



IN THE MATTER OF:

CASE NO. 2016-1073

Tim Miller

660 E. Russell Avenue
West Lafayette, OH 43845

License No. 03-3-11708

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Tim Miller, for the purpose of resolving all issues between the parties relating to the Board investigation of the theft of Levitra, Cialis, and Viagra while employed as a pharmacist at Rite Aid Pharmacy #4247. Together, the Board and Tim Miller are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Tim Miller is an Ohio-licensed pharmacist under license number 03-3-11708.

FACTS

1. On or about January 26, 2016, the Board initiated an investigation of Tim Miller, pharmacist license number 03-3-11708, related to Tim Miller's theft of Levitra, Cialis, and Viagra while employed as a pharmacist at Rite Aid Pharmacy #4247. During the course of the investigation you admitted to stealing one tablet every two or three weeks of these drugs for approximately three to four months. You accessed pharmacy records to alter the on-hand count recorded within the computer system.
2. On or about April 26, 2017, the Board sent a Notice of Opportunity for Hearing to Tim Miller, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

TERMS

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

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



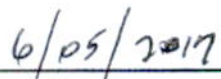
1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Tim Miller neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 26, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same. Further, the Board finds Violations of Law as set forth in one, three, four, and five of the Notice; the Board hereby dismisses Violations of Law two of the notice letter dated April 26, 2017.
3. **TIM MILLER PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03-3-11708, WITH DISCIPLINE PENDING.**
4. **Tim Miller agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
5. **Tim Miller may never reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., or 4729. of the Revised Code.**
6. Tim Miller agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Tim Miller understands that he has the right to be represented by counsel for review and execution of this agreement.
8. Tim Miller agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license.
9. Tim Miller waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:




Tim Miller, Respondent



Date of Signature

Attorney for Respondent (if applicable)

Date of Signature



Michael A. Mone, R.Ph., President,
State of Ohio Board of Pharmacy



Date of Signature



Steven Kochheiser, Ohio Assistant Attorney General



Date of Signature



**STATE OF
OHIO**
BOARD OF PHARMACY

**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:

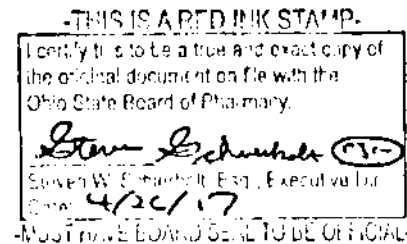
Tim Miller, R.Ph.
660 E. Russell Avenue
West Lafayette, OH 43845

April 26, 2017

Dear Mr. Tim Miller:

CASE NO. 2016-1073

License No. 03-3-11708



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 for violations of Chapter 4729. of the Revised Code and Section 4729 of the Administrative Code under authority of Section 4729.16 of the Revised Code.

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code (ORC) and the rules adopted thereunder, the Board has the authority to revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card issued to a pharmacist or pharmacist applicant for reciprocal registration in the state of Ohio. Additionally, Section 4729.16 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 \$500 if the acts committed have not been classified as an offense by the Revised Code.
2. Rule 4729-05-04 of the Ohio Administrative Code (OAC) provides that the Board may deny the issuance of a certificate of registration or an identification card to practice pharmacy as a pharmacist in Ohio.
3. Tim Miller is a licensed pharmacist in the state of Ohio under license number 03-311708.

ALLEGATIONS

1. You were employed as a pharmacist at Rite Aid Pharmacy #4247, located at 218 Chestnut St, Coshocton, Ohio where the following events occurred:
 - a. On or about February 27, 2016, you took, without consent, approximately one (1) tablet of Levitra 20 mg from Rite Aid Pharmacy #4247, located at 218 Chestnut St, Coshocton, Ohio.
 - b. On or about March 3, 2016, you took, without consent, approximately one (1) tablet of Levitra 20 mg from Rite Aid Pharmacy #4247, located at 218 Chestnut St, Coshocton, Ohio.
 - c. On or about March 12, 2016, you took, without consent, approximately one (1) tablet of Cialis 20 mg from Rite Aid Pharmacy #4247, located at 218 Chestnut St, Coshocton, Ohio.
 - d. On or about April 8, 2016, you took, without consent, approximately one (1) tablet of Viagra 50 mg from Rite Aid Pharmacy #4247, located at 218 Chestnut St, Coshocton, Ohio.

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



- e. On or about April 24, 2016, you took, without consent, approximately one (1) tablet of Cialis 20 mg from Rite Aid Pharmacy #4247, located at 218 Chestnut St, Coshocton, Ohio.
2. During an interview with an Agent of the Board, you provided a written statement where you admitted stealing "one tablet every 2 or 3 weeks" of "Viagra, Cialis, and Levitra" beginning "3-4 months ago."
 3. On or about March 3, 2016, you used your user ID to access the pharmacy computer to alter the on-hand count recorded within the pharmacy computer records.
 4. On or about December 24, 2003, the Board summarily suspended your license to practice pharmacy following an admission of a theft and abuse of dangerous drugs. On or about May 6, 2004, the Board suspended your license for a period of two (2) years. On or about June 7, 2006, your license to practice pharmacy was reinstated and placed on probation for five (5) years. D-050701-001
 5. On or about June 20, 2016, you were indicted in the Coshocton County Court of Common Pleas on five (5) counts of Theft of Drugs, a fourth-degree felony offense, and one (1) count of tampering with evidence, a third-degree felony offense. On or about August 9, 2016, you plead guilty to five (5) counts of theft of drugs, a felony offense. On or about September 20, 2016, you were sentenced to three (3) years of community control and payment of the costs of prosecution. Case No. 2016CR0053.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in paragraphs (1) and (2) of the Allegations Section, if proven, constitutes theft of dangerous drugs, in violation of Section 2913.02(A)(1) of the ORC, each violation being a felony of the fourth degree, punishable by a fine of up to \$5,000.
2. Such conduct as set forth in paragraphs (1) and (2) of the Allegations Section, if proven, constitutes a violation of Section 2925.11(A) of the ORC, possession of controlled substances, each violation being a felony of the fifth degree, each violation punishable by a maximum fine of \$2,500.
3. Such conduct as set forth in paragraphs (1) through (5) of the Allegations section, if proven, constitutes a violation of Section 4729.08(B) of the ORC, good moral character and habits.
4. Such conduct as set forth in paragraphs (1) through (5) of the Allegations Section, if proven, constitutes the following violations of the section 4729.16 of the ORC, each being a minor misdemeanor, each punishable by a maximum fine of \$150:
 - a. Guilty of unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and/or
 - b. Guilty of willfully violating 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; ORC Section 4729.16(A)(5).
5. Such conduct as set forth in paragraphs (1) through (5) of the Allegations Section, if proven, constitutes the following violations of the Ohio Administrative Code (OAC), each punishable by a maximum fine of \$500:
 - a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and/or
 - a. Violated...any of the provisions of Chapters 4729., 3715., 3719., and 2925. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B); and/or
 - b. Committed acts that constitute gross immorality, OAC Rule 4729-5-04(C); and/or

- c. Has been disciplined by the Ohio State Board of pharmacy pursuant to section 4729.16 of the Revised Code, OAC Rule 4729-5-04(E).

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.** Please note that if you submit a request via email, your request will be acknowledged within one business day of receipt. If you do not receive an acknowledgment, please contact the Board offices at 614-466-4143 and request the legal department. 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 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

SWS/ric

CMRRR: 7005 0390 0001 8572 4115



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

URL: <http://www.pharmacy.ohio.gov>

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-050701-001)

In The Matter Of:

TIM IVAN MILLER, R.Ph.
660 East Russell Avenue
West Lafayette, Ohio 43845
(R.Ph. No. 03-3-11708)

INTRODUCTION

THE MATTER OF TIM IVAN MILLER CAME FOR HEARING ON MAY 9, 2006, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE R. EASTMAN, R.Ph. (presiding); 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; AND JAMES E. TURNER, R.Ph.

TIM IVAN MILLER WAS NOT REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

None

Respondent's Witnesses

1. Tim Ivan Miller, R.Ph., Respondent
2. Larry Shaffer, R.Ph.

State's Exhibits

1. Reinstatement Hearing Request letter from Tim Ivan Miller [06-23-05]
1A-1C. Procedurals
2. State Board of Pharmacy Order in re Tim Ivan Miller, R.Ph. [05-06-04]
3. Notarized Statement of Tim I. Miller [12-05-03]

Respondent's Exhibits

- A. PRO Pharmacist's Recovery Contract for Tim I. Miller [09-15-04]
- B. Drug Screen Reports [10-27-04 to 04-26-06]
- C. Calendar Pages for September 2004 through May 2006; Support Group Attendance Records [09-12-04 to 05-07-06]

- D. Shepherd Hill Progress Report Letter [04-05-06]; Recovery Plan [09-10-04]
- E. Restitution Documentation letter [04-24-06]; Judgment Entry, State of Ohio vs. Timothy I. Miller, Case 04-CR-059, Coshocton County Common Pleas Court [06-11-04]
- F. Judgment Entry [06-11-04]; Judgment Entry [06-30-05]; Letter from Darin J. Desender, State Parole Officer [06-28-05]
- G. Two Letters of Support [04-17-06 and 05-05-06]
- H. Continuing Pharmaceutical Education Credits and Certificates [04-14-05 to 02-09-06]

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 Tim Ivan Miller has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-031224-049, effective May 6, 2004.

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. 03-3-11708, held by Tim Ivan Miller to practice pharmacy in Ohio with the stipulation that Tim Ivan Miller shall be on probation for five years beginning on the effective date of this Order, with the following conditions:

(A) Tim Ivan Miller 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 submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. 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 urine screen or a diluted urine 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) Tim Ivan Miller 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 Tim Ivan Miller's progress towards recovery and what Tim Ivan Miller 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 Tim Ivan Miller's 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) Tim Ivan Miller may not serve as a responsible pharmacist.

(3) Tim Ivan Miller may not destroy, assist in, or witness the destruction of controlled substances.

(4) Tim Ivan Miller must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) Tim Ivan Miller must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Tim Ivan Miller must abide by the rules of the State Board of Pharmacy.

(7) Tim Ivan Miller must comply with the terms of this Order.

(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.

Tim Ivan Miller 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.

TIM IVAN MILLER, R.Ph.

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Order of the Board

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: JUNE 7, 2006

CERTIFIED MAIL/Return Receipt
7001 0360 0002 4139 7157

By: /s/ WTW
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lf

cc: Sally Ann Steuk, Assistant Attorney General