



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-931227-036)

In The Matter Of:

**SAMUEL L. ROTUNNA**

7150 Springdale Drive

Brookfield, Ohio 44403

(Pharmacy Intern No. 06-0-00650)

### INTRODUCTION

THE MATTER OF SAMUEL L. ROTUNNA CAME TO HEARING ON SEPTEMBER 27, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

SAMUEL L. ROTUNNA WAS REPRESENTED BY JULIE M. LYNCH AND DENNIS B. EHRIE, AND THE STATE OF OHIO WAS REPRESENTED BY ANNE BERRY STRAIT, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) George Pavlich, Ohio State Board of Pharmacy
- (2) Samuel L. Rotunna, Respondent

Respondent's Witnesses:

- (1) Samuel L. Rotunna, Respondent
- (2) Gina Palumbo, R.Ph.
- (3) Terry Malone, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Notice of Opportunity letter dated December 27, 1993.
- (2) Exhibit 1A - Hearing Request letter dated January 3, 1994.
- (3) Exhibit 1B - Hearing Schedule letter dated January 6, 1994.

- (4) Exhibit 1C - Hearing Schedule letter dated January 6, 1994, and mailed January 28, 1994.
- (5) Exhibit 2 - Intern File Front Sheet of Samuel L. Rotunna showing original date of registration as April 9, 1991; and Renewal Application for Intern License, No. 06-0-00650, of Samuel L. Rotunna dated August 21, 1993.
- (6) Exhibit 3 - Application for Examination as a Pharmacist of Samuel Lawrence Rotunna received on December 17, 1993.
- (7) Exhibit 4 - Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on June 27, 1993, through July 18, 1993; Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on July 25, 1993, through August 8, 1993; Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on August 14, 1993, through September 4, 1993; and Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on September 25, 1993, through December 4, 1993.
- (8) Exhibit 5 - Statement of Preceptor of Samuel L. Rotunna, signed by Preceptor James P. Sommerfeld on May 15, 1991.
- (9) Exhibit 6 - Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on September 19, 1992, through December 26, 1992; and Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on January 2, 1993, through January 30, 1993.
- (10) Exhibit 7 - Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on February 5, 1993, through May 14, 1993.
- (11) Exhibit 8 - Handwritten statement of Renee Marie Gerasimek, R.Ph. signed and notarized on August 12, 1993.
- (12) Exhibit 9 - Handwritten statement of Betty Johnson signed and notarized on August 12, 1993.
- (13) Exhibit 10 - Two-page handwritten statement of James P. Sommerfeld signed and notarized on August 16, 1993.
- (14) Exhibit 11 - Ten-page Payroll Employee Check Display of Company 001, Greenwood Pharmacy, Inc. of Samuel L. Rotunna.
- (15) Exhibit 12 - Copy of calendars for the years of 1991, 1992, and 1993.
- (16) Exhibit 13 - Two-page Dangerous Drug Distributor Inspection Report of Greenwood Pharmacy, Inc., Terminal Distributor License No. 02-501300, dated August 12, 1993.
- (17) Exhibit 14 - Chart showing Samuel Rotunna's payroll date and amount of hours worked compared to affidavit dates and internship hours submitted.
- (18) Exhibit 15 - Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on September 4, 1993, through December 4, 1993; Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on December 11, 1993, through February 5, 1994; Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on December 11, 1993, through January 8, 1994; Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on February 12, 1994, through April 23, 1994; Practical Experience Affidavit of Samuel L. Rotunna for hours worked in the weeks ending on April 30, 1994, through August 6, 1994.

Respondent's Exhibits:

- (1) None

## FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Samuel L. Rotunna was originally licensed as an intern in the state of Ohio on April 9, 1991; records further indicate that the Board received Samuel L. Rotunna's application for examination as a pharmacist on December 17, 1993.
- (2) Samuel L. Rotunna did, on or about February 3, 1993, knowingly make a false statement when the statement was made with the purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, and/or registration, to wit: on two separate occasions on February 3, 1993, Samuel L. Rotunna caused his preceptor, James Sommerfeld, to swear to the accuracy of Practical Experience Affidavits regarding internship hours he allegedly worked but did not in fact do so, and Samuel L. Rotunna submitted the statement to the Board in order to satisfy requirements for licensure as an intern and pharmacist. Specifically, Samuel L. Rotunna claimed, on document #2961, that he worked 435 hours as an intern but did not in fact do so; and, Samuel L. Rotunna claimed, on document #2964, that he worked 140 hours as an intern but did not in fact do so. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (3) Samuel L. Rotunna did, on or about June 1, 1993, knowingly make a false statement when the statement was made with the purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, and/or registration, to wit: on this date, Samuel L. Rotunna caused his preceptor, James Sommerfeld, to swear to the accuracy of a Practical Experience Affidavit regarding internship hours he allegedly worked but did not in fact do so, and Samuel L. Rotunna submitted the statement to the Board in order to satisfy requirements for licensure as an intern and pharmacist. Specifically, Samuel L. Rotunna claimed, on document #9842, that he worked 352 hours as an intern but did not in fact do so. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (4) Samuel L. Rotunna has, from on or about the week ending June 27, 1993, through on or about the week ending August 6, 1994, worked a total of 2,401.25 approved internship hours.

## CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of dishonesty or unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) 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. as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

## ACTION OF THE BOARD

Pursuant to Sections 4729.08 and 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby takes the following actions concerning Samuel L. Rotunna:

- (A) The State Board of Pharmacy denies the internship hours submitted by Samuel L. Rotunna while working under Preceptor James Sommerfeld.
- (B) The State Board of Pharmacy approves the Application for Examination as a Pharmacist submitted by Samuel L. Rotunna and permits him to sit for the examination in January, 1995.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.