



**STATE OF
OHIO**
BOARD OF PHARMACY

IN THE MATTER OF:

CASE NO. 2016-1447-B

Matthew Lewandowski, RPh
3566 Indian Road
Ottawa Hills, Ohio 43606

License No. 03-2-26443

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Matthew Lewandowski, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of prescription number 4083930. Together, OSBP and Matthew Lewandowski are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Matthew Lewandowski is a licensed pharmacist under license number 03-2-26443.

FACTS

1. On or about April 20, 2016, the OSBP initiated an investigation of Matthew Lewandowski, pharmacist license number 03-2-26443, related to Matthew Lewandowski's error in dispensing of prescription number 4083930.
2. On or about January 17, 2017, the OSBP sent a Notice of Opportunity for Hearing to Matthew Lewandowski, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.



TERMS

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Matthew Lewandowski neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated January 17, 2017; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Matthew Lewandowski agrees to pay to the OSBP the amount of \$250.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Matthew Lewandowski must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in medication errors and/or patient safety, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Matthew Lewandowski agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Matthew Lewandowski understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Matthew Lewandowski agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.
8. Matthew Lewandowski waives any request for a hearing in this matter and an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code, and specifically waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. This Agreement shall become effective upon the date of the Board President's signature below.

[SIGNATURE PAGE FOLLOWS]

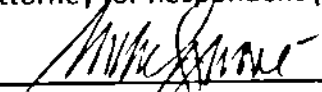
IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:


Matthew Lewandowski, Respondent

2-12-17
Date of Signature

Attorney for Respondent (if applicable)


Michael A. Mone, R.Ph., President,
State of Ohio Board of Pharmacy

Date of Signature

3/6/17
Date of Signature


Steven Kochheiser, Ohio Assistant Attorney General

3/6/2017
Date of Signature

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2017 FEB 16 AM 11:25
[SIGNATURE PAGE FOLLOWS]

RECEIVED
IHO BOARD OF PHARMACY

002969



**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:


CASE NO. 2016-1447-B

Matthew Lewandowski, R.Ph.
3566 Indian Road
Ottawa Hills, OH 43606

License No. 03-2-26443 -THIS IS A RED INK STAMP-

January 17, 2017

Dear Matthew Lewandowski,

I certify this to be a true and exact copy of
the original document on file with the
Ohio State Board of Pharmacy.

Steven W. Schierholt, Esq., Executive Dir.
Date: 1/17/17
-MUST HAVE BOARD SEAL TO BE OFFICIAL-

You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license under authority of Section 4729.16 of the Ohio Revised Code (ORC) and Chapter 4729-5-04 of the Ohio Administrative Code (OAC).

JURISDICTION

1. Pursuant to Section 4729.16 of the ORC and the rules adopted thereunder, the Board has the authority to revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card issued pursuant to Section 4729.07 through 4729.08 of the ORC to practice as a pharmacist in the state of Ohio. Additionally, Section 4729.16 of the Revised Code grants the Board the authority to impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or \$500 if the violation committed does not bear a penalty in the Revised Code.
2. You are a licensed pharmacist in the state of Ohio under license number 03-226443.

ALLEGATIONS

1. On or about March 29, 2016, while working at Kroger Pharmacy #16810 located at 833 W. Alexis Road Toledo, OH, you dispensed prescription #4083930. Prescription #4083930 was written for fifty (50) tablets of tramadol 50mg, one (1) tablet by mouth two times a day for patient J.C.; however, the actual drugs dispensed and received was tramadol 50mg tablets and Trazadone 50mg tablets. Both tablets were dispensed in the same bottle as prescription #4083930.
2. The equipment used by Kroger Pharmacy #16810 malfunctioned while filling the prescription by failing to recognize and alert the pharmacy staff that two different types of drugs were being used to fill the order. You completed final verification and failed to catch the error prior to dispensing the medication.

77 South High Street, 17th Floor, Columbus, Ohio 43215



3. The patient ingested the medication and experienced drowsiness, dizziness, and suffered a fall that caused a head laceration.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in paragraphs (1) and (2) of the Allegations Section, if proven, constitutes a violation of Section 3715.64(A)(1), Misbranded drug – its labeling is false or misleading in any particular, a misdemeanor of the fourth degree, punishable by a maximum penalty of \$250.
2. Such conduct as set forth in paragraphs (1) and (2) of the Allegations section, if proven, constitutes a violation of Section 3715.52(A)(2) of the ORC, the adulteration or misbranding of any food, drug, device or cosmetic, constituting a misdemeanor of the fourth degree, punishable by a maximum fine of \$250.
3. Such conduct as set forth in paragraphs (1) and (2) of the Allegations Section, if proven, constitutes the following violation of Section 3715.64(A)(10) of the ORC, Misbranding, each violation a misdemeanor of the fourth degree, each punishable by a maximum penalty of \$250:
 - a. It is a drug and its container is so made, formed, or filled as to be misleading, ORC Section 3715.64(A)(10)(a); and/or
 - b. The drug sold or dispensed is not the brand or drug specifically prescribed or ordered or, when dispensed by a pharmacist upon prescription, is neither the brand or drug prescribed nor a generically equivalent drug, ORC Section 3715.64(A)(10)(d).
4. Such conduct as set forth in paragraphs (1) and (2) of the Allegations section, if proven, constitutes a violation of the following divisions of Section 4729.16 of the ORC, each violation constituting a minor misdemeanor, each punishable by a maximum fine of \$150:
 - a. Guilty of unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and/or
 - b. Guilty of willfully violating any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions; ORC Section 4729.16(A)(5).
5. Such conduct as set forth in paragraphs (1) and (2) of the Allegations section, if proven, constitutes a violation of Rule 4729-5-04(C) of the OAC, not of good moral character and habits, punishable by a maximum fine of \$500.

YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

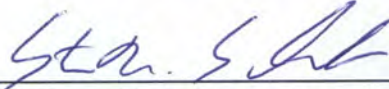
IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (please note faxes will not be accepted). **YOUR REQUEST MUST BE MUST BE RECEIVED ON OR PRIOR TO THE 30TH DAY FOLLOWING THE MAILING DATE OF THIS NOTICE.** You may appear at such hearing

ON OR PRIOR TO THE 30TH 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 30th day following the mailing of this notice, the State of Ohio Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

If you have questions regarding the Chapter 119. Administrative Hearing process, please e-mail your questions to legal@pharmacy.ohio.gov or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE OF OHIO BOARD OF PHARMACY



Steven W. Schierholt, Esq., Executive Director

SWS/dai

CC: Kroger Pharmacy #16810 833 W. Alexis Road Toledo, OH 43612

CMRRR:7005 0390 0001 8570 9464



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

www.pharmacy.ohio.gov

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-040806-010)

In The Matter Of:

MATTHEW S. LEWANDOWSKI

3566 Indian Road
Toledo, Ohio 43606
(D.O.B. 05/12/80)

INTRODUCTION

THE MATTER OF MATTHEW S. LEWANDOWSKI CAME FOR HEARING ON OCTOBER 6, 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.

MATTHEW S. LEWANDOWSKI 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. Dale Fritz, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Matthew S. Lewandowski, Respondent

State's Exhibits

1. Proposal to Deny/Notice of Opportunity For Hearing letter [08-06-04]
1A-1C. Procedurals
2. Application For Examination As A Pharmacist with attachments submitted by Matthew S. Lewandowski [06-22-04]

Respondent's Exhibits

- A. Statement of Matthew Lewandowski [not dated]
- B-C. Two Letters of Support [07-19-04 to 09-20-04]

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 Matthew S. Lewandowski submitted an Application For Examination As A Pharmacist on or about June 22, 2004. Records further indicate that Matthew S. Lewandowski was originally licensed as a pharmacy intern in Ohio on November 20, 2001 and holds a current license (06-0-03259) to practice as an intern.
- (2) Matthew S. Lewandowski did, on or about September 20, 2003, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Matthew S. Lewandowski indicated on his pharmacy intern renewal application that he had not been charged with a crime when in fact he had been charged with a crime of theft in violation of Section 2913.02 of the Ohio Revised Code, a misdemeanor of the first degree. Matthew S. Lewandowski completed a diversion program in December, 2002. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

CONCLUSION OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of committing fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the Board under Chapter 4729. of the Revised Code as provided in Division (A)(10) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.08 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 Matthew S. Lewandowski on or about June 22, 2004 and reprimands Matthew S. Lewandowski for his conduct in this matter..

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.