



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-950601-064)

In The Matter Of:

JACK R. OSMAN, R.Ph.

507 Second Street

Vanceburg, Kentucky 41179

(R.Ph. No. 03-1-07876)

INTRODUCTION

THE MATTER OF JACK R. OSMAN CAME TO HEARING ON MARCH 5, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JACK R. OSMAN WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Franklin Z. Wickham, R.Ph., M.S., Ohio State Board of Pharmacy
- (2) Roberta Bottoms, Postal Inspector, United States Postal Service

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated June 1, 1995.
- (2) Exhibit 1A--Hearing Request letter from Jack R. Osman dated June 28, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated July 6, 1995.
- (4) Exhibit 1C--Hearing Schedule letter dated July 11, 1995.

- (5) Exhibit 1D--Pharmacist File Front Sheet of Jack R. Osman showing original date of registration as February 14, 1963.
- (6) Exhibit 1E--Renewal Application for Pharmacist License, No. 03-1-07876, of Jack R. Osman for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, dated August 10, 1994.
- (7) Exhibit 1F--Hearing Schedule letter dated November 20, 1995.
- (8) Exhibit 2--Three-page copy of Agreed Order of the Commonwealth of Kentucky, Kentucky Board of Pharmacy, Case No. 94-0809, in the matter of Jack R. Osman dated December 14, 1994.
- (9) Exhibit 3--Attached copies of the following documents: Memorandum from Roy Butler dated December 18, 1991; memorandum from Gene A. Thomas dated December 11, 1991; memorandum from Richard L. Ross dated December 5, 1991; letter from Richard L. Ross dated December 5, 1991; letter from Lucio G. Co dated November 27, 1991; letter from Gene A. Thomas dated November 27, 1991; pages 4.1 through 4.5 of Section IV - Program Coverage of the Pharmacy Services Manual, Cabinet for Human Resources Department for Medicaid Services (Kentucky); two-page Report of Investigation in the matter of Jack Osman/Osman Pharmacy, File No. 92-54-0005, of Roberta R. Bottoms, Investigator dated June 22, 1992; three-page Report of Investigation in the matter of Jack Osman/Osman Pharmacy, File No. 92-54-0005, of Roberta R. Bottoms, Investigator dated July 7, 1993; and four-page Summary of Interview of Dr. Lucio Co conducted on October 24, 1993, by Roberta R. Bottoms, Investigator.
- (10) Exhibit 4--Attached certified copies of the following: Comm. of Kentucky, Franklin Circuit Clerk, Receipt No. 2-0018019 dated August 22, 1994; letter from Richard E. Plymale dated August 18, 1994; Arraignment Order (Guilty Plea), Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Information No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 15, 1994; two-page Order, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Information No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 16, 1994; two-page Judgment and Sentence on Plea of Guilty, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Information No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 16, 1994; two-page Commonwealth's Offer on a Plea of Guilty, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Information No. 94-CR-00124, of Osman Pharmacy, Inc. August 12, 1994; two-page Motion to Enter Guilty Plea, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Information No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 12, 1994; Corporate Consent to Enter Plea Agreement, Waiver of Indictment and Plea of Guilty, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Information No. 94-CR-00124, of Osman Pharmacy, Inc., not dated; two-page Unanimous Written Action by Sole Director, Osman Pharmacy, Inc. signed by Jack R. Osman and dated August 12, 1994; Waiver of Indictment, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Criminal Action No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 12, 1994; two Criminal Summons, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Case No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 11, 1994; two-page Complaint, Office of the Attorney General, Commonwealth of Kentucky, Case No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 11, 1994; two-page Information Pursuant to RCr 6.04, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 11, 1994; Criminal Summons, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, Case No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 11, 1994; two-page Complaint, Office of the Attorney General, Case No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 11, 1994; and two-page Information Pursuant to RCr 6.04, Franklin Circuit Court, Division 1, Commonwealth of Kentucky, No. 94-CR-00124, of Osman Pharmacy, Inc. dated August 11, 1994.

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) On June 1, 1995, Jack R. Osman was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of June 5, 1995, Jack R. Osman received the letter of June 1, 1995, informing him of the allegations against him, and his rights.
- (3) Jack R. Osman requested a hearing and a hearing was scheduled for March 5, 1996, in accordance with Chapter 119. of the Ohio Revised Code.
- (4) Jack R. Osman was not present nor was he represented by Counsel at the March 5, 1996, adjudication hearing.
- (5) Records of the Board of Pharmacy indicate that Jack R. Osman was originally licensed in the state of Ohio on February 14, 1963, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (6) Jack R. Osman did, on or about August 15, 1994, on behalf of Osman Pharmacy, Inc., enter a plea of guilty to the charge of filing false claims with the Kentucky Medical Assistance Program during calendar year 1991. As part of said plea, the corporation was required to pay a fine of \$1,000.00, make restitution in the amount of \$11,364.58, pay costs of investigation in the amount of \$8,657.98, and sell its pharmacy operation. (The indictment against Jack R. Osman personally was dismissed.)
- (7) Jack R. Osman did, on or about December 14, 1994, enter into an agreed order with the Kentucky Board of Pharmacy due to his involvement in fraud whereby Jack R. Osman was fined \$1,000.00; Jack R. Osman's license to practice pharmacy in the state of Kentucky was placed on probation for two years; Jack R. Osman was denied the right to have any ownership interest in a pharmacy; Jack R. Osman was ordered to sell or transfer his interest in Osman Pharmacy, Inc.; and Jack R. Osman was ordered to comply with all of the provisions of the guilty plea entered in Commonwealth v Osman Pharmacy, Inc.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (6) 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 (6) and (7) 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.

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 Jack R. Osman:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places the pharmacist identification card, No. 03-1-07876, held by Jack R. Osman on probation for two years, effective as of the date of the mailing of this Order. The terms of probation are as follow:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Jack R. Osman's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns in or from the state of Ohio.
 - (2) Jack R. Osman may not serve as a responsible pharmacist in the state of Ohio.
 - (3) Jack R. Osman must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (4) Jack R. Osman must abide by the rules of the Ohio State Board of Pharmacy.
 - (5) Jack R. Osman 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.

SO ORDERED.