

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF PHARMACY
DISCIPLINARY SUBCOMMITTEE

In the Matter of

JOHN STEPHEN LIND, R.PH.
License No. 53-02-029258,

File No. 53-17-145891

Respondent.

ORDER OF SUMMARY SUSPENSION

The Department filed an *Administrative Complaint* against Respondent as provided by the Public Health Code, MCL 333.1101 *et seq*, the rules promulgated under the Code, and the Administrative Procedures Act, MCL 24.201 *et seq*.

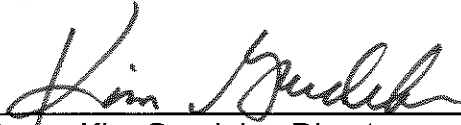
After careful consideration and after consultation with the Chairperson of the Board of Pharmacy pursuant to MCL 333.16233(5), the Department finds that the public health, safety, and welfare requires emergency action.

Therefore, IT IS ORDERED that Respondent's license to practice as a pharmacist is SUMMARILY SUSPENDED, commencing the date this *Order* is served.

Under Mich Admin Code, R 792.10702, Respondent may petition for the dissolution of this *Order* by filing a document clearly titled **Petition for Dissolution of Summary Suspension** with the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, P.O. Box 30670, Lansing, MI 48909.

MICHIGAN DEPARTMENT OF
LICENSING AND REGULATORY AFFAIRS

Dated: 08/08, 2017


By: Kim Gaedeke, Director
Bureau of Professional Licensing

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ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs by Kim Gaedeke, Director, Bureau of Professional Licensing, complains against Respondent John Stephen Lind, R.Ph. as follows:

1. The Michigan Board of Pharmacy is an administrative agency established by the Public Health Code, MCL 333.1101 *et seq.* The Board's Disciplinary Subcommittee is empowered to discipline licensees for Code violations.

2. The Board administers the controlled substance provisions in Article 7 of the Code, MCL 333.7101 - .7545, and is empowered to discipline licensees for Article 7 violations under MCL 333.7311(1)(h).

3. MCL 333.7333(1) provides, in pertinent part:

"[G]ood faith" means the prescribing or dispensing of a controlled substance by a practitioner . . . to or for an individual Application of good faith to a pharmacist means the dispensing of a controlled substance pursuant to a prescriber's order which, in the professional judgment of the pharmacist, is lawful. The pharmacist shall be guided by nationally accepted professional standards including, but not limited to, all of the following, in making the judgment:

(a) Lack of consistency in the doctor-patient relationship.

- (b) Frequency of prescriptions for the same drug by 1 prescriber for larger numbers of patients.
- (c) Quantities beyond those normally prescribed for the same drug.
- (d) Unusual dosages.
- (e) Unusual geographic distances between patient, pharmacist, and prescriber.

4. Mich Admin Code, R 338.490(2) provides:

A pharmacist shall not fill a prescription order if, in the pharmacist's professional judgment, any of the following provisions apply:

- (a) The prescription appears to be improperly written.
- (b) The prescription is susceptible to more than 1 interpretation.
- (c) The pharmacist has reason to believe that the prescription could cause harm to the patient.
- (d) The pharmacist has reason to believe that the prescription will be used for other than legitimate medical purposes.

5. Respondent is a Michigan-licensed pharmacist.

6. Respondent has the following disciplinary history:

- (a) File No. 53-07-106744. After the Department filed a Complaint alleging that Respondent had failed to complete required continuing education, the DSC, on August 21, 2008, found that Respondent violated MCL 333.16221(h) and 333.17763, placed Respondent on one year's probation, and fined Respondent \$1,000.
- (b) File No. 53-12-123172. After the Department filed a Complaint alleging that Respondent had diverted controlled substances from the workplace and was impaired at the workplace, on August 14, 2013, found that Respondent violated MCL 333.16221(a) and (c)(iv), suspended Respondent for a minimum of one day, and placed Respondent on a minimum six months' probation.

7. On information and belief, Respondent has been the pharmacist in charge (PIC) of All American Pharmacy LLC (All American) in Flint, Michigan since February 2016.¹

¹The Department has also filed an Administrative Complaint against All American for the conduct alleged here. *All American Pharmacy LLC*, No. 53-16-144736.

8. As All American's PIC, Respondent was responsible to supervise its practice. MCL 333.17748(5).

9. After consultation with the Board Chairperson, the Department found that the public health, safety, and welfare requires emergency action. Therefore, pursuant to MCL 333.16233(5), the Department summarily suspended Respondent's State of Michigan pharmacy license, effective on the date the accompanying Order of Summary Suspension was served.

10. Alprazolam is a commonly abused and diverted benzodiazepine schedule 4 controlled substance, particularly in its 1 mg and 2 mg dosages.

11. Carisoprodol is a muscle relaxant and a schedule 4 controlled substance. Carisoprodol has significant potential for abuse, dependence, overdose, and withdrawal, particularly when used in conjunction with opioids and benzodiazepines.

12. Hydrocodone, oxycodone, and oxymorphone are commonly abused and diverted opioid schedule 2 controlled substances.

13. The Department reviewed data from the Michigan Automated Prescription System (MAPS), the State of Michigan's prescription monitoring program, which gathers data regarding controlled substances dispensed in Michigan. The Department discovered that All American ranked among the highest-volume dispensers of commonly abused and diverted controlled substances in 2016, and the first quarter of 2017:

Drug	2016 Rank	2017 Q1 Rank
(a) Alprazolam 2 mg	14	3
(b) Carisoprodol	10	4
(c) Codeine/Promethazine Syrup	2	2

14. During the following periods, All American filled prescriptions for the following commonly abused and diverted controlled substances in the following quantities:

Drug	2016	2017 thru May 29
(a) Oxycodone 30 mg	0	0
(b) Hydrocodone/Apap, All Strengths	1243 (25.63%)	325 (17.33%)
(c) Alprazolam 1 mg	386 (7.96%)	115 (6.13%)
(d) Alprazolam 2 mg	432 (8.91%)	191 (10.19%)
(e) Carisoprodol 350 mg	489 (10.08%)	245 (13.07%)
(f) Codeine with Promethazine	1373 (28.31%)	553 (29.49%)
(g) Total, (a) - (f)	3923 (80.89%)	1429 (76.21%)
(h) Total CS Prescriptions	4850	1875

The Department compared All American's dispensing of commonly abused and diverted controlled substances with four other nearby pharmacies. None of the other four pharmacies dispensed more than 53% of its total controlled substances in the categories identified in (a) - (f) above.

15. Patients paid cash for more than thirty-two percent (32%) of the prescriptions All American filled in 2016, and for more than thirty-six percent (36%) of the prescriptions All American filled in 2017 through May 29. These rates triple the state average for cash payment and are indicative of prescriptions filled for the purpose of drug diversion.

16. Despite its location in Flint, more than 30% of the prescriptions All American filled in 2016 were issued by home visiting physicians with Detroit metropolitan area addresses. MAPS data showed these home visiting physicians frequently prescribed

the same commonly abused and diverted controlled substances, including potentially dangerous combinations of opioids and benzodiazepines, in the same quantities to every patient. When interviewed by a Department investigator, Respondent admitted that he did not question the prescriptions being prescribed and dispensed the prescriptions without questioning the legitimate medical purpose for the prescriptions.

17. The Department audited All American's inventory of commonly abused and diverted drugs and found a significant loss of inventory, as shown in the table below:

<i>Drug</i>	<i>Initial Inventory May 3, 2017</i>	<i>Interim receipts</i>	<i>Total Accountability</i>	<i>Closing Inventory May 31, 2017</i>	<i>Sales During Period</i>	<i>Reported Theft</i>	<i>Total Accounted For</i>	<i>Difference</i>	<i>% Difference</i>
(a) Hydrocodone/Apap 10 mg	1,105	3,500	4,605	880	3,535	0	4,415	-190	-4%
(b) Oxycodone 30 mg	150	0	150	150	0	0	150	0	0%
(c) Alprazolam 1 mg	1,150	1,000	2,150	465	1,500	0	1,965	-185	-9%
(d) Alprazolam 2 mg	1,400	1,000	2,400	399	1,890	0	2,289	-111	-5%
(e) Carisoprodol 350 mg	3,124	2,000	5,124	1,756	2,315	0	4,071	-1,053	-21%
(f) Codeine with Promethazine	4,500	15,609	20,109	5,200	14,858	0	20,058	-51	0%

18. The Department inspected All American's business premises on May 31, 2017. The Department noted violations of several regulations governing pharmacies, including possession of expired medications, un-dated and un-initialed controlled substance invoices, incorrectly branded prescription drugs, and incomplete DEA forms.

COUNT I

Respondent failed to maintain effective controls against diversion of controlled substances to other than legitimate and professionally recognized therapeutic, scientific, or industrial uses, in violation of MCL 333.7311(1)(e).

COUNT II

Respondent dispensed controlled substances without good faith, contrary to MCL 333.7333(1) and in violation of 333.7311(1)(h).

COUNT III

Respondent's conduct violated a general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, in violation of MCL 333.16221(a).

COUNT IV

Respondent's conduct fails to conform to minimal standards of acceptable, prevailing practice for the health profession in violation of MCL 333.16221(b)(i).

COUNT V


Respondent's conduct constituted noncompliance with Articles 7 or 8 of the Code or the rules promulgated under those articles, in violation of MCL 333.17768(e).

RESPONDENT IS NOTIFIED that, pursuant to MCL 333.16231(8), Respondent has 30 days from the date of receipt of this complaint to answer this complaint in writing and to show compliance with all lawful requirements for retention of the license. Respondent shall submit the response to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909.

Respondent's failure to submit an answer within 30 days is an admission of the allegations in this complaint. If Respondent fails to answer, the Department shall transmit this complaint directly to the Board's Disciplinary Subcommittee to impose a sanction pursuant to MCL 333.16231(9).

MICHIGAN DEPARTMENT OF
LICENSING AND REGULATORY AFFAIRS

Dated: 08/08, 2017


By: _____
Kim Gaedeke, Director
Bureau of Professional Licensing