



OHIO STATE BOARD OF PHARMACY

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Columbus, Ohio 43266-0320
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03-1-09523

THE STATE BOARD OF PHARMACY
(Docket No. D-871028-081)

In The Matter Of:

ELVERETT J. WILLIAMS, R.Ph.
2749 Coventry Road
Shaker Heights, Ohio 44120

INTRODUCTION

THE MATTER OF ELVERETT J. WILLIAMS CAME TO HEARING ON APRIL 18, 1988 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: NORMAN LEIBOW, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; JEROME WIESENHAHN, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

ELVERETT J. WILLIAMS WAS REPRESENTED BY JERRY MILANO, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Mark Dolejs, Kaiser Foundation Accountant.
- (2) Elaine F. Reichel, Kaiser Foundation Accountant.
- (3) Detective Anita Eppinger, Cleveland Police Department, Narcotics Division.
- (4) Jay Nisenfeld, Administrator, Cleveland Medical Center (Kaiser Permanente Facility)
- (5) Robert L. Cole, Compliance Agent, Ohio State Board of Pharmacy
- (6) Roland Messing, R.Ph.
- (7) Charles Schifman, R.Ph.
- (8) Marian Fisk, R.Ph.
- (9) Dorothy Green, R.Ph.
- (10) Hope Barnett, R.Ph.
- (11) Barbara Dubose
- (12) Gail Brazell

Respondent's Witnesses:

(None)

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity in the matter of Elverett Earl Williams, R.Ph. dated October 28, 1987.
- (2) Exhibit B - Request for hearing dated November 11, 1987.
- (3) Exhibit C - Hearing schedule letter dated November 19, 1987.
- (4) Exhibit D - Request for continuance dated January 11, 1988.
- (5) Exhibit E - Hearing schedule letter dated February 2, 1988.
- (6) Exhibit 1 - Pharmacist cards to indicate Williams was a practicing pharmacist and the responsible pharmacist from October 18, 1979 through November 12, 1986 at Kaiser Permanente Pharmacy located on Fairhill Blvd., Cleveland, Ohio.
- (7) Exhibit 2 - Drug accountability sheet for Cocaine.
- (8) Exhibit 3 - Drug audit accountability sheet for Codeine 60mg.
- (9) Exhibit 4 - Drug audit accountability sheet for Dilaudid 1mg.
- (10) Exhibit 5 - Drug audit accountability sheet for Percocet-5.
- (11) Exhibit 6 - Drug accountability sheet for Percodan.
- (12) Exhibit 7 - Drug accountability sheet for Tylox.
- (13) Exhibit 8 - Drug accountability sheet for Dilaudid 4mg.
- (14) Exhibit 9 - Drug accountability sheet for Dilaudid 3mg.
- (15) Exhibit 10- Drug accountability sheet for Dilaudid 2mg.
- (16) Exhibit 11- Drug accountability sheet for Demerol 100mg.
- (17) Exhibit 12- Drug accountability sheet for Demerol 50mg.
- (18) Exhibit 13- Drug accountability sheet for Dolophine 5mg.
- (19) Exhibit 14- Drug accountability sheet for Ritalin-SR 20mg.
- (20) Exhibit 15- Drug accountability sheet for Codeine 30mg.
- (21) Exhibit 16- Drug accountability sheet for Percodan.
- (22) Exhibit 17- Drug accountability sheet for Dilaudid 4mg.
- (23) Exhibit 18- Drug accountability sheet for Demerol 50mg.
- (24) Exhibit 19- Drug accountability sheet for Dilaudid 2mg.
- (25) Exhibit 20- Drug accountability sheet for Dilaudid 3mg.
- (26) Exhibit 21- Drug accountability sheet for Demerol 100mg.
- (27) Exhibit 22- Drug accountability sheet for Percodan.
- (28) Exhibit 23- Drug accountability sheet for Dilaudid 4mg.
- (29) Exhibit 24- Drug accountability sheet for Dilaudid 2mg.
- (30) Exhibit 25- Drug accountability sheet for Demerol 50mg.
- (31) Exhibit 26- Drug accountability sheet for Demerol 100mg.
- (32) Exhibit 27- Drug accountability sheet for Dilaudid 3mg.
- (33) Exhibit 28- Transcript of interview of R.Ph. Williams on 10/08/86.
- (34) Exhibit 29- Transcript of interview of R.Ph. Williams on 10/17/86.
- (35) Exhibit 30- Transcript of interview of R.Ph. Williams on 10/20/86.
- (36) Exhibit 31- DEA-222 forms.
- (37) Exhibit 32- Chart of submitted DEA-222 forms.
- (38) Exhibit 33- Chart of summary of missing drugs.
- (39) Exhibit 34- Chart of purchases & sales of drugs.
- (40) Exhibit 35- Statement by Jay Nisenfield.
- (41) Exhibit 36- Statement by Jeff Schroeder.

- (42) Exhibit 37- Work papers of Kaiser Permanente that demonstrates R.Ph. Williams stole money.
- (43) Exhibit 38- Work papers of Kaiser Permanente that documents R.Ph. Williams worked even when on vacation.
- (44) Exhibit 39- Work papers of Kaiser Permanente that documents numeric control of money receipt slips.
- (45) Exhibit 40- Work papers of Kaiser Permanente that documents numeric control of money receipt slips after Williams worked.
- (46) Exhibit 41- Work papers of Kaiser Permanente that compares numeric control of Fairhill facility before and after Williams.
- (47) Exhibit 42- Work papers of Kaiser Permanente that tests daily report of cash collected.
- (48) Exhibit 43- Work papers of Kaiser Permanente that compares gross income for the Fairhill facility both before and after R.Ph. Williams worked there.
- (49) Exhibit 44- Three-page report by Robert Cole from Kaiser monthly reports that reports the income per non-prepaid prescription for each Cleveland Area Kaiser Pharmacy.
- (50) Exhibit 45- Kaiser work papers that surveys percentage (%) of new to refilled prescriptions.
- (51) Exhibit 46- Kaiser work papers used to determine actual loss of money on original prescription dispensing for selected random months.
- (52) Exhibit 47- Kaiser work papers used to determine estimated cash defalcation.
- (53) Exhibit 48- Copy of Kaiser Pharmacy floor plans.
- (54) Exhibit 49- Seven-page report listing employees of the pharmacy.
- (55) Exhibit 50- Certificate of Title for Peugeot.
- (56) Exhibit 51- Certificate of Title for BMW.
- (57) Exhibit 52- Certificate of Title for 1987 Nissan.
- (58) Exhibit 53- Certificate of Title for 1983 Jayco travel trailer.
- (59) Deposition of Jeffrey Schroeder dated May 16, 1988 and filed on May 27, 1988 pursuant to ruling of the Board on April 18, 1988.

Respondent's Exhibits:

(None)

FINDINGS OF FACT

- (1) On June 3, 1988, a request was submitted for Elverett Williams to testify. The State filed a motion to oppose. Upon consideration of the request and Attorney General's motion of opposition, the State Board of Pharmacy hereby denies Elverett J. Williams' request since the only stated purpose for leaving the record open until June 15, 1988 was to include the deposition of Jeffrey Schroeder in the official hearing record.
- (2) From the evidence presented, the State Board of Pharmacy finds that Elverett J. Williams or another pharmacist under his control did, on one or more occasions between May 1, 1985 and September 25, 1986, without a written or oral prescription, dispense:

- (a) approximately 281 tablets of Codeine-60mg
- (b) approximately 194 tablets of Dilaudid-1mg
- (c) approximately 120 tablets of Percocet-5

all of which are Schedule II controlled substances and prescription drugs, 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, and that in dispensing such drugs his conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code. Such conduct is prohibited by Section 2925.03(A)(5) of the Ohio Revised Code.

- (3) From the evidence presented, the State Board of Pharmacy finds that Elverett J. Williams or another pharmacist under his control did, on one or more occasions between May 1, 1985 and September 25, 1986, without a written or oral prescription, dispense:

- (a) approximately 26,211 tablets of Percodan
- (b) approximately 6,995 capsules of Tylox
- (c) approximately 3,808 tablets of Dilaudid-4mg
- (d) approximately 2,308 tablets of Dilaudid-3mg
- (e) approximately 2,015 tablets of Dilaudid-2mg
- (f) approximately 1,698 tablets of Demerol-100mg
- (g) approximately 693 tablets of Demerol-50mg
- (h) approximately 521 tablets of Dolophine-5mg
- (i) approximately 391 tablets of Ritalin-SR 20mg
- (j) approximately 281 tablets of Codeine-30mg

all of which are Schedule II controlled substances and prescription drugs, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, and that in dispensing such drugs his conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code. Such conduct is prohibited by Section 2925.03(A)(7) of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Elverett J. Williams or another pharmacist under his control did, on one or more occasions between May 1, 1983 and April 30, 1985, without a written or oral prescription, dispense:

- (a) approximately 25,286 tablets of Percodan
- (b) approximately 4,796 tablets of Dilaudid-4mg
- (c) approximately 2,711 tablets of Demerol-50mg
- (d) approximately 1,916 tablets of Dilaudid-2mg
- (e) approximately 1,322 tablets of Dilaudid-3mg
- (f) approximately 1,110 tablets of Demerol-100mg

all of which are Schedule II controlled substances and prescription drugs, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, and that in dispensing such drugs his conduct was not in accordance with Chapters 2925., 3719., and 4729. of the Ohio Revised Code. Such conduct is prohibited by Section 2925.03(A)(7) of the Ohio Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds that Elverett J. Williams or another pharmacist under his control did, on one or more occasions between May 1, 1981 and April 30, 1983, without a written or oral prescription, dispense:

- (a) approximately 36,556 tablets of Percodan
- (b) approximately 3,634 tablets of Dilaudid-4mg
- (c) approximately 2,859 tablets of Dilaudid-2mg
- (d) approximately 1,606 tablets of Demerol-50mg
- (e) approximately 934 tablets of Demerol-100mg
- (f) approximately 332 tablets of Dilaudid-3mg

all of which are Schedule II controlled substances and prescription drugs, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, and that in dispensing such drugs his conduct was not in accordance with Chapters 2925., 3719., and 4729. of the Ohio Revised Code. Such conduct is prohibited by Section 2925.03(A)(7) of the Ohio Revised Code.

- (6) From the evidence presented, the State Board of Pharmacy finds that Elverett J. Williams did violate Chapter 3719. of the Ohio Revised Code, to wit: Elverett J. Williams did fail to report the theft or loss of controlled substances pursuant to Rule 4729-5-15 of the Ohio Administrative Code and Title 21, Section 1301.74(c) of the Code of Federal Regulations. Such conduct constitutes "unprofessional conduct in the practice of pharmacy", and is prohibited by Section 2921.22 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 paragraphs (1) through (5) of the Findings Of Fact constitutes gross immorality.
- (2) 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 dishonesty and unprofessional conduct in the practice of pharmacy.
- (3) 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 willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of the provisions of Chapters 2925., 3715., 3719., and 4729. 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. 03-1-09523, held by Elverett J. Williams:

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Order of the Board

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Elverett J. Williams.

(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Elverett J. Williams.

(C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Elverett J. Williams.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is revoked, ..., 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

ORDER ISSUED: August 22, 1988

FZW/sb

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

cc: Christopher Costantini, Assistant Attorney General
Jerry Milano, Attorney For Respondent