



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-070213-033)

In The Matter Of:

WAYNECHARLES K. KUIKAHI, JR., R.Ph.

6107 Wiclif Street, N.E.

N. Canton, Ohio 44721

(R.Ph. Number 03-2-26502)

INTRODUCTION

The Matter of Waynecharles K. Kuikahi, Jr. came for hearing on January 4, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (presiding); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Troy A. Gahm, R.Ph., Absent.

Waynecharles K. Kuikahi, Jr. was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Thomas Miksch, Ohio State Board of Pharmacy
2. Waynecharles K. Kuikahi, Jr., Respondent

Respondent's Witnesses:

None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [02-13-07]
1A-1G. Procedurals
2. Ohio State Board of Pharmacy Order in re Waynecharles K. Kuikahi, Jr., R.Ph. [04-05-01]
3. Indictment: Direct, Court of Common Pleas County of Summit, Ohio, Case No. 2006-07-2427 [07-18-06]
4. Journal Entry, The State of Ohio vs. Wayne C. Kuikahi, Case No. CR 06 07 2427 [11-15-06]
5. Sentencing Recommendation, State of Ohio vs. Wayne C. Kuikahi, Case No. 06 07 2427 [11-15-06]

6. Defendant's Answer to Sentencing Recommendation, State of Ohio vs. Wayne C. Kuikahi, Case No. CR 06 07 2427 [12-13-06]
7. Journal Entry, The State of Ohio vs. Wayne C. Kuikahi, Case No. CR 06 07 2427 [12-20-06]
8. Letter from Wayne K. Kuikahi [05-09-07]
9. Complaint and disposition, Portage County Municipal Court No. 94-16401 [11-03-94]
10. Criminal Case Information, Massillon Municipal Court District, Stark County, Ohio, Case No. CRB 9601167 [06-13-96]
11. Complaint and Disposition, State of Ohio vs. Waynecharles K. Kuikahi, Jr., State of Ohio Portage County Municipal Court, Case No., 97CRB1909 [10-31-96]
12. Journal Entry and Summons, State of Ohio vs. Waynecharles K. Kuikahi, Jr., Case No. 96CRB-18455 [12-31-96]
13. Journal Entry, State of Ohio vs. Waynechar (sic) K. Kuikahi, Case No. CR 345572, Cuyahoga County, Ohio Court of Common Pleas [04-28-97]

Respondent's Exhibits:

- A-1. Letter from Susan Kirksey, LPCC, LICDC [12-23-09]
- A-2. Victim impact statement [not dated]
- A-3. Ten letters of support [11-24-06 to 07-21-09]
- A-4. Placement Approval, State of Ohio Division of Parole and Community Services [07-13-09]; Adult Parole Authority Conditions of Supervision [11-26-09]
- A-5. Seven certificates of completion for Anger Management/Emotional and Psychological Rehabilitation programs [10-01-07 to 08-10-09]
- A-6. Recovery attendance records and certificates [01-25-08 to 12-30-09]
- A-7. Extracurricular activities and volunteer services certificates [04-06-07 to 04-17-08]

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 Waynecharles K. Kuikahi, Jr. was originally licensed in the State of Ohio on August 31, 2004, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Waynecharles K. Kuikahi, Jr. was previously disciplined by the Board on April 5, 2001.

(2) Waynecharles K. Kuikahi, Jr. was, on or about December 18, 2006, convicted of Felonious Assault in violation of Section 2903.11 of the Ohio Revised Code, a felony of the second degree. State of Ohio vs. Wayne C. Kuikahi, Case No. CR-06-07-2427, Summit County Common Pleas Court. Waynecharles K. Kuikahi, Jr. was sentenced to three years incarceration.

(3) Waynecharles K. Kuikahi, Jr. is physically or mentally unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code, to wit: Waynecharles K. Kuikahi, Jr. has had numerous occasions of violence in his past during which the police were called to resolve the situations; Waynecharles K. Kuikahi, Jr. has indicated to a Board agent that he gets agitated at work and with everyone at work to the point

that he hates his life, job, and customers, both arguing with and belittling his customers.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes 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) and (3) of the Findings of Fact constitute being impaired mentally to such a degree as to render Waynecharles K. Kuikahi, Jr. 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 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. 03-2-26502, held by Waynecharles K. Kuikahi, Jr. and such suspension is effective as of the date of the mailing of this Order.

(A) Waynecharles K. Kuikahi, Jr., 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) Waynecharles K. Kuikahi, Jr., 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 three years from the effective date of this Order, the Board will consider any petition filed by Waynecharles K. Kuikahi, Jr. 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) Waynecharles K. Kuikahi, Jr. 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, submit 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) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), 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) Waynecharles K. Kuikahi, Jr. must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

(C) Waynecharles K. Kuikahi, Jr. must provide, at the reinstatement petition hearing, documentation of the following:

(1) A psychiatric evaluation from a licensed psychiatrist or psychologist, performed within 60 days from the date of this Order;

(2) Compliance with a licensed psychiatrist's or psychologist's recommended treatment plan;

(3) A report by the licensed psychiatrist or psychologist regarding Waynecharles K. Kuikahi, Jr.'s ability to deal with the stresses involved in the practice of pharmacy;

(4) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);

(5) 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;

(6) Compliance with the terms of this Order.

(D) If reinstatement is not accomplished within four years of the effective date of this Order, Waynecharles K. Kuikahi, Jr. must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

Deborah Lange moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Waynecharles K. Kuikahi, Jr., R.Ph.

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Deborah Lange moved for Conclusions of Law; Donald Casar seconded the motion. Motion passed (Aye-7/Nay-0).

Deborah Lange moved for Action of the Board; Jerome Wiesenhahn seconded the motion. Motion passed (Aye-4/Nay-3).

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: FEBRUARY 10, 2010

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



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-001228-031)

In The Matter Of:

WAYNECHARLES K. KUIKAHI JR.

6107 Wiclif Street NE.

Canton, Ohio 44721

(D.O.B. 08/17/73)

INTRODUCTION

THE MATTER OF WAYNECHARLES K. KUIKAHI CAME FOR HEARING ON MARCH 7, 2001, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ANN D. ABELE, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; JAMES E. TURNER, R.Ph.

WAYNECHARLES K. KUIKAHI WAS REPRESENTED BY ROBERT D. NOBLE, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Lynn Mudra, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Waynecharles K. Kuikahi Jr., Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Proposal To Deny/Notice of Opportunity for Hearing letter dated December 28, 2000.
- (2) Exhibit 1A--Hearing Request letter dated January 22, 2001.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated January 26, 2001.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated February 1, 2001.

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- (5) Exhibit 1D--Copy of Hearing Schedule letter dated February 16, 2001
- (6) Exhibit 1E--Application For Pharmacy Intern Registration of Waynecharles K. Kuikahi Jr. dated August 29, 2000.
- (7) Exhibit 2-- Certificate of Acceptance of Wayne Kuikahi from Ohio Northern University dated August 10, 2000.
- (8) Exhibit 3--Certified copy of Complaint dated October 28, 1994, and Disposition dated November 3, 1994, for Waynecharles K. Kuikahi Jr., in the Portage County Municipal Court (94-16401).
- (9) Exhibit 4--Certified copy of Disposition dated June 13, 1996, for Wayne C K Kuikahi Jr, in the Massillon Municipal Court District, Case No. 9601167.
- (10) Exhibit 5--Certified copy of Complaint dated October 4, 1996, and Disposition dated October 31, 1996, for Waynecharles K. Kuikahi Jr., in the Portage County Municipal Court (96-14317).
- (11) Exhibit 6--Two-page certified copy of Complaint dated October 4, 1996, and Disposition dated December 31, 1996, for Waynecharles K. Kuikahi Jr., in the Portage County Municipal Court (96-14317).
- (12) Exhibit 7--Certified copy of Criminal Journal Entry, No. CR 345572, in the Cuyahoga County Common Pleas Court, State of Ohio vs. Waynechar K Kuikahi (*sic*) dated April 28, 1997.
- (13) Exhibit 8--Five-page Cleveland Police Department Offense/Incident Report, Case No. 1996-00076003, dated September 25, 2000

Respondent's Exhibits:

- (1) Exhibit A--Copy of two-page Kent State University Undergraduate Academic Record of Waynecharles K. Kuikahi Jr. dated February 26, 2001
- (2) Exhibit B--Copy of Ohio Northern University Transcript of Wayne Charles (*sic*) K. Kuikahi dated February 28, 2001
- (3) Exhibit C1--Copy of letter from Thomas L. Kier dated March 6, 2001.
- (4) Exhibit C2--Copy of letter from Rosemary J. Murray dated March 2, 2001.
- (5) Exhibit C3--Copy of letter from Martin J. Pittak dated February 25, 2001.
- (6) Exhibit C4--Copy of letter from Micah J. Sobota dated February 28, 2001.
- (7) Exhibit C5--Copy of letter from Ben Shores dated February 28, 2001.
- (8) Exhibit C6--Copy of letter from Ptl. Jess Butterworth dated February 26, 2001.
- (9) Exhibit D--Copy of letter from Pamela Baker and T. John Akamatsu dated March 5, 2001.

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 an Application For Pharmacy Intern Registration for Waynecharles K. Kuikahi Jr. was received on August 31, 2000.

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- (2) Waynecharles K. Kuikahi Jr. was, on or about November 3, 1994, convicted of Criminal Mischief, a misdemeanor of the third degree, in violation of Section 541.04 Cod. Ord. of Kent. State of Ohio vs. Waynecharles Kuikahi Jr., Case No. 94-16401, in the Portage County Municipal Court.
- (3) Waynecharles K. Kuikahi Jr. was, on or about June 13, 1996, convicted of Fleeing and Eluding, a misdemeanor of the first degree, in violation of Section 2921.331 of the Ohio Revised Code., State of Ohio vs. Wayne C. K. Kuikahi, Jr., Case No. CRB 9601167, in the Massillon Municipal Court District.
- (4) Waynecharles K. Kuikahi Jr. was, on or about October 31, 1996, convicted of Disorderly Conduct (Public Urination), a minor misdemeanor, in violation of Section 509.03 Cod. Ord. of Kent. State of Ohio vs. Wayne C. Kuikahi Jr., Case No. CRB97-1909, in the Portage County Municipal Court
- (5) Waynecharles K. Kuikahi Jr. was, on or about December 31, 1996, convicted of Disorderly Conduct, a misdemeanor of the fourth degree (reduced from Attempted Petty Theft in violation of Section 2923.02 as it relates to Section 2913.02 of the Ohio Revised Code, a misdemeanor of the second degree). State of Ohio vs. Waynecharles K. Kuikahi Jr., Case No. 96CRB18455, in the Portage County Municipal Court.
- (6) Waynecharles K. Kuikahi Jr. was, on or about April 28, 1997, convicted of Attempted Felonious Assault, a felony of the fifth degree, in violation of Section 2923.02 as it relates to Section 2903.11 of the Ohio Revised Code. State of Ohio vs. Waynechar K. Kuikahi, Jr. (sic), Case No. CR 345572, in the Cuyahoga County Common Pleas Court.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (6) of the Findings of Fact constitutes being convicted of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (6) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code..
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (6) of the Findings of Fact constitutes abusing liquor as provided in paragraph (D) of Rule 4729-5-04 of the Ohio Administrative Code.

ACTION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code, and the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby approves the Application for Pharmacy Intern Registration submitted by Waynecharles K. Kuikahi, Jr.

Further, Waynecharles K. Kuikahi, Jr.'s license will be placed on probation for two years effective on the date the identification card to practice pharmacy as an intern is issued. The terms of probation are as follows:

- (A) Waynecharles K. Kuikahi, Jr. must obtain, within sixty days after the effective date of this Order, a full psychiatric or psychological evaluation by a licensed psychiatrist or psychologist regarding his alcohol abuse and must abide by the treatment plan as designed by that psychiatrist or psychologist. The psychiatrist or psychologist must provide an initial status report, which includes the recommended treatment plan, to the Board within ten days after completing the assessment.
- (B) Waynecharles K. Kuikahi, Jr. must provide documentation of compliance with the licensed psychiatrist's or psychologist's recommended treatment plan.
- (C) Waynecharles K. Kuikahi, Jr. must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (D) Waynecharles K. Kuikahi, Jr. must abide by the rules of the State Board of Pharmacy.
- (E) Waynecharles K. Kuikahi, Jr. must comply with the terms of this Order.

Waynecharles K. Kuikahi, Jr. 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-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.

