



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-031224-047)

In The Matter Of:

JAMES JOSEPH PARSLEY, R.Ph.

2223 Concord Drive
Wheelersburg, Ohio 45694
(R.Ph. No. 03-1-24212)

INTRODUCTION

THE MATTER OF JAMES JOSEPH PARSLEY CAME FOR CONSIDERATION ON APRIL 5, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

JAMES JOSEPH PARSLEY WAS NOT PRESENT NOR WAS HE REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Kevin J. Kinneer, Ohio State Board of Pharmacy

Respondent's Witnesses

None

State's Exhibits

1. Copy of Summary Suspension Order/Notice of Opportunity For Hearing letter [12-24-03] 1A-1C. Procedurals
2. Copy of Inventory Log for OxyContin 10 mg tablets [03-19-03 to 11-14-03]
3. Copy of Inventory Log for OxyContin 20 mg tablets [10-02-03 to 12-18-03]
4. Copy of two-page Inventory Log for OxyContin 40 mg tablets [10-06-03 to 12-17-03]
5. Copy of Inventory Log for OxyContin 80 mg tablets [10-20-03 to 12-20-03]
6. Copy of Inventory Log for Oxy IR caps [05-18-01 to 08-09-02]
7. Ohio State Board of Pharmacy Drug Audit Accountability Sheet for OxyContin 10 mg [03-23-04]
8. Ohio State Board of Pharmacy Drug Audit Accountability Sheet for OxyContin 20 mg [03-23-04]
9. Ohio State Board of Pharmacy Drug Audit Accountability Sheet for OxyContin 40 mg [03-23-04]

10. Ohio State Board of Pharmacy Drug Audit Accountability Sheet for OxyContin 80 mg [03-23-04]
11. Record of Forged Prescriptions for OxyContin [06-07-01 to 12-15-03]
12. Six-page copy of fifty-two prescription tags for forged prescriptions at Kroger Wheelersburg Pharmacy [06-07-01 to 12-18-03]
13. Notarized Statement of Stephen Burson [12-24-03]
14. Copy of Ohio State Board of Pharmacy Inventory of Evidence, Case No. 03-2285 [01-05-04]; copy of photograph of drug vials [12-22-03]

Respondent's Exhibits

None

FINDINGS 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 the following to be fact:

(1) On December 24, 2003, James Joseph Parsley was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit any contentions in writing.

(2) As demonstrated by return receipt received by the Board on December 29, 2003, and signed by Pamela Jane Parsley, James Joseph Parsley received the letter of December 24, 2003, informing him of the allegations against him and his rights.

(3) James Joseph Parsley did not request a hearing in a timely manner pursuant to Chapter 119. of the Ohio Revised Code, therefore the matter was referred to the Board for consideration.

(4) Records of the State Board of Pharmacy indicate that James Joseph Parsley was originally licensed by the State of Ohio as a pharmacist on August 1, 2000 pursuant to examination, and that his license to practice pharmacy was summarily suspended effective December 24, 2003.

(5) James Joseph Parsley is addicted to or abusing controlled drugs to such a degree as to render him unfit to practice pharmacy, to wit: James Joseph Parsley admitted to being addicted to controlled substances; James Joseph Parsley admitted to stealing controlled substances for his personal abuse; and, James Joseph Parsley admitted to forging prescription numbers onto the perpetual inventory to cover the thefts. James Joseph Parsley indicated to a Board agent that he has been stealing controlled substances for three to four years; James Joseph Parsley has, for the previous six months, been consuming up to 200 mg of OxyContin every 30 minutes to an hour. James Joseph Parsley also indicated that approximately a year and a half ago, he had been taking 80 tablets of Norco 10/325 mg each day, 20 tablets of which he would take each morning "just to get going." Such conduct indicates that James Joseph Parsley falls within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being guilty of 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 paragraph (5) 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 (5) 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 paragraph (5) 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 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 James Joseph Parsley on December 24, 2003.

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. 03-1-24212, held by James Joseph Parsley and such suspension is effective as of the date of the mailing of this Order.

(A) James Joseph Parsley, 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) James Joseph Parsley, pursuant to Section 4729.16(B) of the Ohio Revised Code, 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.

Further, after five years from the effective date of this Order, the Board will consider any petition filed by James Joseph Parsley 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) James Joseph Parsley 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) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. 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) James Joseph Parsley must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

(C) James Joseph Parsley must provide, at the reinstatement petition hearing, documentation of the following:

(1) Payment of full restitution to Kroger.

(2) Taking and passing, no more than one year prior to his reinstatement hearing, the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

(3) Compliance with the contract required above (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.);

(4) 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;

(5) Compliance with the terms of this Order.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-1).

MOTION CARRIED.

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.



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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

December 24, 2003

James Joseph Parsley, R.Ph.
2223 Concord Drive
Wheelersburg, Ohio 45694

Re: Ohio Registered Pharmacist
Number 03-1-24212

Dear Mr. Parsley:

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 reason for the Board's action is 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 August 1, 2000, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio
- (2) You are addicted to or abusing controlled drugs to such a degree as to render you unfit to practice pharmacy, to wit: you have admitted to being addicted to controlled substances; you have admitted to stealing controlled substances for your personal abuse; and, you have admitted to forging prescription numbers onto the perpetual inventory to cover the thefts. You have indicated to a Board agent that you have been stealing controlled substances for 3 to 4 years; you have, for the previous six months, been consuming up to 200 mg of OxyContin every 30 minutes to an hour. You have also indicated that approximately a year and a half ago, you had been taking 80 tablets of Norco 10/325 mg each day, 20 tablets of which you would take each morning "just to get going." Such conduct indicates that you fall within the ambit of Sections 3719.121 and 4729.16(A)(3) of 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.

(D-031224-047)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE DECEMBER 24, 2003

This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.