

**BEFORE THE KANSAS BOARD OF PHARMACY**

Filed By  
FEB 10 2015  
KANSAS STATE  
BOARD OF PHARMACY

*In the Matter of*

Case No. 14-11

MILKA GOODLETT, R.PH.  
Kansas License No. 1-15036

OAH No. 15BP0008

**FINAL AGENCY ORDER**

**Statement of Case**

This matter comes on for hearing before the Kansas Board of Pharmacy (Board) upon the Petition to Revoke, Suspend or Otherwise Limit Licensure of Milka Goodlett, R.Ph., to practice pharmacy.

The hearing in this matter was held on January 9, 2015. Appearing for the Board were: President, Robert Haneke, PharmD; Vice President, Chad Ullom, R.Ph.; and members, James Garrelts, PharmD; Michael Lonergan, R.Ph.; David Schoech, R.Ph.; and John Worden, PharmD. Mr. Schoech did not participate in deliberations because he recused himself.

Randall J. Forbes appeared as the Board's disciplinary counsel.

Ms. Goodlett appeared in person and with her counsel, Kurt James.

**Findings of Fact**

1. On or about November 6, 2013, Dr. Randy Cook of the Medical Specialist Clinic in Hays, Kansas, issued a prescription for patient HW for Xarelto 15mg. For medical reasons, Dr. Cook had prescribed Xarelto rather than

Coumadin (warfarin), which the patient HW had previously been prescribed.

2. The Xarelto prescription was called into the Wal-Mart Pharmacy at 4301 Vine Street, Hays, Kansas, where Ms. Goodlett was working as a “floater” pharmacist.
3. It initially appeared that patient HW’s insurance was not going to cover a majority of the cost of the Xarelto prescription. Ms. Goodlett testified that she had the pharmacy technician, Erica Brown, CphT, run the prescription a couple of times to confirm that the prescription was not covered by patient HW’s insurance. However, this testimony is significantly different than Ms. Brown’s recollection, contained in her affidavit, that she saw that the prescription had been run through on a discount card instead of patient HW’s primary insurance and, when she raised this with Ms. Goodlett, Ms. Goodlett responded by stating, “This medication is rarely covered by insurance. I have only seen it covered a couple of times.” Ms. Goodlett then stopped Ms. Brown from running the prescription through on patient HW’s primary insurance.
4. Ms. Goodlett then called patient HW to the window and advised her that her insurance would not pay for the Xarelto and it was going to be over \$400 for the prescription. A discussion then ensued between Ms. Goodlett and patient HW. Again, Ms. Goodlett’s testimony regarding the conversation and Ms. Brown’s statement are significantly different.

Ultimately, Ms. Goodlett determined that patient HW had a refill on a prior prescription for warfarin 5mg, but not the prior prescription for warfarin 6mg. Ms. Goodlett instructed Ms. Brown to prepare the 5mg prescription and that she was going to do an emergency fill of the 6mg. This was notwithstanding the fact that patient HW had told Ms. Goodlett that she still had warfarin at home.

5. During this time period, Ms. Goodlett made no attempt to reach Dr. Cook, his office, or the on-call doctor but rather prepared a fax which Ms. Brown sent to Dr. Cook's office which Ms. Goodlett admitted would not be seen by Dr. Cook or his office until the next morning.
6. Ms. Goodlett testified that after patient HW left the pharmacy, she found that the Xarelto prescription would have been covered by patient HW's insurance, with a co-pay of around \$80. Ms. Goodlett, however, took no action to ever notify patient HW of the mistake regarding her insurance coverage of the Xarelto prescription.
7. The following morning, on November 7, 2013, Ms. Brown reported what had occurred the prior evening with regard to patient HW to Sonya Giess, PharmD. Ms. Giess reviewed the fax from Ms. Goodlett to Dr. Cook in which Ms. Goodlett stated that the Xarelto was not covered and that she had sent the patient home with 5mg and 6mg warfarin. Ms. Giess contacted Dr. Cook's office at 8:30 a.m. and spoke with his nurse, who became "outraged." Dr. Cook's nurse called Ms. Giess back an hour later

and said that Dr. Cook was really upset because he had changed her medication from warfarin to Xarelto because he had suspected patient HW had a deep vein thrombosis. Dr. Cook's nurse advised Ms. Giess that the doctor had said that if Ms. Giess was not going to report the responsible pharmacist to the Board of Pharmacy, they would.

8. The dispensing of warfarin to patient HW rather than the Xarelto was a "reportable incident" as defined by K.A.R. 68-7-12b(a) and required that Ms. Goodlett prepare an incident report as required by K.A.R. 68-7-12b(c) as soon as possible; Ms. Goodlett, however, did not do so.
9. As a result of no incident report being prepared, the incident was not reviewed at the following quarterly Continuous Quality Assurance Program meeting as required by K.A.R. 68-19-1. Ms. Goodlett testified that she had prepared a statement with regard to the incident, however, admitted on the record that she had taken it home and had also destroyed the pharmacy copy of the fax she had sent to Dr. Cook's office the evening of November 6, 2013.
10. On October 2, 2014, the Board filed the Petition to Revoke, Suspend or Otherwise Limit Licensure (Petition). In the Petition, the Board alleges that Ms. Goodlett acted and failed to act in a way that would justify disciplinary action against her license pursuant to K.S.A. 65-1627(a)(6), because she knowingly filled a prescription not in strict accordance with the directions of the prescribing practitioner; that she acted and failed to act in a way that

would justify disciplinary action against her license, pursuant to K.S.A. 65-1627(a)(3) as defined by K.S.A. 65-1626(xx)(1), (2) and (3), and as defined by K.S.A. 65-1626(ccc)(7), in that she intentionally dispensed Coumadin (warfarin) rather than the prescribed Xarelto, wrongfully told the patient that her insurance would not pay for the Xarelto and advised the patient to take the Coumadin (warfarin) despite knowing that the patient's doctor did not want her to take it, thereby endangering the health of patient HW; and that Ms. Goodlett acted and failed to act in a way that would justify disciplinary action against her license, pursuant to K.S.A. 65-1627(a)(8), in that she intentionally violated the requirements of the Pharmacy Law by failing to prepare an incident report regarding the incident.

#### Applicable Law

1. The Board is the state agency empowered to enforce the Pharmacy Act, K.S.A. 65-1625 *et seq.* (Act), including the use of disciplinary actions to suspend, revoke, or limit the licenses of Kansas pharmacists who violate the Act.
2. K.S.A. 65-1627(a) permits the Board to revoke, suspend, or place in a probationary status any license of any pharmacist upon a finding that:
  - (3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency;
  - ....
  - (6) the licensee is found by the board to have filled a prescription not in strict accordance with the directions of the practitioner or a mid-level practitioner;

. . . . .

(8) the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act.

3. K.S.A. 65-1658 provides:

The state board of pharmacy, in addition to any other penalty prescribed under the pharmacy act of the state of Kansas, may assess a civil fine . . . against any licensee . . . under subsections (a), (c), (d) and (e) of K.S.A. 65-1627, and amendments thereto, for violation of the pharmacy act of the state of Kansas or rules and regulations of the state board of pharmacy adopted under the pharmacy act of the state of Kansas . . . in an amount not to exceed \$5,000 for each violation.

**Conclusions of Law**  
**and**  
**Discussion**

1. The Board finds that the allegations set forth in the Petition are substantially accurate. This conclusion is based on the factual, physical and testimonial evidence including that of Ms. Goodlett.
2. While Ms. Goodlett attempted to minimize her conduct in this matter by focusing on her authority to do an emergency fill of the warfarin, it is undisputed that Ms. Goodlett did not fill the Xarelto prescription in strict accordance with the directions of the prescribing practitioner and instead substituted her judgment in providing patient HW with the emergency fill of the warfarin 6mg and refill of the warfarin 5mg. The Board finds such conduct unprofessional.


3. The Board also finds that Ms. Goodlett failed to prepare an incident report regarding the incident, thus violating the requirements of the State of Kansas Pharmacy Law.
4. Ms. Goodlett did appear to the Board to be remorseful and took responsibility for her actions, assuring the Board that her conduct would not be repeated in the future.

**Order**

1. Based on the foregoing, the Board finds that a civil penalty in the amount of \$2,000.00 shall be assessed against Ms. Goodlett. The fine shall be paid within thirty (30) days of receipt of this order.
2. In addition, the Board orders that Ms. Goodlett shall complete the 18 hour online course entitled, *Patient Safety – Medication Error Reduction for Pharmacists*. Proof of completion of this course shall be provided to the Board within thirty (30) days of receipt of this order.
3. Lastly, the costs of this proceeding are assessed against Ms. Goodlett pursuant to K.S.A. 65-1627(h) and shall be paid in full no later than thirty (30) days after receipt of the Bill of Costs.

**IT IS SO ORDERED.**

6 February 2015  
Date

  
Robert Haneke, PharmD  
President, Kansas Board of Pharmacy

## NOTICES

1. This is a Final Order, and becomes effective upon service.
2. **Within fifteen (15) days** after service of the Final Agency Order, any party may file a Petition for Reconsideration pursuant to K.S.A. 77-529.
3. Either party to this agency proceeding may seek judicial review of the Final Order by filing a timely petition in the District Court as authorized by K.S.A. 77-613. Reconsideration of the Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed **within thirty (30) days** following service of the Final Order.
4. A copy of any petition for judicial review must be served upon the Kansas Board of Pharmacy. The agency officer designated to receive service of a petition for judicial review is:

Debra L. Billingsley  
Executive Secretary  
Kansas Board of Pharmacy  
800 SW Jackson, Ste. 1414  
Topeka, KS 66612-1244



CERTIFICATE OF SERVICE

I hereby certify that I did, on the 10th day of February, 2015, deposit in the United States Mail, postage prepaid, a copy of the foregoing Final Agency Order, properly addressed to the following:

Milka Goodlett, R.Ph.  
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*Mitzi Dodds*

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Staff Person