



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
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THE STATE BOARD OF PHARMACY
(Docket No. D-900516-106)

In The Matter Of:

JAMES J. GRIFFIN, R.Ph.
319 Washington Avenue
Niles, Ohio 44446
(R.Ph. No. 03-1-06173)

THE MATTER OF JAMES J. GRIFFIN CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON OCTOBER 23, 1990 AS A RESULT OF THE REPORT AND RECOMMENDATION SUBMITTED TO THE BOARD BY HEARING OFFICER AND BOARD MEMBER METTA LOU HENDERSON. FOLLOWING CONSIDERATION OF THE REPORT AND RECOMMENDATION, THE TRANSCRIPT OF THE HEARING HELD JULY 25, 1990, AND EVIDENCE ADDUCED AT THE HEARING, MOTIONS WERE MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

State's Witnesses

- (1) James J. Griffin, Respondent
- (2) George Pavlich - Ohio Board of Pharmacy

Respondent's Witnesses

- (1) None

State's Exhibits

- (1) Exhibit A - Notice of Opportunity For A Hearing letter dated May 16, 1990.
- (2) Exhibit B - Hearing Request letter dated May 24, 1990.
- (3) Exhibit C - Hearing Schedule letter dated June 4, 1990.
- (4) Exhibit 1 - Pharmacist File Front Sheet for James Joseph Griffin.
- (5) Exhibit 2 - Diligent Search Statement dated May 9, 1990 concerning James Joseph Griffin.
- (6) Exhibit 3 - Pharmacist Identification Card of James J. Griffin with expiration date of 09/15/88.
- (7) Exhibit 4 - Lapsed License Report Of Investigation submitted by George Pavlich, Pharmacy Board Agent.
- (8) Exhibit 5 - Two-page Report Of Investigation by George Pavlich, Pharmacy Board Agent, dated 02/14/90; Three-page Statement of James J. Griffin dated February 14, 1990.

- (9) Exhibit 6 - Four-page Dangerous Drug Distributor Inspection Report for DDD# 02-083400 dated 02/15/90.
- (10) Exhibit 7 - Prescriptions 472269, 472268, 472267, 472395, 472396, 472206, 472217, 472256, 472246, 472285, 472197, 472192, 472195, 472194, 472199, 472196, 472277, 472270, 472269, 472268, 472267, 472329, 472330, 472331, 472332, 472332, 472390, 472395, 472396, 472394, 472397, and 472391.
- (11) Exhibit 8 - Report Of Investigation by George Pavlich, Pharmacy Board Agent, dated 02/14/90; Statement of Mary Ann Frank dated February 14, 1990.
- (12) Exhibit 9 - Prescription 472192.
- (13) Exhibit 10 - Three-page Report Of Investigation by George Pavlich, Pharmacy Board Agent, dated 02/15/90; Five-page Statement of Phillip J. Monteneri dated February 15, 1990.
- (14) Exhibit 11 - Prescriptions 472400, 472399, 472398, 472392, and 472393.

Respondent's Exhibits

- (1) Exhibit A - Letter from Rocco J. Basciano, M.D. dated May 29, 1990.

Findings Of Fact

The State Board of Pharmacy hereby agrees with and adopts the Findings Of Fact set forth in the Report and Recommendation of Hearing Officer and Board Member Metta Lou Henderson, as follows:

- (1) The State Board of Pharmacy finds that records of the Board of Pharmacy indicate that James J. Griffin was originally licensed to practice pharmacy in the state of Ohio on January 24, 1956, pursuant to examination, and that his license lapsed on September 15, 1989.
- (2) The State Board of Pharmacy finds that James J. Griffin did, on or about the following dates, while working as a pharmacist at The Medical Arts Pharmacy, 1309 E. Market St., Warren, Ohio 44483, dispense drugs while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, to wit: after allowing his license to lapse and prior to its renewal, James J. Griffin dispensed drugs pursuant to prescriptions on the following dates:

2-3-90

2-7-90

2-10-90

2-14-90

Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (3) The State Board of Pharmacy finds that James J. Griffin did, on or about February 3, 1990, allow pharmacy technician Mary Ann Frank to practice pharmacy, to wit: James J. Griffin permitted Mary Ann Frank to receive and record Telephone Prescription Number 472192. Telephone prescriptions received by persons other than a pharmacist, as defined in Section 4729.02(G) of the Ohio Revised Code, are not true and valid prescriptions.

- (4) The State Board of Pharmacy finds that James J. Griffin did fail to manually record his name or initials on original prescriptions when practicing pharmacy at The Medical Arts Pharmacy. Such conduct is in violation of Rule 4729-5-17(A) of the Ohio Administrative Code.
- (5) The State Board of Pharmacy finds that James J. Griffin did, on or about February 14, 1990, when dispensing generic equivalent drug products for the following prescriptions, fail to record on the record of dispensing the brand name or the drug name and name of the manufacturer or distributor of the drug:

Prescriptions 472392, 472393, 472398, 472399, 472400.

Such conduct is in violation of Rule 4729-5-17(B) of the Ohio Administrative Code.

Conclusions Of Law

The State Board of Pharmacy hereby agrees with and adopts the Conclusions Of Law set forth in the Report and Recommendation of Hearing Officer and Board Member Metta Lou Henderson, as follows:

- (1) The State Board of Pharmacy concludes that the conduct set forth in paragraphs (3) through (5) of the Findings Of Fact constitutes unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Revised Code.
- (2) The State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (5) of the Findings Of Fact constitutes willfully violating the provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Revised Code.
- (3) The State Board of Pharmacy concludes that the conduct set forth in paragraph (3) of the Findings Of Fact constitutes knowingly permitting someone other than a pharmacist or pharmacy intern to practice pharmacy as provided in Division (A)(6) of Section 4729.16 of the Revised Code.

Action Of The Board

The State Board of Pharmacy hereby agrees with and adopts the recommendation for action set forth in the Report and Recommendation of Hearing Officer and Board Member Metta Lou Henderson. Therefore, pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby suspends the pharmacist identification card held by James J. Griffin for one year from date of application for renewal of his identification card, and orders that he shall not practice pharmacy until he has renewed such identification card. If he does not renew his identification card prior to September 15, 1992, Mr. Griffin will be required to take the required examinations for renewal pursuant to Section 4729.13 of the Ohio Revised Code. Further, the Board will set aside the remainder of the suspension when James J. Griffin successfully completes the Jurisprudence exam offered by the Board.

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Order of the Board

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is ..., suspended, ..., shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

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.

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
#P 497 578 760

ORDER MAILED: DECEMBER 19, 1990

FZW/sb

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc: Jeanny Eaton, Assistant Attorney General
Robert I. Shaker, Attorney For Respondent; National City Bank Bldg.,
Suite 502; Niles, OH 44446