



# OHIO STATE BOARD OF PHARMACY

65 S. FRONT STREET, ROOM 504  
COLUMBUS, OHIO 43215  
TELEPHONE: 614/466-4143

THE STATE BOARD OF PHARMACY

vs

JAMES MICHAEL FRANTZ, R.Ph.

THE MATTER OF JAMES MICHAEL FRANTZ, DOCKET NO. 6-121-2, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON THURSDAY, MARCH 6, 1986. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTIONS WERE MADE AND RECORDED TO ADOPT THE FOLLOWING ORDER:

## ORDER

### Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz was convicted of five counts of aid and abetting to defraud through the mail, in violation of 18 U.S.C. Sec. 2 and 1341, on or about July 28, 1983 by the Northern District of Ohio, United States District Court.
- (2) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz was convicted of five counts of aid and abetting by making false statements, in violation of 18 U.S.C. Sec. 2 and 1001, on or about July 28, 1983 by the Northern District of Ohio, United States District Court.
- (3) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did dispense a drug which was not the brand or drug specifically prescribed, in violation of Sections 3715.64(A)(11)(d), to wit: Prescription No. 22606 which is labeled as Proctofoam and contains an unknown drug.
- (4) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz knowingly made or affixed a false or forged label to a receptacle containing an unknown drug, on or about October 9, 1978, in violation of Section 2925.23(D) of the Revised Code, to wit: Prescription No. 22606 which contains an unknown drug and is labeled as Proctofoam.

- (5) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did dispense a drug which was neither the brand or drug prescribed nor a generically equivalent drug, in violation of Section 3715.64(A)(11)(d) of the Revised Code, to wit: Furosemide, a product distributed by Goldline, was dispensed on Prescription No. 3372 and such product was not approved by the federal Food and Drug Administration.
- (6) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz knowingly made or affixed a false or forged label to a receptacle containing an unknown drug, on or about August 9, 1978, in violation of Section 2925.23(D) of the Revised Code, to wit: Prescription No. 00858 which is labeled as Elavil and contains another drug product.
- (7) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did dispense a drug which was not a generically equivalent drug, in violation of Division (A)(11)(d) of Revised Code Section 3715.64 and Revised Code Section 4729.38, to wit: a white tablet was dispensed on or about December 30, 1978 (Rx No. 27113) and the prescription label indicated that the drug was a "generic for Lasix". Hoechst-Roussell's Lasix® was the only furosemide product that was approved by the federal Food and Drug Administration for marketing at that time.
- (8) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (B) of Revised Code Section 3715.64, to wit: the label for Prescription No. 25359 did not include the name of the distributor of the generic drug dispensed.
- (9) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz dispensed Lasix-40mg, a federal legend drug, without a prescription as required by Division (A)(13)(b) of Revised Code Section 3715.64, on or about June 14, 1979 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, to wit: Prescription No. 35669. Such conduct is prohibited by Division (L) of Section 3715.52 of the Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz knowingly made or affixed a false or forged label to a receptacle containing an unknown drug, in violation of Section 2925.23(D) of the Revised Code, to wit: no prescription existed for the prescription receptacle labeled Rx No. 35669.
- (11) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz violated Divisions (A)(3) and (B) of Revised Code Section 4729.38, to wit: a generically equivalent drug was dispensed pursuant to a prescription for Librax on or about June 14, 1979, and the person receiving the drug was not informed about the price difference and his right to refuse the drug selected.

- (12) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz dispensed Valium-10mg, a Schedule IV controlled substance and prescription drug, on or about June 14, 1979, without a written or oral prescription given by a practitioner; in violation of Sections 3715.52(L) and 3719.05(A) of the Revised Code.
- (13) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz knowingly made and affixed a false label to a receptacle containing Valium-10mg, to wit: no written or oral prescription existed for the drugs dispensed in the receptacle bearing a label for Rx No. 35668.
- (14) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (B) of Revised Code Section 3715.64, to wit: the label for Prescription No. 64450 did not include the name of the distributor of the generic drug dispensed.
- (15) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (B) of Revised Code Section 3715.64, to wit: the labels for Prescription No. 65164 which was dispensed on or about March 17, 1981 and June 3, 1981 did not include the name of the distributor of the generic drug dispensed.
- (16) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (B) of Revised Code Section 3715.64, to wit: the labels for Prescription No. 62470 which was dispensed on or about January 5, 1980, January 30, 1981, February 20, 1981, March 3, 1981, and March 24, 1981 did not include the name of the distributor of the generic drug dispensed.
- (17) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (B) of Revised Code Section 3715.64, to wit: the label for Prescription No. 53613 did not include the name of the distributor of the generic drug dispensed.
- (18) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did dispense a drug which was not a generically equivalent drug, in violation of Division (A)(11)(d) of Revised Code Section 3715.64 and Revised Code Section 4729.38, to wit: the label for Prescription No. 53638 which was dispensed on or about June 3, 1980 indicates that the drug dispensed was a "generic for Lasix". Hoechst-Roussell's Lasix® was the only furosemide product that was approved by the federal Food and Drug Administration for marketing at that time.

- (19) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (B) of Revised Code Section 3715.64, to wit: the label for Prescription No. 48443 did not include the name of the distributor of the generic drug dispensed.
- (20) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (B) of Revised Code Section 3715.64, to wit: the label for Prescription No. 35551 did not include the name of the distributor of the generic drug dispensed.
- (21) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (B) of Revised Code Section 3715.64, to wit: the label for Prescription No. 22427 did not include the name of the distributor of the generic drug dispensed.
- (22) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did violate Sections 3715.52(A) and 3715.64(A)(1) of the Revised Code; in that, Mr. Frantz sold, held, or offered for sale a misbranded drug, to wit: Furosemide-40mg tablets, a drug product which did not have an effective application under Section 505 of the Federal Food, Drug, and Cosmetic Act, that was purchased from The Bioline Laboratories, Inc. on November 14, 1980.
- (23) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz is guilty of gross immorality, and dishonesty and unprofessional conduct in the practice of pharmacy, to wit:
  - (a) In 1981, the corporation which owns and operates The Medicine Shoppe pharmacies in Findlay, Fremont, and Tiffin, Ohio, and in which Mr. Frantz is an officer, was found by the Ohio Department of Public Welfare to have obtained approximately \$10,147.00 by fraudulent billings for prescriptions paid for by Medicaid.
  - (b) In 1980, the corporation which owns and operates The Medicine Shoppe pharmacies in Findlay, Fremont, and Tiffin, Ohio, and in which Mr. Frantz is an officer, was found by representatives of Blue Cross/Blue Shield to have obtained approximately \$10,248.00 by fraudulent billings for prescriptions paid for by the Prescription Drug Services Program of Blue Cross.
- (24) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, on or about July 23, 1980 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$19.47 by fraudulently billing the Ohio Department of Public Welfare for the Mycolog Cream dispensed pursuant to Prescription No. 53834.

- (25) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, on or about March 15, 1978 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$5.62 by fraudulently billing the Ohio Department of Public Welfare for 100 capsules of Quibron when only 20 were prescribed and dispensed pursuant to Prescription No. 9764.
- (26) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, between the dates of October 2, 1979 and May 7, 1980 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$9.84 by fraudulently billing the Ohio Department of Public Welfare for 100 tablets of Aldomet-250mg when only 60 were prescribed and dispensed pursuant to Prescription No. 40991.
- (27) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, on or about February 22, 1979 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$8.50 by fraudulently billing the Ohio Department of Public Welfare for 100 capsules of Hydroxyzine Pamoate when only 30 capsules were prescribed and dispensed pursuant to Prescription No. 27041.
- (28) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, on or about February 22, 1979 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$6.46 by fraudulently billing the Ohio Department of Public Welfare for 75 grams of Aristocort Cream-0.1% when only 15 grams were prescribed and dispensed pursuant to Prescription No. 27040.
- (29) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, on or about June 28, 1978 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$9.79 by fraudulently billing the Ohio Department of Public Welfare for 100 tablets of Rautrax when only 30 tablets were prescribed and dispensed pursuant to Prescription No. 11743.
- (30) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, between the dates of February 17, 1978 and April 28, 1978 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$40.00 by fraudulently billing the Ohio Department of Public Welfare for 100 tablets of Elavil-100mg when only 30 tablets were prescribed and dispensed pursuant to Prescription No. 10683 on February 17, 1978 and March 15, 1978.

- (31) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, between the dates of December 7, 1978 and January 25, 1979 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$22.00 by fraudulently billing the Ohio Department of Public Welfare for 100 tablets of Limbitrol-10/25 when only 30 tablets were prescribed and dispensed pursuant to Prescription No. 25950 on December 7, 1978 and December 18, 1978.
- (32) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, between the dates of May 9, 1978 and August 1, 1978 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$33.84 by fraudulently billing the Ohio Department of Public Welfare for 100 capsules of Indocin-25mg when only 40 capsules were prescribed and dispensed pursuant to Prescription No. 15027 on May 9, 1978, May 17, 1978, May 26, 1978, June 5, 1978, June 13, 1978, and June 22, 1978.
- (33) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did, between the dates of May 9, 1978 and August 1, 1978 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, obtain approximately \$12.30 by fraudulently billing the Ohio Department of Public Welfare for 100 capsules of Propoxyphene HCl-65mg when only 30 capsules were prescribed and dispensed pursuant to Prescription No. 15028 on May 9, 1978, May 17, 1978, May 26, 1978, June 5, 1978, June 13, 1978, and June 22, 1978.
- (34) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did knowingly make false statements on prescriptions required by Chapter 3719. of the Revised Code; in that, the only quantity recorded on the following prescriptions by Mr. Frantz as the dispensing pharmacist were quantities greater than that prescribed, to wit:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity Prescribed</u>	<u>Dates Dispensed</u>	<u>Quantity Recorded</u>
24504	Darvocet-N100	60	11/09/78	100
"	"	60	12/01/78	100
"	"	60	12/28/78	100
"	"	60	04/26/79	100
33771	Darvocet-N100	60	05/07/79	100
47587	Librium-25	30	02/07/80	125
"	"	30	02/09/80	125
11530	Librium-25	50	03/06/78	100
"	"	50	04/26/78	100
15904	Librium-25	20	05/24/78	100
"	"	20	06/13/78	100
22603	Tylenol-#3	25	10/09/78	100
47349	Darvocet-N100	20	02/04/80	100

Such conduct is prohibited by Section 2925.23(A) of the Revised Code.

- (35) From the evidence presented, the State Board of Pharmacy finds that, between the dates of July 30, 1983 and May 14, 1984, sales of Schedule II controlled substances and prescription drugs were made at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, in amounts equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in that, approximately 403 tablets of Percodan, approximately 152 tablets of Dilaudid-4mg, and approximately 149 tablets of Dilaudid-2mg were sold without a prescription. Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (36) From the evidence presented, the State Board of Pharmacy finds that, between the dates of July 30, 1983 and May 14, 1984, sales of a Schedule II controlled substance and prescription drug were made at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, in amounts equal to or exceeding the bulk amount but in amounts less than three times that amount as defined in Section 2925.01 of the Revised Code; in that, approximately 83 capsules of Tylox were sold without a prescription. Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(5) of the Revised Code.
- (37) From the evidence presented, the State Board of Pharmacy finds that, between the dates of July 30, 1983 and May 14, 1984, sales of a Schedule II controlled substance and prescription drug were made at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, in amounts less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code; in that, approximately 115 tablets of Demerol-50mg were sold without a prescription. Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.
- (38) From the evidence presented, the State Board of Pharmacy finds that, between the dates of May 2, 1983 and April 30, 1984, sales of Schedule II controlled substances and prescription drugs were made at The Medicine Shoppe, 465 W. Perry Street, Tiffin, Ohio 44883, in amounts equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in that, approximately 922 tablets of Percodan, approximately 777 capsules of Tylox, approximately 630 tablets of Percocet, and approximately 592 tablets of Demerol-50mg were sold without a prescription. Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(7) of the Revised Code.

- (39) From the evidence presented, the State Board of Pharmacy finds that, between the dates of May 2, 1983 and April 30, 1984, sales of a Schedule II controlled substance and prescription drug were made at The Medicine Shoppe, 465 W. Perry Street, Tiffin, Ohio 44883, in amounts equal to or exceeding the bulk amount but in amounts less than three times that amount as defined in Section 2925.01 of the Revised Code; in that, approximately 100 tablets of Demerol-100mg were sold without a prescription. Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(5) of the Revised Code.
- (40) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz did misbrand a drug, in violation of Division (A)(11)(d) of Revised Code Section 3715.64, to wit: Prescription No. 94655 and 94656 were dispensed on September 15, 1982 at The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840, with a drug other than that prescribed.
- (41) From the evidence presented, the State Board of Pharmacy finds that James Michael Frantz, as an officer of the corporation owning and doing business as The Medicine Shoppe, 406 Tiffin Avenue, Findlay, Ohio 45840; 465 W. Perry Street, Tiffin, Ohio 44883; and 824 State Street, Fremont, Ohio 43420, did not keep records of all controlled substances received or dispensed; in violation of the provisions of Section 3719.07 of the 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 (41) 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 (41) 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 (3) through (22) and (34) through (41) constitutes willful violations of the provisions of Chapters 2925., 3715., 3719., and 4729. of the Revised Code.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-09681, of James Michael Frantz:

- (A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the identification card held by James Michael Frantz.

(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the identification card held by James Michael Frantz.

(C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of five thousand dollars (\$5,000.00), due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43266-0320, with the enclosed form.

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: April 1, 1976

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

FZW/sb

cc/John E. Breen, Assistant Attorney General  
William J. Brown & R. Kevin Kerns; 2500, One Nationwide Plaza;  
P. O. Box 15039; Columbus, Ohio 43215