

THE STATE BOARD OF PHARMACY

VS

JEROME R. HAUSER, R.Ph.
AND
THE PHARMACY

THE MATTERS PERTAINING TO THE PHARMACIST IDENTIFICATION CARD, NO. 03-10-5736, OF JEROME R. HAUSER, DOCKET NO. 6-84-2, AND THE TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSE, NO. 02-151700, HELD BY THE PHARMACY, DOCKET NO. 6-84-3, WERE CONSOLIDATED AND HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON JUNE 27, 1984. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, on one or more occasions between January 1, 1979 and October 27, 1983 at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, did dispense, without a written or oral prescription, approximately 10,419 tablets of Percodan, approximately 1,753 tablets of Demerol 50mg, approximately 1,043 capsules of Tylox, approximately 1,021 capsules of Biphedamine-20, approximately 737 capsules of Seconal 100mg, approximately 650 tablets of Dilaudid 2mg, approximately 558 tablets of Demerol 100mg, approximately 406 tablets of Percocet-5, and approximately 383 tablets of Ritalin 20mg, all of which are Schedule II controlled substances and prescription drugs, in amounts equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(7) of the Revised Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between January 1, 1979 and October 27, 1983, at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, sales of a Schedule II controlled substance were made in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in that, approximately 17,739 tablets of Percodan were sold without a written or oral prescription; in violation of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal narcotic law as defined in Section 4729.02 of the Revised Code, and Section 2925.03(A)(7) of the Revised Code.

STATE BOARD OF PHARMACY

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- (3) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, on one or more occasions between January 1, 1979 and October 27, 1983 at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, did dispense, without a written or oral prescription, approximately 70 tablets of Preludin 75mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(5) of the Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between January 1, 1979 and October 27, 1983, at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, approximately 4,103 tablets of Percodan, and approximately 1,020 tablets of Ritalin 20mg, both of which are Schedule II controlled substances and prescription drugs, were dispensed without a valid prescription in amounts equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in violation of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal narcotic law as defined in Section 4729.02 of the Revised Code, and Section 2925.03(A)(7) of the Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, on one or more occasions between January 1, 1979 and October 27, 1983 at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, did dispense, without a written or oral prescription, approximately 1,740 capsules of Seconal 100mg, and approximately 967 capsules of Biphedamine-20, both of which are Schedule II controlled substances and prescription drugs, in amounts equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(7) of the Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between January 1, 1979 and October 27, 1983, at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, approximately 291 tablets of Percocet-5, approximately 230 tablets of Ritalin 10mg, approximately 100 tablets of Dilaudid 2mg, approximately 30 capsules of Biphedamine 12-1/2mg, and approximately 30ml of Demerol 50mg/ml, all of which are Schedule II controlled substances and prescription drugs, were dispensed without a valid prescription in amounts equal to or exceeding the bulk amount but in amounts less than three times that amount as defined in Section 2925.01 of the Revised Code; in violation of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal narcotic law as defined in Section 4729.02 of the Revised Code, and Section 2925.03(A)(5) of the Revised Code.

STATE BOARD OF PHARMACY

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- (7) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, on one or more occasions between January 1, 1979 and October 27, 1983 at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, did dispense, without a written or oral prescription, approximately 37 tablets of Dilaudid 4mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(5) of the Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between January 1, 1979 and October 27, 1983, at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, approximately 100 tablets of Dilaudid 2mg, approximately 70 tablets of Preludin 75mg, and approximately 37 tablets of Dilaudid 4mg, all of which are Schedule II controlled substances and prescription drugs, were dispensed without a valid prescription in amounts equal to or exceeding the bulk amount but in amounts less than three times that amount as defined in Section 2925.01 of the Revised Code; in violation of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal narcotic law as defined in Section 4729.02 of the Revised Code, and Section 2925.03(A)(5) of the Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, on one or more occasions between June 10, 1980 and November 24, 1982 at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, did dispense, without a valid prescription, approximately 417 tablets of Percodan, and approximately 570 tablets of Ritalin 20mg, both of which are Schedule II controlled substances, in amounts equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(7) of the Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between May 27, 1980 and August 26, 1983, at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, approximately 106 tablets of Percodan-demi, approximately 74 capsules of Seconal 100mg, approximately 70 tablets of Demerol 50mg, approximately 60 capsules of Eskatrol, approximately 50 tablets of Ritalin 5mg, and approximately 15 capsules of Tylox, all of which are Schedule II controlled substances and prescription drugs, were dispensed without a valid prescription in amounts less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code; in violation of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal narcotic law as defined in Section 4729.02 of the Revised Code, and Section 2925.03(A)(1) of the Revised Code.

STATE BOARD OF PHARMACY

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- (11) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, on one or more occasions between May 21, 1980 and March 18, 1983 at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, did dispense, without a valid prescription, approximately 30ml of Demerol 50mg/ml, approximately 100 tablets of Dilaudid 2mg, approximately 230 tablets of Ritalin 10mg, and approximately 199 tablets of Percocet-5, all of which are Schedule II controlled substances, in amounts equal to or exceeding the bulk amount but in amounts less than three times that amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(5) of the Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, as the president of the corporation which owns The Pharmacy, 609 Northfield, Bedford, Ohio 44146, and the responsible pharmacist required by Section 4729.55 of the Revised Code, did aid and abet another in the trafficking of drugs; in that, he knowingly permitted Joe Spira to dispense, without a valid prescription, approximately 10,570 tablets of Percodan, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(7) of the Revised Code.
- (13) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, on one or more occasions between June 23, 1980 and March 10, 1983 at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, did dispense, without a valid prescription, approximately 50 tablets of Ritalin 5mg, approximately 48 tablets of Percodan-demi, and 30 capsules of Seconal 100mg, all of which are Schedule II controlled substances, in amounts less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(1) of the Revised Code.
- (14) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, as the responsible pharmacist required by Section 4729.55 of the Revised Code, and president of the corporation owning The Pharmacy, 609 Northfield, Bedford, Ohio 44146, Terminal Distributor of Dangerous Drugs License No. 02-151700, did knowingly possess false and forged prescriptions at The Pharmacy, 609 Northfield, Bedford, Ohio 44146, to wit: 65 prescriptions for 10,570 tablets of Percodan; in violation of Section 2925.23(B)(1) of the Revised Code.
- (15) From the evidence presented, the State Board of Pharmacy finds that Jerome R. Hauser, as the responsible pharmacist and president of the corporation which owns The Pharmacy, did not keep a record of all controlled substances received or dispensed; in violation of the federal narcotic law as defined in Section 4729.02 of the Revised Code, Sections 3719.07 and 4729.37 of the Revised Code, and Rules 4729-5-17 and 4729-9-14 of the Administrative Code.

STATE BOARD OF PHARMACY

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Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (15) of the Findings Of Fact constitutes gross immorality within the meaning of Section 4729.16(A) of the Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (15) of the Findings Of Fact constitutes willful violations of more than one time of the provisions of Chapter 2925. of the Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (8) of the Findings Of Fact constitutes violating Rules 4729-5-17 and 4729-9-14 of the Board.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (5) and (8) of the Findings Of Fact constitutes violating the provisions of Chapter 4729. of the Revised Code.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (5) of the Findings Of Fact constitutes violating the provisions of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, and Chapter 3715. of the Revised Code.
- (6) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (15) of the Findings Of Fact constitutes violating the provisions of the federal narcotic law as defined in Section 4729.02 of the Revised Code, and Chapters 2925. and 3719. of the Revised Code.

Pursuant to Sections 4729.16 and 4729.57 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law set forth above, the State Board of Pharmacy hereby takes the following actions concerning the registered pharmacist license of Jerome R. Hauser, No. 03-10-5736, and the terminal distributor of dangerous drugs license held by The Pharmacy, No. 02-151700:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Jerome R. Hauser for twenty-four (24) months. Further, the Board suspends eighteen months of the 24-month suspension provided Jerome R. Hauser takes and successfully completes a jurisprudence examination offered by the Board. Once the suspension has been suspended, it shall remain suspended on condition that Jerome R. Hauser does not violate any drug laws of the State of Ohio, any other state, or the federal government, and that he abides by the rules of the State Board of Pharmacy.

STATE BOARD OF PHARMACY

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(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes on Jerome R. Hauser a monetary penalty of three thousand dollars (\$3,000), due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43215, with the enclosed form.

(C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes on The Pharmacy a monetary penalty of two thousand dollars (\$2,000), due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43215, with the enclosed form.

(D) On the basis of paragraph (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes on The Pharmacy a monetary penalty of two thousand dollars (\$2,000), due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43215, with the enclosed form.

(E) On the basis of paragraph (5) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor of dangerous drugs license, No. 02-151700, held by The Pharmacy.

(F) On the basis of paragraph (6) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor of dangerous drugs license, No. 02-151700, held by The Pharmacy.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.