

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-040704-063)

In The Matter Of:

**LESLEY ZIMMERMAN KENNEDY, R.Ph.**

845 East Foothill Boulevard

Glendora, California 91741

(R.Ph. No. 03-1-17455)

**INTRODUCTION**

THE MATTER OF LESLEY ZIMMERMAN KENNEDY CAME FOR HEARING ON OCTOBER 5, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: LAWRENCE J. KOST, R.Ph.; (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

LESLEY ZIMMERMAN KENNEDY WAS NOT REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

**SUMMARY OF EVIDENCE**

**State's Witnesses**

1. None

**Respondent's Witnesses**

1. Lesley Zimmerman Kennedy, R.Ph., Respondent

**State's Exhibits**

1. Reinstatement Hearing Request letter from Lesley Z. Kennedy [04-05-04]

1A-1B. Procedurals

2A. State Board of Pharmacy Order in re Lesley Zimmerman Kennedy, R.Ph. [04-09-03]

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### Respondent's Exhibits

- A. Calendar pages for October 2002 to October 2004
- B. C.P.E. Report Form of Lesley Z. Kennedy [09/18/04]; Continuing Pharmaceutical Education Credits and Certificates [01-24-04 to 09-18-04]
- C. Support Group Attendance Records [03-23-03 to 09-24-04]
- D. Letter from Michael R. Handleton, M.D. [09-24-04]; Foothill Family Practice Medical Group, Inc. Medical Record for Lesley Kennedy [09-21-04]; Compass Vision Drug Panel [not dated]; Compass Vision Licensee Summary Report for Lesley Kennedy [06-11-03 to 09-01-04]; Drug Testing Custody and Control Forms [06-11-03 to 09-14-04]
- E. Copy of PRO Pharmacist's Recovery Contract for Lesley Zimmerman Kennedy [05-16-03]
- F.

### FINDING OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Lesley Zimmerman Kennedy has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-021104-025, effective April 9, 2003.

### DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-1-17455, held by Lesley Zimmerman Kennedy to practice pharmacy in Ohio and places Lesley Zimmerman Kennedy on probation for five years beginning on the effective date of this Order, with the following conditions:

(A) Lesley Zimmerman Kennedy must enter into a new contract, signed within thirty days after the effective date of this Order, with a California Department of Alcohol and Drug Addiction Services treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before her pharmacist identification card is issued. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Opiates and synthetic opiates must be added to the standard urine drug screen.

(c) Results of all drug screens must be negative. Any positive results, including those that may have resulted from ingestion of food, but excluding false positives that resulted from medication legitimately prescribed, indicate a violation of probation.

(d) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate a violation of probation.

(2) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.

(3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

(4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Lesley Zimmerman Kennedy must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

(1) The written report and documentation provided by the treatment program pursuant to the contract, and

(2) A written description of Lesley Zimmerman Kennedy's progress towards recovery and what Lesley Zimmerman Kennedy has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Lesley Zimmerman Kennedy's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) Lesley Zimmerman Kennedy may not serve as a responsible pharmacist.

(3) Lesley Zimmerman Kennedy may not destroy, assist in, or witness the destruction of controlled substances.

(4) Lesley Zimmerman Kennedy must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.

(5) Lesley Zimmerman Kennedy must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Lesley Zimmerman Kennedy must abide by the rules of the State Board of Pharmacy.

(7) Lesley Zimmerman Kennedy must comply with the terms of this Order.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Lesley Zimmerman Kennedy is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

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

ORDER MAILED & EFFECTIVE: NOVEMBER 10, 2004

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-021104-025)

In The Matter Of:

**LESLEY ZIMMERMAN KENNEDY, R.Ph.**

4415 Plainville Road  
Cincinnati, Ohio 45227  
(R.Ph. No. 03-1-17455)

**INTRODUCTION**

THE MATTER OF LESLEY ZIMMERMAN KENNEDY CAME FOR HEARING ON MARCH 4, 2003 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: DIANE C. ADELMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

LESLEY ZIMMERMAN KENNEDY WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

**SUMMARY OF EVIDENCE**

**State's Witnesses**

1. Elaine M. Jones, R.Ph., Ohio State Board of Pharmacy

**Respondent's Witnesses**

1. Robert Kennedy, R.Ph.
2. Lesley Zimmerman Kennedy, R.Ph., Respondent

**State's Exhibits**

1. Copy of Summary Suspension Order/Notice of Opportunity For Hearing letter [11-04-02]  
1A-1E. Procedurals
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Respondent's Exhibits

- A. Continuing Care Contract of Lesley Zimmerman Kennedy [not dated]
- B. Support Group Events and Appointments listing [10-18-02 to 03-03-03]
- C.

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 Ohio Board of Pharmacy indicate that Lesley Zimmerman Kennedy was originally licensed by the State of Ohio as a pharmacist on July 29, 1988, pursuant to examination. Records further reflect that the Board summarily suspended Lesley Zimmerman Kennedy's license to practice pharmacy on November 4, 2002.
- (2) Lesley Zimmerman Kennedy is addicted to liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Lesley Zimmerman Kennedy admitted to a Board Agent that she was addicted to drugs. Such conduct indicates that Ms. Kennedy falls within the ambit of Sections 3719.121(A)&(B) and 4729.16(A)(3) of the Ohio Revised Code.
- (3)

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of gross immorality
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Lesley Zimmerman Kennedy on November 4, 2002.

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 suspends indefinitely the pharmacist identification card, No. 03-1-17455, held by Lesley Zimmerman Kennedy and such suspension is effective as of the date of the mailing of this Order.

(A) Lesley Zimmerman Kennedy, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

(B) Lesley Zimmerman Kennedy, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Further, after one year from the effective date of this Order the Board will consider any petition filed by Lesley Zimmerman Kennedy for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) Lesley Zimmerman Kennedy must enter into a contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, mail a copy of the contract to the Board office. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Opiates and synthetic opiates must be added to the standard urine drug screen.

(c) Results of all drug screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

(2) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

(3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Lesley Zimmerman Kennedy must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.

(C) Lesley Zimmerman Kennedy must provide, at the reinstatement petition hearing, documentation of the following:

(1) Compliance with the contract required above, and all treatment programs attended (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);

(2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(3) Compliance with the terms of this Order.

(D) If reinstatement is not accomplished within three years of the effective date of this Order, Lesley Zimmerman Kennedy must also show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).  
MOTION CARRIED.

SO ORDERED.

**ORDER EFFECTIVE APRIL 9, 2003**



# OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, Ohio 43215-6126

-Equal Opportunity Employer and Service Provider-

PHONE: 614/466-4143

FAX: 614/752-4836

E-MAIL: [exec@bop.state.oh.us](mailto:exec@bop.state.oh.us)

TTY/TDD Ohio Relay Service: 1-800/750-0750

URL: <http://www.state.oh.us/pharmacy/>

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## SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

November 4, 2002

Lesley Zimmerman Kennedy, R.Ph.  
4415 Plainville Road  
Cincinnati, Ohio 45227

Re: Ohio Registered Pharmacist  
Number 03-1-17455

Dear Ms. Kennedy:

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice presents a danger of immediate and serious harm to others. The reasons for the Board's action are that you have committed any and/or all of the following acts:

- (1) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on July 29, 1988, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are addicted to liquor or drugs or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: you admitted to a Board Agent that you are addicted to drugs. Such conduct indicates that you fall within the ambit of Sections 3719.121(A), 3719.121(B), and 4729.16(A)(3) of the Ohio Revised Code.
- (3) You did, on or about October 16, 2002, and dates prior thereto, intentionally make and/or knowingly possess a false or forged prescription, to wit: you admitted to a Board Agent that you falsified the following controlled substances prescriptions for your own use:

Date	Pharmacy	Rx No.	Drug	Qty
06/04/01	Tischbein	C596530	Vicodin ES	60
07/30/01	Tischbein	C596530-Refill	Vicodin ES	60
10/12/01	Tischbein	C596530-Refill	Vicodin ES	60
11/16/01	Tischbein	C596530-Refill	Vicodin ES	60

Date	Pharmacy	Rx No.	Drug	Qty
06/04/01	Tischbein	596531	hydrochlorthiazide 50mg	30
06/04/01	Tischbein	OTC	Ecotrin 81mg	30
06/04/01	Tischbein	596532	Lanoxin 0.125mg	30
06/04/01	Tischbein	596533	Zovirax 200mg	35
07/26/01	Walgreens-Plainfield	0706538-01795	hydrocodone/APAP 5mg/500mg	30
08/07/01	Walgreens-Plainfield	0706538-01795-Refill	hydrocodone/APAP 5mg/500mg	30
08/29/01	Walgreens-Madeira	0114209-04731	hydrocodone/APAP 5mg/500mg	30
10/03/01	Walgreens-Madeira	0116538-04731	hydrocodone/APAP 5mg/500mg	30
12/21/01	Tischbein	C602686	Lortab 7.5	60
01/02/02	Tischbein	602434	Ultram	90
01/29/02	Tischbein	602434-Refill	Ultram	90
03/16/02	Tischbein	602434-Refill	Ultram	90
05/28/02	Tischbein	602434-Refill	Ultram	90
01/16/02	Medco	203525755	Vicoprofen	270
04/16/02	Medco	203525755-Refill	Vicoprofen	270
03/06/02	Medco	206704695	Vicodin	300
04/30/02	Medco	214320152	Norco 10	300
08/12/02	Medco	214320152-Refill	Norco 10	300
05/26/02	Walgreens-Plainfield	0747476-01795	hydrocodone/APAP 5mg/500mg	30
06/21/02	Walgreens-Plainfield	0747476-01795-Refill	hydrocodone/APAP 5mg/500mg	30
05/28/02	Kroger - Wooster	4440878	hydrocodone/APAP 10-325	45
06/01/02	Kroger - Wooster	4440878-Refill	hydrocodone/APAP 10-325	45
07/27/02	Kroger - Wooster	4440878-Refill	hydrocodone/APAP 10-325	74
09/17/02	Kroger - Wooster	4440878-Refill	hydrocodone/APAP 10-325	90
06/21/02	Tischbein	N608292	OxyContin 20mg	50
06/25/02	Tischbein	On Hold	diazepam 5mg	30
06/25/02	Tischbein	C608519	Vicodin ES	90
07/19/02	Tischbein	N609055	Percocet 5mg	102
07/22/02	Medco	220706479	Ultram	720
07/22/02	Medco	220706477	Klonopin 1mg	90
07/31/02	Walgreens-Fairfield	0921332-05156	hydrocodone/APAP 5mg/500mg	90
09/10/02	Tischbein	C610651	clonazepam 2mg	90
09/10/02	Tischbein	C610652	Tylenol w/Codeine #4	100

Such conduct violates Section 2925.23(B) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating provisions of Chapter 2925. or the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person's license, certificate, or registration..."

YOU ARE HEREBY NOTIFIED that Section 3719.121(B) of the Ohio Revised Code states, in pertinent part:

(B) If the board under which a person has been issued a license, . . . , . . . determines that there is clear and convincing evidence that continuation of the person's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person's license, . . . without a prior hearing.

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN

THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, during which time you may not engage in the practice of pharmacy.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states, in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 or Chapter 2925. or 3719. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;
- (9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;
- (10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code.

IF YOU REQUEST A HEARING within 30 days of the time of the mailing of this notice, such will be afforded. Such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

BY ORDER OF THE STATE BOARD OF PHARMACY

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William T. Winsley, M.S., R.Ph.  
Executive Director

CERTIFIED MAIL  
7001 0360 0002 4087 3911  
Return Receipt

WTW:lf (D-021104-025)

cc: Sally Ann Steuk, Assistant Attorney General