



OHIO STATE BOARD OF PHARMACY

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Columbus, Ohio 43266-0320
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THE STATE BOARD OF PHARMACY
(Docket No. D-890524-121)

In The Matter Of:

JAMES W. BUDERER, R.Ph.
411 Morningside Court
Sandusky, Ohio 44870
(R.Ph. I.D. No. 03-1-07992)

INTRODUCTION

THE MATTER OF JAMES W. BUDERER CAME TO HEARING ON SEPTEMBER 28, 1989 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: TIMOTHY MOORE, R.Ph. (presiding); NORMAN LEIBOW, R.Ph.; METTA LOU HENDERSON, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

JAMES W. BUDERER WAS REPRESENTED BY TOM MURRAY, AND THE STATE OF OHIO WAS REPRESENTED BY STEVE DLOTT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Christopher K. Reed - Ohio Board of Pharmacy
- (2) John P. Needham
- (3) Captain Muehling - Sandusky Police Department

Respondent's Witnesses:

- (1) Frank A. Link
- (2) George M. Mylander
- (3) Dr. Douglas Rist
- (4) James W. Buderer - Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter for Fisher Drug Company dated May 24, 1989.
- (2) Exhibit B - Notice of Opportunity letter for James W. Buderer, R.Ph. dated May 24, 1989.

- (3) Exhibit C - Hearing Request letter from James W. Buderer dated June 18, 1989.
- (4) Exhibit 1 - Renewal Application for Fisher Drug Company for 1988.
- (5) Exhibit 2 - Renewal Application for James W. Buderer dated 8-1-87.
- (6) Exhibit 3 - Dangerous Drug Distributor Inspection Report dated July 1, 1988.
- (7) Exhibit 4 - Report of Investigation for Case #88-05-1051, dated 07-06-88.
- (8) Exhibit 5 - One bottle of Inderal 10mg containing 1,000 tablets.
- (9) Exhibit 6 - One bottle of Premarin 0.9mg containing 100 tablets.
- (10) Exhibit 7 - One brown envelope with \$100.00 used to purchase drugs.
- (11) Exhibit 8 - Sandusky Police Department Complaint Report for James W. Buderer dated July 1, 1988.
- (12) Exhibit 9 - One bottle of Premarin 2.5mg containing 100 tablets.
- (13) Exhibit 10 - One bottle of Premarin 2.5mg containing 100 tablets.
- (14) Exhibit 11 - One bottle of Inderal LA 120mg containing 100 tablets.

Respondent's Exhibits:

- (1) Exhibit 1 - State Complaint and Warrant from the Municipal Court of Sandusky, Ohio for James W. Buderer.
- (2) Exhibit 2 - Check #21656 to John Needham dated 2-27-84.
- (3) Exhibit 3 - Check #21724 to John Needham dated 3-27-84.
- (4) Exhibit 4 - Check #21864 to John Needham dated 5-16-84.
- (5) Exhibit 5 - Check #21868 to John Needham dated 5-23-84.
- (6) Exhibit 6 - Check #23030 to John Needham dated 9-10-85.
- (7) Exhibit 7 - Check #23215 to John Needham dated 11-20-85.
- (8) Exhibit 8 - Check #23300 to John Needham dated 12-17-85.
- (9) Exhibit 9 - Check #23378 to John Needham dated 1-17-86.
- (10) Exhibit 10 - Check #23442 to John Needham dated 2-5-86.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board of Pharmacy indicate that James W. Buderer is the responsible pharmacist at Fisher Drug Co., 633 Hancock Street, Sandusky, Ohio pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-23 of the Ohio Administrative Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that James W. Buderer did, on or about July 1, 1988, while practicing pharmacy as the responsible pharmacist for Fisher Drug Company, purchase for the purpose of resale dangerous drugs from a person other than a registered wholesale distributor of dangerous drugs, to wit: James W. Buderer purchased from a sales representative of Wyeth-Ayerst one bottle of Inderal 10mg containing 1,000 units and one bottle of Premarin .9mg containing 100 units for the sum of \$100.00. Such conduct is in violation of Section 4729.51(D) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (2) of the Findings Of Fact constitutes unprofessional conduct in the practice of pharmacy as provided in paragraph (A)(2) 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 the conduct set forth in paragraph (2) of the Findings Of Fact constitutes aiding and abetting the violation of Section 4729.51(D) of the Ohio Revised Code as provided in paragraph (A)(5) of Section 4729.16 of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-07992, held by James W. Buderer:

- (A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by James W. Buderer for six months.
- (B) Further, the Board will suspend five months of the six-month suspension imposed in paragraph (A) above on the conditions that James W. Buderer:

- (1) takes and passes the Jurisprudence examination given by 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.

JAMES W. BUDERER, R.Ph.
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Order of the Board

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-417-664-060

ORDER MAILED: NOVEMBER 9, 1989

FZW/pw

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

cc: Steve Dlott, Assistant Attorney General
Tom Murray, Attorney for Respondent; Murray and Murray Attorneys,
300 Central Ave., Murray Building, Sandusky, Ohio 44870