



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-050427-059)

In The Matter Of:

ANTHONY RAY MENDENHALL, R.Ph.

13463 Rosewood Lane
Strongsville, Ohio 44136
(R.Ph. No. 03-3-18272)

INTRODUCTION

THE MATTER OF ANTHONY RAY MENDENHALL CAME FOR HEARING ON OCTOBER 11, 2005, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE R. EASTMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

ANTHONY RAY MENDENHALL WAS REPRESENTED BY JOHN R. IRWIN, M.D. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness:

1. Paul Kover, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness:

1. Anthony Ray Mendenhall, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity For Hearing letter [04-27-05]
- 1-1C. Procedurals
2. Notarized Statement of Anthony R. Mendenhall [01-06-05]
3. Twenty-One Photographs [01-07-05 to 01-10-05]
4. CHAN Healthcare Auditors Fax Cover from Michael C. Javorsky [02-07-05]; Pharmacy Review Summary of Employee Purchases for Tony Mendenhall [04-14-04 to 10-12-04]
5. Restitution Agreement for Community Health Partners Regional Medical Center by Anthony R. Mendenhall [01-19-05]
6. Summary Report of Dangerous Drugs Removed by Respondent [04-14-04 to 10-12-04]

Respondent's Exhibit:

- A. Psychological Report of Anthony R. Mendenhall [07-05-05]

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 Anthony Ray Mendenhall was originally licensed by the State of Ohio on July 30, 1990, pursuant to examination, and is currently licensed to practice pharmacy in the Ohio.
- (2) Anthony Ray Mendenhall did, from on or about April 14, 2004, through December 3, 2004, with purpose to deprive, knowingly obtain or exert control over property of the Community Health Partners, beyond the express or implied consent of the owner, to wit: Anthony Ray Mendenhall has admitted to Board agents that he stole the following merchandise valued at \$2,624.76 during his employment as the pharmacy manager:

Date	Item	Cost
04/14/04	Minimed Insulin Pump Supplies	\$106.81
04/14/04	Batteries, Miscellaneous OTC Medications	24.45
04/16/04	Dental Floss	3.40
04/20/04	OTC Medications	23.73
04/26/04	Pediatric OTC Medications and Formula	67.92
05/11/04	Pull-up Pants	40.40
05/11/04	Bodywash, Shampoo, OTC Medications	39.88
05/21/04	Vitamins, Bug Spray	49.13
06/01/04	Band-Aids, Smoothe	20.08
06/01/04	Ivy Block, OTC Medications	46.53
06/16/04	Gummy Vitamins, One Touch, Glucosamine	186.19
06/21/04	Deodorant, Bodywash, Miscellaneous	15.66
07/09/04	Ear Drops, OTC Medications, One Touch	92.96
07/21/04	Condoms, Tampons, Razor Blades	38.33
08/02/04	Diapers, Exercise Materials, Miscellaneous	124.79
08/02/04	Batteries, Q-Tips	11.84
08/04/04	Theraband Exercise Band, Gummy Vitamins	67.47
08/11/04	OTC Medications	44.49
08/23/04	Bandages, Hydrogen Peroxide, Ice Paks, Miscellaneous	195.48
08/23/04	Motrin Liquid	11.69
08/23/04	Cotton Products, OTC Medications	28.02
08/30/04	Dressings, Theraband	97.46
09/07/04	Finger Splints, Glucosamine, Dressing Ace	126.43
09/07/04	ASA, OTC Medications, Shampoo	71.77
09/07/04	Razor Blades, Old Spice Products	27.55
09/27/04	Therabands Exercise Band, Diapers, OTC Medications	409.12
10/06/04	Batteries, Air Purifier, Envirascap Soothing Rains	228.26
10/12/04	Chapstick, Theraband Exercise Band, OTC Medications	88.90
10/15/04	OTC Medications, Theraband Exercise Band	210.64
10/15/04	Theraband	20.35

10/15/04	Theraband Exercise Mat	98.01
12/03/04	Diaper Rash Cream, OTC Medications	7.02
	Total	\$2,624.76

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (3) Anthony Ray Mendenhall did, from on or about April 14, 2004, through October 12, 2004, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, property of the Community Health Partners, beyond the express or implied consent of the owner, to wit: Anthony Ray Mendenhall has admitted to Board agents that he stole a 1,000-count bottle of lisinopril 5 mg tablets, 3 bottles of 100-count Avandia 4 mg tablets, and 15 to 16 vials of NovoLog Insulin during his employment as the pharmacy manager. Audits confirm thefts of other dangerous drugs as well. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of 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 guilty of dishonesty and 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 adjudicates the matter of Anthony Ray Mendenhall as follows:

- (A) On the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends for three months the pharmacist identification card, No. 03-3-18272, held by Anthony Ray Mendenhall effective as of the date of the mailing of this Order.
- (1) Anthony Ray Mendenhall, 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.
- (2) Anthony Ray Mendenhall, 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.
- (B) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand dollars (\$2,000.00) on Anthony Ray Mendenhall and payment of the monetary penalty 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.

- (C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places Anthony Ray Mendenhall on probation for six months effective upon reinstatement of his identification card. The terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Anthony Ray Mendenhall's 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.
 - (2) Anthony Ray Mendenhall may not serve as a responsible pharmacist.
 - (3) Anthony Ray Mendenhall may not, for six months from the effective date of this Order, work in a pharmacy more than 40 hours per week.
 - (4) Anthony Ray Mendenhall must not violate the drug laws of Ohio, any other state, or the federal government.
 - (5) Anthony Ray Mendenhall must abide by the rules of the State Board of Pharmacy.
 - (6) Anthony Ray Mendenhall must comply with the terms of this Order.
 - (7) Anthony Ray Mendenhall's license is deemed not in good standing until successful completion of the probationary period.
 - (8) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Anthony Ray Mendenhall 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-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 filing 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: NOVEMBER 9, 2005

CERTIFIED MAIL / Return Receipt
7001 0360 0002 4139 4262

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

WTW/lf

cc: Sally Ann Steuk, Assistant Attorney General
John R. Irwin, M.D., Attorney for Respondent; John R. Irwin, M.D. Co., L.P.A.;
8401 Chagrin Road, Suite 19; Chagrin Falls, Ohio 44023