

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

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**BOARD OF PHARMACY**

**In Re: Ashley Ormandy, PhT  
Pharm Tech Reg. # PhT-129262**

**ORDER ON RSA 310:12, IV  
EMERGENCY LICENSE SUSPENSION  
HEARING- 12/07/23**

Docket No.: 23-PHARM-018

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**I. PARTICIPANTS:**

Board Members:

David A. Rochefort, Board President and Member  
Karl Peicker, Board Secretary and Member  
Eric Lessard, Board Member  
Purvi Patel, Board Member  
Robert Theriault, Board Member

Board Support Staff and Counsel:

Alexander Fisher, OPLC Board Administrator  
Attorney 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  
Ashley Ormandy, Licensee (failed to appear)

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

On or about 11/27/2023, the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”) filed a Verified Petition for Emergency Temporary Suspension of Licensure Pursuant to RSA 310:12, IV and N.H. Code Admin.R. Title Plc 206.07

pertaining to Ashley Ormandy, Pharmacy Technician (“Licensee”). On 11/28/23, the Board voted to suspend the Licensee’s privilege to practice in New Hampshire on an emergency basis pursuant RSA 310:12, IV and N.H. Code Admin. R., Title Plc 206.07 (“Plc”) (“Rules”). The Board held a hearing on 12/07/23 to determine whether the Licensee presented an imminent threat to public health, safety, or welfare such that her license should remain emergently suspended pending a full investigation and possible final disciplinary proceeding. 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 Rules 206.18(e) and 206.22:

a. Exhibits were filed by Hearing Counsel, labeled as follows:

Exhibit 1	October 26, 2023 Initial Drug Loss Form	HC0001
Exhibit 2	November 17, 2023 Final Drug Loss Form and email	HC0003
Exhibit 3	November 20, 2023 Facility Investigation Report	HC0007
Exhibit 4	November 27, 2023 Interview Report of Jessica Gonzales	HC0013
Exhibit 5	Summary Report of Security Video	HC0015
Exhibit 6	Verified petition for emergency suspension	HC0017
Exhibit 7	Facility Security video from October 16, 2023	

b. Exhibits were filed by the Licensee and labeled by the Presiding Officer as follows:

None.

c. Sworn testimony was received from:

1. Kaitlyn Simoneau, OPLC Chief Pharmacy Inspector (called by Hearing Counsel)
2. Brendon White, OPLC Investigator (called by Hearing Counsel)

The Presiding Officer held a prehearing conference directly before the hearing at which the Presiding Officer fully admitted Hearing Counsel’s Exhibits 1-7 and the proposed testimony of

Kaitlyn Simoneau and Brendon White, subject to examination and contemporaneous objection to specific questions or testimony. The Licensee failed to appear for the prehearing conference. This serves as the prehearing conference order.

**IV. SUMMARY 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 directly before it. The Hearings Clerk was sworn in and testified under oath. Mr. Pappas testified that on 11/28/23 he emailed the Notice of Hearing to the email address the Licensee had provided the Board. Mr. Pappas explained that on 11/29/23 he mailed the notice of hearing via regular and certified mail to the mailing address the Licensee had provided to the Board. According to his testimony, as of the date and time of the hearing he had not received a return receipt or any returned mail. The record shows the Notice of Hearing explained that the hearing is on 12/07/23 at 10:00 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.

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 310:12, IV with the burden of proof, by a preponderance of the evidence, placed upon Hearing Counsel. *See* Rule 206.07(e). The sole issue was:

[w]hether the Licensee’s license should be suspended pending a full adjudicatory hearing in this matter because she presents an imminent threat to the public health, safety, or welfare as more particularly described in the Board’s 11/28/23 Order of Emergency Suspension and the 11/27/23 Verified Petition for Emergency Temporary Suspension of Licensure Pursuant to RSA 310:12, IV and N.H. Code Admin.R. Title Plc 206.07 pertaining to the Licensee.

NOH at II.(d)(1).

The factual allegations most germane to this limited inquiry were as follows:

video footage from Rite Aid Security at 331 Main Street, Nashua, New Hampshire appears to show the Licensee concealing two vials of controlled substances from separate Will Call bags at the pharmacy while working there as a pharmacy technician.

11/28/23 Ord. Emer. Susp., par. IV, page 2.

The Board heard evidence related to that inquiry as summarized below.

#### **HEARING COUNSEL’S CASE-IN-CHIEF**

##### **Kaitlyn Simoneau, OPLC Chief Pharmacy Investigator**

The Board took administrative notice of Ms. Simoneau’s training and experience as OPLC Chief Pharmacy Inspector. She then generally provided foundation for Exhibits 1-3 and 6 and testified as to their contents and authenticity. In doing so, she also testified to the investigation she conducted with respect to this matter.

##### **Brendon White, OPLC Investigator**

Mr. White generally provided foundation for Exhibits 3-5 and 7 and testified as to their contents and authenticity. In doing so, he also testified as to the investigation he conducted with respect to this matter.

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

Based upon the evidence presented, and accounting for the presentation and demeanor of the witnesses, the Board makes the following findings of fact:

1. On October 16, 2023, the Respondent was working as a Licensed Pharmacy Technician (PhT-129262) at Rite Aid Pharmacy in Nashua N.H. # 10270.
2. On October 16, 2023, the Respondent diverted two vials of Oxycodone 5MG, Quantity 10 each for a total of 20 Oxycodone pills (RX 10270-2233631 and RX 10270-223808), by removing them from the will call prescription area and placing them into the back of her pants.
3. On October 21, 2023, the Respondent texted Rite Aid store manager, Jessica Gonzales, resigning from her position as a Pharmacy Technician, effective immediately, citing mental health, and other personal struggles.

Based upon the findings of fact made by the Board, the Presiding Officer makes the renders the following legal opinion and makes the following conclusions of law:<sup>1</sup>

1. Pursuant to RSA 310:12, IV and Rule 206.07(e)(1), Hearing Counsel has met their burden of proof that allowing the Licensee to remain practicing as a registered pharmacy technician pending a full adjudication of this matter poses a threat to public health, safety, or welfare.
2. Pursuant to RSA 310:12, IV and Rule 206.07(e)(2), Hearing Counsel has met their burden of proof that the threat to public health, safety, or welfare outweighs the Licensee's interests in continuing to practice.

**VI. CONCLUSION AND ORDERS:**

1. Pursuant to RSA 310:12, IV, and Rule 206.07, the Presiding Officer and Board continues the emergency suspension of Ashley Ormandy's privilege to practice as a registered pharmacy technician in the State of New Hampshire. The Licensee may **not** resume practicing.

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<sup>1</sup> Insofar as the Board's findings of fact contain any conclusions of law, the Presiding Officer did not rely on such conclusions when rendering his legal opinions and conclusions of law.

2. Pursuant to Plc Rule 206.07(h), the Board hereby schedules the final adjudicatory hearing in this matter to occur within 60 days of the 11/28/23 Order of Emergency Suspension. The final disciplinary hearing is therefore scheduled to occur on **01/17/2024 at 10:00 AM EST at OPLC, 7 Eagle Square, Concord, NH 03301**. A new notice of hearing shall follow.
3. On or before 12/21/23, the parties shall provide dates of mutual availability for a 30 minute prehearing conference to occur via Zoom in the second week of January 2024.
4. Pursuant to Plc Rules 204.06 and 206.07(h), on or before 12/17/23, Hearing Counsel shall file proposed issues presented for the 01/17/24 final disciplinary hearing.
5. Pursuant to RSA 310:10, II, the Presiding Officer, acting as the OPLC Executive Director's designee in this disciplinary proceeding, adopts Pharmacy Rule 2201.01(k): "'Professional misconduct' means behavior by a professional that implies an intentional compromise of ethical standards, including the acts specified in RSA 318:29, II.

So ordered.

DATED: 12/15/2023

\_\_\_\_\_/s/ Nikolas K. Frye, Esq.\_\_\_\_\_  
Nikolas K. Frye, Esq., Hearings Examiner  
Presiding Officer  
New Hampshire Office of  
Professional Licensure & Certification  
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Concord, NH 03301