



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-920320-128)

In The Matter Of:

MARY B. DAVIS, R.Ph.
7079 Forestview Drive
West Chester, Ohio 45069
(R.Ph. No. 03-2-09748)

Introduction

THE MATTER OF MARY B. DAVIS CAME TO HEARING ON JUNE 24, 1992 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: BETTY J. NICHOL, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; PAUL F. LAMPING, R.Ph.; NORMAN D. LEIBOW, R.Ph.; RUTH A. PLANT, R.Ph.; JOSEPH R. SABINO, R.Ph.; AND ROBERT W. VALENTINE, R.Ph.

MARY B. DAVIS WAS REPRESENTED BY HAL R. ARENSTEIN, AND THE STATE OF OHIO WAS REPRESENTED BY RONDA ANDERSON, ASSISTANT ATTORNEY GENERAL.

Summary Of Evidence

(A) Testimony

State's Witnesses:

- (1) Mary B. Davis, Respondent

Respondent's Witnesses:

- (1) Robert Wayman

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Notice of Opportunity letter dated March 20, 1992.
- (2) Exhibit 1A - Hearing Request letter dated April 17, 1992.
- (3) Exhibit 1B - Hearing Schedule letter dated April 27, 1992.
- (4) Exhibit 2 - Pharmacist File Front Sheet of Mary B. Davis showing original date of licensure as March 8, 1971; and Renewal Application for Pharmacist License, Number 03-2-09748, for a license to practice pharmacy in Ohio from September 15, 1991 to September 15, 1992 of Mary B. Davis dated July 20, 1991.
- (5) Exhibit 3 - Hand-written drug inventory and notes of Outlet Drugs Pharmacy by Fred Williams on the dates of March 31, 1988 and April 4, 1988.
- (6) Exhibit 4 - Hand-written drug inventory and notes of Outlet Drugs Pharmacy by Fred Williams on the dates of April 11, 1988 and April 14, 1988.
- (7) Exhibit 5 - Copy of City of Hamilton, Police Department, Arrest Report of

- Mary B. Davis, Arrest No. 14553, dated April 17, 1988.
- (8) Exhibit 6 - Copy of three-page statement of Mary B. Davis signed and notarized on April 17, 1988.
 - (9) Exhibit 7 - Certified copy of Treatment of Lieu of Conviction, in the Office of Hamilton County Municipal Court, of Mary Davis, Case No. 88-A-1093, dated August 27, 1991.

Respondent's Exhibits:

- (1) Exhibit A - Three-page copy of Statement of Mitigation on Behalf of Mary B. Davis not dated; copy of letter from Cathie Conners dated May 20, 1992; copy of letter from Cathie Conners dated September 1, 1988; two-page copy of Pharmacists Rehabilitation Organization, Inc. Impaired Pharmacist's Contract of Mary Davis dated June 26, 1988; copy of letter from Morton L. Harshman, M.D. dated May 28, 1992; copy of letter from Vera L. Lindbeck dated May 15, 1992; copy of letter from Thomas J. Nahrup not dated; copy of letter from Earl Siegel and Alicia Aumentado of the Drug and Poison Information Center dated June 4, 1992; copies of three Drug Screen Urinalysis of Mary Davis from Roche Biomedical Laboratories dated May 4, 1992, May 15, 1992, and May 23, 1992; copy of letter from Donald Wehrmeyer dated June 2, 1992; copy of letter from Bonnie J. Yeager dated May 29, 1992; copy of certified journal entry in the Hamilton Municipal Court, Hamilton, Ohio of Mary B. Davis, Case No. 8CRA-1093, dated October 10, 1988; two-page copy of letter from Shirley Soffberger dated June 4, 1992; and a one-page color copy of four photographs of two children.

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board indicate that Mary B. Davis was originally licensed in the state of Ohio on March 8, 1971, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) From the evidence presented, the State Board of Pharmacy finds that Mary B. Davis did, between April 4, 1988 and April 7, 1988, through the commission of a theft offense, obtain dangerous drugs, to wit: Mary B. Davis stole two capsules of Fastin and ten tablets of Tenuate from her employer, Outlet Drugs Pharmacy in Hamilton, Ohio. Such conduct is in violation of Section 2925.21 of the Ohio Revised Code (as in effect during 1988; currently a violation of Section 2913.02 of the Ohio Revised Code).
- (3) From the evidence presented, the State Board of Pharmacy finds that Mary B. Davis did, between April 11, 1988 and April 14, 1988, through the commission of a theft offense, obtain dangerous drugs, to wit: Mary B. Davis stole six capsules of Fastin from her employer, Outlet Drugs Pharmacy in Hamilton, Ohio. Such conduct is in violation of Section 2925.21 of the Ohio Revised Code (as in effect during 1988; currently a violation of Section 2913.02 of the Ohio Revised Code).
- (4) From the evidence presented, the State Board of Pharmacy finds that Mary B. Davis did, on or about April 17, 1988, through the commission of a theft offense, obtain dangerous drugs, to wit: Mary B. Davis stole five capsules of Ionamin from her employer, Outlet Drugs Pharmacy in Hamilton, Ohio. Such conduct is in violation of Section 2925.21 of the Ohio Revised Code (as in effect during 1988; currently a violation of Section 2913.02 of the Ohio Revised Code).

- (5) From the evidence presented, the State Board of Pharmacy finds that Mary B. Davis was, on or about June 1, 1988, found by the Hamilton Municipal Court to be eligible for treatment in lieu of conviction for having committed the offense of Theft of Drugs (amended to Drug Abuse). Further, Mary B. Davis has admitted her alcohol and/or drug abuse problem.
- (6) From the evidence presented, the State Board of Pharmacy finds that Mary B. Davis entered a two-year contract with the Pharmacists Rehabilitation Organization, Inc. which was successfully completed June 26, 1992, and that Mary B. Davis is presently active in support groups such as Alcoholics Anonymous.

Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) 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 (5) of the Findings Of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice 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) 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

The State Board of Pharmacy takes no action concerning the pharmacist license, No. 03-2-09748, held by Mary B. Davis. However, the Board strongly recommends continuing with regular attendance in Alcoholics Anonymous, Narcotics Anonymous, or similar support groups on an ongoing basis.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-6/Nay-0).

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

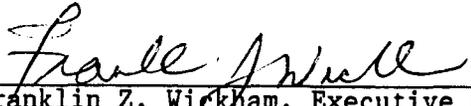
Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section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

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
P 749 728 888

ORDER MAILED: July 10, 1992

FZW/so

By 
Franklin Z. Wickham, Executive Director

cc: Ronda Anderson, Assistant Attorney General
Hal R. Arenstein, Attorney for Respondent; 13 East Court Street, Second
Floor; Cincinnati, Ohio 45202



OHIO STATE BOARD OF PHARMACY

65 S. FRONT STREET, ROOM 504
COLUMBUS, OHIO 43215
TELEPHONE: 614/466-4143

THE STATE BOARD OF PHARMACY

VS

MARY B. DAVIS, R.Ph.

THE MATTER OF MARY B. DAVIS, DOCKET NO. 6-115-1, CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON THURSDAY, JUNE 27, 1985. MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

- (1) On April 23, 1985, Mary B. Davis, R.Ph. No. 03-2-09748, was notified by letter of her right to a hearing, her rights in such hearing, and her right to submit her contentions in writing.
- (2) As demonstrated by return receipt of April 25, 1985, Mary B. Davis received the letter of April 23, 1985 informing her of the allegations regarding the late renewal of her pharmacist identification card, her continual practice without a current identification card, and her rights.
- (3) Mary B. Davis has not responded in any manner to the letter of April 23, 1985 informing her of the allegations.

Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that Mary B. Davis did fail to renew her identification card to practice pharmacy in Ohio, as required by Section 4729.12 of the Revised Code, more than one time.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that Mary B. Davis did willfully dispense and sell dangerous drugs during the lapsed dates of her pharmacist license, in violation of the provisions of Section 4729.28 of the Revised Code.

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Order of the Board

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 hereby takes the following actions concerning the registered pharmacist license of Mary B. Davis:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000).

(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the identification card held by Mary B. Davis for 12 months, effective October 1, 1985.

(C) Further, the Board suspends 11 months of the 12-month suspension and eight hundred dollars (\$800) of the one thousand dollar monetary penalty on condition that Mary B. Davis abides by the terms of probation set by the Board. The terms provide that Mary B. Davis:

(1) take and successfully complete a jurisprudence examination offered by the Board during its October, 1985 meeting;

(2) does not violate any drug laws of the state of Ohio, any other state, or the federal government; and

(3) abides by the rules of the State Board of Pharmacy.

The two hundred dollar (\$200) monetary penalty that was not suspended in paragraph (C) above is due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43266-0320, with the enclosed form.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is . . . , suspended, . . . , shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days . . . (of the effective date of the suspension)." 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.

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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: August 5, 1985

FZW/sb

By

Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc/John E. Breen, Assistant Attorney General