

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-020614-062)

In The Matter Of:

BETTY JEAN MINCH, R.Ph.

110 Edwin Avenue, S.E.

Massillon, Ohio 44646

(R.Ph. No. 03-1-12312)

INTRODUCTION

THE MATTER OF BETTY JEAN MINCH CAME FOR HEARING ON AUGUST 7, 2002, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: DIANE C. ADELMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

BETTY JEAN MINCH WAS REPRESENTED BY EUGENE F. McSHANE AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

David Gallagher, Ohio State Board of Pharmacy

Respondent's Witnesses

Betty Jean Minch, R.Ph., Respondent

State's Exhibits

1. Notice of Opportunity for Hearing letter [06-14-02]
1A-1E. Procedurals
2. Rx 03114 289578 [09-17-01]
3. Rx 03114 289599 [09-18-01]
4. Rx 03114 289720 [09-18-01]
5. Rx 03114 289992 [09-21-01]
6. Rx 03114 289994 [09-21-01]
7. Rx 03114 290036 [09-21-01]
8. Rx 03114 290069 [09-21-01]
9. Rx 03114 290126 [09-21-01]
10. Rx 03114 290129 [09-21-01]
11. Rx 03114 290135 [09-22-01]
12. Rx 03114 291245 [10-01-01]
13. Rx 03114 298369 [11-26-01]
14. Rx 03114 306036 [01-25-02]
15. Rx 03114 306202 [01-25-02]
16. Rx 03114 306281 [01-26-02]
17. Rx 03114 307291 [02-04-02]

- 18. Written Statement by Respondent [02-26-02]
- 19. Customer History Report of Betty Minch [02-25-02]

Respondent's Exhibits

- A. Continuing Pharmaceutical Education Certificates [02-26-02 to 03-07-02]
- B. Complaint For Divorce, Betty Minch vs. Mark Minch, Case No. 2002DR00965, Stark County Common Pleas Court [07-03-02]
- C. Letter from Larry P. Iorio [07-23-02]
- D. Letter from Steven E. Connelly, M.D. [07-23-02]
- E. Letter from Stephanie Bradford, ACSW, LISW [08-01-02]

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 State Board of Pharmacy indicate that Betty Jean Minch was originally licensed by the State of Ohio as a pharmacist, pursuant to examination, on March 6, 1978. On September 18, 2001, the Ohio State Board of Pharmacy received an Application for License Renewal as a Pharmacist from Betty Jean Minch; however, Ms. Minch's license to practice pharmacy in Ohio had expired as of September 15, 2001.

(2) Betty Jean Minch did, on or about the following dates, while not being a registered pharmacist or pharmacy intern, dispense medication, to wit: after allowing her license to practice pharmacy to lapse, and prior to its renewal, Betty Jean Minch dispensed the following prescriptions:

| <u>Rx#</u> | <u>Dispensed</u> |
|--------------|------------------|
| 03114 289578 | 09/17/01 |
| 03114 289599 | 09/18/01 |
| 03114 289720 | 09/18/01 |
| 03114 289992 | 09/21/01 |
| 03114 289994 | 09/21/01 |
| 03114 290036 | 09/21/01 |
| 03114 290069 | 09/21/01 |
| 03114 290126 | 09/21/01 |
| 03114 290129 | 09/21/01 |
| 03114 290135 | 09/22/01 |
| 03114 291245 | 10/01/01 |
| 03114 298369 | 11/26/01 |
| 03114 306036 | 01/25/02 |
| 03114 306202 | 01/25/02 |
| 03114 306281 | 01/26/02 |
| 03114 307291 | 02/04/02 |

Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

(3) Betty Jean Minch is impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Betty Jean Minch admitted to a Board agent that, due to a severe depression, she was unable to complete her continuing pharmacy education requirements and her 2002 license renewal; and that she was having personal problems and had a hard time functioning.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) and (3) 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) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy takes the following actions in the matter of Betty Jean Minch:

(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 approves the issuance of a renewal pharmacist identification card, No. 03-1-12312, to Betty Jean Minch to practice pharmacy in Ohio and places Betty Jean Minch on probation for two years from the date the identification card is issued, with the following conditions:

(1) Betty Jean Minch must obtain, within sixty days after the effective date of this Order, a full psychiatric evaluation by a licensed psychiatrist. The psychiatrist must provide an initial status report, which includes the recommended treatment plan, to the Board and to her physician within ten days after completing the assessment.

(2) Betty Jean Minch must continue to follow the treatment plan, with counseling, set forth by Steven E. Connelly, M.D. or another program acceptable to the Board.

(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 imposes a monetary penalty of one hundred dollars (\$100.00) on Betty Jean Minch and payment of the monetary penalty is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Betty Jean Minch's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) Betty Jean Minch may not serve as a responsible pharmacist.

(3) Betty Jean Minch may not work in a pharmacy more than forty hours per week during the first year of probation.

(4) Betty Jean Minch must not violate the drug laws of the state of Ohio, any other state, or the federal government.

(5) Betty Jean Minch must abide by the rules of the State Board of Pharmacy.

(6) Betty Jean Minch must comply with the terms of this Order.

Betty Jean Minch is hereby advised that 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 (Aye-5/Nay-2).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE SEPTEMBER 19, 2002