



**State Medical
Board of Ohio**

30 E. Broad St., 3rd Floor
Columbus, Ohio 43215
(614) 466-3934
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September 11, 2024

VIA EMAIL ONLY

Rufus Frank Lowman, P.A.
16700 Charleston Pike
Kingston, OH 45644
Rlowman39@gmail.com

RE: Case No. 24-CRF-0092

Dear Mr. Lowman:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of James T. Wakley, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on September 11, 2024, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Any party desiring to appeal this order shall file a notice of appeal with the State Medical Board of Ohio, located at 30 E. Broad St., 3rd Floor, Columbus, Ohio 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 with the court of common pleas of Franklin County or the court of common pleas in 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 party appealing is not a resident of and has no place of business in this state, the party shall appeal to the court of common pleas of Franklin County. In filing a notice of appeal with both the Medical Board and the court, the notice that is filed may be either the original notice or a copy of the original notice.

The party filing the appeal shall comply with all requirements of Ohio Revised Code section 119.12 (R.C. 119.12). The notice of appeal shall be filed within fifteen days after the service of the notice of the Medical Board order as provided in section 119.05 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

A handwritten signature in blue ink that reads "Kim Rothermel MD".

Kim G. Rothermel, M.D.
Secretary

KGR:jam
Enclosures

CC: Benjamin J. Partee, Esq.
43 N. Paint St.
Chillicothe OH 45601
Bjp.esq@gmail.com

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of James T. Wakley, Esq., State Medical Board Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on September 11, 2024, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Rufus Frank Lowman, P.A., Case No. 24-CRF-0092 as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.





Kim G. Rothermel, M.D.

September 11, 2024

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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*

CASE NO. 24-CRF-0092

RUFUS FRANK LOWMAM, P.A.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on September 11, 2024.

Upon the Report and Recommendation of James T. Wakley, Esq., State Medical Board Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

- A. PERMANENT REVOCATION: The license of Rufus Frank Lowman, P.A., to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED.
- B. FINE: Within thirty days of the effective date of this Order, Mr. Lowman shall remit payment in full of a fine of five thousand dollars (\$5,000.00). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.

This Order shall become effective immediately upon the date of service of the notification of approval by the Board.



A handwritten signature in blue ink, reading "Kim G. Rothermel, M.D.", is written over a horizontal line.

Kim G. Rothermel, M.D.
Secretary

September 11, 2024
Date

RECEIVED:
August 1, 2024

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

*

Rufus Frank Lowman, P.A.,

*

Respondent.

*

Case No. 24-CRF-0092

Hearing Examiner Wakley

Appearances:

Dave Yost, Attorney General of Ohio, and Brandon Puckett, Assistant Attorney General, for the State of Ohio. Benjamin Partee, Esq. on behalf of Mr. Lowman.

Hearing Date: July 2, 2024.

I. PROCEDURAL HISTORY

By letter dated May 8, 2024, the Medical Board notified Rufus Frank Lowman, P.A., that, pursuant to R.C. 4730.25(G), his license to practice as a physician assistant in the State of Ohio was summarily suspended. The Board alleged that it had clear and convincing evidence that Mr. Lowman's continued practice presented a danger of immediate and serious harm to the public. Specifically, the Board alleged that the acts, conduct, and/or omissions of Mr. Lowman as stated in paragraph (1) of the Notice Letter, individually and/or collectively, constituted a "[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board" as that clause is used in R.C.4730.25(B)(2), to wit: R.C. 4730.41(B) and R.C. 4730.411(A). The Board further alleged that Mr. Lowman's acts, conduct, and/or omissions, individually and/or collectively, constituted "[v]iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board," as that clause is used in R.C. 4730.25(B)(3), to wit: R.C. 4730.41(B) and R.C. 4730.411(A). *See* Exhibit ("Ex.") 1 at 7-8.

On May 16, 2024, Mr. Lowman requested a hearing by email. *See* Ex. 1 at 1. By agreement of the parties, the hearing was scheduled for July 2, 2024.

II. SUMMARY OF THE EVIDENCE¹

Rufus Frank Lowman, P.A., is a 2010 graduate of Nova Southeastern University's Physician Assistant program. Transcript ("T.") at 12-13. He was first licensed in Ohio in 2012 and is certified by the National Commission on Certification of Physician Assistants. T. at 13. He was previously licensed as a physician assistant in Florida, but that license has lapsed. T. at 13.

Mr. Lowman operates the Rose Medical Clinic in Chillicothe, Ohio through RTTS Services Corporation. T. at 14. Mr. Lowman owns fifty-one percent of the shares in RTTS. T. at 15, 19. According to Mr. Lowman, the majority of the practice at Rose Medical Clinic – approximately eighty percent – is mental health and substance abuse treatment. The other twenty percent is family medicine. T. at 17, 63. Mr. Lowman is the sole medical provider at the Rose Medical Clinic. T. at 18-19.

According to Mr. Lowman, his substance abuse/mental health treatment services include providing buprenorphine and Vivitrol. T. at 65. He described how he conducts urine drug screens at every visit for patients being treated for substance abuse. T. at 65.

As a physician assistant, Mr. Lowman is required to work under the supervision of a licensed physician. *See* R.C. 4730.02(C); T. at 20. In May 2020, Mr. Lowman entered into a supervision agreement with Dr. Russell Lee-Wood. T. at 20; Ex. 3. According to Mr. Lowman, he found Dr. Lee-Wood through Barton and Associates – "kind of like a locum's facility. They provide supervising physicians to Nurse Practitioners and P.A.s." T. at 24. RTTS pays Barton & Associates \$925.00 a month for the doctor's services. T. at 24; Ex. 4b at 2:50. Though RTTS pays Barton & Associates for Dr. Lee-Wood's services, Mr. Lowman believed that his entire payment went to Dr. Lee-Wood. T. at 63. In an interview conducted with a Board investigator, Dr. Lee-Wood described himself as an indirect employee of the Rose Medical Clinic. Ex. 4b at 5:21-:23.

The supervision agreement specified that Dr. Lee-Wood was agreeing to supervise Mr. Lowman at his practice outside of a health care facility² and defined, in the most general of terms, the relationship between the two practitioners. T. at 21-22; Ex. 3. Dr. Lee-Wood only provided supervision to Mr. Lowman remotely. While Rose Medical Clinic was located in Chillicothe,

¹ All exhibits and the transcript of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

² Pursuant to R.C. 4730.01(B), a "health care facility" includes: (1) A hospital registered with the department of health under section 3701.07 of the Revised Code; (2) A health care facility licensed by the department of health under section 3702.30 of the Revised Code; (3) Any other facility designated by the state medical board in rules adopted pursuant to division (B) of section 4730.08 of the Revised Code.

Ohio, Dr. Lee-Wood practiced in Barnesville, Ohio – approximately two hours away. T. at 22. To date, more than four years after entering into the supervision agreement, Mr. Lowman has never met Dr. Lee-Wood. T. at 23. Dr. Lee-Wood has never seen any of Mr. Lowman’s patients. T. at 24. And Dr. Lee-Wood has never been to the Rose Medical Clinic. Ex. 4b at 2:18.

Mr. Lowman testified that he was in frequent contact with Dr. Lee-Wood. According to Mr. Lowman, he would reach out to Dr. Lee-Wood “whenever I would operate outside my scope of practice or was dealing with something that may go into my knowledge base or go outside my knowledge base, I would consult with him.” T. at 61. Mr. Lowman also indicated that Dr. Lee-Wood was available to consult with him “at all times.” T. at 61-62.

During the course of the investigation that led to this matter, Dr. Lee-Wood was interviewed by an investigator from the Board. That interview was recorded. *See* Ex. 4b. During that interview, Dr. Lee-Wood was asked how he performs his duties as a supervising physician for Mr. Lowman. *See* Ex. 4b at 1:54. Dr. Lee-Wood responded that he accesses Mr. Lowman’s EMR “about once a month, 12 charts or so.” Ex. 4b at 2:04-06. When asked whether he ever met with Mr. Lowman face-to-face, Dr. Lee-Wood indicated that they will occasionally speak by FaceTime,³ but that their communication was primarily by telephone. Ex. 4b at 3:02-:06. According to Dr. Lee-Wood, Mr. Lowman reached out to him 2-3 times per week on average. Ex. 4b at 4:35.

When asked how he reviews Mr. Lowman’s prescribing, Dr. Lee-Wood told the investigator that he would log into Mr. Lowman’s EMR system and select and review charts at random and that Mr. Lowman would occasionally call him. *See* Ex. 4b at 3:29-:53. But, according to Dr. Lee-Wood, those consultations would not be documented. *Id.* The Board’s investigator pointedly asked Dr. Lee-Wood whether he would know how many “C2”⁴ prescriptions that Mr. Lowman had written in the last 12 months. Dr. Lee-Wood replied “I’m afraid I don’t.” Ex. 4b at 3:54-4:00.

Mr. Lowman confirmed that Dr. Lee-Wood’s supervision largely consisted of reviewing 10-15 patient charts per month. T. at 62. After that review, Mr. Lowman and Dr. Lee-Wood would discuss the cases and any “errors” that Mr. Lowman may have made.⁵ T. at 62.

The Board has alleged that Mr. Lowman wrote prescriptions for 11 patients that exceeded his authority as a physician’s assistant. *See* Ex. 1 at 7-8. Specifically, Mr. Lowman is alleged to have written prescriptions for schedule II controlled substances for impermissible durations and outside

³ Mr. Lowman denied ever FaceTiming with Dr. Lee-Wood. T. at 61.

⁴ Schedule II controlled substance.

⁵ Mr. Lowman submitted copies of what appear to be text messages between him and Dr. Lee-Wood. *See* Ex. B. Those messages were never discussed at hearing. As no context for the relevance of those messages has been given and no relevance is apparent, this hearing examiner has accorded them no weight.

of the limited circumstances in which a physician assistant may prescribe such drugs. *Id.* Those records, contained within State’s Exhibit 2, are summarized below.

Patient 1

Patient 1 was a 31-year-old man who Mr. Lowman did not recall at hearing. T. at 77; Ex. 5; Ex. 2 at 3. Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 1					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
02/27/2024	Percocet 5/325mg	1 tab every 6 hours	10	2.5	3

Patient 2

Patient 2 was a 41-year-old woman who Mr. Lowman did not recall at hearing. T. at 79; Ex. 5; Ex. 2 at 5. Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 2					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
04/03/2023	Oxycodone 5mg	1 tab every 6 hours	28	7	5
04/10/2023	Oxycodone 5mg	1 tab every 6 hours	28	7	6
04/20/2023	Oxycodone 5mg	1 tab every 6 hours	28	7	7

All of Mr. Lowman’s prescriptions to Patient 2 were “prn pain.” *See* Ex. 2 at 5, 6, 7.

Patient 3

Patient 3 was a 53-year-old man who Mr. Lowman saw for pain management. T. at 79; Ex. 5; Ex. 2 at 9. Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 3					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
02/10/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	28	7	9
02/27/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	28	7	10

The February 27, 2023 prescription indicates that the patient was to take the medication as needed for “shoulder pain.” *See* Ex. 2 at 10.

Patient 4

Patient 4 was a 30-year-old woman that Mr. Lowman saw for “an isolated incident – like a joint injury or something like that.” T. at 79; Ex. 5; Ex. 2 at 12. Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 4					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
12/09/2022	Percocet 5/325mg	1 tab every 6 hours	20	5	12

Patient 5

Patient 5 was a 46-year-old man that Mr. Lowman saw for “severe” psoriasis and “crippling” arthritis. T. at 79; Ex. 5; Ex. 2 at 16. Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 5					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
04/14/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	14	3.5	16
05/13/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	14	3.5	17
06/08/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	14	3.5	18
07/13/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	14	3.5	19
07/22/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	14	3.5	20
08/16/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	14	3.5	21
09/06/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	28	7	22
10/18/2023	Oxy/Acet. 10/325mg	1 tab every 6 hours	28	7	23
11/22/2023	Oxy/Acet. 10/325mg	1 tab every 6 hours	28	7	24
11/22/2023	Oxy/Acet. 10/325mg	1 tab every 6 hours	28	7	25
1/18/2024	Oxy/Acet. 10/325mg	1 tab every 6 hours	28	7	26
02/15/2024	Oxy/Acet. 10/325mg	1 tab every 6 hours	28	7	27
03/14/2024	Oxy/Acet. 10/325mg	1 tab every 6 hours	28	7	28
12/21/2023	Oxy/Acet. 10/325mg	1 tab every 6 hours	28	7	29

On April 14, 2023, Mr. Lowman prescribed Patient 5 14 Oxycodone/Acetaminophen 5/325mg tablets, to be taken one tablet every six hours “for joint pain.” Ex. 2 at 16. On May 13, June 8, July 13, July 22, and August 16, 2023, Mr. Lowman prescribed the same medication, to be taken on the same schedule – again “for joint pain.” Ex. 2 at 17-21. The remainder of the prescriptions that Mr. Lowman issued to Patient 5 indicated that he should take the more potent Oxycodone/Acetaminophen 10/325mg as needed for “low back pain” or lumbago. Ex. 2 at 23-29.

Patient 6

Patient 6 was a 57-year-old woman that Mr. Lowman described as suffering from terminal pancreatic cancer. T. at 42, 67, 80; Ex. 5; Ex. 2 at 44. Over the course of approximately two months, Mr. Lowman prescribed Patient 6 approximately one thousand tablets and five fentanyl

patches. T. at 44; Ex. 2 at 44. Mr. Lowman described Patient 6 as an outlier from his usual prescribing practices. T. at 67. According to Mr. Lowman, he prescribed so many pain medications to Patient 6 because “she had been skipped over by other providers on her complaint of abdominal pain [] and [I] determined that she had pancreatic cancer and liver failure because of the pancreatic cancer.” T. at 67. Mr. Lowman described his treatment of Patient 6 as “conservative.” T. at 67. He also indicated that he was in constant contact with Dr. Lee-Wood about his treatment of this patient. *Id.*

Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 6					
Date of Rx	Drug	Frequency	# of Units	Days supply	Ex. 2 Page
05/01/2023	Fentanyl 25mcg/hr patch	1 every 72 hours	5	15	44
05/25/2023	Morphine 15mg	1 tab every 4 hours	180	30	43
05/25/2023	MS Contin ER 30mg	1 tab every 8 hours	90	30	42
05/30/2023	MS Contin ER 15mg	1 tab every 8 hours	90	30	41
06/09/2023	Dilaudid 4mg	1 tab every 4 hours	180	30	40
06/12/2023	MS Contin ER 30mg	1 tab every 8 hours	90	30	36
06/12/2023	MS Contin ER 30mg	1 tab every 8 hours	90	30	38
06/13/2023	MS Contin ER 15mg	1 tab every 8 hours	45	15	39
06/15/2023	Morphine 15mg	1 tab 4x day	60	15	37
06/27/2023	MS Contin ER 15mg	1 tab every 8 hours	45	15	35
06/29/2023	Morphine 15mg	1 tab 4x day	60	15	34
07/11/2023	MS Contin ER 30mg	1 tab every 8 hours	45	15	32
07/11/2023	MS Contin ER 15mg	1 tab every 8 hours	45	15	33

Nearly all of Mr. Lowman’s prescriptions to Patient 6 indicate that the medications are to be taken for pain or “severe pain.”

Patient 7

Patient 7 was a 53-year-old woman suffering from cancer on her ankle. T. 80; Ex. 5; Ex. 2 at 46. Prescription records indicate that Mr. Lowman prescribed the following to this patient for “ankle pain”:

Patient 7					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
10/05/2023	Hydrocodone 5/325mg	1 tab every 6 hours	21	5.25	46

Patient 8

Patient 8 was a 42-year-old woman who presented to Mr. Lowman after a fall. T. at 80; Ex. 5; Ex. 2 at 48-57. Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 8					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
07/31/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	12	3	57
08/03/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	12	3	48-49, 53
10/06/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	12	3	58

The earliest prescription that Mr. Lowman gave to Patient 8 was indicated simply for pain. *See* Ex. 2 at 57. Mr. Lowman indicated that the August 3rd prescription was for “chest wall pain.” Ex. 2 at 53. The October 6th prescription was given to Patient 8 to alleviate “abdominal pain.” Ex. 2 at 58.

Patient 9

Patient 9 was a 34-year-old woman when Mr. Lowman first prescribed schedule II controlled substances to her; Mr. Lowman did not recall her presenting problem. T. at 80; Ex. 5; Ex. 2 at 59. Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 9					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
07/31/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	12	3	57, 59
10/06/2023	Oxy/Acet. 5/325mg	1 tab every 6 hours	12	3	58, 60

The October 6th prescription indicates that the medication was to treat “abdominal pain.” Ex. 2 at 60.

Patient 10

Patient 10 was a 55-year-old woman that Mr. Lowman described as having “debilitating back pain that made it so that she wasn’t able to do her job properly and get up and walk easily.” T. at 80-81; Ex. 5; Ex. 2 at 62.

Prescription records indicate that Mr. Lowman prescribed the following to this patient:

Patient 10					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
09/23/2022	Hydrocodone 5/325mg	1 tab every 6 hours	20	5	62, 68
02/24/2023	Oxy/Acet. 7.5/325mg	1 tab every 8 hours	21	7	63, 69
03/02/2023	Oxy/Acet. 7.5/325mg	1 tab every 8 hours	21	7	64, 70
03/13/2023	Oxy/Acet. 7.5/325mg	1 tab every 8 hours	21	7	64, 71
03/20/2023	Oxy/Acet. 7.5/325mg	1 tab every 8 hours	21	7	64, 72
04/14/2023	Oxy/Acet. 7.5/325mg	1 tab every 8 hours	21	7	65, 73
10/26/2023	Oxy/Acet. 7.5/325mg	1 tab every 8 hours	21	7	66, 74
11/21/2023	Oxy/Acet. 7.5/325mg	1 tab every 8 hours	21	7	67, 75

The first prescription that Mr. Lowman wrote for Patient 3 indicates that she was to take the medication for “knee pain.” Ex. 2 at 62. Beginning with a February 24, 2023 prescription, Mr. Lowman indicated that she was to take oxycodone/acetaminophen 7.5/325mg for back pain. Ex. 2 at 64.

Patient 11

Patient 11 was a 36-year-old female veteran who Mr. Lowman reported seeing for pain. T. at 81; Ex. 5; Ex. 2 at 78. According to Mr. Lowman, Patient 11 had undergone total reconstruction of her face and he began prescribing her pain medication until she was able to get into a pain management practice. T. at 81.

Patient 11					
Date of Rx	Drug	Frequency	# of Pills	Days supply	Ex. 2 Page
04/19/2023	Oxycodone 10mg	1 tab every 4 hours	35	~5	78
04/26/2023	Oxycodone 10mg	1 tab every 4 hours	35	~5	79
05/03/2023	Oxycodone 10mg	1 tab every 4 hours	35	~5	80
05/10/2023	Oxycodone 10mg	1 tab every 4 hours	35	~5	81
05/17/2023	Oxycodone 10mg	1 tab every 4 hours	35	~5	82

R.C. 4730.411(A) permits a physician assistant to prescribe schedule II controlled substances when three conditions are met:

- (1) The patient is in a terminal condition, as defined in section 2133.01⁶ of the Revised Code.
- (2) The physician assistant's supervising physician initially prescribed the substance for the patient.
- (3) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four-hour period.

R.C. 4730.411(B) lifts those limitations, however, if the physician assistant issues the prescription to the patient from certain defined practice types.

Mr. Lowman did not contest that he prescribed schedule II controlled substances to 11 patients as alleged in the Notice Letter. Mr. Lowman, however, argued that he was permitted to do so by R.C. 4730.411(B)(14). *See* T. at 64, 68. That provision permits physician assistants to issue prescriptions for schedule II controlled substances from:

[a] site where a behavioral health practice is operated that does not qualify as a location otherwise described in division (B) of this section, but only if the practice is organized to provide outpatient services for the treatment of mental health conditions, substance use disorders, or both, and the physician assistant providing services at the site of the practice has entered into a supervisory agreement with at least one physician who is employed by that practice.

Under cross-examination, Mr. Lowman attempted to explain how his prescribing of schedule II narcotics was related to mental health treatment:

Q. [] I think earlier you stated that, you know, the majority of your practice and your schedule II prescribing was for mental health reasons; is that accurate?

⁶ “Terminal condition” means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, both of the following apply:

- (1) There can be no recovery.
- (2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

A. Yes.

Q. But not all of these prescriptions contained in State's Exhibit 2 lists what prescriptions are for, but the ones that do don't seem to have anything to do with mental health treatment. Why is that?

A. No. Pain control can exacerbate mental health, so with severe pain comes mental health anguish, substance abuse, all of that; so to alleviate some of the pain, you alleviate some of the risk of substance abuse.

Q. So you're saying that you were practicing pain management or were you practicing mental health care?

A. It was a -- attempting to curb one of the reasons for a break in mental health. They were receiving pain medicine short term to get them to pain management, but --

Q. Did you refer these patients out? Sorry.

A. Yes, yes. I refer all pain patients to a pain management doctor.

Q. Okay. But I believe your testimony earlier was that you believe that you could write these prescriptions because you were largely doing so in a mental health capacity; is that accurate?

A. The majority of them do have mental health problems, and pain can exacerbate that, so I had to alleviate something.

Q. Okay. So you were treating both the -- the pain management until they could get referred out as a way to also treat the mental health issues; is that -- is that correct?

A. To not make the mental health worse than what it already was, because some of the patients do have anger management problems.

T. at 51-53.

When asked how he would change his practice after this matter is resolved, Mr. Lowman indicated that he would no longer prescribe schedule II controlled substances. T. at 64. Mr. Lowman also testified that he believed that all of his prescriptions were medically appropriate. T. at 69.

III. BOARD ALLEGATIONS

In the Notice of Summary Suspension and Opportunity for Hearing, the Board alleged the following:

- 1) On or about September 23, 2022, through on or about March 14, 2024, [Mr. Lowman] prescribed schedule II controlled substances to patients 1 through 11 as identified on the attached Patient Key (Key is confidential and to be withheld from public disclosure). [Mr. Lowman] prescribed the schedule II controlled substances to the above listed patients without the supervision or approval of a physician and/or without the prescriptive authority given to Physician Assistants as set forth in the Ohio Revised Code.

IV. FINDINGS OF FACT

1. Rufus Frank Lowman, P.A., has been licensed as a physician assistant in the State of Ohio since January 12, 2012.⁷
2. Mr. Lowman, through RTTS Services Corporation, operates the Rose Medical Clinic in Chillicothe, Ohio.
3. At all times relevant to this matter, the Rose Medical Clinic was a general medical practice and was not a behavioral health practice as that term is used in R.C. 4730.411(B)(14).
4. On or about May 7, 2020, Mr. Lowman entered into a supervision agreement with Dr. Russell Lee-Wood. Dr. Lee-Wood was, at all times relevant to this matter, Mr. Lowman's sole collaborating physician.
5. On or about September 23, 2022, through on or about March 14, 2024, Mr. Lowman prescribed schedule II controlled substances to Patients 1 through 11.
6. Of the 11 patients identified in the confidential Patient Key, only Patient 6 suffered from a terminal condition as that phrase is used in R.C. 2133.01.
7. None of the medications prescribed by Mr. Lowman in this matter were originally prescribed by Dr. Russell Lee-Wood.
8. All of the prescriptions identified in State's Exhibit 2 were for periods in excess of a single, twenty-four-hour period.

⁷ elicense.ohio.gov (accessed July 25, 2024).

V. CONCLUSIONS OF LAW

Mr. Lowman's acts, conduct, or omissions, as found in paragraphs 5-8 above, individually and/or collectively constitute "failure to comply with the requirements of Chapter 4731. of the Revised Code or any rules adopted by the board," as that clause is used in R.C. 4730.25(B)(2), to wit: R.C. 4730.41(B) and R.C. 4730.411(A).

Further, Mr. Lowman's acts, conduct, and/or omissions as found in paragraphs 5-8 above, individually and/or collectively, constitute "[v]iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board," as that clause is used in R.C. 4730.25(B)(3), to wit: R.C. 4730.41(B) and R.C. 4730.411(A).

Pursuant to R.C. 4730.252, the Board is authorized to impose a civil penalty for this violation. The Board's fining guidelines provide as follows:

Maximum fine: \$20,000.00
Minimum fine: \$3,500.00

RATIONALE FOR THE PROPOSED ORDER

Ohio law is very clear. A physician assistant may not prescribe schedule II controlled substances unless three conditions are met. First, the patient receiving the prescription is in a terminal condition as defined by R.C. 2133.01(AA). Second, the physician assistant's supervising physician – in this case, Dr. Lee-Wood – initially prescribed the substance for the patient. And, third, the prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four-hour period. R.C. 4730.411(A)(1)-(3). None of Mr. Lowman's prescriptions detailed above meet all three of those requirements. And Mr. Lowman has not really argued that any did. At most, Lowman argued that Patient 6 met the definition of suffering from a terminal condition. But even if that were true, his prescriptions to her do not meet the other two requirements set forth by statute. Dr. Lee-Wood had no relationship with Patient 6 and the prescriptions Mr. Lowman issued grossly exceeded the amount needed for a single twenty-four-hour period. Based upon this uncontested evidence, the State has met their burden in showing that Mr. Lowman violated R.C. 4730.41(B) and 4730.411(A).

Mr. Lowman has asserted, however, that he was privileged to prescribe schedule II controlled substances to these 11 patients by operation of R.C. 4730.411(B)(14). That provision permits a physician assistant to prescribe controlled substances outside of the limitations set forth above if the physician assistant issued the prescription to the patient from:

1. A site where a behavioral health practice is operated that does not qualify as a location otherwise described in division (B) of this section, but only if the practice is organized to provide outpatient services for the treatment of mental health conditions, substance use disorders, or both; and

2. The physician assistant providing services at the site of the practice has entered into a supervisory agreement with at least one physician who is employed by that practice.

The exception listed above represents an affirmative defense to the violation of R.C. 4730.411(A) alleged by the Board. An affirmative defense is “a defendant's assertion of facts and arguments that, if true, will defeat the plaintiff's or prosecution's claim, even if all the allegations in the complaint are true.” *State ex rel Parker Bey v. Bureau of Sentence Computation*, 166 Ohio St. 3d 497, 501 (Ohio 2022)(citation omitted). “An affirmative defense is a new matter which, assuming the complaint to be true, constitutes a defense to it.” *State ex rel The Plain Dealer Publishing Co. v. Cleveland*, 75 Ohio St. 3d 31, 33 (Ohio 1996). As an affirmative defense, Mr. Lowman bore the burden of establishing, by a preponderance of evidence, that all of the provisions of R.C. 4730.411(B)(14) applied to the prescriptions at issue here. He has manifestly failed to meet that burden.

First, Mr. Lowman argues that his practice should be considered a “behavioral health practice” that is “organized to provide outpatient services for the treatment of mental health conditions, substance use disorders, or both.” Those phrases are not defined anywhere in the Revised Code. Thus, each must be given its plain meaning. Mr. Lowman has offered no evidence – aside from his own testimony – that the Rose Medical Clinic is a behavioral health practice organized to provide outpatient services for the treatment of mental health conditions, substance use disorders, or both. No evidence was provided as to how the Rose Medical Clinic was organized – such as certification as a community mental health or addiction service provider by the Ohio Department of Mental Health and Addiction Services⁸ or other evidence that the practice held itself out as a behavioral health or substance abuse practice. Nor were any patient records offered to support Mr. Lowman's contention that approximately 80% of his practice was behavioral health or substance abuse treatment. Rather, the evidence adduced at hearing tends to show that the Rose Medical Clinic is a general medical practice organized to treat the variety of conditions typically treated by a general practitioner. Proof of that fact lies in the 11 patients at issue here. Mr. Lowman was not able to identify a single mental health condition suffered by any of the 11 patients cited by the Board despite having more than two months to prepare for this hearing. All of the 11 patients at issue in this matter appear to have been treated for pain and pain alone. Even if Mr. Lowman treats others for behavioral health issues, that does not render the Rose Medical Clinic a behavioral health practice, nor does it justify the unlimited prescribing of schedule II controlled substances to others. Mr. Lowman has thus failed in his burden to establish the first element of the R.C. 4730.411(B)(14) exception to the prescribing rule.

He also fails on the second. To be excused from the limitation on prescribing set forth in subsection (A) of R.C. 4730.411, Mr. Lowman must establish that the Rose Medical Clinic employed his supervising physician, Dr. Lee-Wood. Mr. Lowman, again, has offered nothing other than his own testimony to show that the practice employed Dr. Lee-Wood. And that testimony is not credible. Dr. Lee-Wood has never set foot in the Rose Medical Clinic. Nor has he treated any of the patients at issue in this case. By his own admission, Mr. Lowman has never

⁸ See R.C. 5119.36.

even met Dr. Lee-Wood. Mr. Lowman contracted Dr. Lee-Wood through a third-party and pays only \$925.00 per month for Dr. Lee-Wood's services. The supervision agreement between Dr. Lee-Wood and Mr. Lowman does not, standing alone, establish that Dr. Lee-Wood was employed by the Rose Medical Clinic.

A physician assistant is intended to work under the supervision of a licensed physician because he or she possesses neither the training nor experience to practice wholly independently. That is why physician assistants may only perform certain limited functions outside of highly structured environments like hospitals. To call what Dr. Lee-Wood did here supervision stretches the bounds of credulity. R.C. 4730.21(A) states that "[t]he supervising physician of a physician assistant exercises supervision, control, and direction of the physician assistant. A physician assistant may practice in any setting within which the supervising physician has supervision, control, and direction of the physician assistant." The evidence offered at hearing is that Mr. Lowman practiced almost entirely free of supervision. And there is no evidence that Dr. Lee-Wood exercised any control over Mr. Lowman's actions. In these 11 cases, Mr. Lowman grossly exceeded the limited prescriptive authority granted to physician assistants in this state. He was not practicing as a mental health provider, but as a pain management provider for these 11 patients. His suggestion that those prescriptions were authorized by statute is absurd.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION:** The license of Rufus Frank Lowman, P.A., to practice as a physician assistant in the State of Ohio shall be PERMANENTLY REVOKED.
- B. **FINE:** Within thirty days of the effective date of this Order, Mr. Lowman shall remit payment in full of a fine of five thousand dollars (\$5,000.00). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.

This Order shall become effective immediately upon the date of service of the notification of approval by the Board.

/s/ James T. Wakley _____

James T. Wakley
Chief Hearing Examiner



EXCERPT FROM THE DRAFT MINUTES OF SEPTEMBER 11, 2024 IN THE MATTER OF RUFUS FRANK LOWMAN, P.A.

.....
REPORTS AND RECOMMENDATIONS

Dr. Feibel asked the Board to consider the Report and Recommendation appearing on the agenda: Rufus Frank Lowman, P.A.; Krisell Dawn Fedrizzi, D.O.; Seyoum D. Bage, M.D.; Sagar R. Patel, M.D.; and James P. Mima.

Dr. Feibel asked all Board members the following questions:

- 1.) Has each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in each of the Reports and Recommendations?
- 2.) Does each member of the Board understand that the Board’s disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from Dismissal to Permanent Revocation or Permanent Denial?
- 3.) Does each member of the Board understand that in each matter eligible for a fine, the Board’s fining guidelines allow for imposition of the range of civil penalties, from no fine to the statutory maximum amount of \$20,000?

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Kakarala	- aye
	Dr. Bechtel	- aye
	Dr. Soin	- aye
	Ms. Brumby	- aye
	Dr. Reddy	- aye
	Ms. Montgomery	- aye
	Dr. Lewis	- aye
	Dr. Johnson	- aye
	Dr. Boyle	- aye
	Dr. Feibel	- aye

In accordance with the provision in Ohio Revised Code 4731.22(F)(2), specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the disciplinary matters before the Board today, Dr. Rothermel served as Secretary and Dr. Kakarala served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising Member in the matter of Dr. Patel and Mr. Mima.

During these proceedings, no oral motions may be made by either party.
.....

Rufus Frank Lowman, P.A.

.....
Dr. Johnson moved to approve and confirm the Proposed Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Mr. Lowman. Dr. Lewis seconded the motion.

.....
A vote was taken on Dr. Johnson’s motion to approve:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Kakarala	- abstain
	Dr. Bechtel	- aye
	Dr. Soin	- aye
	Ms. Brumby	- aye
	Dr. Reddy	- aye
	Dr. Lewis	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Boyle	- abstain
	Dr. Feibel	- aye

The motion to approve carried.



**State Medical
Board of Ohio**

30 E. Broad St., 3rd Floor
Columbus, Ohio 43215
(614) 466-3934
www.med.ohio.gov

May 8, 2024

Case number: 24-CRF-0092

Rufus Frank Lowman P.A.
16700 Charleston Pike
Kingston OH 45644-9584
rLOWMAN39@gmail.com

Dear Mr. Lowman:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on May 8, 2024, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4730.02(A), Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the matters set forth in the Notice of Summary Suspension and Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty days of the time of service of this notice. Further information concerning such hearing is contained within the Notice of Summary Suspension and Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO

 5/8/24

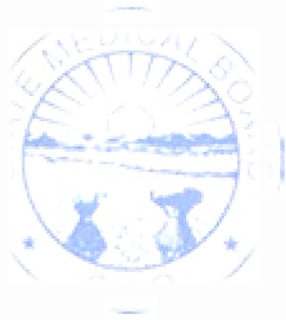
Kim G. Rothermel, M.D.
Secretary

KGR/PJH/lv
Enclosures

CERTIFICATION

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on May 8, 2024, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the Matter of Rufus Frank Lowman P.A., Case number: 24-CRF-0092 as they appear in the Journal of the State Medical Board of Ohio.

This certification is made under the authority of the State Medical Board of Ohio and in its behalf.



Kim G. Rothermel M.D.
Kim G. Rothermel, M.D., Secretary

5/8/24
May 8, 2024

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
:
RUFUS FRANK LOWMAN P.A. :
:
CASE NUMBER: 24-CRF-0092 :

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 8th day of May 2024.

Pursuant to Section 4730.25(G), Ohio Revised Code, and upon recommendation of Kim G. Rothermel, M.D., Secretary, and Harish Kakarala, M.D., Supervising Member; and

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Mr. Lowman has violated Section 4730.25(B)(2), Ohio Revised Code, and 4730.25(B)(3)), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,

Pursuant to their further determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that Mr. Lowman's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 8th day of May 2024:

It is hereby ORDERED that the certificate of Rufus Frank Lowman P.A. to practice as a physician assistant in the State of Ohio be summarily suspended.

It is hereby ORDERED that Mr. Lowman, P.A. shall immediately cease the practice as a physician assistant in Ohio and immediately refer all active patients to other appropriate physicians or physician assistants.

This Order shall become effective immediately.



Kim G. Rothermel

Kim G. Rothermel, M.D.
Secretary

5-8-24

May 8, 2024



EXCERPT FROM THE DRAFT MINUTES OF MAY 8, 2024

**NOTICES OF OPPORTUNITY FOR HEARING, ORDERS OF SUMMARY SUSPENSION,
ORDERS OF IMMEDIATE SUSPENSION, AND ORDERS OF AUTOMATIC
SUSPENSION**

**RUFUS FRANK LOWMAN, P.A. – NOTICE OF SUMMARY SUSPENSION AND
OPPORTUNITY FOR HEARING**

Dr. Johnson moved to approve and issue proposed Citation #6, a Notice of Summary Suspension and Opportunity for Hearing. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Bechtel	- aye
	Dr. Soin	- aye
	Ms. Brumby	- aye
	Dr. Reddy	- aye
	Dr. Lewis	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Boyle	- abstain
	Dr. Feibel	- aye

The motion carried.



**NOTICE OF SUMMARY SUSPENSION
AND
OPPORTUNITY FOR HEARING**

May 8, 2024

Case number: 24-CRF-0092

Rufus Frank Lowman, P.A.
16700 Charleston Pike
Kingston OH 45644-9584
rlowman39@gmail.com

Dear Mr. Lowman:

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Section 4730.25(B)(2), Ohio Revised Code, and 4730.25(B)(3) and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraph (1), below.

Therefore, pursuant to Section 4730.25(G), Ohio Revised Code, and upon recommendation of Kim G. Rothermel, M.D., Secretary, and Harish Kakarala, M.D., Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your license or certificate to practice as a physician assistant in the State of Ohio is summarily suspended. Accordingly, at this time, you are no longer authorized to practice as a physician assistant in Ohio.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the Board intends to determine whether or not to limit, revoke, permanently revoke or suspend your license or certificate, or refuse to grant or register or issue the license or certificate for which you have a pending application in accordance with Section 9.79 of the Ohio Revised Code, or refuse to renew or reinstate your license or certificate to practice as a physician assistant, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about September 23, 2022, through on or about March 14, 2024, you prescribed schedule II controlled substances to patients 1 through 11 as identified on the attached Patient Key (Key is confidential and to be withheld from public disclosure). You prescribed the schedule II controlled substances to the above listed patients without the supervision or approval of a physician and/or without the
-

prescriptive authority given to Physician Assistants as set forth in the Ohio Revised Code.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[f]ailure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board,” as that clause is used in Section 4730.25(B)(2), Ohio Revised Code, to wit: Sections 4730.41(B) and 4730.411(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute “[V]iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board,” as that clause is used in Section 4730.25(B)(3), Ohio Revised Code, to wit: Sections 4730.41(B) and 4730.411(A).

Furthermore, for any violations that occurred on or after September 29, 2015, the Board may impose a civil penalty in an amount that shall not exceed twenty thousand dollars, pursuant to Section 4730.252, Ohio Revised Code. The civil penalty may be in addition to any other action the Board may take under section 4730.25, Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4730., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of service of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of service of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke or suspend your license or certificate, or refuse to grant or register or issue the license or certificate for which you have a pending application in accordance with Section 9.79 of the Ohio Revised Code, or refuse to renew or reinstate your license or certificate to practice, or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4730.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or certificate to practice and the board shall not accept an application for reinstatement of the license or certificate or for issuance of a new license or certificate.”

Copies of the applicable sections are enclosed for your information.

THE STATE MEDICAL BOARD OF OHIO



Kim G. Rothermel, M.D.
Secretary

KGR/PJH/lv
Enclosures

Via email: rlowman39@gmail.com

cc: BY PERSONAL DELIVERY

rlowman39@gmail.com

**IN THE MATTER OF
Rufus Frank Lowman, P.A.
24-CRF-0092**

**May 8, 2024, NOTICE OF
OPPORTUNITY FOR HEARING -
PATIENT KEY**

**SEALED TO
PROTECT PATIENT
CONFIDENTIALITY AND
MAINTAINED IN CASE
RECORD FILE.**