

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-010913-008)

In The Matter Of:

**MICHAEL LEE LACY, R.Ph.**

137 Ravines Way  
Westerville, Ohio 43082  
(R.Ph. No. 03-1-20851)

**INTRODUCTION**

THE MATTER OF MICHAEL LEE LACY CAME FOR HEARING ON DECEMBER 3, 2002, 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.

MICHAEL LEE LACY WAS REPRESENTED BY ELIZABETH Y. COLLIS AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

**SUMMARY OF EVIDENCE**

**State's Witnesses**

1. Christopher K. Reed, Ohio State Board of Pharmacy
2. Michael Cluxton, Ohio State Board of Pharmacy
3. John Ahler

**Respondent's Witnesses**

1. Michael Lacy, R.Ph., Respondent

**State's Exhibits**

1. Copy of Notice of Opportunity For Hearing [09-13-01]  
1A-1C. Procedurals  
1D. Copy of Summary Suspension Order/Notice of Opportunity For Hearing [12-05-01]  
1E-1I. Procedurals  
1J. Copy of Addendum Notice [07-30-02]  
1K-M. Procedurals
2. Copy of Notarized Statement of Michael L. Lacy [10-17-00]
3. Notarized Statement of Michael L. Lacy [12-13-00]
4. Indictment, State of Ohio vs. Michael L. Lacy, Case No. 01CR 11-6790, Franklin County Common Pleas Court [11-21-01]
5. Entry of Guilty Plea, State of Ohio vs. Michael Lacy, Case No. 01CR-6790, Franklin County Common Pleas Court [07-03-02]
6. Judgment Entry, State of Ohio vs. Michael L. Lacy, Case No. 01CR-11-6790, Franklin County Common Pleas Court [08-27-02]

7. Notarized Statement of Michael L. Lacy [11-21-01]
8. Copy of McKessonHBOC Invoice No. 1641608149 [05-29-01]
9. Copy of McKessonHBOC Invoice No. 1640562171 [06-20-01]
10. Copy of McKessonHBOC Invoice No. 1640595229 [08-17-01]
11. Copy of McKessonHBOC Invoice No. 1640467250 [09-07-01]
12. Indictment, State of Ohio vs. Michael Lacy, Case No. CR02-01-0050, Butler County Common Pleas Court [01-16-02]
13. Plea of Guilty and Jury Waiver, State of Ohio vs. Michael L. Lacy, Case No. CR02-01-0050, Butler County Common Pleas Court [06-13-02]
14. Judgment of Conviction, State of Ohio vs. Michael L. Lacy, Case No. CR02-01-0050, Butler County Common Pleas Court [08-02-02]

#### Respondent's Exhibits

- A. Judgment Entry of Judicial Release, State of Ohio vs. Michael Lacy, Case No. CR02-01-0050, Butler County Common Pleas Court [10-31-02]
- B. Amended Judgment Entry of Judicial Release, State of Ohio vs. Michael Lacy, Case No. CR02-01-0050, Butler County Common Pleas Court [11-12-02]

#### 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 State Board of Pharmacy indicate that Michael Lee Lacy was originally licensed by the State of Ohio as a pharmacist on February 22, 1995, pursuant to examination, and that his license to practice pharmacy in the state of Ohio was summarily suspended effective December 5, 2001. Records further reflect during the relevant time periods stated herein, Michael Lee Lacy was the Responsible Pharmacist at CVS/pharmacy #6160 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

(2) Michael Lee Lacy did, from May 20, 2000, through September 7, 2000, with purpose to deprive, knowingly obtain or exert control over the property of CVS/pharmacy #6160 by deception, to wit: Michael Lee Lacy admittedly stole \$12,532.08 in cash from his employer by voiding sales receipts and taking the cash from the register at the end of the workday. Such conduct violates Section 2913.02 of the Ohio Revised Code.

(3) Michael Lee Lacy is addicted to liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Michael Lee Lacy admitted to an agent of the Ohio Board of Pharmacy that he is addicted to ketamine, and Michael Lee Lacy admitted to stealing drugs while practicing pharmacy. Such conduct indicates that Michael Lee Lacy falls within the ambit of Sections 3719.121(A), 3719.121(B), and 4729.16(A)(3) of the Ohio Revised Code.

(4) Michael Lee Lacy did, on or about November 21, 2001, knowingly possess or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Michael Lee Lacy admitted to an agent of the Ohio Board of Pharmacy that he stole 8 vials of ketamine, a Schedule III controlled substance, gave the vials to a friend who cooked down the drug, and then Michael Lee Lacy snorted the drug with the friend. Such conduct violates Section 2925.11 of the Ohio Revised Code.

(5) Michael Lee Lacy did, on or about November 2001, knowingly sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a prescription and without a legitimate medical purpose, Michael Lee Lacy admitted to an agent of the Ohio Board of Pharmacy that he sold three vials of ketamine, a Schedule III controlled substance. Such conduct violates Section 2925.03 of the Ohio Revised Code.

(6) Michael Lee Lacy did, on or about the following dates, while employed as a pharmacist at Target Pharmacy, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Target Pharmacy, beyond the express or implied consent of the owner, to wit: Michael Lee Lacy has admittedly ordered and stolen the following drugs:

<u>Date</u>	<u>Drug Name</u>	<u>Quantity</u>
05/29/01	Ketalar	20 vials
05/29/01	ketamine	20 vials
05/29/01	ketamine	30 vials
08/17/01	ketamine	40 vials
08/17/01	ketamine	20 vials
08/17/01	ketamine	40 vials
09/07/01	ketamine	20 vials
09/07/01	ketamine	100 vials

Such conduct violates Section 2913.02 of the Ohio Revised Code

(7) On June 13, 2002, Michael Lee Lacy pled guilty to three counts of Theft of Drugs, felonies of the fourth degree under Section 2913.02 of the Ohio Revised Code, and to one count of Possession of Drugs, a felony of the fourth degree under Section 2925.11 of the Ohio Revised Code. State of Ohio vs. Michael Lacy, Case No. CR02-01-0050, Butler County Common Pleas Court.

(8) On or about July 1, 2002, Michael Lee Lacy pled guilty to one count of Theft, a felony of the fifth degree under Section 2913.02 of the Ohio Revised Code. State of Ohio vs. Michael Lacy, Case No. 01CR-6790, Franklin County Common Pleas Court.

#### CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2), and (4) through (8) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (2), and (4) through (8) of the Findings of Fact constitute 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 (3) 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 him 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 paragraphs (4), (5), and (7) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapters 2925. and 3719. 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 Michael Lee Lacy on December 5, 2001.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy takes the following actions in the matter of Michael Lee Lacy:

(A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-20851, held by Michael Lee Lacy effective as of the date of the mailing of this Order.

(B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-20851, held by Michael Lee Lacy effective as of the date of the mailing of this Order.

(C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-20851, held by Michael Lee Lacy effective as of the date of the mailing of this Order.

(D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-20851, held by Michael Lee Lacy effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Michael Lee Lacy must return his 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-3).

MOTION CARRIED.

SO ORDERED.

**ORDER EFFECTIVE JANUARY 9, 2003**

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

December 5, 2001

Michael Lee Lacy, R.Ph.  
137 Ravines Way  
Westerville, Ohio 43082

Re: Ohio Registered Pharmacist  
Number 03-1-20851

Dear Mr. Lacy:

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 February 22, 1970, 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 an agent of the Ohio Board of Pharmacy that you are addicted to Ketamine, and you admitted to stealing drugs while practicing pharmacy. 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 November 21, 2001, knowingly possess or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you admitted to an agent of the Ohio Board of Pharmacy that you stole 8 vials of Ketamine, a schedule III controlled substance, gave the vials to a friend who cooked down the drug, and then you snorted the drug with the friend. Such conduct violates Section 2925.11 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (4) You did, on or about November 2001, knowingly sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a prescription and without a legitimate medical purpose, you admitted to an agent of the Ohio Board of Pharmacy that you sold three (3) three vials of ketamine, a schedule III controlled substance. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code and if proven constitutes being guilty of a felony or gross immorality and/or willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (5) You did, on or about the following dates, while employed as a pharmacist at Target Pharmacy, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Target Pharmacy, beyond the express or implied consent of the owner, to wit: you have admittedly ordered and stolen the following drugs:

Date	Drug Name	Quantity
05/29/01	Ketalar	20 vials
05/29/01	ketamine	20 vials
05/29/01	ketamine	30 vials
06/20/01	Adipex-P	100 tablets
08/17/01	ketamine	40 vials
08/17/01	ketamine	20 vials
08/17/01	ketamine	40 vials
09/07/01	ketamine	20 vials
09/07/01	ketamine	100 vials

Such conduct violates Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

- (6) On June 13, 2002, you pled guilty to three (3) counts of Theft of Drugs, felonies of the fourth degree under Section 2913.02 of the Ohio Revised Code, and to one (1) count of Possession of Drugs, a felony of the fourth degree under Section 2925.11 of the Ohio Revised Code. State of Ohio vs. Michael Lacy, Case No. CR 2002 01 0050, Butler County Common Pleas Court. Such conduct indicates that you are guilty of a felony or gross immorality, dishonesty or unprofessional conduct in the practice of pharmacy, and/or addicted to or abusing drugs to render you unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

*[paragraph added by Notice dated 07/30/02]*

- (7) On or about July 1, 2002, you pled guilty to one (1) count of Theft, a felony of the fifth degree under Section 2913.02 of the Ohio Revised Code. State of Ohio vs. Michael Lacy, Case No. 01CR-6790, Franklin County Common Pleas Court. Such conduct indicates that you are guilty of a felony or gross immorality, dishonesty or unprofessional conduct in the practice of pharmacy, and/or addicted to or abusing drugs to render you unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

*[paragraph added by Notice dated 07/30/02]*

YOU ARE FURTHER 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 ARE 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.

You have previously requested a hearing to address a Notice Of Hearing dated September 13, 2001. You need not request another hearing; rather, this matter will be combined with the hearing scheduled for February 6, 2001 at 9:00 a.m.

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.

(D-011205-019)

BY ORDER OF THE STATE BOARD OF PHARMACY

**SUMMARY SUSPENSION EFFECTIVE DECEMBER 5, 2001**

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.  
(Order Effective January 9, 2003)*