



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-920603-146)

In The Matter Of:

ANN MARIE HERSHEY, R.Ph.
117 Stadium Drive
Findlay, Ohio 45840
(R.Ph. No. 03-2-08659)

INTRODUCTION

THE MATTER OF ANN MARIE HERSHEY CAME TO HEARING ON JANUARY 27, 1993 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: TIMOTHY D. MOORE, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; METTA LOU HENDERSON, R.Ph.; PAUL F. LAMPING, R.Ph.; WAYNE C. MILLER, R.Ph.; RUTH A. PLANT, R.Ph.; NICHOLAS R. REPKE; AND JOSEPH R. SABINO, R.Ph.

ANN MARIE HERSHEY WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY RONDA ANDERSON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Ann Marie Hershey, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated June 3, 1992.
- (2) Exhibit B - Hearing Request letter dated June 8, 1992.
- (3) Exhibit C - Hearing Schedule letter dated June 12, 1992.
- (4) Exhibit D - Hearing Schedule letter dated June 15, 1992.
- (5) Exhibit E - Notice of Appearance and Certificate of Service dated September 15, 1992.
- (6) Exhibit F - Hearing Schedule letter dated October 6, 1992.
- (7) Exhibit G - Hearing Schedule letter dated October 22, 1992.
- (8) Exhibit H - Hearing Schedule letter dated November 27, 1992.

- (9) Exhibit 1 - Pharmacist File Front Sheet of Ann Marie (Crawfis) Hershey showing original date of licensure as August 16, 1966; renewal application for annual license renewal as a pharmacist of Ann Marie Crawfis dated July 2, 1987; and renewal application for annual license renewal as a pharmacist of Ann Marie Hershey dated June 24, 1988.
- (10) Exhibit 2 - Copy of letter from David W. Seignious, M.D. signed and notarized on August 19, 1989.
- (11) Exhibit 3 - Prescription number 347286.
- (12) Exhibit 4 - Prescription number 348348.
- (13) Exhibit 5 - Copy of computer printout of Rite Aid #2324, Insurance Profile of patient Lisa Crawfis dated from March 1, 1988, to August 14, 1989.
- (14) Exhibit 6 - Statement of Ann M. Hershey signed and notarized on August 14, 1989.
- (15) Exhibit 7 - Statement of Carla S. Reeg signed and notarized on August 14, 1989.
- (16) Exhibit 8 - Statement of Dr. Donald Haas, M.D. signed and notarized on August 21, 1989.
- (17) Exhibit 9 - Prescription number 342489.
- (18) Exhibit 10 - Prescription number 348877.
- (19) Exhibit 11 - Prescription number 352042.
- (20) Exhibit 12 - Statement of Dr. Ralph E. Reeds, Jr., M.D. signed and notarized on August 14, 1989.
- (21) Exhibit 13 - Prescription number 352825.
- (22) Exhibit 14 - Copy of computer printout of Rite Aid #2324, Insurance Profile of patient Ann Hershey dated from March 1, 1988, to August 14, 1989.
- (23) Exhibit 15 - Prescription number 348782.
- (24) Exhibit 16 - Three-page certified copy of Judgment Entry in the Common Pleas Court of Hancock County, Ohio of Ann Marie Hershey, Case No. 90-9765-CR, dated March 19, 1991; and three-page copy of Conditions of Probation, the Hancock County Adult Probation Department.

Respondent's Exhibits:

- (1) Exhibit A - Prescription, not numbered, written for Lisa Crawfis on November 21, 1988.
- (2) Exhibit B - Letter from Joe F. Freed, R.Ph. dated September 12, 1992; letter from Bernard J. Renard, not dated; letter from Jerome C. Glick, not dated; letter from Katie Wehri dated September 14, 1992; and letter from Michael T. Shaffer, not dated.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board indicate that Ann Marie Hershey was originally licensed in the state of Ohio on August 16, 1966, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) From the evidence presented, the State Board of Pharmacy finds that Ann Marie Hershey did, on or about the following dates, intentionally make or knowingly possess false or forged prescriptions for controlled substances, to wit: Ann Marie Hershey created the following documents purporting to be telephone prescriptions when no practitioner had ordered the medication:

<u>Rx No.</u>	<u>Date</u>	<u>Drug/Amount</u>	<u>Physician</u>
347286	10-27-88	Darvocet N-100/36	Dr. Seignious
348348	11-14-88	Darvocet N-100/36	Dr. Seignious

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (3) From the evidence presented, the State Board of Pharmacy finds that Ann Marie Hershey did, on or about the following dates, make false or forged prescriptions for dangerous drugs, to wit: Ann Marie Hershey created the following documents purporting to be telephone prescriptions when no practitioner had ordered the medication:

<u>Rx No.</u>	<u>Date</u>	<u>Drug/Amount</u>	<u>Physician</u>
342489	08-04-88	Lasix 40mg/68	Dr. Haas
352825	03-01-89	Retin-A Cream	Dr. Reeds
342489	10-15-88	Lasix 40mg/68	Dr. Haas
348877	11-24-88	Lasix 40mg/68	Dr. Haas
348782	11-22-88	LO/Ovral 28/84	Dr. Seignious
348877	12-26-88	Lasix 40mg/68	Dr. Haas
352042	01-19-89	Lasix 80mg/68	Dr. Haas

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Ann Marie Hershey did, on or about October 27, 1988, and again on or about November 14, 1988, knowingly sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on two separate occasions Ann Marie Hershey sold 36 tablets of Darvocet N-100 to Lisa Crawfis after forging false prescriptions in the name of Dr. Seignious. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Ann Marie Hershey did, between August 4, 1988, and January 31, 1989, knowing that she had no privilege to do so, falsify computer data, to wit: when practicing pharmacy at Rite Aid Pharmacy #2324 in Findlay, Ohio, Ann Marie Hershey falsely created data on the computerized pharmacy records in the form of patient profiles which indicated that physicians had prescribed drugs to her and to Lisa Crawfis. Such conduct is in violation of Section 2913.42(B) of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Ann Marie Hershey was, on or about December 19, 1990, convicted in the Common Pleas Court of Hancock County, Ohio, of three counts of Deception to Obtain a Dangerous Drug in violation of Section 2925.22 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 (6) of the Findings of Fact constitute being guilty of dishonesty and 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 paragraph (6) of the Findings of Fact constitutes being convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) 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 (4), and (6) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 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 concerning the pharmacist license, No. 03-2-08659, held by Ann Marie Hershey:

(A) On the basis of paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby places the identification card held by Ann Marie Hershey on probation for one year, effective as of the date of the mailing of this order. While on probation Ann Marie Hershey must:

- (1) not violate the drug laws of the state of Ohio, any other state, or the federal government;
- (2) abide by the rules of the State Board of Pharmacy; and
- (3) comply with the terms of this Order.

(B) On the basis of paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of four hundred dollars (\$400.00) due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed form.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-6/Nay-1).

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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Order of the Board

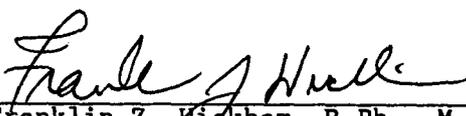
Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED
AND EFFECTIVE: MARCH 15, 1993

CERTIFIED MAIL
Return Receipt
#P 596 184 073

FZW/so

By 
Franklin Z. Wickham, R.Ph., M.S.
Executive Director

cc: Ronda Anderson, Assistant Attorney General
David W. Grauer, Attorney for Respondent; 1300 Huntington Center;
41 S. High Street; Columbus, Ohio 43215