



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
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THE STATE BOARD OF PHARMACY
(Docket No. D-880307-140)

In The Matter Of:

DOUGLAS SHAWN CARPENTER, R.Ph.
P. O. Box 95
Powhatan Point, Ohio 43942

INTRODUCTION

THE MATTER OF DOUGLAS SHAWN CARPENTER CAME TO HEARING ON JUNE 29, 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.; ROBERT VALENTINE, R.Ph.; JEROME WIESENHahn, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

DOUGLAS SHAWN CARPENTER WAS REPRESENTED BY THOMAS M. MYERS, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Dana Hutchison, Board of Pharmacy
- (2) Tim Curry, Peoples Drug

Respondent's Witnesses:

- (1) Gary Rutherford, Pharmacist Rehabilitation Organization, Inc.
- (2) Douglas S. Carpenter
- (3) Regina Renee Carpenter

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity dated March 7, 1988 in the matter of Douglas Shawn Carpenter.
- (2) Exhibit B - Letter requesting hearing dated March 31, 1988.
- (3) Exhibit C - Hearing schedule letter dated April 8, 1988.
- (4) Exhibit 1 - Application for annual license renewal as a pharmacist for licensure year 1987-1988.

- (5) Exhibit 2 - Journal Entry from Belmont County Common Pleas Court.
- (6) Exhibit 3 - Accountability statement showing 243 ounce shortage of Tussend Liquid.
- (7) Exhibit 4 - Accountability statement showing 166 ounce shortage of Hycodan Liquid.
- (8) Exhibit 5 - Accountability statement showing 74 ounce shortage of Tussionex Liquid.
- (9) Exhibit 6 - Accountability statement showing 39 ounce shortage of Hycomine Liquid.
- (10) Exhibit 7 - Accountability statement showing 22 ounce shortage of Hycotuss Liquid.
- (11) Exhibit 8 - Accountability statement showing 12 ounce shortage of Tussend Expectant (sic) Liquid.
- (12) Exhibit 9 - Accountability statement showing 159 capsule shortage of Synalgas (sic) D.C.
- (13) Exhibit 10 - Accountability statement showing 76 tablet shortage of Vicodan. (sic)
- (14) Exhibit 11 - Accountability statement showing 24 tablets shortage of Tussionex.
- (15) Exhibit 12 - Rx #1372 for Syrup of Hycodan.
- (16) Exhibit 13 - Statement of Douglas Carpenter dated November 5, 1987.
- (17) Exhibit 14 - Statement of George Drake dated January 20, 1988.
- (18) Exhibit 15 - Video tape.
- (19) Exhibit 16 - Video tape.

Respondent's Exhibits:

- (1) Exhibit 17 - Letter dated June 14, 1988 from Robert K. Edmundson, Substance Abuse Specialist, Northern Panhandle Behavioral Health Center, Inc.; Letter dated May 17, 1988 from Russell Taylor, Northern Panhandle Behavioral Health Center, Inc.; Letter from Ron Maclay; Attendance slips from A.A. and N.A.; Drug Screen Reports.
- (2) Exhibit 18 - Letter dated March 10, 1988 from Rev. Dennis Hancock.
- (3) Exhibit 19 - Letter dated February 19, 1988 from Nelson Naiman, R.Ph.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that the records of the Board reflect the fact that Douglas Shawn Carpenter has practiced pharmacy at Peoples Drug, 901 E. Main Street, Barnesville, Ohio 43717 since November 11, 1986.
- (2) From the evidence presented, the State Board of Pharmacy finds that, on or about January 4, 1988, Douglas Shawn Carpenter was found guilty by the Belmont County Court of Common Pleas of one count of Theft of Drugs (O.R.C. Section 2925.21), a felony of the fourth degree.

- (3) From the evidence presented, the State Board of Pharmacy finds that Douglas Shawn Carpenter did, between the dates of November 11, 1986 and November 23, 1987 while practicing pharmacy at Peoples Drug, 901 E. Main Street, Barnesville, Ohio 43717, obtain the following dangerous drugs and controlled substances by committing a theft offense as defined in Section 2913.01 of the Ohio Revised Code: approximately 7,770ml of Tussend Liquid, approximately 4,980ml of Hycodan Liquid, approximately 2,220ml of Tussionex Liquid, approximately 1,170ml of Hycomine Liquid, and 660ml of Hycotuss Liquid. Each of these drugs are dangerous drugs and Schedule III controlled substances in amounts greater than three times the bulk amount as that term is defined in Division (E) of Section 2925.01 of the Ohio Revised Code. Such conduct is prohibited by Section 2925.21 of the Ohio Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Douglas Shawn Carpenter did, between the dates of November 11, 1986 and November 23, 1987 while practicing pharmacy at Peoples Drug, 901 E. Main Street, Barnesville, Ohio 43717, obtain the following dangerous drugs and controlled substances by committing a theft offense as defined in Section 2913.01 of the Ohio Revised Code: approximately 360ml of Tussend Expectorant Liquid, approximately 159 capsules of Synalgos D.C., and approximately 76 tablets of Vicodin. Each of these drugs are dangerous drugs and Schedule III controlled substances in amounts less than a bulk amount as that term is defined in Division (E) of Section 2925.01 of the Ohio Revised Code. Such conduct is prohibited by Section 2925.21 of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Douglas Shawn Carpenter did, between the dates of November 11, 1986 and November 23, 1987 while practicing pharmacy at Peoples Drug, 901 E. Main Street, Barnesville, Ohio 43717, obtain the following dangerous drugs and controlled substances by committing a theft offense as defined in Section 2913.01 of the Ohio Revised Code: approximately 24 tablets of Tussionex. This drug is a dangerous drug and Schedule III controlled substance in an amount less than the minimum bulk amount as that term is defined in Division (E) of Section 2925.01 of the Ohio Revised Code. Such conduct is prohibited by Section 2925.21 of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Douglas Shawn Carpenter did, on or about October 11, 1987 and October 24, 1987 while practicing pharmacy at Peoples Drug, 901 E. Main Street, Barnesville, Ohio 43717, obtain the following dangerous drugs and controlled substances by deception as that term is defined in Section 2913.01 of the Ohio Revised Code, and knowingly make a false statement in a prescription record required by Chapter 3719. of the Ohio Revised Code, to wit:

Douglas Shawn Carpenter made a false record of dispensing 180ml of Syrup of Hycodan on October 11, 1987 and October 24, 1987 to a patient for whom the drug was prescribed (Rx No. 1372). Such conduct is prohibited by Sections 2925.22 and 2925.23 of the Ohio Revised Code.

- (7) From the evidence presented, the State Board of Pharmacy finds that Douglas Shawn Carpenter did, between the dates of November 11, 1986 and November 23, 1987 while practicing pharmacy at Peoples Drug, 901 E. Main Street, Barnesville, Ohio 43717, knowingly obtain, possess, and use controlled substances in violation of Chapters 3719. and 4729. of the Ohio Revised Code. Such conduct is prohibited by Section 2925.11 of the Ohio Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that Douglas Shawn Carpenter is addicted to or abusing drugs to such a degree as to render him unfit to practice pharmacy, in that on or about October 13, 1987 and October 24, 1987, Douglas Shawn Carpenter was videotaped by the Security Department of Peoples Drugs where he consumed Tussend in the pharmacy. Mr. Carpenter also admitted to employees of Peoples Drugs, the State Board of Pharmacy, and Deputy Fred Thompson of the Belmont County Sheriff's Department that the drugs which he obtained by theft were for his own and his wife's personal consumption.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (2) of the Findings Of Fact constitutes being guilty of a felony.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (8) of the Findings Of Fact constitutes gross immorality.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (3) through (8) of the Findings Of Fact constitutes dishonesty and unprofessional conduct in the practice of pharmacy.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (3) through (8) of the Findings Of Fact constitutes being addicted to and abusing drugs to such a degree as to render him unfit to practice pharmacy.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (3) through (8) of the Findings Of Fact constitutes willful violations of Chapters 2925., 3715., 3719., and 4729. of the Ohio Revised Code.

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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. 03-1-13582, held by Douglas Shawn Carpenter:

(A) On the basis of paragraphs (1) through (5) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Douglas Shawn Carpenter for 72 months effective December 14, 1987.

(B) Further, the Board will suspend 60 months of the 72-month suspension provided Douglas Shawn Carpenter enters into and complies with all provisions of a 60-month contract with Pharmacist Rehabilitation Organization, Inc. This contract shall contain a provision that requires P.R.O., Inc. to report any violations of any provisions of the contract immediately to the Board.

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

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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.

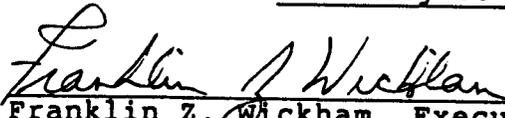
BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt

ORDER ISSUED: August 22, 1988

FZW/sb

By


Franklin Z. Wickham, Executive Director

cc: Christopher Costantini, Assistant Attorney General
Thomas M. Myers, Attorney For Respondent