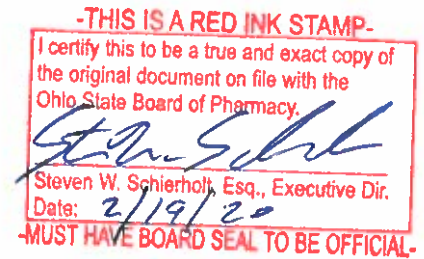




**STATE OF
OHIO**
BOARD OF PHARMACY



ORDER OF THE STATE BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART & MODIFYING IN PART
REPORT & RECOMMENDATION OF HEARING EXAMINER
(Case Number 2019-0245)

In The Matter Of Christian Carr:

Christian Carr, Certified Pharmacy Technician.
400 Elruth Court, Apt. 133, Girard, Ohio 44420
(Registration No. 09-308048)

INTRODUCTION

A Notice of Opportunity for Hearing (Notice) was issued by the Board on August 29, 2019. The Matter of Christian Carr came for hearing before Hearing Examiner Ronda Shamansky on November 20, 2019 at which time Christian Carr represented herself. The State of Ohio was represented by Henry Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about December 31, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Fred M. Weaver, RPh; Megan E. Marchal, RPh; D. Rich Miller, RPh; Richard J. Newlon, *Public Member*; RPh; and Jennifer M. Rudell, RPh.

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered (1) through (8), the hearing transcript, and Hearing Examiner Shamansky's Report and Recommendation.

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby adopts Hearing Examiner Shamansky's Findings of Facts (1) through (12), including those that specifically relate to the Board's Notice letter dated August 29, 2019.

The Board adopts Conclusions of Law (1), (2), and (3) as set forth by Hearing Examiner Shamansky.

The Board further modifies the Report and Recommendation to include the Board's violations of law as set forth in the Notice of Hearing dated August 29, 2019 paragraphs:

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- (1) Theft, in violation of ORC 2913.02(A)(1).
- (2) Not of good moral character and habits, in violation of ORC 4729.90(B)(2)(a) and OAC Rule 4729:3-1-01(G).
- (3)(b) Engaged in any conduct for which the board may impose discipline as set forth in rules adopted under section 4729.94 of the Revised Code, in violation of ORC 4729.96 (A)(2)(g).
- (4)(a) Has engaged in any of the conduct specified in division (A)(2) of section 4729.96 of the Revised Code, in violation of OAC Rule 4729:3-4-01(B)(1), as effective November 20, 2017.
- (4)(b) Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, in violation of OAC Rule 4729:3-4-01(B)(2), as effective November 20, 2017.
- (4)(c) Has been granted entry into a diversion program, deferred prosecution program, or the equivalent thereof, in violation of OAC Rule 4729:3-4-01(B)(4), as effective November 20, 2017.
- (4)(e) Committed acts of moral turpitude, in violation of OAC Rule 4729:3-4-01(B)(6), as effective November 20, 2017.
- (4)(f) Has engaged in dishonesty, in violation of OAC Rule 4729:3-4-01(B)(7), as effective November 20, 2017.
- (4)(g) Has engaged in unprofessional conduct, in violation of OAC Rule 4729:3-4-01(B)(8), as effective November 20, 2017.

All violations of law are supported based on the evidence in the record. Specifically, Ms. Carr's admission that the thefts occurred "on and off" for about three months from January to March 2019, for a total of approximately \$300.00, and as time went on she stole more merchandise (Tr. At 14, 22-23, 29, 31; St. Ex. 5), and Ms. Carr's guilty plea to misdemeanor theft, resulting in diversion. (Tr. At 15; Ex 7).

The Board adopts the Hearing Examiner's Recommendation with modification. Pursuant to Section 4729.96 of the Ohio Revised Code and Rule 4729:3-4-01 of the Ohio Administrative Code, and after consideration of the record as a whole, the Board hereby adopts, with modification to the fine amount, the recommendation of the Hearing Examiner to reprimand Ms. Carr and impose a \$250.00 fine. The fine will be attached to Ms. Carr's registration and must be paid no later than twelve months from effective date the date of this Order. The fine must be paid at www.elicense.ohio.gov.

Ms. Marchal moved to confirm and approve the Report and Recommendation of Hearing Examiner Shamansky with the modifications outlined above. Mr. Weaver seconded the motion. Motion passed (Aye - 5/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 Pharmacy Board, 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 with 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 any party appealing from the order 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 this Order as provided in Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: **February 19, 2020**

By: 

Steven W. Schierholt, Esq., Executive Director

SWS/alg/pae

cc: Hearing Examiner Ronda Shamansky, via email at: ronda.shamansky@gmail.com

CMRRR: 7019 2970 0001 6896 0797



**STATE OF
OHIO**
BOARD OF PHARMACY

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

IN THE MATTER OF:

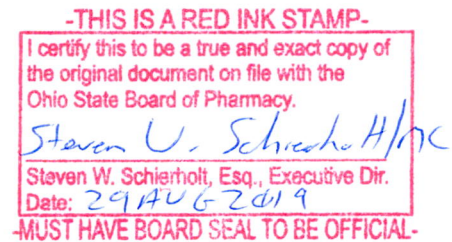
Case No. A-2019-0245

Christian Carr
400 Elruth Court, Apt. 133
Girard, OH 44420

Registration No. 09-308048

August 29, 2019

Dear Ms. Christian Carr:



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 disciplinary action against your technician registration due to violations of Chapter 4729. of the Revised Code and Section 4729:3 of the Administrative Code under authority of Section 4729.96 of the Revised Code.

JURISDICTION

1. Pursuant to division (A)(1) of Section 4729.96 (effective April 6, 2017) of the Ohio Revised Code (ORC), and Rule 4729:3-4-01 of the Ohio Administrative Code (OAC), the Board may impose any one or more of the following sanctions on a certified pharmacy technician if the board finds the individual engaged in any of the conduct set forth in division (A)(2) of this section:
 - a. Revoke, suspend, restrict, limit, or refuse to grant or renew a license, ORC 4729.96(A)(1)(a) OAC 4729:3-4-01(A)(1); and/or
 - b. Reprimand or place the license holder on probation, ORC 4729.96(A)(1)(b), OAC 4729:3-4-01(A)(2); and/or
 - c. Impose a monetary penalty or forfeiture not to exceed in severity any penalty designated under the Revised Code for a similar offense or in the case of a violation of a section of the Revised Code that does not bear a penalty, impose a monetary penalty or forfeiture of not more than \$500, ORC 4729.96(A)(1)(c), OAC 4729:3-4-01(A)(3).
2. Christian Carr is a registered certified technician in the state of Ohio under registration number 09-308048.

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ALLEGATIONS

1. Between on or about January 3, 2019 through March 27, 2019, on approximately five occasions you stole items from Walmart, located at 2016 Millennium Blvd., Cortland, Ohio. You stole various grocery and household items valued at approximately \$300.00 by failing to pay for them at self-check-out kiosks. At the time of the thefts you were employed in the Walmart pharmacy. The thefts occurred on the following dates:
 - a. January 3, 2019
 - b. February 7, 2019
 - c. February 21, 2019
 - d. March 20, 2019
 - e. March 27, 2019
2. On or about April 1, 2019, you were interviewed by an agent of the Board. You admitted that you began to commit thefts from Walmart in 2019. You stole items using the self-check-out kiosks.
3. On or about April 1, 2019, you were charged with theft, a misdemeanor of the first degree, in violation of Section 2913.02(A)(1) of the ORC in Trumbull County Central District Court. On or about May 20, 2019 you plead guilty to theft and were sentenced to diversion monitoring for a period of six months, 20 hours of community service, ordered to stay away from Walmart, and to pay all costs and restitution. The Court took the plea under advisement and at the conclusion of the six-month diversion program will issue a decision. *State of Ohio v. Christian Carr*, CRB1900151.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of Section 2913.02(A)(1) of the Revised Code, theft, a misdemeanor of the first degree, punishable by a maximum penalty of \$1,000.
2. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of Section 4729.90(B)(2)(a) of the ORC and Rule 4729:3-1-01(G) of the OAC, not of good moral character and habits, punishable by a maximum penalty of \$500.
3. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following divisions of (A) of section 4729.96 of the ORC, as effective April 6, 2017, 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 4729.96 Section (A)(2)(b); and/or
 - b. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.94 of the Revised Code, ORC Section 4729.96(A)(2)(g).
4. Such conduct as set forth in paragraphs 1(a), 1(b), and 1(c) of the Allegations Section, if proven, constitutes a violation of each of the following divisions of Rule 4729:3-4-01 of the OAC as effective November 20, 2017, each violation punishable by a maximum penalty of \$500:

- a. Has engaged in any of the conduct specified in division (A)(2) of section 4729.96 of the Revised Code, OAC Rule 4729:3-4-01(B)(1); and/or
 - b. Violated any state or federal law 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 registration, OAC Rule 4729:3-4-01(B)(2); and/or
 - c. Has been granted entry into a diversion program, deferred prosecution program, or the equivalent thereof, OAC Rule 4729:3-4-01(B)(4); and/or
 - d. Committed acts that constitute moral turpitude as defined in section 4776.10 of the Revised Code or gross immorality, OAC Rule 4729:3-4-01(B)(5); and/or
 - e. Committed acts of moral turpitude, OAC Rule 4729:3-4-01(B)(6); and/or
 - f. Has engaged in dishonesty. Dishonesty includes, but is not limited to, making any statement intended to deceive, misrepresent or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in a licensed location or in the operation or conduct of a licensed location, OAC Rule 4729:3-4-01(B)(7); and/or
 - g. Has engaged in unprofessional conduct. Unprofessional conduct means conduct unbecoming of a licensee or registrant that is detrimental to the best interests of the public, including conduct that endangers the health, safety or welfare of a patient or client. Such conduct shall be in connection with the duties performed by a licensee or registrant and shall include, but not be limited to, the following acts: coercion, intimidation, harassment, sexual advances, improper use of private health information, threats, degradation of character, indecent or obscene conduct, and theft, OAC Rule 4729:3-4-01(B)(8).
5. Such conduct as set forth in paragraphs 1(d), 1(e), 2, and 3 of the Allegations Section, if proven, constitutes a violation of each of the following divisions of Rule 4729:3-4-01 of the OAC as effective March 1, 2019, each violation punishable by a maximum penalty of \$500:
- a. Has engaged in any of the conduct specified in division (A)(2) of section 4729.96 of the Revised Code, OAC Rule 4729:3-4-01(C)(1); and/or
 - b. Violated any state or federal law 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 registration, OAC Rule 4729:3-4-01(C)(2); and/or
 - c. Has been granted entry into a diversion program, deferred prosecution program, or the equivalent thereof, OAC Rule 4729:3-4-01(C)(6); 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 4729:3-4-01(C)(7); and/or

e. Engaged in dishonesty or unprofessional conduct, OAC Rule 4729:3-4-01(C)(7).


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

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