



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-000404-053)

In The Matter Of:

**JOSEPH R. TABLER, R.Ph.**  
11533 Symmes Gate Lane  
Cincinnati, Ohio 45249  
(R.Ph. No. 03-1-07832)

### INTRODUCTION

THE MATTER OF JOSEPH R. TABLER CAME FOR HEARING ON SEPTEMBER 6, 2000, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ANN D. ABELE, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

JOSEPH R. TABLER WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) William McMillen, R.Ph., Ohio State Board of Pharmacy
- (2) Elaine Jones, R.Ph., Ohio State Board of Pharmacy
- (3) Joseph R. Tabler, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated April 4, 2000.
- (2) Exhibit 1A--Hearing Request letter dated April 20, 2000.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated April 27, 2000.

- (4) Exhibit 1C--Copy of Pharmacist File Front Sheet of Joseph Robert Tabler showing original date of registration as August 20, 1962; and two-page copy of Renewal Application for Pharmacist License, No. 03-1-07832, for a license to practice pharmacy in Ohio from September 15, 1999, through September 15, 2000, of Joseph R. Tabler dated July 9, 1999.
- (5) Exhibit 1D--Copy of Hearing Schedule letter dated August 1, 2000.
- (6) Exhibit 2--Copy of two-page urine drug screen report of Joseph Tabler dated February 15, 2000.
- (7) Exhibit 3--Copy of Holmes Pharmacy Audit, Outpatient Pharmacy, and Inpatient Pharmacy audit report prepared by Nancy Lobas dated May 15, 2000; and copy of Outpatient Pharmacy Weekly Audits for Hydrocodone/APAP dated from September 5, 1999, through March 4, 2000.
- (8) Exhibit 4--Two-page copy of memorandum to Wayne Bohenek from Nancy Lobas dated June 12, 2000.
- (9) Exhibit 5--Statement of Ryan M. Cox signed and notarized on June 12, 2000.
- (10) Exhibit 6--Copy of four-page Order of the State Board of Pharmacy, Docket No. D-980601-062, in the matter of Joseph R. Tabler dated December 11, 1998.
- (11) Exhibit 6A--Five-page copy of U.S. District Court, Eastern District of Kentucky (Covington) Criminal Docket, USA v. Tabler, Case No. 96-CR-94-ALL, dated as of May 8, 1997.
- (12) Exhibit 7--Thirteen-page copy of twelve-page, 120 count, Indictment in the United States District Court, Eastern District of Kentucky, Covington, United States of America vs. Joseph R. Tabler, not dated.
- (13) Exhibit 8--Copy of eleven-page Plea Agreement in the U.S. District Court, Eastern District of Kentucky, Covington, United States of America vs. Joseph R. Tabler, Criminal No. 96-94, not dated.
- (14) Exhibit 9--Copy of five-page Stipulated Factual Basis for Guilty Plea in the U.S. District Court, Eastern District of Kentucky, Covington, United States of America vs. Joseph R. Tabler, Criminal Action No. 96-94, not dated.
- (15) Exhibit 10--Six-page copy of Judgment in a Criminal Case in the U.S. District Court, Eastern District of Kentucky, Covington, United States of America vs. Joseph R. Tabler, Case No. 96-94, dated July 31, 1997.
- (16) Exhibit 11--Copy of *The Cincinnati Enquirer* article titled, "Former St. Luke worker indicted," not dated.
- (17) Exhibit 12--Copy of Journal Entry from the Clermont County Court, Batavia, Ohio, State of Ohio vs. Joseph R. Tabler, Case No. 89-CRB-95-543, dated April 10, 1989.

Respondent's Exhibits:

- (1) Exhibit A--Letter from Lorraine A. Cooper dated August 28, 2000.
- (2) Exhibit B--Letter from Robert Whaley dated September 1, 2000.
- (3) Exhibit C--Letter from Pamela Gregg dated August 1, 2000.
- (4) Exhibit D--Two-page letter from Anne L. Hendricks, M.D. dated September 5, 2000.

## FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the State Board of Pharmacy indicate that Joseph R. Tabler was originally licensed in the state of Ohio on August 20, 1962, pursuant to examination, and on April 4, 2000, Joseph R. Tabler's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) Joseph R. Tabler did, on or about February 2, 2000, knowingly obtain, possess, or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: while practicing pharmacy, Joseph R. Tabler used barbiturates and hydrocodone when not prescribed by an authorized licensed health professional. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (3) On or about December 11, 1998, pursuant to the Order of the State Board of Pharmacy, Docket No. D-980601-062, in the matter of Joseph R. Tabler, the Board found the following to be fact:
  - (a) Records of the Board of Pharmacy indicate that Joseph R. Tabler was originally licensed in the State of Ohio on August 20, 1962, pursuant to examination, and, during the relevant time periods, was currently licensed to practice pharmacy in the State of Ohio.
  - (b) Joseph R. Tabler did, on or about April 29, 1997, plead guilty to one count of Mail Fraud, a felony in violation of 18 U.S.C. 1341. United States vs. Tabler, Case No. 96-CR-94-ALL, U.S. District Court, Eastern District of Kentucky. Joseph R. Tabler did, from approximately February 1991 through February 1996, with purpose to defraud, present to an insurer written statements as claims for payment, knowing that the statements were false and deceptive, to wit: while practicing pharmacy at St. Luke's Hospital Pharmacy, Ft. Thomas, Kentucky, Joseph R. Tabler forged false prescriptions and submitted false claims to Anthem Blue Cross of Kentucky totaling approximately \$78,000.00. Such conduct is in violation of Section 2913.47 of the Ohio Revised Code.
  - (c) Joseph R. Tabler did, on or about April 10, 1989, plead guilty to Theft in violation of Section 2913.02 of the Ohio Revised Code, a first degree misdemeanor. State of Ohio vs. Joseph R. Tabler, 89-CRB-95-593, Clermont County Common Pleas Court.

The Board concluded that Joseph R. Tabler was guilty of a felony; guilty of dishonesty and unprofessional conduct in the practice of

pharmacy and guilty of having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy. Joseph R. Tabler's license was suspended; however, the suspension was stayed and his pharmacist identification card was placed on probation through March 5, 2004. The terms of probation, in part, were as follows: Joseph R. Tabler was not to violate the drug laws of the State of Ohio, any other state, or federal government; Joseph R. Tabler was to abide by the rules of the Ohio State Board of pharmacy; and, Joseph R. Tabler was to comply with the terms of the Order. Joseph R. Tabler was further advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation for a violation occurring during the probation period.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3)(b) of the Findings of Fact constitutes being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitute abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

#### ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy removes the Summary Suspension Order issued to Joseph R. Tabler on April 4, 2000.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Joseph R. Tabler:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-

07832, held by Joseph R. Tabler effective as of the date of the mailing of this Order.

- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-07832, held by Joseph R. Tabler effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-07832, held by Joseph R. Tabler effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-07832, held by Joseph R. Tabler effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Joseph R. Tabler must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.



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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-980601-062)

In The Matter Of:

**JOSEPH R. TABLER, R.Ph.**

6822 Stonington Road  
Cincinnati, Ohio 45230  
(R.Ph. No. 03-1-07832)

### INTRODUCTION

THE MATTER OF JOSEPH R. TABLER CAME TO HEARING ON DECEMBER 8, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JOSEPH R. TABLER WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) William McMillen, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Joseph R. Tabler, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated June 1, 1998.
- (2) Exhibit 1A--Hearing Request letter dated June 18, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated June 30, 1998.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated November 13, 1998.

- (5) Exhibit 1D--Copy of Pharmacist File Front Sheet of Joseph Robert Tabler showing original date of registration as August 20, 1962; and two-page copy of Renewal Application for Pharmacist License, No. 03-1-07832, for a license to practice pharmacy in Ohio from September 15, 1998, to September 15, 1999, of Joseph R. Tabler dated July 28, 1998.
- (6) Exhibit 2--Five-page copy of U.S. District Court, Eastern District of Kentucky (Covington) Criminal Docket for Case No. 96-CR-94-ALL, USA vs. Tabler, filed December 11, 1996, and dated through May 8, 1997.
- (7) Exhibit 3--Copy of twelve-page Indictment in the U.S. District Court, Eastern District of Kentucky, Covington, United States of America vs. Joseph R. Tabler, not dated.
- (8) Exhibit 4--Copy of eleven-page Plea Agreement in the U.S. District Court, Eastern District of Kentucky, Covington, Criminal No. 96-94, United States of America vs. Joseph R. Tabler, not dated.
- (9) Exhibit 5--Copy of five-page Stipulated Factual Basis for Guilty Plea in the U.S. District Court, Eastern District of Kentucky, Covington, Criminal Action No. 96-94, United States of America vs. Joseph R. Tabler, not dated.
- (10) Exhibit 6--Copy of six-page Judgment in a Criminal Case in the U.S. District Court, Eastern District of Kentucky, Covington, Case No. 96-94, United States of America vs. Joseph R. Tabler, dated July 31, 1997.
- (11) Exhibit 7--Copy of newspaper article from *The Cincinnati Enquirer* titled "Former St. Luke worker indicted", not dated.
- (12) Exhibit 8--Copy of Journal Entry in the Clermont County Court, Batavia, Ohio, Case No. 89CRB 95-593, State of Ohio vs. Joseph R. Tabler, April 10, 1989.

Respondent's Exhibits:

- (1) None

#### FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Joseph R. Tabler was originally licensed in the State of Ohio on August 20, 1962, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Joseph R. Tabler did, on or about April 29, 1997, plead guilty to one count of Mail Fraud, a felony in violation of 18 U.S.C 1341. United States vs. Tabler, Case No. 96-CR-94-ALL, U.S. District Court, Eastern District of Kentucky. Joseph R. Tabler did, from approximately February 1991 through February 1996, with purpose to defraud, present to an insurer written statements as claims for payment, knowing that the statements were false and deceptive, to wit: while practicing pharmacy at St. Luke's Hospital Pharmacy, Ft. Thomas, Kentucky, Joseph R. Tabler forged false prescriptions and submitted false claims to Anthem Blue Cross of

Kentucky totaling approximately \$78,000.00. Such conduct is in violation of Section 2913.47 of the Ohio Revised Code.

- (3) Joseph R. Tabler did, on or about April 10, 1989, plead guilty to Theft in violation of Section 2913.02 of the Ohio Revised Code, a first degree misdemeanor. State of Ohio vs. Joseph R. Tabler, 89 CRB-95-593, Clermont County Common Pleas Court.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.

#### ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Joseph R. Tabler:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-1-07832, held by Joseph R. Tabler indefinitely. Further, the Board stays the suspension and places Joseph R. Tabler's identification card on probation, effective as of the date of the mailing of this Order. The terms of probation are as follows:
  - (1) Joseph R. Tabler must take and successfully complete the jurisprudence examination offered by the Board prior to July 1, 1999.
    - (a) If Joseph R. Tabler has not successfully completed the examination prior to that date, his identification card will be suspended until this condition has been achieved.
    - (b) When successful, Joseph R. Tabler's identification card will remain on probation for five years from the date of successful completion.

- (2) The State Board of pharmacy hereby declares that Joseph R. Tabler's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
  - (3) Joseph R. Tabler may not serve as a responsible pharmacist.
  - (4) Joseph R. Tabler may not fill prescriptions for himself or immediate family members.
  - (5) Joseph R. Tabler must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (6) Joseph R. Tabler must abide by the rules of the Ohio State Board of Pharmacy.
  - (7) Joseph R. Tabler must comply with the terms of this Order.
- (B) The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.