



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-060807-003)

In The Matter Of:

EDWARD R. KAPTURASKY, R.Ph.

1096 Oregon Avenue
Columbus, Ohio 43201

(R.Ph. No. 03-3-23792)

INTRODUCTION

THE MATTER OF EDWARD R. KAPTURASKY 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.

EDWARD R. KAPTURASKY WAS NOT REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness

1. Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Edward R. Kapturasky, R.Ph., Respondent
2. Joshua Weir, Pastor
3. Sheila Livingston
4. Wayne Miller, R.Ph.

State's Exhibits

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [08-07-06]
1A-1C. Procedurals
2. Notarized Statement of Elisabeth Milbaugh [07-26-06]
3. Handwritten "Suicide Note" of Ed Kapturasky [07-18-06]
4. Notarized Statement of Edward Kapturasky [07-27-06]
5. Release of Medical Information Form [07-27-06]
6. Grant Medical Center Registration Information Form [07-19-06]; Urine Drug Screen [07-19-06]

Respondent's Exhibits

- A. Summary Suspension Order/Notice of Opportunity For Hearing [08-07-06]; Hearing Request letter from Edward R. Kapturasky [08-10-06]; Hearing Schedule letter [08-14-06]
- B. PRO Pharmacist's Recovery Contract for Eddie R. Kapturasky [08-15-06]; Sealed record; Six Character Reference letters [12-17-06 to 12-29-06]
- C. Drug Screen Reports [10-03-06 to 12-27-06]
- D. Support Group Attendance Records [08-07-06 to 12-28-06]
- E. Continuing Pharmaceutical Education Credits [12-27-06]

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 Edward R. Kapturasky was originally licensed by the State of Ohio as a pharmacist on October 7, 1999, pursuant to examination, and that his licensed to practice pharmacy in Ohio was summarily suspended effective August 7, 2006.
- (2) Edward R. Kapturasky is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Edward R. Kapturasky has admitted that he is addicted to methamphetamine ("crystal meth"); Edward R. Kapturasky has stolen drugs from his employer's pharmacy so as to commit suicide, being despondent over his relapse into the use of crystal meth; and Edward R. Kapturasky had previously attempted suicide in April of 2006 using Klonopin obtained from a friend. Edward R. Kapturasky further indicated to a Board agent that he began using crystal meth in Fall of 2001. Such conduct indicates that Edward R. Kapturasky is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Edward R. Kapturasky did, on or about July 18, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Drug Store Clinic Pharmacy, beyond the express or implied consent of the owner, to wit: Edward R. Kapturasky admittedly stole approximately 20 alprazolam 2 mg tablets. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Edward R. Kapturasky did, on or about July 19, 2006, possess and/or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Edward R. Kapturasky admittedly used when not for a legitimate medical purpose, and a toxicology screen confirmed the use of, methamphetamine, a Schedule II controlled substance, and alprazolam, a Schedule IV controlled substance. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) and (4) 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 (3) and (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 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) 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 Edward R. Kapturasky on August 7, 2006.

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. 03-3-23792, held by Edward R. Kapturasky and such suspension is effective as of the date of the mailing of this Order.

- (A) Edward R. Kapturasky, 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) Edward R. Kapturasky, 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.

Further, after eighteen months from the effective date of this Order, the Board will consider any petition filed by Edward R. Kapturasky 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) Edward R. Kapturasky 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.
 - (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) Methamphetamine must be added to the standard urine drug screen.
 - (c) 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) Edward R. Kapturasky 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) Edward R. Kapturasky must obtain, within sixty days after the effective date of this Order, a full psychiatric or psychological evaluation, by a licensed psychiatrist or psychologist. The psychiatrist or psychologist must provide an initial status report, which includes the recommended treatment plan, to the Board within ten days after completing the assessment. Edward R. Kapturasky must abide by the treatment plan as designed by that psychiatrist or psychologist.
 - (D) Edward R. Kapturasky must obtain, within six months prior to his reappearance, a full psychiatric or psychological evaluation, by a licensed psychiatrist or psychologist addressing Edward R. Kapturasky's fitness for readmission into the practice of pharmacy.
 - (E) Edward R. Kapturasky 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.
 - (F) If reinstatement is not accomplished within three years of the effective date of this Order, Edward R. Kapturasky must also show successful completion of the

North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

NOTICE: Failure to obtain the psychiatric or psychological evaluation, under the terms, conditions, and time frames set forth in this Order, shall be deemed a violation of the Board's Order and a violation of Divisions (A)(3) and (E) of Section 4729.16 of the Ohio Revised Code.

Upon such time as the Board may consider reinstatement, Edward R. Kapturasky 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-7/Nay-0).

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 the filing of a Notice of Appeal with both the State Board of Pharmacy and 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: **February 8, 2007**

By: _____

William T. Winsley, M.S., R.Ph., Executive Director

WTW/lf



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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

August 7, 2006

Edward R. Kapturasky, R.Ph.

1096 Oregon Avenue

Columbus, Ohio 43201

Re: Ohio Registered Pharmacist
Number 03-3-23792

Dear Mr. Kapturasky:

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 October 7, 1999, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: you have admitted that you are addicted to methamphetamine ("crystal meth"); you have stolen drugs from your employer's pharmacy so as to commit suicide, being despondent over your relapse into the use of crystal meth; and you had previously attempted suicide in April of 2006 using Klonopin obtained from a friend. You further indicated to a Board agent that you began using crystal meth in Fall of 2001. Such conduct indicates that you are within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) You did, on or about July 18, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Drug Store Clinic Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole approximately 20 alprazolam 2 mg tablets. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) You did, on or about July 19, 2006, possess and/or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you admittedly used when not for a legitimate medical

purpose, and a toxicology screen confirmed the use of, methamphetamine, a Schedule II controlled substance, and alprazolam, a Schedule IV controlled substance. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

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 DESIRE A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. YOUR REQUEST MUST BE IN WRITING, AND MUST BE RECEIVED IN THE OFFICE OF THE OHIO STATE BOARD OF PHARMACY ON OR PRIOR TO THE THIRTIETH (30TH) DAY FOLLOWING THE MAILING DATE OF THIS NOTICE. 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 there is no request for such a hearing received by the Board on or prior to the thirtieth (30th) day following the mailing of this notice, the Ohio 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.

BY ORDER OF THE STATE BOARD OF PHARMACY

William T. Winsley, M.S., R.Ph.
Executive Director