



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-051122-049)

In The Matter Of:

BRADLEY ALLEN SCHWARTZ, R.Ph.

483 Clifton Boulevard

Mansfield, Ohio 44907

(R.Ph. No. 03-2-26247)

INTRODUCTION

THE MATTER OF BRADLEY ALLEN SCHWARTZ CAME FOR HEARING ON JUNE 6, 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.

BRADLEY ALLEN SCHWARTZ WAS NOT REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

None

Respondent's Witnesses

1. Bradley Allen Schwartz, R.Ph., Respondent
2. Debra Basinger, R.Ph.

State's Exhibits

1. Reinstatement Hearing Request letter from Brad Schwartz [11-12-05]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re Bradley Allen Schwartz, R.Ph. [04-14-05]
3. Notarized Statement of Brad Schwartz [10-12-04]
4. Admission of Guilt/Judgment Entry, State of Ohio v. Bradley Allen Schwartz, Case No 04CR1009, Richland County Common Pleas Court [01-04-05]; Order [02-10-05]

Respondent's Exhibits

- A. Two PRO Pharmacist's Recovery Contracts for Brad Schwartz [05-01-05 and 12-16-04]

- B. Support Group Attendance Records [10-23-04 to 06-06-06]; Calendar pages for October 2004 to June 2006
- C. FirstLab Test History Report with Drug Panel [09-28-05 to 05-15-06]; Compass Vision Licensee Summary Report with Drug Panel [01-31-05 to 08-22-05]; Richland County Adult Probation Department Drug Screen Report [02-01-05 to 02-24-05]; Drugs Screen Reports [01-31-05 to 05-15-06]
- D. List of Continuing Education Credits [not dated]; Continuing Pharmaceutical Education Credits and Certificates [05-11-04 to 04-30-06]
- E. Two Progress Reports from Dennis Dyer, CCDC III-E [03-01-05 and 10-18-05]; Fourteen Letters of Support [02-24-05 to 05-30-06]
- F. Restitution Documentation [06-16-05]
- G. Richland County Adult Probation Department Drug Test Reports [02-01-05 to 02-24-05]; Richland County Common Pleas Court Conditions of Release Supervision [01-27-05]; Substance Abuse Treatment Court Notice to Defendants [01-27-05]; Financial Responsibility Agreement [01-27-05]
- H. Two Department of Health & Human Services Exclusion letters [08-30-05 and 12-31-05]

FINDING 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 Bradley Allen Schwartz has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-041006-025, effective April 14, 2005.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-26247, held by Bradley Allen Schwartz with the stipulation that Bradley Allen Schwartz shall be on probation for five years beginning on the effective date of this Order, with the following conditions:

(A) Bradley Allen Schwartz 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 his 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) Propoxyphene and alprazolam must be added to the standard urine drug screen.

(c) 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, indicate 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) Bradley Allen Schwartz 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 Bradley Allen Schwartz's progress towards recovery and what Bradley Allen Schwartz 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 Bradley Allen Schwartz'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) Bradley Allen Schwartz may not serve as a responsible pharmacist.

(3) Bradley Allen Schwartz may not destroy, assist in, or witness the destruction of controlled substances.

(4) Bradley Allen Schwartz must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.

(5) Bradley Allen Schwartz must not violate the drug laws of the State of Ohio, any other state, or the federal government.

(6) Bradley Allen Schwartz must abide by the rules of the State Board of Pharmacy.

(7) Bradley Allen Schwartz must comply with the terms of this Order.

BRADLEY ALLEN SCHWARTZ, R.Ph.

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Order of the Board

(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.

Bradley Allen Schwartz 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: AUGUST 10, 2006

CERTIFIED MAIL/Return Receipt
7004 2510 0006 9804 7258

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

WTW/lf

cc: Sally Ann Steuk, Assistant Attorney General



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-041006-025)

In The Matter Of:

BRADLEY ALLEN SCHWARTZ, R.Ph.

483 Clifton Boulevard
Mansfield, Ohio 44907
(R.Ph. No. 03-2-26247)

INTRODUCTION

THE MATTER OF BRADLEY ALLEN SCHWARTZ CAME FOR HEARING ON MARCH 8, 2005, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: LAWRENCE J. KOST, R.Ph. (presiding); GREGORY BRAYLOCK, 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.

BRADLEY ALLEN SCHWARTZ WAS REPRESENTED BY DAVID W. GRAUER AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Paul Kover, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Bradley Allen Schwartz, R.Ph., Respondent
2. Debra Basinger, R.Ph.

State's Exhibits

1. Summary Suspension Order/Notice of Opportunity For Hearing Letter [10-06-04]
1A-1E. Procedurals
2. Notarized Statement of Brad Schwartz [10-12-04]
3. Notarized Statement of Detective Dawn Brown [09-27-04]
4. Notarized Statement of Brian Frank George [09-27-04]
5. Notarized Statement of Thomas W. Arkwright [10-12-04]
6. Medtox Laboratories, Inc. Drug Screen Report [09-24-04]
7. Judgment Entry, State of Ohio v. Bradley Allen Schwartz, Case No. 04CR1009D, Richland County Common Pleas Court [01-04-05]; Waiver of One Day Service [01-04-05]; Waiver of Indictment [01-04-05]

Respondent's Exhibits

- A. PRO Pharmacist's Recovery Contract for Brad Schwartz [12-16-04]
- B. Support Group Attendance Records [10-10-04 to 02-28-05]; Calendar pages for October 2004 to February 2005
- C. Compass Vision, Inc. Licensee Summary Report [01-31-05 to 02-10-05]
- D. Continuing Pharmaceutical Education Credits and Certificates [05-11-04 to 02-26-05]
- E. Eight Letters of Support [02-24-05 to 03-09-05]
- F. Richland County Adult Court Services Conditions of Release Supervision; Special Conditions of Supervision; Notice to Defendants; and Financial Responsibility Agreement [01-27-05]
- G. Letter from Brad Schwartz [not dated]

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 Bradley Allen Schwartz was originally licensed by the State of Ohio as a pharmacist on July 1, 2004, pursuant to examination, and that Bradley Allen Schwartz's license to practice pharmacy in Ohio was summarily suspended effective October 6, 2004.

(2) Bradley Allen Schwartz is addicted to the use of controlled substances and/or is abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Bradley Allen Schwartz admitted "having a problem" with controlled substances, that he "needed rehab," and that he "had a problem before, stopped, and started again." Bradley Allen Schwartz has also admitted to stealing controlled substances from his employer, MedCentral Health System, Mansfield. Such conduct indicates that Bradley Allen Schwartz is within the ambit of Section 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

(3) Bradley Allen Schwartz did, on or about September 24, 2004, and on dates previous, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of MedCentral Health System, Mansfield, beyond the express or implied consent of the owner, to wit: Bradley Allen Schwartz has admitted to stealing Darvon and Xanax, Schedule IV Controlled Substances. 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 paragraph (3) 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 (3) 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 (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 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 Bradley Allen Schwartz on October 6, 2004.

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. 03-2-26247, held by Bradley Allen Schwartz and such suspension is effective as of the date of the mailing of this Order.

(A) Bradley Allen Schwartz, 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) Bradley Allen Schwartz, 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 one year from the effective date of this Order, the Board will consider any petition filed by Bradley Allen Schwartz 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) Bradley Allen Schwartz 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) Propoxyphene and alprazolam must be added to the standard urine drug screen.

(c) 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) Bradley Allen Schwartz 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) Bradley Allen Schwartz must provide, at the reinstatement petition hearing, documentation of the following:

(1) 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.);

(2) 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;

(3) Compliance with the terms of this Order.

(D) If reinstatement is not accomplished within three years of the effective date of this Order, Bradley Allen Schwartz must also show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

Upon such time as the Board may consider reinstatement, Bradley Allen Schwartz 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-7/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.

BRADLEY ALLEN SCHWARTZ, R.Ph.

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Order of the Board

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: APRIL 14, 2005

CERTIFIED MAIL / Return Receipt
7003 0500 0002 4340 8022

WTW/lf

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

cc: Sally Ann Steuk, Assistant Attorney General
David W. Grauer, Attorney for Respondent; Squire, Sanders & Dempsey LLP;
1300 Huntington Center; 41 South High Street; Columbus, Ohio 43215