

4729:2-4-01

Disciplinary actions.

(A) As used in this rule:

- (1) "Dishonesty" means any action by a licensee, registrant or applicant to include, but is not limited to, making any statement that deceives, misrepresents or misleads, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in the practice of pharmacy or in the operation or conduct of a pharmacy.
- (2) "Unprofessional conduct" has the same meaning as defined in division (C) of section 4729.16 of the Revised Code and shall also include conduct 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 include, but not be limited to, the following acts: coercion, intimidation, harassment, sexual harassment, improper use of private health information, threats, degradation of character, indecent or obscene conduct, and theft.
- (3) "Reckless behavior" means a person who acts recklessly or who is reckless. A person acts recklessly when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

(B)

- (1) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may impose any one or more of the following sanctions on a pharmacy intern or applicant for a pharmacy intern license if the board finds the individual engaged in any of the conduct set forth in paragraph (B)(2) of this rule:
 - (a) Revoke, suspend, restrict, limit, or refuse to grant or renew a license;
 - (b) Reprimand or place the license holder on probation;
 - (c) Impose a monetary penalty or forfeiture not to exceed in severity any fine 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, a monetary penalty or forfeiture of not more than five hundred dollars.

- (2) The board may impose the sanctions listed in paragraph (B)(1) of this rule if the board finds a pharmacy intern or applicant for a pharmacy intern license:
- (a) Has a criminal conviction for, judicial finding of guilt of, or plea of guilty to a disqualifying offense.
 - (b) Engaged in dishonesty or unprofessional conduct in the practice of pharmacy.
 - (c) Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacy intern unfit to practice pharmacy.
 - (d) Except as provided for in paragraph (B)(2)(p) of this rule. ~~Violated~~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.
 - (e) Knowingly lent the pharmacy intern's name to an illegal practitioner of pharmacy or had a professional connection with an illegal practitioner of pharmacy.
 - (f) Divided or agreed to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home.
 - (g) Committed fraud, misrepresentation, or deception in applying for or securing a license issued by the board under this chapter or under Chapter 3796., 3715., 3719. or 4752. of the Revised Code.
 - (h) Failed to comply with an order of the board or a settlement agreement.
 - (i) 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.
 - (j) Has been disciplined by the state board of pharmacy pursuant to section 4729.16 of the Revised Code.

- (k) Has been the subject of any of the following by the drug enforcement administration or licensing agency of any state or jurisdiction:
 - (i) A disciplinary action that resulted in the suspension, probation, surrender or revocation of the person's license or registration.
 - (ii) A disciplinary action that was based, in whole or in part, on the person's inappropriate prescribing, dispensing, diverting, administering, storing, securing, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug.
- (l) Failed to conform to prevailing standards of care of similar pharmacy interns under the same or similar circumstances, whether or not actual injury to a patient is established.
- (m) Has been subject to any of the following:
 - (i) A finding by a court of the person's eligibility for intervention in lieu of conviction; or
 - (ii) A finding by a court of the person's eligibility for treatment or intervention in lieu of conviction in another jurisdiction.
- (n) Has been granted entry into a diversion program, deferred prosecution program, or the equivalent thereof.
- (o) Cannot practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.
- (p) Is responsible for any of the following but only as a result of reckless behavior:
 - (i) An error in dispensing as defined in rule 4729:5-3-22 of the Administrative Code;
 - (ii) A product quality issue for any compounded drug preparation as defined in rule 4729:7-2-03 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 4/25/2027

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4729.26, 4729.16, 9.79
Rule Amplifies: 4729.11, 4729.12
Prior Effective Dates: 09/10/1976, 03/21/1988, 07/01/1991, 01/01/2011,
04/28/2016, 05/01/2018, 03/20/2020, 04/25/2022