



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

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URL: <http://www.pharmacy.ohio.gov>

ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-120629-255)

In The Matter Of:

KEVIN KELLY SHEETS, R.Ph.

1063 29TH Street

Portsmouth, Ohio 45662

(R.Ph. Number 03-3-11763)

INTRODUCTION

The Matter of Kevin Kelly Sheets came for hearing on October 10, 2012, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph. and Kilee S. Yarosh, R.Ph.

Michael A. Moné, R.Ph., Absent.

Kevin Kelly Sheets was not represented by counsel. The State of Ohio was represented by Sean M. Culley, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Robert Amiet, Jr., R.Ph., Ohio State Board of Pharmacy
2. Kevin Kelly Sheets, R.Ph., Respondent

Respondent's Witnesses:

None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [06-29-12]
- 1A-1C. Procedurals
2. Settlement Agreement in re Kevin Kelly Sheets, R.Ph. [11-06-07]
3. Copy of written prescription; Copy of RX #6410152-01600664 [06-20-11]
4. Computer generated prescription information [01-09-12]
5. Computer generated patient DUR information [01-09-12]
6. Dangerous Drug Distributor Inspection Report [01-09-12]
7. Kroger EasyFill Customer Statement Report [01-01-11 to 12-31-11]

Respondent's Exhibit:

- A. Letter to The Ohio State Board of Pharmacy from Kevin Kelly Sheets, R.Ph., Respondent [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 State Board of Pharmacy indicate that Kevin Kelly Sheets was originally licensed in the State of Ohio on August 4, 1976, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Kevin Kelly Sheets entered into a settlement agreement with the Board on November 6, 2007 and is currently on probation pursuant to that settlement agreement.
- (2) Kevin Kelly Sheets did, on or about June 20, 2011, misbrand a drug, to wit: when Kevin Kelly Sheets received a prescription for prednisone 20 mg tablets, RX #6410152, he dispensed pravachol 20 mg tablets, which had not been specifically prescribed by the physician. The patient was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Kevin Kelly Sheets did, on or about June 20, 2011, prior to dispensing RX #6410152, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Kevin Kelly Sheets overrode two major clinically significant DUR conflicts when he dispensed pravachol 20 mg, a drug used to control hyperlipidemia, instead of prednisone 20 mg, the drug prescribed for the patient. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (2) and (3) 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.

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 imposes a monetary penalty of two hundred fifty (\$250.00) on Kevin Kelly Sheets 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.

In addition, Kevin Kelly Sheets must submit to the Board, within thirty days from the effective date of this Board Order, six hours of continuing pharmacy education (0.6 CEUs) in patient safety, which may not be used for license renewal.

Further, the State Board of Pharmacy places limits on Kevin Kelly Sheet's pharmacist license, in that he may not dispense drugs or engage in the practice of pharmacy as defined in 4729.01(B) of the Ohio Revised Code.

Kevin Kelly Sheets, R.Ph.

Page 3

Order of the Board

Richard Kolezynski moved for Findings of Fact; Kilee Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Richard Kolezynski moved for Conclusions of Law; Kevin Mitchell seconded the motion. Motion passed (Aye-6/Nay-0).

Kilee Yarosh moved for Action of the Board; Margaret Huwer seconded the motion. Motion passed (Aye-6/Nay-0).

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: DECEMBER 7, 2012

By: 

Kyle W. Parker, M.B.A., R.Ph., Executive Director

KWP/lp

Certified Mail / Return Receipt
7004 2510 0006 9808 3997

c: Sean M. Culley, Assistant Attorney General



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SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-070809-006)

In The Matter Of:

KEVIN KELLY SHEETS, R.Ph.

1063 29th Street

Portsmouth, Ohio 45662

(R.Ph. No. 03-3-11763)

This Settlement Agreement is entered into by and between Kevin Kelly Sheets and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Kevin Kelly Sheets voluntarily enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Kevin Kelly Sheets acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Kevin Kelly Sheets is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 9, 2007, pursuant to Chapter 119. of the Ohio Revised Code, Kevin Kelly Sheets was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Kevin Kelly Sheets requested a hearing; it was scheduled. The August 9, 2007, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Kevin Kelly Sheets 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.
- (2) Kevin Kelly Sheets did, on or about March 20, 2007, misbrand a drug, to wit: when Kevin Kelly Sheets received a prescription for Phenergan with Codeine, having directions as "5ml q 4-6 hr," Rx #4417409, he dispensed promethazine with codeine, with directions as "take five (5) teaspoonful(s) every 4 to 6 hours," which had not been specifically prescribed by the

physician. The patient was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (3) Kevin Kelly Sheets did, on or about March 20, 2007, when dispensing Rx #4417409, fail to offer to counsel the patient or caregiver. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.
- (4) Kevin Kelly Sheets did, on or about February 15, 2007, misbrand a drug, to wit: when Kevin Kelly Sheets received a prescription for Novolin N 30 ml, Rx #6716233, he dispensed Novolin R, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Kevin Kelly Sheets neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 9, 2007; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Kevin Kelly Sheets knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Kevin Kelly Sheets' pharmacist identification card, No. 03-3-11763, will be placed on probation for five years from the effective date of this Agreement, with the following conditions:
 - (1) Kevin Kelly Sheets may not work in a pharmacy more than 40 hours per week; and no more than 8 hours per day with the exception of Saturdays when he may work a 10 hour shift.
 - (2) Kevin Kelly Sheets' 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.
 - (3) Kevin Kelly Sheets may not serve as a responsible pharmacist.
 - (4) Kevin Kelly Sheets must cause his physician to submit quarterly reports to the Board addressing Kevin Kelly Sheets' diabetes maintenance and control in order to practice pharmacy safely.
- (B) Kevin Kelly Sheets agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. Checks 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.
- (C) Kevin Kelly Sheets must obtain, within two years from the effective date of this Agreement, five hours of continuing pharmacy education (0.5 CEUs) on preventing medication errors and/or patient counseling, which may not also be used for license renewal.

If, in the judgment of the Board, Kevin Kelly Sheets appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Kevin Kelly Sheets acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Kevin Kelly Sheets waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Kevin Kelly Sheets waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

Kevin Kelly Sheets, R.Ph., Respondent

10/30/200
Date of Signature

Mary Barley-McBride, Attorney for Respondent

11/02/2007
Date of Signature

Gregory Braylock, President, Ohio State Board of Pharmacy

11/06/2007
Date of Signature

Sally Ann Steuk, Ohio Assistant Attorney General

11/06/2007
Date of Signature