



OHIO STATE BOARD OF PHARMACY

65 S. Front Street, Room 504
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

03-2-05945

THE STATE BOARD OF PHARMACY
(Docket No. D-870702-002)

In The Matter Of:

EVERETT EUGENE FEICHTNER, R.Ph.
1749 Gladwin Drive
Mayfield Heights, Ohio 44124

INTRODUCTION

THE MATTER OF EVERETT EUGENE FEICHTNER CAME TO HEARING ON JANUARY 27, 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.; JEROME WIESENHAHN, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

EVERETT EUGENE FEICHTNER WAS REPRESENTED BY GALE S. MESSERMAN. NEITHER MR. FEICHTNER NOR ATTORNEY MESSERMAN WERE PRESENT AT HEARING. THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Exhibits

State's Exhibits:

- (1) Exhibit #A - Notice of Opportunity dated July 2, 1987.
- (2) Exhibit #B - Request for hearing dated July 14, 1987 from Gerald & Gale Messerman, Attorneys on behalf of Everett Eugene Feichtner.
- (3) Exhibit #C - Hearing schedule letter dated August 3, 1987.
- (4) Exhibit #D - Request for continuance dated September 16, 1987.
- (5) Exhibit #E - Hearing schedule letter dated September 24, 1987.
- (6) Exhibit #10 - Accountability statement showing 27,901 shortage of Percodan.
- (7) Exhibit #11 - Accountability statement showing 10,894 shortage of Demerol 50mg.
- (8) Exhibit #12 - Accountability statement showing 9,923 shortage of Seconal 100mg.
- (9) Exhibit #13 - Accountability statement showing 8,349 shortage of Desoxyn 15mg.
- (10) Exhibit #14 - Accountability statement showing 6,106 shortage of Demerol 100mg.
- (11) Exhibit #15 - Accountability statement showing 5,689 shortage of Preludin 75mg.

- (12) Exhibit #16 - Accountability statement showing 1,453 shortage of Dilaudid 4mg.
- (13) Exhibit #17 - Accountability statement showing 994 shortage of Tuinal 200mg.
- (14) Exhibit #18 - Accountability statement showing 840 shortage of Ritalin 20mg.
- (15) Exhibit #19 - Accountability statement showing 396 overage of Percocet-5.
- (16) Exhibit #20 - Accountability statement showing 283 shortage of Dilaudid 2mg.
- (17) Exhibit #21 - Accountability statement showing 192 shortage of Ritalin 10mg.
- (18) Exhibit #22 - Accountability statement showing 107 shortage of Tylox.
- (19) Exhibit #23 - Accountability statement showing 40 shortage of Methadone 10mg.
- (20) Exhibit #24 - Accountability statement showing 32,780 shortage of Valium 10mg.
- (21) Exhibit #25 - Accountability statement showing 22,579 shortage of Talwin NX 50mg.
- (22) Exhibit #26 - Accountability statement showing 75,390 ml (2,513 ounces) shortage of Ambenyl.
- (23) Exhibit #27 - Forensic Laboratory Report No. 229743 and No. 229742.
- (24) Exhibit #28 - Appearance and Execution Criminal Docket Case No. 206068 in Cuyahoga County.

Respondent's Exhibits:

(None)

(B) Testimony

State's Witnesses:

- (1) Detective Anita Eppinger, Cleveland Police Department.
- (2) Investigator Robert Cole, Ohio State Board of Pharmacy.

Respondent's Witnesses:

(None)

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that the records of the Board indicate that Everett Eugene Feichtner was a practicing pharmacist at University Pharmacy, 10900 Carnegie Avenue, Cleveland, Ohio 44106, Terminal Distributor of Dangerous Drugs License No. 02-080850, since approximately August 4, 1971 until approximately December 4, 1985 and have been registered as a pharmacist in Ohio since August 8, 1955.

- (2) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on or about December 4, 1985 while practicing pharmacy at University Pharmacy, 10900 Carnegie Avenue, Cleveland, Ohio, obtain the following controlled substances and dangerous drugs by committing a theft offense as defined in Section 2913.01 of the Revised Code:

<u>Drug</u>	<u>Quantity</u>
Bromanyl Syrup	480 ml
Talwin-Nx 50mg	200 tablets
Valium 10mg	132 tablets
Percodan	91 tablets
Demerol 50mg	79 tablets
Seconal 100mg	56 capsules
Aspirin with Codeine	32 tablets
Demerol 100mg	30 tablets
Preludin 75mg	29 tablets

Such conduct is prohibited by Division (A) of Section 2925.21 of the Ohio Revised Code.

- (3) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on or about December 4, 1985, without a written or oral prescription, dispense the following Schedule II controlled substances and dangerous drugs, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, to Michael Blevins and Darnell Duncan in the parking lot of a Pick-N-Pay grocery store at the intersection of Euclid Heights Boulevard and Coventry Road, Cleveland Heights, Cuyahoga County, Ohio:

<u>Drug</u>	<u>Quantity</u>
Demerol 50mg	79 tablets
Seconal 100mg	56 capsules
Demerol 100mg	30 tablets
Preludin 75mg	29 tablets

Such conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(1) of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on or about December 4, 1985, without a written or oral prescription, dispense the following Schedule III controlled substance and dangerous drug, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, to Michael Blevins and Darnell Duncan in the parking lot of a Pick-N-Pay grocery store at the intersection of Euclid Heights Boulevard and Coventry Road, Cleveland Heights, Cuyahoga County, Ohio:

<u>Drug</u>	<u>Quantity</u>
Aspirin with Codeine	32 tablets

Such conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(1) of the Ohio Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on or about December 4, 1985, without a written or oral prescription, dispense the following Schedule IV controlled substances and dangerous drugs, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, to Michael Blevins and Darnell Duncan in the parking lot of a Pick-N-Pay grocery store at the intersection of Euclid Heights Boulevard and Coventry Road, Cleveland Heights, Cuyahoga County, Ohio:

<u>Drug</u>	<u>Quantity</u>
Talwin-NX 50mg	200 tablets
Valium 10mg	132 tablets

Such conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(1) of the Ohio Revised Code.

- (6) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on or about December 4, 1985, without a written or oral prescription, dispense the following Schedule V controlled substance and dangerous drug, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code, to Michael Blevins and Darnell Duncan in the parking lot of a Pick-N-Pay grocery store at the intersection of Euclid Heights Boulevard and Coventry Road, Cleveland Heights, Cuyahoga County, Ohio:

<u>Drug</u>	<u>Quantity</u>
Bromanyl Syrup	480 ml

Such conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(5) of the Ohio Revised Code.

- (7) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on one or more occasions between January 1, 1985 and December 10, 1985, without a written or oral prescription, dispense the following Schedule II controlled substances and dangerous drugs, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code:

- (a) approximately 27,901 tablets of Percodan
- (b) approximately 10,894 tablets of Demerol 50mg
- (c) approximately 9,923 capsules of Seconal 100mg
- (d) approximately 8,349 tablets of Desoxyn 15mg
- (e) approximately 6,106 tablets of Demerol 100mg
- (f) approximately 5,689 tablets of Preludin 75mg
- (g) approximately 1,453 tablets of Dilaudid 4mg
- (h) approximately 994 capsules of Tylox
- (i) approximately 840 tablets of Ritalin 20mg
- (j) approximately 283 tablets of Dilaudid 2mg

Such conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(7) of the Ohio Revised Code.

- (8) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on one or more occasions between January 1, 1985 and December 10, 1985, without a written or oral prescription, dispense the following Schedule II controlled substances and dangerous drugs, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code:

- (a) approximately 192 tablets of Ritalin 10mg
- (b) approximately 107 capsules of Tuinal 200mg

Such conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(5) of the Ohio Revised Code.

- (9) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on one or more occasions between January 1, 1985 and December 10, 1985, without a written or oral prescription, dispense the following Schedule II controlled substance and dangerous drug, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code:

- (a) approximately 40 tablets of Methadone 10mg

Such conduct was not in accordance with Chapters 3715., 3719. and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(1) of the Ohio Revised Code.

- (10) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on one or more occasions between January 1, 1985 and December 10, 1985, without a written or oral prescription, dispense the following Schedule IV controlled substances and dangerous drugs, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code:

- (a) approximately 32,780 tablets of Valium 10mg
- (b) approximately 22,579 tablets of Talwin-NX 50mg

Such conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(7) of the Ohio Revised Code.

- (11) From the evidence presented, the State Board of Pharmacy finds that Everett Eugene Feichtner did, on one or more occasions between January 1, 1985 and December 10, 1985, without a written or oral prescription, dispense the following Schedule V controlled substance and dangerous drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code:

- (a) approximately 75,390 ml of Ambenyl Syrup and/or generic equivalent

Such conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Ohio Revised Code, and is prohibited by Section 2925.03(A)(7) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (11) of the Findings Of Fact constitutes gross immorality.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (11) of the Findings Of Fact constitutes unprofessional conduct in the practice of pharmacy.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (11) of the Findings Of Fact constitutes willful violations of Chapters 2925., 3715., 3719., and 4729. of the Ohio Revised Code.

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. 03-2-05945, held by Everett Eugene Feichtner:

- (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 Everett Eugene Feichtner.

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Order of the Board

(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 Everett Eugene Feichtner.

(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 Everett Eugene Feichtner.

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.

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.

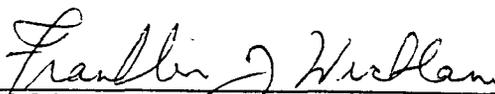
BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt

ORDER ISSUED: February 23, 1988

FZW/sb

By


Franklin Z. Wickham, Executive Director

cc: Christopher Costantini, Assistant Attorney General
Gale S. Messerman, Attorney For Respondent