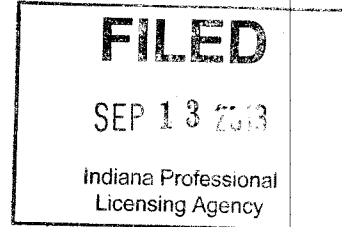


BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NUMBER: 2013 IBP 0049

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

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



**FINDINGS OF FACT, ULTIMATE FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER**

The Indiana Board of Pharmacy ("Board") held an administrative hearing on September 9, 2013, in Room W064 of the Indiana State Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204, concerning an Administrative Complaint ("Complaint") filed against Justin Richard Myers, C.Ph.T, R.Ph.I. ("Respondent") on July 16, 2013.

The State of Indiana ("Petitioner") was represented by Darren R. Covington, Deputy Attorney General. Respondent did not appear in person or by counsel.

The Board, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 6-0-0, finds Respondent to be in default. The Board, by another vote of 6-0-0, issues the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Respondent's address on file with the Indiana Professional Licensing Agency is 2563 Woodview Drive, Zanesville, Indiana 46799.
2. Respondent is a certified pharmacy technician in the State of Indiana having been issued certification number 67014356A on September 3, 2008.

3. Respondent is a registered pharmacist intern in the State of Indiana having been issued registration number 45017829A on September 20, 2012.

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

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

6. 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.

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

8. 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.

9. 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.

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

11. A Complaint was filed by the Petitioner against Respondent on July 16, 2013.

12. On July 18, 2013, the Indiana Professional Licensing Agency sent a hearing notice to Respondent at his last address of record 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.

13. 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.

14. On August 12, 2013, the Board voted 4-0-0 to issue a Notice of Proposed Default Order. On August 15, 2013, the Notice of Proposed Default Order was mailed to Respondent's address of record.

15. Respondent failed to submit a written response within seven (7) days as required by Ind. Code § 4-21.5-3-24.

16. On September 9, 2013, the Board voted, 6-0-0, to hold Respondent in default.

ULTIMATE FINDINGS OF FACT

Respondent is subject to disciplinary sanctions pursuant to Ind. Code § 25-1-9-4(a)(8)(A) in that Respondent has diverted a legend drug as evidenced by his statement on or about April 16, 2013 in which Respondent admitted that he diverted both Zolpidem 5 mg and Zolpidem 10 mg from Walgreens.

CONCLUSIONS OF LAW

Respondent's violations are cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or

revocation and a fine up to the amount of \$1,000 per violation as detailed in Ind. Code § 25-1-9-9.

ORDER

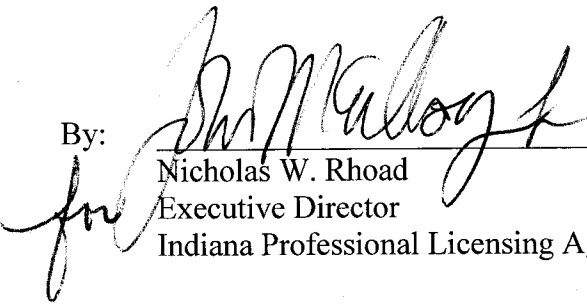
Based upon the above Findings of Fact, Ultimate Findings of Fact, and Conclusions of Law, the Board issues the following Order:

1. Respondent's pharmacy technician certification is **REVOKED**.
2. Respondent's pharmacist intern registration is **INDEFINITELY SUSPENDED**.
3. Within thirty (30) days of the date of this Order, pursuant to Ind. Code § 4-6-14-10(b), Respondent shall pay a fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the State of Indiana, and submitted to the following address:

Indiana Office of the Attorney General
ATTN: Katherine Lee
302 W. Washington St., 5th Floor
Indianapolis, IN 46204

ORDERED, this 13th day of September, 2013.

INDIANA BOARD OF PHARMACY

By: 

Nicholas W. Rhoad
Executive Director
Indiana Professional Licensing Agency

CERTIFICATE OF SERVICE

I certify that a copy of the "Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and 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 Indiana Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204
Service by Email

9/13/13
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.