



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-040708-001)

In The Matter Of:

### **ANDREW DOUGLAS BYRNES**

511 Barbara Drive

Tipp City, Ohio 45371

(D.O.B. 04/23/78)

### INTRODUCTION

THE MATTER OF ANDREW DOUGLAS BYRNES CAME FOR HEARING ON SEPTEMBER 14, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: LAWRENCE J. KOST, R.Ph.; (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

ANDREW DOUGLAS BYRNES WAS NOT REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### State's Witnesses

1. Jesse Wimberly, Ohio State Board of Pharmacy

#### Respondent's Witnesses

1. Andrew Douglas Byrnes, Respondent
2. Mark William Karl, R.Ph.

#### State's Exhibits

1. Proposal to Deny/Notice of Opportunity For Hearing letter [07-09-04]
  - 1A-1C. Procedurals
  - 1D. Amendment Notice [08-24-04]
  - 1E. Procedural
2. Application for Pharmacy Intern Registration submitted by Andrew Douglas Byrnes [03-28-00]
3. Letter to the Ohio State Board of Pharmacy from Andrew D. Byrnes [05-26-04]
4. Tipp City Police Department Narrative, Case No. 96-002746 [04-20-96]
5. Six-page letter to the Ohio State Board of Pharmacy from Andrew Douglas Byrnes [07-22-04]
6. Domestic Violence Final Order, In the Matter of: Heather L. Brison vs. Andrew D. Byrnes, Case No. 99-DV-00040, Merrimack County, Hooksett District Court, New

Hampshire [08-10-99]; Order on Request for Extension of Domestic Violence or Stalking Final Protective Order [07/26/00]

7. E-mail letter from Andrew Byrnes to Heather Brison [07-13-99]
8. Statement of Linda McCall [not dated]
9. Notarized Statement of Linda McCall [09-06-00]
10. Statement of Veronica Dragoo, R.N. [10-27-99]
11. User Modification Information computer report for Grandview Hospital [10-16-99 to 10-27-99]
12. All Station Events computer report [10-05-99]
13. Notarized Statement of Chad Meyers [09-06-00]
14. Order and Judgment Entry of Conviction, State of Ohio vs Andrew Byrnes, Case No. 03 TRO 10855, Bellefontaine Municipal Court [01-20-04]
15. List of Traffic Violations of Andrew Byrnes [10-21-99 to 12-30-03]

#### Respondent's Exhibits

- A. Letters of Support [09-10-04 to 09-14-04]

#### 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 Andrew Douglas Byrnes submitted an Application For Examination As A Pharmacist on or about April 28, 2004. Records further indicate that Andrew Douglas Byrnes was originally registered as a pharmacy intern in Ohio on March 28, 2000 and holds a current license (06-0-02689) to practice as an intern.
- (2) Andrew Douglas Byrnes was arrested on or about April 20, 1996 by the Tipp City Police for Under Age Consumption. Though not of legal age, Andrew Douglas Byrnes admittedly invited friends to his grandmother's house and consumed beer.
- (3) Andrew Douglas Byrnes did, on or about March 28, 2000, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Andrew Douglas Byrnes indicated on his application for a Pharmacy Intern license that he had not been charged with a crime when in fact Andrew Douglas Byrnes had been charged with underage consumption of alcohol, and was subsequently adjudicated delinquent for disorderly conduct. Andrew Douglas Byrnes has admitted to State Board of Pharmacy agents that he knew that he should have answered the question on the application affirmatively. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (4) On August 10, 1999, and July 26, 2000, Domestic Violence or Stalking Final Protective Orders were issued against Andrew Douglas Byrnes, Heather L. Brison v. Andrew D. Byrnes, Case No. 99-DV-00040, Hooksett District Court, Hooksett, New Hampshire, for having sent a life-threatening e-mail message to a New Hampshire woman. On or about August, 1999, Andrew Douglas Byrnes used his employer's computer to send the message, that of Grandview Hospital, Dayton, Ohio.
- (5) While working as a technician at Grandview Hospital in Dayton, Ohio, Andrew Douglas Byrnes was terminated from his employment on or about November,

1999, due to three or more instances of threatening behavior. Andrew Douglas Byrnes sent frequent, harassing pages and phone calls to another employee, he removed or changed her Pyxis system code so she could not access the system, and he sent her forms and Pyxis reports with obscenities written thereon. When Andrew Douglas Byrnes admitted this conduct to State Board of Pharmacy agents, he attempted to justify his behavior by stating that the individual was "wrong about the way she felt about [him] and acted toward [him] and [he] had to make sure that she knew it."

- (6) In the year 2000, after being licensed as a pharmacy intern, Andrew Douglas Byrnes left employment at Rite Aid for arguing with a customer. Andrew Douglas Byrnes has previously been admonished for having placed a threatening and/or harassing comment in the pharmacy computer profile for a Rite Aid pharmacist. Andrew Douglas Byrnes admitted this conduct to a State Board of Pharmacy Specialist, indicating that he was "just having fun."
- (7) Andrew Douglas Byrnes was found guilty of speeding in the Bellefontaine Municipal Court on or about January 20, 2004, his fourth speeding ticket within a year's time, and was sentenced to jail for 24 hours. Such conduct indicates that Andrew Douglas Byrnes has been continually and intentionally disobedient to the law.

#### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (7) of the Findings of Fact constitute being not of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) The State Board of Pharmacy concludes that paragraphs (4) through (6) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

#### DECISION OF THE BOARD

Pursuant to Section 4729.07 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application For Examination As A Pharmacist submitted by Andrew Douglas Byrnes.

Further, the Board places Andrew Douglas Byrnes on probation for two years beginning on the date of his original licensure as a pharmacist. The terms of probation are as follows:

- (A) Andrew Douglas Byrnes must not violate the drug laws of Ohio, any other state, or the federal government.
- (B) Andrew Douglas Byrnes must abide by the rules of the State Board of Pharmacy.
- (C) Andrew Douglas Byrnes must comply with the terms of this Order.
- (D) Andrew Douglas Byrnes' license is deemed not in good standing until successful completion of the probationary period.

- (E) 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.

Andrew Douglas Byrnes 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 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: OCTOBER 6, 2004

CERTIFIED MAIL / Return Receipt  
# 7003 0500 0002 4347 2610

WTW/lf

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

c: Sally Ann Steuk, Assistant Attorney General