

BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NO: 2014 IBP 0026

IN THE MATTER OF THE INDIANA
PHARMACIST LICENSE OF:

RACHEL E. WILCOX, R. PH.,
LICENSE NUMBER: 26014872A

FILED

SEP 12 2014

Indiana Professional
Licensing Agency

FINAL ORDER ACCEPTING PROPOSED SETTLEMENT AGREEMENT

The State of Indiana ("State"), by the Office of the Attorney General, by Maritza K. Webb, Deputy Attorney General, Rachel Wilcox ("Respondent"), and Lorie Brown, counsel for Respondent, signed and filed before the Indiana Board of Pharmacy ("Board") a proposed Settlement Agreement ("Agreement") which purports to resolve all issues surrounding a Complaint filed on May 9, 2014 regarding the Respondent's license and has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the September 8, 2014 meeting held in the Auditorium of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204, now finds it has been entered into fairly and without fraud, duress, or undue influence, and is fair and equitable between the parties. The Board hereby incorporates the Agreement, which is attached hereto and incorporated herein as Exhibit A, and approves and adopts in full the Agreement as a final resolution of this matter. The Board approved this Agreement by a vote of 4 to 0 to 0. Incorporated into the Agreement was the consensus of both parties to Findings of Fact, Conclusions of Law, and Order.

WHEREFORE, the Board hereby accepts and approves the Agreement, settling all matters in this case consistent with the terms of the Agreement between the parties, and Respondent is hereby **ORDERED** to abide by all the terms of the Agreement.

SO ORDERED, this 12th day of September, 2014

INDIANA BOARD OF PHARMACY

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

BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NO: 2014 IBP 0026

IN THE MATTER OF THE INDIANA
PHARMACIST LICENSE OF:

RACHEL E. WILCOX, R. PH.,
LICENSE NUMBER: 26014872A (ACTIVE)

FILED

JUN 12 2014

Indiana Professional
Licensing Agency

PROPOSED SETTLEMENT AGREEMENT

The State of Indiana ("Petitioner"), by Maritza K. Webb, Deputy Attorney General, and Rachel E. Wilcox, R.Ph. ("Respondent"), hereby execute this Agreement to a disposition of the Complaint filed in this cause. This Agreement is subject to the review and approval of the Indiana Board of Pharmacy ("Board") pursuant to Ind. Code ch. 25-1-9 and the Administrative Orders and Procedures Act, Ind. Code art. 4-21.5.

STIPULATED FACTS

1. Respondent's address on file with the Indiana Professional Licensing Agency is 6275 Lakewood Drive, Greentown, Indiana 46936.
2. Respondent is a licensed pharmacist in the State of Indiana having been issued license number 26014872A on July 30, 1981.
3. At all times relevant herein, Respondent was employed as a staff pharmacist with Walmart Pharmacy #10-1329 in Logansport, Indiana ("Walmart").
4. On or about January 31, 2013, Respondent was the pharmacist on duty at Walmart and was responsible for closing the pharmacy.

EXHIBIT A

5. On or about January 31, 2013 the weather was foggy and Respondent planned to stay at a nearby hotel since she did not feel it was safe to drive home that evening.

6. On or about January 31, 2013, after closing the pharmacy for customers and turning off the computers, Respondent placed two (2) to four (4) Tizanidine tablets and one (1) olanzapine tablet into an unlabeled amber vial used for prescription medications.

7. Respondent did not label the amber vial prior to leaving the pharmacy for the evening.

8. In early February 2013, Walmart conducted an investigation into alarm anomalies at the store. As part of this investigation, video footage of the pharmacy on the evening of January 31, 2013 was reviewed and showed Respondent interacting with medications after the pharmacy had closed for the evening.

9. Further investigation yielded evidence that four (4) Tizanidine tablets and one (1) Olanzapine tablet were missing.

10. On or about February 5, 2013, Respondent was confronted by her supervisor at Walmart, Stephen Dennis, and admitted to taking two (2) Tizanidine tablets and one (1) Olanzapine tablet on January 31, 2013.

11. Respondent informed her supervisor at that time that the medications had been prescribed to her; and she took the medications from the pharmacy for her personal use since she was unable to return home to use her own supply of the medications before she needed to arrive for work the following day.

12. Respondent further revealed to Stephen Dennis that she had full knowledge of the partial prescription refills procedure, but chose not to follow this procedure on January 31, 2013.

13. Respondent has represented that she planned to inform her supervisor that she had fill a prescription for herself that did not follow the proper protocols of the pharmacy, but Respondent never followed through had that conversation with her supervisor.

14. On or about February 5, 2013, Respondent was terminated from her employment at Walmart.

15. Respondent has been employed as a pharmacist at Meijer Pharmacy in Marion, Indiana for the past seven months.

STIPULATED CONCLUSIONS OF LAW

The parties further stipulate:

1. Respondent violated Indiana Code 16-42-19-16(a)(D) in that Respondent obtained a legend drug by concealment of a material fact in that Respondent concealed the removal of the Tizanidine and Olanzapine tablets by failing to create records, failing to follow the partial prescription refill procedures, and failing to voluntarily inform her supervisor of her actions directly after the incident.

2. Respondent violated Indiana Code 25-1-9(a)(3) in that Respondent has knowingly violated a statute regulating her profession, specifically Indiana Code 16-42-19-11(a)(2) by failing to affix to the immediate container containing the Tizanidine and Olanzapine tablets any label with the information required by law as evidenced by Respondent's removal of the drugs from the pharmacy in an unlabeled amber vial.

3. Respondent violated Ind. Code § 25-1-9-4(a)(8)(A) in that Respondent has diverted a legend drug as evidenced her removal of Tizanidine and Olanzapine from the pharmacy on January 31, 2013 without making records, following the proper procedures for a partial

prescription refill, or obtaining any sort of authorization for removing the drugs from the pharmacy.

AGREED DISPOSITION

It is now therefore agreed by the Respondent and Petitioner as follows:

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action.

2. The parties execute this Agreement voluntarily.

3. Both parties voluntarily waive their rights to a public hearing on the Complaint.

4. Petitioner agrees that the terms of this Agreement will resolve any and all pending claims or allegations relating to disciplinary action against the Respondent's Indiana pharmacist license.

5. Respondent shall be issued a **LETTER OF REPRIMAND** from the Indiana Pharmacy Board.

6. Within ~~thirty~~ ^{R.W.M.W.} (120) days of the date of the Board's Order, Respondent shall pay a **FINE** in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00)** payable to the Indiana Professional Licensing Agency.

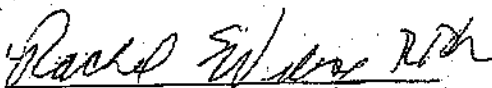
7. Within thirty (30) days of the date of the Board's Order, Respondent shall, pursuant to Indiana Code 4-6-14-10 (b), pay a fee of Five Dollars (\$5.00) within thirty (30) days of the date of the Final Order in this matter, to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order made payable to the State of Indiana, and submitted to the following address:

Indiana Office of the Attorney General
Attn: Kathy Shively

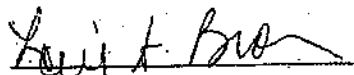
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

8. The Respondent further understands that a violation of the Final On compliance with the statutes or regulations regarding the practice of pharmacy, or an the Agreement may result in the Petition requesting an emergency suspension of the license, an Order to Show Cause as may be issued by the Board, or a new cause of action to Ind. Code § 25-1-9-4, and or all of which could lead to additional sanctions, up to and including a revocation of the Respondent's license.

9. The Respondent has carefully read and examined this Agreement and understands its terms and that, subject to a final order issued by the Board, this Agreement is the final disposition of all matters and not subject to further review.


Rachel Wilcox, R.Ph.
Respondent

June 6, 2014
Date


Lorie Brown
Attorney for the Respondent

June 6, 2014
Date


Maritza K. Webb
Deputy Attorney General

June 9, 2014
Date

CERTIFICATE OF SERVICE

I certify that a copy of the "Final Order Accepting Proposed Settlement Agreement" has been duly served upon:

Rachel E. Wilcox
6275 Lakewood Drive
Greentown, IN 46936
Service by U.S. Mail

Lorie A. Brown
718 Timber Mill Lane
Indianapolis, IN 46260
Service by U.S. Mail

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

9.12.14

Date


Jessi Rager, Litigation Specialist

Indiana Board of Pharmacy
Indiana Government Center South
402 West Washington St., W072
Indianapolis, IN 46204-2770
Phone: 317-234-2067
Fax: 314-233-4236
Email: pla4@pla.in.gov

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.