

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HEALTH
THREE CAPITAL HILL
PROVIDENCE RHODE ISLAND 02908

RHODE ISLAND DEPARTMENT OF HEALTH

v.

LEO BLAIS, RPH

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FINAL DECISION

TRAVEL OF THE CASE

This is the Final Decision concerning the appeal of Leo Blais (Respondent). I summarily suspended Respondent on March 23, 2012. Respondent then requested a hearing on his motion to lift the summary suspension. The Department heard his motion on October 24, 2012 and denied the motion on October 26, 2012. A full evidentiary hearing was held on November 20, November 28, and December 6, 2012. Subsequent to the hearing, the Board of Pharmacy (Board) entered into a consent agreement with Blais on March 22, 2013. I rejected that agreement on March 27, 2013. Department Hearing Officer Catherine Warren then issued a recommended decision on April 22, 2013.

JURISDICTION

Leo Blais is a licensed pharmacist pursuant to RIGL 5-19.1-8 and holds license #RPH0265. He is the pharmacist-in-charge (PIC) for Apothecare Compounding Solutions (Apothecare). Pursuant to RIGL §23-1-1 et al and RIGL §42-35-14, I summarily suspended respondent. The Board delegated its authority to hear Respondent's appeal to Hearing Officer Catherine Warren pursuant to RIGL §5-19.1-5(4). I rejected the Board and Respondent's consent agreement pursuant to my authority under RIGL §5-19.1-5 ("subject to the approval of the director") and RIGL §5-19.1-21 ("with the approval of the director"). This Final Decision is issued under my authority at RIGL §5-19.1-7.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I have carefully reviewed Catherine Warren's recommended decision and the administrative record. While I may not necessarily have come to the same findings of fact and conclusions of law as Catherine Warren, I accept her findings and conclusions with respect to the violations.

Respondent admits that while serving as the PIC for Apothecare, he allowed two prescriptions labeled as Omenparzole to be dispensed containing morphine. This batch of compounded drugs was administered to an eleven month old baby and a two year old infant.

In addition, Catherine Warren made other specific findings. Based on Respondent's admission, Respondent violated RIGL §5-19.1-21(8) by violating RIGL §21-31-1(1) and RIGL §21-31-15(1). Warren found that Respondent's pharmacy committed a dispensing error while respondent served as PIC, i.e. dispensed morphine inappropriately. Respondent violated Section 13.4 of the Department's regulations by permitting totes on the floor to contain drugs. Warren found that condition to be not "orderly" or

sanitary. Respondent violated Section 13.3.1 by allowing the pharmacy to store compounded drugs without labeled expiration dates.

SANCTIONS

I disagree with the Hearing Officer's proposed sanctions. Specifically, the Hearing Office proposed that Respondent serve a thirty (30) month suspension upon final agency determination with 15 months to serve and 15 months stayed. In addition, she recommended that Respondent serve an additional two years of probation following the 30 month suspension. The Hearing Officer had other conditions as well: prohibition from working as a PIC during the term of the suspension and probation; prohibition on working as a preceptor during the term of the suspension and probation; certain continuing education requirements; a letter of reprimand in his permanent file.

The Hearing Officer lays out the criteria I might use in determining the appropriate sanction: (1) frequency of violation; (2) real or potential danger to the public posed by the violation; (3) nature of any previous violations or sanctions; (4) any other factors deemed relevant. See Jack and Ella's Inc. v. Department of Business Regulation, 2002 WL977812 (April 22, 2002).

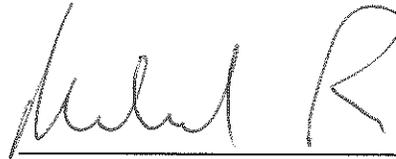
Respondent has had three disciplinary proceedings in fifteen years. The two major disciplinary actions occurred thirteen years apart. Although the incidents were separated by many years, their severity and similarity demonstrate an indifference to certain aspects of proper pharmaceutical practice and public safety in that both episodes are fundamentally characterized by Respondent's neglect.

In 1999 and 2012, respondent permitted mislabeled medications to be stored. In 1999, he agreed that he had outdated, mislabeled and unusable medications in his pharmacy. Most importantly, Respondent's management practices have twice placed his pharmacy in a position where controlled substances could have or were improperly dispensed. In 1999, the wrong drugs or drugs in the wrong quantity were or could have been dispensed. In 2012, morphine was mixed into a product that was given to a baby and an infant.

Catherine Warren did not make a finding with respect to the potential danger morphine poses to a baby or infant child. It is axiomatic. Respondent admitted that his pharmacy committed a serious dispensing error in 2012 by permitting morphine to be dispensed to a baby and an infant child. The 1999 violations are comparable.

I therefore, after considerable thought and consideration, hereby revoke Respondent's license to practice pharmacy pursuant to RIGL §5-19.1-7. I take this action knowing the personal hardship that it might cause Respondent. Respondent's twice repeated serious neglect of his public safety obligations and his actions leave me with no other choice but to revoke his pharmacy license. Respondent's neglect in 1999 and 2012 did not result in deaths or permanent disability. However, a third serious dispensing error could result in loss of life. I no longer have confidence that Mr. Blais can properly practice pharmacy in a way that properly safeguards public health.

Respondent's lengthy explanations of newly installed safety measures are not persuasive. Respondent should have become vigilant about proper safeguards after the 1999 incident. He did not and a baby and an infant child improperly consumed morphine as a result.



Michael Fine, MD
Director

June 17 2013

Date

CERTIFICATION

I hereby certify that a Copy of this Final Decision was sent via regular U.S. mail to Michael Kelly and Jackson Parmenter, 128 Dorrance Street, Providence, RI 02903 on this _____ day of _____ 2013.
