

**STATE OF NEW HAMPSHIRE  
OFFICE OF PROFESSIONAL  
LICENSURE AND CERTIFICATION**

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**BOARD OF PHARMACY**

**In Re: Chelsea Nicole McGill,  
License No.: PhT-128210**

**Docket No.: 2023-PHARM-015**

**NOTICE OF DECISION DATED 12/1/2023**

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Enclosed please find a copy of the Board's Order dated 12/1/2023 relative to:

**HEARING FINAL DECISION AND ORDER**

**MOTIONS/PETITIONS FOR RECONSIDERATION OR REHEARING:**

Pursuant to N.H. Code Admin. R. Plc 206.29(a) ("Rules") and RSA 310:14, II, motions/petitions for reconsideration or rehearing shall be filed within 30 calendar days after service of a final adjudicative order. Pursuant to Rule 206.29(b), the Motion/Petition shall: 1) clearly identify points of law or fact that the movant asserts the Board and/or Presiding Officer has overlooked or misapprehended; 2) contain such argument in support of the motion as the movant desires to present; and 3) be served by the movant on all other participants in accordance with Rule 206.11. Pursuant to Rule 206.29, no answer to a motion/petition for reconsideration or rehearing shall be required, but any answer or objection filed shall be delivered to the Presiding Officer's Office within 5 working days following receipt of service of the motion/petition for reconsideration. Pursuant to RSA 541:5, upon the filing of such motion/petition for rehearing or reconsideration, the Board or Presiding Officer shall within ten days either grant or deny the same, or suspend the order or decision complained of pending further consideration, and any order of suspension may be upon such terms and conditions as the Board or Presiding Officer may prescribe.

**RIGHT TO APPEAL:**

Pursuant to RSA 310:14, III, appeals from a decision on a rehearing and/or motion for reconsideration shall be by appeal to the New Hampshire Supreme Court pursuant to RSA 541. Pursuant to RSA 541:6, within 30 days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the decision on such rehearing, the applicant may appeal by petition to the New Hampshire Supreme Court. Pursuant to RSA 310:14, III, no sanction shall be stayed by the Board during an appeal.

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**BOARD OF PHARMACY**

**In Re: Chelsea Nicole McGill,  
License No.: PhT-128210**

**FINAL DECISION AND ORDER – 11/15/23**

**Docket No.: 2023-PHARM-015**

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**I. PARTICIPANTS:**

Board Members and Support Staff and Counsel:

David A. Rochefort, Board President and Member (Recused. Did not participate.)

Lindsey L. Laliberte, Board Vice President and Member

Karl Peicker, Board Secretary and Member

Eric Lessard, Board Member

Purvi Patel, Board Member

Robert Theriault, Board Member

Michael Gianunzio, OPLC Board Administrator

Shane Goulet, OPLC Board Counsel

Presiding Officer:

Attorney Nikolas Frye, OPLC Hearings Examiner

Thomas Pappas, Jr., OPLC Hearings Clerk

Parties:

Marissa Schuetz, Esq., Hearing Counsel

Chelsea Nicole McGill, Licensee (Failed to Appear)

**II. CASE SUMMARY/PROCEDURAL HISTORY:**

On 12/19/23 the New Hampshire Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”) received a New Hampshire Controlled Drug Loss Form from Rite Aid in Littleton, New Hampshire alleging employee theft of controlled substances by a registered

pharmacy technician, Chelsea Nicole McGill (“Licensee”). On 01/19/23, the Licensee signed a preliminary agreement not to practice. After investigation, the Board voted to initiate a disciplinary adjudicative proceeding in this matter. A final hearing in this matter was held on 11/15/23. This final decision and order follows.

**III. SUMMARY OF THE PROPOSED EVIDENCE AND EVIDENTIARY RULINGS:**

The Board received the following evidence pursuant to RSA 541-A:33 and Plc Rules 206.22 and 206.18(d):

A. Exhibits were submitted by Hearing Counsel, numbered as follows:

Exhibit 1	1/3/23 Email Complaint	HC001
Exhibit 2	12/16/22 Drug Loss Form	HC002
Exhibit 3	12/20/22 Written Statement Provided by McGill	HC004
Exhibit 4	1/5/23 Investigation Memo	HC006
Exhibit 5	1/9/23 Investigation Memo	HC007
Exhibit 6	4/7/23 Final Report of Investigation	HC008

B. Exhibits were submitted by the Licensee and labeled as follows:

None.

C. Sworn testimony was received from:

1. Kaitlyn Simoneau, OPLC – Chief Pharmacy Inspector (via offer of proof)

The Presiding Officer fully admitted Exhibits 1-6 at the prehearing conference held on 10/09/23.

**IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:**

The Licensee failed to appear for the final hearing in this matter as well as the prehearing conference held on 10/09/23. The record showed OPLC sent a notice of adjudicative hearing to the Licensee on 10/16/23 via certified mail, return receipt requested, first class mail, and email at the respective mailing and email addresses provided by the Licensee. The Notice of Hearing explained that the hearing is on 11/15/23 at 10:30 AM, located at OPLC, 7 Eagle Square, Concord, NH 03301, and

contained the information required by RSA 541-A:31 and Plc Rule 206.06(b). The record contained no correspondence from the Licensee in which she indicated an inability to make the hearing or requested a continuance. Hearing Counsel further confirmed that she had received no communication from the Licensee since May of 2023 when she had shown some interest in a possible settlement.

Based upon the foregoing, the Presiding Officer concluded that the Licensee had received notice of the hearing that complies with RSA 310:10, RSA 541-A, and the Federal and State Constitutions. The Presiding Officer additionally found that OPLC had provided “notice reasonably calculated, under all the circumstances, to apprise ... [the Licensee] ... of the pendency of the action and afford ... [her] ... an opportunity to present ... [her] ... objections.” *See, i.e., Jones v. Flowers*, 547 U.S. 220, 225-26 (2006). Although not necessarily required in this situation, the Presiding Officer also found the record demonstrates that OPLC and the Board took “additional reasonable steps” to provide notice to the Licensee. *See Id.*

The hearing was then held pursuant to RSA 310:10 with the burden of proof, by a preponderance of the evidence, placed upon Hearing Counsel. *See* Rule 206.07(e). Board Chair and Member David A. Rochefort recused himself and did not participate in the hearing or deliberation. The issues before the Board were:

- (1) Whether or not the Licensee committed professional misconduct, as defined at RSA 318:29, II(c) when, while working as a pharmacy technician at Rite Aid in Littleton, NH, on December 11, 2022, she diverted two (2) prescriptions for Percocet and Oxycontin and removed them from the pharmacy without authorization.
- (2) Whether or not the Licensee committed professional misconduct of Board statute or rule, as defined at RSA 318:29, II(d) when, working as a pharmacy technician at Rite Aid in Littleton, NH, on December 11, 2022, she diverted two (2) prescriptions for Percocet and Oxycontin and removed them from the pharmacy without authorization.
- (3) Whether or not the Licensee committed willful or repeated violations of Board statute or rule, or of any other state or federal drug or pharmacy related law, as defined at RSA 318:29, II(g) when, working as a pharmacy technician at Rite Aid in Littleton, NH, on December 11, 2022, she diverted two (2) prescriptions for Percocet and Oxycontin and

removed them from the pharmacy without authorization in contravention of Board statute or rule, or other laws including but not limited to RSA 318-B:2, I.

- (4) Whether and to what extent the Respondent should be subject to discipline pursuant to RSA 318:29, IV, V, RSA 312, and/or N.H. Code Admin. Rs. Ph. 2207 et seq.

NOH at II.(c).

The Board then heard evidence related to these inquiries as summarized below.

**HEARING COUNSEL’S CASE-IN-CHIEF:**

**Offer of Proof from Hearing Counsel (Kaitlyn Simoneau):**

Hearing Counsel’s used Exhibits 1-6 to provide an offer of proof to the Board, which Kaitlyn Simoneau attested to under oath.

**LICENSEE’S CASE-IN-CHIEF:**

None.

**V. DISCUSSION, FINDINGS OF FACTS, AND CONCLUSIONS OF LAW:**

Based upon the evidence that was presented to the Board at the hearing, and considering the presentation and demeanor of all the witness, the Board makes the following findings of facts:

1. At all times relevant, Respondent held active registered pharmacy technician license #PhT-128210 issued on August 12, 2022.
2. At all times relevant, Respondent worked as a registered pharmacy technician at Rite Aid located at 136 Meadow Street, Littleton, NH 03561.
3. On or about December 16, 2022, OPLC Enforcement received a “Controlled Drug Loss Form” from the Littleton Rite Aid indicating that 56 tablets of Oxycontin ER, 10 Mg, and 60 tablets of Oxycodone/Acetaminophen, 5/325 Mg. were missing from the will-call pickup area. The “Form” indicated it was suspected employee theft.
4. On or about December 20, 2022, Respondent provided a signed written response to Rite Aid where she admitted taking the oxycodone and oxycontin from the store without authorization.
5. Rite Aide District Manager, Viral Shah, reported OPLC Enforcement that the Respondent was observed on video diverting the oxycodone and oxycontin medication.
6. Rite Aide District Manager, Viral Shah, reported to OPLC Enforcement that the Respondent admitted to the theft of the controlled substances during an asset protection interview.

7. Respondent executed, and the Board accepted, a Preliminary Agreement Not to Practice on January 1, 2023.
8. OPLC Inspector Croteau made multiple attempts to contact Respondent and meet with her to discuss the allegations, but Respondent repeatedly failed to appear.
9. A Pre-Hearing Conference was held in this matter on October 9, 2023, at 11:00 AM EST, and Respondent failed to appear.
10. The Respondent failed to appear for her adjudicative hearing on November 15, 2023.

Based upon the findings of fact made by the Board and evidence presented, the Presiding Officer makes the following conclusions of law:

1. Hearing Counsel has established, by clear and convincing evidence, that the Licensee committed professional misconduct, as defined at RSA 318:29, II(c) when, while working as a pharmacy technician at Rite Aid in Littleton, NH, on December 11, 2022, she diverted two (2) prescriptions for Oxycodone/Acetaminophen and Oxycontin and removed them from the pharmacy without authorization.
2. Hearing Counsel has established, by clear and convincing evidence, the Licensee committed professional misconduct, as defined at RSA 318:29, II(d), when, while working as a pharmacy technician at Rite Aid in Littleton, NH, on December 11, 2022, she diverted two (2) prescriptions for Oxycodone/Acetaminophen and Oxycontin and removed them from the pharmacy without authorization.
3. Hearing Counsel has established, by clear and convincing evidence, the Licensee committed professional misconduct, as defined at RSA 318:29, II(g), when, while working as a pharmacy technician at Rite Aid in Littleton, NH, on December 11, 2022, she willfully diverted two (2) prescriptions for Oxycodone/Acetaminophen and Oxycontin and removed them from the pharmacy without authorization in contravention of RSA 318-B:2, I and RSA 318-B et seq.
4. The oxycontin and oxycodone/acetaminophen that the Licensee diverted are controlled drugs as defined at RSA 318-B:1, VI. *See* RSA 318-B:1-a, He-C 501.03(a), and 21 CFR 1308.11-15.

Upon a finding of misconduct made pursuant to RSA 318:29, II, by clear and convincing evidence, the Board imposes the following disciplinary action against the Licensee pursuant to RSA 310:12, I(c) and Plc Rule 206.24:

1. The Licensee's license is **REVOKED**.

**VI. CONCLUSION AND DECISION:**

Pursuant to RSA 310:10, RSA 310:12, and RSA 318, the Presiding Officer and Board hereby makes the herein findings of professional misconduct and **REVOKES** the Licensee's license as a New Hampshire pharmacy technician.

DATED: 12/1/2023

\_\_\_\_\_/s/ Nikolas K. Frye, Presiding Officer\_\_\_\_\_  
Presiding Officer  
New Hampshire Office of  
Professional Licensure & Certification  
7 Eagle Square  
Concord, NH 03301