



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-000615-067)

In The Matter Of:

DENNIS L. CAREY, R.Ph.

470 Naomi Court

Groveport, Ohio 43125

(R.Ph. No. 03-1-09565)

INTRODUCTION

THE MATTER OF DENNIS L. CAREY CAME FOR HEARING ON JANUARY 9, 2001, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

DENNIS L. CAREY WAS REPRESENTED BY DANIEL D. CONNOR, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Christopher Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Dennis L. Carey, R.Ph., Respondent
- (2) Wanda Carey, Wife of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated June 15, 2000.
- (2) Exhibit 1A--Hearing Request letter received July 13, 2000.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated July 17, 2000.
- (4) Exhibit 1C--Copy of three-page Amendment/Addendum Notice letter dated October 17, 2000.

- (5) Exhibit 1D--Hearing Request/Notice of Representation letter dated October 25, 2000.
- (6) Exhibit 1E--Copy of Hearing Schedule letter dated October 30, 2000.
- (7) Exhibit 1F--Copy of Hearing Schedule letter dated December 22, 2000.
- (8) Exhibit 1G--Copy of Pharmacist File computer record of Dennis L. Carey showing original date of registration as July 27, 1970.
- (9) Exhibit 2--Copy of two-page Rite Aid Corporation Written Statement Form of Dennis Carey dated June 9, 2000.
- (10) Exhibit 3--Statement of Dennis L. Carey signed and notarized June 9, 2000.
- (11) Exhibit 4--Statement of Robert S. Jones signed and notarized June 29, 2000.
- (12) Exhibit 5--Four Hydrocodone/APAP 10/500 tablets.
- (13) Exhibit 6--Copy of Accountability Statement for Codiclear DH Syrup at Rite Aid of Ohio, Inc. #1208 dated June 9, 2000.
- (14) Exhibit 7--Copy of Accountability Statement for Hycotuss Expectorant at Rite Aid of Ohio, Inc. #1208 dated June 9, 2000.
- (15) Exhibit 8--Copy of Accountability Statement for Hydrocodone/Guaifenesin Syrup at Rite Aid of Ohio, Inc. #1208 dated June 9, 2000.
- (16) Exhibit 9--Copy of Accountability Statement for Lortab 10/500 at Rite Aid of Ohio, Inc. #1208 dated June 9, 2000.
- (17) Exhibit 10--Copy of Accountability Statement for Hydrocodone/APAP 10/500 at Rite Aid of Ohio, Inc. #1208 dated June 9, 2000.
- (18) Exhibit 11--Copy of Rite Aid Customer History Report of Steve Percival for January 1, 2000 to June 16, 2000.
- (19) Exhibit 12--Prescription No. 01208 141401 dated April 20, 2000.
- (20) Exhibit 13--Statement of Quirico Cristales, M.D. signed and notarized August 4, 2000.
- (21) Exhibit 14--Copy of Rite Aid Customer History Report of Terri A. Larson for January 1, 2000 to June 16, 2000.
- (22) Exhibit 15--Prescriptions numbered 01208 144139 and 01208 144140 dated May 27, 2000.
- (23) Exhibit 16--Statement of Susan L. Besser, M.D. signed and notarized July 7, 2000.
- (24) Exhibit 17--Copy of two-page Rite Aid Customer History Report of Brenda Beal for January 1, 1999 to June 12, 2000.
- (25) Exhibit 18--Prescription No. 01208 136691 dated February 17, 2000, and crossed-out Prescription No. 01208 136484 dated February 15, 2000.
- (26) Exhibit 19--Intron-A three million units/0.2ml Pen.
- (27) Exhibit 20--Statement of Brenda J. Beal signed and notarized June 29, 2000.
- (28) Exhibit 21--Statement of Mica Anderson signed and notarized June 28, 2000.
- (29) Exhibit 22--Copy of pages 215, 216, and 217 of the Ohio State Board of Pharmacy Journal, No. J-900821-058, showing the Order of the State Board of Pharmacy in the matter of Dennis L. Carey, R.Ph. considered on June 28, 1990.
- (30) Exhibit 23--Copy of pages 324, 325, 326, and 327 of the Ohio State Board of Pharmacy Journal, No. J-931101-042, showing the Order of the State Board of Pharmacy in the matter of Dennis L. Carey, R.Ph. heard on September 27, 1993.

Respondent's Exhibits:

- (1) Exhibit A--Copies of the following: two-page letter from Brenda L. Davidson dated January 5, 2001; letter from Sonia Kanner dated January 6, 2001; Rite Aid Corporation Loss Prevention Statement of Account of Dennis L. Carey dated July 17, 2000; Cashier's Check No. 2736863 of Dennis L. Carey to Rite Aid Co. dated July 2000; and Rite Aid Hdqtrs. Corp. Invoice No. 0001918147 of Dennis Carey dated July 24, 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 Board of Pharmacy indicate that Dennis L. Carey was originally licensed in the State of Ohio on July 27, 1970, pursuant to examination. On June 15, 2000, Dennis L. Carey's license was summarily suspended in accordance with Section 3719.121 of the Ohio Revised Code.
- (2) Dennis L. Carey is addicted to liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Dennis L. Carey has admitted to stealing controlled substances from his employer; Dennis L. Carey admitted that he consumed one to two ounces of Hydrocodone/Guaifenesin, by mixing it in his coffee, and a "couple" of hydrocodone 10mg/APAP 500mg tablets daily while practicing pharmacy; and Dennis L. Carey admitted that he is psychologically dependent upon controlled substances and that he was going to seek drug treatment. Such conduct indicates that Dennis L. Carey falls within the ambit of Divisions (A) and (B) of Section 3719.121, and Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (3) Dennis L. Carey did, from on or about October 1999, through January 2000, with purpose to deprive, knowingly obtain or exert control over controlled substances, the property of Rite Aid Pharmacy #4985 in Circleville, Ohio, beyond the express or implied consent of the owner, to wit: Dennis L. Carey admitted stealing approximately five to six 16oz-bottles of Hydrocodone/Guaifenesin Syrup and 80 to 100 tablets of hydrocodone 10mg/APAP 500mg from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Dennis L. Carey did, from on or about February 1, 2000, through June 9, 2000, with purpose to deprive, knowingly obtain or exert control over controlled substances, the property of Rite Aid Pharmacy #1208 in Columbus, Ohio, beyond the express or implied consent of the owner, to wit: Dennis L. Carey stole the following controlled substances from his employer:

<u>Drug</u>	<u>Quantity</u>	<u>% of Drug Stock</u>
Codclear DH Syrup	450 ml	46.9%
Hycotuss Expectorant	1,860 ml	38.8%
Hydrocodone/Guaifenesin Syrup	3,910 ml	47.9%
Lortab 10/500	22 units	11.0%
Hydrocodone/APAP 10/500	107 units	35.7%

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) Dennis L. Carey did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: in an effort to conceal drug thefts, Dennis L. Carey created the following false telephone prescriptions for non-existent patients:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>	<u>C.S. Schedule</u>
141401	04/20/00	Hydrocodone/Guaifenesin Syrup	240 ml	C.S. III
144139	05/27/00	Hydrocodone/Guaifenesin Syrup	180 ml	C.S. III
144140	05/27/00	Doxycycline 100mg	20	D.D.

Such conduct is in violation of Divisions (A) and (B)(1) of Section 2925.23 of the Ohio Revised Code.

- (6) Dennis L. Carey did, on or about February 15, 2000, fail to perform prospective drug utilization review and patient counseling, to wit: when dispensing medications to a patient pursuant to prescription number 136484, Dennis L. Carey failed to review the original prescription and/or refill information for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse; and Dennis L. Carey refused to offer or perform patient counseling when requested by the patient. Such conduct is in violation of Rules 4729-5-20 and 4729-5-22 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (6) 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or 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.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (5) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925., 3719., or 4729. 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 hereby removes the Summary Suspension Order issued to Dennis L. Carey on June 15, 2000.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Dennis L. Carey:

- (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. 03-1-09565, held by Dennis L. Carey 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. 03-1-09565, held by Dennis L. Carey 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. 03-1-09565, held by Dennis L. Carey effective as of the date of the mailing of this Order.

Dennis L. Carey, pursuant to Section 4729.16(B) of the Ohio Revised Code, 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.



OHIO STATE BOARD OF PHARMACY

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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

June 15, 2000

Dennis L. Carey, R.Ph.
470 Naomi Court
Groveport, Ohio 43125

Re: Ohio Registered Pharmacist
Number 03-1-09565

Dear Mr. Carey:

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice presents a danger of immediate and serious harm to others. The reasons for the Board's action are that you have committed any and/or all of the following acts:

- (1) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on July 27, 1970, pursuant to examination and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are addicted to liquor or drugs or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: you have admitted to stealing controlled substances from your employer; you admitted that you consume one to two ounces of Hydrocodone/Guaifenesin, by mixing it in your coffee, and a "couple" of hydrocodone 10mg/APAP 500mg tablets daily while practicing pharmacy; and you admitted that you are psychologically dependent upon controlled substances and that you were going to seek drug treatment. Such conduct indicates that you fall within the ambit of Sections 3719.121(A), 3719.121(B), and 4729.16(A)(3) of the Ohio Revised Code.
- (3) You did, from on or about October 1999, through January 2000, with purpose to deprive, knowingly obtain or exert control over controlled substances, the property of Rite Aid Pharmacy #4985 in Circleville, Ohio, beyond the express or implied consent of the owner, to-wit: you admitted stealing approximately five to six 16oz bottles of Hydrocodone/Guaifenesin Syrup and 80 to 100 tablets of hydrocodone 10mg/APAP 500mg from your employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (4) You did, from on or about February 2000, to June 9, 2000, with purpose to deprive, knowingly obtain or exert control over controlled substances, the property of Rite Aid Pharmacy #1208 in Columbus, Ohio, beyond the express or implied consent of the owner, to-wit: you admitted stealing approximately ten 16oz bottles of Hydrocodone/Guaifenesin Syrup and 100 tablets of hydrocodone 10mg/APAP 500mg from your employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person's license, certificate, or registration..."

YOU ARE HEREBY NOTIFIED that Section 3719.121(B) of the Ohio Revised Code states, in pertinent part:

(B) If the board under which a person has been issued a license, . . . , . . . determines that there is clear and convincing evidence that continuation of the person's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person's license, . . . , . . . , without a prior hearing.

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, during which time you may not engage in the practice of pharmacy.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states, in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;

- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 or Chapter 2925. or 3719. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;
- (9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code.

IF YOU REQUEST A HEARING within 30 days of the time of the mailing of this notice, such will be afforded. Such request shall be mailed to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

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

BY ORDER OF THE STATE BOARD OF PHARMACY
William T. Winsley, M.S., R.Ph.
Executive Director

By: _____
Timothy J. Benedict, R.Ph.
Assistant Executive Director



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-920918-023)

In The Matter Of:

DENNIS L. CAREY, R.Ph.

470 Naomi Court

Groveport, Ohio 43125

(R.Ph. No. 03-1-09565)

INTRODUCTION

THE MATTER OF DENNIS L. CAREY CAME TO HEARING ON SEPTEMBER 27, 1993, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE.

DENNIS L. CAREY WAS REPRESENTED BY HAROLD E. WONNELL, AND THE STATE OF OHIO WAS REPRESENTED BY RONDA A. SHAMANSKY, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) Dennis L. Carey, Respondent

Respondent's Witnesses:

(1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 Notice of Opportunity letter dated September 18, 1992.
- (2) Exhibit 1A Hearing Request letter dated September 27, 1992.
- (3) Exhibit 1B Hearing Schedule letter dated October 6, 1992.
- (4) Exhibit 1C Continuance Request letter dated January 13, 1993.
- (5) Exhibit 1D Hearing Schedule letter dated January 14, 1993.
- (6) Exhibit 1E Continuance Request letter dated March 4, 1993.
- (7) Exhibit 1F Hearing Schedule letter dated March 10, 1993.

- (8) Exhibit 2 Application for Examination as a Pharmacist of Dennis L. Carey received in the Board office on April 24, 1992; and attached hand-written explanation of Item No. 4 on the application.
- (9) Exhibit 3 Order of the State Board of Pharmacy in the matter of Dennis L. Carey, R.Ph., Docket No. D-900404-073, dated August 21, 1990.
- (10) Exhibit 4 - Two-page handwritten statement of Dennis L. Carey signed and notarized on October 19, 1989.

Respondent's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter of Dennis L. Carey dated April 4, 1990.
- (2) Exhibit B - Two-page copy of Indictment in the Court of Common Pleas, Ross County, Ohio of Dennis L. Carey dated November 17, 1989.
- (3) Exhibit C - Five-page copy of Application for Participation, Prosecutors Diversion program, dated April 27, 1990.
- (4) Exhibit D - Copy of letter from John A. Ledsome dated July 17, 1990.
- (5) Exhibit E - Copy of letter from Richard G. Ward and Richard G. Hannan, Jr. dated July 10, 1989.
- (6) Exhibit F - Copy of Journal Entry in the Court of Common Pleas, Ross County, Ohio of Dennis L. Carey dated August 6, 1990.
- (7) Exhibit G - Certified Journal Entry in the Court of Common Pleas, Ross County, Ohio of Dennis L. Carey dated August 8, 1991; Certified Motion To Dismiss in the Court of Common Pleas, Ross County, Ohio of Dennis L. Carey dated August 7, 1991.
- (8) Exhibit H - Two-page Certified Journal Entry in the Court of Common Pleas, Ross County, Chillicothe, Ohio of Dennis L. Carey dated January 29, 1992; and two-page copy, in part, of Ohio Revised Code Section 2953.32.
- (9) Exhibit I - Four-page copy of Ohio Revised Code Sections 2953.51, 2953.52, 2953.53, 2953.54, 2953.55, and 2953.61.
- (10) Exhibit J - Four-page copy of case law, [Cite as Ohio State Bd. of Pharmacy v. Friendly Drugs (1985), 27 Ohio App. 3d 32].
- (11) Exhibit K - Four-page copy of case law, [Cite as In re Application of Davis (1980), 61 Ohio St. 2d 371].
- (12) Exhibit L - Two-page copy of case law, [Cite as Disciplinary Counsel v. Casalnuovo (1993), 66 Ohio St. 3d 367].
- (13) Exhibit M - Copy of Ohio Revised Code Section 2921.02.
- (14) Exhibit N - Five-page copy of case law, [Cite as State v. Blissantz, (1938), 40 Ohio St. 3d 112].
- (15) Exhibit O - Copy of Memo from John A. Ledsome dated January 13, 1993.
- (16) Exhibit P - Letter from Richard Baer dated September 23, 1993; letter from Richard E. Lambert dated September 24, 1993; letter from Rona P. Shapiro, not dated; and letter from Anne F. Tackett dated September 24, 1993.

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 indicate that Dennis L. Carey was originally licensed to practice pharmacy in the state of Ohio on July 17, 1970, pursuant to examination, and he allowed his license to practice pharmacy in the state of Ohio to lapse on September 15, 1983. Records further indicate that Dennis L. Carey was acting as the responsible pharmacist at Ross Correctional Institution, Chillicothe, Ohio, pursuant to Section 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

- (2) Dennis L. Carey did, from 1983 through 1987, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell drugs, to wit: Dennis L. Carey practiced pharmacy and filled prescription orders while working at the pharmacy of Edward's Drugs, 2379 West Broad Street, Columbus, Ohio 43204, after having allowed his license to practice pharmacy to lapse. Such conduct is in violation of Section 4729.08 of the Ohio Revised Code.
- (3) Dennis L. Carey did, between September 16, 1987, and October 19, 1989, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell drugs, to wit: Dennis L. Carey practiced pharmacy and filled prescription orders while working at the pharmacy of the Ross Correctional Institution, Chillicothe, Ohio, after allowing his license to lapse. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Dennis L. Carey did, in or about the year 1988, with purpose to defraud, forge a writing so that it purported to be genuine when it was actually spurious, or to be a copy of an original when no such original existed, to wit: Dennis L. Carey copied another pharmacist's valid identification card and taped his name over the name on the card so that the card appeared to be a copy of his identification, and in fact Dennis L. Carey had no such valid identification. Such conduct is in violation of Section 2913.31(A)(2) of the Ohio Revised Code.
- (5) On August 21, 1990, the Ohio State Board of Pharmacy refused to grant Dennis L. Carey an identification card, and therefore denied Dennis L. Carey's Application for Examination as Pharmacist.
- (6) Dennis L. Carey submitted an Application For Registration As A Pharmacist which was received in the Board office on April 24, 1992.
- (7) Dennis L. Carey provided sufficient evidence to demonstrate that he is diligently working to rebuild his life and re-establish his good professional and moral character and habits.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute willfully violating the provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute evidence of not meeting the requirements provided in division (B) of Section 4729.08 of the Revised Code, and that the Board may deny a person admission to the licensure examination, or may deny the issuance of a certificate of registration or an identification card to practice pharmacy as a pharmacist in Ohio as provided in Rule 4729-5-04 of the Ohio Administrative Code.

ACTION OF THE BOARD

On the basis of paragraph (7) of the Findings of Fact, the State Board of Pharmacy hereby accepts the Application For Examination As A Pharmacist submitted by Dennis L. Carey and will permit Mr. Carey to sit for the licensure exams required by the Board for a renewal

identification card once he submits to the Board office original certificates of participation in 150 hours (15.0 CEUs) of continuing pharmacy education. The continuing pharmacy education must be obtained after the effective date of this Order, and certificates with dates showing participation prior to the effective date of this Order will not be accepted. Further, pursuant to Section 4729.13 of the Ohio Revised Code, the Ohio State Board of Pharmacy will grant a renewal identification card to practice pharmacy in the state of Ohio to Dennis L. Carey provided that Mr. Carey takes and successfully completes the Practice of Pharmacy Examination, the Federal Drug Law Examination, and the State jurisprudence Examination.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE NOVEMBER 1, 1993



OHIO STATE BOARD OF PHARMACY

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In The Matter Of:

DENNIS L. CAREY, R.Ph.

470 Naomi Court

Groveport, Ohio 43125

(R.Ph. No. 03-1-09565)

THE MATTER OF DENNIS L. CAREY CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON JUNE 28, 1990. MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED: ORDER

State's Exhibits

- (1) Exhibit A - Notice of Opportunity letter dated April 4, 1990.
- (2) Exhibit 1 - Pharmacist File Front Sheet for Dennis L. Carey showing original date of registration as July 27, 1970.
- (3) Exhibit 2 - Certified Diligent Search of Records dated October 19, 1990.
- (4) Exhibit 3 - Application for Examination as Pharmacist for Dennis L. Carey dated October 26, 1989.
- (5) Exhibit 4 - Prescriptions from Ross Correctional Institution filled by Dennis L. Carey.
- (6) Exhibit 5 - Copy of pharmacist identification card of Dennis L. Carey showing expiration date of 09/15/89.
- (7) Exhibit 6 - Tampered copy of pharmacist identification card showing expiration date of 09/15/90.
- (8) Exhibit 7 - Transcript of the interview of Dennis Carey on October 19, 1989.
- (9) Exhibit 8 - Two-page Statement of Dennis Carey dated 10/19/89.
- (10) Exhibit 9 - Two-page Incident Report from Jerri Green, RN dated October 23, 1989 at Ross Correctional Institution.
- (11) Exhibit 10 - Two-page Incident Report from Dixie Chaney, RN dated October 18, 1989 at Ross Correctional Institution.

Findings Of Fact

- (1) On April 4, 1990, Dennis L. Carey 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 April 5, 1990, Dennis L. Carey received the letter of April 4, 1990 informing him of the allegations regarding application for examination, and his rights.

- (3) Dennis L. Carey has not responded in any manner to the letter of April 4, 1990, and has not requested a hearing in this matter.
- (4) The State Board of Pharmacy finds that records of the Board indicate that Dennis L. Carey was originally licensed to practice pharmacy in the state of Ohio on July 17, 1970, pursuant to examination, and Dennis L. Carey allowed that license to lapse on September 15, 1983. Records further indicate that Dennis L. Carey was acting as the responsible pharmacist at Ross Correctional Institution, Chillicothe, Ohio, pursuant to Section 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (5) The State Board of Pharmacy finds that Dennis L. Carey did, from 1983 through 1987, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell drugs, to wit: Dennis L. Carey practiced pharmacy and filled prescription orders while working at the pharmacy of Edward's Drugs, 2379 West Broad Street, Columbus, Ohio 43204, after having allowed his license to practice pharmacy to lapse. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) The State Board of Pharmacy finds that Dennis L. Carey did, between September 16, 1987 and October 19, 1989, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell drugs, to wit: Dennis L. Carey practiced pharmacy and filled prescription orders while working at the pharmacy of the Ross Correctional Institution, Chillicothe, Ohio after having allowed his license to practice pharmacy to lapse. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (7) The State Board of Pharmacy finds that Dennis L. Carey did, in or about the year 1988, with purpose to defraud, forge a writing so that it purported to be genuine when it was actually spurious, or to be a copy of an original when no such original existed, to wit: Dennis L. Carey copied another pharmacist's valid identification card and taped his name over the name on the card so that the card appeared to be a copy of his identification, and in fact Dennis L. Carey had no such valid identification.

Such conduct is in violation of Section 2913.31(A)(2) of the Ohio Revised Code.

Conclusions Of Law

- (1) The State Board of Pharmacy concludes that paragraphs (5) through (7) of the Findings Of Fact constitute dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (5) through (7) of the Findings Of Fact constitute willfully violating the provisions of Chapter 4729. 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 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby refuses to grant an identification card to Dennis L. Carey, and therefore denies the Application for Examination as Pharmacist submitted by Dennis L. Carey.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE AUGUST 21, 1990