



OHIO STATE BOARD OF PHARMACY

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-Equal Opportunity Employer and Service Provider-

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-070123-029)

In The Matter Of:

GINA M. SCANDY, R.Ph.

2708 North River Road

Warren, Ohio 44483

(R.Ph. No. 03-2-15310)

INTRODUCTION

THE MATTER OF GINA M. SCANDY CAME FOR HEARING ON AUGUST 6, 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.

GINA M. SCANDY WAS REPRESENTED BY PETER T. CAHOON. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness

1. Gina M. Scandy, R.Ph., Respondent

Respondent's Witness

1. Curtis Wilson

State's Exhibits

1. Reinstatement Hearing Request letter from Peter T. Cahoon [01-11-07]
1A-1C. Procedurals
2. State Board of Pharmacy Order In Re Gina M. Scandy [05-11-06]

Respondent's Exhibits

- A. State Board of Pharmacy Order In Re Gina M. Scandy [05-11-06]
- B. State Board of Pharmacy Hearing Schedule Letter [05-25-07]
- C. PRO Pharmacist's Recovery Contract for Gina M. Scandy [05-16-06]
- D. Journal Entry, State of Ohio vs Gina M. Scandy, Case No. 05-CR-678, Trumbull County Common Pleas Court [07-24-07]
- E. Copy of Check No. 5930137050 made payable to Overholt's Pharmacy [04-21-07]
- F. Trumbull County Common Pleas Court Verification of Payment of Court Costs and Drug Court Fees [02-06-06 to 07-16-07]
- G. Drug Court Individualized Service Plan [08-14-06]

- H. Drug Court Individualized Service Plan Review [11-21-06]
- I. Progress Report Letter from Earl Roman, CCDC I [09-20-06]
- J. Progress Report Letter from George R. Jarbeck, MSED, LPC, LICDC and Earl Roman, DDCD I [04-24-07]
- K. Progress Report Letter from George R. Jarbeck, MSED, LPC, LICDC and Earl Roman, DDCD I, [07-24-07]
- L. Certificate of Achievement [07-24-07]
- M. Certificate Award of Excellence [07-24-07]
- N. Calendars pages for March 2006 to July 2007
- O. Support Group Attendance Records [02-27-06 to 07-28-07]
- P. Drug Screen Reports with payment receipts [04-05-06 to 04-19-07]
- Q. FirstLab Urine Test History Report [09-29-05 to 04-29-07]; E-Mail correspondence between Michael D. Quigley, R.Ph. and Heather Samuels [05-03-07 to 05-04-07]
- R. Continuing Pharmaceutical Education Credits and Certificates [04-30-06 to 07-30-07]
- S-Z. Eight Letters of Support [05-06-06 to 07-16-07]
- AA. FirstLab Urine Test History Report [09-29-05 to 07-27-07]
- BB. Support Group Attendance Records [07-31-07 and 08-02-07]

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 that Gina M. Scandy has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-050817-019, effective May 11, 2006.

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. 03-2-15310, held by Gina M. Scandy to practice pharmacy in Ohio and places Gina M. Scandy on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Gina M. Scandy must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved 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) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine 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) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (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) Gina M. Scandy 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 Gina M. Scandy's progress towards recovery and what Gina M. Scandy 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 Gina M. Scandy'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) Gina M. Scandy may not serve as a responsible pharmacist.
 - (3) Gina M. Scandy may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Gina M. Scandy must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Gina M. Scandy must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Gina M. Scandy must abide by the rules of the State Board of Pharmacy.
 - (7) Gina M. Scandy must comply with the terms of this Order.
 - (8) Gina M. Scandy's license is deemed not in good standing until successful completion of the probationary period.

(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.

Gina M. Scandy 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.

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: September 14, 2007

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

WTW/lf

CERTIFIED MAIL/Return Receipt
7004 2510 0006 9804 1737

c: Sally Ann Steuk, Assistant Attorney General
Peter T. Cahoon, Attorney for Respondent; Buckingham, Doolittle & Burroughs LLC;
50 South Main Street, P.O. Box 1500; Akron, Ohio 44309-1500



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-050817-019)

In The Matter Of:

GINA M. SCANDY, R.Ph.

2708 North River Road

Warren, Ohio 44483

(R.Ph. No. 03-2-15310)

INTRODUCTION

THE MATTER OF GINA M. SCANDY CAME FOR HEARING ON APRIL 4, 2006, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE R. EASTMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

GINA M. SCANDY WAS REPRESENTED BY PETER T. CAHOON. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness

1. George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Gina M. Scandy, R.Ph., Respondent
2. Curtis Wilson
3. John Tomko, R.Ph.

State's Exhibits

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [08-17-05]
 - 1A-1B. Procedurals
 - 1C. Addendum Notice [02-17-06]
 - 1D. Procedural
2. Two photocopies of a medicine vial and tablets [not dated]
3. Notarized Statement of Gina M. Scandy, R.Ph. [08-10-05]
4. Drug Audit Accountability Sheets for oxycodone 5/325 mg at Overholt's Pharmacy [03-12-06]; Endocet 5/325 mg [03-12-06]; Percocet 5/325 mg [03-12-06]

5. Indictment, State of Ohio vs. Gina M. Scandy, Case No. 05-CR-678, Trumbull County Common Pleas Court [09-13-05]; Finding of Guilty Plea to Indictment [01-24-06]; Judgment Entry [01-24-06]

Respondent's Exhibits

- A. Finding On Guilty Plea to Indictment, State of Ohio vs. Gina M. Scandy, Case No. 05-CR-678, Trumbull County Common Pleas Court [01-24-06]
- B. Community Solutions Association Client Contract for Gina M. Scandy [03-13-06]
- C. Trumbull County Drug Court Compliance letter [03-23-06]
- D. Letter from Carla Becroft, MSSA, LISW, LICDC to Peter Cahoon, Esq. [09-22-05]; Edwin Shaw Rehab Authorization for Disclosure [09-06-05]
- E. Patient Progress Report from Patricia Slevy, LICDC [10-06-05]
- F. Progress Report from Cheryl Shuttleworth, M.Ed., LICDC [02-23-06]
- G. Certificate of Achievement from Akron General Edwin Shaw Rehab [10-18-05]
- H. Certificate of Achievement from Akron General Edwin Shaw Rehab [02-24-06]
- I. Support Group Attendance Records [08-15-05 to 03-24-06]
- J. Northwest Toxicology Drug Screen Reports [09-26-05 to 03-15-06]
- K. Lab One Drug Screen Reports [09-26-05 to 03-15-06]
- L. Calendar pages for August 2005 to March 2006
- M. PRO Pharmacist's Recovery Contract for Gina Scandy [08-15-05]
- N. Six Continuing Pharmaceutical Education Credit Statements [03-10-06 to 03-24-06]
- O. Letter from John R. Tomko [03-15-06]
- P. Letter from Todd S. Bolotin, M.D. [03-09-06]
- Q. Letter from John A. Brallier [not dated]
- R. Letter from John M. Kalish, R.Ph. [03-11-06]
- S. Letter from Kenneth M. Overholt, R.Ph. [03-30-06]

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 Gina M. Scandy was originally licensed by the State of Ohio as a pharmacist on March 27, 1984, pursuant to reciprocity, and that her license to practice pharmacy in Ohio was summarily suspended effective August 17, 2005.
- (2) Gina M. Scandy is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Gina M. Scandy has been observed stealing controlled substances for her own abuse; Gina M. Scandy has been observed in the pharmacy where she practiced appearing under the influence of drugs; and, Gina M. Scandy has admitted to Board agents that she is addicted to controlled substances. Such conduct indicates that Gina M. Scandy is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Gina M. Scandy did, on or about August 5, 2005, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Overholt's Champion Pharmacy, beyond the express or implied consent of the owner, to wit: Gina M. Scandy has been observed, and has admitted to stealing

oxycodone with APAP 5/325 mg from her employer for her own personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (4) Gina M. Scandy did, on or about August 10, 2005, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a prescription and not for a legitimate medical purpose, Gina M. Scandy possessed 109 tablets of oxycodone with APAP 5/325 mg. Gina M. Scandy surrendered the drugs to an agent of the Board. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) On January 24, 2006, Gina M. Scandy pled guilty to one (1) count of Theft of Drugs, a felony of the fourth degree under Section 2913.02 of the Ohio Revised Code and (1) count of Aggravated Possession of Drugs, a felony of the third degree under section 2925.11. State of Ohio vs. Gina M. Scandy, Case No. 05-CR-678, Trumbull County Common Pleas Court. Gina M. Scandy's case was then transferred to the Trumbull County Drug Court.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (5) 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 (3) and (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 (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 paragraphs (2), (4) and (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 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 Gina M. Scandy on August 17, 2005.

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. 03-2-15310, held by Gina M. Scandy and such suspension is effective as of the date of the mailing of this Order.

- (A) Gina M. Scandy, 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) Gina M. Scandy, 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 Gina M. Scandy 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) Gina M. Scandy must enter into a **new** 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) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (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) Gina M. Scandy 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) Gina M. Scandy must provide, at the reinstatement petition hearing, documentation of the following:
 - (1) Gina M. Scandy must provide proof that she has attempted to make restitution to Overholt's Champion Pharmacy, Inc.;

- (2) 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.);
 - (3) 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;
 - (4) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Gina M. Scandy must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.
- (E) Upon such time as the Board may consider reinstatement, Gina M. Scandy will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).
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 a Notice of Appeal with both the State Board of Pharmacy and 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: May 11, 2006

CERTIFIED MAIL/Return Receipt
7003 0500 0002 4340 8756

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

WTW/lf

cc: Sally Ann Steuk, Assistant Attorney General
Peter T. Cahoon, Attorney for Respondent; Buckingham, Doolittle & Burroughs LLC;
50 South Main Street, P.O. Box 1500; Akron, Ohio 44309-1500