



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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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-060622-091)

In The Matter Of:

KEVIN JAMES BOWERS, R.Ph.

15 Pinehurst Court
Fairfield, Ohio 45014
(R.Ph. No. 03-3-18479)

INTRODUCTION

THE MATTER OF KEVIN JAMES BOWERS CAME FOR HEARING ON JANUARY 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.; AND DOROTHY S. TEATER, PUBLIC MEMBER.

KEVIN JAMES BOWERS WAS REPRESENTED BY HARRY B. PLOTNICK. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

None

Respondent's Witnesses

1. Kevin James Bowers, R.Ph., Respondent
2. Wayne Miller, R.Ph.

State's Exhibits

1. Reinstatement Hearing Request letter from Harry B. Plotnick [06-20-06]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re Kevin James Bowers, R.Ph. [09-19-05]
- 3.
- 4.

Respondent's Exhibits

- A.
- B. State Board of Pharmacy Monetary Penalty Payment Form [not dated]; Copy of check No. 8001 made payable to Treasurer, State of Ohio [10-10-05]
- C.
- D. Support Group Attendance Records [08-03-05 to 12-30-06]

- E. First Lab OHPRO Test History Report [01-25-06 to 12-12-06]; Drug Screen Collection Sheets [08-12-05 to 12-12-06]
- F. Continuing Pharmaceutical Education Credits and Certificates [03-22-05 to 12-13-06]
- G.
- H.

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 that Kevin James Bowers has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-041020-033, effective September 19, 2005.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-18479, held by Kevin James Bowers to practice pharmacy in Ohio and places Kevin James Bowers on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Kevin James Bowers 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, mail 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 for the first year and then at least once every three months for the remaining four years.
 - (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) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

- (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Kevin James Bowers must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of Kevin James Bowers' progress towards recovery and what Kevin James Bowers has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Kevin James Bowers' 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) Kevin James Bowers may not serve as a responsible pharmacist.
 - (3) Kevin James Bowers may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Kevin James Bowers must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) Kevin James Bowers must not violate the drug laws of the State of Ohio, any other state, or the federal government.
 - (6) Kevin James Bowers must abide by the rules of the State Board of Pharmacy.
 - (7) Kevin James Bowers must comply with the terms of this Order.
 - (8) Kevin James Bowers' license is deemed not in good standing until successful completion of the probationary period.
- (D) 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.

Kevin James Bowers 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.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: JANUARY 11, 2007

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



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-041020-033)

In The Matter Of:

KEVIN JAMES BOWERS, R.Ph.

15 Pinehurst Court
Fairfield, Ohio 45014

(R.Ph. No. 03-3-18479)

INTRODUCTION

THE MATTER OF KEVIN JAMES BOWERS CAME FOR HEARING ON AUGUST 8, 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.

KEVIN JAMES BOWERS WAS REPRESENTED BY HARRY B. PLOTNICK. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Rick Haun, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Kevin James Bowers, R.Ph. Respondent
2. James Liebetrau, R.Ph.

State's Exhibits

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [10-20-04]
 - 1A-1B. Procedurals
 - 1C. Amendment/Addendum Notice [04-20-05]
 - 1D-1F. Procedurals
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

- 8.
- 9.

Respondent's Exhibits

- A.
- B.
- C. Drug Screen Reports [12-17-04 to 07-14-05]
- D. Support Group Attendance Records [10-13-04 to 07-29-05]
- E.
- F. Treatment Completion letter from Elizabeth Harris, BS, CCDCIII-E [03-08-05]; Progress Report from Kelly Rogan MS, LSW, LICDC [04-07-05]
- G-I.
- J. University of Cincinnati Transcript for Kevin James Bowers [1981 to 2005]
- K. The Rho Chi Society Certificate of Membership [05-18-89]

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 Board of Pharmacy indicate that Kevin James Bowers was originally licensed by the State of Ohio as a pharmacist on July 30, 1990, pursuant to examination, and that his license to practice in Ohio was summarily suspended on October 20, 2004.
- (2)
- (3)
- (4)
- (5)
- (6)

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (6) 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)
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4)

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Kevin James Bowers on October 20, 2004.

(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 suspends indefinitely the pharmacist identification card, No. 03-3-18479, held by Kevin James Bowers and such suspension is effective as of the date of the mailing of this Order.

- (1) Kevin James Bowers, 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) Kevin James Bowers, 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 fifteen thousand dollars (\$15,000.00) on Kevin James Bowers 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.

Further, after November 6, 2006, the Board will consider any petition filed by Kevin James Bowers 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) Kevin James Bowers 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 week 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) Kevin James Bowers must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (C) Kevin James Bowers must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);
 - (2) 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;
 - (3) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Kevin James Bowers must also show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.
- (E) Upon such time as the Board may consider reinstatement, Kevin James Bowers will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-2).

MOTION CARRIED.

SO ORDERED.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: SEPTEMBER 19, 2005

CERTIFIED MAIL / Return Receipt
7003 0500 0002 4347 4270

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



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AMENDMENT/ADDENDUM NOTICE

April 20, 2005

Kevin James Bowers, R.Ph.
15 Pinehurst Court
Fairfield, Ohio 45014

Re: Ohio Registered Pharmacist
Number 03-3-18479

Dear Mr. Bowers:

YOU ARE HEREBY NOTIFIED that, in addition to the allegations stated in the October 20, 2004, Summary Suspension Order/Notice of Opportunity letter, the following allegations will also be considered, as numbered:

(6)

YOU ARE HEREBY ADVISED that Section 4729.16 of the Ohio Revised Code states in pertinent part that:

- (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, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense, or in the case of a violation of a section of the Revised Code that does not bear a penalty, a monetary penalty or forfeiture of not 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 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions;
- (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.

AS PREVIOUSLY NOTED IN THE SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY letter dated October 20, 2004, and with regard to your adjudication hearing scheduled for May 3, 2005, 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.

If you wish to request a continuance in this matter, such request should be sent by certified mail, return receipt requested, to the offices of the Ohio State Board of Pharmacy, 77 South High Street, 1702, Columbus, Ohio 43215-6126. However, you must submit such request prior to fourteen days from the date of the scheduled hearing on May 3, 2005. The request will be presented to the Board for consideration and you will be notified as soon as practical regarding the request. If you have any questions regarding this matter, feel free to contact the Board office.

BY ORDER OF THE STATE BOARD OF PHARMACY



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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

October 20, 2004

Kevin James Bowers, R.Ph.
15 Pinehurst Court
Fairfield, Ohio 45014

Re: Ohio Registered Pharmacist
Number 03-3-18479

Dear Mr. Bowers:

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, 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 action 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 July 30, 1990, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2)
- (3)
- (4)
- (5)

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person's license, certificate, or registration..."

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 SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS 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 an adjudicatory hearing has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, 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 30 days of the time of the mailing of this notice, such will be afforded. Such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. 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 FURTHER 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 days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

D-041020-033

BY ORDER OF THE STATE BOARD OF PHARMACY