



**STATE OF
OHIO**
BOARD OF PHARMACY

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0086)

In The Matter Of:

Southside Pharmacy
c/o Naser Taher
2811 Fulton Road Suite B
Lorain, OH 44055
License No. 02-2447550



INTRODUCTION

The Matter of Southside Pharmacy came for hearing on January 6, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; Absent.

Southside Pharmacy requested a hearing, and the responsible person from Southside Pharmacy, Mr. Naser Taher, was present at the hearing; however, Ohio law prevents a corporation from representation by any one other than an attorney licensed to practiced law in the state of Ohio. Therefore, Mr. Taher was not allowed to present evidence, make legal arguments, examine witnesses or engage in any activities pertaining to the hearing that were otherwise required to be conducted by a properly licensed attorney. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Naser Taher

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|--|------------|
| 1. Notice Letter | 08.14.2019 |
| 2. Request for Hearing | 08.27.2019 |
| 3. Scheduling Order | 08.30.2019 |
| 4. Inspection Report, December 5, 2018 | 12.05.2018 |

77 South High Street, 17th Floor, Columbus, Ohio 43215

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| 5. Inspection Report, December 6, 2019 | 12.05.2018 |
| 6. Response by Licensee | 01.16.2019 |
| 7. Salesforce Statement | 01.15.2019 |

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board finds the following to be fact:

1. On or about December 5, 2018, an inspection of Southside Pharmacy by Board staff revealed an unregistered pharmacy technician performing the following in the pharmacy: receiving verbal prescriptions via telephone, entering prescriptions into the computer system, and counting pills. The inspection also revealed that the unregistered technician had been working at Southside Pharmacy since August 2018.

CONCLUSIONS OF LAW

- Such conduct as set forth in Findings of Fact Section constitutes a violation of each of the following divisions of Section 4729.57 of the ORC: Violating any provision of this chapter, ORC Section 4729.57(B)(3).
- Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of Section 4729.95 of the ORC: No terminal distributor of dangerous drugs shall knowingly allow any person employed or otherwise under the control of the person who owns, manages, or conducts the terminal distributor to violate division (A) of ORC 4729.95, ORC 4729.95(C).

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$2,000.00. This fine will be attached to your license record and must be paid no later than 6 months from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

Nasar Taher must attend a Board-sponsored "Responsible Person Roundtable, within 6 months of the effective date of this agreement and provide proof of completion to the Board within 30 days of attendance.

Fred M. Weaver moved for Findings of Fact; Donald R. Miller seconded the motion. Motion passed (Aye-6/Nay-0).

Kilee S. Yarosh moved for Conclusions of Law; Fred M. Weaver seconded the motion. Motion passed (Aye-6/Nay-0).

Jennifer M. Rudell moved for Action of the Board; Donald R. Miller seconded the motion. Motion passed (Aye-6/Nay-0).

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.

TIME AND METHOD TO PERFECT AN APPEAL

Any party desiring to appeal shall file a Notice of Appeal with the State of Ohio Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, OH 43215, setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notice of Appeal shall also be filed by the appellant in the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident. If the appellant is not a resident of and has no place of business in this state, the party may appeal to the court of common pleas of Franklin county. Such notices of appeal shall be filed within fifteen (15) days after the mailing of the notice of the State of Ohio Board of Pharmacy's Order as provided in Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: **January 16, 2020**

By: Steven W. Schierholt^{EG.}
Steven W. Schierholt, Esq., Executive Director

SWS/jak/kll

CMRRR: 9414 7118 9956 1139 2675 40



**NOTICE OF OPPORTUNITY FOR HEARING
FOR TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSE**

IN THE MATTER OF:

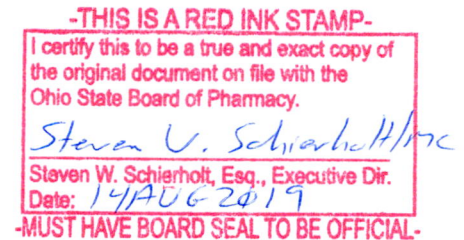
CASE No. A-2019-0086

Southside Pharmacy
c/o Naser Taher
2811 Fulton Road Suite B
Lorain, OH 44055

License No. 02-2447550

August 14, 2019

Dear Mr. Taher and Southside Pharmacy:



You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license as a Terminal Distributor of Dangerous Drugs (TDDD) under authority of Section 4729.57.

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code (ORC) and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the ORC to practice as a TDDD in the state of Ohio. Additionally, Section 4729.57 of the Revised Code grants the Board the authority to impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or \$1,000 if the acts committed have not been classified as an offense by the ORC.
2. Southside Pharmacy has a current TDDD license with the Board under license number 02-2447550. Which lists Naser Taher as the Responsible Person.

ALLEGATIONS

1. On or about December 5, 2018, an inspection of Southside Pharmacy by Board staff revealed an unregistered pharmacy technician performing the following in the pharmacy: receiving verbal prescriptions via telephone, entering prescriptions into the computer system, and counting pills. The inspection also revealed that the unregistered technician had been working at Southside Pharmacy since August 2018.
2. A follow-up inspection conducted on or about December 6, 2018, found the same unregistered technician performing the duties of a pharmacy technician.



POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.57 of the ORC, each violation punishable by a maximum penalty of \$1,000:
 - a. Violating any provision of this chapter, ORC Section 4729.57(B)(3).
2. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following divisions of Section 4729.95 of the ORC, constituting a misdemeanor of the second degree, each violation punishable by a maximum penalty of \$4,000, if committed by an organization:
 - a. No terminal distributor of dangerous drugs shall knowingly allow any person employed or otherwise under the control of the person who owns, manages, or conducts the terminal distributor to violate division (A) of ORC 4729.95, ORC 4729.95(C).


YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (please note faxes will not be accepted). **YOUR REQUEST MUST BE RECEIVED ON OR PRIOR TO THE 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. **If you are a corporation, you must be represented at the hearing by an attorney licensed to practice in the state of Ohio.**

YOU ARE FURTHER ADVISED that if there is no request for such a hearing received by the Board on or prior to the 30th day following the mailing of this notice, the State of Ohio Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

If you have questions regarding the Chapter 119. Administrative Hearing process, please e-mail your questions to legal@pharmacy.ohio.gov or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE BOARD OF PHARMACY


Steven W. Schierholt, Esq., Executive Director

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CMRRR: 9414 7118 9956 1525 8470 42