



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-070809-004)

In The Matter Of:

**HEMIN HASMUKH PATEL, R.Ph.**

6324 Carriann Court

Hilliard, Ohio 43026

(R.Ph. No. 03-1-26038)

### INTRODUCTION

THE MATTER OF HEMIN HASMUKH PATEL CAME FOR HEARING ON DECEMBER 4, 2007, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GREGORY BRAYLOCK, R.Ph. (presiding); ELIZABETH I. GREGG, R.Ph.; RICHARD F. KOLEZYNSKI, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; HEATHER L. PASQUALE, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; JAMES E. TURNER, R.Ph.; AND JEROME J. WIESENHAHN, R.Ph.

HEMIN HASMUKH PATEL WAS REPRESENTED BY DOUGLAS E. GRAFF. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### State's Witness

1. Christopher K. Reed, Ohio State Board of Pharmacy

#### Respondent's Witness

Hemin Hasmukh Patel, R.Ph., Respondent

#### State's Exhibits

1. Notice of Opportunity For Hearing letter [08-09-07]  
1A-1D. Procedurals
2. Wal-Mart Investigation Report [12-14-04]
3. Statement of Hemin Patel [11-30-04]
4. Wal-Mart Stores, Inc. Restitution Note [11-30-04]
5. Notarized Statement of Nishit Jhaveri, M.D. [03-09-05]
6. Notarized Statement of Janelle Whitney [05-05-05]
7. Patient Medical Expenses Report at Kroger Pharmacy 01600598 for Hasmukh Patel [12-13-04 to 01-08-05]
8. Rx #6692706 [12-13-04]
9. Rx #6695252 [01-08-05]
10. Patient Medical Expenses Report at Kroger Pharmacy 01600598 for Hasmukh Patel [01-07-05]

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11. Rx #6695189 [01-07-05]
12. Patient Medical Expenses Report at Kroger Pharmacy 01600598 for Pushpa Patel [12-13-04 to 01-08-05]
13. Rx #6692820 [12-13-04]
14. Rx #6694810 [01-08-05]
15. Patient Medical Expenses Report at Kroger Pharmacy 01600598 for Sweetu Patel [11-24-04 to 01-08-05]
16. Rx #6695201 [01-08-05]
17. Rx #6695251 [01-08-05]
18. Kroger Restitution and Resignation Agreement [02-22-05]

Respondent's Exhibits

- A. Ohio State Board of Pharmacy Notice of Opportunity For Hearing letter [08-09-07]
- B. Resume of Hemin H. Patel
- C. Pharmacy Licensure Letters from the Ohio State Board of Pharmacy and the New Jersey Board of Pharmacy [11-17-03 and 02-26-04]; National Association of Boards of Pharmacy Foreign Pharmacy Graduate Equivalency Examination Report [11-05-02]; Test of Spoken English Record for October 2002; Test of English as a Foreign Language Record [12-20-02]; New Jersey Notary Public Commission and Certificate [02-25-04 and 04-22-04]
- D. Statement of Hemin Patel [11-30-04]; Wal-Mart Stores, Inc. Restitution Note [11-30-04]; Restitution Documentation [06-26-06]
- E. Kroger Loss Prevention Receipt No. 4673 in re Hemin Patel [04-20-05]
- F. Ohio Health Staff Performance Evaluations for Hemin Patel [07-11-06 to 08-07-07]
- G. The Ohio State University Non-Traditional Doctor of Pharmacy Program Documentation in re Hemin Patel [11-04-02 to 11-09-07]
- H. The Ohio State University Clinical Evaluations of Hemin Patel for June 2006 to October 2007
- I. Two letters from William F. McMillen, R.Ph. to Hemin Patel [May 9, 2007 and 07-13-07]; Continuing Pharmaceutical Education Credits and Certificates [05-09-04 to 10-13-07]
- J. Six letters of support [10-20-06 to 11-17-07]

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 Hemin Hasmukh Patel was originally licensed by the State of Ohio as a pharmacist on February 26, 2004, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Hemin Hasmukh Patel did, from April 4, 2004, through November 30, 2004, with purpose to deprive, knowingly obtain or exert control over the property of Wal-Mart by deception, to wit: while employed to practice pharmacy, Hemin Hasmukh Patel admittedly stole gift cards, merchandise, and long-distance telephone time. Hemin Hasmukh Patel originally signed a promissory note to repay \$10,000.00, but it was later amended to \$3,500.00. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(3) Hemin Hasmukh Patel did, from December 13, 2004, through January 8, 2005, intentionally create and/or knowingly possess false or forged prescriptions, to wit:

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Hemin Hasmukh Patel created the following prescriptions without authorization from a prescriber, and he maintained them on file at Kroger Pharmacy:

<u>Date</u>	<u>Rx #</u>	<u>Drug</u>	<u>Qty.</u>
12-13-04	6692706	Cozaar 50 mg	120
01-07-05	6695189	Viagra 100 mg	8
01-08-05	6695252	Niaspan ER 1,000 mg	100
01-08-05	6694810	TriNessa-28	56
12-13-04	6692820	Cozaar 50 mg	30
01-08-05	6695201	Ortho-Tri-Cyclen	56
01-08-05	6695251	Cozaar 50 mg	180

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

(4) Hemin Hasmukh Patel did, from December 13, 2004, through January 8, 2005, with purpose to deprive, knowingly obtain or exert control over the property of Kroger Pharmacy by deception, to wit: while employed to practice pharmacy, Hemin Hasmukh Patel forged prescriptions for family members and billed various insurance companies in the amount of \$845.03, forcing Kroger to make restitution to PCS, PAID, and Medicaid for payment improperly made. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute 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 paragraphs (2) through (4) 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 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 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adjudicates the matter of Hemin Hasmukh Patel as follows:

(A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends for five years the pharmacist identification card, No. 03-1-26038, held by Hemin Hasmukh Patel and such suspension is effective as of the date of the mailing of this Order. Further, the Board stays four years of the suspension.

## **HEMIN HASMUKH PATEL, R.Ph.**

(1) Hemin Hasmukh Patel, 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.

(2) Hemin Hasmukh Patel, 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.

(B) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Hemin Hasmukh Patel a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty days of the issuance of this Order. The monetary penalty 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.

(C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places Hemin Hasmukh Patel on probation for four years effective upon reinstatement of his identification card. The terms of probation are as follows:

(1) Hemin Hasmukh Patel must obtain, within six months from the effective date of this Order, three hours (0.3 CEUs) of Board approved continuing pharmacy education in Jurisprudence, which may not also be used for license renewal.

(2) The State Board of Pharmacy hereby declares that Hemin Hasmukh Patel'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.

(3) Hemin Hasmukh Patel may not serve as a responsible pharmacist.

(4) Hemin Hasmukh Patel must not violate the drug laws of Ohio, any other state, or the federal government.

(5) Hemin Hasmukh Patel must abide by the rules of the State Board of Pharmacy.

(6) Hemin Hasmukh Patel must comply with the terms of this Order.

(7) Hemin Hasmukh Patel's license is deemed to be not in good standing until successful completion of the probationary period.

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.

On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby limits Hemin Hasmukh Patel's practice of pharmacy in that he may not dispense prescriptions for himself or for any member of his family.

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Hemin Hasmukh Patel 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-6/Nay-2).

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.

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: \_\_\_\_\_

By: \_\_\_\_\_

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

WTW/lf

CERTIFIED MAIL/Return Receipt

c: Sally Ann Steuk, Assistant Attorney General  
Douglas E. Graff, Attorney for Respondent; Graff & Associates, L.P.A.; 604 East Rich Street;  
Columbus, Ohio 43215

