

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

December 24, 2003

Tim Ivan Miller, R.Ph.
660 East Russell
West Lafayette, Ohio 43845

Re: Ohio Registered Pharmacist
Number 03-3-11708

Dear Mr. Miller:

In accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice presents a danger of immediate and serious harm to others. The reasons for the Board's actions are that you have committed any and/or all of the following acts:

- (1) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on August 4, 1976, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are abusing controlled substances and/or physically or mentally impaired to such a degree as to render you unfit to practice pharmacy, to wit: you have admitted to stealing and abusing hydrocodone; and, you have admitted to abusing drugs to help you deal with stress and depression. Such conduct indicates that you fall within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) You did, from November 26, 2003, through November 28, 2003, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Buehler's Pharmacy, beyond the express or implied consent of the owner, to wit: you were caught leaving the store after having stolen the following drugs:

<u>Drug</u>	<u>Qty</u>
hydrocodone/APAP 10/325 mg	24
Anaprox DS 550 mg	10
Celebrex 200 mg	2
indomethacin ER 75 mg	1
Promethazine 25 mg	1
atenolol 50 mg	11
chlorthalidone 50 mg	3
Flexeril 10 mg	1
Xanax .5 mg	4
fenoprofen calcium 600 mg	31
Unknown	2

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

- (4) You did, from June, 2003, through early August, 2003, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Buehler's Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole between 3 and 8 dosage units of hydrocodone/APAP 5/500 mg per day while working in the pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (5) You did, from early August, 2003, through November, 2003, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Buehler's Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole between 4 and 10 dosage units of hydrocodone/APAP 10/325 mg per day while working in the pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

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

(B) If the board under which a person has been issued a license, . . . , . . . determines that there is clear and convincing evidence that continuation of the person's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person's license, . . . , . . . , without a prior hearing.

WHEREFORE, PURSUANT TO SECTION 3719.121(B) 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 a final adjudication order becomes effective, 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 the pharmacist or pharmacy intern 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.

IF YOU REQUEST A HEARING within thirty (30) days of the time of the mailing of this notice, such will be afforded. 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 HEREBY ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the 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 (10) days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

(D-031224-049)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE DECEMBER 24, 2003

This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.