



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D- 101012- 150)

In The Matter Of:

### **KROGER PHARMACY #14384**

c/o Stephen Albert Jungkunz, R.Ph.  
150 Tricounty Parkway  
Pharmacy Department  
Cincinnati, Ohio 45246  
(T.D.D.D. No. 02- 1042700)

### INTRODUCTION

The Matter of Kroger Pharmacy #14384 came for hearing on February 9, 2011 before the following members of the Board: Richard F. Kolezynski, R.Ph. (presiding); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; and Deborah A. Lange, R.Ph..

Jerome J. Wiesenhahn, R.Ph., Absent

Kroger Pharmacy #14384 was represented by Mary Barley- McBride. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

### SUMMARY OF EVIDENCE

#### State's Witnesses:

1. Rick Haun, Ohio State Board of Pharmacy
2. Pamela Hughes
3. Heather Leigh Perrin, R.Ph., Respondent
4. Colleen Lindholz, R.Ph., Respondent

#### Respondent's Witnesses:

None

#### State's Exhibits:

1. Notice of Opportunity for Hearing letter for Kroger Pharmacy #14384 [10- 12- 10]
- 1A- 1D. Kroger Pharmacy #14384 Procedurals
- 2A- 2C. Heather Leigh Perrin, R.Ph., Procedurals
- 3A- 3D. Colleen Lindholz, R.Ph., Procedurals
4. Notarized written statement of Pamela Hughes [08- 05- 10]
5. Notarized written statement of Heather Perrin [08- 11- 10]
6. Notarized written statement of Cathy McKee [08- 05- 10]
7. Notarized statement of Jacquelyn Helmes, Intern [10- 28- 10]
8. Notarized statement of Alison Foster [10- 27- 10]

**Kroger Pharmacy #14384**

c/o Stephen Albert Jungkunz, R.Ph.

Page 2

Order of the Board

9. Transcribed testimony of Pamela Hughes and Colleen Lindholz, R.Ph. [11-03-10]

10. Recording of conversation with Colleen Lindholz, R.Ph. [not dated]

Respondent's Exhibits:

A. Notarized Affidavit of John Michael Jackson [02-04-11]

B. Notarized Affidavit of Ronald Huening [01-04-11]

C. The Kroger Co. internal audit form [not dated]

D. The Kroger Co. external/independent audit form [not dated]

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Kroger Pharmacy #14384 is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and Stephen Albert Jungkunz is the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) Kroger Pharmacy #14384 did, on or about July 28, 2010, fail to notify the Ohio State Board of Pharmacy by telephone immediately upon the discovery of the theft or significant loss of dangerous drugs or controlled substances, to wit: Pharmacy personnel was aware that pharmacist Jaime Lynn Morton stole significant amounts of Xanax, alprazolam, and other bottles of assorted pills, yet did not immediately notify the Board of Pharmacy. Such conduct is in violation of Rule 4729-9-15(A) of the Ohio Administrative Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes violating a rule of the Board as provided Section 4729.57 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000.00) on Kroger Pharmacy #14384 and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Donald Casar moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed (Aye- 5/Nay- 0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye- 5/Nay- 0).

**Kroger Pharmacy #14384**

c/o Stephen Albert Jungkunz, R.Ph.

Page 3

Order of the Board

Deborah Lange moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye- 5/Nay- 0).

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

**BY ORDER OF THE STATE BOARD OF PHARMACY**

ORDER MAILED & EFFECTIVE: MARCH 11, 2011

By: \_\_\_\_\_  
William T. Winsley, M.S., R.Ph., Executive Director