



# OHIO STATE BOARD OF PHARMACY

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

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## ORDER OF THE STATE BOARD OF PHARMACY (Docket Numbers D-071113-014 and D-071210-023)

In The Matter Of:

**JOHN A. LeFEVER, R.Ph.**  
1112 North Kohler Road  
Orrville, Ohio 44667  
(R.Ph. No. 03-2-16622)

### INTRODUCTION

THE MATTER OF JOHN A. LeFEVER CAME FOR HEARING ON FEBRUARY 4, 2008, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GREGORY BRAYLOCK, R.Ph. (presiding); 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.

JOHN A. LeFEVER WAS REPRESENTED BY JOHN E. JOHNSON, JR. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### State's Witness

1. David Gallagher, Ohio State Board of Pharmacy

#### Respondent's Witness

1. John A. LeFever, R.Ph., Respondent

#### State's Exhibits

1. Notice of Opportunity For Hearing letter [11-13-07]
- 1A. Summary Suspension Order/Notice of Opportunity For Hearing Letter [12-10-07]
- 1B-1F. Procedurals
2. Drug Accountability Statement at CVS Pharmacy #4605 for carisoprodol 350 mg [08-16-07]
3. Notarized Statement of John LeFever [05-14-07]
4. Drug Accountability Statement at CVS Pharmacy #4605 for hydrocodone/APAP 5/500 mg [08-16-07]
5. Drug Accountability Statement at CVS Pharmacy #4605 for Vicodin 5/500 mg [08-16-07]
6. Indictment, State of Ohio vs. John A LeFever, Case No. 07-CR-0307, Wayne County Common Pleas Court [07-20-07]
7. Judgment Entry, [11-28-07]

## John Arthur LeFever

### Respondent's Exhibits

- A. Letter from Todd Raetz, R.Ph., MS, MBA [01-15-08]
- B-D. Three Letters of Support [01-22-08 to 01-25-08]
- E. Letter from Ralph Huhn, Ph.D. to Brandi Couch, P.O. [11-14-07]
- F. Letter from Ralph Huhn, Ph.D. to John E. Johnson, Jr. [01-18-08]
- G. Your Human Resource Center Intake Assessment of John LeFever [10-24-07]
- H. Treatment Letter from Steven C. Hirsch, M.D., FACC to John Johnson [01-24-08]; Progress Note [01-13-05]
- I. Ohio Revised Code Section 2951.041 Drug Treatment in Lieu of Conviction [2008]

### 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 John A. LeFever was originally licensed by the State of Ohio as a pharmacist on November 5, 1986 by examination and his license to practice pharmacy in Ohio was summarily suspended on December 10, 2007.
- (2) John A. LeFever did, from September 25, 2006, through May 14, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, beyond the express or implied consent of the owner, to wit: John A. LeFever admittedly stole 316 tablets of carisoprodol 350 mg, a dangerous drug, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) John A. LeFever did, from May 1, 2005, through May 10, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, beyond the express or implied consent of the owner, to wit: John A. LeFever admittedly stole 100 tablets of hydrocodone/APAP 5/500 mg, a schedule III controlled substance, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Wayne County, Ohio, has submitted to this Board information which indicates that on November 28, 2007, John A. LeFever pled guilty in the Common Pleas Court of Wayne County, Ohio, to one (1) count of Theft of Drugs, a felony of the fourth degree under Section 2913.02 of the Ohio Revised Code. John A. LeFever was found eligible for, and granted, Intervention in Lieu of Conviction. State of Ohio vs. John A. LeFever, Case No. 07-CR-0307, Wayne County Common Pleas Court.

### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (4) 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) through (4) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the

## John Arthur LeFever

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 (4) 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.

### 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 John A. LeFever on December 10, 2007.

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 for two months the pharmacist identification card, No. 03-2-16622, held by John A. LeFever and such suspension is effective as of the date of the mailing of this Order.

- (A) John A. LeFever, 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) John A. LeFever, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (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.
- (C) Beginning two months from the effective date of this Order, the State Board of Pharmacy places John A. LeFever on probation for two years. The terms of probation are as follows:
  - (1) The State Board of Pharmacy hereby declares that John A. LeFever'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) John A. LeFever may not serve as a responsible pharmacist.
  - (3) John A. LeFever must not violate the drug laws of Ohio, any other state, or the federal government.
  - (4) John A. LeFever must abide by the rules of the State Board of Pharmacy.
  - (5) John A. LeFever must comply with the terms of this Order.
  - (6) John A. LeFever's license is deemed not in good standing until successful completion of the probationary period.
  - (7) 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.

**John Arthur LeFever**

John A. LeFever 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-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.

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: March 6, 2008

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

WTW/lf

CERTIFIED MAIL/Return Receipt

c: Sally Ann Steuk, Assistant Attorney General  
John E. Johnson, Jr., Attorney for Respondent; Johnson & Helmuth, Attorneys at Law; 343  
South Crownhill Road; P.O. Box 149; Orrville, Ohio 44667



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## SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

December 10, 2007

**John Arthur LeFever, R.Ph.**  
1112 North Kohler Road  
Orrville, Ohio 44667

Re: Ohio Registered Pharmacist  
Number 03-2-16622

Dear Mr. LeFever:

Records of the Board indicate that you are a pharmacist registered by this Board to practice pharmacy in the State of Ohio.

- (4) In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Wayne County, Ohio, has submitted to this Board information which indicates that on November 28, 2007, you pled guilty in the Common Pleas Court of Wayne County, Ohio, to one (1) count of Theft of Drugs, a felony of the fourth degree under Section 2913.02 of the Ohio Revised Code. You were found eligible for, and granted, Intervention in Lieu of Conviction. State of Ohio vs. John A. LeFever, Case No. 07-CR-0307, Wayne County Common Pleas Court. Such conduct indicates that you are guilty of a felony or gross immorality within the meaning of Section 4729.16 of the Ohio Revised Code.

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

(C) On receiving notification pursuant to Section 2929.24 or 3719.12 of the Revised Code, the Board under which a person has been issued a license, . . . immediately shall suspend the license, . . . of that person on a plea of guilty to, a finding by a jury or court of the person's guilt of, or conviction of a felony drug abuse offense . . .

WHEREFORE, PURSUANT TO SECTION 3719.121(C) 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

## John Arthur LeFever

hearing is held by the Board under Chapter 119. of the Revised Code, 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 him 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.

**John Arthur LeFever**

IF YOU DESIRE A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. YOUR REQUEST MUST BE IN WRITING, AND MUST BE RECEIVED IN THE OFFICE OF THE OHIO STATE BOARD OF PHARMACY ON OR PRIOR TO THE THIRTIETH (30<sup>TH</sup>) DAY FOLLOWING THE MAILING DATE OF THIS NOTICE. 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 there is no request for such a hearing received by the Board on or prior to the thirtieth (30<sup>th</sup>) day following the mailing of this notice, the Ohio 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

WTW:lf (D-071210-023)

CERTIFIED MAIL / Return Receipt  
7004 2510 0006 9804 4158

cc: Sally Ann Steuk, Assistant Attorney General