

BEFORE THE KANSAS BOARD OF PHARMACY

Filed

JUN 30 2011

KANSAS STATE
Board of Pharmacy

In the Matter of }
 }
JEFFREY WAYNE RIVERS, R.Ph. }
Kansas License }
No.1-12334 }
_____ }

Case No 11-16

SUMMARY ORDER

Jeffrey Wayne Rivers, (the "Respondent" or "licensee") is currently authorized to function as a pharmacist in the State of Kansas by reason of the Kansas Board of Pharmacy (the "Board") having issued him Registration No. 01-12334.

WHEREAS, it has come to the attention of the Board's Investigative Member that Respondent unlawfully diverted 4300 oxycontin prescription pills from the Ball Brothers Pharmacy .

WHEREAS, on March 21, 2011, the Board issued a Petition to Revoke, Suspend or Otherwise limit the license ("Petition") of the respondent for the diversion of 4300 oxycontin prescription pills. The respondent has failed to respond to the Board's petition.

WHEREAS, the respondent tendered the surrender of his license to practice as a pharmacist to the Board.

WHEREAS, the Board has refused to accept the respondent's tender of surrender of his license to the Board.

WHEREAS, the respondent has been found guilty of a felony, the theft of property of a greater value than \$25,000 in violation of K.S.A. 21-3701(b)(2).

WHEREAS, the respondent has been found guilty of the possession and distribution of a Prescription Drug in violation of K.S.A. 21-36a06a.

After considering the foregoing, the Board's Investigation Member, in accordance with the authority granted to her by the Board, enter the following Summary Order.

FINDINGS OF FACT

For purposes of this order, the Board's Investigation Member makes the following findings of fact:

1. The Board has previously issued Respondent Registration No. 01-12334 which entitled him to function as a pharmacist in the State of Kansas ("Respondent's Registration").
2. That on or around August 30, 2011 the Respondent admitted to diversion of 4300 Oxycontin prescription pills after the employer, the Ball Brothers Pharmacy, noticed the loss.

CONCLUSIONS OF LAW AND FACT

For purposes of this order, the Board's Investigation member makes the following conclusions of law and fact:

1. That the Respondent was originally issued a registration number 01-12334 pursuant to K.S.A. 65-1631.
2. That pursuant to K.S.A. 65-1627 the Board may limit, suspend, or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacist.
3. The respondent admitted to diverting 4300 oxycontin prescriptions pills to his employer, Ball Brothers Pharmacy.
4. The licensee was convicted of a felony in the District Court of Atchison County, Kansas, *State of Kansas v. Jeffrey Wayne Rivers*, Case No. 2011 CR 43 of theft of over \$30,000 in goods in violation of K.S.A. 21-21-3701(b)(2).
5. The licensee was convicted of a felony in the District Court of Atchison County, Kansas, *State of Kansas v. Jeffrey Wayne Rivers*, Case No. 2011 CR 43 for unlawful possession and distribution of controlled substances in violation of K.S.A. 21-36a06(a).
6. That the Board may take action against the license of a pharmacist for unprofessional conduct or professional incompetency as set forth in K.S.A. 65-1627(a)(3).

7. That K.S.A. 65-1626d(hh)(5) defines unprofessional conduct as unlawful possession of drugs and unlawful diversion of drugs.
8. That K.S.A. 65-1626(rr)(5) defines unprofessional conduct as unlawful possession of drugs and the unlawful diversion of drugs to others.
9. The licensee has engaged in conduct that is likely to harm the public in violation of K.S.A. 65-1627(rr)(7).
10. By diverting such large quantities of prescription medicine, the licensee has engaged in conduct that has repeatedly failed to meet the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence as determined by the Board as defined by K.S.A. 65-1626(nn)(2).
11. The licensee's action, by diverting large quantities of prescription medicine, indicates the licensee has engaged in a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy as defined by K.S.A. 65-1626(nn)(3).
12. The licensee's conduct by diverting large quantities of prescription medicine for his personal use, would justify revocation of his license pursuant to K.S.A. 65-1627(a)(4) in that he is addicted to the liquor or drug habit to such a degree as to render him unfit to practice the profession of pharmacy.
13. The licensee has violated provisions of the federal or state food, drug and cosmetic act, the uniform controlled substances act of the State of Kansas and the rules and regulations under such act in violation of K.S.A. 65-1627(a)(5).
14. The Board may take action because the licensee has violated the provisions of K.S.A. 65-1627(a)(8) because the licensee violated numerous provisions of the Kansas Pharmacy Act and the rules and regulations adopted by the Board pursuant to the provisions of that act.

15. The Board may take action against the license of a pharmacist if the "licensee has been convicted of a felony and the licensee has failed to show that the licensee has been sufficiently rehabilitated to warrant the public trust." K.S.A. 65-1627(a)(2).
16. The acts committed by Respondent are a basis for discipline of Respondent's Registration pursuant to the Pharmacy Act, K.S.A. 65-1625 *et seq.*
17. The Board finds, based on the multiple violations of the Kansas Pharmacy Act, the Respondent's license to practice pharmacy should be revoked.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent's License to practice pharmacy is hereby revoked.

NOTICES

The Respondent is hereby notified as follows:

1. The Respondent may request a hearing pursuant to the Kansas State Administrative Procedures 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 revoking the Respondent's Registration, as a pharmacist 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:

Debra Billingsley
Executive Director
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

06-29-2011

Date

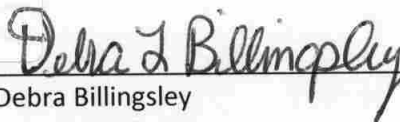


Investigation Member ^{DAVID}_{SCHOENBERG}
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 30 day of June, 2011, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

JEFF W RIVERS
1719 LINDEN LANE
ATCHISON, KS 66002



Debra Billingsley
Executive Director
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612