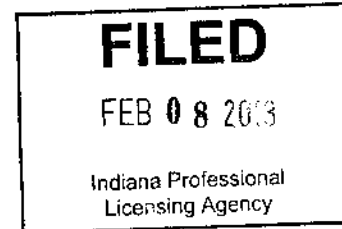


BEFORE THE INDIANA
BOARD OF PHARMACY
2013 IBP 0016

IN THE MATTER OF THE LICENSE OF)
)
KATHRYN SCHOLTZ TOLEN, R.PH.)
)
LICENSE NO. 26019870A (ACTIVE))



COMPLAINT

This complaint is brought against the pharmacist license of Kathryn Scholtz Tolen, R.Ph. (Respondent), by the Office of the Attorney General, by counsel, Deputy Attorney General Darren R. Covington, 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 ch. 25-26-13, the Administrative Orders and Procedures Act, Ind. Code art. 4-21.5 and Ind. Code ch. 25-1-9 and in support alleges and states:

FACTS

1. Respondent's address on file with the Indiana Professional Licensing Agency is 3400 Wright Court, West Lafayette, Indiana 47906.
2. Respondent is a licensed pharmacist in the State of Indiana having been issued license number 26019870A on July 15, 1999.
3. At all times relevant herein, Respondent was employed as a pharmacist with St. Elizabeth Hospital in Lafayette, Indiana.
4. On or around August 12, 2011, Respondent received a "final written warning" from St. Elizabeth Hospital after she accessed her niece's electronic medical record on April 3, 2011, from home, without a work-related need to access the record.
5. Respondent has had no prior discipline at St. Elizabeth Hospital.

6. In a letter to the Petitioner, Respondent indicated that she accessed her niece's electronic record while reading work emails from home. Respondent stated she did this so that she could check on her niece's condition and send her a card. Respondent also indicated she did not share this information with anyone else.

7. The Health Insurance Portability and Accountability Act (HIPAA) makes it an offense to access medical records without a legitimate business reason to do so, despite the purpose of the person accessing the record.

COUNT I

8. Paragraphs 1 through 7 are incorporated by reference herein.

9. Respondent violated Ind. Code § 25-1-9-4(a)(3) in that Respondent knowingly violated privacy laws found in HIPAA, 42 U.S.C. 300gg *et seq.*

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
Atty. No. 1958-98

By:

D-R S
Darren R. Covington
Deputy Attorney General
Attorney No. 28511-16

CERTIFICATE OF SERVICE

I certify that a copy of the "Complaint" has been duly served upon the Respondent, by
United States mail, first-class, postage prepaid, on this 8th day of February, 2013.

Kathryn Tolen
3400 Wright Ct.
West Lafayette, IN 47906

Chad Wilson
Hall Render
One American Sq. Ste. 2000
Box 82064
Indianapolis, IN 46282

By:

D-R-S

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

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