



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

www.pharmacy.ohio.gov

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940727-004)

In The Matter Of:

DOUGLAS C. SAWYER, R.Ph.

9967 Morgans Trace Drive

Loveland, Ohio 45140

(R.Ph. No. 03-2-08411)

INTRODUCTION

THE MATTER OF DOUGLAS C. SAWYER CAME TO HEARING ON JANUARY 26, 1995, 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.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DOUGLAS C. SAWYER WAS REPRESENTED BY RALPH E. BREITFELLER, AND THE STATE OF OHIO WAS REPRESENTED BY ROBERT J. McCLAREN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Christopher K. Reed, Ohio State Board of Pharmacy
- (2) Douglas C. Sawyer, Respondent

Respondent's Witnesses:

- (1) Douglas C. Sawyer, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated July 27, 1994.
- (2) Exhibit 1A--Hearing Request letter dated August 16, 1994.
- (3) Exhibit 1B--Hearing Schedule letter dated August 18, 1994.
- (4) Exhibit 1C--Notice of Appearance from Ralph E. Breitfeller received December 27, 1994.

- (5) Exhibit 1D--Pharmacist File Front Sheet of Douglas C. Sawyer showing original date of registration as August 16, 1965; and Renewal Application for Pharmacist License, No. 03-2-08411, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Douglas C. Sawyer dated August 15, 1994.
- (6) Exhibit 1E--Annual Application for Dangerous Drug License Renewal of Sawyer-Indian Hill Apothecary, Terminal Distributor License No. 02-351500, for the years of 1989, 1990, 1991, 1992; and Written Notice of Discontinuing Business form of Sawyer-Indian Hill Apothecary, Terminal Distributor License No. 02-351500, dated April 30, 1992.
- (7) Exhibit 2--Renewal Application for Pharmacist License, No. 03-2-08411, for a license to practice pharmacy in Ohio from September 15, 1990, to September 15, 1991, of Douglas C. Sawyer dated October 16, 1990.
- (8) Exhibit 3--Four prescriptions numbered as follows: 355583; 355807; 355812; and 356312.
- (9) Exhibit 4--Renewal Application for Pharmacist License, No. 03-20-8411, for a license to practice pharmacy in Ohio from September 15, 1981, to September 15, 1982, of Douglas C. Sawyer dated August 30, 1981.
- (10) Exhibit 5--Renewal Application for Pharmacist License, No. 03-20-8411, for a license to practice pharmacy in Ohio from September 15, 1979, to September 15, 1980, of Douglas C. Sawyer dated August 18, 1979.
- (11) Exhibit 6--Dangerous Drug Distributor Inspection Report of Sawyer-Indian Hill Apothecary, Terminal Distributor No. 02-351500, dated October 15, 1990.
- (12) Exhibit 7--Letter from Douglas C. Sawyer dated November 10, 1990; with attached two-page copy of Dangerous Drug Distributor Inspection Report of Sawyer-Indian Hill Apothecary, Terminal Distributor No. 02-351500, dated October 15, 1990.
- (13) Exhibit 8--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Dexedrine 5mg dated November 7, 1990.
- (14) Exhibit 9--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Dilaudid 1mg dated November 7, 1990.
- (15) Exhibit 10--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Talwin NX dated November 7, 1990.
- (16) Exhibit 11--Statement of Douglas C. Sawyer signed and notarized on March 13, 1991.
- (17) Exhibit 12--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Mepergan Fortis dated November 7, 1990.
- (18) Exhibit 13--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Didrex 50mg dated November 7, 1990.
- (19) Exhibit 14--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Ritalin 20mg dated November 7, 1990.
- (20) Exhibit 15--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Codeine Sulfate 30mg dated November 7, 1990.

- (21) Exhibit 16--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Oxycodone/Aspirin 325 dated November 7, 1990.
- (22) Exhibit 17--Accountability Statement of Sawyer Indian Hill, Terminal Distributor No. 02-351500, for the drug Roxanol SR 30mg dated November 7, 1990.
- (23) Exhibit 18--Ten prescriptions numbered as follows: 294945; 294946; 303157; 307183; 312535; 312536; 330924; 334991; 349439; and 357885.
- (24) Exhibit 18A--Prescriptions numbered 287454 and 287455.
- (25) Exhibit 19--Patient profile of Dr. Stephan Joffe and family members as follows: Mrs. Sandra, Heidi, and Craig Joffe dated from January 7, 1985, through November 2, 1990.
- (26) Exhibit 20--Handwritten Statement regarding initials of Douglas C. Sawyer signed and notarized on March 13, 1991.
- (27) Exhibit 21--Transcript of Interview of Dr. Stephan Joffe with Christopher K. Reed and Scott Crosswell on May 24, 1991.

Respondent's Exhibits:

- (1) Exhibit A--Copy of two-page letter from Richard G. Gibson dated December 23, 1991.
- (2) Exhibit B--Copy of patient profile of Charles, Debbie, Mark, and Doug Krehbiel dated from December 31, 1988, through December 10, 1991.
- (3) Exhibit C--Copy of patient profile of James and Kumi Schaudig dated from August 17, 1989, through January 3, 1991; copy of patient profile of Sarah, Luella, and Dawn Rice dated from July 6, 1990, through January 29, 1991; copy of prescription number 354325; copy of patient profile of Marion and Richard Dugan dated from November 21, 1989, through March 1, 1990; copy of patient profile of Edith Calimese dated from July 21, 1989, through December 23, 1989; copy of patient profile of Chris and Virginia McLaughlin dated from February 26, 1989, through May 19, 1990; copy of patient profile of Walter and Claire Griffith dated from September 18, 1989, through October 17, 1989.
- (4) Exhibit D--Copy of patient profile of Harry and Rita Uehlein dated from March 27, 1990, through April 9, 1992; copy of patient profile of Gust and Joyce Totlis dated from January 20, 1989, through March 19, 1991; copy of patient profile of Avner, Joan, Gil, and Ilana Porat dated from July 14, 1989, through October 21, 1989; copy of patient profile of George, Sally, Jenny, Kris, and Heidi Langenderfer dated from June 12, 1989, through August 28, 1989; copy of patient profile of Leslie and Marjorie Applegate dated from April 7, 1989, through March 19, 1990; and copy of patient profile of Steve Dalby dated from May 22, 1990, through May 26, 1990.
- (5) Exhibit E--Copy of patient profile of Mary Morgan dated from January 24, 1989, through May 8, 1991; copy of prescription number 355129; copy of patient profile of Barb Denniss dated from October 1, 1990, through October 19, 1990; copy of prescription number 356690; and copy of prescription number 355905.
- (6) Exhibit G--Copy of patient profile of Dr. John Roberts and family: Susan, Melissa, Whitney, Sarah, and Elizabeth Roberts dated from October 22, 1990, through August 21, 1991; copy of prescription number 357762; copy of patient profile of Rosemary Vordenberg dated from November 13, 1989, through November 7, 1991; copy of patient profile of Steve, Jackie, Stephen,

and Lisa Strider dated from September 21, 1989, through January 25, 1991; copy of prescription number 355322; copy of patient profile of Roosevelt and Lavenia Jameson dated from September 25, 1989, through May 21, 1990; copy of patient profile of Mrs. P. Sturtz dated December 17, 1990; and copy of prescription number 355322.

- (7) Exhibit H--Copy of D.E.A. Form 222 of Sawyer Apothecary, No. 910898316, dated August 30, 1991.
- (8) Exhibit J--Affidavit of Carl W. Smith signed and notarized on January 25, 1995, with attached printout of Amerisource Corp. for sales made to Sawyer-Indian Hill, report dated January 21, 1995.
- (9) Exhibit K--Renewal Application for Pharmacist License, No. 03-2-08411, for a license to practice pharmacy in Ohio from September 15, 1990, to September 15, 1991, of Douglas C. Sawyer dated August 17, 1990, with attached Notification of Incomplete Application for Renewal dated August 21, 1990.
- (10) Exhibit L--Copy of type-written statement of Douglas C. Sawyer signed November 13, 1990.
- (11) Exhibit M--Letter from Dennis Gecks dated January 18, 1995, signed and notarized on January 20, 1995.

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 Douglas C. Sawyer was originally licensed in the state of Ohio on August 16, 1965, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Records further indicate that Douglas C. Sawyer was, during the relevant time periods as stated herein, the Responsible Pharmacist at Sawyer Indian Hill Apothecary pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-16 of the Ohio Administrative Code.
- (2) Douglas C. Sawyer did, on or about October 15, 1990, while not a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense drugs or dangerous drugs, to wit: Douglas C. Sawyer practiced pharmacy after allowing his license to lapse on September 16, 1990, and prior to its renewal on October 16, 1990. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Douglas C. Sawyer did, between September 16, 1981, and September 22, 1981, while not a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense drugs or dangerous drugs, to wit: Douglas C. Sawyer practiced pharmacy after allowing his license to lapse on September 16, 1981, and prior to its renewal on September 22, 1981. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Douglas C. Sawyer did, between September 16, 1979, and October 15, 1979, while not a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense drugs or dangerous drugs, to wit: Douglas C. Sawyer practiced pharmacy after allowing his license to lapse

on September 16, 1979, and prior to its renewal on October 15, 1979. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (5) Douglas C. Sawyer did, on or about October 15, 1990, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which was not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: Douglas C. Sawyer admitted to Board agent Christopher K. Reed that he permitted two Sawyer Indian Hill Apothecary employees, not registered pharmacists, to possess keys to the pharmacy. Such conduct is in violation of Rule 4729-9-11 of the Ohio Administrative Code.

- (6) Douglas C. Sawyer as the Responsible Pharmacist did, from July 12, 1989, through November 7, 1990, knowingly sell controlled substances in amounts less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Douglas C. Sawyer or persons under his control sold the following controlled substances in the following amounts without prescriptions:

<u>Drug</u>	<u>Amount</u>	<u>Schedule</u>
Dilaudid 1mg	60	II
Talwin NX	104	IV
Didrex 50mg	28	III
Methylphenidate HCL 20mg	67	II

Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

- (7) Douglas C. Sawyer as the Responsible Pharmacist did, from July 12, 1989, through November 7, 1990, knowingly sell controlled substances in amounts equal to or exceeding the bulk amount, but in amounts less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Douglas C. Sawyer or persons under his control sold the following controlled substances in the following amounts without prescriptions:

<u>Drug</u>	<u>Amount</u>	<u>Schedule</u>
Codeine Sulfate 30mg	108	II
Oxycodone w/Aspirin 325mg	50	II

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (8) Douglas C. Sawyer did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Douglas C. Sawyer created, and subsequently maintained in the files of Sawyer Indian Hill Apothecary, the following phone prescriptions which were not authorized by a practitioner but had been telephoned to Douglas C. Sawyer by a physician's wife for her own use, without the physician's authorization, and not for a legitimate medical purpose:

<u>Date</u>	<u>Rx. No.</u>	<u>Drug</u>	<u>Quantity</u>
02-08-85	294945	Tenuate Dospan 75mg	30
02-08-85	294946	Ionamin 15mg	30
11-11-85	303157	Ionamin 15mg	30
02-28-86	307183	Tenuate Dospan 75mg	30
09-22-86	312535	Ionamin 15mg	30
09-22-86	312536	Tenuate Dospan 75mg	30
08-09-88	330924	Tenuate Dospan 75mg	30

<u>Date</u>	<u>Rx. No.</u>	<u>Drug</u>	<u>Quantity</u>
01-16-89	334991	Tenuate Dospan 75mg	30
03-27-90	349439	Tenuate Dospan 75mg	30
10-26-90	357885	Tenuate Dospan 75mg	30

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (9) Douglas C. Sawyer did, pursuant to the following prescriptions, sell controlled substances in an amount exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Douglas C. Sawyer sold the following controlled substances for the purpose of weight control and not for a legitimate medical purpose:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Refills</u>
287454 *	lonamin 15mg	30	7
287455 *	Tenuate Dospan 75mg	30	7
294945	Tenuate Dospan 75mg	30	1
294946	lonamin 15mg	30	2
303157	lonamin 15mg	30	6
307183	Tenuate Dospan 75mg	30	2
312535	lonamin 15mg	30	2
312536	Tenuate Dospan 75mg	30	3
330924	Tenuate Dospan 75mg	30	5
334991	Tenuate Dospan 75mg	30	7
349439	Tenuate Dospan 75mg	30	8
357885	Tenuate Dospan 75mg	30	5

[* denotes that the original prescription, with no refills, was authorized by a practitioner; on remaining prescriptions, some refills were authorized by a practitioner but were not for a legitimate medical purpose.]

Such conduct is in violation of 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 paragraphs (2) through (4) and (6) through (9) of the Findings of Fact constitute being guilty of dishonesty 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) through (9) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (9) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925., 3719., and 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 in the matter of Douglas C. Sawyer:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-2-08411, held by Douglas C. Sawyer indefinitely, a minimum of one year, and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Douglas C. Sawyer may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Further, Douglas C. Sawyer must take and successfully complete, within one year of the mailing of this Order, the Federal Drug Law Examination and the state jurisprudence examination offered by the Board. Douglas C. Sawyer's license will be reinstated after one year only if this condition has been achieved. If Douglas C. Sawyer is not successful, his identification card will remain suspended until Mr. Sawyer is successful in passing the required examinations.
- (C) Upon reinstatement of Douglas C. Sawyer's license to practice pharmacy in Ohio, his identification card will be placed on probation for five years. The terms of probation are as follows:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Douglas C. Sawyer's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns while on probation.
 - (2) Douglas C. Sawyer may not serve as a responsible pharmacist while on probation.
 - (3) Douglas C. Sawyer must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (4) Douglas C. Sawyer must abide by the rules of the Ohio State Board of Pharmacy.
 - (5) Douglas C. Sawyer must comply with the terms of this Order.
- (D) The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the 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.