responsible. The Respondent was viewed on video three times in the month of March 2013 pocketing hydrocodone 10-325.

4. On March 21, 2013, the Respondent was interviewed and admitted in writing that she was addicted to Lortab, and had taken pills from the pharmacy. The Respondent was using the pharmacist's terminal to change the on-hand counts. The police were called, and a search of the Respondent's person and vehicle revealed controlled substances.

5. On March 26, 2013, Walmart notified the Indiana Professional Licensing Agency that they had terminated the employment of the Respondent for theft and diversion of a controlled substance. Her employment was terminated after she was arrested by the Warrick County Sheriff's Narcotic Unit on March 21, 2013.

6. On or around January 24, 2013, Respondent admitted to diverting controlled substances for personal use in a written statement given to Walmart.

7. In her written statement, Respondent admitted to diverting as much as 180 prescription drug tablets per week.

CERTIFICATE OF SERVICE

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

Lindsey E. Miller
10600 Drexton Place
Newburgh, IN 47630
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

Indiana Board of Pharmacy
Indiana Government Center South
402 West Washington St., Room W072
Indianapolis, IN 46204
Phone: 317-234-2067
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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.