

BEFORE THE KANSAS BOARD OF PHARMACY

Filed By  
FEB 15 2017  
KANSAS STATE  
BOARD OF PHARMACY

In the Matter of )  
 )  
Don Atwill, R. Ph. ) Case No. 16-162b  
 )  
 ) *Pharmacist* )  
License No. 1-10087 )

**SUMMARY ORDER**

NOW on this 15 day of February, 2017, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Don Atwill, R. Ph. (“Respondent”).

Pursuant to the authority granted to the Board by the Kansas Pharmacy Act, K.S.A. 65-1625, *et seq.*, and in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board’s Executive Secretary enters this Summary Order in the above-captioned matter. After reviewing the investigation materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order:

**FINDINGS OF FACT**

1. The Board has previously issued Respondent License No. 1-10087 which entitles Respondent to function as a pharmacist in the State of Kansas (“Respondent’s License”).
2. On September 19, 2016, the Board received a complaint form from Salina Family Health Care about an improperly filled prescription on June 27, 2016 by B&K Prescription Shop (“B&K”) for a patient.
3. On September 22, 2016, an Investigator for the Board commenced an investigation.

4. On October 21, 2016, the Board's Investigator went to B&K and met with pharmacist and part-owner, Larry Shaw.

5. According to Mr. Shaw, the pharmacists on duty and who signed the logbook on the day of the incident were Respondent, Mr. Shaw, Kynan Gibson, and John Stavropolous.

6. On July 26, 2016, an incident report was generated by B&K after being notified of the error by the Prescriber's office.

7. On September 22, 2016, the incident was reviewed at B&K's third quarter CQI meeting. The meeting produced the following findings:

i. On the day of the incident, the patient brought in a new prescription for Percocet to the B&K to be filled.

ii. The previous Percocet prescription was discontinued and the new prescription was assigned a new prescription number.

iii. Because of the changes in the prescription number, the pharmacists on duty overlooked the prescription quantity change from #90 to #21.

8. On November 1, 2016, the Board's Investigator followed up with Mr. Shaw via telephone.

9. Per the telephone conversation, Ms. Gibson input the prescription, which was then filled by a technician, and checked by Respondent.

10. The final check for accuracy was completed by Respondent.

11. To date, this is the third misfill complaint since February 2015 against Respondent, who was the reviewing pharmacist in each case. Previous complaints did not result in discipline.

### CONCLUSIONS OF LAW

12. Pursuant to K.S.A. 65-1658, the Board may assess a civil fine not to exceed \$5,000, after notice and an opportunity to be heard, to any registrant for violation of the pharmacy act of the state of Kansas or any other rules or regulations of the state board of pharmacy.

13. Pursuant to K.S.A. 65-1637b(a), each pharmacist shall exercise professional judgment in determining the accuracy of a filled prescription.

14. Pursuant to K.S.A. 65-1637b(g), all prescriptions shall be filled in strict accordance with the directions of the Prescriber.

15. Respondent's failure to perform an adequate check on the misfilled prescription to ensure that the prescription was filled in accordance with the directions of the prescriber is a violation 65-1637b.

### ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent is ordered to pay a fine to the Board in the amount of \$500.00. Furthermore, Respondent shall submit to the Board a personal plan of improvement to reduce errors and ensure compliance. Respondent is also required to complete three (3) hours of Continuing Education on pharmacy errors. Respondent has 45 days from the date of this order to pay the fine, submit the plan, and complete the continuing education and submit proof of completion to the Board by March 31, 2017.



NOTICES

The Respondent is hereby notified as follows:

1. The Respondent may request a hearing pursuant to the Kansas Administrative Procedure Act by filing a written request with the Kansas Board of Pharmacy, 800 SW Jackson, Suite 1414, Topeka, KS 66612-1231 within fifteen (15) days after service of this order.
2. If a hearing is not requested as described above, the Order shall become a final order of the Board, effective upon the expiration of the time to request a hearing.
3. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.
4. Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a final agency order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is:

Alexandra Blasi  
Executive Secretary  
Kansas Board of Pharmacy  
800 SW Jackson, Suite 1414  
Topeka, KS 66612

IT IS SO ORDERED.

2/15/17  
Date

Alexandra Blasi  
Alexandra Blasi, J.D. M.B.A.  
Executive Secretary  
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 15 day of February, 2017, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

Don Atwill  
2623 Deborah Dr.  
Salina, KS 67401

and the original hand delivered to:

Alexandra Blasi  
Executive Secretary  
Kansas Board of Pharmacy  
800 SW Jackson, Ste. 1414  
Topeka, KS 66612



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Kansas Board of Pharmacy Staff