



ORDER OF THE STATE BOARD OF PHARMACY

Case Number **A-2022-0129**

In The Matter Of:

Christopher Fraley
84 Buckeye Trail
Chillicothe, OH 45601
License no. 03-335133

INTRODUCTION

The Matter of Christopher Fraley came for hearing on October 10, 2023, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, Presiding; Mindy Ferris, RPh, Vice President; Anthony Buchta, Sr., RPh; Victor Goodman, Public Member; T.J. Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Jason George, RPh; Absent.

Christopher Fraley was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. None

Respondent's Witnesses:

1. Christopher Fraley
2. Andy Pierron

State's Exhibits:

1. Original Notice Letter
2. Board Order
3. E-mail dated 7/24/2023 (Treated as Request for Reinstatement)

Respondent's Exhibits:

- A. PRO Contract



- B. Vault patient summary
- C. Urine drug screen results
- D. Aftercare completion letter
- E. Continuing Education
- F. AA/NA meeting attendance
- G. Support Letters/Work recognition

FINDINGS OF FACT & DECISION OF THE BOARD

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds that Christopher Fraley has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. A-2022--0129 dated June 10, 2022.

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the pharmacist license no. 03-335133, held by Christopher Fraley to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

1. Christopher Fraley must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Christopher Fraley should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order and subject Christopher Fraley to potential sanctions up to and including revocation of license. The monitoring contract must provide that:
 - a. Random, observed urine drug screens shall be conducted at least once each month.
 - b. 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.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. 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.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Christopher Fraley in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.

- f. Christopher Fraley must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
2. The intervener/sponsor shall submit reports to the Board, 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.
 - a. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
3. Christopher Fraley shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Christopher Fraley reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Christopher Fraley shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Christopher Fraley reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Christopher Fraley 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:
 - a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Christopher Fraley's progress towards recovery and what Christopher Fraley has been doing during the previous three months, and
 - c. Proof of compliance with all terms of probation, the monitoring contract, including all terms in OAC Rule 4729:4-1-04, and proof of compliance with treatment, if applicable.
6. Christopher Fraley must provide copies of the board order or settlement agreement to all employers or prospective employers, all licensing authorities in which Christopher Fraley holds a professional license or applies for a professional license, and all persons who provide Christopher Fraley chemical dependency treatment or monitoring, during the effective period of this order or agreement.
7. Other terms of probation are as follows:
 - a. Christopher Fraley must meet at least annually with the Board's Probation Committee, the first meeting to be held October 7, 2024. Additional periodic appearances may be requested.

- b. The State of Ohio Board of Pharmacy hereby declares that Christopher Fraley's pharmacist license is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraphs (K) and (O) of Rule 4729:2-1-01 of the OAC.
 - c. Christopher Fraley must obtain prior approval of the board or the board's probation committee of departures or absences in excess of ten days from the country. Periods of departure or absence shall not change the probationary term, unless otherwise determined by motion of the board or the board's probation committee. For absences of three months or longer, the board or its probation committee may toll the length of probation, other than in instances where the board or its probation committee can be assured that probationary monitoring is otherwise being performed.
 - d. Christopher Fraley may not serve as a responsible pharmacist or a designated representative in a dispensary or for home medical equipment.
 - e. Christopher Fraley may not engage in a consult agreement, unless approved by the board.
 - f. Christopher Fraley may not destroy, assist in, or witness the destruction of controlled substances.
 - g. Christopher Fraley may not work in a pharmacy more than 40 hours per week or 80 hours over a two-week period.
 - h. Christopher Fraley must not violate the drug laws of Ohio, any other state, or the federal government.
 - i. Christopher Fraley must abide by the rules of the State of Ohio Board of Pharmacy.
 - j. Christopher Fraley must comply with the terms of this Order.
 - k. Christopher Fraley's license is deemed not in good standing until successful completion of the probationary period.
 - l. Christopher Fraley must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
8. When deemed appropriate by the Board, Christopher Fraley must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.
 9. Christopher Fraley may not request modifications to probationary terms for at least three years, however, limited, isolated deviations may be granted with approval by the Board, in exceptional circumstances.
 10. Christopher Fraley must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Christopher Fraley to possible additional sanctions, including and up to revocation of license.

11. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Christopher Fraley's license.
12. Periods during which Christopher Fraley is not in compliance with all probationary terms shall toll the length of time of probation, or the Board may implement additional disciplinary action in addition to or instead of tolling probation.

At the conclusion of the probationary period, the Board will issue a letter indicating whether probation has been successfully completed. If the Board determines probation has not been successfully completed, it will issue a notice of opportunity for hearing to Christopher Fraley.

Christine Pfaff moved for Findings of Fact; Jeff Huston seconded the motion. Motion passed (Aye-7/Nay-0).

Christine Pfaff moved for the Decision of the Board; Jeff Huston seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

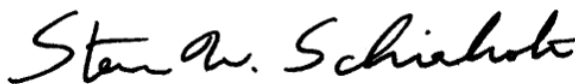
It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

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 service 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: October 17, 2023

By: 
Steven W. Schierholt, Esq., Executive Director

SWS/jak/kl

CMRRR: 9414 7118 9956 2034 8084 01



ORDER OF THE STATE BOARD OF PHARMACY
Case Number A-2022-0129

In The Matter Of:

Christopher Fraley
84 Buckeye Trail
Chillicothe, OH 45601
License No. 03-335133

INTRODUCTION

The Matter of Christopher Fraley came for hearing on June 6, 2022, before the following members of the State of Ohio Board of Pharmacy (Board): Rich Miller, RPh, *Presiding*; Jason George, RPh; Trina Buettner, RPh; Victor Goodman, *Public Member*; Jeff Huston, RPh; T.J. Grimm, RPh; Jennifer Rudell, RPh; and.

Shawn Wilt, RPh; Absent.

Christopher Fraley was represented by Robert Garrity. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. None

Respondent's Witnesses:

1. Christopher Fraley

State's Exhibits:

1. Notice Letter
2. Request for Hearing
3. Scheduling Order
4. Statement of Respondent
5. Statement of Jillian Souders
6. Audit from Wal-Mart
7. Evidence Sheet
8. Photo of Pills

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



Respondent's Exhibits:

- A. PRO contract; UDS results
- B. Treatment Documentation
- C. 12 Step meeting attendance
- D. Continuing education.
- E. Resume
- F. Letters of support
- G. UDS results
- H. Aftercare letter
- I. UDS New Layout
- J. Drug Screen Results

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 March 3, 2022, the Board was notified of Christopher Fraley's suspected drug diversion by his employer, Walmart Pharmacy #10-1427, located at 1420 South Court Street, Circleville, Ohio. An audit revealed 169 tablets of tramadol were missing since May 1, 2021. Agents reviewed surveillance recordings of Christopher Fraley's suspicious behavior from the following dates:
 - a. On or about February 17, 2022, surveillance showed Christopher Fraley remove what was believed to be tramadol, a Schedule IV controlled substance, from the pharmacy shelf and take it to the restroom. Christopher Fraley remained in the restroom for approximately 20 minutes before exiting. Christopher Fraley returned the suspected tramadol to the shelf.
 - b. On or about February 20, 2022, surveillance showed Christopher Fraley removing what appeared to be syringes and an unknown bottle(s) from the controlled substances safe. Christopher Fraley took those items, along with medical gloves, into the restroom. Christopher Fraley remained in the restroom for approximately 20 minutes before exiting. The bottle(s) were returned to the controlled substances safe.
2. On or about March 3, 2022, Christopher Fraley was interviewed by agents from the Board. Christopher Fraley made the following statements:
 - a. Christopher Fraley is addicted to opiates.
 - b. Christopher Fraley began stealing controlled and non-controlled substances from the pharmacy approximately two years ago.
 - c. Christopher Fraley stole and consumed the stolen drugs to cope with withdrawal symptoms from Christopher Fraley's attempts to ween himself off opioids.

- d. Christopher Fraley consumed the stolen drugs while working in the pharmacy.
 - e. Christopher Fraley stole the following dangerous drugs from the pharmacy:
 - i. Tramadol, a Schedule IV controlled substance.
 - ii. Alprazolam, a Schedule IV controlled substance.
 - iii. Soma, a Schedule IV controlled substance.
 - iv. Tylenol 3 with Codeine, a Schedule III controlled substance.
 - v. Lorazepam, a Schedule IV controlled substance.
 - f. Christopher Fraley stole between seven to ten tramadol tablets on February 28, 2022.
3. On or about March 3, 2022, Christopher Fraley possessed the following dangerous drugs without a valid prescription(s):
- a. Four tablets of tramadol, a Schedule IV controlled substance.
 - b. One and one-half tablets of clonidine, a dangerous drug.

CONCLUSIONS OF LAW

- 1. Such conduct as set forth in paragraphs (1)(a), (1)(b), (2)(e)(i), (2)(e)(ii), (2)(e)(iii), (2)(e)(iv), (2)(e)(v), and (2)(f) of the Findings of Fact constitutes a violation of Section 2913.02 of the ORC, theft of a dangerous drug.
- 2. Such conduct as set forth in paragraphs (1)(a), (1)(b), (2)(e)(i), (2)(e)(ii), (2)(e)(iii), (2)(e)(iv), (2)(e)(v), (2)(f), and (3)(a) of the Findings of Fact constitutes a violation of Section 2925.11(A) of the ORC, possession of drugs.
- 3. Such conduct as set forth in paragraph (3)(b) of the Findings of Fact constitutes a violation of Section 4729.51(E)(1)(c) of the ORC, possession of dangerous drugs.
- 4. Such conduct as set forth in the Findings of Fact constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of October 9, 2021:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and

- c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of 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 4729.16(A)(2)(e); and
 - d. Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
5. Such conduct as set forth in the Findings of Fact constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective March 20, 2020:
- a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, OAC Rule 4729:1-4-01(B)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and
 - d. Committed an act involving moral turpitude that constitutes a misdemeanor or felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729:1-4-01(B)(2)(l); and
 - e. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired vehicle registration, OAC Rule 4729:1-4-01(B)(2)(m); and
 - f. Failed to conform to prevailing standards of care of similar pharmacists under the same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729:1-4-01(B)(2)(p).

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 Christopher Fraley on March 8, 2022.

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 license no. 03-335133 held by Christopher Fraley and such suspension is effective as of the date of the mailing of this Order.

Christopher Fraley, pursuant to Rule 4729:1-1-01(T) 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 and/or medical marijuana during such period of suspension.

Further, after 18 months from the effective date of the Summary Suspension/Notice of Opportunity of Hearing, the Board will consider any petition filed by Christopher Fraley 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:

1. Christopher Fraley must maintain a current address with the Board throughout the duration of the suspension.
2. Christopher Fraley must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Christopher Fraley should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order and subject Christopher Fraley to potential sanctions up to and including revocation of license. The monitoring contract must provide that:
 - a. Random, observed urine drug screens shall be conducted at least once each month.
 - b. 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.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. 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.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Christopher Fraley in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
 - f. Christopher Fraley must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
 - g. The intervener/sponsor shall submit reports to the Board, 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.
 - h. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

- i. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
3. Christopher Fraley shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Christopher Fraley reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Christopher Fraley shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of suspension. The Board shall treat any such refusal as a violation of the Board's Order and request Christopher Fraley reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Christopher Fraley must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Christopher Fraley to possible additional sanctions, including and up to revocation of license.
6. Christopher Fraley must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
7. Christopher Fraley must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the continuing pharmacy education requirements set forth in 4729:1-5-02 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
8. If reinstatement is not accomplished within three years of the effective date of the summary suspension, Christopher Fraley must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.
9. Christopher Fraley must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
10. When deemed appropriate by the Board, Christopher Fraley must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.

11. Christopher Fraley must obtain prior approval of the board or the board's probation committee of departures or absences in excess of ten days from the country. Periods of departure or absence shall not change the probationary term, unless otherwise determined by motion of the board or the board's probation committee. For absences of three months or longer, the board or its probation committee may toll the length of suspension, other than in instances where the board or its probation committee can be assured that monitoring is otherwise being performed.
12. Violation of any term of suspension, including but not limited to any violation of the contract signed with the treatment monitor and/or ODMHAS or other approved treatment provider may result in additional action before the Board up to and including revocation of Christopher Fraley pharmacy license.
13. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state, federal, or local law will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
14. Periods during which Christopher Fraley is not in compliance with all terms of suspension shall toll the length of time of suspension during which Christopher Fraley was out of compliance. The minimum length of time each violation will toll the suspension term is available on the Board's website, www.pharmacy.ohio.gov. The Board may implement additional disciplinary action in addition to or instead of tolling suspension.
15. If Christopher Fraley's employment is related to the practice of pharmacy, Christopher Fraley must provide copies of the board order or settlement agreement to all employers or prospective employers, all licensing authorities in which Christopher Fraley holds a professional license or applies for a professional license, all persons who provide Christopher Fraley chemical dependency treatment monitoring, and law enforcement and court personnel if Christopher Fraley has court involvement, such as ILC, drug court or diversion, related the suspension, during the effective period of this order or agreement.
16. Failure to complete the terms set forth in this Board's Order, or to petition for reinstatement within five years of the date of this Order, may result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Christopher Fraley's license.

Jennifer Rudell moved for Findings of Fact; Trina Buettner seconded the motion. Motion passed (Aye-6/Nay-0).

Jennifer Rudell moved for Conclusions of Law; Jason George seconded the motion. Motion passed (Aye-6/Nay-0).

Jennifer Rudell moved for Action of the Board; Trina Buettner 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: **June 10, 2022**

By: 
Steven W. Schierholt, Esq., Executive Director

SWS/jak/kll
CMRRR: 9414 7118 9956 2423 1006 80



SUMMARY SUSPENSION/NOTICE OF OPPORTUNITY FOR HEARING

IN THE MATTER OF:

CASE NO. A-2022-0129

Christopher Fraley, RPh
84 Buckeye Trail
Chillicothe, OH 45601

SUSPENDED License No. 03-335133

March 8, 2022

Dear Mr. Christopher Fraley, RPh:

You are hereby notified, in accordance with Section 119.07 of the Revised Code, the State of Ohio Board of Pharmacy (Board) hereby SUMMARILY SUSPENDS your Ohio license as a pharmacist, License No. 03-335133, under authority of Sections 3719.121 and 4729.16 of the Revised Code.

DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY. 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.

JURISDICTION

1. Records of the Board indicate you are currently licensed to practice pharmacy in the State of Ohio under license number 03-335133.
2. The Board has the authority to pursue a summary suspension of a pharmacist's license pursuant to Section 3719.121 and discipline of a pharmacist license pursuant to Section 4729.16 of the Ohio Revised Code (ORC).
3. The Board is required suspend a license of a pharmacist who is or becomes addicted to the use of controlled substances until the person offers satisfactory proof to the board that the person no longer is addicted to the use of controlled substances. ORC Section 3719.121(A).
4. The Board may suspend the license of a pharmacist if there is clear and convincing evidence that continuation of the person's professional practice or method of administering, prescribing, preparing, distributing, dispensing, or personally furnishing controlled substances or other dangerous drugs presents a danger of immediate and serious harm to others. ORC Section 3719.121(B).

ALLEGATIONS

1. On or about March 3, 2022, the Board was notified of your suspected drug diversion by your employer, Walmart Pharmacy #10-1427, located at 1420 South Court Street, Circleville, Ohio. An audit revealed 169

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



tablets of tramadol were missing since May 1, 2021. Agents reviewed surveillance recordings of your suspicious behavior from the following dates:

- a. On or about February 17, 2022, surveillance showed you remove what was believed to be tramadol, a Schedule IV controlled substance, from the pharmacy shelf and take it to the restroom. You remained in the restroom for approximately 20 minutes before exiting. You returned the suspected tramadol to the shelf.
 - b. On or about February 20, 2022, surveillance showed you removing what appeared to be syringes and an unknown bottle(s) from the controlled substances safe. You took those items, along with medical gloves, into the restroom. You remained in the restroom for approximately 20 minutes before exiting. The bottle(s) were returned to the controlled substances safe.
2. On or about March 3, 2022, you were interviewed by agents from the Board. You made the following statements:
- a. You are addicted to opiates.
 - b. You began stealing controlled and non-controlled substances from the pharmacy approximately two years ago.
 - c. You stole and consumed the stolen drugs to cope with withdrawal symptoms from your attempts to ween yourself off opioids.
 - d. You consumed the stolen drugs while working in the pharmacy.
 - e. You stole the following dangerous drugs from the pharmacy:
 - i. Tramadol, a Schedule IV controlled substance.
 - ii. Alprazolam, a Schedule IV controlled substance.
 - iii. Soma, a Schedule IV controlled substance.
 - iv. Tylenol 3 with Codeine, a Schedule III controlled substance.
 - v. Lorazepam, a Schedule IV controlled substance.
 - f. You stole between seven to ten tramadol tablets on February 28, 2022.
3. On or about March 3, 2022, you possessed the following dangerous drugs without a valid prescription(s):
- a. Four tablets of tramadol, a Schedule IV controlled substance.
 - b. One and one-half tablets of clonidine, a dangerous drug.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in paragraphs (1)(a), (1)(b), (2)(e)(i), (2)(e)(ii), (2)(e)(iii), (2)(e)(iv), (2)(e)(v), and (2)(f) of the Allegations Section, if proven, constitutes a violation of Section 2913.02 of the ORC, theft of a dangerous drug, each a felony of the fourth degree, punishable by a maximum fine of \$5,000.
2. Such conduct as set forth in paragraphs (1)(a), (1)(b), (2)(e)(i), (2)(e)(ii), (2)(e)(iii), (2)(e)(iv), (2)(e)(v), (2)(f), and (3)(a) of the Allegations Section, if proven, constitutes a violation of Section 2925.11(A) of the ORC, possession of drugs, each a misdemeanor of the first degree, punishable by a maximum fine of \$1,000.
3. Such conduct as set forth in paragraph (3)(b) of the Allegations Section, if proven, each constitutes a violation of Section 4729.51(E)(1)(c) of the ORC, possession of dangerous drugs, a misdemeanor of the first degree, each punishable by a maximum fine of \$1,000.
4. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of October 9, 2021, each violation constituting a minor misdemeanor, each punishable by a maximum penalty of \$150:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and/or
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and/or
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of 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 4729.16(A)(2)(e); and/or
 - d. Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
5. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective March 20, 2020, each violation punishable by a maximum penalty of \$500:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and/or
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, OAC Rule 4729:1-4-01(B)(2)(c); and/or
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and/or

- d. Committed an act involving moral turpitude that constitutes a misdemeanor or felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729:1-4-01(B)(2)(l); and/or
- e. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired vehicle registration, OAC Rule 4729:1-4-01(B)(2)(m); and/or
- f. Failed to conform to prevailing standards of care of similar pharmacists under the same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729:1-4-01(B)(2)(p); and/or

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 Ohio State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing, and may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division RC 4729.16(A).

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 OF OHIO BOARD OF PHARMACY



Steven W. Schierholt, Esq., Executive Director

SWS/jak/kll

CMRRR: 9414 7118 9956 1007 9342 84

cc: Walmart Pharmacy #10-1427, c/o Jillian Souders, R.Ph., 1420 South Court Street, Circleville, OH 43113