



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-070111-024)

In The Matter Of:

**ROBERT W. TEMPLE, R.Ph.**

3456 Berringer Road

Waldo, Ohio 43356

(R.Ph. No. 03-3-11759)

### INTRODUCTION

THE MATTER OF ROBERT W. TEMPLE CAME FOR HEARING ON MAY 9, 2007, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JAMES E. TURNER, 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.; HEATHER L. PASQUALE, R.Ph.; AND DOROTHY S. TEATER, PUBLIC MEMBER.

ROBERT W. TEMPLE WAS NOT REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### State's Witnesses

1. John C. Whittington, D.O., R.Ph., Ohio State Board of Pharmacy
2. Robert W. Temple, R.Ph., Respondent

#### Respondent's Witnesses

None

#### State's Exhibits

1. Notice of Opportunity For Hearing letter [01-11-07]  
1A-1D. Procedurals
2. Rx #554582 [01-10-06]
3. Copy of Dangerous Drug Distributor Inspection Report [09-25-06]; Response to Inspection Report [09-29-06]
4. CVS Pharmacy #3432 Patient Prescription Record [09-01-05 to 09-25-06]
5. Rx #N623760 [09-12-06]
6. Copy of Dangerous Drug Distributor Inspection Report [09-25-06]; Response to Inspection Report [09-29-06]
7. CVS Pharmacy #3432 Patient Prescription Record [01-01-06 to 12-31-06]

## Respondent's Exhibits

A-E. Five Letters of Support [04-24-07 to 05-06-07]

F. Letter, with attachments, from Robert Temple to Tom Ryan, [12-16-03]

### 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 Robert W. Temple was originally licensed by the State of Ohio as a pharmacist on August 4, 1976, pursuant to examination, and is currently licensed to practice pharmacy in Ohio. Records further reflect during the relevant time periods stated herein, Robert W. Temple was the Responsible Pharmacist at CVS/Pharmacy #3432, 535 Delaware Avenue, Marion, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Robert W. Temple did, on or about January 10, 2006, dispense a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when dispensing Rx #554582, Robert W. Temple did not indicate the directions for use of the drug as was prescribed by the physician. The physician had prescribed NPH Insulin, 5 units to be taken in the morning and evening. The label Robert W. Temple affixed directed the patient to use 50 units in the morning and again in the evening each day. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (3) Robert W. Temple did, on or about January 10, 2006, prior to dispensing Rx #554582, fail to review the patient profile in order to conduct prospective drug utilization review (DUR), to wit: Robert W. Temple failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Robert W. Temple admitted to a Board agent that he did not conduct DUR, and Robert W. Temple stated that contacting the physician to discuss the dosage "never occurred" to him. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (4) Robert W. Temple did, on or about September 12, 2006, misbrand a drug, to wit: when Robert W. Temple received a prescription for methylphenidate 20 mg, Rx #N623760, he dispensed oxycodone with APAP 5/325 mg, which had not been specifically prescribed by the physician. The patient was subsequently treated for harm. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (5) Robert W. Temple did, on or about September 12, 2006, prior to dispensing Rx #N623760, fail to review the patient profile in order to conduct prospective drug utilization review (DUR), to wit: Robert W. Temple failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Robert W. Temple admitted to a Board agent that he did not conduct DUR. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (5) 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.
- (2) The State Board of Pharmacy concludes that paragraphs (3) and (5) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) 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 adjudicates the matter of Robert W. Temple as follows:

- (A) 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 imposes a monetary penalty of two hundreds fifty dollars (\$250.00) on Robert W. Temple and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Robert W. Temple must obtain, within six months from the effective date of this Order, six hours of approved continuing pharmacy education (0.6 CEUs) on Preventing Medication Errors, which may not also be used for license renewal.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-7/Nay-0/Recuse-1).

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 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: June 11, 2007

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

WTW/lf

CERTIFIED MAIL/Return Receipt  
7004 2510 0006 9805 7523

c: Sally Ann Steuk, Assistant Attorney General