



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-911001-055)

In The Matter Of:

JAMES WILLIAM HART, R.Ph.
2708 Thoman
Toledo, Ohio 43613
(R.Ph. No. 03-1-12793)

Introduction

THE MATTER OF JAMES WILLIAM HART CAME TO HEARING ON DECEMBER 13, 1991 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: BETTY J. NICHOL, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; PAUL F. LAMPING, R.Ph.; NORMAN D. LEIBOW, R.Ph.; TIMOTHY D. MOORE, R.Ph.; RUTH A. PLANT, R.Ph.; AND JOSEPH R. SABINO, R.Ph.

JAMES WILLIAM HART WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY VORHES ASSISTANT ATTORNEY GENERAL.

Summary Of Evidence

(A) Testimony

State's Witnesses:

- (1) James William Hart, Respondent
- (2) Tim Benedict, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) James William Hart, Respondent
- (2) Calvin Helmick, Rite Aid Discount Pharmacy

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Three-page Notice of Opportunity letter for James William Hart dated October 1, 1991; three-page Consent Agreement for James William Hart; and monetary penalty form for James William Hart.
- (2) Exhibit B - Three-page Notice of Opportunity letter for Rite Aid Discount Pharmacy #2328 dated October 1, 1991; three-page Consent Agreement for Rite Aid Discount Pharmacy #2328; and monetary penalty form for Rite Aid Discount Pharmacy #2328.

- (3) Exhibit C - Notice of Appearance and Request for Hearing letter in the matter of James W. Hart dated October 21, 1991; Notice of Appearance and Request for Hearing letter in the matter of Rite Aid Discount Pharmacy #2328; and three-page copy of Notice of Opportunity letter for Rite Aid Discount Pharmacy #2328 dated October 1, 1991.
- (4) Exhibit D - Schedule letter for James W. Hart and Rite Aid Discount Pharmacy #2328 dated October 24, 1991.
- (5) Exhibit 1 - Renewal Application for Pharmacist License Number 03-1-12793 of James William Hart, to practice pharmacy in Ohio from September 15, 1991 to September 15, 1992 dated August 5, 1991.
- (6) Exhibit 2 - Renewal Application for Pharmacist License Number 03-21-2793 of James Wm. Hart, to practice pharmacy in Ohio from September 15, 1981 to September 15, 1982 dated November 29, 1981.
- (7) Exhibit 2A - Renewal Application for Pharmacist License Number 03-1-12793 of James William Hart, to practice pharmacy in Ohio from September 15, 1989 to September 15, 1990 dated July 26, 1990; and bottom half of same renewal application showing payment dates.
- (8) Exhibit 3 - Three prescriptions numbered as follows: 299732, 299728, and 300520.
- (9) Exhibit 4A - Four prescriptions numbered as follows: 038178, 038171, 038121, and 038089.
- (10) Exhibit 5 - Copy of Draft, Modified Renewal Fee for a License to Practice Pharmacy in Ohio from September 15, 1989 to September 15, 1990, explaining extra fee due to budget bill.
- (11) Exhibit 6 - Continuing education form of James W. Hart dated December 1, 1981.
- (12) Exhibit 7 - Continuing education form of James Hart dated December 24, 1981.

Respondent's Exhibits:

- (1) Exhibit 1 - Copy of check number 1175 of James W. Hart dated August 19, 1989.
- (2) Exhibit 2 - Copy of check number 1204 of James W. Hart dated November 17, 1989.
- (3) Exhibit 3 - Copy of check number 1220 of James W. Hart dated December 25, 1989.
- (4) Exhibit 4 - Copy of check number 1227 of James W. Hart dated January 9, 1990.

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board indicate that James William Hart was initially registered as a pharmacist in Ohio pursuant to examination on May 4, 1979 and is currently licensed to practice pharmacy.
- (2) From the evidence presented, the State Board of Pharmacy finds that James William Hart failed to renew his identification card on the fifteenth day of September, 1989 as required by Section

4729.12 of the Ohio Revised Code, to wit: James William Hart did not renew until January 3, 1990.

- (3) From the evidence presented, the State Board of Pharmacy finds that James William Hart failed to renew his identification card on the fifteenth day of September, 1981 as required by Section 4729.12 of the Ohio Revised Code, to wit: James William Hart did not renew until December 9, 1981.
- (4) From the evidence presented, the State Board of Pharmacy finds that James William Hart did, between December 2, 1989 and January 3, 1990 while practicing pharmacy at Rite Aid Pharmacy, 5821 Central, Toledo, Ohio 43615, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern, to wit: after allowing his license to lapse and prior to its renewal, James William Hart dispensed dangerous drugs pursuant to prescriptions:

<u>Date Filled</u>	<u>Rx. No.</u>	<u>Drug</u>
12/08/89	299732	Talwin 50mg
12/08/89	299728	Phenergan/Codeine
12/27/89	300520	Percocet

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

- (5) From the evidence presented, the State Board of Pharmacy finds that James William Hart did, between September 16, 1981 and December 9, 1981 while practicing pharmacy at Lane Drug, 3361 Navarre, Oregon, Ohio 43606, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or pharmacy intern, to wit: after allowing his license to lapse and prior to its renewal, James William Hart dispensed dangerous drugs pursuant to prescriptions. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

Conclusion Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) 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 any of the provisions of Sections 3715.52 to 3715.72 or 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 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-12793, held by James William Hart:

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Order of the Board

(A) On the basis of the Conclusion Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of five hundred dollars (\$500.00).

(B) Further, the Board will suspend \$400.00 of the monetary penalty on condition that James William Hart does not further violate any laws under Chapter 4729. of the Ohio Revised Code. The \$100.00 monetary penalty that was not suspended is due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed form.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY
(Aye-6/Nay-0).

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.

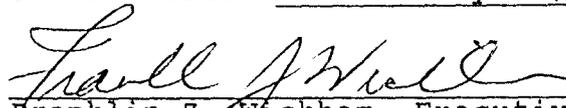
BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
#P 749 728 841

ORDER MAILED: January 31, 1992

FZW/so

By


Franklin Z. Wickham, Executive Director

cc: Ronda Anderson, Assistant Attorney General
David W. Grauer; Squire, Attorney for Respondent; Sanders & Dempsey;
Huntington Center; 41 S. High Street; Columbus, Ohio 43215