



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY (Docket No. D-010529-069)

In The Matter Of:

STEVEN J. BROWNSBERGER, R.Ph.

604 Continental Drive

Medina, Ohio 44256

(R.Ph. No. 03-3-18617)

INTRODUCTION

THE MATTER OF STEVEN J. BROWNSBERGER CAME FOR HEARING ON JANUARY 8, 2002, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; AND JAMES E. TURNER, R.Ph.

STEVEN J. BROWNSBERGER WAS NOT REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

(1) Steven Brownsberger, R.Ph., Respondent

(2) Wayne C. Miller, R.Ph.

(B) Exhibits

State's Exhibits:

(1) Exhibit 1

(2) Exhibit 1A--Copy of two-page Hearing Schedule letter dated May 29, 2001.

(3) Exhibit 1B--Copy of Ohio Pharmacist Computer Record of Steven J. Brownsberger.

- (4) Exhibit 1C--Copy of Ohio Pharmacist File Front Sheet of Steven J. Brownsberger showing original date of registration as October 26, 1990; Copy of two-page Renewal Application For Pharmacist License No. 03-3-18617 for a license to practice pharmacy in Ohio from September 15, 1999 to September 15, 2000 by Steven J. Brownsberger dated July 21, 1999.
- (5) Exhibit 2
- (6) Exhibit 2A
- (7) Exhibit 2B--Copy of Ohio State Board of Pharmacy Release Form from Steven Brownsberger notarized October 28, 1999; Copy of two-page letter from Karl C. Meyer, MAHE, CCDC III-E dated January 6, 2000;
- (8) Exhibit 3
- (9) Exhibit 4
- (10) Exhibit 5
- (11) Exhibit 6
- (12) Exhibit 7
- (13) Exhibit 8
- (14) Exhibit 9
- (15) Exhibit 10
- (16) Exhibit 11
- (17) Exhibit 12
- (18) Exhibit 13
- (19) Exhibit 14
- (20) Exhibit 15
- (21) Exhibit 16
- (22) Exhibit 17.
- (23) Exhibit 18--Copy of nine-page Order of the State Board Of Pharmacy, Docket No. D-000208-044 in the matter of Steven J. Brownsberger, R.Ph. dated July 17, 2000.
- (24) Exhibit 19
- (25) Exhibit 20
- (26) Exhibit 21

Respondent's Exhibits:

- (1) Exhibit R1--Copy of ADDS Inc. Pharmacist Recovery Contract of Steve Brownsberger dated October 16, 2000.
- (2) Exhibit R2--Twenty pages of copies of drug screen reports for samples collected from Steven Brownsberger from November 9, 2000 to December 7, 2001.
- (3) Exhibit R3--Fifteen pages of support group attendance records of Steven Brownsberger dated from May 28, 2000 to January 3, 2002.
- (4) Exhibit R4
Tom Fisher dated January 4, 2002; Robert F. Wood, M.D., not dated; Bobbijean E. Wood, M.D., not dated; Kathleen M. Kavlick, R.N. dated January 2, 2002; John Brownsberger dated January 4, 2002; Michael Hill dated January 5, 2002; Dale Anthony Foy dated January 1, 2001; Jennifer K. Pasadyn, LSW dated January 2, 2002; Ken D. Kirstein, RN dated January 3, 2002; Diana B. Young, LISW, LPCC, CCDC III-E dated December 10, 2001; Terry Daley, MS, CCDCIII, SWA dated April 26, 2001; and Beth A. Humbert dated January 3, 2002.
- (5) Exhibit R5--Twenty pages of copies of Continuing Pharmacy Education Certificates dated from October 11, 1997 to January 3, 2002.
- (6) Exhibit R6--Copy of newspaper article titled "Woman With Warrants Arrested", The Plain Dealer, October 17, 2001; Copy of newspaper article titled "Driver Flees Police, Causes Crash on Broadway, newspaper not identified and not dated; Copy of four-

page Medina City Police Department Ohio Traffic Crash Report No. 01-032789 of Rebecca S. Nelson and Steven J. Brownsberger dated October 15, 2001; and copy of two pages of CCC Information Services, Inc. Nationwide Insurance Market Valuation Report of Steven Brownsberger, Report Reference No. 28275957, dated October 16, 2001.

FINDING 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 Steven J. Brownsberger has not complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-000208-044, dated July 17, 2000.

ACTION OF THE BOARD

On the basis of the Finding of Fact set forth above, the State Board of Pharmacy hereby denies the reinstatement petition of Steven J. Brownsberger. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Steven J. Brownsberger may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during suspension.

Further, the Board will consider any petition presented by Steven J. Brownsberger 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 Steven J. Brownsberger meets the following requirements:

- (A) Provides documentation of one year of continuous compliance with the Board's July 17, 2000 Order (e.g.-copies of all monthly drug and alcohol screen reports, support group meeting attendance records for at least three times per week, treatment program reports, etc.);
- (B) Demonstrates satisfactory proof that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (C)

Steven J. Brownsberger is reminded that the Board's Order also stipulated that if reinstatement is not accomplished before July 17, 2003, Steven J. Brownsberger must show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

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

MOTION CARRIED.

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-000208-044)

In The Matter Of:

STEVEN J. BROWNSBERGER, R.Ph.
604 Continental Drive
Medina, Ohio 44256
(R.Ph. No. 03-3-18617)

INTRODUCTION

THE MATTER OF STEVEN J. BROWNSBERGER CAME TO HEARING ON JUNE 14, 2000, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

STEVEN J. BROWNSBERGER WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Thomas Miksch, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Steven J. Brownsberger, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of five-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated February 8, 2000.
- (2) Exhibit 1A--Hearing Request letter dated February 22, 2000.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated February 29, 2000.
- (4) Exhibit 1C--Copy of Pharmacist File Front Sheet of Steven J. Brownsberger showing original date of registration as October 26, 1990; and copy of Renewal Application for Pharmacist License No. 03-3-18617 for a license to practice pharmacy in Ohio from September 15, 1999, to September 15, 2000, dated July 21, 1999.
- (5) Exhibit 2
- (6) Exhibit 2A
- (7) Exhibit 2B--Copy of notarized Release Form of Steve Brownsberger dated October 28, 1999; copy of two-page letter from Karl C. Meyer dated January 6, 2000;
- (8) Exhibit 3
- (9) Exhibit 4

- (10) Exhibit 5
- (11) Exhibit 6
- (12) Exhibit 7
- (13) Exhibit 8
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- (16) Exhibit 11
- (17) Exhibit 12
- (18) Exhibit 13
- (19) Exhibit 14
- (20) Exhibit 15
- (21) Exhibit 16
- (22) Exhibit 17

Respondent's Exhibits:

- (1) Exhibit A--Copies of the following: Thirteen pages of AA Attendance sheets of S. Brownsberger dated from October 8, 1999, through June 13, 2000; copy of Medina County Client Fee/Service Agreement of Steven J. Brownsberger dated January 7, 2000; two-page copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Steve Brownsberger dated December 8, 1999; eleven pages of urine drug screen reports and/or chain of custody request of Steven Brownsberger dated from December 6, 1999, through May 11, 2000; copy of Medina General Hospital Emergency Room Discharge Instructions of Steven Brownsberger, not dated; copy of prescription from Medina General Hospital for Steven Brownsberger for Erytab 333mg and Entex LA dated May 16, 2000; letter from Emil Dontenville dated June 6, 2000; letter from Marilyn Pavlus dated June 7, 2000; letter from Beth A. Humbert dated June 5, 2000; two-page letter from Karl C. Meyer dated January 6, 2000; two-page letter from John Brownsberger dated June 1, 2000; note from John A. Brownsberger dated June 1, 2000, with prescription from Internal Medicine Center of Akron for Steven Brownsberger for Dexedrine 15mg dated October 4, 1999; and letter from Edward (last name illegible), 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 Steven J. Brownsberger was originally licensed in the state of Ohio on October 26, 1990, pursuant to examination, and his license to practice pharmacy in the state of Ohio was summarily suspended on February 8, 2000, pursuant to Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code. Records further indicate that from on or about September 3, 1998, through October 26, 1999, Steven J. Brownsberger was the Responsible Pharmacist at Giant Eagle in Strongsville, Ohio pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) Steven J. Brownsberger is addicted to liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Steven J. Brownsberger began abusing drugs in college; some of the other drugs Steven J. Brownsberger abused were Ritalin, Prozac, Dexatrim, Oxycodone, and Marijuana;

Steven J. Brownsberger practiced pharmacy while being impaired; on October 3, 1999, Steven J. Brownsberger ingested 8 unit doses of Dexedrine and 5 to 10 unit doses of Vicodin; Steven J. Brownsberger believed he was more likely to make a mistake at work if he were not taking drugs; Steven J. Brownsberger went into treatment to “wean” himself off drugs; and Steven J. Brownsberger stated that he “didn’t have control over his addiction and really needed to get help.” Such conduct indicates that Steven J. Brownsberger falls within the ambit of Sections 3719.121(A), 3719.121(B), and 4729.16(A)(3) of the Ohio Revised Code.

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CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (13) 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2), (4), (6), (8), and (10) of the Findings of Fact constitute 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.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4), (6), (8), and (10) through (12) 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. as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION 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 Steven J. Brownsberger on February 8, 2000.

Pursuant to Section 4729.16 of the Ohio Revised Code, and on the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-18617, held by Steven J. Brownsberger and such suspension is effective as of the date of the mailing of this Order.

- (A) Steven J. Brownsberger, 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.
- (B) Steven J. Brownsberger, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order. The certificate and identification card should be sent by certified mail, return receipt requested.

Further, on or after January 1, 2002, the Board will consider any petition filed by Steven J. Brownsberger 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) Steven J. Brownsberger must enter into a contract, signed within 90 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. 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 screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of all drug and alcohol screens must be negative. 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 Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Steven J. Brownsberger must provide, at the reinstatement petition hearing, documentation of the following:

- (1) Compliance with the contract required in paragraph (A) above (e.g.-proof of giving the sample within 12 hours of notification, copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - (2) Compliance with the continuing pharmacy education requirements as set forth in Chapter 4729-7 of the Ohio Administrative Code in effect on the date of petitioning the Board for reinstatement;
 - (3) Compliance with the terms of this Order.
- (C) If reinstatement is not accomplished within three years of the effective date of this Order, Steven J. Brownsberger must successfully complete the NAPLEX examination or an equivalent examination approved by the Board.

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

MOTION CARRIED.

SO ORDERED.