

Before the New Hampshire
Board of Pharmacy
Concord, NH 03301

In the Matter of:

Jeffrey Audet, R.Ph.

License No 3182

ORDER

On or about June 16, 2017, the New Hampshire Board of Pharmacy ("the Board") issued a Notice of Hearing to Jeffrey Audet, R.Ph. to answer certain allegations relating to his alleged failure to notify the Board of a drug diversion. The Board held the hearing on July 19, 2017.

Background

On or about May 4, 2017, the New Hampshire Board of Pharmacy ("the Board") sent Jeffrey Audet, R.Ph. a Notice of Violation, alleging violations of Ph 703.03(a), 703.03(b), 803.01, and 805.01(b). Specifically, the Notice of Violation alleged the following: An investigator for the Board had learned that on March 29, 2016, a Wellness Ambassador employed at Rite Aid #10293 but not registered as a pharmacy technician had been sent on an errand to pick up one bottle of 100 Norco ® (Hydrocodone 5 mg/Acetaminophen 325 mg), a schedule II controlled substance, from another Right Aid with a properly executed DEA 222 form. Some of those drugs were diverted. Mr. Audet had been the pharmacist on duty that day and, after discovering the loss, he notified the Rite-Aid asset protection manager. The Wellness Ambassador was interviewed, she admitted the drug diversion, and her employment was terminated on March 30, 2016. However, Mr. Audet did not notify the Board of the diversion until April 25, 2016. The Notice of Violation concluded by proposing a reprimand and a \$1,000 fine, and stated that Mr. Audet could either waive his right to a hearing a pay the fine or request a

hearing on the matter. On or about May 16, 2017, the Board received Mr. Audet's request for a hearing.

The Board held a hearing on July 19, 2017. Mr. Audet appeared and testified on his own behalf. Mr. Audet testified that he was just trying to take care of his patient and everything he did was well intentioned and he felt he did nothing wrong and would do the same thing again. When asked about not filing the loss report to the Board within 24 hours he stated at first he didn't know it was a loss, found out 3 days later at a meeting outside the store from his PDM and assumed the fill in or float pharmacist took care of it because the pharmacist in charge was on a leave of absence. When quizzed further on his follow through with this diversion he again stated that loss prevention interviewed the wellness ambassador on a day he was not there, determined the theft and he assumed the pharmacist that day would notify the Board.

He was asked why he did not respond within the 15 days to the violation notice and he testified he thought the pharmacist in charge's response would suffice. When presented with the fact the violation notice was presented directly to him, signed by him and clearly stated that responses from the PIC and himself was clearly requested on the notice again he said he just thought the PICs response would suffice.

Relevant Law

Ph 703.03 Controlled Drug Losses.

(a) The pharmacist-in-charge or pharmacist on duty shall report to the board in writing, any theft or significant loss of controlled substances within one business day. The pharmacist-in-charge shall complete a New Hampshire Drug Loss Form (revised 5/2015) or DEA 106 Form and mail or fax to the board as soon as the investigation into the loss is complete or within 30 days of the discovery of the loss.

(b) All instances of diversion shall be reported:

Ph 803.01 Application.

(a) No person shall perform the functions or duties of a pharmacy technician unless such person is registered by the board.

Ph 805.01 Effect of Revocation and Denial.

(b) The pharmacist-in-charge shall notify the board, in writing, within 7 calendar days after becoming aware that a pharmacy technician has adulterated, abused, stolen or diverted drugs.

Findings of Fact and Rulings of Law

Mr. Audet admitted that he did not report the drug diversion to the Board until April 25, 2016, twenty seven days after he first became aware of the loss. Mr. Audet explained that he did not notify the Board of this loss until that time because he assumed it was taken care of by his supervisor. The Board notes that the requirement in Ph 703.03 is clear; the pharmacist on duty is required to report any theft or loss to the Board within one business day of the loss. Therefore, the Board finds that Mr. Audet violated Ph 703.03(a) and (b).

Mr Audet stated he used this wellness ambassador to retrieve the medicine because he had no other options at the time. He would do the same thing again. He felt she would be acting as a courier like any other driver who delivers medications. The Board deliberated and decided this was a reasonable defense under the conditions and dropped the violations against him. On the basis of that testimony, then, the Board finds that Mr. Audet did not violate Ph 803.01 or 805.01, and the Board has accordingly decided to reduce the fine it had previously proposed.

Disciplinary Action

THEREFORE, IT IS ORDERED that Mr. Audet is REPRIMANDED.

IT IS FURTHER ORDERED that Mr. Audet is assessed an ADMINISTRATIVE FINE in the amount of five hundred dollars (\$500.00) due within thirty (30) days of the effective date of this Order. Payment shall be made payable to "Treasurer, State of New Hampshire" and delivered to the Board's office at the New Hampshire Board of Pharmacy, 121 South Fruit Street, Concord, NH 03301.

IT IS FURTHER ORDERED that this Order shall become a permanent part of Mr. Audet's file, which is maintained by the Board as a public document; and

IT IS FURTHER ORDERED that this Order shall take effect as an Order of the Board on the date it is signed by an authorized representative of the New Hampshire Board of Pharmacy.

BY ORDER OF THE BOARD

Date:

7/26/2017



Authorized Representative of the
New Hampshire Board of Pharmacy