

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-011205-020)

In The Matter Of:

**BRADLEY R. LABOE, R.Ph.**

1800 Middlesbrough  
Maumee, Ohio 43537  
(R.Ph. No. 03-3-20077)

**INTRODUCTION**

THE MATTER OF BRADLEY R. LABOE CAME FOR HEARING ON MAY 7, 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.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

BRADLEY R. LABOE WAS NOT PRESENT AND 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. Dale Fritz, Ohio State Board of Pharmacy

**Respondent's Witnesses:**

None

**State's Exhibits:**

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [12-05-2001]  
1A-1C. Procedurals  
1E-1G. Procedurals
2. Plastic bag containing 7 Oxy IR 5mg capsules, 5 Roxicet 5mg tablets, 4 Percocet 5mg tablets, and 1 Percocet 7.5mg tablets
3. Plastic bottle containing 8 OxyContin 40mg tablets, 6 Carisoprodol 350mg tablets, 5 Nexium capsules, 2 Viagra 100mg tablets, 1 Vicodin ES tablet, 1 Ultram 50mg tablet, 1 Testred 10mg capsule, 1 Methyltestosterone 10mg tablet; 1 Provigil 200mg tablet, 1 Zyrtec tablet, 1 Percocet 5mg tablet
- 4-18. Drug Audit Accountability Sheets for Percocet 5/325 and Oxycodone w/apap 5/325; Oxycodone w/apap 5/500; Percocet 10/650; Percocet 7.5/500; Concerta 36; Concerta 54; Oxy IR 5mg; Oxycontin 10mg; Oxycontin 20mg; Oxycontin 40mg; Provigil 100mg; Provigil 200mg; Xanax 0.50mg; Alprazolam 0.5mg; and Alprazolam 1mg [06-09-2001 to 11-19-2001]

- 19. Indictment, State of Ohio vs. Bradley R. Laboe, Case No.01-CR-375, Wood County Common Pleas Court [03-21-2002]
- 20. Complaint, State of Ohio vs. Bradley R. Laboe, Case No. CRB 0101334, Sylvania Municipal Court [08-22-2001]
- 21. Criminal Case Information printout for Bradley R. Laboe, Case No. CRB 0101334, Sylvania Municipal Court [08-22-2001 to 09-10-2001]
- 22. Incident Report re Bradley R. Laboe, Lucas County Sheriff's Office and Witness Statements by Ken Parman and Trisha A. Will [08-22-2001]

Respondent's Exhibits:

None

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, 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 Bradley R. Laboe was originally licensed by the State of Ohio on March 1, 1994, pursuant to examination, and that his license to practice pharmacy in the state of Ohio was summarily suspended effective December 5, 2001.

(2) Bradley R. Laboe did, on or about November 17, 2001, while employed as a pharmacist at The Medicine Shoppe Pharmacy, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of The Medicine Shoppe Pharmacy, beyond the express or implied consent of the owner, to wit: Bradley R. Laboe stole 100 tablets of Oxy IR 5mg. Such conduct violates Section 2913.02 of the Ohio Revised Code.

(3) Bradley R. Laboe did, on or about November 21, 2001, while employed as a pharmacist at The Medicine Shoppe Pharmacy, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of The Medicine Shoppe Pharmacy, beyond the express or implied consent of the owner, to wit: Bradley R. Laboe stole the following controlled substances which were located in his right front pants pocket after his arrest: Oxy IR 5mg (7), Roxicet 5mg (5), Percocet 5mg (4), and Percocet 7.5mg (1). Such conduct violates Section 2913.02 of the Ohio Revised Code.

(4) Bradley R. Laboe did, on or about November 21, 2001, knowingly possess or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: during a search of his vehicle by the Fostoria Police Department and agents of the Ohio Board of Pharmacy, Bradley R. Laboe was found in possession of, and attempting to hide, the following:

<u>Drug</u>	<u>Schedule</u>	<u>Quantity</u>
OxyContin 40 mg	II	8
Carisoprodol 350 mg		6
Nexium		5
Viagra 100 mg		2

<u>Drug</u>	<u>Schedule</u>	<u>Quantity</u>
Vicodin ES	III	1
Ultram 50 mg		1
Testred 10 mg	III	1
Methyltestosterone 10 mg	III	1
Provigil 200 mg	IV	1
Zyrtec		1
Percocet 5 mg	II	2

Such conduct violates Section 2925.11 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 a felony and 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) through (4) 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.

(3) The State Board of Pharmacy concludes that paragraphs (3) and (4) 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) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Bradley R. Laboe on December 5, 2001.

Pursuant to Section 4729.16 of the Ohio Revised Code, after consideration of the record as a whole, the State Board of Pharmacy takes the following actions in the matter of Bradley R. Laboe:

(A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-20077, held by Bradley R. Laboe effective as of the date of the mailing of this Order.

(B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-20077, held by Bradley R. Laboe effective as of the date of the mailing of this Order.

(C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-20077, held by Bradley R. Laboe effective as of the date of the mailing of this Order.

(D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-20077, held by Bradley R. Laboe effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Bradley R. Laboe 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 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).  
MOTION CARRIED.  
SO ORDERED.

**ORDER EFFECTIVE JUNE 10, 2002**

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

December 5, 2001

**Bradley R. Laboe, R.Ph.**  
1800 Middlesbrough  
Maumee, Ohio 43537

Re: Ohio Registered Pharmacist  
Number 03-3-20077

Dear Mr. Laboe:

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 March 1, 1994, pursuant to examination and are currently licensed to practice pharmacy in the state of Ohio.
- (2) You did, on or about November 17, while employed as a pharmacist at The Medicine Shoppe Pharmacy, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of The Medicine Shoppe Pharmacy, beyond the express or implied consent of the owner, to wit: you stole 100 tablets of Oxy IR 5 mg, and were arrested by Fostoria Police Department. Such conduct violates Section 2913.02 of the Ohio Revised Code, and, if proven, constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) You did, on or about November 21, while employed as a pharmacist at The Medicine Shoppe Pharmacy, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of The Medicine Shoppe Pharmacy, beyond the express or implied consent of the owner, to wit: you stole the following controlled substances which were located in your right front pants pocket after your arrest: (7) Oxy IR 5 mg capsules, (5) Roxicet 5 mg tablets, (4) Percocet 5 mg tablets, and (1) Percocet 7.5 mg tablets. Such conduct violates Section 2913.02 of the Ohio Revised Code, and, if proven, constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (4) You did, on or about November 21, 2001, knowingly possess or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: during a search of your vehicle by the Fostoria Police Department and agents of the Ohio Board of Pharmacy, you were found in possession of, and attempting to hide, the following:

Drug	Schedule	Quantity
OxyContin 40 mg	II	8
carisoprodol 350 mg		6
Nexium		5
Viagra 100 mg		2
Vicodin ES	III	1
Ultram 50 mg		1
Testred 10 mg	III	1
Methyltestosterone 10 mg	III	1
Provigil 200 mg	IV	1
Zyrtec		1
Percocet 5 mg	II	2

Such conduct violates Section 2925.11 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (5) You did, on or about June 9, 2001, through November 19, 2001, while employed as a pharmacist at The Medicine Shoppe Pharmacy, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of The Medicine Shoppe Pharmacy, beyond the express or implied consent of the owner, to wit: you stole the following:

Drug	Schedule	Shortage	% of Stock
oxycodone 5mg with APAP 325mg	II	271	7.9%
oxycodone 5mg with APAP 500mg	II	3	1.5%
Percocet 10mg	II	29	12.6%
Percocet 7.5mg	II	6	2.2%
Concerta 36mg	II	171	36.4%
Concerta 54mg	II	38	12.4%
OxyIR 5mg	II	56	8.5%
OxyContin 10mg	II	1	.5%
OxyContin 20mg	II	335	29.8%
OxyContin 40mg	II	310	27.4%
MS Contin 15mg	II	21	19.3%
Provigil 100mg	IV	50	35.7%
Provigil 200mg	IV	23	7.8%
Xanax 0.5mg	IV	30	3.4%
alprazolam 0.5mg	IV	1997	34.0%
alprazolam 1mg	IV	533	29.3%

Such conduct violates Section 2913.02 of the Ohio Revised Code, and, if proven, constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

*[paragraph added by Notice dated 03/14/02]*

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 SECTION 3719.121(B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO ARE 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 a final adjudication order becomes effective, 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. 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 HEREBY 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-011205-020)

BY ORDER OF THE STATE BOARD OF PHARMACY

**SUMMARY SUSPENSION EFFECTIVE DECEMBER 5, 2001**

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.  
(Order Effective June 10, 2002)*