



SUMMARY SUSPENSION/ NOTICE OF OPPORTUNITY FOR HEARING

IN THE MATTER OF:

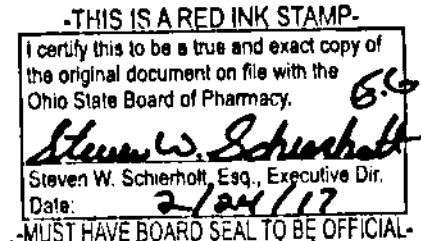
CASE NO. 2017-1296

Ernest Perrin, R.Ph.
1008 Old Harbour Place
Youngstown, OH 44511

SUSPENDED License No. 03-2-33549

February 24, 2017

Dear Ernest Perrin,



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. 03-2-33549, under authority of Sections 3719.121(B) and 4729.16 of the Revised Code.

JURISDICTION

1. Records of the Board indicate you are currently licensed to practice pharmacy in the State of Ohio under license number 03-2-33549.
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 (O.R.C).

ALLEGATIONS

There is clear and convincing evidence that continuation of your professional practice or method of prescribing or personally furnishing controlled substances or other dangerous drugs presents a danger of immediate and serious harm to others as set forth in Section 3719.121(B) of the O.R.C., to wit:

1. In an interview with an Agent of the Board, you admitted that while working as an employee of Select Specialty Hospital Regional Pharmacy located at 8401 Market St, 7 South., Boardman, OH 44512, you began compounding sterile intravenous (IV) antibiotics rather than using a technician. You admitted that you personally compounded medications in order to not add the total dose prescribed to the IV for particular dangerous drugs such as Cubicin and Tygacil, among other drugs. You indicated that you did this to reduce costs. These activities occurred with a high-risk patient population.
2. Review of Select Specialty Hospital Regional Pharmacy records from on or about January 1, 2017 through February 23, 2017, indicate that 105 vials of Cubicin 500mg were used (sterile compounded and administered to patients) but only 9 vials had actually been ordered from the wholesaler.



3. Review of Select Specialty Hospital Regional Pharmacy records from on or about January 1, 2017 through February 23, 2017, indicate that 63 vials of Tygacil 50mg vials were used (sterile compounded and administered to patients) but only 30 vials had actually been ordered from the wholesaler.
4. Review of Select Specialty Hospital Regional Pharmacy records from on or about January 1, 2017 through February 23, 2017, indicate that 78 vials of Zerbaxa 1.5 gram vials were used (sterile compounded and administered to patients) but only 40 vials had actually been ordered from the wholesaler.
5. Review of Select Specialty Hospital Regional Pharmacy records from on or about January 1, 2017 through February 23, 2017, indicate that 17 vials of Invanz 1 gram vials were used (sterile compounded and administered to patients) but only 10 vials had actually been ordered from the wholesaler.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in the Allegations section, if proven, constitutes a violation of the following divisions of Section 3715.52(A) of the ORC, each violation a misdemeanor of the fourth degree, each punishable by a maximum penalty of \$250:
 - a. The manufacture, sale, or delivery, holding or offering for sale of any drug that is adulterated or misbranded, ORC 3715.52(A)(1); and/or
 - b. The adulteration or misbranding of any drug is prohibited, ORC 3715.52(A)(2); and/or
 - c. The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 3715.61 or 3715.65 of the Revised Code, ORC 3715.52(A)(4).
2. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of Section 3715.64(A)(1), Misbranded drug – its labeling is false or misleading in any particular, a misdemeanor of the fourth degree, punishable by a maximum penalty of \$250.
3. Such conduct as set forth in the Allegations Section, if proven, constitutes the following violations of Section 3715.64(A)(10) of the ORC, Misbranding, a misdemeanor of the fourth degree, punishable by a maximum penalty of \$250:
 - a. It is a drug and its container is so made, formed, or filled as to be misleading, ORC Section 3715.64(A)(10)(a); and/or
 - b. The drug sold or dispensed is not the brand or drug specifically prescribed or ordered or, when dispensed by a pharmacist upon prescription, is neither the brand or drug prescribed nor a generically equivalent drug, ORC Section 3715.64(A)(10)(d).
4. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of Section 4729.16 of the O.R.C., each violation being a minor misdemeanor, each punishable by a fine of \$150:
 - a. Guilty of a felony or gross immorality, O.R.C. 4729.16(A)(1); and/or
 - b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, O.R.C. 4729.16(A)(2); and/or

- c. Guilty of willfully violating any of the provisions of Chapter 4729., sections 3715.52 to 3715.72 of the Revised Code or Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, O.R.C. 4729.16(A)(5).
5. Such conduct as set forth in the Allegations Section, if proven, also constitute a violation of Chapter 4729-5 of the Ohio Administrative Code (O.A.C.), which allows the Board to consider as evidence of a person not meeting the requirements for licensure in the Revised Code:
- a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed...O.A.C. Rule 4729-5-04(A); and/or
 - b. 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, O.A.C. Rule 4729-5-04(B); and/or
 - c. Committed acts that constitute moral turpitude as defined in section 4776.10 of the Revised Code or gross immorality, O.A.C. Rule 4729-5-04(C); and/or
 - d. Failed to conform to prevailing standards of care of similar pharmacists under same or similar circumstances, whether or not actual injury to a patient is established, O.A.C. Rule 4729-5-04(L).

PURSUANT TO SECTION 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 ARE SUSPENDED. SECTION 4729.16(B) OF THE O.R.C. REQUIRES THAT YOU RETURN YOUR IDENTIFICATION CARD AND LICENSE TO THE OFFICE OF THE BOARD WITHIN 10 DAYS OF RECEIPT OF THIS NOTICE.

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. 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.

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.

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/nmd

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