



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-880517-222)

In The Matter Of:

JAMES RICHARD ROMANOWSKI
701 30th Street
Huntington, West Virginia 25702

INTRODUCTION

THE MATTER OF JAMES RICHARD ROMANOWSKI CAME TO HEARING ON SEPTEMBER 27, 1988 AND JANUARY 26, 1989 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JEROME WIESENHAHN, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

JAMES RICHARD ROMANOWSKI WAS REPRESENTED BY ROGER L. CLARK, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) James Tudor - Board of Pharmacy

Respondent's Witnesses:

- (1) James Richard Romanowski - Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated May 17, 1988.
- (2) Exhibit B - Request for Hearing letter dated June 2, 1988.
- (3) Exhibit C - Hearing Schedule letter dated June 7, 1988.
- (4) Exhibit D - Change of Address notice from Board of Pharmacy and change of place of hearing letter dated September 1, 1988.
- (5) Exhibit E - Schedule letter for date hearing was to reconvene dated October 28, 1988.
- (6) Exhibit F - Hearing Continuance Request letter dated December 2, 1988.

- (7) Exhibit G - Hearing Schedule letter dated December 5, 1988.
- (8) Exhibit 1 - Application for Examination as Pharmacist from James Richard Romanowski.
- (9) Exhibit 2 - Previous Board Order for James R. Romanowski, R.Ph. dated November 13, 1985. Identical to Exhibit #5.
- (10) Exhibit 3 - Investigator Summary for James Romanowski.
- (11) Exhibit 4 - Notice of Opportunity letter dated August 30, 1985.
- (12) Exhibit 5 - Previous Board Order for James R. Romanowski, R.Ph. dated November 13, 1985. Identical to Exhibit #2.
- (13) Exhibit 6 - Letter from John R. Stevenson, Assistant Prosecuting Attorney from Scioto County dated July 17, 1985, and certified copy of the waiver of rights signed by James R. Romanowski.

Respondent's Exhibits:

- (1) Exhibit A - Polygraph Report for James R. Romanowski dated February 27, 1985 and signed by Guy E. Kerfoot, A.C.P., President.
- (2) Exhibit B - Discharge Summary from the Charleston Area Medical Center for patient James Romanowski dated December 20, 1984.
- (3) Exhibit C - Letter by Carlton H. Hager dated September 20, 1988; letter by Nanci Dragovich, MA, CAC; letter by Bob Bailey, Sheriff dated September 19, 1988; letter by H. E. Powell dated September 20, 1988; letter by Edward H. Diehl dated September 20, 1988; and letter by Joseph M. Farrell dated September 22, 1988.
- (4) Exhibit D - Probation Report for James R. Romanowski submitted by John W. Whittle, State Probation Officer.
- (5) Exhibit E - Letter from Roger L. Clark, Attorney for the Respondent dated September 30, 1988.
- (6) Exhibit F - Letter from Michael B. Crabtree, Chief Probation Officer dated September 30, 1988.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that, on November 13, 1985, the Board made the following Findings Of Fact:
 - (a) James Richard Romanowski was found guilty of a felony on July 9, 1985 by the Scioto County Court of Common Pleas, to wit: 100 tablets of Valium-5mg, a Schedule IV controlled substance and prescription drug, was obtained by committing a theft offense; in violation of Section 2925.21 of the Revised Code.
 - (b) James Richard Romanowski did, on or about May 10, 1984, obtain or attempt to obtain dangerous drugs without the consent or beyond the scope of the consent given by the owner, Revco Discount Drug Center, Chesapeake Shopping Center, Chesapeake, Ohio 45619, to wit: approximately 100 tablets of Brethine-5mg, approximately 200 tablets of Cardizem-30mg, approximately 500 tablets of Catapres-1mg, approximately 166 capsules of Feldene-20mg, approximately 455 tablets of Flagyl-250mg, approximately 98 tablets of

Fulvicin U/F-500mg, approximately 100 tablets of Haldol-2mg, approximately 200 tablets of Isordil-20mg, approximately 100 capsules of Keflex-250mg, approximately 100 capsules of Reflex-500mg, approximately 100 tablets of Limbitrol - 5-12.5, approximately 100 capsules of Lopid-300mg, approximately 83 tablets of Megace-40mg, approximately 60 tablets of Nolvadex-10mg, approximately 100 tablets of Norpramin-50mg, approximately 100 tablets of Procan SR, approximately 300 capsules of Procardia, approximately 300 tablets of Tagamet-300mg, approximately 200 tablets of Tegretol-200mg, approximately 100 tablets of Tenormin-50mg, approximately 10ml of Timoptic-0.5%, approximately 15ml of Timoptic-0.5%, approximately 100 tablets of Tofranil-PM-75mg, approximately 100 tablets of Tolectin-200mg, approximately 50 capsules of Vibramycin-100mg, and approximately 100 tablets of Wytensin-4mg.

- (c) James Richard Romanowski did willfully and knowingly fail to maintain complete and accurate records of all controlled substances received or dispensed in compliance with federal laws and regulations and state laws and rules, to wit: between the dates of May 1, 1983 and May 22, 1984, he was employed as the pharmacist-in-charge of Revco Discount Drug Centers, Inc., 923 Third Avenue, Huntington, West Virginia, and available records at said pharmacy documented the following shortages of Schedule II controlled substances:

| <u>Drug</u> | <u>Doses Short</u> | <u>Percentage</u> |
|--------------------|--------------------|-------------------|
| Biphetamine-20 | 152 | 61% |
| Desoxyn-5mg | 23 | 30% |
| Eskatrol Spansules | 31 | 100% |
| Nembutal-100mg | 25 | 22% |
| Percocet-5 | 133 | 27% |
| Percodan | 431 | 63% |
| Percodan-demi | 15 | 100% |
| Ritalin-5mg | 137 | 35% |
| Ritalin-20mg | 611 | 28% |
| Dilaudid-4mg | 200 | 100% |

Failure to maintain records accounting the disposition of these drugs is in violation of Section 304.04 and Article 13, Section 304.21 of the rules and regulations of the West Virginia Board of Pharmacy, as well as Part 1304 of Title 21 of the Code of Federal Regulations.

- (d) James Richard Romanowski was guilty of dishonesty in the practice of pharmacy; in that:
- (i) he did obtain dangerous drugs without the consent or beyond the consent given by the owner, various Revco Discount Drug Stores, to wit:

| <u>Revco Store No.</u> | <u>Dangerous Drugs</u> | <u>Date</u> |
|------------------------|------------------------|-------------|
| # 480 | Decadron | 02/06/84 |
| #2905 | Keflex | 04/12/84 |
| #1020 | Valium | 05/05/80 |

(ii) he did knowingly obtain \$300.00 or more by deception from third-party prescription programs for his benefit as manager of Revco Discount Drug Store No. 1069, 923 Third Avenue, Huntington, West Virginia 25701.

- (2) From the evidence presented, the State Board of Pharmacy finds that, on November 13, 1985, the Board revoked James Richard Romanowski's pharmacist identification card to practice pharmacy in the state of Ohio.
- (3) From the evidence presented, the State Board of Pharmacy finds that the Board may refuse to grant an identification card under Section 4729.16(A) of the Revised Code, which states that the Board may refuse to grant an identification card under Chapter 4729. if the Board finds a pharmacist guilty of a felony or gross immorality.
- (4) From the evidence presented, the State Board of Pharmacy finds that, pursuant to Section 4729.08 of the Revised Code, every applicant for examination and registration as a pharmacist shall be of good moral character and habits.

CONCLUSION 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) and (2) of the Findings Of Fact constitutes failure to meet the qualifications of Division (B) of Section 4729.08 of the Revised Code.

ORDER

Pursuant to Sections 4729.08 and 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby denies the application for registration by examination submitted by James Richard Romanowski.

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.

JAMES RICHARD ROMANOWSKI
Page Five
Order of the Board

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-417-664-665

ORDER MAILED: MARCH 8, 1989

FZW/pw

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

cc: Christopher Costantini, Assistant Attorney General
Roger L. Clark, Attorney for Respondent

STATE BOARD OF PHARMACY

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THE STATE BOARD OF PHARMACY

VS

JAMES R. ROMANOWSKI, R.Ph.

THE MATTER OF JAMES R. ROMANOWSKI, DOCKET NO. 6-117-3, CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON WEDNESDAY, OCTOBER 2, 1985. MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

- (1) On August 30, 1985, James R. Romanowski 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 September 10, 1985, James R. Romanowski received the letter of August 30, 1985 informing him of the allegations, and his rights.
- (3) James R. Romanowski has not responded in any manner to the letter of August 30, 1985 informing him of the allegations.
- (4) Upon consideration of the allegations against James R. Romanowski and his failure to request a hearing, submit his position, contentions, or arguments in writing, or to otherwise deny the allegations, the State Board of Pharmacy finds that:
 - (a) James R. Romanowski was found guilty of a felony on July 9, 1985 by the Scioto County Court of Common Pleas, to wit: 100 tablets of Valium-5mg, a Schedule IV controlled substance and prescription drug, was obtained by committing a theft offense; in violation of Section 2925.21 of the Revised Code.
 - (b) James R. Romanowski did, on or about May 10, 1984, obtain or attempt to obtain dangerous drugs without the consent or beyond the scope of the consent given by the owner, Revco Discount Drug Center, Chesapeake Shopping Center, Chesapeake, Ohio 45619, to wit: approximately 100 tablets of Brethine-5mg, approximately 200 tablets of Cardizem-30mg, approximately 500 tablets of Catapres-1mg, approximately 166 capsules of Feldene-20mg, approximately 455 tablets of Flagyl-250mg, approximately 98 tablets of Fulvicin U/F-500mg, approximately 100 tablets of Haldol-2mg, approximately 200 tablets of Isordil-20mg, approximately 100 capsules of Keflex-250mg, approximately 100 capsules of Keflex-500mg, approximately 100 tablets of Limbitrol 5-12.5, approximately 100 capsules of Lopid-300mg, approximately 83 tablets

STATE BOARD OF PHARMACY

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- (c) James R. Romanowski did willfully and knowingly fail to maintain complete and accurate records of all controlled substances received or dispensed in compliance with federal laws and regulations and state laws and rules, to wit: between the dates of May 1, 1983 and May 22, 1984, Mr. Romanowski was employed as the pharmacist-in-charge of Revco Discount Drug Centers, Inc., 923 Third Avenue, Huntington, West Virginia, and available records at said pharmacy documented the following shortages of Schedule II controlled substances:

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Failure to maintain records accounting the disposition of these drugs is in violation of Section 304.04 and Article 13, Section 304.21 of the rules and regulations of the West Virginia Board of Pharmacy, as well as Part 1304 of Title 21 of the Code of Federal Regulations.

- (d) James R. Romanowski is guilty of dishonesty in the practice of pharmacy; in that:

- (i) Mr. Romanowski did obtain dangerous drugs without the consent or beyond the consent given by the owner, various Revco Discount Drug Stores, to wit:

| <u>Revco Store No.</u> | <u>Dangerous Drugs</u> | <u>Date</u> |
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| # 480 | Decadron | 02/06/84 |
| #2905 | Keflex | 04/12/84 |
| #1020 | Valium | 05/05/80 |

STATE BOARD OF PHARMACY

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- (ii) Mr. Romanowski did knowingly obtain \$300.00 or more by deception from third-party prescription programs for his benefit as manager of Revco Discount Drug Store No. 1069, 923 Third Avenue, Huntington, West Virginia 25701.

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 (4)(a) 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 (4)(a), (b), (c), and (d) of the Findings Of Fact constitutes gross immorality, within the meaning of Section 4729.16(A)(1) of the Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (4)(a), (b), (c), and (d) of the Findings Of Fact constitutes dishonesty and unprofessional conduct in the practice of pharmacy, within the meaning of Section 4729.16(B) of the Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (4)(a), (b), and (c) of the Findings Of Fact constitutes willful violation 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 held by James R. Romanowski, R.Ph. No. 03-1-13654:

- (A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by James R. Romanowski.
- (B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by James R. Romanowski.
- (C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by James R. Romanowski.
- (D) On the basis of paragraph (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by James R. Romanowski.

STATE BOARD OF PHARMACY

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.