

March 14, 2023

Scott Nicholson
3215 SW MacVicar Ave
Topeka KS 66611

RE: Case No. 23-041

Dear Mr. Nicholson:

Enclosed you will find a Summary Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety. In addition, a civil fine has been assessed totaling \$500. Please submit a check or money order made payable to the Kansas Board of Pharmacy and include your case number in the check memo.

If you disagree with the findings of fact, you have the right to request a hearing. Instructions for filing a written request are included under the "Notices" section of the order. Hearings are held before the full Board during their regularly scheduled quarterly meetings.

According to KSA 65-1627h, the Board is required to recoup the costs of administrative hearings when the decision is adverse to the licensee. These costs may include charges for services rendered by the Board's disciplinary counsel, an administrative law judge, and, if applicable, a court reporter.

If you have any questions, feel free to contact the Board at Pharmacy.Compliance@ks.gov.

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of)	
)	Case No. 23-041
Scott Nicholson)	
)	
<u>License Number 1-10573</u>)	

SUMMARY ORDER

NOW, on this 13th day of March 2023, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Scott Nicholson ("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 provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board enters this Summary Order in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions, and order:

FINDINGS OF FACT

1. The Board has previously issued Respondent License No. 1-10573 which entitles Respondent to function as a pharmacist in the State of Kansas (“Respondent’s Registration”).
2. On October 13, 2022, the Board received a consumer complaint regarding a medication dispensing error at Hy-Vee Pharmacy #1658 (the “Pharmacy”). The consumer indicated that the patient had a prescription for Strattera 10mg but was dispensed 100mg for three months. When the patient requested a refill, the prescriber’s office noticed the error and notified the patient. The patient reported stomach upset after taking the higher-dosage medication.
3. The patient’s prescription, dated June 22, 2022, shows that the patient was prescribed Strattera capsules, 10mg, #30 with two refills. On June 22, 2022, the prescription was incorrectly

filled by the Pharmacy with 100mg capsules. A technician at the Pharmacy incorrectly entered the prescription data. Respondent verified the prescription prior to dispensing.

4. On July 15, 2022, the prescription was refilled at the incorrect strength. Respondent verified the prescription prior to dispensing and was provided an opportunity to review the visual image of the original prescription.

5. On August 15, 2022, the prescription was refilled at the incorrect strength by the Hy-Vee central fill pharmacy in Des Moines, Iowa.

6. On September 22, 2022, an incident report was prepared by the pharmacist-in-charge of the Pharmacy regarding the medication dispensing error.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1658, in addition to any other penalty 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.

2. Pursuant to K.S.A. 65-1627(a)(6), the Board may take action against a pharmacist upon a finding that 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.

3. In dispensing amphetamine 30mg in lieu of the correct, written prescription for methotrexate 2.5mg, Respondent failed to fill the patient's prescription in strict conformity with the directions of a practitioner or mid-level practitioner, in violation of K.S.A. 65-1627(a)(6).

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. Respondent has 30 days from the date of this order to pay the fine by check or money order.

NOTICES

Respondent is hereby notified as follows:

1. 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 15 days after service of this Order. If the outcome of the hearing is adverse to Respondent, costs of the proceedings shall be charged to Respondent.

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 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 K.S.A. 77-613. 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.

3/14/2023

Date



Alexandra Blasi, JD, MBA

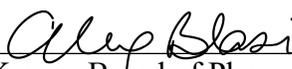
Executive Secretary

Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 14th day of March 2023, deposit in business mail a copy of the foregoing Summary Order, which is then placed in the United States Mail, postage prepaid, properly addressed to the following:

Scott Nicholson
3215 SW MacVicar Ave
Topeka KS 66611



Kansas Board of Pharmacy Staff